

First Supplement to Memorandum 2018-67

**Fish and Game Law
(Draft Tentative Recommendation)**

In this study, the Commission¹ is developing a proposed recodification of the Fish and Game Code.

A staff draft of a tentative recommendation is attached.

Respectfully submitted,

Brian Hebert
Executive Director

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.

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

STAFF DRAFT

TENTATIVE RECOMMENDATION

Fish and Wildlife Code

December 2018

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 **June 28, 2019**.

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 and reaffirmed in subsequent resolutions.

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 a complete draft of the proposed Fish and Wildlife Code. It was prepared pursuant to Resolution Chapter 158 of the Statutes of 2018.

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 a complete draft of the proposed Fish
29 and Wildlife Code. The general character and noteworthy features of the proposed
30 legislation are discussed below.

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)).

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PURPOSE

The purpose of the proposed law is to improve the organization and expression of the Fish and Game Code, to make it easier to understand, use, and maintain, without making any significant substantive changes to the effect of that law.

The Fish and Game Code was last recodified in 1957.⁵ While some provisions of the Code have not changed since then, the Code has a whole has been extensively modified and supplemented over the course of the last 61 years. That change has occurred piecemeal, with hundreds of individual bills and initiatives aimed at addressing specific issues as they arise.

Over time, that kind of uncoordinated change can lead to structural disorganization. New provisions are added in whatever location seems correct at the time, rather than according to a systematic plan. As a result, provisions addressing different topics may be grouped together and provisions addressing a common topic may be spread to multiple locations.

For example, Division 2 of the existing Fish and Game Code is headed “Department of Fish and Wildlife.” That division contains 22 chapters. As expected, some of the provisions of Division 2 establish the department and define its general duties and powers. However, the great majority of the provisions in that division do not. Instead, they govern a miscellaneous collection of regulatory programs, on a wide range of topics. In most cases, those programs have more in common with the content of other divisions of the code than they do with Division 2. For example, Chapter 7.2 of Division 2 addresses “Trout Management.” One would expect that content to be located in Division 3 (“Fish and Game Generally”) or Division 6 (“Fish”), rather than in Division 2 (“Department of Fish and Wildlife”). Similar issues exist throughout the code.

Structural disorganization makes it harder and more costly to use the code. A member of the public, judge, attorney, or policy maker who needs to find the law governing a particular topic cannot rely on the code’s organizational headings as a reliable guide. Instead, a user will need to search the entire code to find relevant law, which may be scattered across several locations.

For all of those reasons, it would be beneficial to recodify the Fish and Game Code. Recodification would allow for a reassessment of the overall content of the code and the creation of a new organizational structure that better suits the current state of the law. Provisions that govern a common topic could be grouped together, with headings that create a logical connection between related subjects. That is the purpose of the proposed law.

5. 1957 Cal. Stat. ch. 456.

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NONSUBSTANTIVE REFORM

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In directing the Commission to conduct this study, the Legislature specifically provided that the Commission should not recommend any “significant substantive change to the effect of the law.”⁶

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The Commission has exercised care to abide by that limitation, ensuring that the proposed law would not result in any significant substantive change in outcomes under the affected statutes.

8

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

10

Objective and Participatory Study Process

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

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- The Commission is neutral and objective, with no special interest in the subject of fish and game. The Commission has no motivation to introduce significant substantive changes into fish and game law.

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- The Commission has considerable experience in drafting legislation to recodify complex bodies of law without making any significant substantive change.⁷

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- The Commission’s work is transparent. All materials are publicly distributed. All deliberations are conducted at open public meetings.

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- The Commission actively solicits input from affected interest groups. Interim drafts of the proposed law were provided to those groups for review. Any objection that a change would have a substantive effect were carefully analyzed and addressed by the Commission. Any future objections will be treated similarly.

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- In proposing legislative reform, the Commission prepares a thorough report that explains the purpose and effect of the proposed law, and sets out a complete draft of the proposed legislation, with a detailed table of contents and a table showing the disposition of every affected section. This report facilitates public review of the proposed law.

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Commission Comments

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In preparing a recommendation, the Commission drafts an explanatory “Comment” for every section that is added, amended, or repealed.⁸ A Comment

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6. *Id.*

7. 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. After beginning its work on the Fish and Game Code, the Commission was assigned the task of preparing nonsubstantive recodifications of the California Public Records Act and specified statutes governing hazardous materials. See 2018 Cal. Stat. ch. res. 158.

1 indicates the derivation of a section and often explains its purpose, its relation to
2 other law, and potential issues concerning its meaning or application.

3 For the most part, the Comments in this tentative recommendation state
4 expressly, for each affected section, that the proposed law is not intended to make
5 any change to the substance of the affected provision.

6 On completion of a final recommendation, the full recommendation, including
7 the proposed legislation and the Comments, will be presented to the Legislature
8 and the Governor. If legislation is introduced to effectuate the proposed law, the
9 full recommendation will be provided to each member of every policy committee
10 that reviews the legislation.

11 Commission materials that have been placed before and considered by the
12 Legislature are considered evidence of legislative intent,⁹ and are entitled to great
13 weight in construing statutes.¹⁰ The materials are a key interpretive aid for
14 practitioners as well as courts,¹¹ and courts may judicially notice and rely on
15 them.¹² Courts at all levels of the state¹³ and federal¹⁴ judicial systems use

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

9. 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.”).

10. 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.)

11. *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).

12. 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).

13. 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).

14. 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.*

1 Commission materials to construe statutes enacted on Commission
2 recommendation.¹⁵

3 The Commission’s Comments will make clear that, with a small number of
4 specifically identified exceptions, the proposed law should be construed as a
5 nonsubstantive reorganization of the law.

6 ***Statements of Legislative Intent***

7 The proposed law would be known as the Fish and Wildlife Code of 2020.¹⁶ It
8 would include a number of codified general provisions to expressly state the
9 purpose and effect of the recodification.

10 Proposed Section 10 would make clear that a provision of the proposed law is
11 intended as a restatement and continuation of the provision that it restates, rather
12 than a new enactment, and that any reference to a restated provision is deemed to
13 include a reference to the section that restates it (and vice versa):

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

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

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

24 (d) A reference in a regulation to a provision of the former Fish and Game
25 Code, rather than to the provision of this code that continues the former provision,
26 has no effect on the validity of the regulation.

27 In addition, proposed Sections 15 and 20 would make clear that restatement of a
28 provision is not intended to have any effect, positive or negative, on a judicial

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).

15. 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).

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

1 interpretation of the restated provision or a judicial holding regarding the
2 provision's constitutionality:

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

6 (b) However, in enacting the Fish and Wildlife Code of 2020, the Legislature
7 has not evaluated the correctness of any judicial decision interpreting a provision
8 of the former Fish and Game Code.

9 (c) The enactment of the Fish and Wildlife Code of 2020 is not intended to, and
10 does not, reflect any assessment of any judicial decision interpreting any
11 provision of the former Fish and Game Code.

12 20. (a) A judicial decision determining the constitutionality of a provision of the
13 former Fish and Game Code is relevant in determining the constitutionality of any
14 provision of this code that restates or continues that provision of the former Fish
15 and Game Code.

16 (b) However, in enacting the Fish and Wildlife Code of 2020, the Legislature
17 has not evaluated the constitutionality of any provision enacted by that act, or the
18 correctness of any judicial decision determining the constitutionality of any
19 provision of the former Fish and Game Code.

20 (c) The enactment of the Fish and Wildlife Code of 2020 is not intended to, and
21 does not, reflect any determination of the constitutionality of any provision
22 enacted by that act.

23 The provisions discussed above are particularly important with respect to
24 provisions that were added by initiative or to effectuate an initiative. They would
25 make clear that the initiative provisions are continued in the proposed law and are
26 not new enactments. They would also make clear that enactment of the proposed
27 law should not be construed as acquiescence in any court case construing the
28 continued provisions or an indication that the Legislature has assessed the
29 constitutionality of the provisions. The proposed law would take no stand on and
30 have no effect on such issues.

31 *Conservative Drafting*

32 Any large body of statutes will include some language that could be stated more
33 clearly. The Commission has taken a conservative approach to such language,
34 leaving it mostly unchanged.

35 There are three main reasons for this approach:

36 (1) With a recodification of this magnitude, it would not be reasonable
37 to expect reviewers to scrutinize a large number of stylistic or
38 grammatical changes to determine whether they would have a
39 problematic substantive effect.

40 (2) It is common for statutory language to be the product of
41 negotiation, where compromise depended on the precise wording
42 of the language. Such compromises should not be undone solely
43 for reasons of stylistic improvement.

1 (3) Many provisions in the Fish and Game Code were added by
2 initiative. The California Constitution sharply restricts the
3 Legislature’s ability to amend an initiative statute.¹⁷ However, in
4 this context, “amend” means to alter the substance of the law
5 added by initiative. “In deciding whether [a] particular provision
6 amends [an initiative statute], we simply need to ask whether it
7 prohibits what the initiative authorizes, or authorizes what the
8 initiative prohibits.”¹⁸ Continuing the language of initiative
9 statutes without significant change helps to avoid any possibility
10 that an impermissible amendment would be made. This is
11 reinforced by the rule in proposed Section 10(a), discussed *supra*,
12 which provides that “[a] provision of this code, insofar as it is
13 substantially the same as a previously existing provision relating
14 to the same subject matter, shall be construed as a restatement and
15 continuation thereof, and not as a new enactment.” It is further
16 reinforced by the Commission’s Comments to the provisions at
17 issue, which uniformly declare that the provisions are continued
18 without substantive change. Recall that Commission Comments
19 are considered to be evidence of legislative intent.¹⁹

20 However, there are three situations in which the proposed law would make
21 significant changes to existing language:

- 22 (1) Provisions that are difficult to understand were restated for clarity.
- 23 (2) Provisions that contain clear errors were revised to correct the errors.
- 24 (3) In a small number of cases, minor substantive or technical improvements
25 were made.

26 In every instance where language would be significantly changed, the proposed
27 change is identified in a Note that follows the affected section. This will make it
28 easier for reviewers to focus on those provisions. Notes are also used to provide
29 information, without posing a question (e.g., to identify sections that were added
30 or amended by 2018 legislation).

31 ***Legislative Process***

32 After the Commission completes its study process and issues a final
33 recommendation, the proposed law would be scrutinized carefully in the
34 legislative process. This would serve as a final safeguard against any unintended
35 substantive change in the law.

17. See Cal. Const. art. 2, § 10 (“The Legislature may amend or repeal a referendum statute. The Legislature may amend or repeal an initiative statute by another statute that becomes effective only when approved by the electors unless the initiative statute permits amendment or repeal without the electors’ approval.”).

18. *People v. Superior Court (Pearson)*, 48 Cal. 4th 564, 571; 227 P.3d 858; 107 Cal. Rptr. 3d 265 (2010).

19. See discussion of Commission Comments, *supra*.

1 order. This approach makes it easier for members of the public, attorneys, judges,
2 and the Legislature to quickly determine whether a term is subject to a statutory
3 definition.

4 Definitions that have a narrower scope of application have been located near the
5 provisions that they govern (often in a dedicated location near the beginning of
6 that law, along with other general provisions).

7 There is one definition that is likely to be confusing in some situations. The
8 existing definition of “fish,” which applies to the entire Fish and Game Code,
9 includes animals that are not considered fish biologically (i.e., invertebrates and
10 amphibians).²⁵ It is not clear whether every use of that term is intended to have the
11 defined meaning. Notwithstanding that potential source of confusion, the
12 Commission is not recommending any change to the application of the
13 definition.²⁶ Making such a change would require a determination of legislative
14 intention in hundreds of sections, which is not practicable in this study.

15 **Cross-References**

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

19 To facilitate review of the cross-reference updates made in this tentative
20 recommendation, the Commission has provided two tables, located at the end of
21 the proposed legislation. Those tables show the disposition of each provision of
22 existing law and the derivation of each provision of the proposed law.

23 **REQUEST FOR PUBLIC COMMENT**

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

25. See Fish & Game Code § 45.

26. See proposed Section 380 *infra*.

FISH AND WILDLIFE CODE

 **Note:** The document that follows contains a proposed recodification of the existing Fish and Game Code

A draft of an official Commission “Comment” follows each proposed code section. Those Comments will be included in any final recommendation.

The Comments indicate the source of each recodified provision and describe how it 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.

There is a “disposition table” at the end of the proposed legislation. It summarizes, in tabular form, the disposition of every provision of the existing code. If an existing provision would not be continued in the new code, the table identifies that provision as “not cont’d.”

After the disposition table, there is a “derivation table.” That table shows the source of every provision of the proposed Fish and Wildlife Code. Provisions that do not have a source in existing law are identified as “New.”

Some code sections in the proposed recodification are followed by a “Note.” These Notes are intended to be temporary, and will not be part of the Commission’s final recommendation. **They provide information and flag issues on which the Commission would particularly like to receive public comment.**

However, the Commission welcomes public comment on *any* issue relating to the content of the recodification. Comments should be directed to Brian Hebert at bhebert@clrc.ca.gov.

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DIVISION 1. GENERAL PROVISIONS

PART 1. PRELIMINARY PROVISIONS

§ 1. Code title

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

(b) The act that added this code shall be known and may be cited as the “Fish and Wildlife Code of 2020.”

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

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

§ 5. Application of part

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

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

§ 10. Restatement and continuation

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

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

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

(d) A reference in a regulation to a provision of the former Fish and Game Code, rather than to the provision of this code that continues the former provision, has no effect on the validity of the regulation.

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

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

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

Subdivision (d) is new. It is added to make clear that any delay in updating regulations to reflect the enactment of this code does not have any effect on the validity of the regulation. A regulation continues to be valid even if it refers to a former Fish and Game Code provision.

1 **§ 15. Judicial decisions**

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

5 (b) However, in enacting the Fish and Wildlife Code of 2020, the Legislature
6 has not evaluated the correctness of any judicial decision interpreting a provision
7 of the former Fish and Game Code.

8 (c) The enactment of the Fish and Wildlife Code of 2020 is not intended to, and
9 does not, reflect any assessment of any judicial decision interpreting any provision
10 of the former Fish and Game Code.

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

14 Subdivisions (b) and (c) make clear that in enacting the act that created the Fish and Wildlife
15 Code of 2020, the Legislature has not taken any position on any judicial opinion interpreting any
16 provision of the former Fish and Game Code. These provisions only apply to the act that created
17 this code. They have no effect on the use of any prior or subsequent enactments in construing
18 statutes.

19 **§ 20. Constitutionality of provisions**

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

24 (b) However, in enacting the Fish and Wildlife Code of 2020, the Legislature
25 has not evaluated the constitutionality of any provision enacted by that act, or the
26 correctness of any judicial decision determining the constitutionality of any
27 provision of the former Fish and Game Code.

28 (c) The enactment of the Fish and Wildlife Code of 2020 is not intended to, and
29 does not, reflect any determination of the constitutionality of any provision
30 enacted by that act.

31 **Comment.** Section 20 is new. Subdivision (a) makes clear that case law determining the
32 constitutionality of a predecessor provision of the former Fish and Game Code is relevant in
33 determining the constitutionality of its successor provision or provisions in the Fish and Wildlife
34 Code of 2020.

35 Subdivisions (b) and (c) make clear that in enacting the Fish and Wildlife Code of 2020, the
36 Legislature has not taken any position on the constitutionality of any provision of that act, or of
37 any provision of the former Fish and Game Code.

38 **§ 25. No impairment of privileges or rights**

39 25. This code shall not impair any privilege granted or right acquired under any
40 of the laws of this State prior to the date it takes effect.

41 **Comment.** Section 25 continues the second sentence of former Fish and Game Code Section 3
42 without substantive change.

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 substantive
34 change.

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

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

1 **Comment.** Section 50 continues former Fish and Game Code Section 7 without substantive
2 change.

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

4 **§ 55. Tenses**

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

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

13 **§ 65. Number**

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

15 **Comment.** Section 65 continues former Fish and Game Code Section 10 without substantive
16 change.

17 **§ 70. Days**

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

24 **Comment.** Section 70 continues former Fish and Game Code Section 11 without substantive
25 change.

26 **§ 75. Mailed notice**

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

31 **Comment.** Section 75 continues former Fish and Game Code Section 13 without substantive
32 change.

33 **§ 80. "Shall" and "may"**

34 80. "Shall" is mandatory and "may" is permissive.

35 **Comment.** Section 80 continues former Fish and Game Code Section 79 without substantive
36 change.

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

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

4 **Comment.** Section 85 continues former Fish and Game Code Section 64 without substantive
5 change.

6 **§ 90. Possession of animal taken out of state**

7 90. A provision of this code relating to the possession of birds, mammals, fish,
8 reptiles, or amphibians applies to birds, mammals, fish, reptiles, or amphibians
9 taken either in or outside of this state.

10 **Comment.** Section 90 continues former Fish and Game Code Section 2013 without substantive
11 change.

12 **§ 95. Animal parts**

13 95. A provision of this code that applies to a whole animal also applies to a part
14 of the animal.

15 **Comment.** Section 95 continues former Fish and Game Code Section 80 without substantive
16 change.

17 **§ 100. Conforming rule change**

18 100. (a) The commission or the department may make a conforming rule change
19 without complying with the rulemaking procedure specified in Article 5
20 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2
21 of the Government Code, if the rule change meets all of the requirements of this
22 section.

23 (b) To proceed under this section, the commission or department shall submit all
24 of the following to the Office of Administrative Law:

25 (1) A completed and signed form STD 400.

26 (2) A statement declaring that each proposed rule change in the submission is a
27 conforming rule change.

28 (3) A copy of the text of each regulation to be changed, with strikeout and
29 underscore showing the changes.

30 (c) On receipt of a submission described in subdivision (b), the Office of
31 Administrative Law shall file the changed regulations with the Secretary of State
32 and have them published in the California Code of Regulations.

33 (d) “Conforming rule change” means a change to a regulation in Title 14 of the
34 California Code of Regulations that deletes a reference to a former provision of
35 the Fish and Game Code and replaces it with a reference to the provision of this
36 code that restates or continues the former provision. “Conforming rule change”
37 includes a change to a regulation’s citation of authority or reference, to delete a
38 reference to a former provision of the Fish and Game Code and replace it with a
39 reference to the provision of this code that restates or continues the former
40 provision.

1 **Comment.** Section 220 continues former Fish and Game Code Section 15 without substantive
2 change.

3 **§ 225. “Aquaculture”**

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

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

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

14 **§ 230. “Bag limit”**

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

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

20 **§ 235. “Bird”**

21 235. “Bird” means a wild bird or part of a wild bird.

22 **Comment.** Section 235 continues former Fish and Game Code Section 22 without substantive
23 change.

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

28 **§ 245. “Buy”**

29 245. “Buy” includes an offer to buy, purchase, barter, exchange, or trade.

30 **Comment.** Section 245 continues former Fish and Game Code Section 24 without substantive
31 change.

32 **§ 250. “Chumming”**

33 250. “Chumming” means the placing in the water of fish, or other material upon
34 which fish feed, for the purpose of attracting fish to a particular area in order that
35 they may be taken.

36 **Comment.** Section 250 continues former Fish and Game Code Section 27 without substantive
37 change.

1 § 255. “Closed season”

2 255. “Closed season” means that period of time during which the taking of
3 birds, mammals, fish, amphibians, or reptiles is prohibited.

4 **Comment.** Section 255 continues former Fish and Game Code Section 29 without substantive
5 change.

6 § 265. “Commercial fishing entitlement”

7 265. “Commercial fishing entitlement” means a commercial fishing license, or
8 any other permit, stamp, or entitlement issued by the department, to take, possess
9 aboard a boat, or land fish for a commercial purpose, but not including the
10 following entitlements:

11 (a) A license issued pursuant to Title 9 (commencing with Section 20150) of
12 Part 6 of Division 6.

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

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

17 **Comment.** Section 265 is new. It is added for drafting convenience.

18 **Note.** Existing Fish and Game Code Sections 7852.1, 7852.2, 7852.25, and 7857 refer in
19 slightly different ways to the various entitlements related to commercial fishing to which those
20 provisions apply. Proposed Section 265 would conform and standardize those application
21 provisions, excluding entitlements that generally apply to distinguishable subject matter.

22 **The Commission invites comment on the inclusion and wording of proposed Section 265.**

23 § 270. “Commercial fishing license”

24 270. “Commercial fishing license” means a valid, unrevoked commercial fishing
25 license issued pursuant to Section 14500.

26 **Comment.** Section 270 generalizes former Fish and Game Code Section 8031(a)(4). It is
27 added for drafting convenience.

28 **Note.** Existing Fish and Game Code Section 8031(a)(4) (which would be continued by
29 proposed Section 270) defines the term “commercial fishing license,” for purposes of the articles
30 in which those sections appear. However, the term is used without a corresponding definition in
31 many other provisions of the existing code.

32 **The Commission invites comment on whether it would be problematic to generalize the
33 definition so that it applies code-wide.**

34 § 275. “Commercial passenger fishing boat”

35 275. “Commercial passenger fishing boat” means a boat or vessel from which its
36 owner, for profit, permits a passenger to take fish.

37 **Comment.** Section 275 is drawn from the first paragraph of former Fish and Game Code
38 Section 7920.

39 **Note.** Proposed Section 275 is drawn from the first paragraph of existing Fish and Game
40 Code Section 7920. Placement of the provision in this location would generalize it, so that it
41 applies code-wide.

1 **The Commission invites comment on whether it would be problematic to generalize the**
2 **provision.**

3 **§ 280. “Commission”**

4 280. “Commission” means the Fish and Game Commission.

5 **Comment.** Section 280 continues the first clause of former Fish and Game Code Section 30
6 without substantive change.

7 **§ 285. “Commissioner”**

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

9 **Comment.** Section 285 continues the second clause of former Fish and Game Code Section 30
10 without substantive change.

11 **§ 290. “County”**

12 290. “County” includes city and county.

13 **Comment.** Section 290 continues former Fish and Game Code Section 32 without substantive
14 change.

15 **§ 295. “Credible science”**

16 295. “Credible science” means the best available scientific information that is
17 not overly prescriptive due to the dynamic nature of science, and includes the
18 evaluation principles of relevance, inclusiveness, objectivity, transparency,
19 timeliness, verification, validation, and peer review of information as appropriate.
20 Credible science also recognizes the need for adaptive management, as scientific
21 knowledge evolves.

22 **Comment.** Section 295 continues former Fish and Game Code Section 33 without substantive
23 change.

24 **§ 300. “Day”**

25 300. “Day” means calendar day.

26 **Comment.** Section 300 continues the first clause of former Fish and Game Code Section 35
27 without substantive change.

28 **§ 305. “Department”**

29 305. “Department” means the Department of Fish and Wildlife.

30 **Comment.** Section 305 continues former Fish and Game Code Section 37 without substantive
31 change.

32 **§ 310. “Director”**

33 310. “Director” means the Director of Fish and Wildlife.

34 **Comment.** Section 310 continues former Fish and Game Code Section 39 without substantive
35 change.

1 § 315. “District”

2 315. “District” means fish and wildlife district.

3 **Comment.** Section 315 continues former Fish and Game Code Section 41 without substantive
4 change.

5 § 320. “Ecosystem-based management”

6 320. “Ecosystem-based management” means an environmental management
7 approach relying on credible science that recognizes the full array of interactions
8 within an ecosystem, including humans, rather than considering single issues,
9 species, or ecosystem services in isolation.

10 **Comment.** Section 320 continues former Fish and Game Code Section 43 without substantive
11 change.

12 § 325. “Exotic nonresident game bird”

13 325. “Exotic nonresident game bird” means a bird of the order Galliformes
14 (pheasant, grouse, quail) that is not established as a wild resident population in this
15 state.

16 **Comment.** Section 325 continues former Fish and Game Code Section 3514 without
17 substantive change.

18  **Note.** It is unclear whether the parenthetical in existing Fish and Game Code Section 3514
19 (which would be continued by proposed Section 325) – “(pheasant, grouse, quail)” – is meant to
20 be merely illustrative, or is intended as a substantive limitation on the types of birds that are
21 included in the definition of “exotic nonresident game birds.”

22 The order Galliformes includes a number of types of birds that are not listed in the
23 parenthetical (e.g., partridges, turkeys, ptarmigans, guineafowl). If nonresident varieties of those
24 types of birds were introduced into California, would they be within the scope of the definition?

25 **The Commission invites comment on this issue.**

26 § 330. “Finfish”

27 330. “Finfish” means any species of bony fish or cartilaginous fish.

28 **Comment.** Section 330 is drawn from Section 1.46 of Title 14 of the California Code of
29 Regulations. It is added for drafting convenience.

30 § 335. “Fish”

31 335. “Fish” means a wild fish, mollusk, crustacean, invertebrate, amphibian, or
32 part, spawn, or ovum of any of those animals.

33 **Comment.** Section 335 continues former Fish and Game Code Section 45 without substantive
34 change.

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

39 § 340. “Fully protected amphibian”

40 340. “Fully protected amphibian” means any of the following amphibians:

41 (a) Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*).

1 (b) Limestone salamander (*Hydromantes brunus*).

2 (c) Black toad (*Bufo boreas exsul*).

3 **Comment.** Section 340 continues former Fish and Game Code Section 5050(b)(3)-(5) without
4 substantive change.

5 **§ 345. “Fully protected bird”**

6 345. “Fully protected bird” means any of the following birds:

7 (a) American peregrine falcon (*Falco peregrinus anatum*).

8 (b) Brown pelican.

9 (c) California black rail (*Laterallus jamaicensis coturniculus*).

10 (d) California clapper rail (*Rallus longirostris obsoletus*).

11 (e) California condor (*Gymnogyps californianus*).

12 (f) California least tern (*Sterna albifrons browni*).

13 (g) Golden eagle.

14 (h) Greater sandhill crane (*Grus canadensis tabida*).

15 (i) Light-footed clapper rail (*Rallus longirostris levipes*).

16 (j) Southern bald eagle (*Haliaeetus leucocephalus leucocephalus*).

17 (k) Trumpeter swan (*Cygnus buccinator*).

18 (l) White-tailed kite (*Elanus leucurus*).

19 (m) Yuma clapper rail (*Rallus longirostris yumanensis*).

20 **Comment.** Section 345 continues former Fish and Game Code Section 3511(b) without
21 substantive change.

22 **§ 350. “Fully protected fish”**

23 350. “Fully protected fish” means any of the following fish:

24 (a) Colorado River squawfish (*Ptychocheilus lucius*).

25 (b) Humpback sucker (*Xyrauchen texanus*).

26 (c) Lost River sucker (*Deltistes luxatus* and *Catostomus luxatus*).

27 (d) Modoc sucker (*Catostomus microps*).

28 (e) Mohave chub (*Gila mohavensis*).

29 (f) Owens pupfish (*Cyprinodon radiosus*).

30 (g) Rough sculpin (*Cottus asperimus*).

31 (h) Shortnose sucker (*Chasmistes brevirostris*).

32 (i) Thicktail chub (*Gila crassicauda*).

33 (j) Unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*).

34 **Comment.** Section 350 continues former Fish and Game Code Section 5515(b) without
35 substantive change.

36 **Note.** Proposed Section 350 would continue Section 5515(b), which was amended by 2018
37 Cal. Stat. ch. 586. Although that bill will not take effect until 2019, it is included here in
38 anticipation of its effect.

39 **§ 355. “Fully protected mammal”**

40 355. “Fully protected mammal” means any of the following mammals:

- 1 (a) Bighorn sheep (*Ovis canadensis*), except Nelson bighorn sheep (subspecies
2 *Ovis canadensis nelsoni*) as provided by subdivision (b) of Section 35900
3 (b) Guadalupe fur seal (*Arctocephalus townsendi*).
4 (c) Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*).
5 (d) Northern elephant seal (*Mirounga angustirostris*).
6 (e) Pacific right whale (*Eubalaena sieboldi*).
7 (f) Ring-tailed cat (genus *Bassariscus*).
8 (g) Salt-marsh harvest mouse (*Reithrodontomys raviventris*).
9 (h) Southern sea otter (*Enhydra lutris nereis*).
10 (i) Wolverine (*Gulo luscus*).

11 **Comment.** Section 355 continues former Fish and Game Code Section 4700(b) without
12 substantive change.

13 **§ 360. “Fully protected reptile”**

14 360. “Fully protected reptile” means either of the following reptiles:

- 15 (a) Blunt-nosed leopard lizard (*Gambelia sila*).
16 (b) San Francisco garter snake (*Thamnophis sirtalis tetrataenia*).

17 **Comment.** Section 360 continues former Fish and Game Code Section 5050(b)(1)-(2) without
18 substantive change.

19  **Note.** Proposed Section 360 would continue Section 5050(b)(1)-(2), which was amended by
20 2018 Cal. Stat. ch. 224 as an urgency measure.

21 **§ 365. “Fur-bearing mammal”**

22 365. “Fur-bearing mammal” means any of the following mammals:

- 23 (a) Badger.
24 (b) Beaver.
25 (c) Fisher.
26 (d) Gray fox.
27 (e) Kit fox.
28 (f) Mink.
29 (g) Muskrat.
30 (h) Pine marten.
31 (i) Raccoon.
32 (j) Red fox.
33 (k) River otter.

34 **Comment.** Section 365 continues former Fish and Game Code Section 4000 without
35 substantive change.

36 **§ 370. “Game bird”**

37 370. “Game bird” means a resident game bird or a migratory game bird.

38 **Comment.** Section 370 continues former Fish and Game Code Section 3500(c) without
39 substantive change.

1 § 375. “Game mammal”

2 375. (a) “Game mammal” means any of the following mammals:

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

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

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

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

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

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

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

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

12 (b) Nelson bighorn sheep (subspecies *Ovis canadensis nelsoni*) are game
13 mammals only for the purposes of sport hunting described in subdivision (b) of
14 Section 35900.

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

18 (d) Section 1025 does not apply to subdivision (b). Neither the commission nor
19 the department shall adopt any regulation that conflicts with or supersedes this
20 subdivision, or subdivision (b).

21 **Comment.** Subdivisions (a) and (b) of Section 375 continue former Fish and Game Code
22 Section 3950 without substantive change.

23 Subdivisions (c) and (d) restate former Fish and Game Code Section 3950.1 without
24 substantive change.

25 **Note.** Existing Fish and Game Code Section 3950.1 (which would be continued by proposed
26 Section 375(b) and (c)) was added to the existing code in 1990 by an initiative statute,
27 Proposition 117. The Commission believes that the nonsubstantive continuation of that provision
28 in proposed Section 375 would not be an impermissible amendment. See discussion of initiative
29 statutes *supra* at notes 20-22 and associated text.

30 § 380. “Guide boat”

31 380. “Guide boat” means a boat or vessel under 25 feet in length, which is used
32 by a guide, who is licensed under Title 3 (commencing with Section 8800) of Part
33 1 of Division 6, in inland waters for any of the following purposes:

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

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

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

38 **Comment.** Section 380 continues former Fish and Game Code Section 46 without substantive
39 change.

40 § 385. “Hook” and related terms

41 385. “Hook” or “fishhook” means an implement to catch or hold fish or
42 amphibians. “Single hook” means any hook with one point and with or without a

1 barb; “double hook” means any hook with two points and with or without barbs;
2 “treble or triple hook” means any hook with three points and with or without
3 barbs. “Snag” or “gaff” hooks are hooks with or without handles used to take fish
4 in such manner that the fish does not take the hook voluntarily in its mouth.

5 **Comment.** Section 385 continues former Fish and Game Code Section 48 without substantive
6 change.

7 **§ 390. “Kelp”**

8 390. “Kelp” means kelp or other marine aquatic plants and the seeds thereof.

9 **Comment.** Section 390 continues former Fish and Game Code Section 51 without substantive
10 change.

11 **§ 395. “Limited entry fishery”**

12 395. “Limited entry fishery” means a fishery in which the number of persons
13 who may participate or the number of vessels that may be used in taking a
14 specified species of fish is limited by statute or regulation.

15 **Comment.** Section 395 continues former Fish and Game Code Section 8100 without
16 substantive change.

17 **§ 400. “Mammal”**

18 400. “Mammal” means a wild or feral mammal or part of a wild or feral
19 mammal, but not a wild, feral, or undomesticated burro.

20 **Comment.** Section 400 continues former Fish and Game Code Section 54 without substantive
21 change.

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

26 **§ 405. “Marine finfish aquaculture”**

27 405. “Marine finfish aquaculture” means the propagation, cultivation, or
28 maintenance of finfish species in the waters of the Pacific Ocean that are regulated
29 by this state.

30 **Comment.** Section 405 continues former Fish and Game Code Section 54.5 without
31 substantive change.

32 **§ 410. “Migratory game bird”**

33 410. “Migratory game bird” means any of the following birds:

- 34 (a) Band-tailed pigeon.
- 35 (b) Coot.
- 36 (c) Duck.
- 37 (d) Gallinule.
- 38 (e) Goose.
- 39 (f) Jacksnipe.
- 40 (g) Western mourning dove.

1 (h) White-winged dove.

2 **Comment.** Section 410 continues former Fish and Game Code Section 3500(b) without
3 substantive change.

4 **§ 415. “Mile”**

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

9 **Comment.** Section 415 continues former Section 55 without substantive change.

10 **§ 420. “Native California trout”**

11 420. “Native California trout” means any of the following fish:

- 12 (a) California golden trout.
- 13 (b) Coastal cutthroat trout.
- 14 (c) Coastal rainbow trout/steelhead.
- 15 (d) Eagle Lake rainbow trout.
- 16 (e) Goose Lake redband trout.
- 17 (f) Kern River rainbow trout.
- 18 (g) Lahontan cutthroat trout.
- 19 (h) Little Kern golden trout.
- 20 (i) McCloud River redband trout.
- 21 (j) Paiute cutthroat trout.
- 22 (k) Warner Valley redband trout.

23 **Comment.** Section 420 continues former Fish and Game Code Section 7261 without
24 substantive change.

25 **§ 425. “Net”**

26 425. “Net” means any gear made of any kind of twine, thread, string, rope, wire,
27 wood, or other materials used for the gilling, entangling, trapping, or impounding
28 of fish.

29 **Comment.** Section 425 continues former Fish and Game Code Section 56 without substantive
30 change.

31 **§ 430. “Nongame bird”**

32 430. “Nongame bird” means a bird occurring naturally in California that is not a
33 game bird or fully protected bird.

34 **Comment.** Section 430 continues the first sentence of former Fish and Game Code Section
35 3800(a) without substantive change.

36 **§ 435. “Nongame mammal”**

37 435. “Nongame mammal” means any of the following mammals:

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

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

4 **Comment.** Subdivision (a) of Section 435 continues the first sentence of former Fish and
5 Game Code Section 4150 without substantive change.

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

8 **§ 440. “Nonresident”**

9 440. “Nonresident” means a person who is not a resident as defined in Section
10 485.

11 **Comment.** Section 440 restates former Fish and Game Code Section 57 to reconcile the
12 definition of the term “nonresident” with the definition of the term “resident” in former Fish and
13 Game Code Section 70. See also Section 660 (“resident”).

14  **Note.** Proposed Section 440 would restate existing Fish and Game Code Section 57 to
15 eliminate an overlap between the definition of “nonresident” in that section and the definition of
16 “resident” in existing Section 70 (which would be continued by proposed Section 660).

17 **The Commission requests public comment on whether the revision would have any**
18 **problematic effect.**

19 **§ 445. “Oath”**

20 445. “Oath” includes affirmation.

21 **Comment.** Section 445 continues former Fish and Game Code Section 60 without substantive
22 change.

23 **§ 450. “Open season” and “season”**

24 450. “Open season” means that period of time during which the taking of birds,
25 mammals, fish, reptiles, or amphibians is allowed as prescribed in this code and
26 regulations adopted by the commission. If used to define the period of time during
27 which take is allowed, “season” means “open season.”

28 **Comment.** Section 450 continues former Fish and Game Code Section 62 without substantive
29 change.

30 **§ 455. “Person”**

31 455. “Person” means any natural person or any partnership, corporation, limited
32 liability company, trust, or other type of association.

33 **Comment.** Section 455 continues former Fish and Game Code Section 67 without substantive
34 change.

35 **§ 460. “Possession limit”**

36 460. “Possession limit” means the maximum, in number or amount, of birds,
37 mammals, fish, reptiles, or amphibians that may be lawfully possessed by one
38 person.

39 **Comment.** Section 460 continues former Fish and Game Code Section 19 without substantive
40 change.

1 **§ 465. “Project”**

2 465. For the purposes of this code, unless the context otherwise requires,
3 “project” has the same meaning as defined in Section 21065 of the Public
4 Resources Code.

5 **Comment.** Section 465 continues the definition of “project” in former Fish and Game Code
6 Section 711.2(a) without substantive change.

7 **§ 470. “Purchase”**

8 470. “Purchase” means “buy” as defined in Section 245.

9 **Comment.** Section 475 continues former Fish and Game Code Section 68 without substantive
10 change.

11 **§ 475. “Raw fur”**

12 475. “Raw fur” means any fur, pelt, or skin that has not been tanned or cured,
13 except that salt-cured or sun-cured pelts are raw furs.

14 **Comment.** Section 475 continues the second sentence of former Fish and Game Code Section
15 4005(a) without substantive change.

16 **§ 480. “Recycled water” or “reclaimed water”**

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

19 **Comment.** Section 480 continues former Fish and Game Code Section 89 without substantive
20 change.

21 **§ 485. “Resident”**

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

27 **Comment.** Section 485 continues former Section 70 without substantive change.

28 **§ 490. “Resident game bird”**

29 490. “Resident game bird” means any of the following birds:

30 (a) California quail and varieties thereof.

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

33 (c) Gambel’s or desert quail.

34 (d) Hungarian partridge.

35 (e) Mountain quail and varieties thereof.

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

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

38 (h) Ruffed grouse.

39 (i) Sage hens or sage grouse.

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

2 (k) Wild turkey.

3 **Comment.** Section 490 continues former Fish and Game Code Section 3500(a) without
4 substantive change.

5 **§ 500. “Sell”**

6 500. “Sell” includes offer or possess for sale, barter, exchange, or trade.

7 **Comment.** Section 500 continues former Fish and Game Code Section 75 without substantive
8 change.

9 **§ 505. “Signature” or “subscription”**

10 505. “Signature” or “subscription” includes mark when the signer or subscriber
11 cannot write, such signer’s or subscriber’s name being written near the mark by a
12 witness who writes his own name near the signer’s or subscriber’s name; but a
13 signature or subscription by mark can be acknowledged or can serve as a signature
14 or subscription to a sworn statement only when two witnesses also sign their own
15 names.

16 **Comment.** Section 505 continues former Fish and Game Code Section 81 without substantive
17 change.

18 **§ 510. “Slurp gun”**

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

21 **Comment.** Section 510 continues former Fish and Game Code Section 82 without substantive
22 change.

23 **§ 515. “Spiny lobster”**

24 515. “Spiny lobster” refers to the species *Panulirus interruptus*.

25 **Comment.** Section 515 continues former Fish and Game Code Section 8250 without
26 substantive change.

27 **§ 520. “Spouse”**

28 520. “Spouse” includes “registered domestic partner,” as required by Section
29 297.5 of the Family Code.

30 **Comment.** Section 520 continues former Fish and Game Code Section 9.2 without substantive
31 change.

32 **§ 525. “State”**

33 525. “State” means the State of California, unless applied to the different parts
34 of the United States. In the latter case, it includes the District of Columbia and the
35 territories.

36 **Comment.** Section 525 continues former Fish and Game Code Section 83 without substantive
37 change.

1 **§ 530. “State waters”**

2 530. “State waters” means “waters of the state,” as defined in Section 550.

3 **Comment.** Section 530 continues a part of former Fish and Game Code Section 89.1 without
4 substantive change.

5 **§ 535. “Take”**

6 535. “Take” means hunt, pursue, catch, capture, or kill, or attempt to hunt,
7 pursue, catch, capture, or kill.

8 **Comment.** Section 535 continues former Fish and Game Code Section 86 without substantive
9 change.

10 **§ 540. “Transport”**

11 540. “Transport” includes offer or receive for transportation.

12 **Comment.** Section 540 continues former Fish and Game Code Section 88 without substantive
13 change.

14 **§ 545. “Upland game bird”**

15 545. “Upland game bird” means any of the following birds:

16 (a) Band-tailed pigeon.

17 (b) California quail and varieties thereof.

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

20 (d) Gambel’s or desert quail.

21 (e) Hungarian partridge.

22 (f) Jacksnipe.

23 (g) Mountain quail and varieties thereof.

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

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

26 (j) Ruffed grouse.

27 (k) Sage hen or sage grouse.

28 (l) Sooty or blue grouse.

29 (m) Western mourning dove.

30 (n) White-tailed ptarmigan.

31 (o) White-winged dove.

32 (p) Wild turkey.

33 **Comment.** Section 545 continues former Fish and Game Code Section 3683 without
34 substantive change.

35 **Notes.** (1) Existing Fish and Game Code Section 3683 separately lists the upland game birds
36 that are resident game birds, and those that are migratory game birds. Proposed Section 545
37 would list all upland game birds without indicating whether a listed bird was a resident or
38 migratory game bird.

39 **The Commission invites comment on whether that revision is appropriate.**

1 (2) Existing Fish and Game Code Section 3683(a)(8) identifies a white-tailed ptarmigan as a
2 resident game bird that is also an upland game bird. However, existing Section 3500, which
3 identifies resident game birds, does not list any ptarmigan as a resident game bird.

4 **The Commission invites comment on this apparent discrepancy, and the proper**
5 **classification of the white-tailed ptarmigan.**

6 **§ 550. “Waters of the state,” “waters of this state”**

7 550. “Waters of the state” or “waters of this state” have the same meaning as
8 “waters of the state” as defined in subdivision (e) of Section 13050 of the Water
9 Code.

10 **Comment.** Section 550 continues a part of former Fish and Game Code Section 89.1 without
11 substantive change. See also Section 530 (“state waters”).

12 **§ 555. “Week”**

13 555. “Week” means calendar week.

14 **Comment.** Section 555 continues the second clause of former Fish and Game Code Section 35
15 without substantive change.

16 **§ 560. “Wildlife”**

17 560. “Wildlife” means and includes all wild animals, birds, plants, fish,
18 amphibians, reptiles, and related ecological communities, including the habitat
19 upon which the wildlife depends for its continued viability.

20 **Comment.** Section 560 continues former Fish and Game Code Section 89.5 without
21 substantive change.

22 **TITLE 2. MARINE LIFE DEFINITIONS**

23 **§ 600. Application of definitions**

24 600. The definitions in this chapter govern the construction of the following
25 provisions, and all regulations adopted pursuant to those provisions:

26 (a) Title 6 (commencing with Section 4850) of Part 4 of Division 3

27 (b) Part 4 (commencing with Section 11500) and Part 6 (commencing with Section
28 14200) of Division 6.

29 (c) Title 4 commencing with Section (25700) of Part 3 of Division 7.

30 (d) Title 2 (commencing with Section 38200) of Part 3,

31 Part 12 (commencing with Section 39800), Part 13 (commencing with Section
32 40250), and Part 14 (commencing with Section 40550) of Division 10.

33 (i) Chapter 2 (commencing with Section 41350), Chapter 4 (commencing with
34 Section 41600), and Chapter 5 (commencing with Section 41650) of Title 2 of Part
35 17 of Division 10.

36 (e) Part 4 (commencing with Section 45650), Part 6 (commencing with Section
37 46500), Part 9 (commencing with Section 49300), Part 13 (commencing with
38 Section 50450), Part 14 (commencing with Section 50650), Part 15 (commencing

1 with Section 50850) and Part 16 (commencing with Section 51300) of Division
2 11.

3 (f) Section 54525.

4 (g) Title 2 (67000) of Part 3 of Division 17.

5 **Comment.** Section 600 continues former Fish and Game Code Section 90 without substantive
6 change.

7 **Notes.** (1) Proposed Section 600 incorporates the revision of Section 90 made by 2018 Cal.
8 Stat. ch. 477. Although that bill will not take effect until 2019, it is included here in anticipation
9 of its effect.

10 (2) Existing Section 90 specifically prescribes the application of the definitions in existing
11 Sections 90.1 through 99. In doing so, Section 90 provides in part that the definitions apply to
12 “Division 6 (commencing with Section 5500).” That very large division spans hundreds of
13 sections — Sections 5500 through 9101— all under the very general heading of “Fish.” In the
14 proposed law, Division 6 was broken up and distributed to multiple locations in the proposed Fish
15 and Wildlife Code. That makes it difficult to continue the existing cross-reference to Division 6
16 without some modification. It could be done, but would result in a much longer and more
17 complicated cross-reference than the one set out in Section 600. Exact continuation of the
18 existing cross-reference would also be problematic, because it would expressly apply the
19 definitions to provisions that do not use the defined terms or that use the terms in connection with
20 freshwater fish and fisheries (contrary to their intended application to marine life).

21 The cross-reference in proposed Section 600 was assembled by searching for every use of the
22 defined terms in existing Division 6 and creating targeted cross-references to the provisions that
23 use the terms. For the most part, the cross-references are to identifiable blocks of law that contain
24 the relevant provisions, rather than to a long list of individual sections. That approach increases
25 ease of use and it also anticipates the possibility that the defined terms could be used in related
26 provisions in the future.

27 The cross-references do not include provisions that use the defined terms but that appear to
28 apply to freshwater, rather than marine life (i.e., existing Sections 6401, 6440-6453, 7145, 7260,
29 7361, 8491, 8492).

30 **The Commission invites comment on the approach taken in proposed Section 600.** In
31 particular, it would be helpful to know whether the cross-references could be further simplified.
32 For example, could proposed Sections 600(d) and (e) simply refer to Divisions 10 (Fish) and 11
33 (Invertebrates) respectively?

34 **§ 605. “Adaptive management”**

35 605. “Adaptive management,” in regard to a marine fishery, means a scientific
36 policy that seeks to improve management of biological resources, particularly in
37 areas of scientific uncertainty, by viewing program actions as tools for learning.
38 Actions shall be designed so that even if they fail, they will provide useful
39 information for future actions. Monitoring and evaluation shall be emphasized so
40 that the interaction of different elements within the system can be better
41 understood.

42 **Comment.** Section 605 continues former Fish and Game Code Section 90.1 without
43 substantive change.

44 **§ 610. “Bycatch”**

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

1 **Comment.** Section 610 continues former Fish and Game Code Section 90.5 without
2 substantive change.

3 **§ 615. “Depressed”**

4 615. “Depressed,” with regard to a marine fishery, means the condition of a
5 fishery for which the best available scientific information, and other relevant
6 information that the commission or department possesses or receives, indicates a
7 declining population trend has occurred over a period of time appropriate to that
8 fishery. With regard to fisheries for which management is based on maximum
9 sustainable yield, or in which a natural mortality rate is available, “depressed”
10 means the condition of a fishery that exhibits declining fish population abundance
11 levels below those consistent with maximum sustainable yield.

12 **Comment.** Section 615 continues former Fish and Game Code Section 90.7 without
13 substantive change.

14 **§ 620. “Discards”**

15 620. “Discards” means fish that are taken in a fishery but are not retained
16 because they are of an undesirable species, size, sex, or quality, or because they
17 are required by law not to be retained.

18 **Comment.** Section 620 continues former Fish and Game Code Section 91 without substantive
19 change.

20 **§ 625. “Essential fishery information”**

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

28 **Comment.** Section 625 continues former Fish and Game Code Section 93 without substantive
29 change.

30 **§ 630. “Fishery”**

31 630. “Fishery” means both of the following:

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

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

38 **Comment.** Section 630 continues former Fish and Game Code Section 94 without substantive
39 change.

1 § 635. “Marine living resources”

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

5 **Comment.** Section 635 continues former Fish and Game Code Section 96 without substantive
6 change.

7 § 640. “Maximum sustainable yield”

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

12 **Comment.** Section 640 continues former Fish and Game Code Section 96.5 without
13 substantive change.

14 § 645. “Optimum yield”

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

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

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

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

24 **Comment.** Section 645 continues former Fish and Game Code Section 97 without substantive
25 change.

26 § 650. “Overfished”

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

28 (a) A depressed fishery.

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

31 **Comment.** Section 650 continues former Fish and Game Code Section 97.5 without
32 substantive change.

33 § 655. “Overfishing”

34 655. “Overfishing” means a rate or level of taking that the best available
35 scientific information, and other relevant information that the commission or
36 department possesses or receives, indicates is not sustainable or that jeopardizes
37 the capacity of a marine fishery to produce the maximum sustainable yield on a
38 continuing basis.

39 **Comment.** Section 655 continues former Fish and Game Code Section 98 without substantive
40 change.

1 **§ 660. “Participants”**

2 660. “Participants” in regard to a fishery means the sportfishing, commercial
3 fishing, and fish receiving and processing sectors of the fishery.

4 **Comment.** Section 660 continues former Fish and Game Code Section 98.2 without
5 substantive change.

6 **§ 665. “Population”**

7 665. “Population” means a species, subspecies, geographical grouping, or other
8 category of fish capable of management as a unit.

9 **Comment.** Section 665 continues a part of former Fish and Game Code Section 98.5 without
10 substantive change.

11 **§ 670. “Restricted access”**

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

16 **Comment.** Section 670 continues former Fish and Game Code Section 99 without substantive
17 change.

18 **§ 675. “Stock”**

19 675. “Stock” means “population,” as defined in Section 665.

20 **Comment.** Section 675 continues a part of former Fish and Game Code Section 98.5 without
21 substantive change.

22 **§ 680. “Sustainable,” “sustainable use,” and “sustainability”**

23 680. “Sustainable,” “sustainable use,” and “sustainability,” with regard to a
24 marine fishery, mean both of the following:

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

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

31 **Comment.** Section 680 continues former Fish and Game Code Section 99.5 without
32 substantive change.

1 DIVISION 2. ADMINISTRATION

2 PART 1. FISH AND GAME COMMISSION

3 TITLE 1. ORGANIZATION

4 § 900. Fish and Game Commission

5 900. There is in the Resources Agency the Fish and Game Commission created
6 by Section 20 of Article IV of the Constitution.

7 **Comment.** Section 900 continues former Fish and Game Code Section 101 without substantive
8 change.

9 **Note.** For ease of reference, Section 20 of Article IV of the California Constitution is set out
10 below:

11 “20. (a) The Legislature may provide for division of the State into fish and game districts and
12 may protect fish and game in districts or parts of districts.

13 (b) There is a Fish and Game Commission of 5 members appointed by the Governor and
14 approved by the Senate, a majority of the membership concurring, for 6-year terms and until their
15 successors are appointed and qualified. Appointment to fill a vacancy is for the unexpired portion
16 of the term. The Legislature may delegate to the commission such powers relating to the
17 protection and propagation of fish and game as the Legislature sees fit. A member of the
18 commission may be removed by concurrent resolution adopted by each house, a majority of the
19 membership concurring.”

20 § 905. Findings and declarations

21 905. (a) The Legislature finds and declares that the scope and responsibilities of
22 the commission have significantly expanded over the years as the size and
23 diversity of California’s population have increased, and as the scientific
24 knowledge of the habitat conservation and ecosystem-based management needs of
25 wildlife has expanded. The members of the commission are expected to make
26 complex public policy and biological decisions on behalf of the people of
27 California. The commission is created by the California Constitution, which does
28 not include any criteria or qualifications for selection and appointment of
29 commissioners.

30 (b) It is therefore the intent of the Legislature to encourage the Governor and the
31 Senate Committee on Rules to consider the following minimum qualifications in
32 selecting, appointing, and confirming commissioners to serve on the commission:

33 (1) The degree to which the appointee will enhance the diversity of background
34 and geographic representation of the commission.

35 (2) The appointee’s demonstrated interest and background in, and familiarity
36 with, wildlife and natural resources management programs at the state or federal
37 level.

38 (3) The appointee’s previous experience in public policy decisionmaking,
39 including government processes involving public participation.

1 (4) The appointee’s commitment to prepare for and attend meetings and
2 subcommittee meetings of the commission and to comply with all applicable state
3 conflict-of-interest laws.

4 (5) The extent of the appointee’s exposure to and experience with the basic
5 science underpinning the management of living natural resources.

6 (6) The appointee’s diversity of knowledge of natural resource issues and related
7 scientific disciplines, including, but not limited to, outdoor recreation.

8 **Comment.** Section 905 continues former Fish and Game Code Section 101.5 without
9 substantive change.

10 **§ 910. Officers**

11 910. (a) The commissioners shall annually elect one of their number as president
12 and one as vice president, by a concurrent vote of at least three commissioners.

13 (b) The president or vice president may be removed from the position of
14 president or vice president by a vote, at any time, of at least three commissioners.

15 (c) In the event of a vacancy in either the position of president or vice president,
16 the commission shall fill that vacancy at the next regularly scheduled meeting of
17 the commission. The elected successor president or vice president shall serve for
18 the unexpired term of the predecessor until the annual election pursuant to
19 subdivision (a).

20 (d) The commission may not adopt or enforce a policy or a regulation that
21 provides for the president and vice president to be chosen by seniority nor may the
22 commission adopt or enforce any other policy or regulation that would make a
23 commissioner ineligible to be elected as president or vice president of the
24 commission.

25 **Comment.** Section 910 continues former Fish and Game Code Section 102 without substantive
26 change.

27 **§ 915. Compensation and expenses**

28 915. (a) Each of the commissioners shall receive one hundred dollars (\$100) for
29 each day of actual service performed in carrying out his or her official duties
30 pursuant to law, but the amount of this compensation shall not exceed for any one
31 commissioner the sum of five hundred dollars (\$500) for any one calendar month.
32 In addition to this compensation, the commissioners shall receive their actual and
33 necessary expenses incurred in the performance of their duties.

34 (b) The compensation and expenses provided in this section shall be paid out of
35 the Fish and Game Preservation Fund.

36 **Comment.** Section 915 continues former Fish and Game Code Section 103 without substantive
37 change.

38 **§ 920. Meetings**

39 920. (a) The commission shall hold no fewer than eight regular meetings per
40 calendar year, if the commission has adequate funding for related travel, including

1 funding for department travel. The commission may also hold special meetings or
2 hearings to receive additional input from the department and the public.

3 (b) The commission shall announce the dates and locations of meetings for the
4 year by January 1 of that year, or 60 days prior to the first meeting, whichever
5 comes first. Meeting locations shall be accessible to the public and located
6 throughout the state. To the extent feasible, meetings shall be held in state
7 facilities. In setting the dates and locations for regular meetings, the commission
8 shall also consider the following factors:

9 (1) Recommendations of the department.

10 (2) Opening and closing dates of fishing and hunting seasons.

11 (3) The schedules of other state and federal regulatory agencies whose
12 regulations affect the management of fish and wildlife of this state.

13 (c) The commission shall cause the notice of the schedule for regular meetings,
14 and notice of any change in the date and location of a meeting, to be disseminated
15 to the public in a manner that will result in broad dissemination and that complies
16 with the Administrative Procedure Act (Chapter 3.5 (commencing with Section
17 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

18 **Comment.** Section 920 continues former Fish and Game Code Section 110 without substantive
19 change.

20 **§ 925. Marine resources committee**

21 925. The commission shall form a marine resources committee from its
22 membership consisting of at least one commissioner. The committee shall report
23 to the commission from time to time on its activities and shall make
24 recommendations on all marine resource matters considered by the commission.
25 The committee or its designee shall, to the extent practicable, attend meetings of
26 the department staff, including meetings of the department staff with interested
27 parties, in which significant marine living resource management documents are
28 being developed.

29 **Comment.** Section 925 continues former Fish and Game Code Section 105 without substantive
30 change.

31 **§ 930. Wildlife resources committee**

32 930. The commission shall form a wildlife resources committee from its
33 membership consisting of at least one commissioner. The committee shall report
34 to the commission from time to time on its activities and shall make
35 recommendations on all nonmarine resource matters considered by the
36 commission. The committee or its designee shall, to the extent practicable, attend
37 meetings of the department staff, including meetings of the department staff with
38 interested parties, in which significant wildlife resource management documents
39 are being developed.

40 **Comment.** Section 930 continues former Fish and Game Code Section 106 without substantive
41 change.

1 **§ 935. Commission staff**

2 935. The commission may employ a staff, including an executive director, to
3 assist the commission in conducting its operations, but neither the commission nor
4 its staff shall have or be given any powers in relation to the administration of the
5 department.

6 **Comment.** Section 935 continues former Section 104 without substantive change.

7 **§ 940. Code of conduct**

8 940. The commission shall adopt a code of conduct that requires, at a minimum,
9 that a commissioner adhere to the following principles:

10 (a) A commissioner shall faithfully discharge the duties, responsibilities, and
11 quasi-judicial actions of the commission.

12 (b) A commissioner shall conduct his or her affairs in the public's best interest,
13 following principles of fundamental fairness and due process of law.

14 (c) A commissioner shall conduct his or her affairs in an open, objective, and
15 impartial manner, free of undue influence and the abuse of power and authority.

16 (d) A commissioner understands that California's wildlife and natural resources
17 programs require public awareness, understanding, and support of, and
18 participation and confidence in, the commission and its practices and procedures.

19 (e) A commissioner shall preserve the public's welfare and the integrity of the
20 commission, and act to maintain the public's trust in the commission and the
21 implementation of its regulations and policies.

22 (f) A commissioner shall not conduct himself or herself in a manner that reflects
23 discredit upon state laws or policies, regulations, and principles of the
24 commission.

25 (g) A commissioner shall not make, participate in making, or in any other way
26 attempt to use his or her official position to influence a commission decision in
27 which the member has a financial interest.

28 **Comment.** Section 940 continues former Fish and Game Code Section 107 without substantive
29 change.

30 **TITLE 2. POWERS AND DUTIES**

31 **CHAPTER 1. REGULATION OF TAKE AND POSSESSION GENERALLY**

32 **Article 1. Authority**

33 **§ 1000. General authority**

34 1000. (a) There is hereby delegated to the commission the power to regulate the
35 taking or possession of birds, mammals, fish, amphibians, and reptiles.

36 (b) No power is delegated to the commission by this section to regulate either of
37 the following:

1 (1) The taking, possessing, processing, or use of fish, amphibians, kelp, or other
2 aquatic plants for commercial purposes.

3 (2) The taking or possession of a spike buck or spotted fawn. “Spike buck”
4 means a male deer with unbranched antlers on both sides that are more than three
5 inches in length. “Spotted fawn” means a deer one year of age or less that has
6 spotted pelage.

7 (c) This section and any regulations adopted pursuant to this section have no
8 effect on any provision of this code or any regulation adopted pursuant to this code
9 that relates to a matter described in paragraph (1) of subdivision (b).

10 **Comment.** Section 1000 continues former Fish and Game Code Section 200 without
11 substantive change.

12 **§ 1005. Limitations on authority**

13 1005. Nothing in this article confers upon the commission any power to regulate
14 any natural resources or commercial or other activity connected therewith, except
15 as specifically provided.

16 **Comment.** Section 1005 continues former Fish and Game Code Section 201 without
17 substantive change.

18 **§ 1010. Birds and mammals**

19 1010. Any regulation of the commission adopted pursuant to this chapter
20 relating to resident game birds, game mammals and furbearing mammals may
21 apply to all or any areas, districts, or portions of those areas or districts, at the
22 discretion of the commission, and may do any or all of the following as to any or
23 all species or subspecies:

24 (a) Establish, extend, shorten, or abolish open seasons and closed seasons.

25 (b) Establish, change, or abolish bag limits and possession limits.

26 (c) Establish and change areas or territorial limits for their taking.

27 (d) Prescribe the manner and the means of taking.

28 (e) Establish, change, or abolish restrictions based upon sex, maturity, or other
29 physical distinctions.

30 **Comment.** Section 1010 continues former Fish and Game Code Section 203 without
31 substantive change.

32 **§ 1015. Fish, amphibians, and reptiles**

33 1015. Any regulation of the commission adopted pursuant to this chapter that
34 relates to fish, amphibians, and reptiles, may apply to all or any areas, districts, or
35 portion of those areas or districts, at the discretion of the commission, and may do
36 any or all of the following as to any or all species or subspecies:

37 (a) Establish, extend, shorten, or abolish open seasons and closed seasons.

38 (b) Establish, change, or abolish bag limits, possession limits, and size limits.

39 (c) Establish and change areas or territorial limits for their taking.

40 (d) Prescribe the manner and the means of taking.

1 **§ 1105. General rulemaking procedure**

2 1105. (a) When adopting, amending, or repealing a regulation governed by this
3 article, the commission shall conduct the following steps at separate public
4 meetings:

5 (1) Approve the submission of a notice of proposed action to the Office of
6 Administrative Law.

7 (2) Consider public comment on the proposed action. The department shall
8 participate in this process by reviewing and responding to all public comment.

9 (3) Make a final decision on the proposed action.

10 (b) The meetings required by this section may be regular or special meetings.

11 (c) The meetings required by this section shall be duly noticed to the public in
12 accordance with subdivision (c) of Section 920, and with the Administrative
13 Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of
14 Division 3 of Title 2 of the Government Code).

15 (d) Within 45 days after the commission makes a final decision to adopt, amend,
16 or repeal a regulation governed by this article, the department shall publish and
17 distribute the regulation to each county clerk, district attorney, and judge of the
18 superior court in the state.

19 **Comment.** Section 1105 continues former Fish and Game Code Section 255 without
20 substantive change.

21 **§ 1110. Distribution of regulations**

22 1110. (a) The commission and the department may do anything that is deemed
23 necessary and proper to publicize and distribute a regulation governed by this
24 article so that persons likely to be affected will be informed of them. The failure of
25 the commission to provide any notice of a regulation governed by this article,
26 beyond what is required by Chapter 3.5 (commencing with Section 11340) of Part
27 1 of Division 3 of Title 2 of the Government Code, does not impair the validity of
28 the regulation.

29 (b) Notwithstanding any other law, the commission and the department may
30 contract with private entities to print regulations governed by this article, and other
31 public information. The printing contract shall include criteria to ensure that the
32 public information provided in the publication is easy to reference, read, and
33 understand.

34 (c) Printing contracts authorized by this section for which no state funds are
35 expended are not subject to Chapter 2 (commencing with Section 10290) of Part 2
36 of Division 2 of the Public Contract Code, except for Article 2 (commencing with
37 Section 10295) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code.

38 (d) Material printed pursuant to subdivision (b) that contains advertisements
39 shall meet all specifications prescribed by the department. The printed material
40 shall not contain advertisements for tobacco products, alcohol, firearms, and
41 devices prohibited pursuant to Section 32625 of the Penal Code, Article 2
42 (commencing with Section 30600) of Chapter 2 of Division 10 of Title 4 of Part 6

1 of the Penal Code, or any provision listed in Section 16590 of the Penal Code, or
2 firearms not authorized by the commission as a legal method of sport hunting,
3 political statements, solicitations for membership in organizations, or any other
4 statement, solicitation, or product advertisement that is in conflict with the
5 purposes for which the material is produced, as determined by the commission.

6 (e) Neither the department nor the commission shall contract with private
7 entities to print the materials described in subdivision (b) if the letting of those
8 contracts will result in the elimination of civil service positions.

9 (f) The department or the license agent may give a copy of the current applicable
10 published regulations governed by this article to each person issued a license, at
11 the time the license is issued.

12 **Comment.** Section 1110 continues former Fish and Game Code Section 260 without
13 substantive change.

14 **§ 1115. Exemption from time requirements**

15 1115. A regulation governed by this article is not subject to the time periods for
16 the adoption, amendment, or repeal of a regulation prescribed in Sections 11343.4,
17 11346.4, 11346.8, and 11347.1 of the Government Code.

18 **Comment.** Section 1115 continues former Fish and Game Code Section 265 without
19 substantive change.

20 **§ 1120. Effective date of regulation**

21 1120. The adoption, amendment, or repeal of a regulation governed by this
22 article shall become effective at the time specified in the regulation, but not sooner
23 than the date of the filing.

24 **Comment.** Section 1120 continues former Fish and Game Code Section 270 without
25 substantive change.

26 **§ 1125. Effective period**

27 1125. A regulation governed by this article shall remain in effect for the period
28 specified in the regulation or until superseded by subsequent regulation of the
29 commission or by statute.

30 **Comment.** Section 1125 continues former Fish and Game Code Section 275 without
31 substantive change.

32 **CHAPTER 2. OTHER REGULATION**

33 **§ 1200. Commission practices and processes**

34 1200. By July 1, 2013, the commission shall adopt rules to govern the business
35 practices and processes of the commission.

36 **Comment.** Section 1200 continues former Fish and Game Code Section 108 without
37 substantive change.

1 PART 2. DEPARTMENT OF FISH AND WILDLIFE

2 TITLE 1. ORGANIZATION

3 **§ 1500. Department of Fish and Wildlife**

4 1500. (a) There is in the Natural Resources Agency a Department of Fish and
5 Wildlife administered through the director.

6 (b) The Department of Fish and Wildlife shall succeed to, and is vested with, all
7 the duties, powers, purposes, responsibilities, property, and jurisdiction previously
8 vested in the Department of Fish and Game.

9 (c) Whenever the term “Department of Fish and Game” appears in a law, the
10 term means the “Department of Fish and Wildlife.”

11 (d) No existing supplies, forms, insignias, signs, logos, uniforms, or emblems
12 shall be destroyed or changed as a result of changing the name of the Department
13 of Fish and Game to the Department of Fish and Wildlife, and those materials
14 shall continue to be used until exhausted or unserviceable.

15 **Comment.** Section 1500 continues former Fish and Game Code Section 700 without
16 substantive change.

17 **§ 1505. Administration and enforcement of code**

18 1505. This code shall be administered and enforced through regulations adopted
19 only by the department, except as otherwise specifically provided by this code or
20 where this code requires the commission to adopt regulations.

21 **Comment.** Section 1505 continues former Fish and Game Code Section 702 without
22 substantive change.

23 **§ 1510. Commission sets general department policy**

24 1510. General policies for the conduct of the department shall be formulated by
25 the commission. The director shall be guided by those policies and shall be
26 responsible to the commission for the administration of the department in
27 accordance with those policies.

28 **Comment.** Section 1510 continues former Fish and Game Code Section 703(a) without
29 substantive change.

30 **§ 1515. Director**

31 1515. The director shall be appointed by the Governor, and receive the annual
32 salary provided for by Chapter 6 (commencing at Section 11550) of Part 1 of
33 Division 3 of Title 2 of the Government Code.

34 **Comment.** Section 1515 continues former Section 701 without substantive change.

35 **§ 1520. Deputy director**

36 1520. There shall be one deputy director of the department who shall be a civil
37 executive officer and shall be appointed by the Governor and serve at the pleasure

1 of the Governor. The compensation of the deputy director shall be fixed by the
2 director pursuant to law. The deputy director shall have duties as shall be assigned,
3 from time to time, by the director, and shall be responsible to the director for the
4 performance of those duties.

5 **Comment.** Section 1520 continues former Section 701.3 without substantive change.

6 **§ 1525. Director as appointing power for all department employees**

7 1525. (a) Notwithstanding any other provision of law, the director is the
8 appointing power of all employees within the department, and all employees in the
9 department are responsible to the director for the proper carrying out of the duties
10 and responsibilities of their respective positions.

11 (b) The changes made to subdivision (a) during the 2001-02 Regular Session of
12 the Legislature are declaratory of existing law.

13 **Comment.** Section 1525 continues former Section 704 without substantive change.

14 **§ 1530. Incorporation of specified law on state agencies**

15 1530. The provisions of Chapter 2 (commencing at Section 11150) of Part 1 of
16 Division 3 of Title 2 of the Government Code shall govern and apply to the
17 conduct of the department in every respect. Wherever in that chapter the term
18 “head of the department” or similar designation occurs, for the purposes of this
19 section it shall mean the director.

20 **Comment.** Section 1530 continues former Fish and Game Code Section 706 without
21 substantive change.

22 **TITLE 2. DEPARTMENT EMPLOYEES**

23 **§ 1600. Appointment of employees**

24 1600. The director shall, from time to time, employ or appoint, with or without
25 pay, those deputies, clerks, assistants, and other employees as the department may
26 need to discharge in proper manner the duties imposed upon it by law.

27 **Comment.** Section 1600 continues former Section 850 without substantive change.

28 **§ 1605. Legal defense of officers and deputies**

29 1605. It is the duty of the attorney for the department to act as counsel in
30 defense of any officer or deputy of the department, in any suit for damages
31 brought against the officer or deputy, on account of injuries to persons or property
32 alleged to have been received as a result of the negligence or misconduct of the
33 officer or deputy, occurring while the officer or deputy was performing official
34 duties.

35 **Comment.** Section 1605 continues former Fish and Game Code Section 707 without
36 substantive change.

1 **§ 1610. Entry onto private land**

2 1610. (a) Notwithstanding any provision of law, the status of a person as an
3 employee, agent, or licensee of the department does not confer upon that person a
4 special right or privilege to knowingly enter private land without the consent of
5 the owner, a search warrant, or an inspection warrant.

6 (b) Subdivision (a) does not apply to employees, agents, or licensees of the
7 department in the event of an emergency. For purposes of this section,
8 “emergency” means a sudden, unexpected occurrence, involving a clear and
9 imminent danger demanding immediate action to prevent or mitigate loss of, or
10 damage to, wildlife, wildlife resources, or wildlife habitat.

11 (c) Subdivision (a) does not apply to a sworn peace officer authorized pursuant
12 to subdivision (e) of Section 830.2 of the Penal Code or, if necessary for law
13 enforcement purposes, to other departmental personnel accompanying a sworn
14 peace officer. Subdivision (a) shall not be construed to define or alter any
15 authority conferred on those peace officers by any other law or court decision.

16 (d) Subdivision (a) does not apply to, or interfere with, the authority of
17 employees or licensees to enter and inspect land in conformance with Section
18 4604 of the Public Resources Code.

19 (e) This section is not intended to expand or constrain the authority, if any, of
20 employees, agents, or licensees of the department to enter private land to conduct
21 inspections pursuant to Section 21615 of this code or Section 8670.5, 8670.7, or
22 8670.10 of the Government Code.

23 (f) If the department conducts a survey or evaluation of private land pursuant to
24 this section, that results in the preparation of a document or report, the department
25 shall, upon request and without undue delay, provide the landowner either a copy
26 of the report or a written explanation of the department’s legal authority for
27 denying the request. The department may charge a fee for each copy, not to exceed
28 the direct costs of duplication.

29 **Comment.** Section 1610 continues former Section 857 without substantive change.

30 **§ 1615. Landowner complaint policy**

31 1615. The department, in cooperation with landowners and landowner
32 organizations, shall develop a statewide policy and procedure for recording and
33 processing landowner complaints regarding alleged misconduct by personnel of
34 the department and a written protocol that ensures compliance with Section 1610.

35 **Comment.** Section 1615 continues former Section 858(a) without substantive change.

1 TITLE 3. GENERAL POWERS AND DUTIES

2 **§ 1675. Mission, core programs, service-based budget review**

3 1675. (a) (1) The department's mission is to manage California's diverse fish,
4 wildlife, and plant resources, and the habitats upon which they depend, for their
5 ecological values and for their use and enjoyment of the public.

6 (2) The department's core programs are the following:

7 (A) Management of departmental lands and facilities.

8 (B) Biodiversity conservation.

9 (C) Hunting, fishing, and public use.

10 (D) Enforcement.

11 (E) Spill prevention and response.

12 (F) Communication, education, and outreach.

13 (3) The department, as a part of a service-based budget review, shall identify
14 strategic goals that reflect the core programs identified in paragraph (2) and
15 support the department's mission and statutory requirements.

16 (b) (1) The department shall contract with an independent entity to conduct a
17 comprehensive service-based budget review and to consult on the development of
18 a service-based budget tracking system. The selected contractor shall have
19 experience conducting similar reviews and consulting on similar systems for a
20 comparably sized state agency or department.

21 (2) The service-based budget review shall study and report on all of the
22 following topics:

23 (A) For each strategic goal identified pursuant to paragraph (3) of subdivision
24 (a), a definition of the service standards and essential activities required for the
25 department to meet its mission and statutory requirements.

26 (B) Detailed cost estimates and staffing requirements for meeting the service
27 standards and requirements identified pursuant to subparagraph (A), including
28 applicable administrative costs.

29 (C) An analysis of how current service levels, activities, expenditures, and
30 staffing levels compare with the service standards and costs identified pursuant to
31 subparagraphs (A) and (B), respectively. The analysis shall explicitly identify
32 instances and associated costs where the department is not currently meeting its
33 mission or statutory requirements, as well as where it may be conducting activities
34 outside its mission and statutory requirements.

35 (D) An analysis of the department's existing revenue structure and program
36 activities supported by those fund sources. The analysis shall identify any
37 instances where the nature of the activity suggests a different funding source, such
38 as user fees or the General Fund, or a different revenue structure that could be
39 allowable or more appropriate to support the activity, or both allowable and more
40 appropriate to support the activity.

41 (E) The service-based budget review conducted pursuant to this section shall
42 build upon the California Fish and Wildlife Strategic Vision: Recommendations

1 for Enhancing the State’s Fish and Wildlife Management Agencies, issued in April
2 2012, and the Supporting Healthy Fish and Wildlife Populations in California and
3 Getting People Outdoors: An Expenditure Concept to Invest in Our Natural
4 Heritage for All Californians, issued on November 2, 2017.

5 (3) (A) The service-based budget tracking system shall incorporate data
6 collected for the review pursuant to paragraph (2), including the costs and staffing
7 levels associated with both existing service levels and the service level standards
8 developed pursuant to subparagraph (A) of paragraph (2).

9 (B) The service-based budget tracking system shall allow the department to
10 continuously analyze service levels across its programs and the degree to which
11 service standards are being met.

12 (C) The service-based budget tracking system shall be developed as a tool to
13 inform ongoing and future fiscal decisionmaking processes.

14 (D) The service-based budget tracking system shall be the property of the state
15 even if it is developed using nonstate funding provided pursuant to subdivision
16 (d).

17 (4) To meet the goals of this subdivision, the department shall collect
18 information necessary to inform service-based budgeting.

19 (c) In conducting the service-based budget review and developing the service-
20 based budget tracking system pursuant to subdivision (b), the department shall
21 meet all of the following deadlines:

22 (1) By December 15, 2018, the department shall do all of the following:

23 (A) Enter into a contract with the independent entity to complete the service-
24 based budget review.

25 (B) Form an internal leadership team within the department to oversee and
26 manage the service-based budget review.

27 (C) Form an external advisory committee to advise the department and
28 independent entity on conducting the service-based budget review.

29 (D) Submit a report to the relevant budget and policy committees of the
30 Legislature and the Legislative Analyst’s Office summarizing the status of these
31 activities.

32 (2) By April 15, 2020, the department shall report in its legislative oversight
33 hearings regarding the status of the service-based budget review.

34 (3) By January 15, 2021, the department shall submit the final service-based
35 budget review report to the relevant budget and policy committees of the
36 Legislature and the Legislative Analyst’s Office.

37 (4) By April 15, 2021, the department shall report in its legislative oversight
38 hearings how the findings of the service-based budget review have been
39 incorporated into the department’s operations and budget and any changes the
40 department proposed to its operations or budget resulting from the service-based
41 budget review.

1 (d) (1) The department may enter into one or more agreements to accept funds
2 from any person, nonprofit organization, or other public or private entity for
3 purposes of this section.

4 (2) Funding provided pursuant to this subdivision may be used by the
5 department for department staff, development of information technology systems,
6 or other costs associated with the service-based budget review and the service-
7 based budget tracking system.

8 (3) The Department of Finance may authorize expenditure of the funds provided
9 pursuant to this subdivision no sooner than 30 days after providing notification of
10 the expenditure to the chairperson of the Joint Legislative Budget Committee.

11 **Comment.** Section 1675 continues former Fish and Game Code Section 712.1 without
12 substantive change.

13  **Note:** Proposed Section 1675 would continue Section 712.1, which was added by 2018 Cal.
14 Stat. ch. 51, with immediate effect.

15 **§ 1700. Authority of department to take**

16 1700. Nothing in this code or any other law shall prohibit the department from
17 taking, for scientific, propagation, public health or safety, prevention or relief of
18 suffering, or law enforcement purposes, fish, amphibians, reptiles, mammals,
19 birds, and the nests and eggs thereof, or any other form of plant or animal life.

20 **Comment.** Section 1700 continues former Fish and Game Code Section 1001 without
21 substantive change.

22 **§ 1705. Capture and sale of birds and mammals**

23 1705. The department may capture and sell birds and mammals, at prices to be
24 fixed by the commission, to persons engaged in the domestication and sale thereof
25 in this state.

26 **Comment.** Section 1705 continues former Fish and Game Code Section 1004 without
27 substantive change.

28 **§ 1710. Importation, propagation, and distribution of birds, mammals, or fish**

29 1710. The department may import, propagate, and distribute birds, mammals,
30 and fish.

31 **Comment.** Section 1710 continues former Fish and Game Code Section 1007 without
32 substantive change.

33 **§ 1715. Inspection**

34 1715. The department may inspect the following:

35 (a) All boats, markets, stores and other buildings, except dwellings, and all
36 receptacles, except the clothing actually worn by a person at the time of
37 inspection, where birds, mammals, fish, reptiles, or amphibians may be stored,
38 placed, or held for sale or storage.

1 (b) All boxes and packages containing birds, mammals, fish, reptiles, or
2 amphibians that are held for transportation by any common carrier.

3 **Comment.** Section 1715 continues former Fish and Game Code Section 1006 without
4 substantive change.

5 **§ 1720. Investigation of disease**

6 1720. The department shall investigate all diseases of, and problems relating to,
7 birds, mammals, or fish, and establish and maintain laboratories to assist in such
8 investigation.

9 **Comment.** Section 1720 continues former Section 1008 without substantive change.

10 **§ 1725. Environmental review of effect on salmon and steelhead**

11 1725. Whenever the department is required, or provided an opportunity, to
12 assess the adequacy of a project or to provide a detailed environmental impact
13 statement or similar document pursuant to Public Law 91-190 or Section 21100,
14 21101, or 21102 of the Public Resources Code, or any other provision of law, it
15 shall determine the extent to which salmon and steelhead resources will be
16 protected from damage by the project in question, together with the extent to
17 which the agency or person preparing the plans for such project has incorporated
18 therein plans for increasing the salmon or steelhead resources of this state. To the
19 fullest practicable extent, the department shall advise the commission at one of its
20 regular scheduled meetings of the state's comments on the project. In no event
21 shall more than one regular commission meeting transpire between the time the
22 department renders comments to the requesting person or agency and the time it
23 reports its findings to the commission.

24 **Comment.** Section 1725 continues former Fish and Game Code Section 1015 without
25 substantive change.

26 **§ 1730. Feeding animals**

27 1730. The department, in accordance with policies established by the
28 commission, may provide for the feeding of game birds, mammals, or fish when
29 natural foods are not available for that purpose, and may provide suitable area or
30 areas for that feeding, and may for those purposes expend money as is necessary
31 from the Fish and Game Preservation Fund.

32 **Comment.** Section 1730 continues former Fish and Game Code Section 1502 without
33 substantive change.

34 **Note.** The Commission invites comment on whether proposed Section 1730 should apply
35 to all birds, mammals and fish; only game birds, game mammals, and game fish; or some
36 other combination of categories.

37 **§ 1735. Recovery of isolated fish**

38 1735. The department or any person authorized by it may use any net or other
39 appliance in any district for the purpose of recovering fish from overflowed areas

1 or landlocked sloughs or ponds where they have been left isolated by receding
2 streams or floodwaters.

3 **Comment.** Section 1735 continues former Fish and Game Code Section 8605 without
4 substantive change.

5 **Note.** Existing Fish and Game Code Section 8605 is governed by existing Fish and Game
6 Code Section 7600, which by its terms limits the application of Section 8605 to commercial
7 fishing. That seems inapt, because Section 8605 has no obvious connection to commercial
8 fishing.

9 **Proposed Section 1735 (which would continue existing Section 8605) would not be subject**
10 **to the provisions of existing Section 7600.**

11 **§ 1740. Informal consultative procedures**

12 1740. (a) It is the policy of the state to anticipate and resolve potential conflicts
13 between the management, conservation, and protection of fish and wildlife
14 resources and their habitat and private and public activities that may affect them.

15 (b) Accordingly, the department may use any informal consultative procedures
16 prior to taking any formal action that will assist in the achievement of this policy.

17 (c) Any costs incurred by the department in engaging in informal consultative
18 procedures, including, but not limited to, fees charged by any neutral party acting
19 in the capacity of a mediator, discussion facilitator, or convener, are a proper
20 charge against any funds lawfully available to the department for this purpose.

21 (d) The authority conferred by this section is not intended, and shall not be
22 construed, to increase, decrease, duplicate, or supersede any other authority of the
23 department or the commission under this code or any other provision of law.

24 (e) As used in this section, “formal action” means any of the following:

25 (1) The adoption, amendment, or repeal of any rule, regulation, or order.

26 (2) Entering into, amending, or canceling an agreement.

27 (3) The issuance, suspension, or revocation of any permit, license, or other
28 entitlement.

29 **Comment.** Section 1740 continues former Section 1017 without substantive change.

30 **§ 1745. Biological research**

31 1745. The department shall expend funds necessary for biological research and
32 field investigation and for the collection and diffusion of statistics and information
33 that pertain to the conservation, propagation, protection, and perpetuation of birds
34 and their nests and eggs, and of mammals, reptiles, amphibians, and fish.

35 **Comment.** Section 1745 continues former Fish and Game Code Section 1000 without
36 substantive change.

37 **§ 1750. Educational displays**

38 1750. For the purpose of exhibiting fish and wildlife educational material at
39 fairs, hunting shows, or sport fishing shows and making other public displays, and
40 to make conservation educational materials on fish and wildlife available for any

1 public use, including fairs, hunting shows, sport fishing shows, schools, and civic
2 organizations, the department may:

3 (a) Accept on behalf of the state donations of money and services from any
4 person to defray any expenses that may be incurred by the department in
5 connection with those activities.

6 (b) Charge admissions or make a charge for the use of any departmental material
7 or exhibits to be used in a fair, hunting show, or sport fishing show, or by a civic
8 organization.

9 **Comment.** Section 1750 continues former Fish and Game Code Section 1005 without
10 substantive change.

11 **§ 1755. Gift of personal property from county**

12 1755. Notwithstanding Section 11005 of the Government Code, the department
13 may accept gifts of personal property if the donor is a county of the state and the
14 gift is purchased with fine money derived from fish and wildlife violations. The
15 department shall notify the Department of Finance 30 days in advance of
16 accepting these gifts.

17 **Comment.** Section 1755 continues former Fish and Game Code Section 1005.5 without
18 substantive change.

19 **TITLE 4. COORDINATION WITH OTHER ENTITIES**

20 **§ 1900. Service agreements**

21 1900. The department may enter into one or more agreements to accept services
22 from any person, nonprofit organization, or other public or private entity for
23 purposes relating to conservation programs, projects, and activities by the
24 department. Under the direction of the department, these services shall supplement
25 existing staff resources. Agreements for services for the management and
26 operation of department-managed lands shall be subject to the provisions of
27 Chapter 1 (commencing with Section 2000) of Title 5.

28 **Comment.** Section 1900 continues former Fish and Game Code Section 1226(b) without
29 substantive change.

30 **Note.** Existing Fish and Game Code Section 1226(b) contains a cross-reference to existing
31 Fish and Game Code Section 1745. In the proposed law, Section 1745 would be continued by
32 Chapter 1 (commencing with Section 2000) of Title 5 of Part 2 of Division 2. However that
33 proposed chapter would also contain a provision continuing existing Section 1745.1 (proposed
34 Section 2040).

35 As a result, the proposed revision of the cross-reference in existing Section 1226(b) would
36 mean that under the proposed law, the agreements for services for the management and operation
37 of department-managed lands referenced in that provision would also be “subject to” proposed
38 Section 2040, which provides:

39 “2040. (a) Notwithstanding any other provision of this code, the department may lease
40 department-managed lands for agricultural activities, including, but not limited to, grazing, where
41 consistent with the purpose for which the lands were acquired, and compatible with the
42 department’s approved management plan for the area, if available.

1 (b) The moneys collected from agricultural leases entered into pursuant to subdivision (a) shall
2 be deposited by the department into the Wildlife Restoration Fund and, upon appropriation by the
3 Legislature, may be used to support the management, maintenance, restoration, and operations of
4 department-managed lands.

5 **The Commission invites comment on whether the proposed revision of the cross-reference**
6 **in existing Section 1226(b), to include the provisions of proposed Section 2040, is**
7 **problematic.**

8 **§ 1905. Funding agreements**

9 1905. Notwithstanding any other law, the department may enter into one or
10 more agreements with any person, nonprofit organization, or other public or
11 private entity, as may be appropriate, to assist the department in its efforts to
12 secure long-term private funding sources for purposes relating to conservation
13 programs, projects, and activities by the department. The authority to enter into an
14 agreement under this section shall include, but not be limited to, the authority to
15 secure donations, memberships, corporate and individual sponsorships, and
16 marketing and licensing agreements.

17 **Comment.** Section 1905 continues former Section 1227 without substantive change.

18 **§ 1910. Science institute**

19 1910. (a) The director, in consultation with the Natural Resources Agency, shall
20 establish a formal program, which may be called the Science Institute, to assist the
21 department and commission in obtaining independent scientific review and
22 recommendations to help inform the scientific work of the department and the
23 commission. The program shall include one or more ad hoc independent scientific
24 committees consisting of independent scientists who are scientific experts in their
25 fields with expertise in biological sciences and with a range of multidisciplinary
26 expertise pertinent to the work of the department and the commission, and which
27 may be convened pursuant to this section. The purpose of the program shall be to
28 assist the department and the commission in obtaining and establishing an
29 independent and objective view of the scientific issues underlying important
30 policy decisions.

31 (b) The objectives of the program shall include, but not necessarily be limited to,
32 the following:

33 (1) Providing independent scientific guidance of the scientific research,
34 monitoring, and assessment programs that support the department's and the
35 commission's work with fish and wildlife species and their habitats.

36 (2) Providing the best available independent scientific information and advice to
37 guide and inform department and commission decisions.

38 (3) Promoting and facilitating independent scientific peer review.

39 (4) Promoting science-based adaptive management.

40 (5) Ensuring scientific integrity and transparency in decisionmaking.

41 (c) The department may consult with members of the ad hoc scientific
42 committees to assist the department in identifying other independent scientific

1 experts with specialized expertise as needed for independent peer review of
2 department reports, including, but not limited to, status review reports prepared for
3 purposes of informing decisions on petitions for listing of species under the
4 California Endangered Species Act (Part 1 (commencing with Section 62000) of
5 Division 17).

6 (d) The department shall consult with independent scientific advisors to develop
7 and revise as necessary a scientific integrity policy to guide the work of the
8 department and the commission. The scientific integrity policy may include, but is
9 not necessarily limited to, an ethical code of conduct for department scientists,
10 standards for independent peer review, and other best practices for ensuring
11 scientific integrity and public confidence in department and commission work
12 products and decisions.

13 (e) For marine fisheries and other marine resources, the department may utilize
14 the California Ocean Science Trust for the purposes of this section.

15 **Comment.** Section 1910 continues former Fish and Game Code Section 715 without
16 substantive change.

17 **§ 1915. Federal Water Pollution Control Act joint powers agreement**

18 1915. (a) The director or one or more of the director's designees may accept the
19 office of director or alternate director of an entity established by a joint powers
20 agreement providing for the establishment and conduct of an areawide waste
21 management planning process in accordance with the provisions of Section 208 of
22 the Federal Water Pollution Control Act.

23 (b) The office of director or alternate director of a joint powers entity established
24 pursuant to subdivision (a) is deemed compatible with the office of director of the
25 department, and with the office or employment of a person that the director
26 designates to serve that entity.

27 (c) For purposes of this section, "person" includes an individual, firm,
28 association, organization, partnership, business, trust, corporation, limited liability
29 company, company, district, city, county, city and county, town, the state, and any
30 of the agencies of those entities.

31 **Comment.** Subdivisions (a) and (b) of Section 1915 continue former Fish and Game Code
32 Section 701.5 without substantive change.

33 Subdivision (c) continues former Fish and Game Code Section 711.2(b) without substantive
34 change.

35 **Note.** Subdivision (c) of proposed Section 1915 is added to preserve the existing application
36 of a special definition of the word "person." See Fish and Game Code § 711.2(b). That definition
37 is broader than the general definition of the term. See Fish and Game Code § 67.

38 **The Commission invites comment on whether the broader definition of the term "person"**
39 **set out in existing Section 711.2(b) should be made applicable to proposed Section 1915.**

1 TITLE 5. REAL PROPERTY

2 CHAPTER 1. USE OF DEPARTMENT-MANAGED LANDS

3 § 2000. Definitions

4 2000. For purposes of this chapter, the following terms have the following
5 meanings:

6 (a) “Department-managed lands” includes lands, or lands and water, acquired
7 for public shooting grounds, state marine (estuarine) recreational management
8 areas, ecological reserves, and wildlife management areas. This subdivision does
9 not apply to Section 2020.

10 (b) “Nonconsumptive uses” means compatible uses other than hunting and
11 fishing.

12 **Comment.** Section 2000 continues former Fish and Game Code Section 1745(a) without
13 substantive change.

14 § 2005. Non-profit operation

15 2005. Department-managed lands shall be operated on a nonprofit basis by the
16 department.

17 **Comment.** Section 2005 continues former Fish and Game Code Section 1745(b)(1) without
18 substantive change.

19 § 2010. Management and operation contracts

20 2010. (a) The department may enter into contracts or other agreements for the
21 management and operation of department-managed lands with nonprofit
22 conservation groups, recognized under Section 501(c) of the Internal Revenue
23 Code, or resource conservation districts, as described in Chapter 3 (commencing
24 with Section 9151) of Division 9 of the Public Resources Code.

25 (b) The contracts or other agreements authorized pursuant to this section are not
26 subject to Part 2 (commencing with Section 10100) of Division 2 of the Public
27 Contract Code or Article 6 (commencing with Section 999) of Chapter 6 of
28 Division 4 of the Military and Veterans Code.

29 (c) The contracts or other agreements authorized pursuant to this section shall
30 adhere to the goals and objectives included in an approved management plan and
31 shall be consistent with the purpose for which the lands were acquired and
32 managed by the department. Any changes to the management plan shall be subject
33 to public review and comment.

34 **Comment.** Section 2010 continues former Fish and Game Code Section 1745(b)(2) without
35 substantive change.

36 § 2015. Property uses

37 2015. (a) Multiple recreational use of department-managed lands is desirable
38 and that use shall be encouraged by the commission. Except for hunting and

1 fishing purposes, only minimum facilities to permit other forms of multiple
2 recreational use, such as camping, picnicking, boating, or swimming, shall be
3 provided.

4 (b) Hunting, fishing, wildlife viewing, wildlife photography, conservation
5 education, and fish and wildlife research are priority uses compatible with
6 department-managed lands, except for ecological reserves where uses shall be
7 considered on an individual basis.

8 (c) Public uses of department-managed lands not described in subdivision (a) or
9 (b), or subdivision (b) of Section 2020, shall be authorized by regulations adopted
10 by the commission. The commission may require the purchase of a special use
11 permit for these other uses.

12 **Comment.** Section 2015 continues former Section 1745(c) and (d) without substantive change.

13 **§ 2020. Use fees and permits**

14 2020. (a) Except as provided in Sections 4452 and 56080, to defray the costs
15 associated with multiple use, the commission may determine and fix the amount
16 of, and the department shall collect, fees for any use privileges. Only persons
17 holding valid hunting licenses may apply for or obtain shooting permits for
18 department-managed lands.

19 (b) The department shall require the purchase of an entry permit for
20 nonconsumptive uses of department-managed lands, if the department finds that it
21 is practical and would be cost effective for the state to collect entry permit fees.

22 (c) The following shall apply if the department requires the purchase of an entry
23 permit pursuant to subdivision (b):

24 (1) The department shall require the purchase of an entry permit for
25 nonconsumptive uses of a department-managed land only if a sign providing
26 notice of the requirement has been posted at the department-managed land.

27 (2) To the extent feasible, the department shall allow nonconsumptive users to
28 purchase an entry permit onsite.

29 (3) The department shall use the Automated License Data System to sell an
30 entry permit.

31 (4) A nonconsumptive user shall have an entry permit in his or her immediate
32 possession while on department-managed lands.

33 **Comment.** Section 2020 continues former Fish and Game Code Section 1745(e)-(g) without
34 substantive change. See also Section 4452 (enforcement).

35 **§ 2030. Free access**

36 2030. The commission and department may continue to allow free access to a
37 department-managed land if the commission or department finds the best interests
38 of that area would be served by not fixing a fee for use privileges.

39 **Comment.** Section 2030 continues former Section 1745(j) without substantive change.

1 § 2035. Use of funds

2 2035. (a) Except as provided in Section 2040, the moneys generated pursuant to
3 this chapter shall be deposited in the Native Species Conservation and
4 Enhancement Account within the Fish and Game Preservation Fund, and shall be
5 available, upon appropriation by the Legislature, to the department for the
6 management and operation of its lands.

7 (b) To the extent that the department is able to identify the source of the fee
8 revenue collected, the department shall provide no less than 35 percent of the
9 funds generated pursuant to this section to the department-managed lands from
10 which the fee revenues were collected.

11 **Comment.** Section 2035 continues former Fish and Game Code Section 1745(i) without
12 substantive change.

13 § 2040. Leasing of department-managed lands

14 2040. (a) Notwithstanding any other provision of this code, the department may
15 lease department-managed lands for agricultural activities, including, but not
16 limited to, grazing, where consistent with the purpose for which the lands were
17 acquired, and compatible with the department’s approved management plan for
18 the area, if available.

19 (b) The moneys collected from agricultural leases entered into pursuant to
20 subdivision (a) shall be deposited by the department into the Wildlife Restoration
21 Fund and, upon appropriation by the Legislature, may be used to support the
22 management, maintenance, restoration, and operations of department-managed
23 lands.

24 **Comment.** Section 2040 continues former Fish and Game Code Section 1745.1 without
25 substantive change.

26 **Note.** Under existing law, Section 1745.1 is technically not subject to the definition of
27 “department-managed lands” provided in Section 1745, as per Section 1745(a) that definition
28 applies only for the purposes of that section. The proposed law would change that, as proposed
29 Section 2040 would now be governed by that definition, which would be continued in proposed
30 Section 2000(a).

31 **The Commission invites comment on whether making that definition of “department-**
32 **managed lands” expressly applicable to existing Section 1745.1 would cause any**
33 **problematic change in the meaning of that provision.**

34 CHAPTER 2. OTHER DUTIES AND AUTHORITY

35 § 2100. Management and listing of real property

36 2100. (a) Subject to an appropriation of funds by the Legislature for that
37 purpose, for parcels wholly within its jurisdiction acquired on or after January 1,
38 2002, the department shall prepare draft management plans for public review
39 within 18 months of the recordation date.

40 (b)(1) On or before February 1 of each year, the department shall submit a list of
41 lands acquired during the previous two fiscal years and the status of the

1 management plans for each acquisition to the fiscal committees of each house of
2 the Legislature.

3 (2) Each fiscal committee in the Legislature shall consider the lists described in
4 paragraph (1) in its budget decisions for the department.

5 **Comment.** Section 2100 continues former Section 1019 without substantive change.

6 **§ 2105. Rights of way**

7 2105. (a) The department may obtain for the state rights of way over private
8 lands for the purpose of furnishing access for the public to lands or waters open to
9 public hunting or fishing, whenever rights of way are determined by the
10 commission to be necessary for public use. The rights of way shall not be acquired
11 by eminent domain proceedings.

12 (b) The department may construct or cause to be constructed any fences, signs,
13 or other structures as are necessary for the protection of a right of way, and the
14 cost of the construction shall be met out of the funds available to the department.

15 **Comment.** Section 2105 continues former Fish and Game Code Section 1009 without
16 substantive change.

17 **§ 2110. Grazing permits**

18 2110. The department, by and with the approval of the Department of General
19 Services, may sell grazing permits or otherwise dispose of excess vegetation or
20 other products, produced on lands acquired by the department.

21 **Comment.** Section 2110 continues former Fish and Game Code Section 1010 without
22 substantive change.

23 **TITLE 6. INSURANCE AND LIABILITY**

24 **§ 2200. Insurance**

25 2200. (a) The department may procure insurance for any of the following
26 purposes:

27 (1) For itself and landowners who agree to permit the department to use their
28 land as cooperative hunting, fishing, conservation or recreational areas, against
29 any liability resulting from the operation of those hunting, fishing, conservation or
30 recreational areas.

31 (2) For its employees or other persons authorized by the department to conduct
32 hunter education training courses against any public liability or property damage
33 resulting from that training.

34 (b) The cost of insurance procured pursuant to subdivision (a) shall be a proper
35 charge against and shall be paid out of the Fish and Game Preservation Fund.

36 **Comment.** Section 2200 continues former Fish and Game Code Section 1011 without
37 substantive change.

1 (b) Participate in interagency coordination processes that facilitate consistency
2 and efficiency in review of projects requiring multiple permits, including, but not
3 necessarily limited to, joint state, federal, and local permit review teams that
4 enable early consultation with project applicants, and provide improved sharing of
5 data, information, tools, and science to achieve better alignment of planning,
6 policies, and regulations across agencies.

7 **Comment.** Section 2400 continues former Fish and Game Code Section 703.5 without
8 substantive change.

9 **§ 2405. Strategic planning**

10 2405. (a) The department and the commission shall develop a strategic plan to
11 implement proposals arising from any of the following:

12 (1) The strategic vision developed and submitted to the Governor and the
13 Legislature pursuant to Section 12805.3 of the Government Code.

14 (2) Any legislation enacted relating to the strategic vision process.

15 (3) The department's own proposals for reform.

16 (b)(1) The department and the commission may contract for consultants to assist
17 in the preparation of the strategic plan pursuant to subdivision (a).

18 (2) Contracts entered into pursuant to paragraph (1) shall terminate no later than
19 December 31, 2015.

20 (3) Contracts entered into pursuant to paragraph (1) shall be exempt from Part 2
21 (commencing with Section 10100) of Division 2 of the Public Contract Code.

22 **Comment.** Section 2405 continues former Fish and Game Code Section 1020 without
23 substantive change.

24 **§ 2410. Resource management decisionmaking methods**

25 2410. It is the policy of the state that the department and commission use
26 ecosystem-based management informed by credible science in all resource
27 management decisions to the extent feasible. It is further the policy of the state
28 that scientific professionals at the department and commission, and all resource
29 management decisions of the department and commission, be governed by a
30 scientific quality assurance and integrity policy, and follow well-established
31 standard protocols of the scientific profession, including, but not limited to, the
32 use of peer review, publication, and science review panels where appropriate.
33 Resource management decisions of the department and commission should also
34 incorporate adaptive management to the extent possible.

35 **Comment.** Section 2410 continues former Fish and Game Code Section 703.3 without
36 substantive change.

1 (b) Except as otherwise provided, all of the provisions of this code relating to
2 District 2505 shall apply to District 2510.

3 (c) Any reference to “District 1 3/8” shall be construed as a reference to District
4 2510.

5 **Comment.** Subdivisions (a) and (b) of Section 2510 continue former Fish and Game Code
6 Section 11002 without substantive change.

7 Subdivision (c) is new.

8 **§ 2515. District 2515**

9 2515. (a) The following constitutes Fish and Wildlife District 2515:

10 Those portions of the Counties of Del Norte, Siskiyou, Trinity, and Humboldt
11 not included in other districts.

12 (b) Any reference to “District 1 1/2” shall be construed as a reference to District
13 2515.

14 **Comment.** Subdivision (a) of Section 2515 continues former Fish and Game Code Section
15 11003 without substantive change.

16 Subdivision (b) is new.

17 **§ 2520. District 2520**

18 2520. (a) The following constitutes Fish and Wildlife District 2520:

19 Those portions of the County of Modoc not included in other districts and that
20 portion of the County of Siskiyou lying east of the Weed-Klamath Falls Highway
21 between the north line of the County of Siskiyou and the Town of Weed and east
22 of the Pacific Highway between the Town of Weed and the junction of Pacific
23 Highway and the McCloud-Fall River Mills Highway and north and east of the
24 McCloud-Fall River Mills Highway to the Siskiyou and Shasta county line and
25 that part of Shasta County lying north and east of the McCloud-Fall River Mills
26 Highway to its junction with the road to Lake Britton at Dickson Flat and east of
27 that road through Burney Falls State Park to its junction with the Hat Creek-
28 Lassen Highway at the Redding-Alturas Highway and east of the Hat Creek-
29 Lassen Highway to Lassen Volcanic National Park and north and east to the north
30 and east boundary of Lassen Volcanic National Park to its junction with the
31 Lassen county line. That part of Lassen County north and east of the north and east
32 boundary of the Lassen Volcanic National Park to its junction with the north line
33 of District 2665 and east of the east boundary of District 2665 to its junction with
34 the Lassen-Plumas county line approximately one mile southeast of Coyote Peak
35 in Sec. 24, T. 28 N., R. 10 E. and north and west of the Plumas-Lassen county line
36 between the boundary of District 1915 and the Susanville-Taylorville road.

37 (b) Any reference to “District 1 3/4” shall be construed as a reference to District
38 2520.

39 **Comment.** Subdivision (a) of Section 2520 continues former Fish and Game Code Section
40 11004 without substantive change.

41 Subdivision (b) is new.

1 **§ 2525. District 2525**

2 2525. (a) The following constitutes Fish and Wildlife District 2525:

3 Those portions of the following counties not included in other districts:
4 Mendocino, Glenn, Colusa, Yolo, Solano, Napa, Sonoma, and Marin; that portion
5 of San Francisco Bay lying westerly of a line drawn from California Point to San
6 Quentin Point; that portion of San Francisco Bay lying westerly of a line drawn
7 from San Quentin Point to San Pedro Point, in Marin County; that portion of San
8 Pablo Bay lying westerly of a line drawn from San Pedro Point to the south side of
9 the mouth of Novato Creek; and that portion of San Pablo Bay lying northerly of a
10 line drawn due east from the south side of the mouth of Novato Creek to the
11 westerly shore of Mare Island.

12 (b) Any reference to “District 2” shall be construed as a reference to District
13 2525.

14 **Comment.** Subdivision (a) of Section 2525 continues former Fish and Game Code Section
15 11005 without substantive change.

16 Subdivision (b) is new.

17 **§ 2530. District 2530**

18 2530. (a) The following constitutes Fish and Wildlife District 2530:

19 Lake County and the waters of Clear Lake.

20 (b) Any reference in this code to Clear Lake refers to District 2530.

21 (c) Except as otherwise provided, all of the provisions of this code relating to
22 District 2525 apply to District 2530.

23 (d) Any reference to “District 2 1/4” shall be construed as a reference to District
24 2530.

25 **Comment.** Subdivisions (a) through (c) of Section 2530 continue former Fish and Game Code
26 Section 11006 without substantive change.

27 Subdivision (d) is new.

28 **§ 2535. District 2535**

29 2535. (a) The following constitutes Fish and Wildlife District 2535:

30 Those portions of T. 24 N., R. 18 and 19 W.; 23 N., R. 17 and 18 W.; 22 N., R.
31 17 and 18 W.; 21 N., R. 17 W., west of the summit of the divide between the
32 Pacific Ocean and the south fork of the Eel River.

33 All of T. 12, 13, 14, 15, 16, 17, 18 N., R. 16 W.; and T. 12, 13, 14, 15, 16, 17,
34 18, 19 and 20 N., R. 17 W., and T. 17 and 18 N., R. 18 W.

35 All being townships located in western Mendocino County.

36 (b) Any reference to “District 2 1/2” shall be construed as a reference to District
37 2535.

38 **Comment.** Subdivision (a) of Section 2535 continues former Fish and Game Code Section
39 11007 without substantive change.

40 Subdivision (b) is new.

41 **§ 2540. District 2540**

42 2540. (a) The following constitutes Fish and Wildlife District 2540:

1 Those portions of the following counties not included in other districts: San
2 Francisco, Contra Costa, Alameda, San Mateo, Santa Cruz, Santa Clara, San
3 Benito, Monterey, San Joaquin, Stanislaus, Merced, Fresno, and Kings.

4 (b) Any reference to “District 3” shall be construed as a reference to District
5 2540.

6 **Comment.** Subdivision (a) of Section 2540 continues former Fish and Game Code Section
7 11008 without substantive change.

8 Subdivision (b) is new.

9 **§ 2545. District 2545**

10 2545. (a) The following constitutes Fish and Wildlife District 2545:

11 Those portions of the following counties not included in other districts: San Luis
12 Obispo, Santa Barbara, Ventura, and Kern.

13 (b) Except as otherwise provided all of the provisions of this code applicable to
14 District 2540 apply to District 2545.

15 (c) Any reference to “District 3 1/2” shall be construed as a reference to District
16 2545.

17 **Comment.** Subdivisions (a) and (b) of Section 2545 continue former Fish and Game Code
18 Section 11009 without substantive change.

19 Subdivision (c) is new.

20 **§ 2550. District 2550**

21 2550. (a) The following constitutes Fish and Wildlife District 2550:

22 Those portions of the following counties not included in other districts: San
23 Bernardino, Riverside, and Orange.

24 (b) Any reference to “District 4” shall be construed as a reference to District
25 2550.

26 **Comment.** Subdivision (a) of Section 2550 continues former Fish and Game Code Section
27 11010 without substantive change.

28 Subdivision (b) is new.

29 **§ 2555. District 2555**

30 2555. (a) The following constitutes Fish and Wildlife District 2555:

31 All of Los Angeles County not included within other districts.

32 (b) Except as otherwise provided, all of the provisions of this code applicable to
33 District 2550 apply to District 2555.

34 (c) Any reference to “District 4 1/8” shall be construed as a reference to District
35 2555.

36 **Comment.** Subdivisions (a) and (b) of Section 2555 continue former Fish and Game Code
37 Section 11011 without substantive change.

38 Subdivision (c) is new.

39 **§ 2560. District 2560**

40 2560. (a) The following constitutes Fish and Wildlife District 2560:

41 Those portions of the Counties of Mono and Inyo not included in other districts.

1 (b) Any reference to “District 4 1/2” shall be construed as a reference to District
2 2560.

3 **Comment.** Subdivision (a) of Section 2560 continues former Fish and Game Code Section
4 11012 without substantive change.

5 Subdivision (b) is new.

6 **§ 2565. District 2565**

7 2565. (a) The following constitutes Fish and Wildlife District 2565:

8 Those portions of the Counties of San Diego and Imperial not included in other
9 districts.

10 (b) Any reference to “District 4 3/4” shall be construed as a reference to District
11 2565.

12 **Comment.** Subdivision (a) of Section 2565 continues former Fish and Game Code Section
13 11013 without substantive change.

14 Subdivision (b) is new.

15 **§ 2570. District 2570**

16 2570. (a) The following constitutes Fish and Wildlife District 2570:

17 The ocean waters and tidelands of the State to the high-water mark lying
18 between the northern boundary of this State and a line extending due west from
19 the west end of the north jetty at the entrance of Humboldt Bay, excluding all
20 sloughs, streams, and lagoons.

21 (b) Any reference to “District 6” shall be construed as a reference to District
22 2570.

23 **Comment.** Subdivision (a) of Section 2570 continues former Fish and Game Code Section
24 11014 without substantive change.

25 Subdivision (b) is new.

26 **§ 2575. District 2575**

27 2575. (a) The following constitutes Fish and Wildlife District 2575:

28 The ocean waters and tidelands of the State to high-water mark between a line
29 extending due west from the west end of the north jetty at the entrance of
30 Humboldt Bay and the southern boundary of Mendocino County, excluding the
31 ocean waters between the north and south jetties at the entrance of Humboldt Bay
32 from the westerly end of each of said jetties in the Pacific Ocean to their
33 respective aprons on the shores of Humboldt Bay, and also excluding all sloughs,
34 streams, and lagoons.

35 (b) Any reference to “District 7” shall be construed as a reference to District
36 2575.

37 **Comment.** Subdivision (a) of Section 2575 continues former Fish and Game Code Section
38 11015 without substantive change.

39 Subdivision (b) is new.

40 **§ 2580. District 2580**

41 2580. (a) The following constitutes Fish and Wildlife District 2580:

1 The waters and tidelands to high-water mark of Humboldt Bay lying north of a
2 straight line running east from the center of apron at the approach of the south
3 jetty at the entrance of Humboldt Bay to the east shore line of the bay, including
4 the entrance of Humboldt Bay not included in District 2575, and excluding all
5 rivers, streams, and sloughs emptying into the bay.

6 (b) Any reference to “District 8” shall be construed as a reference to District
7 2580.

8 **Comment.** Subdivision (a) of Section 2580 continues former Fish and Game Code Section
9 11016 without substantive change.

10 Subdivision (b) is new.

11 **§ 2585. District 2585**

12 2585. (a) The following constitutes Fish and Wildlife District 2585:

13 The waters and tidelands to high-water mark of Humboldt Bay lying south of a
14 straight line running east from the center of apron at the approach to the south jetty
15 at the entrance of Humboldt Bay to the east shore line of the bay, excluding all
16 rivers, streams, and sloughs emptying into the bay.

17 (b) Any reference to “District 9” shall be construed as a reference to District
18 2585.

19 **Comment.** Subdivision (a) of Section 2585 continues former Fish and Game Code Section
20 11017 without substantive change.

21 Subdivision (b) is new.

22 **§ 2590. District 2590**

23 2590. (a) The following constitutes Fish and Wildlife District 2590:

24 The ocean waters and the tidelands of the State to high-water mark lying
25 between the southern boundary of Mendocino County and a line extending west
26 from the Pigeon Point lighthouse in San Mateo County, including the waters of
27 Tomales Bay to a line drawn from the mouth of the unnamed creek approximately
28 1500 feet north of Tomasini Point southwesterly 218° magnetic to the mouth of
29 the unnamed creek at Shell Beach, and excluding Bodega Lagoon and all that
30 portion of Bolinas Bay lying inside of Bolinas bar, that portion of San Francisco
31 Bay lying east of a line drawn from Point Bonita to Point Lobos and all rivers,
32 streams, and lagoons.

33 (b) Any reference to “District 10” shall be construed as a reference to District
34 2590.

35 **Comment.** Subdivision (a) of Section 2590 continues former Fish and Game Code Section
36 11018 without substantive change.

37 Subdivision (b) is new.

38 **Note.** The second paragraph of existing Fish and Game Code Section 11018 reads as follows:
39 “The amendment of this section by the Legislature at the 1963 Regular Session has no effect on
40 the cultivation of oysters by persons licensed under Article 4 (commencing with Section 6480),
41 Chapter 5, Part 1, Division 6.”

42 The amendment referenced in this language changed the description of one of the geographical
43 areas that comprise existing Fish and Game District 10. See 1965 Cal. Stat. ch. 1487. The

1 statutory article referenced in the paragraph was repealed in 1971, and was not unambiguously
2 continued in any presently existing sections of the code. See 1971 Cal. Stat. ch. 347. The
3 cultivation of oysters is now more generally regulated under the aquaculture provisions of the
4 existing code, and pursuant to oyster leases. See existing Fish and Game Code Sections 15406.5,
5 15406.7.

6 The Commission believes the second paragraph of existing Section 11018 is now obsolete, and
7 would not be continued by proposed Section 2590.

8 **The Commission invites comment on the discontinuation of the second paragraph of**
9 **existing Section 11018 in the proposed law.**

10 **§ 2595. District 2595**

11 2595. (a) The following constitutes Fish and Wildlife District 2595:

12 The waters and tidelands of San Francisco Bay to high-water mark bounded as
13 follows: Beginning at the extreme westerly point of Point Bonita; thence in a
14 direct line to the extreme westerly point of Point Lobos; thence around the shore
15 line of San Francisco Bay to the foot of Powell Street; thence in a direct line
16 northwesterly to Peninsula Point, the most southerly extremity of Belvedere
17 Island; thence in a direct line westerly to the easternmost point of the ferry dock at
18 Sausalito; thence southerly and westerly around the shore of San Francisco Bay to
19 the point of beginning.

20 (b) Any reference to “District 11” shall be construed as a reference to District
21 2595.

22 **Comment.** Subdivision (a) of Section 2595 continues former Fish and Game Code Section
23 11019 without substantive change.

24 Subdivision (b) is new.

25 **§ 2600. District 2600**

26 2600. (a) The following constitutes Fish and Wildlife District 2600:

27 The waters and tidelands of San Francisco Bay to high-water mark not included
28 in Districts 2595 and 2605, the waters and tidelands to high-water mark of San
29 Leandro Bay, Oakland Creek or estuary, San Antonio Creek in Alameda County,
30 Raccoon Strait, San Pablo Bay, the Carquinez Strait to the Carquinez Bridge, and
31 all lands and waters included within the exterior boundaries of these districts and
32 excluding all tributary sloughs, creeks, bays, rivers, and overflowed areas not
33 specifically described herein.

34 (b) Any reference to “District 12” shall be construed as a reference to District
35 2600.

36 **Comment.** Subdivision (a) of Section 2600 continues former Fish and Game Code Section
37 11020 without substantive change.

38 Subdivision (b) is new.

39 **§ 2605. District 2605**

40 2605. (a) The following constitutes Fish and Wildlife District 2605:

41 The waters and tidelands to high-water mark of San Francisco Bay lying to the
42 south of a line drawn between the Ferry Building at the foot of Market Street in

1 San Francisco and the mouth of the Oakland Creek or estuary in Alameda County,
2 excluding all streams, sloughs, and lagoons.

3 (b) Any reference to “District 13” shall be construed as a reference to District
4 2605.

5 **Comment.** Subdivision (a) of Section 2605 continues former Fish and Game Code Section
6 11022 without substantive change.

7 Subdivision (b) is new.

8 **§ 2610. District 2610**

9 2610. (a) The following constitutes Fish and Wildlife District 2610:

10 The waters and tidelands to high-water mark of that portion of Monterey Bay
11 lying to the south of a line drawn 100° magnetic from the extreme northerly point
12 of Point Pinos in a straight line easterly to the eastern shore of Monterey Bay.

13 (b) Any reference to “District 16” shall be construed as a reference to District
14 2610.

15 **Comment.** Subdivision (a) of Section 2610 continues former Fish and Game Code Section
16 11024 without substantive change.

17 Subdivision (b) is new.

18 **§ 2615. District 2615**

19 2615. (a) The following constitutes Fish and Wildlife District 2615:

20 The waters and tidelands to high-water mark of Monterey Bay and the Pacific
21 Ocean, lying between a line extending west from Pigeon Point Lighthouse and a
22 line extending west from Yankee Point, Carmel Highlands in Monterey County,
23 excluding the areas included in District 2610, and excluding all rivers, creeks,
24 sloughs and lagoons emptying into the Pacific Ocean and Monterey Bay within the
25 boundaries thus defined.

26 (b) Any reference to “District 17” shall be construed as a reference to District
27 2615.

28 **Comment.** Subdivision (a) of Section 2615 continues former Fish and Game Code Section
29 11025 without substantive change.

30 Subdivision (b) is new.

31 **§ 2620. District 2620**

32 2620. (a) The following constitutes Fish and Wildlife District 2620:

33 The ocean waters of the State and tidelands to high-water mark not included in
34 other districts, lying between a line extending due west from Yankee Point,
35 Carmel Highlands, in Monterey County, and a line extending from Point Rincon
36 near or at the common boundaries between Santa Barbara and Ventura Counties
37 westerly through Richardson Rock, and excluding all rivers, streams, sloughs, and
38 lagoons.

39 (b) Any reference to “District 18” shall be construed as a reference to District
40 2620.

41 **Comment.** Subdivision (a) of Section 2620 continues former Fish and Game Code Section
42 11026 without substantive change.

1 Subdivision (b) is new.

2 **§ 2625. District 2625**

3 2625. (a) The following constitutes Fish and Wildlife District 2625:

4 The ocean waters of the State and tidelands to high-water mark, and islands off
5 the coast and waters adjacent thereto, lying southerly of Fish and Wildlife District
6 1870, and northerly of a westerly extension of the boundary line between the
7 Republic of Mexico and San Diego County, excepting Districts 2630, 2635, 2640,
8 2645, and 2650, and excluding all rivers, streams, sloughs, lagoons, and bays.

9 (b) Any reference to “District 19” shall be construed as a reference to District
10 2625.

11 **Comment.** Subdivision (a) of Section 2625 continues former Fish and Game Code Section
12 11027 without substantive change.

13 Subdivision (b) is new.

14 **§ 2630. District 2630**

15 2630. (a) The following constitutes Fish and Wildlife District 2630:

16 The ocean waters and tidelands to high-water mark lying between the southerly
17 extremity of Malibu Point and the westerly extremity of Rocky Point (Palos
18 Verdes Point), excluding all rivers, streams and lagoons.

19 (b) Any reference to “District 19A” shall be construed as a reference to District
20 2630.

21 **Comment.** Subdivision (a) of Section 2630 continues former Fish and Game Code Section
22 11028 without substantive change.

23 Subdivision (b) is new.

24 **§ 2635. District 2635**

25 2635. (a) The following constitutes Fish and Wildlife District 2635:

26 The ocean waters and tidelands to high-water mark northerly of the following
27 line:

28 Beginning at the west end of the San Pedro Breakwater, thence in an extended
29 line following the axis of said San Pedro Breakwater, the middle breakwater and
30 the Long Beach Breakwater to the east end of the latter, thence to the outer end of
31 the west jetty of Anaheim Bay.

32 (b) Except as otherwise provided, all of the provisions of this code applicable to
33 Districts 2550 and 2555 apply to District 2635.

34 (c) Any reference to “District 19B” shall be construed as a reference to District
35 2635.

36 **Comment.** Subdivision (a) of Section 2635 continues former Fish and Game Code Section
37 11029 without substantive change.

38 Subdivision (b) is new.

39 **§ 2640. District 2640**

40 2640. (a) The following constitutes Fish and Wildlife District 2640:

1 Santa Catalina Island and the portion of the waters of the state within three
2 nautical miles of the island’s coast line on the northerly, easterly, and southerly
3 side of the island, lying between a line extending three nautical miles west
4 magnetically from the extreme westerly end of Santa Catalina Island to a line
5 extending three nautical miles southwest magnetically from the most southerly
6 promontory of China Point.

7 (b) Any reference to “District 20” shall be construed as a reference to District
8 2640.

9 **Comment.** Subdivision (a) of Section 2640 continues former Fish and Game Code Section
10 11030 without substantive change.

11 Subdivision (b) is new.

12 **§ 2645. District 2645**

13 2645. (a) The following constitutes Fish and Wildlife District 2645:

14 The waters lying around Santa Catalina Island, within three nautical miles of the
15 coast line of the island, which are not included in District 2640.

16 (b) Any reference to “District 20A” shall be construed as a reference to District
17 2645.

18 **Comment.** Subdivision (a) of Section 2645 continues former Fish and Game Code Section
19 11031 without substantive change.

20 Subdivision (b) is new.

21 **§ 2650. District 2650**

22 2650. (a) The following constitutes Fish and Wildlife District 2650:

23 The waters and tidelands to high water mark of San Diego Bay lying inside of a
24 straight line drawn from the southerly extremity of Point Loma to the offshore end
25 of the San Diego breakwater.

26 (b) Any reference to “District 21” shall be construed as a reference to District
27 2650.

28 **Comment.** Subdivision (a) of Section 2650 continues former Fish and Game Code Section
29 11032 without substantive change.

30 Subdivision (b) is new.

31 **§ 2655. District 2655**

32 2655. (a) The following constitutes Fish and Wildlife District 2655:

33 All of Imperial County and those portions of Riverside and San Bernardino
34 Counties lying south and east of the following line: Starting at the intersection of
35 Highway 99 with the north boundary of Imperial County, thence north along that
36 highway to the intersection with Highway 60 and 70; thence east along Highway
37 60 and 70 to its intersection with the Cottonwood Springs Road in Sec. 9, T. 6 S.,
38 R. 11 E.; thence north along that road and the Mecca Dale Road to Amboy; thence
39 east along Highway 66 to the intersection with Highway 95; thence north along
40 Highway 95 to the California-Nevada boundary.

41 (b) Any reference to “District 22” shall be construed as a reference to District
42 2655.

1 **Comment.** Subdivision (a) of Section 2655 continues former Fish and Game Code Section
2 11033 without substantive change.

3 Subdivision (b) is new.

4 **§ 2660. District 2660**

5 2660. (a) The following constitutes Fish and Wildlife District 2660:

6 The lands and waters lying within the drainage area of Rubicon and Little
7 Rubicon Rivers above their confluence in Sec. 13, T. 13 N., R. 13 E.; all lands and
8 waters lying within the drainage area of the South Fork of the American River and
9 all its tributaries above Chili Bar Bridge on the Placerville-Georgetown Highway;
10 all of the lands and waters lying within the drainage area of Webber Creek above
11 the Mother Lode Highway between El Dorado and Placerville; the waters of Lake
12 Tahoe and the Truckee River, and all streams flowing into that lake and river, and
13 all lands and waters within the drainage basin of that lake and river lying within
14 this State; the waters of Silver Lake, Twin Lakes, Twin Lake, Blue Lakes,
15 Meadow Lake, Wood Lake, Winnemucca Lake and Scott’s Lake, Burnside Lake,
16 the Carson River, the West Fork of the Carson River, Willow Creek and
17 Markleeville Creek and all tributaries of those streams and all streams flowing into
18 those lakes and all lands and waters lying within the drainage basin of those lakes,
19 rivers and streams within this State; all the waters of the Cosumnes River and its
20 tributaries, and all lakes lying within the watershed of that river and tributaries
21 above the bridge on the Mother Lode Highway between Plymouth and Nashville,
22 all being within the Counties of Alpine, Amador, and El Dorado.

23 (b) Any reference to “District 23” shall be construed as a reference to District
24 2660.

25 **Comment.** Subdivision (a) of Section 2660 continues former Fish and Game Code Section
26 11034 without substantive change.

27 Subdivision (b) is new.

28 **§ 2665. District 2665**

29 2665. (a) The following constitutes Fish and Wildlife District 2665:

30 The waters of Lake Almanor and all streams flowing into that lake and all lands
31 lying within the drainage basin of those streams and lake, all being within the
32 Counties of Plumas and Lassen.

33 (b) Any reference to “District 25” shall be construed as a reference to District
34 2665.

35 **Comment.** Subdivision (a) of Section 2665 continues former Fish and Game Code Section
36 11035 without substantive change.

37 Subdivision (b) is new.

38 **§ 2670. District 2670**

39 2670. (a) The following constitutes Fish and Wildlife District 2670:

40 The waters of the Klamath River as described in the initiative act to create the
41 Klamath River Fish and Game District, approved by the electors on November 4,
42 1924, which initiative act provides:

1 The Klamath River Fish and Game District is hereby created and shall consist
2 of the Klamath River and the waters thereof, following its meanderings from
3 the confluence of the Klamath River and the Shasta River in the County of
4 Siskiyou to the mouth of the Klamath River in Del Norte County.

5 (b) Any reference to the “Klamath River district” shall be construed as a
6 reference to District 2670.

7 **Comment.** Subdivision (a) of Section 2670 continues the first three paragraphs of former Fish
8 and Game Code Section 11036 without substantive change.

9 Subdivision (b) is new.

10 **§ 2675. District 2675**

11 2675. (a) The following constitutes Fish and Wildlife District 2675:

12 The Klamath River and the waters thereof, following its meanderings from the
13 mouth of the Klamath River in Del Norte County to its confluence with the
14 Salmon River, and also the Trinity River and the waters thereof, following its
15 meanderings from its confluence with the Klamath River in the County of
16 Humboldt to its confluence with the south fork of the said Trinity River.

17 (b) Any reference to the “Trinity and Klamath River District” shall be construed
18 as a reference to District 2675.

19 **Comment.** Subdivision (a) of Section 2675 continues former Fish and Game Code Section
20 11037 without substantive change.

21 Subdivision (b) is new.

22 **§ 2680. District 2680**

23 2680. (a) The following constitutes Fish and Wildlife District 2680:

24 The ocean waters and tidelands lying within the following boundaries:

25 Beginning at the south side of the pier at San Simeon thence westerly three
26 miles, thence southerly to a point three miles west of the southern boundary of the
27 state park at Cambria in San Luis Obispo County, thence easterly to the southwest
28 point of the state park at Cambria.

29 (b) All of the provisions relating to District 2620 shall apply to District 2680.

30 (c) Any reference to “District 118” shall be construed as a reference to District
31 2680.

32 **Comment.** Subdivisions (a) and (b) of Section 2680 continue former Fish and Game Code
33 Section 11038 without substantive change.

34 Subdivision (c) is new.

35 **§ 2685. District 2685**

36 2685. (a) The following constitutes Fish and Wildlife District 2685:

37 The ocean and tidelands to high-water mark, not included in other districts,
38 excluding all rivers, streams, sloughs, and lagoons, bounded by a line beginning at
39 the intersection of the common boundary of Monterey and San Luis Obispo
40 Counties with the mean high-water mark, thence due west two miles to a point,
41 thence by a line following the coast line and parallel to it southerly to a point two

1 miles south of the intersection of the common boundary of Santa Barbara and
2 Ventura Counties with the mean high-water mark, thence north to the intersection
3 of the common boundary of Santa Barbara and Ventura Counties with the mean
4 high-water mark.

5 (b) Except as otherwise provided, all of the provisions relating to District 2620
6 shall apply to District 2685.

7 (c) Any reference to “District 118.5” shall be construed as a reference to District
8 2685.

9 **Comment.** Subdivisions (a) and (b) of Section 2685 continue former Fish and Game Code
10 Section 11039 without substantive change.

11 Subdivision (c) is new.

12 PART 5. GENERAL LICENSE PROVISIONS

13 TITLE 1. LICENSES GENERALLY

14 CHAPTER 1. FORM AND VALIDITY

15 § 2800. Form

16 (a) The commission shall determine the form of all licenses, permits, tags,
17 reservations, and other entitlements and the method of carrying and displaying all
18 licenses, and may require and prescribe the form of applications therefor and the
19 form of any contrivance to be used in connection therewith.

20 (b) For programs where the department has fee-setting authority, the department
21 has the authority described in subdivision (a).

22 **Comment.** Section 2800 restates former Fish and Game Code Section 1050(b) without
23 substantive change.

24 § 2810. Licenses uniquely numbered

25 2810. Licenses of each class shall be uniquely numbered. Every license shall
26 contain its expiration date and the fee for which it is issued. If no fee is either
27 required by this code or established by the commission pursuant to Section 3000,
28 the license shall so indicate.

29 **Comment.** Section 2810 continues former Fish and Game Code Section 1051 without
30 substantive change.

31 § 2815. Validity

32 2815. Any license, permit, tag, stamp, or other entitlement authorized pursuant
33 to this code is not valid until it is filled out completely and accurately and the fee
34 authorized or identified in statute or regulation for the license is received and paid
35 to the department or its agent. It is the responsibility of the user to ensure that the
36 license, permit, tag, stamp, or other entitlement is filled out completely and
37 accurately.

1 obtaining recreational fishing and hunting licenses are confidential and are not
2 public records.

3 (b) Notwithstanding any other provision of law, the department may release the
4 confidential information described in subdivision (a) under the following
5 circumstances:

6 (1) To an agent or authorized family member of the person to whom the
7 information pertains.

8 (2) To an officer or employee of another governmental agency when necessary
9 for the performance of his or her official duties.

10 (3) In accordance with Section 7315.

11 (4) Pursuant to a court order.

12 **Comment.** Section 2915 continues former Fish and Game Code Section 1050.6 without
13 substantive change.

14 **§ 2920. Proof of statements or facts**

15 2920. (a) The department may require the applicant for a license, tag, permit, or
16 other privilege or entitlement to show proof of the statements or facts required for
17 the issuance of the license, tag, permit, or other privilege or entitlement.

18 (b) For purposes of this section, “department” includes any department
19 employee, license agent, or any person performing the duties of a department
20 employee or license agent.

21 **Comment.** Section 2920 continues former Fish and Game Code Section 1054(b)-(c) without
22 substantive change.

23 See also Section 4874 (enforcement).

24 **§ 2925. Temporary document**

25 2925. Notwithstanding any other provision of this code, the department may
26 issue a temporary document that allows the holder of a license, permit, license tag,
27 license stamp, application, reservation, or other entitlement purchased through the
28 Internet to enjoy the privileges of the entitlement for a period not to exceed 30
29 calendar days from the date of purchase.

30 **Comment.** Section 2925 continues former Fish and Game Code Section 1050.3 without
31 substantive change.

32 **§ 2930. Limitation on number of licenses issued to one person**

33 2930. A person shall not obtain more than one license, permit, reservation, or
34 other entitlement of the same class, or more than the number of tags authorized by
35 statute or regulation for the same license year, except under one of the following
36 conditions:

37 (a) A nonresident hunting license issued pursuant to paragraph (4) or (5) of
38 subdivision (a) of Section 10210, or a short-term sport fishing license issued
39 pursuant to paragraph (3), (4), or (5) of subdivision (a) of Section 13100.

1 (b) The loss or destruction of an unexpired license, tag, permit, reservation, or
2 other entitlement, except a stamp or endorsement, provided that all the following
3 requirements are met:

4 (1) The applicant certifies the loss or destruction of the license, tag, permit,
5 reservation, or other entitlement by signed affidavit.

6 (2) There is proof, as determined by the department, that the original license, tag,
7 permit, reservation, or other entitlement was issued.

8 (3) The applicant pays a base fee of five dollars (\$5). The base fee shall be
9 adjusted annually pursuant to Section 3755, not to exceed the fee for the original
10 entitlement. The adjustment shall apply to the hunting license years commencing
11 on or after July 1, 1996, and the fishing license years commencing on or after
12 January 1, 1996.

13 (c) The loss or destruction of a stamp or endorsement imprinted on a base
14 license that was issued through the Automated License Data System, on payment
15 of a base fee of three dollars (\$3) for each stamp or endorsement replaced on any
16 base license document. The base fee shall be adjusted annually pursuant to Section
17 3755, not to exceed the fee for the original entitlement. The base fee shall apply to
18 the 2011 license year.

19 **Comment.** Section 2930 restates former Fish and Game Code Sections 1053.1(a) without
20 substantive change.

21 See also Section 4874 (enforcement).

22 **Note.** Proposed Section 2930 is intended to restate existing Section 1053.1(a) to clarify the
23 meaning of that provision, without changing its substantive effect. The existing provision reads as
24 follows:

25 “1053.1. (a) A person shall not obtain more than one license, permit, reservation, or other
26 entitlement of the same class, or more than the number of tags authorized by statute or regulation
27 for the same license year, except under one of the following conditions:

28 (1) Nonresident hunting licenses issued pursuant to paragraphs (4) and (5) of subdivision (a) of
29 Section 3031, and short-term sport fishing licenses issued pursuant to paragraphs (3), (4), and (5)
30 of subdivision (a) of Section 7149, and paragraphs (3), (4), and (5) of subdivision (a) of Section
31 7149.05.

32 (2) The loss or destruction of an unexpired license, tag, permit, reservation, or other
33 entitlement, except a stamp or endorsement, as certified by the applicant’s signed affidavit and
34 proof, as determined by the department, that the original license, tag, permit, reservation, or other
35 entitlement was issued, and payment of a base fee of five dollars (\$5). The base fee shall be
36 adjusted annually pursuant to Section 713, not to exceed the fee for the original entitlement, as
37 follows:

38 (A) The adjustment shall apply to the hunting license years commencing on or after July 1,
39 1996.

40 (B) The adjustment shall apply to the fishing license years commencing on or after January 1,
41 1996.

42 (3) The loss or destruction of a stamp or endorsement imprinted on a base license and payment
43 of a base fee of three dollars (\$3) for each stamp or endorsement replaced on any base license
44 document, adjusted annually pursuant to Section 713, not to exceed the fee for the original
45 entitlement. The base fee in this paragraph shall apply to the 2011 license year.”

46 **The Commission invites comment on whether the proposed restatement would cause any**
47 **substantive change in the meaning of any of these provisions.**

1 **§ 2935. License voucher**

2 2935. (a) The department may allow a person to purchase a license voucher as a
3 gift for a licensee when the licensee’s complete and accurate personal information,
4 as defined in regulation, is not provided by the license buyer at the time of
5 purchase.

6 (b) A license purchase voucher entitles the holder of the voucher to redeem it for
7 the specific license, permit, tag, or other privilege or entitlement, and license year
8 for which it was purchased.

9 (c) A license purchase voucher shall expire and be considered void if not
10 redeemed within the license year for which it was purchased.

11 (d) A license purchase voucher may be issued and redeemed by a person
12 authorized by the department to issue licenses.

13 (e) The license agent handling fee, as provided under Section 3350, shall only
14 apply to the sale of the license purchase voucher.

15 **Comment.** Section 2935 continues former Fish and Game Code Section 1061 without
16 substantive change.

17 **§ 2940. Issuance of hunting tags for fundraising purposes**

18 2940. (a) The department shall establish, and keep current, written policies and
19 procedures relating to the application process and the award of hunting tags for
20 fundraising purposes, as authorized pursuant to Section 32950, 34850, 34215, or
21 35900.

22 (b) The policies and procedures shall include, but need not be limited to, all of
23 the following:

24 (1) The application process and criteria.

25 (2) A standard application format.

26 (3) An appeal process.

27 (4) A requirement that all applications shall remain sealed until on or after a
28 filing date specified by the department.

29 (c) The department shall make the policies and procedures available to
30 interested parties 30 days before their implementation and shall receive and
31 consider any related recommendations.

32 (d) The department shall not require a minimum tag sale price, except as
33 otherwise provided in this code.

34 (e) It is the intent of the Legislature that the department develop policies and
35 procedures that seek to maximize both the revenues received by the department
36 and participation by qualified nonprofit organizations making application to sell
37 the tags as sellers of the tags.

38 **Comment.** Section 2940 continues former Section 1054.8 without substantive change.

CHAPTER 3. FEES

§ 3000. Commission authority to set or change license fees

3000. (a) In any of the following circumstances, the commission may, by regulation, establish or change the amount of a fee for an application or for the issuance of a license, tag, permit, application, reservation, or other entitlement:

(1) This code does not specify whether the fee is to be collected.

(2) This code does not specify the amount of the fee.

(3) This code does not prohibit, by express reference to this section, the commission from adjusting a statutorily imposed fee.

(b) Fees established by the commission shall be in an amount sufficient to recover all reasonable administrative and implementation costs of the department and commission relating to the program with regard to which the fee is paid. The commission may establish a fee structure that provides for the phasing in of new fees leading up to full cost recovery for the department and commission, provided that full cost recovery is achieved within five years of the establishment of the fee.

(c) The commission may change the amount of a fee in accordance with Section 3755.

(d) This section does not apply to fees set by the department pursuant to Section 3750.

Comment. Section 3000 restates former Fish and Game Code Section 1050(d) without substantive change.

Note. Proposed Section 3000 is intended to restate Section 1050(d) to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

“Except for fees set by the department pursuant to subdivision (e), whenever this code does not specify whether a fee is to be collected, or does not specify the amount of a fee to be collected, or does not expressly prohibit the adjustment of statutorily imposed fees by the commission by reference to this section for the issuance of any license, tag, permit, application, reservation, or other entitlement, the commission may establish a fee or the amount thereof by regulation. The commission may also provide for the change in the amount of the fee in accordance with Section 713. Fees established by the commission shall be in an amount sufficient to recover all reasonable administrative and implementation costs of the department and commission relating to the program with regard to which the fee is paid. The commission may establish a fee structure that provides for the phasing in of new fees leading up to full cost recovery for the department and commission, provided that full cost recovery is achieved within five years of the establishment of the fee.”

The Commission requests public comment on whether the proposed restatement would cause any substantive change in the meaning of the provision.

§ 3005. Application fee

3005. (a) Whenever this code provides for a license, tag, permit, reservation, or other entitlement, the commission or department, as applicable, may establish a nonrefundable application fee, not to exceed the lesser of (1) seven dollars and fifty cents (\$7.50) or (2) an amount sufficient to pay the department’s costs for issuing the license, tag, permit, reservation, or other entitlement.

1 (b) The commission or department, as applicable, may adjust the application fee
2 in accordance with Section 3755.

3 **Comment.** Section 3005 restates former Fish and Game Code Section 1050(f) without
4 substantive change.

5 **Notes.** (1) Proposed Section 3005 is intended to restate former Fish and Game Code Section
6 1050(f) to improve its clarity, without changing its substantive effect. The existing provision
7 reads as follows:

8 “Whenever this code provides for a license, tag, permit, reservation, or other entitlement, the
9 commission or department, as applicable, may establish a nonrefundable application fee, not to
10 exceed seven dollars and fifty cents (\$7.50) sufficient to pay the department’s costs for issuing
11 the license, tag, permit, reservation, or other entitlement and may adjust the application fee in
12 accordance with Section 713.”

13 **The Commission requests public comment on whether the proposed restatement would
14 cause any substantive change in the meaning of the provision.**

15 (2) Under the existing provision, it is not clear how the two limits on the fee amount operate.
16 Proposed Section 3005 would provide that the fee cannot exceed the *lesser* of the two specified
17 amounts. **The Commission requests public comment on whether that is an appropriate
18 resolution of the ambiguity.**

19 **§ 3010. Credit card payment**

20 3010. The department may accept a credit card charge as a method of payment.
21 Any contract executed by the department with credit card issuers or draft
22 purchasers shall be consistent with Section 6159 of the Government Code.
23 Notwithstanding Title 1.3 (commencing with Section 1747) of Part 4 of Division 3
24 of the Civil Code, the department may impose a surcharge in an amount to cover
25 the cost of providing the credit card service, including reimbursement for any fee
26 or discount charged by the credit card issuer.

27 **Comment.** Section 3010 continues former Fish and Game Code Section 1050.5 without
28 substantive change.

29 **CHAPTER 4. VIOLATIONS**

30 **§ 3050. Unlawful acts**

31 3050. It is unlawful for any person to do any of the following:

32 (a) Transfer any license, tag, stamp, permit, application, or reservation.

33 (b) Use or possess any license, tag, stamp, permit, application, or reservation
34 that was not lawfully issued to the user or possessor thereof or that was obtained
35 by fraud, deceit, or the use of a fake or counterfeit application form.

36 (c) Use or possess any fake or counterfeit license, tag, stamp, permit, permit
37 application form, band, or seal, made or used for the purpose of evading any of the
38 provisions of this code, or regulations adopted pursuant to this code.

39 (d) Predate, fail to date, or alter any date of any license, tag, or permit.

40 (e) Postdate the date of application or the date of issuance of the license, tag, or
41 permit. This subdivision does not apply to the date that a license, tag, or permit is
42 valid.

1 (f) Alter, mutilate, deface, duplicate, or counterfeit any license, tag, permit,
2 permit application form, band, or seal, or entries thereon, to evade the provisions
3 of this code, or any regulations adopted pursuant to this code.

4 **Comment.** Section 3050 continues former Fish and Game Code Section 1052 without
5 substantive change.

6 See also Section 4874 (enforcement).

7 TITLE 2. LICENSE AGENTS

8 CHAPTER 1. AUTHORIZED LICENSE AGENT

9 **§ 3200. Application and approval generally**

10 3200. (a) Any person, except a commissioner, officer, or employee of the
11 department, may submit an application to the department to be a license agent to
12 issue licenses, permits, reservations, tags, or other entitlements.

13 (b) A person shall only be authorized to be a license agent to issue licenses,
14 permits, reservations, tags, and other entitlements, upon the written approval of the
15 department.

16 **Comment.** Section 3200 continues former Fish and Game Code Section 1055.1(a)-(b) without
17 substantive change.

18 **§ 3205. Nonprofit as license agent for sale of lifetime licenses**

19 3205. (a) The department may designate a nonprofit organization, organized
20 pursuant to the laws of this state, or the California chapter of a nonprofit
21 organization, organized pursuant to the laws of another state, as a license agent for
22 the sale of lifetime licenses issued pursuant to Sections 10225 and 13105. These
23 licenses may be sold by auction or by other methods and are not subject to the fee
24 limitations prescribed in this code.

25 (b) An agent authorized to issue lifetime sport fishing licenses and lifetime
26 hunting licenses under this section is exempt from subdivisions (a) and (c) of
27 Section 3350. The license agent shall remit to the department the fees from the
28 sale of lifetime licenses as defined in Sections 3031.2 and 13105.

29 **Comment.** Section 3205 continues former Fish and Game Code Section 1055.1(g) without
30 substantive change.

31 **Notes.** (1) Does the exemption in proposed Section 3205(b) apply to any type of license sold
32 by a license agent authorized to sell lifetime licenses under that section? Or does the exemption
33 only apply to lifetime licenses sold by such a license agent?

34 (2) Are “nonprofit organizations” the only persons who can act as license agents for the sale of
35 lifetime licenses?

36 **§ 3210. Wildlife area passes and native species stamps**

37 3210. The department may authorize any person other than a commissioner or
38 an officer or employee of the department to issue, as an agent of the department,
39 annual wildlife area passes and native species stamps, and to sell promotional

1 materials and nature study aids pursuant to, and subject to the requirements of, this
2 part. An agent thus authorized may add a handling charge pursuant to Section
3 3350 to the fee prescribed in Chapter 3 (commencing with Section 56050) of Title
4 6 of Part 2 of Division 15 for each annual wildlife area pass or native species
5 stamp issued.

6 **Comment.** Section 3210 continues former Fish and Game Code Section 1055.3 without
7 substantive change. Cross-references to repealed subdivisions of former Fish and Game Code
8 Section 1055 are not continued.

9 CHAPTER 2. AUTOMATED LICENSE DATA SYSTEM

10 § 3250. Provision of licenses

11 3250. (a) The department may provide licenses, permits, reservations, tags, or
12 other entitlements to authorized license agents and shall collect, prior to delivery,
13 an amount equal to the fees for all licenses, permits, reservations, tags and other
14 entitlements provided.

15 (b) Any licenses, permits, reservations, tags, or other entitlements provided
16 pursuant to this section that remain unissued at the end of the license year may be
17 returned to the department for refund or credit, or a combination of refund and
18 credit, within six months of the item expiration date. No credit may be allowed
19 after six months following the last day of the license year.

20 (c) Any license agent who pays the fees prior to delivery for licenses, permits,
21 reservations, tags, or other entitlements is exempt from Sections 3360, 3365, and
22 3370.

23 **Comment.** Subdivision (a) of Section 3250 continues the first sentence of former Fish and
24 Game Code Section 1055.1(c) without substantive change.

25 Subdivision (b) continues the third and fourth sentences of former Fish and Game Code
26 Section 1055.1(c) without substantive change.

27 Subdivision (c) continues the second sentence of former Fish and Game Code Section
28 1055.1(c) without substantive change.

29 **Notes.** (1) Section 1055.1(c) was modeled after language in Section 1055(d), which describes
30 license agents who prepay the Department of Fish and Wildlife for physical licenses and then sell
31 them to the public. As a result of that origin, the language does not do a very good job of
32 describing the ALDS system. **The Commission invites comment on whether proposed Section**
33 **3250(a) could be restated for greater accuracy.**

34 (2) The Commission's understanding is that ALDS is a print-on-demand system. Licenses are
35 only printed when they have been purchased. Consequently, it is not clear that proposed Section
36 3250(b) has any meaningful application. The inclusion of that provision in existing Section
37 1055.1(c) may have been inadvertent. **The Commission requests public comment on whether**
38 **the provision should be deleted as unnecessary.**

39 (3) Similarly, proposed Section 3250(c) continues the second sentence of existing Section
40 1055.1(c), which provides express exemptions for an ALDS license agent who pays for licenses
41 "prior to delivery." The Commission's understanding is that ALDS sales are never pre-paid.
42 Instead, charges for ALDS license sales are logged and electronic transfers are made periodically,
43 after the fact. **The Commission requests public comment on whether the exemptions in**
44 **Section 1055.1(c) apply to ALDS sales.**

1 **§ 3255. Remittance**

2 3255. (a) Except as provided in subdivision (b), each license agent authorized
3 pursuant to Section 3200 shall remit to the department the fees prescribed in this
4 code or in regulations adopted pursuant to this code for all licenses, permits,
5 reservations, tags, and other entitlements by electronic means, such as electronic
6 fund transfer. In order to facilitate the prompt remittance of revenues, the
7 department is authorized to withdraw funds from the bank account of the license
8 agent, including adjustments, by electronic transfer. License agents shall ensure
9 that the total fees required for all licenses, permits, reservations, tags, or other
10 entitlements necessary to perform the electronic transfer are available on the date
11 specified by the license agent contract.

12 (b) A license agent shall report to the department on or before the end of the
13 next business day of the department any losses of fees received from the issuing of
14 licenses, permits, reservations, tags, or other entitlements.

15 (c) Except as provided in subdivision (b), any fees not transmitted or made
16 available to the department within seven days following the due date as specified
17 by the department are delinquent, and delinquent fees are subject to interest and
18 penalties prescribed in Section 3360. Interest and penalties shall be computed
19 beginning one day following the due date as specified by the department.

20 **Comment.** Subdivision (a) of Section 3255 continues former Fish and Game Code Section
21 1055.6(a) without substantive change.

22 Subdivision (b) continues former Fish and Game Code Section 1055.6(b) without substantive
23 change.

24 Subdivision (c) continues former Fish and Game Code Section 1055.6(d) without substantive
25 change.

26 **§ 3260. Advertisement of Automated License Data System website**

27 3260. (a) A nonprofit conservation organization seeking promotion, exposure,
28 and awareness of the organization on the Automated License Data System Online
29 License Service Internet Web site, as feasible, through the display of the
30 organization's logo, or other graphics agreed upon by the organization and the
31 department, to give a prospective license buyer the opportunity to link
32 electronically to the organization's Internet home page, shall submit, by
33 September 30 of each year, a letter to the department providing evidence that the
34 organization meets the criteria set forth in subdivision (c). If the department
35 determines that the nonprofit conservation organization is eligible, it shall include
36 the organization's logo or other graphics in a space with a link to the
37 organization's Internet home page on the Automated License Data System Online
38 License Service Internet Web site for a time period agreed upon by both parties.

39 (b) The department may impose a charge on a nonprofit conservation
40 organization for inclusion on the Automated License Data System Online License
41 Service Internet Web site pursuant to subdivision (a) that shall not exceed the
42 costs associated with the direct administration of this section.

1 (c) As used in this section, “nonprofit conservation organization” means an
2 entity that the department determines meets all of the following:

3 (1) It is a nonprofit organization described in Section 501(c)(3) of the Internal
4 Revenue Code (26 U.S.C. Sec. 501(c)(3)), that is exempt from taxation under
5 Section 501(a) of that code (26 U.S.C. Sec. 501(a)).

6 (2) It is registered with the Attorney General.

7 (3) Its goals and objectives are related to the conservation of sport fish or game
8 species.

9 (4) In at least one of the previous three calendar years, it has entered into, or
10 been obligated under, a contract or other agreement, including, but not limited to,
11 a license, easement, memorandum of understanding, or lease, with the department
12 to perform habitat or other wildlife conservation work, to provide hunting or
13 fishing opportunities for the public, to raise funds on behalf of the department,
14 including, but not limited to, the sale of hunting fundraising tags or related items,
15 or to otherwise provide assistance to the department that is consistent with the
16 department’s mission.

17 (d) The department shall deposit revenues of the charge imposed pursuant to
18 subdivision (b) in the Fish and Game Preservation Fund, to be available, upon
19 appropriation by the Legislature, exclusively to pay all initial and ongoing costs
20 associated with the direct administration of this section, including, but not limited
21 to, a portion of the costs of making changes to the Automated License Data
22 System necessary to implement this section.

23 (e) The department shall implement the links from the Automated License Data
24 System Online License Service Internet Web site by January 1, 2015, if it
25 determines that date is feasible.

26 **Comment.** Section 3260 continues former Fish and Game Code Section 1065 without
27 substantive change.

28 CHAPTER 3. FINANCIAL PROVISIONS

29 § 3350. Handling charge

30 3350. (a) Authorized license agents shall add a handling charge to the fees
31 prescribed in this code or in regulations adopted pursuant to this code for any
32 license, permit, reservation, tag, and other entitlement issued by the license agent
33 in an amount that is 5 percent of the face value of the item rounded to the nearest
34 five cents (\$0.05).

35 (b) The handling charge added pursuant to subdivision (a) shall be incorporated
36 into the total amount collected for issuing the license, permit, reservation, tag, and
37 other entitlement, but the handling charge shall not be included when determining
38 license fees in accordance with Section 3755. A license agent may issue any
39 license, permit, reservation, tag, or other entitlement for any amount up to 10
40 percent less than the fee prescribed in this code or in regulations adopted pursuant
41 to this code. The license agent shall remit to the department the full amount of the

1 fees as prescribed in this code or in regulations adopted pursuant to this code for
2 all licenses, permits, reservations, tags, and other entitlements issued.

3 (c) The handling charge required by subdivision (a) is the license agent’s only
4 compensation for services. The license agent shall not be entitled to any other
5 additional fee or charge for issuing any license, permit, reservation, tag, or other
6 entitlement authorized pursuant to this section.

7 **Comment.** Section 3350 continues former Fish and Game Code Section 1055.1(d)-(f) without
8 substantive change.

9 **§ 3360. Failure of license agent to account**

10 3360. (a) It is unlawful for a license agent to fail or refuse to account for
11 licenses, permits, reservations, tags, and other entitlements or any fees received
12 from their issuance as required by Section 3255 or upon demand by an authorized
13 representative of the department.

14 (b) In addition to subdivision (a), any license agent who fails to remit fees to the
15 department on or before the date required by Section 3255 shall pay interest and
16 penalties prescribed for sales and use taxes and, except as otherwise provided in
17 this code, the department shall collect amounts owing under the procedures
18 prescribed for sales and use taxes provided in Chapters 5 (commencing with
19 Section 6451) and 6 (commencing with Section 6701) of Part 1 of Division 2 of
20 the Revenue and Taxation Code, insofar as they may be applicable, and for those
21 purposes, “board” means the department.

22 **Comment.** Section 3360 restates former Fish and Game Code Section 1059(b) without
23 substantive change. See also Section 4450 (enforcement).

24 **§ 3365. Separate accounting required**

25 3365. All license, tag, permit, reservation, and other entitlement money shall be
26 accounted for separately from other funds of a license agent, and shall at all times
27 belong to the state.

28 **Comment.** Section 3365 continues former Section 1057 without substantive change.

29 **§ 3370. Bond**

30 3370. A license agent who fails to transmit the fees or accounting reports
31 required by Section 3255 not later than 60 days following the due date as specified
32 by the department may be required to execute, in favor of the department, a bond,
33 payable to the department, in a sum determined by the department in order to
34 continue as a license agent. The bond shall secure the accurate accounting and
35 payment to the department of the funds collected and the performance of the
36 duties imposed upon the license agent by this article.

37 **Comment.** Section 3370 continues former Fish and Game Code Section 1056 without
38 substantive change.

1 **§ 3375. Preferred claim**

2 3375. In case of an assignment for the benefit of creditors, receivership, or
3 bankruptcy, the state shall have a preferred claim against the license agent's
4 assignee, receiver, or trustee for all moneys owing the state for the issuing of
5 licenses, permits, reservations, tags, and other entitlements as provided in this
6 code and shall not be estopped from asserting that claim by reason of the
7 commingling of funds or otherwise.

8 **Comment.** Section 3375 continues former Fish and Game Code Section 1058 without
9 substantive change.

10 **PART 6. GENERAL FINANCIAL PROVISIONS**

11 **TITLE 1. STATE**

12 **CHAPTER 1. LEGISLATIVE FINDINGS, DECLARATIONS, AND INTENT**

13 **§ 3450. Legislative findings and declarations of 1978 (as amended in 2006)**

14 3450. The Legislature finds and declares that the department has in the past not
15 been adequately funded to meet its mandates. The principal causes have been the
16 fixed nature of the department's revenues in contrast with the rising costs resulting
17 from inflation, the increased burden on the department to carry out its public trust
18 responsibilities, and additional responsibilities placed on the department by the
19 Legislature. This lack of funding has prevented proper planning and personnel
20 allocation. The lack of funding has required the department to restrict wildlife
21 officer enforcement and to defer essential management of lands acquired for
22 wildlife conservation. The lack of funding for fish and wildlife conservation
23 activities other than sport and commercial fishing and hunting activities has
24 resulted in inadequate wildlife and habitat conservation and wildlife protection
25 programs.

26 **Comment.** Section 3450 continues former Fish and Game Code Section 710 without
27 substantive change.

28 **§ 3455. Legislative findings and declarations of 1990**

29 3455. (a) The Legislature finds and declares that the department continues to be
30 inadequately funded to meet its mandates. While revenues have been declining,
31 the department's responsibilities have increased in order to protect public trust
32 resources in the face of increasing population and resource management demands.
33 The department's revenues have been limited due to a failure to maximize user
34 fees and inadequate non-fee-related funding. The limited department revenues
35 have resulted in the inability of the department to effectively provide all of the
36 programs and activities required under this code and to manage the wildlife
37 resources held in trust by the department for the people of the state.

1 (b) The Legislature further finds and declares that the department has been
2 largely supported by fees paid by those who utilize the resources held in trust by
3 the department. It is the intent of the Legislature that, to the extent feasible, the
4 department should continue to be funded by user fees. All fees collected by the
5 department, including, but not limited to, recreational hunting and fishing licenses,
6 landing fees, commercial licenses, permits and entitlements, and other fees for use
7 of the resources regulated or managed by the department, are user fees. To the
8 extent that these fees are appropriated through the Budget Act for the purposes for
9 which they are collected to provide services to the people of the State of
10 California, these user fees are not subject to Article XIII B of the California
11 Constitution.

12 (c) The Legislature further finds and declares that user fees are not sufficient to
13 fund all of the department's mandates. To fulfill its mandates, the department must
14 secure a significant increase in reliable funding, in addition to user fees.

15 **Comment.** Section 3455 continues former Fish and Game Code Section 710.5 without
16 substantive change.

17 **§ 3460. Legislative findings and declarations of 1992**

18 3460. (a) The Legislature finds and declares all of the following:

19 (1) The department continues to face serious funding instability due to revenue
20 declines from traditional user fees and taxes and the addition of new and expanded
21 program responsibilities.

22 (2) Historically, the recreational and commercial fishing industry has funded
23 much of the department's marine fisheries activities.

24 (3) As the state's population grows and development changes historic land uses,
25 fish and wildlife continue to be depleted, necessitating a significant portion of the
26 department's activities to be directed toward protecting fish and wildlife for the
27 benefit of the people of the state.

28 (b) It is the intent of the Legislature to extend the current user-based funding
29 system by allocating a portion of the marine resource protection costs to those who
30 use and benefit from recreational and commercial use of the marine resources.

31 (c) It is the Legislature's intent that, notwithstanding Section 3465, the
32 department shall cooperate with the Legislature, recreational users, conservation
33 organizations, the commercial fishing industry, and other interested parties to
34 identify and propose new alternative sources of revenue to fund the department's
35 necessary marine conservation, restoration, and resources management, and
36 protection responsibilities.

37 (d) It is further the intent of the Legislature to identify new funding sources and
38 to secure those sources to adequately fund the department's activities directed at
39 protecting and managing wildlife for the people of the state.

40 **Comment.** Section 3460 continues former Fish and Game Code Section 710.7 without
41 substantive change.

1 **§ 3465. Statement of legislative intent regarding funding**

2 3465. (a) It is the intent of the Legislature to ensure adequate funding from
3 appropriate sources for the department. To this end, the Legislature finds and
4 declares that:

5 (1) The costs of nongame fish and wildlife programs shall be provided annually
6 in the Budget Act by appropriating money from the General Fund, through
7 nongame user fees, and sources other than the Fish and Game Preservation Fund
8 to the department for these purposes.

9 (2) The costs of commercial fishing programs shall be provided out of revenues
10 from commercial fishing fees, license fees, and other revenues, from
11 reimbursements and federal funds received for commercial fishing programs, and
12 other funds appropriated by the Legislature for this purpose.

13 (3) The costs of hunting and sportfishing programs shall be provided out of
14 hunting and sportfishing revenues and reimbursements and federal funds received
15 for hunting and sportfishing programs, and other funds appropriated by the
16 Legislature for this purpose. These revenues, reimbursements, and federal funds
17 shall not be used to support commercial fishing programs, free hunting and fishing
18 license programs, or nongame fish and wildlife programs.

19 (4) The costs of managing lands managed by the department and the costs of
20 wildlife management programs shall be supplemented out of revenues in the
21 Native Species Conservation and Enhancement Account in the Fish and Game
22 Preservation Fund.

23 (5) Hunting, sportfishing, and sport ocean fishing license fees shall be adjusted
24 annually to an amount equal to that computed pursuant to Section 3755. However,
25 a substantial increase in the aggregate of hunting and sportfishing programs shall
26 be reflected by appropriate amendments to the sections of this code that establish
27 the base sport license fee levels. The inflationary index provided in Section 3755
28 shall not be used to accommodate a substantial increase in the aggregate of
29 hunting and sportfishing programs.

30 (6) The costs of a conservation and mitigation banking program, including, but
31 not limited to, costs incurred by the department during its adoption of guidelines
32 for, and the review, approval, establishment, monitoring, and oversight of, banks,
33 shall be reimbursed from revenues of conservation and mitigation bank application
34 fees imposed pursuant to Sections 65500 through 65670, inclusive.

35 (b) The director and the Secretary of the Natural Resources Agency, with the
36 department's annual budget submittal to the Legislature, shall submit a report on
37 the fund condition, including the expenditures and revenue, for all accounts and
38 subaccounts within the Fish and Game Preservation Fund. The department shall
39 also update its cost allocation plan to reflect the costs of program activities.

40 (c) For purposes of this section, "substantial increase" means an increase in
41 excess of 5 percent of the Fish and Game Preservation Fund portion of the
42 department's current year support budget, excluding cost-of-living increases
43 provided for salaries, staff benefits, and operating expenses.

1 **Comment.** Section 3465 continues former Fish and Game Code Section 711 without
2 substantive change.

3 **Notes.** (1) Existing Section 711(b) (which would be continued by proposed Section 3465(b))
4 is not a statement of legislative intent. It is a substantive provision. Moreover, it appears to
5 duplicate the substance of existing Section 13001.5, with less detail. **Does existing Section**
6 **711(b) serve any purpose, or can it be deleted?**

7 (2) Existing Section 711(c) (which would be continued by proposed Section 3465(c)) provides
8 a definition for the purposes of “this article.” But existing Section 711 is the only section in the
9 referenced article that uses the defined term. **The provision’s scope of application has been**
10 **narrowed accordingly.**

11 **§ 3470. Statement of legislative intent regarding nongame program funding**

12 3470. (a) It is the intent of the Legislature that the Department of Finance shall
13 include in the Governor’s Budget sufficient moneys from the General Fund and
14 sources other than the Fish and Game Preservation Fund to pay the costs of the
15 department’s nongame programs, including those necessary for the protection and
16 enhancement of California’s nongame fish and wildlife and their habitat, the free
17 hunting and fishing license programs, and special repairs and capital outlay.

18 (b) It is the intent of the Legislature that the Department of Finance shall not
19 include in the Governor’s Budget any appropriation from the Fish and Game
20 Preservation Fund for any program or project that is not expressly found to be an
21 activity relating to the protection or propagation of fish and wildlife, except to the
22 extent that moneys have been deposited in that fund from collections under a law
23 which is not related to the protection or propagation of fish and wildlife.

24 (c) Any study relating to funding of programs administered or conducted by the
25 department shall include express findings of whether the program is related to the
26 protection or propagation of fish and wildlife and shall describe the relationship.

27 **Comment.** Section 3470 continues former Fish and Game Code Section 712 without
28 substantive change.

29 **CHAPTER 2. ACCOUNTING**

30 **§ 3500. Fish and Game Preservation Fund**

31 3500. (a) The Fish and Game Preservation Fund in the State Treasury is
32 continued in existence.

33 (b) Wherever the term “Fish Commission Fund” or “Game Preservation Fund”
34 appears in any law, it means “Fish and Game Preservation Fund.”

35 **Comment.** Subdivision (a) of Section 3500 continues former Fish and Game Code Section
36 13000 without substantive change.

37 Subdivision (b) continues former Fish and Game Code Section 12 without substantive change.

38 **§ 3505. Fund condition statement**

39 3505. (a) The department shall prepare annually, for inclusion in the Governor’s
40 Budget, a fund condition statement for the Fish and Game Preservation Fund that
41 displays both of the following:

1 (1) Information relating to the total amounts of revenues and expenditures with
2 regard to the moneys in the fund that are deposited in an account or subaccount in
3 the fund.

4 (2) Information relating to revenues and expenditures with regard to all moneys
5 in the fund that are not deposited in an account or subaccount in the fund.

6 (b) For the purposes of subdivision (a), the department shall prepare the fund
7 condition statement in a manner that is similar to the fund condition statement
8 relating to the Fish and Game Preservation Fund included in the 2003-04
9 Governor's Budget.

10 (c) The department shall prepare, for posting on its Internet Web site on or
11 before January 10 of each year, a fund condition statement for each account or
12 subaccount in the fund.

13 **Comment.** Section 3505 continues former Fish and Game Code Section 13001.5 without
14 substantive change.

15 **§ 3510. Accounting method**

16 3510. The department shall account for revenues and expenditures of the money
17 in the Fish and Game Preservation Fund in a manner consistent with the laws and
18 applicable policies governing state departments generally for each activity or
19 program in which the department is engaged.

20 **Comment.** Section 3510 continues former Fish and Game Code Section 13200 without
21 substantive change.

22 **§ 3515. Program descriptions**

23 3515. In establishing the appropriate programs or activities for the purposes of
24 Section 3510, the department shall consider the following programs or activities:

- 25 (1) Freshwater fisheries activities.
- 26 (2) Marine fisheries activities.
- 27 (3) Wildlife management activities.
- 28 (4) Planning and environmental review.
- 29 (5) Law enforcement.
- 30 (6) Nongame and endangered species.
- 31 (7) General administration.

32 **Comment.** Section 3515 continues former Fish and Game Code Section 13201 without
33 substantive change.

34 **§ 3520. Payroll and other costs**

35 3520. (a) Payroll and other costs that are directly identifiable with specific
36 programs or activities shall be charged directly to accounts maintained for the
37 appropriate programs or activities.

38 (b) Payroll and other costs that are not identifiable with specific programs or
39 activities shall be allocated on an equitable basis to program or activity cost
40 accounts.

1 **Comment.** Section 3520 continues former Fish and Game Code Section 13202 without
2 substantive change.

3 **§ 3525. Basic principle of cost accounting system**

4 3525. The basic principle of the cost accounting system required by Section
5 3510 shall be that the total cost of operation of the department shall be accounted
6 for by accounting for the cost of each activity or program in which it is engaged.

7 **Comment.** Section 3525 continues former Fish and Game Code Section 13203 without
8 substantive change.

9  **Note.** Existing Fish and Game Code Section 13203 (which would be continued by proposed
10 Section 3525) refers to “*this* cost accounting system,” without clearly identifying the pronoun’s
11 antecedent. In order to resolve that ambiguity, it would be helpful to know whether the section is
12 referring to existing Section 13200 (which would be continued by proposed Section 3510),
13 existing Section 13202 (which would be continued by proposed Section 3520), both of those
14 sections, or something else.

15 **The Commission invites comment on that issue.**

16 CHAPTER 3. REVENUE

17 Article 1. Deposit of Revenue

18 **§ 3600. Default deposit rule**

19 3600. Unless otherwise provided, all money collected under the provisions of
20 this code and of any other law relating to the protection and preservation of birds,
21 mammals, fish, reptiles, or amphibians shall be paid into the State Treasury to the
22 credit of the Fish and Game Preservation Fund.

23 **Comment.** Section 3600 continues former Fish and Game Code Section 13001(a) without
24 substantive change.

25 **§ 3605. Deposit of license revenue**

26 3605. The department shall pay into the State Treasury at least once a month the
27 money received by it from the sale of licenses issued under the provisions of this
28 code.

29 **Comment.** Section 3605 continues former Fish and Game Code Section 13002 without
30 substantive change.

31 **§ 3610. Deposit and apportionment of fines and forfeitures**

32 3610. (a) Unless otherwise provided by law, a fine or forfeiture imposed or
33 collected in any court of this state for a violation of a provision of this code, a
34 regulation adopted pursuant to this code, or any other law providing for the
35 protection or preservation of birds, mammals, fish, reptiles, or amphibians, shall
36 be deposited as soon as practicable after the receipt thereof with the county
37 treasurer of the county in which the court is situated.

1 (b) Amounts deposited pursuant to subdivision (a) shall be paid at least once a
2 month as follows:

3 (1) One-half to the Treasurer, by warrant of the county auditor drawn upon the
4 requisition of the clerk or judge of the court, for deposit in the Fish and Game
5 Preservation Fund in the State Treasury on order of the Controller. At the time of
6 transmittal, the county auditor shall forward to the Controller, on a form or forms
7 that the Controller may prescribe, a record of the imposition, collection, and
8 payment of the fines or forfeitures. The department may employ legal counsel and
9 may expend these funds to pay the costs of legal actions brought in the name of
10 the people relating to the enforcement of this code by a district attorney, city
11 attorney, or the department, as appropriate.

12 (2) One-half to the county in which the offense was committed.

13 **Comment.** Section 3610 continues former Fish and Game Code Section 13003 without
14 substantive change.

15 Article 2. Gifts, Grants, Donations, and Related Matters

16 **§ 3650. Deposit of gifts and bequests**

17 3650. All moneys collected or received from gifts or bequests, or from
18 municipal or county appropriations or donations for purposes relating to
19 conservation programs, projects, and activities by the department shall be
20 deposited in the State Treasury to the credit of the Fish and Game Preservation
21 Fund. All moneys deposited pursuant to this section shall be used for purposes
22 relating to conservation programs, projects, and activities by the department.

23 **Comment.** Section 3650 continues former Fish and Game Code Section 1225 without
24 substantive change.

25 **§ 3655. Funding agreements**

26 3655. The department may enter into one or more agreements to accept funds
27 from any person, nonprofit organization, or other public or private entity for
28 purposes relating to conservation programs, projects, and activities by the
29 department. Any funds received pursuant to this section shall be deposited in the
30 Fish and Game Preservation Fund. The funds received shall supplement existing
31 resources for purposes relating to conservation programs, projects, and activities
32 by the department.

33 **Comment.** Section 3655 continues former Fish and Game Code Section 1226(a) without
34 substantive change.

35 **§ 3660. Grants and donations for financing of K9 program**

36 3660. Notwithstanding Section 11005 of the Government Code, the department
37 may seek and accept grants and donations from private and public organizations
38 and agencies for the purpose of administering the Canine (K9) Program. The

1 acceptance of one-time donations valued over fifteen thousand dollars (\$15,000)
2 shall require approval of the Department of Finance.

3 **Comment.** Section 3660 continues former Fish and Game Code Section 859 without
4 substantive change.

5 **§ 3665. Commemorative license**

6 3665. (a) The department may issue collectible, commemorative licenses to any
7 person for purposes of promoting and supporting licensed hunting, fishing, and
8 resource conservation, subject to all of the following:

9 (1) A commemorative license may be designed and produced as the department
10 may determine and shall be clearly marked and identified as a commemorative
11 license, rendering it invalid for the take of any mammal, bird, fish, reptile, or
12 amphibian.

13 (2) A commemorative license shall not confer any rights, privileges, or other
14 entitlements to any person purchasing or in possession of such a license.

15 (3) Provisions of this code that govern hunting and sport fishing licenses do not
16 apply to the purchase of a commemorative license. A commemorative license shall
17 not qualify as evidence required in subdivision (a) of Section 10200.

18 (b) All funds derived from the sale of commemorative licenses shall be
19 deposited in the Fish and Game Preservation Fund.

20 **Comment.** Section 3665 continues former Fish and Game Code Section 1050.8 without
21 substantive change.

22 **Note.** Existing Fish and Game Code Section 1050.8(a)(3) (which would be continued by
23 proposed Section 3665(a)(3)) provides that “Subdivision (a) of Section 1052, Section 1053.1,
24 Article 2 (commencing with Section 3031) of Chapter 1 of Part 1 of Division 4, and Article 3
25 (commencing with Section 7145) of Chapter 1 of Part 2 of Division 6” do not apply to the
26 purchase of a commemorative license. The two referenced articles in this cross-reference each
27 contain many provisions that in the proposed law have been continued in many different
28 locations.

29 **The Commission invites comment on whether the alternative use of a descriptive cross-**
30 **reference in proposed Section 3665(a)(3) – “provisions of this code that govern hunting and**
31 **sport fishing licenses” – would change the meaning of existing Section 1050.8(a)(3).**

32 **§ 3670. Wildlife officer stamp**

33 3670. (a) The department may offer for sale a wildlife officer stamp to be
34 designed and produced as the department may determine. The wildlife officer
35 stamp may be purchased on a voluntary basis from the department or an
36 authorized licensed agent for a donation of not less than five dollars (\$5). The
37 department may also design an electronic version of the wildlife officer stamp to
38 be offered through the Automated License Data System. There shall be no
39 indication on any license or permit of the purchase of a wildlife officer stamp.

40 (b) All revenues from sales under this section shall be deposited in the Fish and
41 Game Warden Stamp Account that is hereby created in the Fish and Game
42 Preservation Fund to permit separate accountability for the receipt and expenditure

1 of these funds. Funds deposited in the Fish and Game Warden Stamp Account
2 shall be used, upon appropriation, to support the department's wildlife officers.

3 **Comment.** Section 3670 continues former Fish and Game Code Section 860 without
4 substantive change.

5 Article 3. Fees

6 **§ 3750. Department authority to set or change fees**

7 3750. (a) The department may, by regulation, establish fees and adjust
8 statutorily imposed fees for the filings, permits, determinations, or other
9 department actions described in Sections 9200, 66200 to 66245, inclusive, and
10 69780.

11 (b) The department may change the amount of a fee in accordance with Section
12 3755.

13 (c) Fees established by the department shall be in an amount sufficient to
14 recover all reasonable administrative and implementation costs of the department
15 relating to the program with regard to which the fee is paid. The department may
16 establish a fee structure that provides for the phasing in of new fees leading up to
17 full cost recovery for the department, provided that full cost recovery is achieved
18 within five years of the establishment of the fee.

19 **Comment.** Section 3750 restates former Fish and Game Code Section 1050(e) without
20 substantive change.

21 **Note.** Proposed Section 3750 is intended to restate existing Fish and Game Code Section
22 1050(e) to improve its clarity, without changing its substantive effect. The existing provision
23 reads as follows:

24 "1050. (a)...

25 (e) The department may establish fees and may adjust statutorily imposed fees by regulation
26 for the filings, permits, determinations, or other department actions described in Section 711.4,
27 1002, or 1609. The department also may provide for the change in the amount of the fee in
28 accordance with Section 713. Fees established by the department shall be in an amount sufficient
29 to recover all reasonable administrative and implementation costs of the department relating to
30 the program with regard to which the fee is paid. The department may establish a fee structure
31 that provides for the phasing in of new fees leading up to full cost recovery for the department,
32 provided that full cost recovery is achieved within five years of the establishment of the fee."

33 **The Commission invites comment on whether the proposed restatement would cause any**
34 **substantive change in the meaning of the provision.**

35 **§ 3755. Inflation based changes in fees**

36 3755. (a) The changes in the Implicit Price Deflator for State and Local
37 Government Purchases of Goods and Services, as published by the United States
38 Department of Commerce, shall be used as the index to determine an annual rate
39 of increase or decrease in the fees for licenses, stamps, permits, tags, or other
40 entitlements issued by the department.

41 (b)(1) The department shall determine the change in the Implicit Price Deflator
42 for State and Local Government Purchases of Goods and Services, as published by

1 the United States Department of Commerce, for the quarter ending March 31 of
2 the current year compared to the quarter ending March 31 of the previous year.
3 The relative amount of the change shall be multiplied by the current fee for each
4 license, stamp, permit, tag, or other entitlement issued by the department.

5 (2) The product shall be rounded to the nearest twenty-five cents (\$0.25), and
6 the resulting amount shall be added to the fee for the current year. The resulting
7 amount shall be the fee for the license year beginning on or after January 1 of the
8 next succeeding calendar year for the license, stamp, permit, tag, or other
9 entitlement that is adjusted under this section.

10 (c) Notwithstanding any other provision of law, the department may recalculate
11 the current fees charged for each license, stamp, permit, tag, or other entitlement
12 issued by the department, to determine that all appropriate indexing has been
13 included in the current fees. This section shall apply to all licenses, stamps,
14 permits, tags, or other entitlements, that have not been increased each year since
15 the base year of the 1985-86 fiscal year.

16 (d) The commission, with respect to any license, stamp, permit, tag, or other
17 entitlement issued by the commission shall comply with subdivisions (a) to (c),
18 inclusive.

19 (e) The calculations provided for in this section shall be reported to the
20 Legislature with the Governor's Budget Bill.

21 (f) The Legislature finds that all revenues generated by fees for licenses, stamps,
22 permits, tags, and other entitlements, computed under this section and used for the
23 purposes for which they were imposed, are not subject to Article XIII B of the
24 California Constitution.

25 (g) The department and the commission, at least every five years, shall analyze
26 all fees for licenses, stamps, permits, tags, and other entitlements issued by it to
27 ensure the appropriate fee amount is charged. Where appropriate, the department
28 shall recommend to the Legislature or the commission that fees established by the
29 commission or the Legislature be adjusted to ensure that those fees are
30 appropriate.

31 **Comment.** Section 3755 continues former Fish and Game Code Section 713 without
32 substantive change.

33 CHAPTER 4. EXPENDITURES

34 § 3800. Expenditures generally

35 3800. Except as provided in Section 67530, the money in the Fish and Game
36 Preservation Fund, commencing with the 2005-06 fiscal year, is available for
37 expenditure, upon appropriation by the Legislature, for all of the following
38 purposes:

39 (a) To the department for payment of refunds of sums determined by it to have
40 been erroneously deposited in the fund, including, but not limited to, money

1 received or collected in payment of fees, licenses, permits, taxes, fines, forfeitures,
2 or services.

3 (b) To the department for expenditure in accordance with law for the payment of
4 all necessary expenses incurred in carrying out this code and any other laws for the
5 protection and preservation of birds, mammals, reptiles, amphibians, and fish.

6 (c) To the commission for expenditure in accordance with law for the payment
7 of the compensation and expenses of the commissioners and employees of the
8 commission.

9 **Comment.** Section 3800 continues former Fish and Game Code Section 13220 without
10 substantive change.

11 **§ 3805. Secret witness program**

12 3805. Notwithstanding Sections 3600 and 3810, the money collected from the
13 penalties on fines, penalties, or forfeitures levied pursuant to Section 4425 shall be
14 used only to pay the department's costs of support for the department's secret
15 witness program. The purpose of the secret witness program is to facilitate the
16 enforcement of this code and regulations adopted pursuant to this code.
17 Contributions to the secret witness program may also be made pursuant to
18 subdivision (k) of Section 3915.

19 **Comment.** Section 3805 continues former Fish and Game Code Section 13006 without
20 substantive change.

21 **§ 3810. Loans to General Fund**

22 3810. Notwithstanding any other provision of law, the Controller may use the
23 Fish and Game Preservation Fund for loans to the General Fund as provided in
24 Sections 16310 and 16381 of the Government Code.

25 **Comment.** Section 3810 continues former Fish and Game Code Section 13001(b) without
26 substantive change.

27 **TITLE 2. COUNTIES**

28 **§ 3900. County fish and wildlife propagation fund**

29 3900. (a) The amounts paid to and retained in the county treasury pursuant to
30 Sections 3610 and 5802 shall be deposited in a county fish and wildlife
31 propagation fund and expended for the protection, conservation, propagation, and
32 preservation of fish and wildlife, under the direction of the board of supervisors,
33 pursuant to this title.

34 (b) All proposed expenditures from a county fish and wildlife propagation fund
35 shall be reviewed first at a regular meeting of the county board of supervisors or
36 its designated county fish and game commission to ensure compliance with
37 Section 3915.

38 **Comment.** Section 3900 continues former Fish and Game Code Section 13100 without
39 substantive change.

1 **§ 3905. Agreement between counties**

2 3905. (a) The board of supervisors of any county may enter into a written
3 agreement with the board of supervisors of one or more counties for the
4 expenditure of any funds deposited in its fish and wildlife propagation fund
5 pursuant to Section 3900 for any purpose authorized by Section 3915 in either, or
6 any, of the counties for the joint benefit of both, or all, of the counties as the
7 judgment of the boards of supervisors may direct. The purchase of real property
8 necessary for that purpose is lawful and title to that property shall be taken in the
9 joint names of each county that contributes funds for that purpose. The property
10 may be deeded to the state upon the express condition that it shall be employed for
11 the purposes of this title within the counties.

12 (b) The board of supervisors of one or more counties may enter into a written
13 agreement with the department for the expenditure of any funds deposited in its
14 fish and wildlife propagation fund pursuant to Section 3900 for any purpose
15 authorized by Section 3915.

16 **Comment.** Section 3905 continues former Fish and Game Code Section 13101 without
17 substantive change.

18 **§ 3910. Expenditures subject to Gov't Code § 29000 et seq**

19 3910. Expenditures from the fish and wildlife propagation fund of any county
20 shall be subject to the provisions of Division 3 (commencing with Section 29000)
21 of Title 3 of the Government Code.

22 **Comment.** Section 3910 continues former Fish and Game Code Section 13102 without
23 substantive change.

24 **§ 3915. Authorized expenditures**

25 3915. Expenditures from the fish and wildlife propagation fund of any county
26 may be made only for the following purposes:

27 (a) Public education relating to the scientific principles of fish and wildlife
28 conservation, consisting of supervised formal instruction carried out pursuant to a
29 planned curriculum and aids to education such as literature, audio and video
30 recordings, training models, and nature study facilities.

31 (b) Temporary emergency treatment and care of injured or orphaned wildlife.

32 (c) Temporary treatment and care of wildlife confiscated by the department as
33 evidence.

34 (d) Breeding, raising, purchasing, or releasing fish or wildlife which are to be
35 released upon approval of the department pursuant to Sections 25410 and 25415
36 onto land or into waters of local, state, or federal agencies or onto land or into
37 waters open to the public.

38 (e) Improvement of fish and wildlife habitat, including, but not limited to,
39 construction of fish screens, weirs, and ladders; drainage or other watershed
40 improvements; gravel and rock removal or placement; construction of irrigation
41 and water distribution systems; earthwork and grading; fencing; planting trees and

1 other vegetation management; and removal of barriers to the migration of fish and
2 wildlife.

3 (f) Construction, maintenance, and operation of public hatchery facilities.

4 (g) Purchase and maintain materials, supplies, or equipment for either the
5 department's ownership and use or the department's use in the normal
6 performance of the department's responsibilities.

7 (h) Predator control actions for the benefit of fish or wildlife following
8 certification in writing by the department that the proposed actions will
9 significantly benefit a particular wildlife species.

10 (i) Scientific fish and wildlife research conducted by institutions of higher
11 learning, qualified researchers, or governmental agencies, if approved by the
12 department.

13 (j) Reasonable administrative costs, excluding the costs of audits required by
14 Section 3920, for secretarial service, travel, and postage by the county fish and
15 wildlife commission when authorized by the county board of supervisors. For
16 purposes of this subdivision, "reasonable cost" means an amount which does not
17 exceed 15 percent of the average amount received by the fund during the previous
18 three-year period, or ten thousand dollars (\$10,000) annually, whichever is greater,
19 excluding any funds carried over from a previous fiscal year.

20 (k) Contributions to a secret witness program for the purpose of facilitating
21 enforcement of this code and regulations adopted pursuant to this code.

22 (l) Costs incurred by the district attorney or city attorney in investigating and
23 prosecuting civil and criminal actions for violations of this code, as approved by
24 the department.

25 (m) Other expenditures, approved by the department, for the purpose of
26 protecting, conserving, propagating, and preserving fish and wildlife.

27 **Comment.** Section 3915 continues former Fish and Game Code Section 13103 without
28 substantive change.

29 **§ 3920. Audit**

30 3920. The department may audit, or require the county to audit, expenditures by
31 the county from its fish and wildlife propagation fund in order to determine
32 compliance with this title. If, after reviewing the audit, the department determines
33 that expenditures are not in compliance with this title, the department may require
34 that all expenditures from the fund be temporarily suspended, or it may seek
35 reimbursement of funds that the department determines, based on the audit, were
36 expended improperly, or both.

37 **Comment.** Section 3920 continues former Fish and Game Code Section 13104 without
38 substantive change.

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DIVISION 3. LAW ENFORCEMENT

PART 1. PERSONNEL

TITLE 1. DEPARTMENT

§ 4100. Deputized law enforcement officer as peace officer

4100. (a) Every employee of the department designated by the director as a deputized law enforcement officer is a peace officer as provided by Section 830.2 of the Penal Code. The authority of that peace officer extends to any place in the state as to a public offense committed or which offense there is probable cause to believe has been committed within the state.

(b) Every peace officer described in this section, before the date that he or she is first deputized by the department, shall have satisfactorily completed the basic course as set forth in the regulations of the Commission on Peace Officer Standards and Training.

(c) Every peace officer described in this section shall be required to complete regular training courses as required by the Commission on Peace Officer Standards and Training.

Comment. Section 4100 continues former Fish and Game Code Section 856 without substantive change.

§ 4105. Minimum age of wildlife officer

4105. Notwithstanding Section 18932 of the Government Code, the minimum age limit for appointment to the position of wildlife officer of the department shall be 18 years. An examination for the position of wildlife officer shall require a demonstration of the physical ability to effectively carry out the duties and responsibilities of the position in a manner that would not inordinately endanger the health or safety of a wildlife officer or any other person.

Comment. Section 4105 continues former Fish and Game Code Section 854 without substantive change.

§ 4110. Deputy as peace officer

4110. A deputy appointed to enforce the provisions of this code is a peace officer. The deputy has all the powers and authority conferred by law upon peace officers listed in Section 830.6 of the Penal Code to make arrests for violations of this code, and may serve all processes and notices throughout the state.

Comment. Section 4110 continues former Fish and Game Code Section 851 without substantive change.

1 **§ 4115. Employee deputized to check sport fishing licenses**

2 4115. (a) The director may deputize any employee of the department to check
3 persons for licenses required under Section 12900 and to enforce any violation of
4 that section.

5 (b) Before a person is deputized pursuant to this section for the first time, the
6 person shall have satisfactorily completed a training course meeting the minimum
7 standards of, and comparable to, the training for “level III reserve” as set forth in
8 the regulations of the Commission on Peace Officer Standards and Training.

9 (c) A person who is deputized for the limited purpose stated in subdivision (a)
10 shall not enforce any other provision of this code. Being deputized under this
11 section does not make a person a peace officer subject to Chapter 4.5
12 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

13 **Comment.** Section 4115 restates former Fish and Game Code Section 853 without substantive
14 change.

15  **Note.** Proposed Section 4110(c) restates the last sentence of existing Fish and Game Code
16 Section 853 to improve its clarity, without changing its substantive effect. The existing provision
17 reads as follows:

18 “Any person, who is deputized for this limited purpose pursuant to this section, may not
19 enforce any other provision of this code, and is not a peace officer subject to Chapter 4.5
20 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.”

21 The restated provision would also make clear that a person who is already a peace officer does
22 not lose that status as a result of being deputized under this section.

23 **The Commission requests public comment on whether the proposed restatement would**
24 **cause any substantive change in the meaning of the provision.**

25 **TITLE 2. COUNTY**

26 **§ 4200. Appointment of county wildlife officer**

27 4200. The board of supervisors of each county may, in its discretion, appoint a
28 suitable person to serve for a period of two years from the date of appointment as
29 wildlife officer of the county.

30 **Comment.** Section 4200 continues former Fish and Game Code Section 875 without
31 substantive change.

32 **§ 4205. Removal of county wildlife officer**

33 4205. The board of supervisors may by a majority vote of its members remove
34 the county wildlife officer at any time.

35 **Comment.** Section 4205 continues former Fish and Game Code Section 877 without
36 substantive change.

37 **§ 4210. Salary**

38 4210. The board of supervisors shall fix the salary to be paid and the expenses to
39 be allowed the county wildlife officer, which salary and expenses shall be paid
40 from the county treasury.

1 **Comment.** Section 4210 continues former Fish and Game Code Section 876 without
2 substantive change.

3 **§ 4215. Authority**

4 4215. The county wildlife officer shall enforce the state laws relating to the
5 protection of fish and wildlife. The wildlife officer has the powers and authority
6 conferred by law upon peace officers listed in Section 830.6 of the Penal Code.

7 **Comment.** Section 4215 continues former Fish and Game Code Section 878 without
8 substantive change.

9 **§ 4220. Quarterly activity report**

10 4220. The county wildlife officer shall report quarterly to the board of
11 supervisors, giving a detailed statement of all arrests made, convictions had, and
12 fines collected, and a general statement in regard to the management of the office
13 of county wildlife officer. A copy of the detailed statement shall, at the same time,
14 be filed with the department.

15 **Comment.** Section 4220 continues former Fish and Game Code Section 879 without
16 substantive change.

17 **§ 4225. Appointment of deputy**

18 4225. The board of supervisors of each county may, in its discretion, appoint a
19 deputy wildlife officer, to serve at the pleasure of the board.

20 **Comment.** Section 4225 continues former Fish and Game Code Section 880 without
21 substantive change.

22 **§ 4230. Deputy powers, duties, salary, and expenses**

23 4230. The deputy shall have the powers, perform the duties, receive the salary,
24 and be entitled to expenses, as the board of supervisors provides.

25 **Comment.** Section 4230 continues former Fish and Game Code Section 881 without
26 substantive change.

27 **§ 4235. Source of payment of deputy salary and expenses**

28 4235. The salary and expenses of a deputy county wildlife officer shall be paid
29 from the county treasury.

30 **Comment.** Section 4235 continues former Fish and Game Code Section 882 without
31 substantive change.

32 **PART 2. GENERAL PROCEDURES**

33 **§ 4300. Rewards**

34 4300. (a) The director may pay a reward from any funds available for that
35 purpose to any person who furnished information that led to an arrest, a criminal
36 conviction, a civil penalty, an administrative penalty, or for forfeiture of property,
37 for any violation of this code or any regulation adopted pursuant to this code. The

1 amount of reward, if any, shall be designated by the director with the advice of the
2 CalTIP Award Board.

3 (b) This section does not apply to any action brought to recover damages under
4 Section 4470.

5 **Comment.** Section 4300 continues former Fish and Game Code Section 2586 without
6 substantive change.

7 **§ 4305. Employee expenditure to procure evidence**

8 4305. (a) Regularly employed law enforcement officers of the department may,
9 when authorized by the director, expend sums authorized for the purchase of fish,
10 birds, or mammals as evidence, or for expenditures related to the procurement of
11 those types of evidence, or for expenditures made to investigate other violations of
12 this code, without divulging the identity of the employee.

13 (b) The sums so expended shall be repaid to the law enforcement officer making
14 the expenditure upon claims approved by the director. The claims, when approved,
15 shall be paid out of the funds appropriated or made available by law for the
16 support of the department.

17 **Comment.** Section 4305 continues former Fish and Game Code Section 855 without
18 substantive change.

19 **§ 4310. Environmental crimes task force**

20 4310. (a) The Legislature finds and declares that:

21 (1) Poaching violations and other violations of the Fish and Wildlife Code have
22 been increasing, and these violations have a detrimental impact on fish and
23 wildlife and their habitats, which are held in trust by the state for the benefit of the
24 people of the state.

25 (2) In order to deter illegal poaching and other violations that adversely impact
26 fish and wildlife, it is important that the department coordinate with other law
27 enforcement entities and the courts to facilitate effective enforcement and
28 prosecution of these offenses.

29 (b) The department, to the extent feasible and subject to available resources,
30 shall establish and coordinate an environmental crimes task force. The task force
31 should involve the participation of the department's Office of General Counsel
32 working with each of the department's law enforcement districts. The task force
33 may include coordination with representatives from the California District
34 Attorneys' Association, the Judicial Council, the Attorney General's office, and
35 the University of California. Objectives of the task force may include, but are not
36 limited to, providing training, education, and outreach to prosecutors and the
37 courts on Fish and Wildlife Code violations and providing other assistance as
38 appropriate in the prosecution of environmental crimes.

39 **Comment.** Section 4310 continues former Fish and Game Code Section 12028 without
40 substantive change.

1 **§ 4315. Electronic management of citations**

2 4315. (a) The department, on or before January 1, 2016, shall prepare and
3 submit to the relevant policy and fiscal committees of the Legislature a feasibility
4 study report on an electronic system to manage citations issued by fish and
5 wildlife wardens, exchange information on citations with the courts, and transfer
6 data on court dispositions to the Automated License Data System.

7 (b)(1) Pursuant to Section 10231.5 of the Government Code, the requirement for
8 submitting a report pursuant to subdivision (a) shall become inoperative on
9 January 1, 2017.

10 (2) A report to be submitted pursuant to subdivision (a) shall be submitted in
11 compliance with Section 9795 of the Government Code.

12 **Comment.** Section 4315 continues former Fish and Game Code Section 702.1 without
13 substantive change.

14 **§ 4320. Dashboard cameras**

15 4320. (a) The department may install patrol vehicle mounted video and audio
16 systems, commonly known as dashboard cameras, in patrol vehicles used by peace
17 officers described in Section 4105. A peace officer described in Section 4105 may
18 use the patrol vehicle mounted video and audio system to record any
19 communications or other actions involving the officer while the officer is in
20 uniform and acting within the scope of his or her authority.

21 (b) The department shall adopt a policy to establish standards regarding the
22 activation of patrol vehicle mounted video and audio systems and the preservation
23 and retention of recordings from patrol vehicle mounted video and audio systems,
24 subject to the following requirements:

25 (1) Once a patrol vehicle mounted video and audio system has been activated
26 pursuant to standards established by the department pursuant to subdivision (b),
27 the patrol vehicle mounted video and audio system shall record the duration of an
28 encounter.

29 (2) The department shall retain a recording from a patrol vehicle mounted video
30 and audio system for a minimum of 90 days and a maximum of one year, except if
31 the recording is necessary for a pending, or reasonably foreseeable civil or
32 criminal action, or for training or administrative purposes.

33 (3) The department shall provide access to a recording from a patrol vehicle
34 mounted video and audio system in accordance with all other provisions of law.

35 **Comment.** Section 4320 continues former Fish and Game Code Section 856.5 without
36 substantive change.

37 **§ 4325. Emblems**

38 4325. The department shall designate official wildlife officer emblems and their
39 placement. The department shall prohibit personnel of the department who are not
40 peace officers from wearing any patch, badge, bar, or other indicia of peace officer
41 status. The selection and configuration of official wildlife officer emblems shall be

1 established by the department in cooperation with California wildlife officers to
2 ensure that the public is readily able to distinguish wildlife officers from personnel
3 who are not peace officers.

4 **Comment.** Section 4325 continues former Fish and Game Code Section 858(b) without
5 substantive change.

6 **§ 4330. “Conviction” for purposes of suspension, revocation, or forfeiture of license or**
7 **permit**

8 4330. For the purpose of invoking any provision of this code, or any rule,
9 regulation, or order made or adopted under this code, relating to the suspension,
10 revocation, or forfeiture of any license or permit, a plea of nolo contendere or “no
11 contest” to, or forfeiture of bail from, a charge of a violation of any provision of
12 this code, or any rule, regulation, or order made or adopted under this code, is a
13 conviction of a violation thereof.

14 **Comment.** Section 4330 continues former Fish and Game Code Section 12158.5 without
15 substantive change.

16 **§ 4335. Collection of administrative penalty**

17 4335. After the expiration of the time period to appeal an administrative penalty
18 imposed pursuant to a provision of this code, the department may apply to the
19 clerk of the appropriate court for a judgment to collect the administrative penalty.
20 The application, including a certified copy of the order imposing the
21 administrative penalty, a hearing officer’s decision, if any, or a settlement
22 agreement, if any, shall constitute a sufficient showing to warrant issuance of the
23 judgment. The court clerk shall enter the judgment immediately in conformity
24 with the application. The judgment so entered has the same force and effect as,
25 and is subject to all the provisions of law relating to, a judgment in a civil action,
26 and may be enforced in the same manner as any other judgment of the court in
27 which it is entered.

28 **Comment.** Section 4335 continues former Section 12014 without substantive change.

29 **PART 3. PENALTIES GENERALLY**

30 **§ 4400. Misdemeanor as default criminal penalty**

31 4400. (a) Except as expressly provided otherwise in this code, any violation of
32 this code, or of any rule, regulation, or order made or adopted pursuant to this
33 code, is a misdemeanor.

34 (b) Unless otherwise provided, the punishment for a violation of this code that is
35 a misdemeanor is a fine of not more than one thousand dollars (\$1,000),
36 imprisonment in a county jail for not more than six months, or by both that fine
37 and imprisonment.

38 **Comment.** Subdivision (a) of Section 4400 continues former Fish and Game Code Section
39 12000(a) without substantive change.

1 Subdivision (b) continues former Fish and Game Code Section 12002(a) without substantive
2 change.

3 **§ 4405. Violation of regulations generally**

4 4405. It is unlawful to violate any provision of Division 1 (commencing with
5 Section 1.04) of Title 14 of the California Code of Regulations. The violation may
6 be charged as a violation of this section or of the specific provision of Title 14,
7 and shall be punishable as provided in Section 4400.

8 **Comment.** Section 4405 continues former Fish and Game Code Section 2020 without
9 substantive change.

10 **§ 4415. Suspension or revocation of license for failure to appear or pay fine**

11 4415. (a) A license, tag, stamp, reservation, permit, or other entitlement or
12 privilege issued pursuant to this code to a defendant who fails to appear at a court
13 hearing for a violation of this code, or who fails to pay a fine imposed pursuant to
14 this code, shall be immediately suspended or revoked. The license, tag, stamp,
15 reservation, permit, or other entitlement or privilege shall not be reinstated or
16 renewed, and no other license, tag, stamp, reservation, permit, or other entitlement
17 or privilege shall be issued to that person pursuant to this code, until the court
18 proceeding is completed or the fine is paid.

19 (b) This section does not apply to any violation of Section 3050, 3360, 25200,
20 39230, 54025, 54325, 66500, or 71010.

21 **Comment.** Section 4415 continues former Fish and Game Code Section 12002(d) without
22 substantive change.

23 **Note.** By its terms, existing Section 12002(d) does not apply to a violation of Section 5653.9.
24 That exception does not make obvious sense, as Section 5653.9 (continued in proposed Section
25 71010) relates to department rulemaking. It does not establish a requirement or prohibition that
26 can be violated. **The Commission invites comment to how the reference to Section 5653.9**
27 **should be understood.**

28 **§ 4420. Failure to appear is misdemeanor**

29 4420. Any person who is charged with a violation of this code or a regulation
30 adopted pursuant to this code, who willfully violates his or her written promise to
31 appear in court, or before a person authorized to receive a deposit of bail, is guilty
32 of a misdemeanor, regardless of the disposition of the charge upon which he or she
33 was originally arrested.

34 **Comment.** Section 4420 continues former Fish and Game Code Section 12020 without
35 substantive change, except that the provision is revised to make clear that it only applies to a
36 person charged with violating a provision of this code or a regulation enacted pursuant to this
37 code.

38 **Note.** The application of existing Section 12020 is not limited to a person who is charged
39 with violating a provision of the Fish and Game Code or a regulation adopted pursuant to that
40 code. Read literally, it would apply to any type of criminal violation, including a violation of the
41 Penal Code. That seems problematic, because the Penal Code has its own provision establishing
42 the punishment for a failure to appear. See Penal Code Section 1320. That provision is

1 inconsistent with the rule provided in Fish and Game Code Section 12020, as it provides that the
2 failure to appear in a felony case is a felony, not a misdemeanor. It seems unlikely that the
3 Legislature intended for a provision in the Fish and Game Code to control over an express
4 provision in the Penal Code. Moreover, there is no obvious reason why the Fish and Game Code
5 should set criminal penalties for offenses that are established by other law. For those reasons,
6 proposed Section 4420 includes language that would limit the effect of Section 12020 to persons
7 charged with violation of the Fish and Wildlife Code or regulations adopted pursuant to that code.
8 **The Commission invites comment on whether this change would be a problem and, if so,**
9 **why.**

10 **§ 4425. Additional penalty for secret witness program**

11 4425. (a) In addition to any assessment, fine, penalty, or forfeiture imposed
12 pursuant to any other provision of law, an additional penalty of fifteen dollars
13 (\$15) shall be added to any fine, penalty, or forfeiture imposed under this code for
14 a violation of this code or a regulation adopted pursuant thereto. However, no
15 more than one additional penalty may be imposed in a single proceeding. The
16 revenue from this penalty shall be transferred to, and deposited in, the Fish and
17 Game Preservation Fund and used exclusively for the purposes of Section 3805.

18 (b) Subdivision (a) does not apply to a violation punishable pursuant to
19 subdivision (b) of Section 4700, subdivision (b) of Section 4862, or any regulation
20 relating to the wearing or display of a fishing license.

21 **Comment.** Section 4425 continues former Fish and Game Code Section 12021 without
22 substantive change.

23 **PART 4. PENALTIES FOR SPECIFIC MATTERS**

24 **TITLE 1. GENERAL ADMINISTRATIVE**
25 **REQUIREMENTS**

26 **§ 4450. Failure of license agent to account**

27 4450. A violation of subdivision (a) of Section 3360 is misdemeanor, to be
28 punished by a fine of not more than two thousand dollars (\$2,000), imprisonment
29 in a county jail for not more than one year, or both that fine and imprisonment.

30 **Comment.** Section 4450 combines and continues part of former Fish and Game Code Section
31 1059 and former Fish and Game Code Section 12002(b)(1), without substantive change.

32 **§ 4452. Entry permit for department managed lands**

33 4452. Failure to obtain an entry permit as required pursuant to Section 2020 is
34 an infraction, punishable by a fine of not less than fifty dollars (\$50) nor more than
35 two hundred fifty dollars (\$250). A person in possession of a valid hunting license,
36 sport fishing license, or trapping license shall be exempt from a requirement to
37 obtain an entry permit.

38 **Comment.** Section 4452 restates former Fish and Game Code Section 1745(h) without
39 substantive change.

1 TITLE 2. TAKING AND POSSESSING IN
2 GENERAL

3 CHAPTER 1. CRIMINAL PENALTIES

4 § 4460. Violation for personal gain

5 4460. (a) Any person who illegally takes, possesses, imports, exports, sells,
6 purchases, barter, trades, or exchanges a bird, fish, mammal, reptile, amphibian,
7 or part of any of those animals, for profit or personal gain is guilty of a
8 misdemeanor punishable by a fine of not less than five thousand dollars (\$5,000)
9 nor more than forty thousand dollars (\$40,000), or imprisonment in a county jail
10 for not more than one year, or by both that fine and imprisonment.

11 (b) If a person is convicted of a second or subsequent violation of subdivision
12 (a), that person shall be punished by a fine of not less than ten thousand dollars
13 (\$10,000), nor more than fifty thousand dollars (\$50,000), or imprisonment in a
14 county jail for not more than one year, or by both that fine and imprisonment.

15 (c) If a second or subsequent violation of subdivision (a) also involves a
16 violation of Section 18040, 18045, 18050, or 18065 that is punishable by
17 subdivision (b) of Section 4962, the offense shall be punishable by a fine of not
18 more than fifty thousand dollars (\$50,000), or by imprisonment pursuant to
19 subdivision (b) of Section 4962, or by both that fine and imprisonment.

20 (d) Notwithstanding Section 802 of the Penal Code, prosecution of an offense
21 punishable under this section shall be commenced within three years after
22 commission of the offense.

23 (e) This section does not apply to fish taken pursuant to a commercial fishing
24 license issued pursuant to Section 14550, or fish sold pursuant to a commercial
25 fish business license issued in accordance with Title 9 (commencing with Section
26 20150) of Part 6 of Division 6.

27 (f) This section does not supersede Section 5802 or 5462.

28 (g)(1) Moneys equivalent to 50 percent of the revenue deposited in the Fish and
29 Game Preservation Fund from fines and forfeitures collected pursuant to this
30 section shall be allocated for the support of the Special Operations Unit of the
31 department, and used for law enforcement purposes.

32 (2) Moneys equivalent to 50 percent of the revenue from any fine collected
33 pursuant to this section shall be paid to the county in which the offense was
34 committed, pursuant to Section 3610. The board of supervisors shall first use
35 revenues pursuant to this subdivision to reimburse the costs incurred by the district
36 attorney or city attorney in investigating and prosecuting the violation. Any excess
37 revenues may be expended in accordance with Section 3915.

38 **Comment.** Section 4460 continues former Fish and Game Code Section 12012 without
39 substantive change.

40 The reference to a “part” of an animal in this section is superfluous. See Section 95 (reference
41 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 See also Sections 4552, 4570 (enforcement).

4 **§ 4462. Knowing and intentional acts**

5 4462. (a) Unless a minimum punishment is otherwise provided, the punishment
6 for the knowing and intentional taking of a mammal, bird, or fish in excess of the
7 quantity permitted by other provisions of this code or regulations adopted pursuant
8 to this code, not in compliance with size or sex limitations in other provisions of
9 this code or regulations adopted pursuant to this code, or from which only external
10 body parts, including, but not limited to, antlers, horns, hides, feathers, or fins, are
11 removed for use in violation of this code or regulations adopted pursuant to this
12 code, shall be not less than two hundred fifty dollars (\$250) for a first violation,
13 and not less than five hundred dollars (\$500) and imprisonment in a county jail for
14 not less than 30 days for a second or subsequent violation. The court shall apply
15 not less than the minimum punishment as specified in this subdivision except in
16 those cases where the court determines that, as to the imprisonment sentence only,
17 the interests of justice would best be served by granting probation or suspending
18 the imposition or execution of the imprisonment sentence.

19 (b) If the court grants probation to any person punished under subdivision (a), in
20 addition to any other terms or conditions imposed by the court, the court may
21 impose as a condition of that probation that the person perform not more than 100
22 hours of community service in the county in which the violation occurred. To the
23 extent practicable, the service shall involve work relating to natural resources. The
24 service shall be performed during a time that does not interfere with the person’s
25 school attendance or employment. If the court requires a person to perform
26 community service under this subdivision, that person shall also be required to
27 attend a hunter safety course as described in Section 10405. The person, and not
28 the court, shall be responsible for paying all fees and costs related to the course.

29 (c) Unless a greater punishment is otherwise provided, the punishment for a
30 violation of this code subject to subdivision (a) is a fine of not more than two
31 thousand dollars (\$2,000), imprisonment in a county jail for not more than one
32 year, or both the fine and imprisonment.

33 **Comment.** Subdivisions (a) and (b) of Section 4462 continue former Fish and Game Code
34 Section 12003.1 without substantive change.

35 Subdivision (c) continues former Fish and Game Code Section 12002(b)(7) without substantive
36 change.

37 **§ 4464. Torture of animal**

38 4464. (a) Any person who violates Section 8110 shall be subject to a fine of not
39 less than five thousand dollars (\$5,000), nor more than forty thousand dollars
40 (\$40,000), or imprisonment in a county jail for not more than one year, or by both
41 that fine and imprisonment.

1 (b) Moneys equivalent to 50 percent of the revenue from any fine collected
2 pursuant to this section shall be paid to the county in which the offense was
3 committed, pursuant to Section 3610. The board of supervisors shall first use
4 revenues pursuant to this subdivision to reimburse the costs incurred by the district
5 attorney or city attorney in investigating and prosecuting the violation. Any excess
6 revenues may be expended in accordance with Section 3915.

7 **Comment.** Subdivision (a) of Section 4464 continues the second clause of the first sentence of
8 former Fish and Game Code Section 12013(c).

9 Subdivision (b) continues the former Fish and Game Code Section 12103(g) without
10 substantive change.

11 See also Section 4552 (enforcement).

12  **Note.** Under existing law, the provision prohibiting torture of animals is embedded in a
13 section that also punishes exceeding a possession limit by a factor of three. See existing Section
14 12013. Section 12013 has a number of provisions that apply, by their terms, to the entire section.
15 In analyzing those provisions, the Commission concluded that some of them were not relevant to
16 the prohibition on torture. See Section 12013(d)-(f). Those provisions were continued in proposed
17 Section 4708(c)-(e), but were not continued in this section.

18 **The Commission invites comment on whether that revision would cause any problematic**
19 **change in the law.**

20 CHAPTER 2. CIVIL AND ADMINISTRATIVE REMEDIES

21 Article 1. Civil Action

22 § 4470. Damages

23 4470. (a) It is the policy of this state to conserve its natural resources and to
24 prevent the willful or negligent destruction of birds, mammals, fish, reptiles, or
25 amphibians.

26 (b) The state may recover damages in a civil action against any person or local
27 agency that unlawfully or negligently takes or destroys any bird, mammal, fish,
28 reptile, or amphibian protected by the laws of this state.

29 (c) The measure of damages is the amount that will compensate for all the
30 detriment proximately caused by the taking or destruction.

31 (d) An action to recover damages under this section shall be brought in the name
32 of the people of the state, in a court in the county in which the cause of action
33 arose. The State Water Resources Control Board shall be notified of, and may join
34 in, any action brought under this section when the activities alleged to have caused
35 the destruction of any bird, mammal, fish, reptile, or amphibian may involve either
36 the unlawful discharge of pollutants into the waters of the state or other violation
37 of Division 7 (commencing with Section 13000) of the Water Code.

38 (e) This section does not apply to any of the following:

39 (1) Persons or local agencies engaged in agricultural pest control.

40 (2) The destruction of fish in irrigation canals or works, or irrigation drainages.

41 (3) The lawful destruction of a bird or mammal killed while damaging crops.

1 (f) No damages may be recovered against a local agency pursuant to this section
2 if a civil or administrative penalty is assessed against the local agency for the same
3 detriment pursuant to Division 7 (commencing with Section 13000) of the Water
4 Code.

5 (g) Any recovery or settlement of money damages pursuant to this section,
6 including, but not limited to, civil penalties, arising out of any civil action filed
7 and maintained by the Attorney General in the enforcement of this section shall be
8 deposited by the department in the subaccounts of the Fish and Wildlife Pollution
9 Account in the Fish and Game Preservation Fund as specified in subdivision (a) of
10 Section 67505.

11 (h) For purposes of this section, “local agency” includes any city, county, city
12 and county, district, public authority, or other political subdivision.

13 **Comment.** Subdivisions (a) through (f) and (h) of Section 4470 continue former Fish and
14 Game Code Section 2014(a)-(e) and (g) without substantive change.

15 Subdivision (g) combines and continues former Fish and Game Code Section 2014(f) and
16 12017(a)(1) without substantive change.

17 **Notes.** (1) Existing Section 2014(a) authorizes a civil action for unlawful or negligent taking
18 or destruction of a specified animal. However, subdivision (b), stating the measure of damages in
19 such an action, refers only to the detriment proximately caused by the *destruction* of the animal.
20 Proposed Section 4470 would conform subdivision (b) to subdivision (a), to address scenarios in
21 which an animal was wrongfully taken but not destroyed.

22 **The Commission invites comment on whether this revision is appropriate.**

23 (2) Existing Section 2014(d) reads as follows (with emphasis added):

24 This section does not apply to persons or local agencies engaged in agricultural pest control, to
25 the destruction of fish in irrigation canals or works or irrigation drainages, or to the destruction of
26 birds or mammals killed while damaging crops *as provided by law*.

27 The Commission has spent time researching the question of whether the phrase “as provided by
28 law” that appears at the end of this subdivision was meant to apply to all three exceptions listed in
29 the subdivision, or just the last listed exception. The Commission has preliminarily concluded,
30 based on that research, that the phrase was intended to apply only to the last listed exception.
31 Proposed Section 4470(e) would clarify that application.

32 **The Commission invites comment on whether this revision of Section 2014(d) is
33 appropriate.**

34 (3) Existing Section 2014(e) (which would be continued by proposed Section 4470(f)) refers to
35 “civil penalties” assessed against a local agency “pursuant to Division 7 (commencing with
36 Section 13000) of the Water Code.” The term “civil penalty” can be understood to refer to both a
37 civil penalty (as distinguished from a criminal penalty) assessed by a *court*, as well as
38 administrative penalties assessed by an *administrative agency*. As sections in the referenced
39 division of the Water Code provide for assessment of “civil penalties” imposed by both a court
40 and by an administrative agency, the reference to “civil penalties” in proposed Section 4470(f)
41 has been revised to refer to “civil or administrative penalty.”

42 **The Commission invites comment on whether this revision is appropriate.**

43 Article 2. Administrative Penalties

44 **Note.** This article would continue existing Chapter 6.5 (commencing with Section 2580) of
45 Division 3 of the Fish and Game Code. Throughout the chapter, references to “civil liability”

1 have been revised to refer to an “administrative penalty.” These changes are intended to make
2 clear that the provisions refer to administrative enforcement, rather than a civil action in court.

3 **The Commission invites comment on whether that substitution would change the**
4 **substantive meaning of any provision, or otherwise be problematic.**

5 **§ 4480. Definitions**

6 4480. The definitions in this section govern the construction of this chapter.

7 (a) “Qualified hearing officer” means an attorney admitted to the State Bar of
8 California who is knowledgeable in fish and wildlife law.

9 (b) “Transport” means to move, convey, carry, or ship by any means, or to
10 deliver or receive for the purpose of movement, conveyance, carriage, or
11 shipment.

12 **Comment.** Section 4480 continues former Fish and Game Code Section 2580 without
13 substantive change.

14 **§ 4482. Administrative penalty for acts done for profit or personal gain**

15 4482. (a) The department may impose an administrative penalty upon any
16 person pursuant to this title for any of the following acts done for profit or
17 personal gain:

18 (1) Unlawfully export, import, transport, sell, possess, receive, acquire, or
19 purchase, or unlawfully assist, conspire, or aid in the importing, exporting,
20 transporting, sale, possession, receiving, acquisition, or purchasing of, any bird,
21 mammal, amphibian, reptile, or fish which are taken or possessed in violation of
22 this code or the regulations adopted pursuant to this code.

23 (2) Unlawfully export, import, transport, sell, possess, receive, acquire, or
24 purchase, or unlawfully assist, conspire, or aid in the importing, exporting,
25 transporting, sale, possession, receiving, acquisition, or purchasing of any plants,
26 insects, or other species listed pursuant to the California Endangered Species Act
27 (Part 1 (commencing with Section 62000) of Division 17), which are taken or
28 possessed in violation of this code or the regulations adopted pursuant to this code.

29 (3) Unlawfully export, import, transport, sell, possess, receive, acquire, or
30 purchase any bird, mammal, amphibian, reptile, or fish, or any endangered or
31 threatened species, or any fully protected bird, mammal, or fish which has been
32 taken, possessed, transported, or sold in violation of this code or the regulations
33 adopted pursuant to this code.

34 (4) Unlawfully possess any bird, mammal, amphibian, reptile, or fish, or any
35 endangered or threatened species, or any fully protected bird, mammal, or fish
36 which has been taken, possessed, transported, or sold in violation of this code or
37 any regulations adopted pursuant to this code within the maritime and territorial
38 jurisdiction of the state or within the portions of the special maritime jurisdiction
39 of the United States upon which the State of California exercises concurrent
40 jurisdiction, either by statute, deputization, or by contract with the United States.

41 (5) Having exported, imported, transported, sold, purchased, or received any
42 bird, mammal, amphibian, reptile, or fish, or any endangered or threatened

1 species, or any fully protected bird, mammal, or fish, unlawfully make or submit
2 any false record, account, label, or identification thereof.

3 (6) Attempt to commit any unlawful act, or unlawfully attempt to commit any
4 act, described in paragraphs (1) to (5), inclusive.

5 (b) The department may impose an administrative penalty upon any person
6 pursuant to this article for unlawfully exporting, importing, possessing, receiving,
7 or transporting in interstate commerce any container or package containing any
8 bird, mammal, amphibian, reptile, or fish, or any endangered or threatened
9 species, or any fully protected bird, mammal, or fish unless the container or
10 package has previously been plainly marked, labeled, or tagged in accordance with
11 this code and the regulations adopted pursuant to this code.

12 (c) The department may impose an administrative penalty upon any person
13 pursuant to this article for any unlawful failure or refusal to maintain any records
14 or paperwork as required by this code.

15 **Comment.** Section 4482 continues former Fish and Game Code Section 2582 without
16 substantive change.

17 See also Section 4504 (enforcement).

18 **§ 4484. Application of article**

19 4484. (a) If the loss is lawful under this code and regulations adopted pursuant
20 to this code, this article does not apply to the loss of any bird, mammal,
21 amphibian, reptile, or fish as a result of any of the following acts:

22 (1) Implementing lawful forestry practices.

23 (2) Implementing lawful agricultural practices.

24 (3) Any development or maintenance activity carried out pursuant to the terms
25 of a permit issued by the federal government, the state, or any city, county, or
26 district, or any agency thereof.

27 (b) This article does not apply to any action brought to recover damages under
28 Section 4470.

29 (c) No administrative penalty shall be imposed under this article until the
30 guidelines for the imposition of the penalties are adopted by the commission
31 pursuant to Section 4504.

32 **Comment.** Subdivision (a) of Section 4484 continues former Fish and Game Code Section
33 2581 without substantive change.

34 Subdivision (b) combines and continues former Fish and Game Code Section 2586(b) and the
35 second sentence of former Fish and Game Code Section 500(d) without substantive change.

36 Subdivision (c) continues former Fish and Game Code Section 2583(b) without substantive
37 change.

38 **§ 4486. Consultation regarding penalty sought**

39 4486. Upon an actionable violation, the department shall consult, as to the
40 appropriate civil or criminal remedy, with the district attorney in the jurisdiction
41 where the violation was alleged to have occurred. Before proceeding with a civil
42 action, the department shall seek the concurrence of the Attorney General.

1 **Comment.** Section 4486 continues former Fish and Game Code Section 2584(a) without
2 substantive change.

3 **§ 4488. Administrative penalty based on constructive knowledge**

4 4488. Except as provided in subdivision (c) of Section 4484, any person who
5 violates this code or any regulation adopted to carry out this code, and, with the
6 exercise of due care, should have known that a bird, mammal, amphibian, reptile,
7 or fish, or an endangered or threatened species, or a fully protected bird, mammal,
8 or fish, was taken, possessed, transported, imported, received, purchased,
9 acquired, or sold in violation of, or in a manner unlawful under, this code, may be
10 assessed an administrative penalty.

11 **Comment.** Section 4488 continues the first sentence of former Fish and Game Code Section
12 2583(a) without substantive change.

13 **§ 4490. Penalty amounts**

14 4490. The administrative penalty imposed under this article by the department
15 shall not be more than ten thousand dollars (\$10,000) for each bird, mammal,
16 amphibian, reptile, or fish, or for each endangered or threatened species, or each
17 fully protected bird, mammal, or fish unlawfully taken, possessed, transported,
18 imported, received, purchased, acquired, or sold. This administrative penalty may
19 be in addition to any other penalty, civil or criminal, provided in this code or
20 otherwise by law.

21 **Comment.** Section 4490 continues the second and third sentences of former Fish and Game
22 Code Section 2583(a) without substantive change.

23 **§ 4492. Procedure**

24 4492. (a) The director, after investigation of the facts and circumstances, may
25 issue a complaint to any person on whom an administrative penalty may be
26 imposed pursuant to Section 4482 or 4488. The complaint shall allege the acts or
27 failures to act that constitute a basis for an administrative penalty and the amount
28 of the proposed administrative penalty. The complaint shall be served by personal
29 service or certified mail and shall inform the person so served that a hearing shall
30 be conducted within 60 days after the person has been served, unless the person
31 waives the right to a hearing. If the person waives the right to a hearing, the
32 department shall issue an order setting the penalty in the amount proposed in the
33 complaint. If the person has waived the right to a hearing or if the department and
34 the person have entered into a settlement agreement, the order shall be final.

35 (b) If the director issues a complaint pursuant to subdivision (a), the director
36 shall appoint a qualified referee or hearing board, composed of one or any
37 combination of the following persons:

38 (1) A qualified hearing officer, as defined in subdivision (a) of Section 4480.

39 (2) A retired judge of the Superior Court who is knowledgeable in fish and
40 wildlife law.

1 (3) A qualified neutral referee, appointed upon petition to the Superior Court in
2 which the violation was alleged to have occurred.

3 (c) Any hearing required under this section shall be conducted by the appointed
4 referee or hearing board according to the procedures specified in Sections 11507
5 to 11517, inclusive, of the Government Code, except as otherwise provided in this
6 section. In making a determination, the appointed referee or hearing board may
7 consider the records of the department in the matter, the complaint, and any new
8 facts brought to his or her attention by that person. The appointed referee or
9 hearing board shall be the sole trier of fact as to the existence of a basis for
10 liability under Section 4482 or 4488. The appointed referee or hearing board shall
11 make the determination of the facts of the case and shall prepare and submit the
12 proposed decision, including a recommended penalty, to the director for his or her
13 review and assistance in the penalty assessment process.

14 (d) The director may assess the recommended administrative penalty, reduce the
15 amount of the recommended penalty, or not impose any administrative penalty,
16 based upon the nature, circumstances, extent, and gravity of the prohibited acts
17 alleged, and the degree of culpability of the violator, or the director may enter into
18 a settlement agreement with the person in the best interests of the state or confirm
19 the amount of administrative penalties contained in the complaint. If the director
20 reduces the amount of the administrative penalty, does not impose the
21 administrative penalty, or enters into a settlement agreement, the director shall
22 seek the recommendation of the appointed referee or hearing board and enter into
23 the records of the case the reasons for that action, including the recommendation
24 of the appointed referee or hearing board. The decision of the director assessing
25 the administrative penalty is final. The proposed decision is a public record and
26 shall be served upon the person. The director may approve the proposed decision
27 in its entirety, or the director may reduce the proposed penalty and adopt the
28 balance of the proposed decision.

29 (e) Upon the final assessment of the administrative penalty, the department shall
30 issue an order setting the amount of the administrative penalty to be imposed. An
31 order setting the amount of an administrative penalty under this section becomes
32 effective and final upon the issuance of the order, and payment shall be made
33 within 30 days of issuance. Copies of the order shall be served by personal service
34 or by certified mail upon the person served with the complaint and upon other
35 persons who appeared before the director and requested a copy. Copies of the
36 order shall be provided to any person within 10 days of receipt of a written request
37 from that person.

38 (g) Within 30 days after service of a copy of an order setting the amount of the
39 administrative penalty, any person so served may file with the superior court a
40 petition for a writ of mandate for review of the order. In all proceedings pursuant
41 to this subdivision, the court shall exercise its independent judgment on the
42 evidence in the whole record. The filing of a petition for a writ of mandate shall
43 not stay any other civil or criminal action.

1 (h) The records of the case, after all appeals are final, are public records, as
2 defined in subdivision (d) of Section 6252 of the Government Code.

3 **Comment.** Section 4492 restates former Fish and Game Code Section 2584(b) through (h)
4 without substantive change.

5 **Note.** Proposed Section 4492 is intended to restate existing Section 2584(b) through (h) to
6 clarify the meaning of those provisions, without changing their substantive effect. The existing
7 provision reads as follows:

8 2584. (b) The director shall appoint a qualified referee or hearing board, composed of one or
9 any combination of the following persons:

10 (1) A qualified hearing officer, as defined in subdivision (a) of Section 2580.

11 (2) A retired judge of the Superior Court who is knowledgeable in fish and wildlife law.

12 (3) A qualified neutral referee, appointed upon petition to the Superior Court in which the
13 violation was alleged to have occurred.

14 (c) The director, after investigation of the facts and circumstances, may issue a complaint to any
15 person on whom a civil penalty may be imposed pursuant to Section 2582 or 2583. The complaint
16 shall allege the acts or failures to act that constitute a basis for a civil penalty and the amount of
17 the proposed civil penalty. The complaint shall be served by personal service or certified mail and
18 shall inform the person so served that a hearing shall be conducted within 60 days after the person
19 has been served, unless the person waives the right to a hearing. If the person waives the right to a
20 hearing, the department shall issue an order setting liability in the amount proposed in the
21 complaint. If the person has waived the right to a hearing or if the department and the person have
22 entered into a settlement agreement, the order shall be final.

23 (d) Any hearing required under this section shall be conducted by a referee or hearing board
24 according to the procedures specified in Sections 11507 to 11517, inclusive, of the Government
25 Code, except as otherwise provided in this section. In making a determination, the hearing officer
26 may consider the records of the department in the matter, the complaint, and any new facts
27 brought to his or her attention by that person. The hearing officer shall be the sole trier of fact as
28 to the existence of a basis for liability under Section 2582 or 2583. The hearing officer shall make
29 the determination of the facts of the case and shall prepare and submit the proposed decision,
30 including recommended penalty assessment, to the director for his or her review and assistance in
31 the penalty assessment process.

32 (e) The director may assess the civil penalty, and may reduce the amount, or not impose any
33 assessment, of civil penalties based upon the nature, circumstances, extent, and gravity of the
34 prohibited acts alleged, and the degree of culpability of the violator; or the director may enter into
35 a settlement agreement with the person in the best interests of the state or confirm the amount of
36 civil penalties contained in the complaint. If the director reduces the amount of the civil penalty,
37 does not impose the civil penalty, or enters into a settlement agreement, the director shall seek the
38 recommendation of the hearing officer and enter into the records of the case the reasons for that
39 action, including the hearing officer's recommendation. The decision of the director assessing the
40 civil penalty is final. The proposed decision is a public record and shall be served upon the
41 person. The director may approve the proposed decision in its entirety, or the director may reduce
42 the proposed penalty and adopt the balance of the proposed decision.

43 (f) Upon the final assessment of the civil penalty, the department shall issue an order setting the
44 amount of the civil penalty to be imposed. An order setting civil liability under this section
45 becomes effective and final upon the issuance thereof, and payment shall be made within 30 days
46 of issuance. Copies of the order shall be served by personal service or by certified mail upon the
47 person served with the complaint and upon other persons who appeared before the director and
48 requested a copy. Copies of the order shall be provided to any person within 10 days of receipt of
49 a written request from that person.

50 (g) Within 30 days after service of a copy of an order setting the amount of the civil penalty, any
51 person so served may file with the superior court a petition for a writ of mandate for review of the
52 order. In all proceedings pursuant to this subdivision, the court shall exercise its independent

1 judgment on the evidence in the whole record. The filing of a petition for a writ of mandate shall
2 not stay any other civil or criminal action.

3 (h) The records of the case, after all appeals are final, are public records, as defined in subdivision
4 (d) of Section 6252 of the Government Code.

5 **The Commission invites comment on whether the proposed restatement would cause any**
6 **substantive change in the meaning of the provision.**

7 **§ 4494. Penalty does not preclude forfeiture**

8 4494. The administrative penalties imposed under this article are in addition to
9 any forfeiture of equipment pursuant to Section 4570, or forfeiture of birds,
10 mammals, amphibians, reptiles, or fish pursuant to Section 4510.

11 **Comment.** Section 4494 continues former Fish and Game Code Section 2585 without
12 substantive change.

13 **§ 4496. Counsel**

14 4496. Notwithstanding Section 12511 of the Government Code, the department
15 may retain or appoint legal counsel to prepare and prosecute a civil action under
16 this article to recover an administrative penalty.

17 **Comment.** Section 4496 continues former Fish and Game Code Section 2587(a) without
18 substantive change.

19 **§ 4498. Limitation period**

20 4498. An action to recover an administrative penalty imposed under this article
21 shall be commenced within three years after discovery of the commission of the
22 offense.

23 **Comment.** Section 4498 continues former Fish and Game Code Section 2587(b) without
24 substantive change.

25 **§ 4500. Deposit of penalties and revenue**

26 4500. All administrative penalties and revenues from forfeitures collected
27 pursuant to this article shall be deposited in the Fish and Game Preservation Fund.

28 **Comment.** Section 4500 continues former Fish and Game Code Section 2588 without
29 substantive change.

30 **§ 4502. Implementing regulations**

31 4502. The commission and the department may adopt regulations as are
32 necessary to carry out their responsibilities under this article.

33 **Comment.** Section 4502 continues former Fish and Game Code Section 2589 without
34 substantive change.

35 **§ 4504. Guidelines for administrative penalties**

36 4504. (a) The commission shall, by regulation, adopt guidelines to assist the
37 director and the department in ascertaining the amount of administrative penalties
38 to be imposed pursuant to Section 4482 or 4488. The guidelines may include

1 monetary amounts or ranges of monetary amounts that the commission finds are
2 adequate to deter illegal actions and partially compensate the people of California
3 for losses to the fish and wildlife resources from illegal transactions described in
4 Section 4482 or 4488 for profit or personal gain.

5 (b) If the violation involves birds, mammals, amphibians, reptiles, or fish with a
6 value in the aggregate of less than four hundred dollars (\$400) and involves only
7 the transportation, taking, or receipt of fish or wildlife taken or possessed in
8 violation of this code, the guidelines shall provide that the administrative penalty
9 shall not exceed the maximum criminal fine provided by law for the violation in
10 this code or ten thousand dollars (\$10,000), whichever is less. For purposes of this
11 section, “value” means the retail market value if a market value exists, the
12 potential monetary gain to the accused or, for commercial species, the established
13 retail market value.

14 (c) The guidelines shall include consideration of the nature, circumstances,
15 extent, and gravity of the prohibited acts committed, and the degree of culpability
16 of the violator, including lesser penalties for acts that have little significant effect
17 upon the resources and greater penalties for acts that may cause serious injury to
18 the resources.

19 (d) Nothing in this article shall be used to establish a monetary value for fish or
20 wildlife resources in connection with any development, project, or land or water
21 use plan or activity as permitted by any federal, state, or local governmental
22 activity.

23 **Comment.** Section 4504 continues former Fish and Game Code Section 500(a) through (c),
24 and the first sentence of subdivision (d), without substantive change.

25 Article 3. Seizure of Take

26 § 4510. Seizure of take

27 4510. (a) Any bird, mammal, fish, reptile, aquaculture animal or product, plant,
28 amphibian, or any part thereof, that has been taken, possessed, sold, imported, or
29 transported contrary to any of the laws of this state shall be seized by the
30 department.

31 (b) In accordance with the commission’s regulations, notice of seizure shall be
32 given to the person who had possession of the bird, mammal, fish, reptile,
33 aquaculture animal or product, plant, amphibian, or any part thereof, at the time of
34 the seizure if that person is known.

35 **Comment.** Section 4510 continues former Fish and Game Code Section 12159 without
36 substantive change.

37 See also Sections 4494, 4510 (enforcement).

38 § 4512. Sale or donation of seized take

39 4512. Any seizure of any bird, mammal, fish, reptile, amphibian made under
40 circumstances in which it cannot be determined who took, possessed, sold,

1 imported, or transported the bird, mammal, fish, reptile, or amphibian contrary to
2 law may be sold or donated to a state, county, city, city and county, or any
3 charitable institution.

4 **Comment.** Section 4512 continues former Fish and Game Code Section 12162 without
5 substantive change.

6 **§ 4514. Reuse of seized take**

7 4514. All birds, mammals, fish, reptiles, aquaculture animals and products,
8 plants, or amphibians or any part thereof, seized in accordance with Section 4510,
9 the sale of which is not prohibited and that have a current market value of one
10 hundred dollars (\$100) or more, shall be packed, preserved, sold for bait, used for
11 fish food in state-owned fish hatcheries, or otherwise put to economical use
12 immediately upon seizure, at the prevailing market price for legal birds, mammals,
13 fish, reptiles, aquaculture animals and products, plants, amphibians, or part thereof
14 in effect on the date of seizure. Any proceeds thereof shall be placed in the Fish
15 and Game Preservation Fund. If the person from whom the birds, mammals, fish,
16 reptiles, aquaculture animals and products, plants, or amphibians were seized is
17 not convicted in a court of competent jurisdiction for the offense out of which the
18 seizure arose, then and in that event the proceeds shall be returned to that person.

19 **Comment.** Section 4514 continues former Fish and Game Code Section 12160 without
20 substantive change.

21 **§ 4516. Donation or destruction of seized take**

22 4516. The judge before whom any person is tried for taking, possessing, selling,
23 importing, or transporting birds, mammals, fish, reptiles, aquaculture animals and
24 products, plants, or amphibians, or parts thereof, contrary to the laws of this state
25 shall upon the conviction of the accused make an order forfeiting and disposing of
26 the birds, mammals, fish, reptiles, aquaculture animals and products, plants, or
27 amphibians, or parts thereof, in accordance with the provisions of Section 4514.
28 However, if the birds, mammals, fish, reptiles, aquaculture animals and products,
29 plants, or amphibians, or parts thereof, may not be sold lawfully or have a current
30 market value of less than one hundred dollars (\$100), the judge may at his or her
31 discretion order that the birds, mammals, fish, reptiles, aquaculture animals or
32 products, plants, amphibians, or parts thereof, be donated to a state, county, city,
33 or any charitable institution, or be destroyed.

34 **Comment.** Section 4516 continues former Fish and Game Code Section 12161 without
35 substantive change.

36 **§ 4518. Purchase of seized take**

37 4518. Any person who purchases a bird, mammal, fish, reptile, or amphibian
38 from the department pursuant to Sections 4512 or 4514 shall, upon delivery, pay
39 to the department, for deposit in the Fish and Game Preservation Fund, the

1 prevailing market price for a legal bird, mammal, fish, reptile, or amphibian in
2 effect on the date of seizure.

3 **Comment.** Section 4518 continues former Fish and Game Code Section 12163 without
4 substantive change.

5 TITLE 3. HUNTING, TRAPPING AND FISHING
6 GENERALLY

7 CHAPTER 1. LICENSE SUSPENSION OR REVOCATION

8 **§ 4550. Suspension or revocation of license**

9 4550. (a) In addition to any fine or other punishment imposed, a sport fishing or
10 hunting license may, in the discretion of the court, be suspended or revoked upon
11 the licensee's conviction of a violation of any provision of this code or regulation
12 adopted pursuant to this code, relating to hunting or fishing, for purposes other
13 than profit.

14 (b) Any person who obtains another hunting or fishing license during the period
15 his or her license has been suspended or revoked is guilty of a misdemeanor.

16 **Comment.** Section 4550 continues former Fish and Game Code Section 12158 without
17 substantive change.

18 **§ 4552. Suspension or revocation for specified offenses**

19 4552. (a) Upon a conviction of a violation of this code or any regulation adopted
20 pursuant thereto that is punishable pursuant to Section 4460, 4464, 4708, 5330,
21 5450, 5460, or 8110, the department may suspend or permanently revoke a
22 person's hunting or sport fishing license or permit privileges.

23 (b)(1) Any person whose privileges are suspended or revoked pursuant to this
24 section may appeal the suspension or revocation to the commission. The
25 commission shall initiate the appeal process within 12 months of the violator's
26 appeal request. The commission shall consider at least the nature, circumstances,
27 extent, and gravity of the person's violations, the person's culpability for the
28 violations, and the injury to natural resources by the violations, and may restore a
29 person's hunting or sport fishing license or permit privileges.

30 (2) The department may adopt regulations to implement this subdivision.

31 (c) Pursuant to subdivision (c) of Section 4570, a judge may order the seizure or
32 forfeiture of any device or apparatus, including a vessel, vehicle, or hunting or
33 fishing gear, that is used in committing an offense punishable under Section 4460,
34 4464, 4708, 5330, 5450, 5460, or 8110.

35 **Comment.** Section 4552 continues former Fish and Game Code Section 12154 without
36 substantive change.

1 in delivering, importing, or exporting any unlawfully taken, imported, or
2 purchased species.

3 (c)(1) The judge may, for conviction of a violation of any of the following
4 offenses, order forfeiture of any device or apparatus that is used in committing the
5 offense, including, but not limited to, any vehicle used or intended for use in
6 committing the offense:

7 (A) Section 8000 relating to deer, elk, antelope, feral pigs, European wild boars,
8 black bears, and brown or cinnamon bears.

9 (B) Any offense that involves the sale, purchase, or possession of abalone for
10 commercial purposes.

11 (C) Any offense that involves the sale, purchase, or possession of sturgeon or
12 lobster, pursuant to Section 43150 or 49500.

13 (D) Any offense that involves a violation of Section 4460.

14 (E) A violation of subdivision (b) of Section 4708.

15 (2) In considering an order of forfeiture under this subdivision, the court shall
16 take into consideration the nature, circumstances, extent, and gravity of the
17 prohibited act committed, the degree of culpability of the violator, the property
18 proposed for forfeiture, and other criminal, civil, or administrative penalties
19 imposed on the violator under other provisions of law for that offense. The court
20 shall impose lesser forfeiture penalties under this subdivision for those acts that
21 have little significant effect upon natural resources or the property of another and
22 greater forfeiture penalties for those acts that may cause serious injury to natural
23 resources or the property of another, as determined by the court. In determining
24 whether or not to order forfeiture of a vehicle, the court shall, in addition to any
25 other relevant factor, consider whether the defendant is the owner of the vehicle
26 and whether the owner of the vehicle had knowledge of the violation.

27 (3) It is the intent of the Legislature that forfeiture not be ordered pursuant to
28 this subdivision for minor or inadvertent violations, as determined by the court.

29 (d) A judge shall not order the forfeiture of a vehicle under this section if there is
30 a community property interest in the vehicle that is owned by a person other than
31 the defendant and the vehicle is the only vehicle available to the defendant's
32 immediate family that may be operated on the highway with a class A, class B, or
33 class C driver's license.

34 (e) Any device or apparatus ordered forfeited shall be sold, used, or destroyed
35 by the department.

36 (f)(1) The proceeds from all sales under this section, after payment of any valid
37 liens on the forfeited property, shall be paid into the Fish and Game Preservation
38 Fund.

39 (2) A lien in which the lienholder is a conspirator is not a valid lien for purposes
40 of this subdivision.

41 (g) The provisions in this section authorizing or requiring a judge to order the
42 forfeiture of a device or apparatus also apply to the judge, referee, or juvenile

1 hearing officer in a juvenile court action brought under Section 258 of the Welfare
2 and Institutions Code.

3 (h) For purposes of this section, a plea of nolo contendere or no contest, or
4 forfeiture of bail, constitutes a conviction.

5 (i) Neither the disposition of the criminal action other than by conviction nor the
6 discretionary refusal of the judge to order forfeiture upon conviction impairs the
7 right of the department to commence proceedings to order the forfeiture of fish
8 nets or traps pursuant to Section 4986.

9 **Comment.** Section 4570 continues former Fish and Game Code Section 12157 without
10 substantive change.

11 See also Sections 4494, 5802 (enforcement).

12 **Note.** Existing Fish and Game Code Section 12157 (which would be continued by proposed
13 Section 4570) authorizes the sale of a forfeited device or apparatus (which may include a
14 vehicle), with the proceeds first applied to satisfy any liens on the device or apparatus. However,
15 a lien held by a “conspirator” is not subject to that rule. The meaning of the term “conspirator” in
16 this context is unclear. This ambiguity could be problematic in at least two ways: (a) If a person
17 can be deemed a “conspirator” without having been convicted of a crime, there could be a taking
18 without due process of law. (b) If the section requires a conviction of the separate crime of
19 conspiracy, then it may not apply in cases where the lien holder is convicted of the offenses
20 referenced in the section.

21 **The Commission invites comment on how this aspect of this provision is understood and**
22 **applied in practice.**

23 **§ 4572. Forfeiture of vehicle**

24 4572. The judge before whom any person is convicted of violating Sections
25 8120 and 9580 and, at the same proceeding, is also convicted of violating Section
26 8015 or 8125 may, in the court’s discretion, order the forfeiture of any motor
27 vehicle or snowmobile used in committing one or more of the offenses charged.
28 Any vehicle so forfeited shall be sold or destroyed by the department. The
29 proceeds from the sale of a forfeited vehicle shall be paid into the Fish and Game
30 Preservation Fund, except that any valid lien on the forfeited property shall first be
31 paid from proceeds of the sale unless the lienholder is a conspirator. For purposes
32 of this section, forfeiture of bail or a plea of nolo contendere shall constitute a
33 conviction.

34 **Comment.** Section 4572 continues former Fish and Game Code Section 12157.5 without
35 substantive change.

36 **Notes.** (1) Existing Fish and Game Code Section 12157.5 (which would be continued by
37 proposed Section 4572) authorizes the sale of a forfeited vehicle, with the proceeds first applied
38 to satisfy any liens on the vehicle. However, a lien held by a “conspirator” is not subject to that
39 rule. The meaning of the term “conspirator” in this context is unclear. This ambiguity could be
40 problematic in at least two ways: (a) If a person can be deemed a “conspirator” without having
41 been convicted of a crime, there could be a taking without due process of law. (b) If the section
42 requires a conviction of the separate crime of conspiracy, then it may not apply in cases where the
43 lien holder is convicted of the offenses referenced in the section.

44 **The Commission invites comment on how this aspect of this provision is understood and**
45 **applied in practice.**

1 (2) The first sentence of existing Section 12157.5 conditions the discretionary forfeiture
2 authorized by the section on a person being “tried and convicted” of several distinct offenses.
3 However, the last sentence of the section provides that, for purposes of the section a forfeiture of
4 bail or plea of nolo contendere “shall constitute a conviction.”

5 This last sentence clearly suggests that the reference to a person having been “tried” and
6 convicted for specified offenses was not meant to require that a trial in fact have been conducted.
7 To avoid confusion on this issue, proposed Section 4572 would revise the reference in the first
8 sentence of the section to a person having been “tried and convicted” to instead refer only to a
9 person having been “convicted.”

10 **The Commission invites comment on whether this revision accurately continues the**
11 **intended meaning of the provision.**

12 CHAPTER 3. HUNTING AND FISHING GUIDES

13 **§ 4590. Commission revocation of guide license**

14 4590. The commission may revoke a guide license or the privilege to guide upon
15 a showing of any of the following:

16 (a) The licensee has been convicted of a violation of this code or any regulation
17 adopted pursuant to this code.

18 (b) The licensee has knowingly permitted a client or other member of the party
19 being guided to violate this code or any regulation adopted pursuant to this code,
20 and that the licensee had the authority and means to prevent the violation.

21 (c) The licensee has failed to fulfill his or her responsibilities to a client.

22 **Comment.** Section 4590 continues former Fish and Game Code Section 2546 without
23 substantive change.

24 **§ 4592. Court revocation of guide license**

25 4592. (a) When any person licensed as a guide under Section 8805 is found
26 guilty by a court of competent jurisdiction of violating or permitting the violation
27 of any provision of this code or regulation adopted pursuant to this code, the court,
28 in addition to any fine or other punishment imposed, may revoke the person’s
29 guide license.

30 (b) Any person who obtains another guide license within two years after a guide
31 license issued to that person has been revoked or forfeited is guilty of a
32 misdemeanor.

33 **Comment.** Section 4592 continues former Fish and Game Code Section 12165 without
34 substantive change.

35 **§ 4594. Court revocation of privilege to hunt, fish, or guide**

36 4594. (a) The judge before whom any guide, as defined in Section 8800, is
37 arraigned for a violation of this code, or regulation adopted pursuant to this code,
38 may, upon the conviction of the person, order the revocation of the person’s
39 privilege to hunt, fish, or guide for a period not to exceed three years from the date
40 of the conviction.

1 (b) For purposes of this section, a plea of nolo contendere or no contest or a
2 forfeiture of bail is a conviction.

3 (c) It shall be unlawful for any person to obtain, or attempt to obtain a guide
4 license, sportfishing license, or hunting license during a period of revocation
5 imposed under this section.

6 (d) Neither the disposition of the criminal action other than by conviction nor
7 the discretionary refusal of the judge to order revocation upon conviction impairs
8 the right of the department to commence proceedings to order revocation of the
9 guide license pursuant to Section 4590.

10 **Comment.** Section 4594 continues former Fish and Game Code Section 12156.5 without
11 substantive change.

12 CHAPTER 4. MISCELLANEOUS OFFENSES

13 § 4600. Interference with lawful activities

14 4600. (a) Notwithstanding Section 4400, a person who violates Section 8130 is
15 guilty of an infraction punishable by a fine of not less than one hundred dollars
16 (\$100) and not to exceed one thousand dollars (\$1,000), or of a misdemeanor.

17 (b) Any person convicted for a violation of Section 8130 that occurred within
18 two years of a prior violation of Section 8130 that resulted in a conviction is guilty
19 of a misdemeanor, punishable by imprisonment in a county jail for a period of not
20 more than one year, by a fine of not less than one hundred dollars (\$100) and not
21 to exceed one thousand dollars (\$1,000), or by both imprisonment and fine.

22 **Comment.** Subdivision (a) of Section 4600 combines former Fish and Game Code Sections
23 2009(b) and 12000(b)(1) without substantive change.

24 Subdivision (b) continues former Fish and Game Code Section 2009(c) without substantive
25 change.

26 § 4602. Scientific permit revocation

27 4602. If the holder of a permit issued under Section 9200 fails to submit
28 information or reports required in the permit, the department shall revoke an
29 existing permit, and may decline to issue a permit to that person or entity in
30 subsequent years.

31 **Comment.** Section 4602 continues former Fish and Game Code Section 1002(m) without
32 substantive change.

33 TITLE 4. HUNTING

34 CHAPTER 1. UNLAWFUL TAKE

35 § 4700. Taking without license

36 4700. (a) Notwithstanding subdivision (b) of Section 4400, the punishment for
37 taking a mammal or bird for which a hunting license issued pursuant to Section

1 10210 is required or a tag, seal, or stamp is required, including a deer tag issued
2 pursuant to Section 56585, without having in one's possession the required valid
3 license, or without having in one's possession any required tag, seal, or stamp or
4 when the taking of that mammal or bird is prohibited by allowable season, limit,
5 time, or area, is punishable by a fine of not less than two hundred fifty dollars
6 (\$250) or more than two thousand dollars (\$2,000), or imprisonment in a county
7 jail for not more than one year, or by both that fine and imprisonment, or by any
8 greater punishment prescribed by this code.

9 (b) If a person is charged with an offense described in subdivision (a) and
10 produces in court a license, tag, seal, or stamp issued to the person and valid at the
11 time of the person's arrest and if the taking was otherwise lawful with respect to
12 season, limit, time, and area, the court may reduce the charge to an infraction
13 punishable by a fine of not less than fifty dollars (\$50) and not more than two
14 hundred fifty dollars (\$250).

15 **Comment.** Section 4700 continues former Fish and Game Code Section 12002.1 without
16 substantive change.

17 **§ 4702. Violation of specific regulations**

18 4702. Notwithstanding Section 4400, a person who violates any of the following
19 regulations in Title 14 of the California Code of Regulations is guilty of an
20 infraction punishable by a fine of not less than one hundred dollars (\$100) and not
21 to exceed one thousand dollars (\$1,000), or of a misdemeanor:

22 (a) Section 251.7.

23 (b) Sections 307, 308, and 311 to 313, inclusive.

24 (c) Sections 505, 507 to 510, inclusive, and 550 to 552, inclusive.

25 **Comment.** Section 4702 continues former Fish and Game Code Section 12000(b)(8)-(10)
26 without substantive change.

27 **Note.** Proposed Section 4864 would continue Section 12000(b)(8)-(10), which was amended
28 by 2018 Cal. Stat. ch. 189. Although that bill will not take effect until 2019, it is included here in
29 anticipation of its effect.

30 **§ 4704. Ancillary consequences for specified violations**

31 4704. (a) In addition to any other penalty or fine imposed pursuant to this code,
32 if a person has been convicted of one or more offenses that was a violation of a
33 section listed in subdivision (b) separate from the offense before the court, the
34 court may order as a condition of probation upon conviction of the offense before
35 the court that is also a violation of a section listed in subdivision (b), that the
36 person attend the hunter education course designated in Section 10405 and
37 perform community service, preferably relating to natural resources if that type of
38 community service is available, as follows:

39 (1) If the person has one separate conviction, not more than 200 hours of
40 community service.

1 (2) If the person has two or more separate convictions, not more than 300 hours
2 of community service.

3 (b) This section applies to violations relating to a taking in Sections 9500,
4 30505, 33205, and 34200, and a sale or purchase of parts of a bear in violation of
5 Section 33455.

6 **Comment.** Section 4704 continues former Fish and Game Code Section 12001.5 without
7 substantive change, except that an erroneous reference to former Fish and Game Code Section
8 3700 was replaced with a reference to Section 30505 (which continued former Fish and Game
9 Code Section 3700.1).

10 **Note.** Existing Section 12001.5 refers to a repealed provision, former Section 3700, which
11 required a "duck stamp" when taking duck. Physical "stamps" are no longer required when taking
12 duck. Instead, a person must have an electronically issued "duck hunting validation." See Section
13 3700.1 (proposed Section 30505). The Commission believes that the reference to the repealed
14 provision should be replaced with a reference to Section 3700.1 (proposed Section 30505).
15 Proposed Section 4704(b) would make that change.

16 **The Commission invites comment on whether that addition would cause any problems.**

17 **§ 4706. Punishment for third and subsequent convictions**

18 4706. (a) Upon the third conviction of a person of a violation of any provision of
19 this code or regulation adopted pursuant to this code relating to the taking or
20 possession of a bird or mammal in a five-year period, and upon a conviction
21 subsequent to the three convictions during a five-year period, that person shall be
22 prohibited from taking a bird or mammal in the state for three years from the date
23 of the last conviction. The commission shall revoke a hunting license of a person
24 prohibited from taking a bird or mammal in this state for the period of prohibition.

25 (b) It shall be unlawful for a person to obtain, or attempt to obtain, a hunting
26 license during a period of prohibition.

27 **Comment.** Section 4706 continues former Fish and Game Code Section 12155 without
28 substantive change.

29 **§ 4708. Triple possession limit**

30 4708. (a) Any person who illegally takes or possesses in the field more than
31 three times the daily bag limit, or who illegally possesses more than three times
32 the legal possession limit, of fish, reptiles, birds, amphibians, or mammals, is
33 guilty of a misdemeanor, and shall be subject to a fine of not less than five
34 thousand dollars (\$5,000), nor more than forty thousand dollars (\$40,000), or
35 imprisonment in a county jail for not more than one year, or by both that fine and
36 imprisonment.

37 (b) If a person is convicted of a second or subsequent violation of subdivision
38 (a), that person shall be punished by a fine of not less than ten thousand dollars
39 (\$10,000), nor more than fifty thousand dollars (\$50,000), or imprisonment in a
40 county jail for not more than one year, or by both that fine and imprisonment.

1 (c) Nothing in this section prohibits a person from giving, receiving, or
2 possessing the legal possession limit of lawfully taken fish, reptiles, birds,
3 amphibians, or mammals.

4 (d) Nothing in this section prohibits a person from giving, receiving, or
5 possessing, at the personal abode of the donor or donee, lawfully taken migratory
6 game birds that are not required to be tagged pursuant to the federal Migratory
7 Bird Treaty Act (16 U.S.C. Sec. 703 et seq.) or regulations adopted pursuant to
8 that act.

9 (e) This section does not supersede Section 5462 5802, or 5804.

10 (f) Moneys equivalent to 50 percent of the revenue from any fine collected
11 pursuant to this section shall be paid to the county in which the offense was
12 committed, pursuant to Section 3610. The board of supervisors shall first use
13 revenues pursuant to this subdivision to reimburse the costs incurred by the district
14 attorney or city attorney in investigating and prosecuting the violation. Any excess
15 revenues may be expended in accordance with Section 3915.

16 **Comment.** Section 4708 continues former Fish and Game Code Section 12013(a), (b), and (d)-
17 (g) without substantive change.

18 See also Sections 4552, 4570 (enforcement).

19 **§ 4710. Taking during trespassing**

20 4710. The court before whom any person has been convicted of trespassing
21 under Section 602 of the Penal Code shall, in addition to any other fine or
22 forfeiture imposed, confiscate any bird or mammal taken while trespassing, and
23 shall dispose of the bird or mammal to a charitable institution or cause it to be
24 destroyed if unfit for human consumption.

25 **Comment.** Section 4710 continues former Fish and Game Code Section 12164 without
26 substantive change.

27 **§ 4712. Use of sodium cyanide**

28 4712. Notwithstanding any other provision of this code, a violation of Section
29 8140, or any rule or regulation adopted pursuant to that section, is punishable by a
30 fine of not less than three hundred dollars (\$300) or more than two thousand
31 dollars (\$2,000), or by imprisonment in a county jail for not more than one year, or
32 by both that fine and imprisonment. The Legislature may increase, but may not
33 decrease, these penalties.

34 **Comment.** Section 4712 continues former Fish and Game Code Section 12005.5 without
35 substantive change.

36 **Note.** Section 12005.5 was added by Proposition 4 (1998). The Commission believes that the
37 nonsubstantive continuation of those provisions in the proposed law would not be an
38 impermissible amendment. See discussion of initiative statutes *supra* at notes 20-22 and
39 associated text.

1 gross negligence, or while under the influence of alcohol, the court shall issue an
2 order permanently prohibiting the defendant from taking any bird or mammal.

3 (c) If it is found that the defendant was negligent, but not grossly negligent, the
4 court shall issue an order prohibiting the defendant from taking any bird or
5 mammal for a period specified at the discretion of the court but not less than five
6 years.

7 (d) Any person who takes any bird or mammal in violation of an order issued
8 pursuant to this section is guilty of a felony.

9 **Comment.** Subdivisions (a) through (c) of Section 4754 continue former Fish and Game Code
10 Section 12150 without substantive change.

11 Subdivision (d) continues former Fish and Game Code Section 12001 without substantive
12 change.

13 See also Section 4756 (enforcement).

14 **§ 4756. Petition for new trial**

15 4756. Any person who is prohibited from taking a bird or mammal pursuant to
16 Section 4754 may, upon petition, obtain a new trial in the court that ordered the
17 prohibition. The trial shall be with a jury if requested as provided in Section 4754,
18 and shall be to determine if the prohibition was based on an intentional or grossly
19 negligent act or an act committed while under the influence of alcohol, in which
20 case the petition shall be denied. If however, it was based on a negligent act not
21 amounting to gross negligence the court may review and redetermine the length of
22 time for which no license should be issued such person. The court may authorize
23 the issuance of a license to the person after such time as the court shall determine
24 to be proper in light of the circumstances.

25 **Comment.** Section 4756 continues former Fish and Game Code Section 12150.5 without
26 substantive change.

27  **Note.** Existing Section 12150.5, which would be continued by proposed Section 4756,
28 authorizes a person whose license has been *revoked* pursuant to Section 12150 to petition for a
29 new trial to contest that revocation. However, Section 12150 does not expressly provide for a
30 “revocation” of a license. It provides for an order barring a person from taking a bird or mammal.
31 The effect is much the same, but the difference in wording could cause confusion.

32 In proposed Section 4756, the reference to “revocation” is replaced with a reference to an order
33 prohibiting the taking of a bird or mammal.

34 **The Commission invites comment on whether that change would cause any problems.**

35 **§ 4758. Killing or wounding domestic animal while hunting**

36 4758. (a) Whenever any person, while taking a bird or mammal, kills or wounds
37 any domestic animal belonging to another and that fact is ascertained by the
38 department, the department shall notify the district attorney of the county in which
39 the act occurred. The district attorney may thereupon bring an action in the
40 superior court of the county in which the act occurred for the purpose of
41 determining the cause of the killing or wounding. These proceedings shall be
42 conducted in the same manner as an action to try a misdemeanor and the defendant
43 may request that all findings of fact shall be made by a jury. The court shall

1 inform the defendant of the nature of the proceedings and of the defendant's right
2 to have a jury.

3 (b) If it is found that the defendant did the killing or wounding but that it was
4 not intentional or negligent, the court shall dismiss the proceeding. Otherwise, if it
5 is found that the defendant did the killing or wounding intentionally or
6 negligently, the court shall issue an order prohibiting the defendant from taking
7 any bird or mammal for a period of five years.

8 **Comment.** Section 4758 continues former Fish and Game Code Section 12151 without
9 substantive change.

10 **§ 4760. Report of court order prohibiting take of bird or mammal**

11 4760. (a) Whenever a person has been prohibited from taking any bird or
12 mammal pursuant to Section 4754 or 4758, the court in which the proceeding for
13 such action was had shall report the facts to the department at its Sacramento
14 headquarters office. The report shall show the date and place of the occurrence,
15 the name and address of the person who did the killing or wounding, the name and
16 address of the person who was killed or wounded or the name and address of the
17 owner of the animal, as the case may be, and such other information as the
18 department may require.

19 (b) The department shall maintain a record of all orders issued under Section
20 4754 or 4758. The record shall show the name and address of the person involved,
21 the date of such action, and the date of expiration of such order. The department
22 shall periodically transmit copies of such records to each person authorized to
23 issue a hunting license and to each district attorney in the state.

24 **Comment.** Section 4760 continues former Fish and Game Code Section 12152 without
25 substantive change.

26 **§ 4762. Proof of financial responsibility**

27 4762. (a) Any person who has been prohibited from taking any bird or mammal
28 pursuant to Section 4754 or 4758 shall not apply for a hunting license or take any
29 bird or mammal unless the person has filed with the department proof of ability to
30 respond in damages in an amount of at least ten thousand dollars (\$10,000) for
31 personal injury or death of any person, subject to a maximum of twenty thousand
32 dollars (\$20,000) for the injury or death of two or more persons in any one
33 accident and at least five thousand dollars (\$5,000) for property damage resulting
34 from any one accident.

35 (b) Proof of ability to respond in damages may be given by any of the following:

36 (1) The written certificate of any insurance carrier duly authorized to do
37 business within the state that it has issued to or for the benefit of the person named
38 a public liability insurance policy which is, at the date of the certificate, in full
39 force and effect. The certificate shall certify that the policy cited shall not be
40 canceled except upon 10 days' prior written notice to the department.

1 (2) A bond in the amount of twenty-five thousand dollars (\$25,000) approved by
2 a judge of a court of record. The bond shall be conditioned for the payment of the
3 amounts specified in this section and shall provide for the entry of judgment on
4 motion of the state in favor of any holder of any final judgment on account of
5 damages to property or injury to any person caused while the licensee is taking
6 any bird or mammal.

7 **Comment.** Section 4762 continues former Fish and Game Code Section 12150.6 without
8 substantive change.

9 **§ 4764. Cancellation of guarantee of financial responsibility**

10 4764. The department shall, upon request, cancel any bond or shall direct the
11 return to the person entitled thereto of any money or securities deposited pursuant
12 to this code as proof of ability to respond in damages:

13 (a) On the filing of an affidavit with the department that the person will not
14 thereafter engage in the taking of any bird or mammal.

15 (b) In the event of the permanent incapacity of such person to engage in the
16 taking of any bird or mammal.

17 (c) Upon the death of the person on whose behalf such proof was filed.

18 **Comment.** Section 4764 continues former Fish and Game Code Section 12150.7 without
19 substantive change.

20 **§ 4766. Additional financial responsibility based on claim or judgment**

21 4766. Whenever any claim is made or judgment is rendered against a person
22 required to file proof of ability to respond in damages, that person shall not apply
23 for a hunting license or take any bird or mammal until additional proof of ability
24 to respond in damages has been filed with the department in an amount sufficient
25 to provide proof of ability to respond in damages in the amount specified in
26 Section 4762 over and above all claims made against previously filed proof of
27 ability to respond in damages.

28 **Comment.** Section 4766 continues former Fish and Game Code Section 12150.8 without
29 substantive change.

30 **CHAPTER 3. HUNTING CLUB**

31 **§ 4770. Commercial hunting club**

32 4770. Any license issued pursuant to Section 10605 may be revoked by the
33 commission at one of the commission's regularly scheduled meetings, or by a
34 court of competent jurisdiction, upon the licensee's conviction of a violation of
35 this code, and no new license may be issued to the licensee during the same
36 license year.

37 **Comment.** Section 4770 continues former Fish and Game Code Section 3246 without
38 substantive change.

TITLE 5. TRAPPING

§ 4800. Unmarked trap

4800. The punishment for a violation of Section 11020 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.

Comment. 4800 restates former Fish and Game Code Section 12002(b)(2) without substantive change.

§ 4802. Body-gripping trap

4802. A violation of Section 11110, or any rule or regulation adopted pursuant to this section, is punishable by a fine of not less than three hundred dollars (\$300) or more than two thousand dollars (\$2,000), or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment. The Legislature may increase, but may not decrease, these penalties.

Comment. Section 4802 continues the part of former Fish and Game Code Section 12005.5 applicable to former Fish and Game Code Section 3003.1 without substantive change.

Note. Section 12002.5 was added by Proposition 4 (1998). The Commission believes that the nonsubstantive continuation of those provisions in the proposed law would not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 20-22 and associated text.

§ 4804. Fur dealer license

4804. Any license issued under Chapter 2 (commencing with Section 11300) of Title 2 of Part 3 of Division 6 may be revoked by the commission at one of the commission's regularly scheduled meetings, upon the licensee's conviction of a violation of that chapter.

Comment. Section 4804 continues former Fish and Game Code Section 4043 without substantive change.

§ 4806. Violation by trapping licensee

4806. (a) No person who is licensed or required to be licensed pursuant to Section 11200 and who is convicted of a violation of any provision of Section 11000, 11005, 11010, 11015, 11105, 11020, 11150, 11155, 11205, 32150, 32300, or 35210 shall take any fur-bearing or nongame mammal in the state for three years from the date of the next regularly scheduled meeting of the commission held at least 30 days after the date of that conviction.

(b) The commission shall revoke the trapping license of the person who is prohibited from taking fur-bearing and nongame mammals in the state, if the person has one, for the period of prohibition.

(c) No person shall obtain, or attempt to obtain, a trapping license during a period of prohibition.

Comment. Section 4806 continues former Fish and Game Code Section 12156 without substantive change.

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TITLE 6. FISHING

CHAPTER 1. VIOLATION OF SPECIFIED REGULATIONS

§ 4850. Violation of specific regulations

4850. Notwithstanding Section 4400, a person who violates any of the following regulations in Title 14 of the California Code of Regulations is guilty of an infraction punishable by a fine of not less than one hundred dollars (\$100) and not to exceed one thousand dollars (\$1,000), or of a misdemeanor:

- (a) Sections 1.14, 1.17, 1.62, 1.63, and 1.74.
- (b) Sections 2.00 to 5.95, inclusive, and 7.00 to 8.00, inclusive.
- (c) Sections 27.56 to 30.10, inclusive.
- (d) Sections 40 to 43, inclusive.

Comment. Section 4850 continues former Fish and Game Code Section 12000(b)(4)-(7) without substantive change.

CHAPTER 2. FISHING LICENSES

Article 1. Sport Fishing License

§ 4860. Fishing without required validation

4860. (a) Notwithstanding any other provision of law, a violation of Section 12905, 12910 or 12955 is an infraction, punishable by a fine of not less than fifty dollars (\$50), nor more than two hundred fifty dollars (\$250), for a first offense.

(b) If a person is convicted of a violation of Section 12905, 12910, or 12955 within five years of a separate offense resulting in a conviction of a violation of Section 12905, 12910, or 12955, that person shall be punished by a fine of not less than one hundred dollars (\$100), nor more than five hundred dollars (\$500).

(c) If a person is convicted of a violation of Section 12905, 12910 or 12955 and produces in court the required validation that was valid at the time of the violation, and if the sport fishing was otherwise lawful, the court may reduce the fine imposed for the violation to twenty-five dollars (\$25).

Comment. Section 4860 continues the part of former Fish and Game Code Section 12002.2.1 applicable to violations of former Fish and Game Code Sections 6596.1(a), 7149.45(a), and 7180.1(b) without substantive change. The reference to production in court of a Bay Delta sport fishing enhancement stamp or validation is discontinued as obsolete. See 2009 Cal. Stat. ch. 381, § 2 (repealing former Fish and Game Code Section 7360, authorizing issuance of those stamps and validations). The reference to production in court of a sport fishing ocean enhancement stamp, a second rod sport fishing stamp, and a Colorado River special use stamp are also discontinued as obsolete. See 2015 Cal. Stat. ch. 683, § 19, 23, and 25 (repealing former Fish and Game Code sections authorizing issuance of those stamps).

The part of former Fish and Game Code Section 12002.2.1 applicable to a violation of Section 1.18 of Title 14 of the California Code of Regulations is discontinued as obsolete, as that section was repealed on January 13, 2010.

1 **Note.** As indicated in the Comment above, proposed Section 4860 would not include a
2 number of cross-references that appear to be obsolete. **The Commission invites comment on**
3 **whether any of those deletions would be problematic.**

4 **§ 4862. Valid license in possession**

5 4862. (a) Notwithstanding any other provision of law, a violation of Section
6 12900 or a regulation requiring a license to be displayed is an infraction,
7 punishable by a fine of not less than one hundred dollars (\$100) nor more than one
8 thousand dollars (\$1,000), for a first offense. If a person is convicted of a violation
9 of Section 12900 or a regulation requiring a license to be displayed within five
10 years of a separate offense resulting in a conviction of a violation of Section 12900
11 or a regulation requiring a license to be displayed, that person shall be punished by
12 a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand
13 dollars (\$1,000).

14 (b) If a person is convicted of a violation of Section 12900 or a regulation
15 requiring a license to be displayed and produces in court a sport fishing license
16 issued pursuant to Section 12900 that was valid at the time of the violation, and if
17 the sport fishing was otherwise lawful, the court may reduce the fine imposed for
18 the violation to twenty-five dollars (\$25).

19 (c) If a person is charged with a violation of Section 12900 or a regulation
20 requiring a license to be displayed and produces in court a lifetime sport fishing
21 license issued in his or her name that was valid at the time of the violation, and if
22 the sport fishing was otherwise lawful, the court may dismiss the charge.

23 (d) A person shall not be charged or convicted for both a violation of Section
24 12900 and a regulation requiring a license to be displayed for the same act.

25 **Comment.** Section 4862 continues former Fish and Game Code Section 12002.2 without
26 substantive change.

27 **Note.** Existing Section 12002.2(c) (which would be continued by proposed Section 4862(c))
28 permits dismissal of a charged violation of existing Section 7145 (requiring possession of sport
29 fishing license), if the person charged appears in court and produces a valid lifetime sport fishing
30 license issued in his or her name. Proposed Section 4862 would make clear that the lifetime sport
31 fishing license must have been valid at the time of the violation.

32 **The Commission invites comment on whether this revision is problematic.**

33 **§ 4864. Fishing in specified waters without ocean enhancement validation**

34 4864. Notwithstanding subdivision (a) of Section 4400, a person who violates
35 Section 12910 is guilty of an infraction punishable by a fine of not less than one
36 hundred dollars (\$100) and not to exceed one thousand dollars (\$1,000), or of a
37 misdemeanor.

38 **Comment.** Section 4864 continues former Fish and Game Code Section 12000(b)(2) without
39 substantive change.

40 **Notes.** (1) Proposed Section 4864 would continue Section 12000(b)(2), which was amended
41 by 2018 Cal. Stat. ch. 189. Although that bill will not take effect until 2019, it is included here in
42 anticipation of its effect.

(2) The penalty specified in Section 12000(b)(2), for a violation of Section 6596.1(a), appears to be in conflict with the penalty specified in Section 12002.2.1(a)(1) (proposed Section 4860). **The Commission invites comment on how that conflict should be resolved.**

Article 2. Commercial Fishing License

§ 4870. Suspension or revocation

4870. The commission, after notice and opportunity for hearing, may suspend, revoke, or cancel a commercial fishing entitlement for a period of time to be determined by the commission, for any of the following reasons:

(a) The person issued the commercial fishing entitlement was not lawfully entitled to it.

(b) A provision of this code, a term of the entitlement, or a regulation adopted pursuant to this code was violated, by the person issued the entitlement, or his or her agent, employee, or person acting under his or her direction or control.

(c) A federal law relating to the fishery for which the entitlement was issued was violated, by the person issued the entitlement, or his or her agent, employee, or person acting under his or her direction or control.

Comment. Section 4870 continues former Fish and Game Code Section 7857(b) without substantive change.

§ 4872. License revocation or suspension proceeding at commission meeting

4872. A proceeding to revoke or suspend a commercial fishing license shall be conducted at a regularly scheduled commission meeting.

Comment. Section 4872 continues former Fish and Game Code Section 7855 without substantive change.

§ 4874. License forfeiture

4874. A commercial fishing license is forfeited for the violation of Section 2300, 2815, 2820, 2920, 2930, 3050, 8300, or 10205, or of any of the provisions of this code relating to the use of nets.

Comment. Section 4874 continues former Fish and Game Code Section 12153 without substantive change.

Note. Existing Section 12153, which was last amended by 2015 Cal. Stat. ch. 683, cross-refers to a range of existing code sections identified as “Sections 1050.1 to 1060, inclusive.” However, Section 1060 was repealed by that same bill, and the substance of Section 1060 does not appear to have been continued elsewhere in the code. The code section that numerically preceded Section 1060 in the existing code at the time Section 12153 was last amended was Section 1059. Proposed Section 4874 therefore cross-refers to the sections of the proposed law that continue provisions that are numerically between existing Sections 1050.1 and 1059, inclusive, that describe conduct engaged in by the holder of a commercial fishing license.

The Commission seeks comment on whether this continuation of existing Section 12153 is appropriate.

1 **§ 4876. Approaching federal vessel**

2 4876. (a) The commission may suspend or revoke the commercial fishing
3 license of any licensee who operates a vessel in waters within the territorial
4 jurisdiction of the State and approaches:

5 (1) Within 500 yards of any vessel owned or operated by the United States
6 Government or any department or agency thereof, except when necessary to
7 comply with the laws or rules of navigation governing the safe movement of
8 vessels; or

9 (2) So close to any vessel owned or operated by the United States or any
10 department or agency thereof and engaged in transporting naval or military
11 equipment or personnel as to interfere with such transportation or to enable the
12 observation thereof, except when necessary to comply with the laws or rules of
13 navigation governing the safe movement of vessels.

14 (b) No license shall be suspended or revoked pursuant to this section until the
15 filing of a complaint with the commission by any of the following:

16 (1) The commanding officer of a vessel owned or operated by the United States
17 or any department or agency thereof.

18 (2) Any other officer of any such vessel who is authorized by his commanding
19 officer to file such complaint.

20 (3) Any commanding officer of any military or naval activity affected by the
21 licensee's operation of a vessel, or any other officer of such activity authorized by
22 such commanding officer to file a complaint.

23 **Comment.** Subdivision (a) of Section 4876 continues former Fish and Game Code Section
24 7853 without substantive change.

25 Subdivision (b) continues former Fish and Game Code Section 7854 without substantive
26 change.

27 Article 3. Live Freshwater Fish Bait License

28 **§ 4880. Revocation**

29 4880. A live freshwater bait fish license may be revoked for a violation of the
30 terms of the license.

31 **Comment.** Section 4880 continues a part of the second paragraph of former Fish and Game
32 Code Section 8460 without substantive change.

33 CHAPTER 3. COMMERCIAL VESSELS

34 Article 1. Commercial Fishing Vessel Registration

35 **§ 4900. Suspension or revocation of registration for specified violations**

36 4900. (a) In addition to any other applicable penalty, a commercial boat
37 registration may be revoked or suspended by the commission, when requested by
38 the department, for a period not to exceed one year, upon the second conviction in

1 three years of the registrant, or the registrant’s agent, servant, employee, or any
2 other person acting under the registrant’s direction or control, for a violation of
3 any of the following provisions or regulations adopted pursuant thereto:

4 (1) Title 6 (commencing with Section 19150) of Part 6 of Division 6.

5 (2) Chapter 2 (commencing with Section 38550) of Title 2 of Part 4 of Division
6 10.

7 (3) Title 2 (commencing with Section 38950) of Part 6 of Division 10.

8 (4) Section 39305.

9 (5) Section 39555.

10 (6) Section 39655.

11 (7) Section 39760.

12 (8) Title 2 (commencing with Section 39850) of Part 12 of Division 10.

13 (9) Title 2 (commencing with Section 40300) of Part 13 of Division 10.

14 (10) Title 2 (commencing with Section 40750) of Part 15 of Division 10.

15 (11) Section 40905.

16 (12) Chapter 3 (commencing with Section 41450) of Title 2 of Part 17 of
17 Division 10.

18 (13) Section 42110.

19 (14) Section 42205.

20 (15) Chapter 1 (commencing with Section 42250) of Title 2 of Part 18 of
21 Division 10.

22 (16) Section 42350.

23 (17) Chapter 3 (commencing with Section 42800) of Title 2 of Part 20 of
24 Division 10.

25 (18) Section 42905.

26 (19) Section 43355.

27 (20) Section 43555.

28 (21) Section 43655.

29 (22) Section 44205.

30 (23) Title 2 (commencing with Section 44400) of Part 25 of Division 10.

31 (24) Title 2 (commencing with Section 44750) of Part 26 of Division 10.

32 (25) Section 45800.

33 (26) Section 45805.

34 (27) Title 2 (commencing with Section 46800) of Part 6 of Division 11.

35 (28) Section 49010.

36 (29) Title 2 (commencing with Section 49450) of Part 9 of Division 11.

37 (30) Section 51010.

38 (31) Section 51015.

39 (32) Article 3 (commencing with Section 51100) of Chapter 2 of Title 2 of Part
40 15 of Division 11.

41 (33) Chapter 2 (commencing with Section 51400) of Title 2 of Part 16 of
42 Division 11.

1 (b) The commercial boat registration shall not be revoked unless both the first
2 and second convictions are related to the boat for which the commercial boat
3 registration is to be revoked, and are for violations which occurred when the
4 person convicted was the registrant or the registrant's agent, servant, employee, or
5 acting under the registrant's direction or control.

6 **Comment.** Section 4900 restates former Fish and Game Code Section 12002.6 without
7 substantive change.

8 **Note.** Proposed Section 4900(a) is intended to restate existing Fish and Game Code Section
9 12002.6(a) to clarify the meaning of that provision, without changing its substantive effect. The
10 existing provision reads as follows, with the restated language italicized:

11 Notwithstanding *Sections 12000, 12001, and 12002*, a commercial boat registration may be
12 revoked or suspended by the commission.... for a violation of any of the following provisions or
13 regulations adopted pursuant thereto:

14 (1) *Section 5521 or 5521.5.*

15 (2) *Article 2 (commencing with Section 8150), Article 3 (commencing with Section 8180),*
16 *Article 4 (commencing with Section 8210), Article 5 (commencing with Section 8250), Article 6*
17 *(commencing with Section 8275), Article 9 (commencing with Section 8370), Article 13*
18 *(commencing with Section 8495), and Article 15 (commencing with Section 8550) of Chapter 2 of*
19 *Part 3 of Division 6.*

20 (3) *Article 1 (commencing with Section 8601), Article 2 (commencing with Section 8620),*
21 *Article 4 (commencing with Section 8660), Article 5 (commencing with Section 8685), Article 6*
22 *(commencing with Section 8720), Article 7 (commencing with Section 8750), Article 8*
23 *(commencing with Section 8780), and Article 10 (commencing with Section 8830) of Chapter 3 of*
24 *Part 3 of Division 6.*

25 (4) *Article 1 (commencing with Section 9000) of Chapter 4 of Part 3 of Division 6.*

26 **The Commission invites comment on whether the restatement of the italicized language**
27 **above, in proposed Section 4900, would cause any substantive change in the meaning of the**
28 **provision.**

29 Article 2. Commercial Salmon Vessel Permit

30 § 4910. Revocation of permit based on fraud

31 4910. The commission, after notice and opportunity for hearing and consultation
32 with the review board, shall revoke a commercial salmon vessel permit issued
33 pursuant to this chapter if the vessel permit was obtained by fraudulent means.

34 **Comment.** Section 4910 continues former Fish and Game Code Section 8246.4 without
35 substantive change.

36 § 4912. Appeal of revocation or denial or permit transfer

37 4912. A person whose commercial salmon fishing vessel permit is revoked by
38 the commission may appeal the revocation to the commission by submitting the
39 appeal in writing to the commission within 60 days of the decision.

40 **Comment.** Section 4912 continues former Fish and Game Code Section 8246.6, as it pertained
41 to revocation, without substantive change.

1 **§ 4914. Reversal of revocation order or denial of permit renewal or transfer**

2 4914. (a) The commission shall reverse an order of revocation because of fraud,
3 only if evidence is provided to the commission disputing the charges of fraud. If
4 the commission finds there was no fraud after consideration of all of the evidence,
5 the commission may order the revocation annulled, and, if the permit expiration
6 date has passed during the pendency of the hearing on the appeal, the commission
7 may order the department to renew the permit upon payment of the fees.

8 (b) Each appeal shall be heard and considered separately on its own merits.

9 **Comment.** Section 4914 continues former Fish and Game Code Section 8246.7, as it pertained
10 to revocation, without substantive change.

11 **§ 4916. Suspension or revocation of commercial salmon fishing privilege**

12 4916. (a) At any time after notice of an order suspending or revoking of a
13 person’s commercial salmon fishing privilege is issued by the commission, and
14 before the order of suspension or revocation is final, the commission may, with the
15 agreement of the person subject to the action, compromise or dismiss the action to
16 suspend or revoke the commercial salmon fishing privilege in the best interests of
17 the state, or the commission may compromise or dismiss the action with the
18 agreement of the person subject to the action on terms and conditions, which may
19 include, but are not limited to, the payment of civil damages, the reduction of a
20 revocation to a suspension for a specified period of time, or any other terms and
21 conditions.

22 (b) The commission, after notice and opportunity for hearing and consultation
23 with the review board, may suspend or revoke the commercial fishing privilege,
24 authorized under a license issued for the purposes of Section 14500, for any
25 violation of a term or condition of an agreement to compromise or dismiss a
26 separate suspension or revocation action which was made pursuant to subdivision
27 (a).

28 (c) If the commission orders a suspension or revocation of a person’s
29 commercial salmon fishing privilege, any permit issued pursuant to this chapter
30 shall be renewed when the next renewal is due, or the permit shall expire as
31 provided in Section 41755.

32 (d) Civil damages imposed under subdivision (a) shall be due and payable on or
33 before a date which is 30 days after the compromise is entered into.

34 (e) Subdivision (a) does not apply if an action is brought under Section 4470 to
35 recover civil damages from the person subject to action under this section.

36 **Comment.** Subdivision (a) of Section 4916 continues former Fish and Game Code Section
37 8246(a) without substantive change.

38 Subdivision (b) continues former Fish and Game Code Section 8246(b) without substantive
39 change.

40 Subdivision (c) continues former Fish and Game Code Section 8246(c) without substantive
41 change.

42 Subdivision (d) continues former Fish and Game Code Section 8246.2(b) without substantive
43 change.

1 Subdivision (e) continues former Fish and Game Code Section 8246(d) without substantive
2 change.

3 **Notes.** (1) Existing Fish and Game Code Section 8246(b) (which would be continued by
4 proposed Section 4916(b)) refers to a license issued for the purposes of ... “Section 7852.3.”
5 However, Section 7852.3, relating to the issuance of a commercial fishing license to a minor, was
6 repealed in 2003. See 2003 Cal. Stat. ch. 741. As it appears that cross-reference is now obsolete
7 (because any licenses issued pursuant to that repealed section could no longer be in effect),
8 proposed Section 4916(b) would not continue the cross-reference to former Section 7852.3.

9 **The Commission invites comment on whether the discontinuation of that cross-reference**
10 **would cause any problem.**

11 (2) Existing Fish and Game Code Section 8246.2(b) (which would be continued by proposed
12 Section 4916(d)) contains a reference to “[c]ivil damages imposed under subdivision (b) of
13 Section 8246.” Similarly, existing Fish and Game Code Section 8246(d) (which would be
14 continued by proposed Section 4916(e)) provides that “subdivision (b) [of existing Section 8246]
15 does not apply if an action is brought to recover civil damages” under existing Section 2014. In
16 both cases, the reference to “subdivision (b)” appears to be a drafting error, as it is subdivision (a)
17 of Section 8246, rather than subdivision (b), that relates to civil damages.

18 Proposed Section 4916(d) and (e) would revise those references to refer to the provision
19 continuing Section 8246(a).

20 **The Commission invites comment on those revisions.**

21 **§ 4918. Determination of civil damages following suspension or revocation**

22 4918. The commission, in consultation with the department and the review
23 board, shall adopt regulations for the determination of civil damages provided for
24 in subdivision (a) of Section 4916, which give due consideration to the
25 appropriateness of the civil damages with respect to all of the following factors:

- 26 (a) The gravity of the violation.
27 (b) The good faith of the convicted licensee.
28 (c) The history of previous violations.
29 (d) The damage to the fishery.
30 (e) The cost of restoration of the fishery.

31 **Comment.** Section 4918 continues former Fish and Game Code Section 8246.2(a) without
32 substantive change.

33 **Note.** Existing Fish and Game Code Section 8246.2(a) (which would be continued by
34 proposed Section 4918) contains a reference to “civil damages provided for in subdivision (b) of
35 Section 8246.” However, the reference to “subdivision (b)” appears to be a drafting error, as it is
36 subdivision (a) of Section 8246, rather than subdivision (b), that relates to civil damages.

37 Proposed Section 4918 would revise that reference to refer to the provision continuing Section
38 8246(a).

39 **The Commission invites comment on that revision.**

40 **Article 3. Passenger Fishing Boat**

41 **§ 4930. Forfeiture, suspension, or revocation of license**

42 4930. A license issued under Title 12 (commencing with Section 21900) of Part
43 6 of Division 6 is subject to forfeiture, suspension, or revocation for a violation of

1 Section 13600 or 13605, or for any offense for which a commercial fishing license
2 may be forfeited, suspended, or revoked.

3 **Comment.** Section 4930 continues former Fish and Game Code Section 7924 without
4 substantive change.

5 **§ 4932. License suspension for unlawful sale or purchase of fish**

6 4932. (a) In addition to any other applicable penalty, the commercial fishing
7 license of the master of a commercial passenger fishing boat may be revoked or
8 suspended by the commission, when requested by the department, for a period not
9 to exceed one year, upon conviction of the master or his agent, servant, employee,
10 or person acting under his direction or control, for a violation of Section 13600 or
11 13605, or a regulation adopted pursuant to either of those sections, if the fish in
12 question were taken from that boat.

13 (b) However, a master's license shall not be revoked for the conviction of a
14 violation occurring when the person convicted was not acting as the master's
15 agent, servant, employee, or acting under his direction or control.

16 (c) The master of a vessel is the person on board the vessel who is in charge of
17 the vessel.

18 **Comment.** Section 4932 continues Fish and Game Code Section 12002.7 without substantive
19 change. Principles of collateral estoppel may have application to a license revocation or
20 suspension proceeding under this section. *Cf.* *People v. Sims*, 32 Cal. 3d 468, 651 P.2d 321, 186
21 Cal. Rptr. 77 (1982) (welfare fraud), *Gikas v. Zolin*, 6 Cal. 4th 841, 863 P.2d 745, 25 Cal. Rptr.
22 2d 500 (1993) (driving under the influence).

23 **§ 4934. Commercial boat registration suspension for unlawful sale or purchase of fish**

24 4934. (a) In addition to any other applicable penalty, the commercial boat
25 registration of a commercial passenger fishing boat may be revoked or suspended
26 by the commission, when requested by the department, for a period not to exceed
27 one year, upon conviction of the registrant, or the registrant's agent, servant,
28 employee, or any other person acting under the registrant's direction or control, for
29 a violation of Section 13600 or 13605, or a regulation adopted pursuant to that
30 section, if the violation in question involves that boat.

31 (b) In addition to any other applicable penalty, the commercial boat registration
32 of a commercial passenger fishing boat may be revoked or suspended by the
33 commission, when requested by the department, for a period not to exceed one
34 year, upon conviction of any person other than a person specified in subdivision
35 (a), for a violation of Section 13600 or 13605, if the fish or amphibians involved
36 in the violation were taken from that boat, and the person committing the violation
37 had committed a prior violation of Section 13600 or 13605 involving that boat
38 within the previous three years.

39 (c) A commercial boat registration shall not be revoked under this section for a
40 violation committed without the knowledge of the master, or an agent or employee
41 of the registrant.

1 **Comment.** Section 4934 restates former Fish and Game Code Section 12002.4 without
2 substantive change. Principles of collateral estoppel may have application to a license revocation
3 or suspension proceeding under this section. *Cf.* *People v. Sims*, 32 Cal. 3d 468, 651 P.2d 321,
4 186 Cal. Rptr. 77 (1982) (welfare fraud), *Gikas v. Zolin*, 6 Cal. 4th 841, 863 P.2d 745, 25 Cal.
5 Rptr. 2d 500 (1993) (driving under the influence).

6 **Note.** Proposed Section 4934 is intended to restate existing Fish and Game Code Section
7 12002.4 to clarify the meaning of that provision, without changing its substantive effect. The
8 existing provision reads as follows:

9 12002.4. (a) Notwithstanding Sections 12000, 12001, and 12002, a commercial boat
10 registration may be revoked or suspended by the commission, when requested by the department,
11 for a period not to exceed one year, upon conviction of the registrant, or the registrant's agent,
12 servant, employee, or any other person acting under the registrant's direction or control, for a
13 violation of Section 7121 or the regulations adopted pursuant thereto, if the violation in question
14 involved a vessel licensed pursuant to Section 7920.

15 (b) Notwithstanding Sections 12000, 12001, and 12002, a commercial boat registration of a
16 vessel licensed pursuant to Section 7920 may be revoked or suspended by the commission, when
17 requested by the department, for a period not to exceed one year, upon conviction of any other
18 person for a violation of Section 7121, if the fish or amphibia involved in the violation were taken
19 from the vessel and that person committed a prior violation of Section 7121 within three years on
20 the vessel.

21 (c) The commercial boat registration shall not be revoked under this section for a violation
22 which is unrelated to the vessel for which the commercial boat registration is to be revoked. Any
23 violation committed without the knowledge of the master, or an agent or employee of the
24 registrant, is unrelated to the vessel.

25 **The Commission invites comment on whether proposed Section 4934 accurately continues**
26 **the intended meaning of existing Section 12002.4.**

27 CHAPTER 4. NETS AND TRAPS

28 Article 1. Geographical Restrictions

29 **§ 4950. Waters upstream from Carquinez Bridge**

30 4950. (a) The punishment for a first violation of Section 15540 is a fine of not
31 more than two thousand dollars (\$2,000), imprisonment in a county jail for not
32 more than one year, or both the fine and imprisonment.

33 (b) A second or subsequent violation of Section 15540 is punishable by a fine of
34 not less than two thousand dollars (\$2,000) nor more than four thousand dollars
35 (\$4,000), or imprisonment in a county jail for one year, or both that fine and
36 imprisonment.

37 **Comment.** Subdivision (a) of Section 4950 continues former Fish and Game Code Section
38 12002(b)(5) without substantive change.

39 Subdivision (b) continues former Fish and Game Code Section 12003 without substantive
40 change.

Article 2. Gill and Trammel Nets

§ 4960. Provisions not exclusive

4960. The provisions of this article are not intended to be exclusive. Other provisions that govern gill and trammel nets include, but are not limited to, Title 4 (commencing with Section 16800) of Part 6 of Division 6.

Comment. Section 4960 is new.

Note. While the general approach taken in this tentative recommendation is to collect all provisions that govern the enforcement of specific provisions within this part, some provisions have not been treated in that way. Specifically, the Commission decided against making any significant changes to the gill and trammel net provisions that were enacted to implement constitutional provisions that were established by initiative. Enforcement provisions of that type were left in their original context.

Proposed Section 4960 was added to make clear that the provisions collected in this article are not the only provisions that govern gill and trammel nets.

§ 4962. Violation of Section 18040, 18045, 18050, or 18065

4962. (a) The punishment for a first conviction of a violation of Section 18040, 18045, 18050, or 18065 is a fine of not more than five thousand dollars (\$5,000), or imprisonment in a county jail for a period not to exceed six months, or the revocation of any license issued pursuant to Chapter 2 (commencing with Section 20300) of Title 9, or any combination of these penalties.

(b) The punishment for a second or subsequent conviction of a violation of Section 18040, 18045, 18050, or 18065, which offense occurred within five years of another offense which resulted in a conviction of Section 18040, 18045, 18050, or 18065 is a fine of not more than ten thousand dollars (\$10,000), or imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or imprisonment in a county jail for a period not to exceed one year, or the revocation of any license issued pursuant to Chapter 2 (commencing with Section 20300) of Title 9, or any combination of these penalties.

Comment. Section 4962 continues former Fish and Game Code Section 12004 without substantive change.

§ 4964. Sharks and swordfish

4964. If any person is convicted of falsely swearing a declaration under subdivision (d) of Section 18365, in addition to any other penalty prescribed by law, the following penalties shall be imposed:

(1) The fish landed shall be forfeited, or, if sold, the proceeds from the sale shall be forfeited, pursuant to Sections 4510, 4512, 4514, and 4516.

(2) All shark or swordfish gill nets possessed by the permittee shall be seized and forfeited pursuant to Section 4570 or subdivision (a) of Section 15400.

Comment. Section 4964 continues former Fish and Game Code Section 8576(e) without substantive change.

Article 3. Seizure of Nets and Traps

Note. Existing Section 9008 provides that an illegally used trap is a nuisance that “shall be seized pursuant to Article 3 (commencing with Section 8630) of Chapter 3,” which governs the seizure of a net. The clear inference is that the procedure for seizure of a net also applies to the seizure of a trap. That inference has been made express in this article, by revising its provisions to refer to both nets and traps (they presently only refer to nets).

The Commission invites comment on the appropriateness of that approach.

§ 4975. Tagging

4975. (a) In lieu of a physical seizure of a net or trap pursuant to Section 15400 or 19400, a person authorized to make an arrest for a violation of any provision of this code may attach to a net or trap used for taking fish in violation of this code a tag of metal or other material, which shall be furnished by the department for that purpose. The tag shall be impressed or printed with language stating that the net or trap to which it is attached has been seized by the department as a public nuisance. The act of attaching the tag shall be a seizure within the meaning of this section.

(b) Removal of a tag attached to any net or trap pursuant to this section by any person other than a person authorized by the department, or the use of a tagged net or trap by any person for fishing purposes, unless authorized by the department or by the superior court, is a misdemeanor.

Comment. Section 4975 continues the first paragraph of former Fish and Game Code Section 8631 without substantive change.

Subdivision (b) continues the first paragraph of former Fish and Game Code Section 8631 without substantive change.

§ 4980. Removal of seized net from vessel

4980. Within three days after the department has been notified in writing that a vessel carrying a seized net or trap has arrived in port, the department may remove the net or trap from the vessel, unless the owner has filed a bond in accordance with Section 4982. The notice shall be sufficient when delivered to the office of the department nearest to the port at which the vessel has arrived.

Comment. Section 4980 continues former Fish and Game Code Section 8632 without substantive change. The section has been made expressly applicable to traps, pursuant to former Fish and Game Code Section 9008.

Note. It is not clear who would notify the department that a vessel carrying a seized net has arrived in port. There does not seem to be any requirement that anyone provide such notice. **The Commission invites comment on this.**

§ 4982. Bond

4982. (a) When a net or trap is seized pursuant to this article, the owner or any other person otherwise entitled to possession of the net or trap may apply to the superior court of the county or city and county in which the seizure was made, or the county or city and county of which the claimant is a resident, for leave to file a

1 bond and regain possession of the net or trap, during the pendency of any
2 proceeding for forfeiture of the net or trap.

3 (b) The bond shall be in an amount determined by the judge to be the actual
4 value of the net or trap at the time of its release, and shall be conditioned on the
5 transfer of the net or trap to the custody of the department, if the net or trap is later
6 ordered forfeited.

7 (c) The bond shall be filed within three days after the seizure of the net or trap.
8 Upon filing the bond, the person on whose behalf it is given shall be put in
9 possession of the net or trap, and may use the net until it is ordered forfeited by a
10 judgment of the court.

11 **Comment.** Section 4982 continues former Fish and Game Code Section 8633 without
12 substantive change. The section has been made expressly applicable to traps, pursuant to former
13 Fish and Game Code Section 9008.

14 **§ 4984. Exceptions to release of net or trap on bond**

15 4984. Notwithstanding Section 4982, a net or trap seized pursuant to Section
16 15400 as illegal because of its size, manner of construction, materials used in its
17 construction, or configuration of its parts is presumed to be contraband, and shall
18 not be returned pending forfeiture, unless it can be and is modified to eliminate the
19 condition of illegality. This subdivision does not apply to a net or trap seized
20 pursuant to Section 15400 for illegal use.

21 (b) Notwithstanding subdivision (a), any net or trap seized pursuant to Section
22 15400 that is needed for evidence may be held for evidence.

23 **Comment.** Section 4984 continues the part of former Fish and Game Code Section 8635
24 applicable to nets without substantive change. The section has been made expressly applicable to
25 traps, pursuant to former Fish and Game Code Section 9008.

26 **§ 4986. Forfeiture**

27 4986. (a) The department may commence proceedings in the superior court of
28 the county or city and county in which a net or trap or was seized pursuant to
29 Section 15400 or 19400, by petitioning the court for a judgment forfeiting the net
30 or trap.

31 (b) Upon the filing of the petition, the clerk of the court shall fix a time for a
32 hearing, and cause notices to be posted for 14 days in at least three public places in
33 the place where the court is held, setting forth the substance of the petition and the
34 time and place fixed for its hearing.

35 (c) At that time, the court shall hear and determine the proceeding and, upon
36 proof that the net or trap was used in violation of this code, shall order it forfeited.

37 (d) A net or trap so forfeited shall be sold or destroyed by the department. The
38 proceeds from any sales shall be paid into the Fish and Game Preservation Fund.

39 **Comment.** Section 4986 continues the second paragraph of former Fish and Game Code
40 Section 8630 without substantive change. The section has been made expressly applicable to
41 traps, pursuant to former Fish and Game Code Section 9008.

1 holding the entitlement, or his or her agent, servant, employee, or person acting
2 under the licensee's, permittee's, or entitled person's direction or control.

3 (c) Any violation of any federal law relating to the fishery for which the license,
4 permit, or other entitlement was issued by the licensee, permittee, person holding
5 the entitlement, or his or her agent, servant, employee, or person acting under the
6 licensee's, permittee's, or entitled person's direction or control.

7 **Comment.** Section 5100 continues former Fish and Game Code Section 8032.5(c) without
8 substantive change.

9 **§ 5102. Suspension based on specified convictions**

10 5102. In addition to any other penalty prescribed in this code, a license issued
11 pursuant to Chapter 2 (commencing with Section 20300) of Title 9 of Part 6 of
12 Division 6 to a person who is convicted of a violation of Section 13600, 13605,
13 13915, 39105, 39555, or 43150 shall be suspended for not less than seven days nor
14 more than 30 days. Each day a fish of the species designated in any of those
15 sections is unlawfully possessed and each unlawful transaction involving the
16 purchase or sale of a fish of those species by a wholesale fish dealer is a separate
17 violation.

18 **Comment.** Section 5102 continues former Fish and Game Code Section 12002.9 without
19 substantive change.

20 **§ 5104. Reporting take of shark or swordfish**

21 5104. Any license issued pursuant to Chapter 2 (commencing with Section
22 20300) of Title 9 of Part 6 of Division 6 may be revoked or suspended by the
23 commission, when requested by the department, upon a conviction for a violation
24 of Section 21000 for failure to report, or for inaccurately reporting, shark or
25 swordfish landings by fishermen operating under permits issued pursuant to
26 Section 18300, or subdivision (a) of Section 43655.

27 **Comment.** Section 5104 continues former Fish and Game Code Section 8581 without
28 substantive change.

29 **§ 5106. Marine aquaria pet trade**

30 5106. Notwithstanding subdivision (a) of Section 4400, a violation of a
31 provision of this chapter or any regulation adopted pursuant to Chapter 3
32 (commencing with Section 20700) of Title 9 of Part 6 of Division 6 is punishable
33 by a fine of not less than two thousand dollars (\$2,000), nor more than five
34 thousand dollars (\$5,000).

35 **Comment.** Section 5106 continues former Fish and Game Code Section 8598.6 without
36 substantive change.

37 **§ 5108. Sale or disposition of fish or amphibians in specified circumstances**

38 5108. (a) Notwithstanding any other provision of law, a violation of Section
39 13600 or 13605 by a person required to be licensed pursuant to Section 12900 is
40 punishable by a fine of not less than two thousand dollars (\$2,000) or more than

1 seven thousand five hundred dollars (\$7,500), except as provided in subdivisions
2 (b) or (c).

3 (b) If the violation in question involved the illegal sale or purchase of abalone
4 taken by a person required to be licensed pursuant to Section 12900, the violation
5 is punishable by a fine of not less than fifteen thousand dollars (\$15,000) or more
6 than forty thousand dollars (\$40,000).

7 (c) A violation of Section 13600 or 13605 by a person who for a commercial
8 purpose knowingly purchases or receives a fish or amphibian taken by a person
9 required to be licensed pursuant to Section 12900 is punishable by a fine of not
10 less than seven thousand five hundred dollars (\$7,500) or more than fifteen
11 thousand dollars (\$15,000).

12 **Comment.** Section 5108 continues former Fish and Game Code Section 12002.3 without
13 substantive change.

14 **Notes.** (1) Proposed Section 5108 would make the punishment prescribed by existing Section
15 12002.3(c) for the specified violation of existing Section 7121 expressly applicable to an
16 amphibian as well as fish, consistent with the prohibition in Section 7121.

17 **The Commission invites comment on whether this revision of the existing section is**
18 **problematic.**

19 (2) Existing Section 12002.3(b) (which would be continued by proposed Section 5108(b)),
20 provides a special penalty that applies if “the violation in question” involves abalone. It is not
21 entirely clear whether that provision in Section 12002.3(b) is intended to refer to a violation
22 described by existing Section 12002.3(a) (which would be continued by proposed Section
23 5108(a)), a violation described by existing Section 12002.3(c) (which would be continued by
24 proposed Section 5108(c)), or both.

25 **The Commission invites public comment on whether that apparent ambiguity is a**
26 **problem in practice, and if so, how it should be resolved.**

27 CHAPTER 7. LANDING FEES

28 § 5150. Landing fees

29 5150. The commission, upon recommendation of the department, may suspend
30 or revoke the commercial fishing privileges of any commercial fisherman, or the
31 license of any person required to be licensed under Title 9 (commencing with
32 Section 20150), who is convicted of a violation of Title 10 (commencing with
33 Section 20900) of Part 6 of Division 6.

34 **Comment.** Section 5150 continues the part of former Fish and Game Code Section 8025(a)
35 applicable to violations of Article 7.5 (commencing with Fish and Game Code Section 8010) of
36 Chapter 1 of Part 3 of Division 6 of the former Fish and Game Code without substantive change.

37 CHAPTER 8. COMMERCIAL FISHING REPORTS

38 § 5170. Suspension or revocation of commercial fishing license or privileges

39 5170. The commission, upon recommendation of the department, may suspend
40 or revoke the commercial fishing privileges of any commercial fisherman, or the
41 license of any person required to be licensed under Title 9 (commencing with

1 Section 20150) of Part 6 of Division 6, who is convicted of a violation of Title 14
2 (commencing with Section 22200) of Part 6 of Division 6.

3 **Comment.** Section 5170 continues the part of former Fish and Game Code Section 8025(a)
4 applicable to violations of Article 6 (commencing with Fish and Game Code Section 8010) of
5 Chapter 1 of Part 3 of Division 6 of the former Fish and Game Code without substantive change.

6 **§ 5172. Required record of fishing activities**

7 5172. In addition to the penalty specified in subdivision (a) of Section 4400,
8 failure to keep and submit records pursuant to Section 22200 may result in the
9 revocation or suspension of a license or permit by the department or the
10 commission when recommended by the department, for a period not to exceed one
11 year.

12 **Comment.** Section 5172 continues former Fish and Game Code Section 8026(b) without
13 substantive change.

14 TITLE 7. WILDLIFE PROPAGATION,
15 DOMESTICATION, POSSESSION, AND SALE

16 CHAPTER 1. IMPORTATION, TRANSPORTATION, AND POSSESSION
17 GENERALLY

18 **§ 5200. Penalty**

19 5200. (a) In addition to any other penalty provided by law, any person who
20 violates Part 6 (commencing with Section 25600) of Division 7 or any regulation
21 implementing that part, is subject to a civil penalty of not less than five hundred
22 dollars (\$500) nor more than ten thousand dollars (\$10,000) for each violation.

23 (b) Except as otherwise provided, any violation of Part 6 (commencing with
24 Section 25600) of Division 7 or any regulation implementing that part is a
25 misdemeanor punishable by imprisonment in a county jail for not more than six
26 months, or by a fine of not more than one thousand dollars (\$1,000).

27 **Comment.** Section 27000 continues former Fish and Game Code Section 2125(a) without
28 substantive change.

29 **§ 5204. Civil action**

30 5204. The Attorney General, or the city attorney of the city or the district
31 attorney or county counsel of the county in which a violation of this title occurs,
32 may bring a civil action to recover the civil penalty in Section 5200 and the costs
33 of seizing and holding an animal listed in or designated pursuant to Sections
34 26700 through 26730, inclusive, except to the extent that those costs have already
35 been collected as provided by Section 5208. The civil action shall be brought in
36 the county in which the violation occurs, and any penalty imposed shall be
37 transferred to the Controller for deposit in the Fish and Game Preservation Fund in
38 accordance with Section 3600.

1 **Comment.** Section 5204 continues former Fish and Game Code Section 2125(b) without
2 substantive change.

3 **Note.** Existing Fish and Game Code Section 2125(a) provides for a civil penalty to be
4 imposed against any person who violates the *chapter* in which Section 2125 appears, or any
5 regulation implementing that chapter. However, Section 2125(b) authorizes designated officials
6 from the county in which a violation of the *article* in which Section 2125 appears, to bring a civil
7 action to recover that penalty.

8 **The Commission invites comment on whether this distinction was intended, and if it was**
9 **not, which reference was intended.**

10 **§ 5206. Additional costs and fees**

11 5206. In an action brought under this chapter, in addition to the penalty
12 specified in Section 5200, the reasonable costs of investigation, reasonable
13 attorney's fees, and reasonable expert witness fees may also be recovered, and
14 those amounts shall be credited to the same operating funds as those from which
15 the expenditures for those purposes were derived.

16 **Comment.** Section 5206 continues former Fish and Game Code Section 2125(c) without
17 substantive change.

18 **§ 5208. Confiscated animal**

19 5208. (a) If an animal is confiscated because the animal was kept in
20 contravention of Part 6 (commencing with Section 26500) of Division 7 or any
21 regulation implementing that part, the person claiming the animal shall pay to the
22 department or the new custodian of the animal an amount sufficient to cover all
23 reasonable expenses expected to be incurred in caring for and providing for the
24 animal for at least 30 days, including, but not limited to, the estimated cost of
25 food, medical care, and housing.

26 (b) If the person claiming the animal fails to comply with the terms of his or her
27 permit and fails to regain possession of the animal by the expiration of the first 30-
28 day period, the department may euthanize the animal or place the animal with an
29 appropriate wild animal facility at the end of the 30 days, unless the person
30 claiming the animal pays all reasonable costs of caring for the animal for a second
31 30-day period before the expiration of the first 30-day period. If the permittee is
32 still not in compliance with the terms of the permit at the end of the second 30-day
33 period, the department may euthanize the animal or place the animal in an
34 appropriate wild animal facility.

35 (c) The amount of the payments described in this section shall be determined by
36 the department, and shall be based on the current reasonable costs to feed, provide
37 medical care for, and house the animal. If the person claiming the animal complies
38 with the terms of his or her permit and regains possession of the animal, any
39 unused portion of the payments required pursuant to this section shall be returned
40 to the person claiming the animal no later than 90 days after the date on which the
41 person regains possession of the animal.

1 § 5258. Importation of aquatic plant or animal

2 5258. Notwithstanding subdivision (b) of Section 4400, the punishment for each
3 violation of Section 24705 is a fine of not more than five thousand dollars
4 (\$5,000) or imprisonment in the county jail for a period not to exceed one year, or
5 both the fine and imprisonment.

6 **Comment.** Section 5258 continues the part of former Fish and Game Code Section 12007
7 applicable to former Fish and Game Code Section 15600(a) without substantive change.

8 § 5260. Placement of aquatic nuisance species

9 5260. (a) Notwithstanding subdivision (b) of Section 4400 or 5250, any person
10 who violates Section 25415 through the use of an aquatic nuisance species is
11 guilty of a misdemeanor, punishable by all of the following:

12 (1) Imprisonment in the county jail for not less than six months or more than one
13 year, a fine of not more than fifty thousand dollars (\$50,000) for each violation, or
14 both that imprisonment and fine.

15 (2) Revocation of all of the defendant's licenses and permits issued pursuant to
16 this code.

17 (b) This section shall not apply to the placement of any live fish, any fresh or
18 salt water animal, or any aquatic plant from the discharge or exchange of ballast
19 water from any vessel as defined by Section 21 of the Harbors and Navigation
20 Code.

21 (c) This section does not apply to the placement of an aquatic plant by a person
22 who was unaware that he or she was in possession of the plant. This exception
23 includes circumstances in which a plant becomes unknowingly and temporarily
24 attached or affixed to a boat, boat trailer, or boat motor.

25 **Comment.** Section 5260 continues former Fish and Game Code Section 12023 (a), (d)-(e)
26 without substantive change.

27 **Notes.** (1) Existing Fish and Game Code Section 12023 (which would be continued by
28 proposed Section 5260) provides special punishment for violating existing Fish and Game Code
29 Section 6400 (which would be continued by proposed Section 25415), "through the use of an
30 aquatic nuisance species, as defined in Section 6431." Existing Fish and Game Code Sections
31 12024 (which would be continued by proposed Section 25505) and 12026 (which would be
32 continued by proposed Section 25510) also both refer to a person violating Section 6400 "through
33 the use of an aquatic nuisance species."

34 However, former Fish and Game Code Section 6431 was repealed in 2003 (see 2003 Cal. Stat.
35 ch. 610) and there is now no definition of the term "aquatic nuisance species" in either the
36 existing code, or in any current regulation adopted pursuant to the existing code.

37 **The Commission invites comment on whether the current absence of a definition of the**
38 **term "aquatic nuisance species" in the existing code is problematic, and should be**
39 **addressed in the proposed law.**

40 (2) Existing Fish and Game Code Section 12023 provides for a special punishment for a
41 violation of existing Fish and Game Code Section 6400, "[n]otwithstanding Section 12002."
42 Another existing code section, Section 12007, also specifies a punishment for any violation of
43 existing Section 6400, "[n]otwithstanding Section 12002."

44 Because existing Section 12023 provides for a greater punishment than existing Section 12007,
45 and for a specially defined violation of existing Section 6400, the Commission believes the

1 Legislature intended Section 12023 to supersede Section 12007, whenever Section 12023 applies.
2 Therefore, proposed Section 5260 (which would continue existing Section 12023) would begin
3 with the caveat “Notwithstanding subdivision (b) of Section 4400 [which would continue existing
4 Section 12002] or 5250 [which would continue the part of existing Section 12007 applicable to a
5 violation of existing Section 6400],....”

6 **The Commission invites comment on this revision of existing Fish and Game Code**
7 **Section 12023.**

8 **§ 5262. Potentially diseased plants or animals**

9 5262. Notwithstanding subdivision (b) of Section 4400, the punishment for each
10 violation of Section 28100 is a fine of not more than five thousand dollars
11 (\$5,000) or imprisonment in the county jail for a period not to exceed one year, or
12 both the fine and imprisonment.

13 **Comment.** Section 5262 continues the part of former Fish and Game Code Section 12007
14 applicable to former Fish and Game Code Section 2270 without substantive change.

15 **§ 5264. Permit required for importation of live aquatic organism**

16 5264. Notwithstanding subdivision (b) of Section 4400, the punishment for each
17 violation of Section 28110 is a fine of not more than five thousand dollars
18 (\$5,000) or imprisonment in the county jail for a period not to exceed one year, or
19 both the fine and imprisonment.

20 **Comment.** Section 5264 continue the part of former Fish and Game Code Section 12007
21 applicable to former Fish and Game Code Section 2271 without substantive change.

22 **§ 5266. Caulerpa algae**

23 5266. In addition to any other penalty provided by law, any person who violates
24 Section 28250 is subject to a civil penalty of not less than five hundred dollars
25 (\$500) and not more than ten thousand dollars (\$10,000) for each violation.

26 **Comment.** Section 5266 continues former Fish and Game Code Section 2300(c) without
27 substantive change.

28 CHAPTER 3. MAMMALS

29 **§ 5280. Elk**

30 5280. The department shall seize any elk imported in violation of Section 26865.

31 **Comment.** Section 5280 continues former Fish and Game Code Section 2118.4 without
32 substantive change.

33 **§ 5282. Elephants**

34 5282. (a) Any person who violates Section 26870 is subject to the civil penalty
35 set forth in Section 5204 or for each violation, and the restricted species permit for
36 the elephant is subject to immediate suspension or revocation by the department.
37 A person whose restricted species permit is suspended or revoked pursuant to this
38 section may appeal the suspension or revocation to the commission by filing a
39 written request for an appeal with the commission within 30 days of the

1 suspension or revocation. A person who violates Section 26870 is not subject to
2 the criminal penalties set forth in this code.

3 (b) The provisions of this section are in addition to, and not in lieu of, any other
4 laws protecting animal welfare. This section shall not be construed to limit any
5 state law or rules protecting the welfare of animals or to prevent a local governing
6 body from adopting and enforcing its own animal welfare laws and regulations.

7 **Comment.** Section 5282 continues former Fish and Game Code Section 2128(b)-(c) without
8 substantive change.

9 CHAPTER 4. DOMESTICATION

10 **§ 5290. Domestication of game animals**

11 5290. Any license issued under Title 1 (commencing with Section 26000) of
12 Part 4 of Division 7 may be revoked by the commission upon conviction of the
13 licensee of a violation of any provision of this code, and no similar license may be
14 issued to the licensee during the same license year.

15 **Comment.** Section 5290 continues former Fish and Game Code Section 3218 without
16 substantive change.

17 CHAPTER 5. IVORY

18 **§ 5300. Criminal penalty**

19 5300. For a violation of any provision of Title 2 (commencing with Section
20 28650) of Part 10 of Division 7 or any rule, regulation, or order adopted pursuant
21 to that title, the following criminal penalties shall be imposed:

22 (a) For a first conviction, where the total value of the ivory or rhinoceros horn is
23 two hundred fifty dollars (\$250) or less, the offense shall be a misdemeanor
24 punishable by a fine of not less than one thousand dollars (\$1,000), or more than
25 ten thousand dollars (\$10,000), imprisonment in a county jail for not more than 30
26 days, or by both the fine and imprisonment.

27 (b) For a first conviction, where the total value of the ivory or rhinoceros horn is
28 more than two hundred fifty dollars (\$250), the offense shall be a misdemeanor
29 punishable by a fine of not less than five thousand dollars (\$5,000), or more than
30 forty thousand dollars (\$40,000), imprisonment in a county jail for not more than
31 one year, or by both the fine and imprisonment.

32 (c) For a second or subsequent conviction, where the total value of the ivory or
33 rhinoceros horn is two hundred fifty dollars (\$250) or less, the offense shall be a
34 misdemeanor punishable by a fine of not less than five thousand dollars (\$5,000),
35 or more than forty thousand dollars (\$40,000), imprisonment in county jail for not
36 more than one year, or by both the fine and imprisonment.

37 (d) For a second or subsequent conviction, where the total value of the ivory or
38 rhinoceros horn is more than two hundred fifty dollars (\$250), the offense shall be
39 a misdemeanor punishable by a fine of not less than ten thousand dollars

1 (\$10,000), or more than fifty thousand dollars (\$50,000) or the amount equal to
2 two times the total value of the ivory or rhinoceros horn involved in the violation,
3 whichever is greater, imprisonment in county jail for not more than one year, or by
4 both the fine and imprisonment.

5 **Comment.** Section 5300 continues former Fish and Game Code Section 2022(e) without
6 substantive change.

7 **§ 5302. Payment of reward**

8 5302. (a) For any conviction or other entry of judgment imposed by a court for a
9 violation of Title 2 (commencing with Section 28650) of Part 10 of Division 7
10 resulting in a fine, the court may pay one-half of the fine, but not to exceed five
11 hundred dollars (\$500), to any person giving information that led to the conviction
12 or other entry of judgment.

13 (b) This reward shall not apply if the informant is a regular salaried law
14 enforcement officer, or officer or agent of the department.

15 **Comment.** Section 5302 continues former Fish and Game Code Section 2022(g) without
16 substantive change.

17 **§ 5304. Forfeiture**

18 5304. Upon conviction or other entry of judgment for a violation of Title 2
19 (commencing with Section 28650) of Part 10 of Division 7, any seized ivory or
20 rhinoceros horn shall be forfeited and, upon forfeiture, either maintained by the
21 department for educational or training purposes, donated by the department to a
22 bona fide educational or scientific institution, or destroyed.

23 **Comment.** Section 5304 continues former Fish and Game Code Section 2022(h) without
24 substantive change.

25 **§ 5306. Enforcement under Penal Code Section 653o**

26 5306. Title 2 (commencing with Section 28650) of Part 10 of Division 7 does
27 not preclude enforcement under Section 653o of the Penal Code.

28 **Comment.** Section 5306 continues former Fish and Game Code Section 2022(j) without
29 substantive change.

30 **§ 5308. Administrative penalty**

31 5308. (a) In addition to, and separate from, any criminal penalty provided for
32 under Section 5300, an administrative penalty of up to ten thousand dollars
33 (\$10,000) may be imposed for a violation of Title 2 (commencing with Section
34 28650) of Part 10 of Division 7, or any rule, regulation, or order adopted pursuant
35 to that part.

36 (b) Penalties authorized pursuant to this section may be imposed by the
37 department consistent with all of the following:

38 (1) The chief of enforcement issues a complaint to any person or entity on which
39 an administrative penalty may be imposed pursuant to this section. The complaint
40 shall allege the act or failure to act that constitutes a violation, relevant facts, the

1 provision of law authorizing the administrative penalty to be imposed, and the
2 proposed penalty amount.

3 (2) The complaint and order is served by personal notice or certified mail and
4 informs the party served that the party may request a hearing no later than 20 days
5 from the date of service. If a hearing is requested, it shall be scheduled before the
6 director or his or her designee, which designee shall not be the chief of
7 enforcement issuing the complaint and order. A request for hearing shall contain a
8 brief statement of the material facts the party claims support his or her contention
9 that an administrative penalty should not be imposed or that an administrative
10 penalty of a lesser amount is warranted. A party served with a complaint pursuant
11 to this subdivision waives the right to a hearing if no hearing is requested within
12 20 days of service of the complaint, in which case the order imposing the
13 administrative penalty shall become final.

14 (3) The director, or his or her designee, shall control the nature and order of the
15 hearing proceedings. Hearings shall be informal in nature, and need not be
16 conducted according to the technical rules relating to evidence. The director, or his
17 or her designee, shall issue a final order within 45 days of the close of the hearing.
18 A final copy of the order shall be served by certified mail upon the party served
19 with the complaint.

20 (4) A party may obtain review of the final order by filing a petition for a writ of
21 mandate with the superior court within 30 days of the date of service of the final
22 order. The administrative penalty shall be due and payable to the department
23 within 60 days after the time to seek judicial review has expired or, where the
24 party has not requested a hearing of the order, within 20 days after the order
25 imposing an administrative penalty becomes final.

26 (c) Administrative penalties collected pursuant to this section shall be deposited
27 in the Fish and Game Preservation Fund and used for law enforcement purposes
28 upon appropriation by the Legislature.

29 **Comment.** Section 5308 continues former Fish and Game Code Section 2022(f) and (i)
30 without substantive change.

31 TITLE 8. BIRDS

32 CHAPTER 1. BIRDS GENERALLY

33 § 5310. Bird nest or eggs

34 5310. Except as provided in subdivision (d) of Section 4754, the punishment for
35 a violation of Section 28905 is a fine of not more than five thousand dollars
36 (\$5,000), imprisonment in a county jail for not more than six months, or by both
37 that fine and imprisonment.

38 **Comment.** Section 5310 continues the part of former Fish and Game Code Section 12002(c)
39 applicable to former Fish and Game Code Section 350 without substantive change.

1 **Note.** Existing Section 12002(c) provides as follows:

2 Except as specified in Sections 12001 and 12010, the punishment for violation of Section 3503,
3 3503.5, 3513, or 3800 is a fine of not more than five thousand dollars (\$5,000), imprisonment in
4 the county jail for not more than six months, or by both that fine and imprisonment.

5 However, Section 12010 addresses only the punishment for a violation of existing Section
6 3503.5 (governing the taking or possession of birds of prey). **The reference to existing Section**
7 **12010 has not been continued in proposed Section 5310.**

8 CHAPTER 2. PROTECTED BIRDS

9 **§ 5320. Fully protected bird**

10 5320. Except as otherwise provided in Section 597 of the Penal Code, the
11 punishment for a violation of Section 30200 is a fine of not more than five
12 thousand dollars (\$5,000) or imprisonment in the county jail for not more than one
13 year, or both the fine and imprisonment.

14 **Comment.** Section 5320 continues former Fish and Game Code Section 12008(b) without
15 substantive change. continue the first two sentences of former Fish and Game Code Section
16 3511(a)(1) without substantive change.

17 See also Section 4570 (enforcement).

18 CHAPTER 3. GAME BIRDS

19 **§ 5330. Trophy wild turkey**

20 5330. (a) Notwithstanding Section 4400 or 4462, the punishment for any person
21 who knowingly violated and has been convicted of any of the following provisions
22 where the violation involved a wild turkey, is a fine of not less than two thousand
23 dollars (\$2,000) nor more than five thousand dollars (\$5,000), or imprisonment in
24 the county jail for not more than one year, or both that fine and imprisonment:

25 (1) Section 8015, if the person took an animal outside the established season.

26 (2) Section 8125.

27 (4) Section 257.5 of Title 14 of the California Code of Regulations.

28 (b) The commission shall adopt regulations to implement this section, including
29 establishing a trophy designation and monetary value based on the size or related
30 characteristics of wild turkeys.

31 (c) All revenue from fines imposed pursuant to this section for wild turkey
32 violations shall be deposited in the Upland Game Bird Account established in
33 Section 29515 and shall be used for the upland game bird conservation purposes
34 described in that section.

35 (d) Moneys equivalent to 50 percent of the revenue from any fine collected
36 pursuant to this section shall be paid to the county in which the offense was
37 committed, pursuant to Section 3610. The county board of supervisors shall first
38 use revenues pursuant to this subdivision to reimburse the costs incurred by the
39 district attorney or city attorney in investigating and prosecuting the violation. Any
40 excess revenues may be expended in accordance with Section 3915.

1 **Comment.** Section 5330 continues the part of former Fish and Game Code Section 12013.3
2 applicable to wild turkeys without substantive change.
3 See also Section 4552 (enforcement).

4 **§ 5332. Pigeon**

5 5332. (a) Except as provided in subdivision (b), any person who purposely takes
6 any racing pigeon that at the time of taking is registered with a recognized
7 organization is guilty of a misdemeanor.

8 (b) This section does not apply to either of the following:

9 (1) The taking of a registered racing pigeon by its owner.

10 (2) The incidental take of a registered racing pigeon while shooting or taking a
11 wild band-tailed or domestic pigeon (*Columba livia*).

12 **Comment.** Section 5332 restates former Fish and Game Code Section 3680 without
13 substantive change.

14 **Note.** Proposed Section 5332 is intended to restate existing Section 3680 to improve its
15 clarity, without changing its substantive effect. The existing section reads as follows:

16 3680. Any person, other than the owner thereof, who at any time, by any means or in any
17 manner, purposely takes any racing pigeon currently registered with a recognized organization, is
18 guilty of a misdemeanor. However, the incidental take of registered racing pigeons with the
19 shooting or taking of wild band-tailed pigeons or domestic pigeons (*Columba livia*), is not a
20 violation of this section.

21 **The Commission invites comment on whether the proposed restatement would cause any**
22 **substantive change in the meaning of the provision.**

23 **CHAPTER 4. NONGAME BIRDS**

24 **§ 5340. Taking nongame bird**

25 5340. Except as provided in subdivision (d) of Section 4754, the punishment for
26 a violation of Section 29850 is a fine of not more than five thousand dollars
27 (\$5,000), imprisonment in the county jail for not more than six months, or by both
28 that fine and imprisonment.

29 **Comment.** Section 5340 continues the part of former Fish and Game Code Section 12002(c)
30 applicable to former Fish and Game Code Section 3800 without substantive change.

31 **Note.** Existing Section 12002(c) provides as follows:

32 Except as specified in Sections 12001 and 12010, the punishment for violation of Section 3503,
33 3503.5, 3513, or 3800 is a fine of not more than five thousand dollars (\$5,000), imprisonment in
34 the county jail for not more than six months, or by both that fine and imprisonment.

35 However, Section 12010 addresses only the punishment for a violation of existing Section
36 3503.5 (governing the taking or possession of birds of prey). **The reference to existing Section**
37 **12010 has not been continued in proposed Section 5340.**

38 **§ 5342. Taking or possession of migratory nongame bird**

39 5342. Except as provided in subdivision (d) of Section 4754, the punishment for
40 a violation of Section 29855 is a fine of not more than five thousand dollars

1 (\$5,000), imprisonment in a county jail for not more than six months, or by both
2 that fine and imprisonment.

3 **Comment.** Section 5342 continues the part of former Fish and Game Code Section 12002(c)
4 applicable to former Fish and Game Code Section 3513 without substantive change.

5 **Note.** Existing Section 12002(c) provides as follows:

6 Except as specified in Sections 12001 and 12010, the punishment for violation of Section 3503,
7 3503.5, 3513, or 3800 is a fine of not more than five thousand dollars (\$5,000), imprisonment in
8 the county jail for not more than six months, or by both that fine and imprisonment.

9 However, Section 12010 addresses only the punishment for a violation of existing Section
10 3503.5 (governing the taking or possession of birds of prey). **The reference to existing Section**
11 **12010 has not been continued in proposed Section 5342.**

12 **§ 5344. Possession of parts of nongame bird**

13 5344. (a) The feathers, carcass, skin, or part of any nongame bird possessed in
14 violation of any provision of this code shall be seized by the department and
15 delivered to a California Native American tribal government or a scientific or
16 educational institution, used by the department, or destroyed.

17 (b) Notwithstanding Chapter 3 (commencing with Section 30000) of Title 3 of
18 Part 3 of Division 8, an officer deputized pursuant to this code may interrupt an
19 ongoing salvaging of a dead nongame bird carcass, feathers, skin, or part if, in the
20 officer's judgment, the activity causes a public disruption or safety hazard, or is
21 detrimental to the ability of the department to prevent a possible violation of
22 Section 30000. In that event, the officer may seize the carcass, feathers, skin, or
23 part being salvaged, or may return the carcass, feathers, skin, or part to the general
24 location from where it had been salvaged.

25 **Comment.** Subdivision (a) of Section 5344 continues the second sentence of former Fish and
26 Game Code Section 3801.6(a) without substantive change.

27 Subdivision (b) restates former Fish and Game Code Section 3801.6(c) without substantive
28 change.

29 **Note.** Proposed Section 5344(b) is intended to restate existing Section 3801.6(c) to improve
30 its clarity, without changing its substantive effect. The existing provision reads as follows:

31 Notwithstanding subdivisions (a) and (b), any officer deputized pursuant to this code may
32 interrupt any ongoing salvaging of dead nongame carcasses, feathers, skins, or parts if, in the
33 officer's judgment, the activity causes a public disruption, safety hazard, or is detrimental to the
34 ability of the department to prevent a possible violation of this section. The officer may seize any
35 of the salvaged feathers, carcasses, skins, or parts and has the option of returning them to the
36 general location from where they were salvaged.

37 **The Commission invites comment on whether the proposed restatement would cause any**
38 **substantive change in the meaning of the provision.**

CHAPTER 5. BIRDS-OF-PREY

§ 5350. Birds-of-prey

5350. Except as provided in subdivision (d) of Section 4754, the maximum punishment for each violation of Section 30110 is as follows:

(a) If the violation relates to a bird-of-prey designated as endangered, threatened, or fully protected, a fine of five thousand dollars (\$5,000), imprisonment in a county jail for a period of not to exceed one year, or both that fine and imprisonment.

(b) If the violation relates to a bird-of-prey that was taken from the wild and is subsequently reported to the department as having been bred in captivity, a fine of five thousand dollars (\$5,000), imprisonment in a county jail for a period of not to exceed one year, or both that fine and imprisonment.

(c) For all other violations of Section 30110, a fine of not more than five thousand dollars (\$5,000), imprisonment in a county jail for a period not to exceed six months, or both that fine and imprisonment.

Comment. Section 5350 combines and restates former Fish and Game Code Section 12010 and the part of former Fish and Game Code Section 12002(c) applicable to former Fish and Game Code Section 3503.5, without substantive change.

Note. Proposed Section 5350 is intended to combine and restate existing Section 12010 and the part of existing Section 12002(c) applicable to existing Section 3503.5, to clarify the meaning of those provisions without changing their substantive effect. The existing provisions read as follows:

12002. (c) Except as specified in Sections 12001 and 12010, the punishment for violation of Section 3503, 3503.5, 3513, or 3800 is a fine of not more than five thousand dollars (\$5,000), imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

12010. (a) Notwithstanding Section 12002, the maximum punishment for each violation of Section 3503.5 relating to a bird-of-prey designated as endangered, threatened, or fully protected is a fine of five thousand dollars (\$5,000) or imprisonment in the county jail for a period of not to exceed one year, or both the fine and imprisonment.

(b) Notwithstanding Section 12002, the maximum punishment for a violation of Section 3503.5 relating to any bird-of-prey that was taken from the wild and that is subsequently reported to the department as having been bred in captivity is a fine of five thousand dollars (\$5,000) or imprisonment in the county jail for a period of not to exceed one year, or both the fine and imprisonment.

The Commission invites comment on whether the proposed restatement would cause any substantive change in the meaning of the provision.

TITLE 9. MAMMALS

CHAPTER 1. PROTECTED MAMMALS

§ 5400. Fully protected mammal

5400. Except as otherwise provided in Section 597 of the Penal Code, the punishment for a violation of Section 32700 is a fine of not more than twenty-five thousand dollars (\$25,000) for each unlawful taking, imprisonment in the county jail for not more than one year, or both that fine and imprisonment.

Comment. Section 5400 combines and continues former Fish and Game Code Section 12008(c) and the part of former Fish and Game Code Section 12003.2 applicable to former Fish and Game Code Section 4700, without substantive change.

See also Section 4570 (enforcement).

Note. Proposed Section 5400 is intended to combine and continue the part of existing Fish and Game Code Section 12003.2 applicable to existing Section 4700, and existing Fish and Game Code Section 12008(c), while preserving the substantive effect of both provisions. The two existing provisions read as follows:

12003.2. Notwithstanding Section 12002 or 12008, the punishment for any violation of Section 4500 or 4700 is a fine of not more than twenty-five thousand dollars (\$25,000) for each unlawful taking, imprisonment in a county jail for the period prescribed in Section 12002 or 12008, or both the fine and imprisonment.

12008. Except as otherwise provided in Section 597 of the Penal Code, the punishment for a violation of any of the following provisions 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:

...

(c) Chapter 8 (commencing with Section 4700) of Part 3 of Division 4.

The Commission invites comment on whether proposed Section 5400(c) continues both provisions without substantive change.

§ 5402. Mountain lion

5402. (a) A violation of Section 35350 is a misdemeanor punishable by imprisonment in a county jail for not more than one year, or a fine of not more than ten thousand dollars (\$10,000), or by both that fine and imprisonment.

(b) An individual is not guilty of a violation of this section if it is demonstrated that, in taking or injuring a mountain lion, the individual was acting in self-defense or in defense of others.

Comment. Section 5402 continues former Fish and Game Code Section 4800(c) without substantive change.

Note. Existing Fish and Game Code Sections 4800 was added in 1990 pursuant to an initiative statute, Proposition 117. The Commission believes that the nonsubstantive continuation of that provision in the proposed law would not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 20-22 and associated text.

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CHAPTER 2. GAME MAMMALS

Article 1. Game Mammals Generally

§ 5450. Trophy mammals

5450. (a) Notwithstanding Section 4400 or 4462, the punishment for any person who knowingly violated and has been convicted of any of the following provisions where the violation involved a trophy deer, elk, antelope, or bighorn sheep shall be a fine of not less than five thousand dollars (\$5,000) nor more than forty thousand dollars (\$40,000), or imprisonment in the county jail for not more than one year, or both that fine and imprisonment:

(1) Section 8015, if the person took an animal outside the established season.

(2) Section 8125.

(3) Section 29370.

(4) Section 257.5 of Title 14 of the California Code of Regulations.

(5) Section 34200.

(6) Section 8300, if the person failed to procure the required license or tag prior to taking a deer, elk, antelope, or bighorn sheep.

(b) The commission shall adopt regulations to implement this section, including establishing a trophy designation and monetary value based on the size or related characteristics of deer, elk, antelope, and bighorn sheep.

(c) All revenue from fines imposed pursuant to this section for deer, elk, antelope, and bighorn sheep violations shall be deposited in the Big Game Management Account established in Section 31900 and shall be used for the big game management purposes described in that section.

(d) Moneys equivalent to 50 percent of the revenue from any fine collected pursuant to this section shall be paid to the county in which the offense was committed, pursuant to Section 3610. The county board of supervisors shall first use revenues pursuant to this subdivision to reimburse the costs incurred by the district attorney or city attorney in investigating and prosecuting the violation. Any excess revenues may be expended in accordance with Section 3915.

Comment. Section 5450 continues the part of former Fish and Game Code Section 12013.3 applicable to specified mammals without substantive change.

See also Section 4552 (enforcement).

Article 2. Bears

§ 5460. Use of signal-emitting device to traffic in bear parts

5460. (a) In addition to any other penalties provided in this code, any person convicted of violating this code or any regulation adopted pursuant to this code while using a signal-emitting device in conjunction with the take of bear for the purpose of selling or trafficking in bear parts shall be subject to a fine of ten thousand dollars (\$10,000) per bear part. For purposes of this section, a “signal-

1 emitting device” means any device capable of generating radio, cellular, satellite,
2 or other signal transmission for purposes of providing communication or location
3 information.

4 (b) All revenue from fines imposed pursuant to this section shall be deposited in
5 the Big Game Management Account established in Section 31900 and shall be
6 used for the big game management purposes described in that section.

7 (c) Moneys equivalent to 50 percent of the revenue from any fine collected
8 pursuant to this section shall be paid to the county in which the offense was
9 committed, pursuant to Section 3610. The county board of supervisors shall first
10 use revenues pursuant to this subdivision to reimburse the costs incurred by the
11 district attorney or city attorney in investigating and prosecuting the violation. Any
12 excess revenues may be expended in accordance with Section 3915.

13 **Comment.** Section 5460 continues former Fish and Game Code Section 12013.5 without
14 substantive change.

15 See also Section 4552 (enforcement).

16 **§ 5462. Commercial use of bear parts**

17 5462. (a) Notwithstanding Section 4400, 4462, or 4800, and except as otherwise
18 provided in subdivision (c), the punishment for each violation of Section 33455
19 shall include both of the following:

20 (1) A fine of two hundred fifty dollars (\$250) for each bear part. As used in this
21 paragraph, “bear part” means an individual part or group of like parts of any bear
22 that the defendant knowingly and unlawfully sells, purchases, or possesses for
23 sale. For the purposes of this paragraph, claws, paws, or teeth from a single bear
24 that are knowingly purchased, sold, or possessed for sale with the intent that they
25 be delivered to a single end user shall be considered a single part.

26 (2) An additional fine of not more than five thousand dollars (\$5,000),
27 imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code or in
28 a county jail for not more than one year, or both that fine and imprisonment.

29 (b) If a conviction for violation of Section 33455 is based on the possession of
30 two bear gallbladders, and probation is granted or the execution or imposition of
31 sentence is suspended, it shall be a condition of that probation or suspended
32 sentence that a minimum term of 30 days be served in a county jail.

33 (c) A conviction for violation of Section 33455 based on possession of three or
34 more bear gallbladders is subject to all of the following:

35 (1) The punishment for the offense shall include both of the following:

36 (A) The fine specified in paragraph (1) of subdivision (a).

37 (B) An additional fine of not more than ten thousand dollars (\$10,000),
38 imprisonment in a county jail for not more than one year, or both that fine and
39 imprisonment.

40 (2) If probation is granted or the execution or imposition of sentence is
41 suspended, it shall be a condition of that probation or suspended sentence that a
42 minimum term of three months be served in a county jail.

1 (d) Consecutive sentences shall be imposed for separate violations of Section
2 33455.

3 **Comment.** Section 5462 continues former Fish and Game Code Section 12005 without
4 substantive change.

5 **§ 5466. Forfeiture of bear tags**

6 5466. (a) Any person who is convicted of a violation of any provision of this
7 code, or of any rule, regulation, or order made or adopted pursuant to this code,
8 relating to bears, shall forfeit any bear tags issued to that person, and new bear
9 tags shall not be issued to that person during the then current license year for
10 hunting licenses.

11 (b) A person described in subdivision (a) shall not apply for bear tags for the
12 following license year.

13 **Comment.** Section 5466 continues former Fish and Game Code Section 4754 without
14 substantive change.

15 Article 3. Deer

16 **§ 5480. Forfeiture of deer tags**

17 5480. (a) Any person who is convicted of a violation of any provision of this
18 code, or of any rule, regulation, or order made or adopted pursuant to this code,
19 relating to deer, shall forfeit any deer tags issued to that person, and no new deer
20 tags shall be issued to that person during the then current license year for hunting
21 licenses.

22 (b) No person described in subdivision (a) may apply for deer tags for the
23 following license year.

24 **Comment.** Section 5480 continues former Fish and Game Code Section 4340 without
25 substantive change.

26 Article 4. Sheep

27 **§ 5490. Bighorn sheep**

28 5490. Notwithstanding Section 4400, the punishment for taking any bighorn
29 sheep in violation of Title 13 (commencing with Section 35800) of Part 4 of
30 Division 9, or any regulation adopted pursuant to a provision in that title, is a fine
31 of not more than two thousand dollars (\$2,000) or imprisonment in a county jail
32 for not more than one year, or both that fine and imprisonment.

33 **Comment.** Section 5490 continues former Fish and Game Code Section 12008.5 without
34 substantive change.

1 CHAPTER 3. NONGAME MAMMALS [RESERVED]

2 CHAPTER 4. MARINE MAMMALS

3 **§ 5520. Marine mammals**

4 5520. Notwithstanding Section 4400, 4462, 5400, or 6202, the punishment for
5 any violation of Section 32500 is a fine of not more than twenty-five thousand
6 dollars (\$25,000) for each unlawful taking, imprisonment in a county jail as
7 provided by Section 4400, 4462, 5400, or 6202 or both the fine and imprisonment.

8 **Comment.** Section 5520 continues the part of former Fish and Game Code Section 12003.2
9 applicable to former Fish and Game Code Section 4500 without substantive change.

10 **§ 5522. Orca**

11 5522. A person, corporation, or institution that intentionally or negligently
12 violates subdivision (a) of Section 37050 is guilty of a misdemeanor and, upon
13 conviction thereof, shall be punished by a fine not to exceed one hundred thousand
14 dollars (\$100,000).

15 **Comment.** Section 5522 continues former Fish and Game Code Section 4502.5(b) without
16 substantive change.

17 CHAPTER 5. BURROS

18 **§ 5540. Burros**

19 5540. The punishment for a violation of Section 34055 is a fine of not more than
20 two thousand dollars (\$2,000), imprisonment in a county jail for not more than one
21 year, or both the fine and imprisonment.

22 **Comment.** Section 5540 continues former Fish and Game Code Section 12002(b)(3) without
23 substantive change.

24 **§ 5542. Burro sanctuary**

25 5542. Any violation of Section 34065 is a misdemeanor.

26 **Comment.** Section 5542 continues the second sentence of subdivision (a) of former Fish and
27 Game Code Section 10931 without substantive change.

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TITLE 10. FISH

CHAPTER 1. PROTECTED FISH

§ 5600. Fully protected fish

5600. Except as otherwise provided in Section 597 of the Penal Code, the punishment for a violation of Section 38200 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 5600 continues former Fish and Game Code Section 12008(e) without substantive change.

CHAPTER 2. TYPES OF FISH

Article 1. Anchovies

§ 5650. Anchovies

5650. (a) In addition to any other applicable penalty, the commercial fishing license of the master of a vessel may be revoked or suspended by the commission, when requested by the department, for a period not to exceed one year, upon the second conviction in three years of the master or the master’s agent, servant, employee, or any other person acting under the master’s direction or control, for a violation of any provision of Title 2 (commencing with Section 38500) of Part 4 of Division 10.

(b) A master’s license shall not be revoked unless both the first and second convictions are for a violation by the master or a violation occurring when the person convicted was acting as the master’s agent, servant, employee, or acting under the master’s direction or control.

(c) The master of a vessel is the person on board the vessel who is in charge of the vessel.

Comment. Section 5650 continues the part of former Fish and Game Code Section 12002.8(d)-(f) applicable to the provisions of this chapter, without substantive change.

Article 2. Bass

§ 5660. White bass

5660. Notwithstanding subdivision (b) of Section 4400, the punishment for each violation of Section 38870 is a fine of not more than five thousand dollars (\$5,000) or imprisonment in the county jail for a period not to exceed one year, or both the fine and imprisonment.

Comment. Section 5660 continues the part of former Fish and Game Code Section 12007 applicable to former Fish and Game Code Section 6400.5 without substantive change.

1 Article 3. Carp

2 § 5670. Grass carp

3 5670. A violation of subdivision (e) of Section 39225 shall be punished by a fine
4 of not more than five thousand dollars (\$5,000), by imprisonment in a county jail
5 for not more than one year, or by both that fine and imprisonment.

6 **Comment.** Section 5670 continues part of subdivision (e) of former Fish and Game Code
7 Section 6455 without substantive change.

8 Article 4. Halibut

9 § 5680. Halibut

10 5680. (a) In addition to any other applicable penalty, the commercial fishing
11 license of the master of a vessel may be revoked or suspended by the commission,
12 when requested by the department, for a period not to exceed one year, upon the
13 second conviction in three years of the master or the master's agent, servant,
14 employee, or any other person acting under the master's direction or control, for a
15 violation of any provision of Chapter 2 (commencing with Section 39900) of Title
16 2 of Part 12 of Division 10.

17 (b) A master's license shall not be revoked unless both the first and second
18 convictions are for a violation by the master or a violation occurring when the
19 person convicted was acting as the master's agent, servant, employee, or acting
20 under the master's direction or control.

21 (c) The master of a vessel is the person on board the vessel who is in charge of
22 the vessel.

23 **Comment.** Section 5680 continues the part of former Fish and Game Code Section
24 12002.8(d)-(f) applicable to the provisions of this chapter, without substantive change.

25 **Note.** Existing Fish and Game Code Section 12002.8(d) (which would be continued by
26 proposed Section 5680(a)) applies to a violation of any of several articles of Chapter 2 of Part 3
27 of Division 6 of the existing code, including what is identified as "Article 13 (commencing with
28 Section 8495).

29 Three years after the last amendment of Section 12002.8, a new Section 8494 was inserted at
30 the beginning of that Article 13, rendering Section 12002.8(d)'s description of the article
31 technically inaccurate.

32 The Commission's analysis suggests that the inaccuracy represents only a drafting omission,
33 rather an affirmative intention to exclude Section 8494 from the application of Section
34 12002.8(d). Proposed Section 26700 is therefore drafted to apply to the proposed continuation of
35 Section 8494 (which is divided into multiple proposed sections in the chapter containing Section
36 5680).

37 **The Commission invites comment on whether that scope of application would cause any**
38 **problems.**

1 Article 5. Herring

2 § 5690. Herring

3 5690. (a) In addition to any other applicable penalty, the commercial fishing
4 license of the master of a vessel may be revoked or suspended by the commission,
5 when requested by the department, for a period not to exceed one year, upon the
6 second conviction in three years of the master or the master's agent, servant,
7 employee, or any other person acting under the master's direction or control, for a
8 violation of any provision of Chapter 2 (commencing with Section 40350) of Title
9 2 of Part 13 of Division 10.

10 (b) A master's license shall not be revoked unless both the first and second
11 convictions are for a violation by the master or a violation occurring when the
12 person convicted was acting as the master's agent, servant, employee, or acting
13 under the master's direction or control.

14 (c) The master of a vessel is the person on board the vessel who is in charge of
15 the vessel.

16 **Comment.** Section 5690 continues the part of former Fish and Game Code Section
17 12002.8(d)-(f) applicable to the provisions of this chapter, without substantive change.

18 § 5692. Revocation of herring permit

19 5692. The commission shall revoke the herring permit of a permittee convicted
20 of any of the following violations:

21 (a) Failing to report herring landings.

22 (b) Underreporting herring landings.

23 (c) Failing to correctly file with the department the offer or the acceptance for a
24 permit transferred pursuant to Section 40380.

25 **Comment.** Section 5692 continues former Fish and Game Code Section 8552.5 without
26 substantive change.

27 Article 6. Marlin

28 § 5700. Marlin

29 5700. It shall be a misdemeanor for any person operating under a permit
30 pursuant to Chapter 6 (commencing with Section 18300) of Title 4 of Part 6 of
31 Division 6 to sell or possess for sale or personal use any marlin.

32 **Comment.** Section 5700 continues the first sentence of former Fish and Game Code Section
33 8582(b) without substantive change.

34 Article 7. Salmon

35 § 5710. Salmon

36 5710. (a) In addition to any other applicable penalty, the commercial fishing
37 license of the master of a vessel may be revoked or suspended by the commission,

1 when requested by the department, for a period not to exceed one year, upon the
2 second conviction in three years of the master or the master's agent, servant,
3 employee, or any other person acting under the master's direction or control, for a
4 violation of any provision of Chapter 3 (commencing with Section 41450) of Title
5 2 of Part 17 of Division 10.

6 (b) A master's license shall not be revoked unless both the first and second
7 convictions are for a violation by the master or a violation occurring when the
8 person convicted was acting as the master's agent, servant, employee, or acting
9 under the master's direction or control.

10 (c) The master of a vessel is the person on board the vessel who is in charge of
11 the vessel.

12 **Comment.** Section 5710 restates the part of former Fish and Game Code Section 12002.8(d)-
13 (f) applicable to the provisions of this chapter, without substantive change.

14 **Note.** Proposed Section 5710(a) is intended to restate the part of existing Fish and Game
15 Code Section 12002.8(d) applicable to this chapter, to clarify the meaning of that existing
16 provision without changing its substantive effect. The existing provision begins as follows, with
17 the restated language italicized:

18 Notwithstanding *Sections 12000, 12001, and 12002*, the commercial fishing license of the
19 master of a vessel may be revoked or suspended by the commission, when requested by the
20 department....

21 **The Commission invites comment on whether the restatement of the italicized language in**
22 **proposed Section 5710(a) would cause any substantive change in the meaning of the**
23 **provision.**

24 Article 8. Sardine

25 § 5720. Sardine

26 5720. (a) In addition to any other applicable penalty, the commercial fishing
27 license of the master of a vessel may be revoked or suspended by the commission,
28 when requested by the department, for a period not to exceed one year, upon the
29 second conviction in three years of the master or the master's agent, servant,
30 employee, or any other person acting under the master's direction or control, for a
31 violation of any provision of Chapter 1 (commencing with Section 42250) of Title
32 2 of Part 18 of Division 10.

33 (b) A master's license shall not be revoked unless both the first and second
34 convictions are for a violation by the master or a violation occurring when the
35 person convicted was acting as the master's agent, servant, employee, or acting
36 under the master's direction or control.

37 (c) The master of a vessel is the person on board the vessel who is in charge of
38 the vessel.

39 **Comment.** Section 5720 restates the part of former Fish and Game Code Section 12002.8(d)-
40 (f) applicable to the provisions of this article, without substantive change.

41 **Note.** Proposed Section 5720(a) is intended to restate the part of existing Fish and Game
42 Code Section 12002.8(d) applicable to its article, to clarify the meaning of that existing provision

1 without changing its substantive effect. The existing provision begins as follows, with the restated
2 language italicized:

3 Notwithstanding *Sections 12000, 12001, and 12002*, the commercial fishing license of the
4 master of a vessel may be revoked or suspended by the commission, when requested by the
5 department....

6 **The Commission invites comment on whether the restatement of the italicized language in**
7 **proposed Section 5720(a) would cause any substantive change in the meaning of the**
8 **provision.**

9 Article 9. Sturgeon

10 § 5730. Sturgeon

11 5730. (a) Notwithstanding Section 4400 or 4462, the punishment for a violation
12 of Section 43150 is a fine of not less than five thousand dollars (\$5,000) nor more
13 than ten thousand dollars (\$10,000), imprisonment in a county jail not to exceed
14 one year, or both that fine and imprisonment.

15 (b) The court shall also permanently revoke any commercial fishing license or
16 commercial fishing permit, and may permanently revoke any sport fishing license
17 issued to the violator by the department.

18 (c) Any vessel, diving or other fishing gear or apparatus, or vehicle used in the
19 commission of an offense subject to this section may be seized and may be
20 ordered forfeited by the court pursuant to subdivision (c) of Section 4570.

21 (d) Fifty percent of the revenue deposited in the Fish and Game Preservation
22 Fund from fines and forfeitures collected pursuant to this section shall be allocated
23 for the support of the Special Operations Unit of the department, and used for law
24 enforcement purposes.

25 **Comment.** Subdivision (a) of Section 5730 continues former Fish and Game Code Section
26 12006(a)(1) without substantive change.

27 Subdivisions (b)-(d) continue the part of former Fish and Game Code Section 12006(b)
28 applicable to former Fish and Game Code Section 7370 without substantive change.

29 § 5732. Sturgeon egg processing

30 5732. (a) Any person convicted of a violation of a provision of Chapter 4
31 (commencing with Section 43250) of Title 1 of Part 21 of Division 10, or a
32 violation of any other provision of this code or any regulation adopted pursuant to
33 this code relating to sturgeon, shall be prohibited from engaging in the business of
34 canning, curing, preserving, packing, or otherwise processing, or dealing at
35 wholesale or retail in the eggs of sturgeon in this state, for one year from the date
36 of the conviction.

37 (b) Any person convicted of a second or subsequent violation of a provision of
38 Chapter 4 (commencing with Section 43250) of Title 1 of Part 21 of Division 10,
39 or a violation of any other provision of this code or any regulation adopted
40 pursuant to this code relating to sturgeon, within five years of another offense
41 resulting in a conviction of a violation of any of those provisions, is prohibited

1 from engaging in any activity for which a sturgeon egg processing license is
2 required, for five years from the date of the last conviction.

3 (c) The commission shall revoke any license issued pursuant to Chapter 4
4 (commencing with Section 43250) of Title 1 of Part 21 of Division 10 to a person
5 who is prohibited from engaging in that business under this section. No sturgeon
6 egg processing license revoked pursuant to this section shall be issued, reissued, or
7 reinstated during the period of prohibition prescribed in this section.

8 (d) It is unlawful for any person to obtain, or attempt to obtain, a sturgeon egg
9 processing license pursuant to Chapter 4 (commencing with Section 43250) of
10 Title 1 of Part 21 of Division 10 during the period of prohibition prescribed in this
11 section.

12 **Comment.** Section 5732 continues former Fish and Game Code Section 10005 without
13 substantive change.

14 TITLE 11. INVERTEBRATES

15 CHAPTER 1. ABALONE

16 § 5800. Take of abalone from ocean waters

17 5800. Notwithstanding subdivision (a) of Section 4400, a person who violates
18 Section 45700 is guilty of an infraction punishable by a fine of not less than one
19 hundred dollars (\$100) and not to exceed one thousand dollars (\$1,000), or of a
20 misdemeanor.

21 **Comment.** Section 5800 continues former Fish and Game Code Section 12000(b)(3) without
22 substantive change.

23 § 5802. Prohibited take of abalone

24 5802. (a) Notwithstanding Section 4400, and except as provided in Section
25 5804, the punishment for a violation of any provision of Section 45800 or 45805,
26 or any regulation adopted pursuant to either Section 45800 or 45805, or of Section
27 13600 or 13605 involving abalone, is a fine of not less than fifteen thousand
28 dollars (\$15,000) or more than forty thousand dollars (\$40,000) and imprisonment
29 in a county jail for a period not to exceed one year. The court shall permanently
30 revoke any commercial fishing license, commercial fishing permit, or sport fishing
31 license issued by the department. Any vessel, diving or other fishing gear or
32 apparatus, or vehicle used in the commission of an offense punishable under this
33 section, may be seized and may be ordered forfeited by the court pursuant to
34 subdivision (c) of Section 4570. Notwithstanding any other provision of law, the
35 commercial license of any person arrested for a violation punishable under this
36 section may not be sold, transferred, loaned, or leased, or used as security for any
37 financial transaction until disposition of the charges is final.

38 (b) Notwithstanding any other provision of law, the money collected from any
39 fine or forfeiture imposed or collected for the taking of abalone for any purpose

1 other than for profit in violation of this article or any other provision of law shall
2 be deposited as follows:

3 (1) One-half in the Abalone Restoration and Preservation Account.

4 (2) One-half in the county treasury of the county in which the violation
5 occurred.

6 **Comment.** Section 5802 continues former Fish and Game Code Section 12009 without
7 substantive change.

8 **Note.** Existing Fish and Game Code Section 12009 (which would be continued by proposed
9 Section 5802, immediately above) and existing Fish and Game Code Section 12006.6 (which
10 would be continued by proposed Section 5804) both specify punishment for a violation of either
11 existing Section 5521 or 5521.5. However, the punishment specified under Section 12006.6 is to
12 be imposed only if the violation occurs in a specially described location, and the person
13 committing the violation has engaged in specified excess take.

14 Section 12006.6 provides that punishment under that section shall be imposed “in addition to
15 Section 12009,” suggesting Section 12006.6 is intended to *enhance* (i.e. add to) the punishment
16 provided for under Section 12009. This construction of the two sections is also largely consistent
17 with the punishments specified by the two sections, as the “base” punishment section (Section
18 12009) requires two aspects of punishment that are not part of the specified punishment under
19 Section 12006.6 (jail time, and immediate revocation of any sport fishing license held by the
20 offender).

21 However, the Commission still has several questions about the intended interrelationship
22 between the two sections:

23 (a) Both sections provide for imposition of an identical fine – not less than fifteen thousand
24 dollars (\$15,000) or more than forty thousand dollars (\$40,000). If it is correct that Section
25 12006.6 is intended to provide for enhanced punishment beyond that required by Section 12009,
26 does that mean a person sentenced pursuant to Section 12006.6 can receive *double* that specified
27 fine?

28 (b) The punishments called for by the two sections do not make clear which construction of the
29 two sections is intended. For example, both sections provide for exactly the same fine – not less
30 than fifteen thousand dollars (\$15,000) or more than forty thousand dollars (\$40,000). Does this
31 mean that a person sentenced pursuant to Section 12006.6 can receive that same fine *twice*? That
32 result would seem odd, given that Section 12006.6 provides for *no* additional jail time beyond the
33 jail time required by Section 12009.

34 (c) Section 12009(b) provides (with emphasis added) that “[n]otwithstanding *any other*
35 *provision of law*,” the money collected from *any* fine or forfeiture imposed or collected for the
36 taking of abalone for any purpose other than for profit *in violation of this article or any other*
37 *provision of law* shall be deposited as follows:

38 (1) One-half in the Abalone Restoration and Preservation Account.

39 (2) One-half in the county treasury of the county in which the violation occurred.

40 However, Section 12006.6(d), a “provision of law” described by Section 12009(b), provides
41 that “[n]ot less than 50 percent of the revenue deposited in the Fish and Game Preservation Fund
42 from fines and forfeitures collected pursuant to this section shall be allocated for the support of
43 the Special Operations Unit of the Wildlife Protection Division of the department and used for
44 law enforcement purposes.” It is unclear how these apportionment provisions are intended to be
45 reconciled.

46 **The Commission invites comment on all these issues.**

1 **§ 5804. Prohibited take of abalone in excess amounts**

2 5804. Notwithstanding Section 4400, 4462, or 5808, and in addition to Section
3 5802, and notwithstanding the type of fishing license or permit held, if any person
4 is convicted of a violation of Section 45800 or 45805, and the offense occurs in an
5 area closed to the taking of abalone for commercial purposes, and the person takes
6 or possesses more than 12 abalone at one time or takes abalone in excess of the
7 annual bag limit, that person shall be punished by all of the following:

8 (a) A fine of not less than fifteen thousand dollars (\$15,000) or more than forty
9 thousand dollars (\$40,000).

10 (b) The court shall order the department to permanently revoke, and the
11 department shall permanently revoke, the commercial fishing license and any
12 commercial fishing permits of that person. The person punished under this
13 subdivision shall not, thereafter, be eligible for any license or permit to take or
14 possess fish for sport or commercial purposes, including, but not limited to, a
15 commercial fishing license or a sport fishing or sport ocean fishing license.
16 Notwithstanding any other provision of law, the commercial license or permit of a
17 person arrested for a violation punishable under this section may not be sold,
18 transferred, loaned, leased, or used as security for any financial transaction until
19 disposition of the charges is final.

20 (c) Any vessel, diving or other fishing gear or apparatus, or vehicle used in the
21 commission of an offense punishable under this section shall be seized, and shall
22 be ordered forfeited in the same manner prescribed for nets or traps used in
23 violation of this code, as described in Article 3 (commencing with Section 4975)
24 of Chapter 4, of Title 6, of Part 4 of Division 3 or in the manner prescribed in
25 Section 4570.

26 (d) Not less than 50 percent of the revenue deposited in the Fish and Game
27 Preservation Fund from fines and forfeitures collected pursuant to this section
28 shall be allocated for the support of the Special Operations Unit of the Wildlife
29 Protection Division of the department and used for law enforcement purposes.

30 **Comment.** Section 5804 continues former Fish and Game Code Section 12006.6 without
31 substantive change.

32  **Note.** Existing Section 12006.6 provides a penalty for a specified offense. It states in part that
33 it is “in addition to Section 12009,” which states a more severe penalty for what seems to be a
34 less severe offense. Is the penalty in Section 12009 intended to be an additional enhancement of a
35 sentence imposed under Section 12009? If not, how should the two provisions be understood?
36 **The Commission invites comment on these points.**

37 **§ 5806. Suspension of license or permit based on pending criminal charge**

38 5806. (a) When a complaint has been filed in a court of competent jurisdiction
39 charging a person with a violation that may result in suspension or revocation of
40 any license or permit to take abalone for a commercial purpose, and no disposition
41 of the complaint has occurred within 90 days after it has been filed in the court,
42 the department may suspend the license or permit of that person.

1 (b) Whenever the department proposes to suspend a license or permit under this
2 section, notice and an opportunity to be heard shall be given to the licensee or
3 permittee, before taking the action. The notice shall contain a statement setting
4 forth the proposed action and the grounds for the action, and notify the licensee or
5 permittee of his or her right to a hearing as provided in this section. Within 10
6 days after the receipt of the notice from the department, the licensee or permittee
7 may request a hearing. The hearing shall be held by the commission at the next
8 regularly scheduled hearing of the commission held more than 30 days after the
9 notice of intent to suspend the license or permit was sent. The licensee or
10 permittee shall be given 10 days' notice of the time and place of the hearing.

11 (c) A decision shall be made within a reasonable time on whether the license or
12 permit shall be suspended until the disposition of the complaint by the court. In
13 determining whether to order the suspension, the commission shall consider
14 whether or not the violation could have a detrimental effect on the resources and
15 whether or not a suspension is in the best public interest, and shall find whether
16 there is sufficient evidence that a violation has occurred. A failure to make a
17 finding that there is sufficient evidence that a violation has occurred, or a finding
18 there is insufficient evidence, shall terminate the proceedings under this section.

19 (d) If the person is acquitted of the charges in the complaint, or the charges are
20 dismissed, any suspension under this section is thereby terminated.

21 (e) No complaint shall be filed in a court charging a commercial abalone
22 violation unless evidence supporting the charge has been reviewed by the
23 appropriate county or city prosecuting agency, and a criminal complaint has been
24 issued by that agency.

25 **Comment.** Section 5806 continues former Fish and Game Code Section 12002.10 without
26 substantive change.

27 **§ 5808. Revocation of license or permit upon conviction**

28 5808. (a) The court shall order the department to permanently revoke, and the
29 department shall permanently revoke, the commercial fishing license and any
30 commercial fishing permit of any person convicted of either of the following:

31 (1) Taking or possessing abalone out of season.

32 (2) Taking or possessing abalone taken illegally from any area north of Point
33 Sur.

34 (b) The court shall order the department to permanently revoke, and the
35 department shall permanently revoke, the commercial fishing license and any
36 commercial fishing permit of any person convicted of either of the following
37 offenses, if the person possessed more than 12 abalone at the time of the offense:

38 (1) Removing abalone from the shell, or possessing abalone illegally removed
39 from the shell.

40 (2) Taking or possessing abalone that are less than the minimum size.

1 (c) Any person whose license or permit is revoked pursuant to subdivision (a) or
2 (b) shall not thereafter be eligible for any license or permit to take or possess fish
3 for a sport or commercial purpose.

4 **Comment.** Section 5808 continues former Fish and Game Code Section 12002.8(a)-(c)
5 without substantive change.

6 CHAPTER 2. CRAB

7 Article 1. Crab Generally

8 **§ 5820. Crab**

9 5820. (a) In addition to any other applicable penalty, the commercial fishing
10 license of the master of a vessel may be revoked or suspended by the commission,
11 when requested by the department, for a period not to exceed one year, upon the
12 second conviction in three years of the master or the master's agent, servant,
13 employee, or any other person acting under the master's direction or control, for a
14 violation of any provision of Part 6 (commencing with Section 46500) of Division
15 11.

16 (b) A master's license shall not be revoked unless both the first and second
17 convictions are for a violation by the master or a violation occurring when the
18 person convicted was acting as the master's agent, servant, employee, or acting
19 under the master's direction or control.

20 (c) The master of a vessel is the person on board the vessel who is in charge of
21 the vessel.

22 **Comment.** Section 5820 restates the part of former Fish and Game Code Section 12002.8(d)-
23 (f) applicable to the provisions of this part, without substantive change.

24 **Note.** Proposed Section 5820(a) is intended to restate the part of existing Fish and Game
25 Code Section 12002.8(d) applicable to this part, to clarify the meaning of that existing provision
26 without changing its substantive effect. The existing provision begins as follows, with the restated
27 language italicized:

28 Notwithstanding *Sections 12000, 12001, and 12002*, the commercial fishing license of the
29 master of a vessel may be revoked or suspended by the commission, when requested by the
30 department....

31 **The Commission invites comment on whether the restatement of the italicized language in**
32 **proposed Section 5820(a) would cause any substantive change in the meaning of the**
33 **provision.**

34 Article 2. Dungeness Crab

35 **§ 5830. Taking or landing Dungeness crab without permit**

36 5830. (a) The commission may revoke the commercial fishing license issued
37 pursuant to Section 14550 of any person owning a fishing vessel engaging in the
38 taking or landing of Dungeness crab by traps for which that person has not

1 obtained a Dungeness crab vessel permit, and the commission may revoke the
2 registration, issued pursuant to Section 14755, for that vessel.

3 (b) This section shall become inoperative on April 1, 2029, and, as of January 1,
4 2030, is repealed, unless a later enacted statute, that becomes operative on or
5 before January 1, 2030, deletes or extends the dates on which it becomes
6 inoperative and is repealed.

7 **Comment.** Section 5830 continues former Fish and Game Code Section 8280.4 without
8 substantive change.

9  **Note.** Proposed Section 5832 would continue Section 8280.4, which was amended by 2018
10 Cal. Stat. ch. 663 as an urgency measure.

11 **§ 5832. Additional penalty for fishing without permit**

12 5832. (a) In addition to criminal penalties authorized by law, a person who
13 fishes without a Dungeness crab vessel permit, or who uses a Dungeness crab
14 vessel permit to fish illegally on another vessel other than the permitted one, shall
15 be subject to a fine not more than twenty thousand dollars (\$20,000) and, at the
16 discretion of the department, revocation of the person's fishing license for a period
17 not to exceed five years and revocation of the commercial boat registration license
18 for a period not to exceed five years.

19 (b) This section shall become inoperative on April 1, 2019, and, as of January 1,
20 2020, is repealed, unless a later enacted statute that becomes operative on or
21 before January 1, 2020, deletes or extends the date on which this section becomes
22 inoperative or is repealed.

23 **Comment.** Subdivision (a) of Section 5832 restates former Fish and Game Code Section
24 8280.1(d) without substantive change.

25 Subdivision (b) continues Fish and Game Code Section 8280.1(e), as it applied to Section
26 8280.1(d), without substantive change.

27  **Note.** Proposed Section 5832 would continue Section 8280.1(d) and (e), which were amended
28 by 2018 Cal. Stat. ch. 663 as an urgency measure.

29 **§ 5834. Ocean waters**

30 5834. (a) Notwithstanding subdivision (a) of Section 4400, a violation of
31 Section 47155 does not constitute a misdemeanor. Pursuant to Section 4870, the
32 commission shall revoke the Dungeness crab vessel permit that was issued for use
33 on the vessel that was used in violation of Section 47155.

34 (b) This section shall become inoperative on April 1, 2029, and, as of January 1,
35 2030, is repealed, unless a later enacted statute, that becomes operative on or
36 before January 1, 2030, deletes or extends the dates on which it becomes
37 inoperative and is repealed.

38 **Comment.** Subdivision (a) of Section 5834 continues former Fish and Game Code Section
39 8279.1(c) without substantive change.

40 Subdivision (b) continues Fish and Game Code Section 8279.1(d), as it applied to Section
41 8279.1(c), without substantive change.

1 **Note.** Proposed Section 5834 would continue Section 8279.1(c) and (d), which were amended
2 by 2018 Cal. Stat. ch. 663 as an urgency measure.

3 **§ 5836. Trap limit program**

4 5836. (a) In addition to criminal penalties authorized by law, a violation of the
5 requirements of the program adopted pursuant to Section 47610 shall be subject to
6 the following civil penalties:

7 (1) Conviction of a first offense shall result in a fine of not less than two
8 hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000) per
9 illegal trap or fraudulent tag.

10 (2) Conviction of a second offense shall result in a fine of not less than five
11 hundred dollars (\$500) and not more than two thousand five hundred dollars
12 (\$2,500) per illegal trap or fraudulent tag, and the permit may be suspended for
13 one year.

14 (3) Conviction of a third offense shall result in a fine of not less than one
15 thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) per
16 illegal trap or fraudulent tag, and the permit may be permanently revoked.

17 (b) The severity of a penalty within the ranges described in subdivision (a) shall
18 be based on a determination whether the violation was willful or negligent and
19 other factors.

20 (c) The portion of monetary judgments for noncompliance that are paid to the
21 department shall be deposited in the Dungeness Crab Account created pursuant to
22 subdivision (a) of Section 47660.

23 **Comment.** Section 5836 continues former Fish and Game Code Section 8276.5(b) without
24 substantive change.

25 **§ 5838. Submission of false information**

26 5838. If a person submits false information for the purposes of obtaining a
27 Dungeness crab vessel permit under this chapter, the department shall revoke all
28 of the following privileges:

29 (a) The person's Dungeness crab vessel permit, if issued.

30 (b) The person's commercial fishing license issued pursuant to Section 14500,
31 for a period of not less than five years.

32 (c) The commercial boat registration of any vessel registered to that person
33 pursuant to Section 14755 of which that person is the owner, for a period of not
34 less than five years.

35 **Comment.** Section 5838 continues former Fish and Game Code Section 8280.1(g)(1) without
36 substantive change.

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CHAPTER 3. LOBSTER

§ 5850. Lobster permit requirement

5850. (a) Notwithstanding Section 4400 or 4462, the punishment for a violation of Section 49500 is a fine of not less than five thousand dollars (\$5,000) nor more than ten thousand dollars (\$10,000), imprisonment in a county jail not to exceed six months, or both that fine and imprisonment.

(b) The court shall also permanently revoke any commercial fishing license or commercial fishing permit, and may permanently revoke any sport fishing license issued to the violator by the department.

(c) Any vessel, diving or other fishing gear or apparatus, or vehicle used in the commission of an offense subject to this section may be seized and may be ordered forfeited by the court pursuant to subdivision (c) of Section 4570.

(d) Fifty percent of the revenue deposited in the Fish and Game Preservation Fund from fines and forfeitures collected pursuant to this section shall be allocated for the support of the Special Operations Unit of the department, and used for law enforcement purposes.

Comment. Subdivisions (a) of Section 5850 continues former Fish and Game Code Section 12006(a)(2) without substantive change.

Subdivisions (b) through (d) continue the part of former Fish and Game Code Section 12006(b) applicable to former Fish and Game Code Section 8254 without substantive change.

§ 5852. Suspension of permit pending criminal proceeding

5852. (a) When a complaint has been filed in a court of competent jurisdiction charging a holder of a commercial lobster permit with a violation of Section 49600 or 49605, and no disposition of the complaint has occurred within 90 days after it has been filed in the court, the department may suspend the commercial lobster permit of the person.

(b) The permitholder whose permit was suspended under this section may, within 10 days after the receipt of the suspension notice from the department, request a hearing, and, within 20 days after the request has been made, a hearing shall be held by the commission. A decision shall be made within a reasonable time on whether the suspension of the permit shall be terminated or continued until the disposition of the complaint by the court.

(c) In determining whether to terminate or continue the suspension of the permit, the commission shall consider whether or not the violation could have a detrimental effect on the resources, and whether or not a continued suspension of the permit is in the best public interest.

(d) The commission shall also make a finding whether there is sufficient evidence that a violation has occurred. A failure to make a finding that there is sufficient evidence that a violation has occurred, or a finding that there is insufficient evidence of the violation, shall terminate the suspension of the permit under this section.

1 (e) If a permit holder whose permit is suspended pursuant to this section is
2 subsequently acquitted of the charges against him or her in court, or those charges
3 are dismissed, the suspension of the permit is automatically terminated.

4 **Comment.** Section 5852 continues the first six sentences of former Fish and Game Code
5 Section 8254.7 without substantive change.

6 CHAPTER 4. MUSSELS

7 § 5860. Dreissenid mussel control

8 5860. (a) In addition to any other penalty provided by law, any person who
9 violates Chapter 1 (commencing with Section 49950) of Title 2 of Part 11 of
10 Division 11, violates any verbal or written order or regulation adopted pursuant to
11 that chapter, or who resists, delays, obstructs, or interferes with the
12 implementation of that chapter, is subject to a penalty, in an amount not to exceed
13 one thousand dollars (\$1,000), which shall be imposed administratively by the
14 department.

15 (b) A penalty shall not be imposed pursuant to subdivision (a) unless the
16 department has adopted regulations specifying the amount of the penalty and the
17 procedure for imposing and appealing the penalty.

18 (c) This section shall remain in effect only until January 1, 2020, and as of that
19 date is repealed, unless a later enacted statute, that is enacted before January 1,
20 2020, deletes or extends that date.

21 **Comment.** Subdivisions (a) and (b) of Section 5860 continue former Fish and Game Code
22 Section 2301(f) without substantive change.

23 Subdivision (c) continues former Fish and Game Code Section 2301(i), as it applied to Section
24 2301(f), without substantive change.

25 § 5862. Liability of reservoir owner or manager

26 5862. (a) A violation of Chapter 2 (commencing with Section 50100) of Title 2
27 of Part 11 of Division 11 is not governed by subdivision (a) of Section 4400.

28 (b) In lieu of any other penalty provided by law, a person who violates Chapter 2
29 (commencing with Section 50100) of Title 2 of Part 11 of Division 11 is subject to
30 a civil penalty in an amount not to exceed one thousand dollars (\$1,000) per
31 violation, which shall be imposed administratively by the department.

32 **Comment.** Section 5862 continues the first two sentences of former Fish and Game Code
33 Section 2302(f) without substantive change.

34 CHAPTER 5. SEA CUCUMBER

35 § 5870. Commission regulation

36 5870. The commission may permanently revoke the sea cucumber permit of any
37 person convicted of the unlawful taking of any California halibut while operating
38 pursuant to a sea cucumber permit. The commission may revoke the sea cucumber
39 permit of any person convicted of any other violation of this code or regulation

1 adopted pursuant thereto while operating pursuant to a sea cucumber permit. Any
2 revocation of a permit pursuant to this subdivision shall be in addition to any
3 action the department may take pursuant to subdivision (a) of Section 4400.

4 **Comment.** Section 5870 continues former Fish and Game Code Section 8405.3(c) without
5 substantive change.

6 CHAPTER 6. SQUID

7 § 5880. Revocation of privileges for materially false statements

8 5880. The commission shall revoke the commercial fishing license, the
9 commercial boat registration of any vessel, and, if applicable, any licenses issued
10 pursuant to Section 20205, 20400, or 20450, that are held by any person
11 submitting material false statements, as determined by the commission, for the
12 purpose of obtaining a commercial market squid vessel permit or a commercial
13 squid light boat owner's permit.

14 **Comment.** Section 5880 continues the second sentence of former Fish and Game Code Section
15 8429 without substantive change.

16  **Note.** Existing Section 8429 refers to a "commercial light boat owner's permit." Section 8428
17 refers to a "commercial *squid* light boat owner's permit." Presumably these are the same kind of
18 boat. Proposed Section 5880 was drafted based on that assumption (i.e., the word "squid" was
19 added). **The Commission invites comment on whether that would cause a problem.**

20 TITLE 12. AMPHIBIANS

21 § 5900. Fully protected amphibians

22 5900. Except as otherwise provided in Section 597 of the Penal Code, the
23 punishment for a violation of Section 52200 is a fine of not more than five
24 thousand dollars (\$5,000) or imprisonment in the county jail for not more than one
25 year, or both the fine and imprisonment.

26 **Comment.** Section 5900 continues the part of former Fish and Game Code Section 12008(d)
27 applicable to amphibians without substantive change.

28 See also Section 4570 (enforcement).

29 TITLE 13. REPTILES

30 § 5950. Fully protected reptiles

31 5950. Except as otherwise provided in Section 597 of the Penal Code, the
32 punishment for a violation of Section 53000 is a fine of not more than five
33 thousand dollars (\$5,000) or imprisonment in the county jail for not more than one
34 year, or both the fine and imprisonment.

35 **Comment.** Section 5950 continues the part of former Fish and Game Code Section 12008(d)
36 applicable to reptiles without substantive change.

37 See also Section 4570 (enforcement).

1 TITLE 14. PLANTS

2 CHAPTER 1. KELP

3 § 6000. License revocation or nonrenewal

4 6000. (a) The commission may revoke a license and prohibit its reissuance for a
5 period of not more than one year, in either of the following circumstances:

6 (1) The licensee harvested kelp from a bed that was closed, after the department
7 served notice of the closure on the licensee and before the bed was reopened.

8 (2) The licensee violated any law or regulation of the commission relating to
9 kelp.

10 (b) A proceeding pursuant to this section shall be conducted at one of the
11 commission's regularly scheduled meetings.

12 **Comment.** Section 6000 restates former Fish and Game Code Section 6656 without
13 substantive change.

14 **Notes.** (1) Proposed Section 6000 would restate existing Section 6656 to improve its
15 clarity, without changing its substantive effect. The existing provision reads as follows:

16 6656. The commission may revoke and prohibit reissuance for a period of not more than one
17 year, the license of:

18 (a) Any person who harvests any kelp from a bed which is closed, between the time of service
19 of notice upon him or her of the closing of the bed and the decision of the commission upon a
20 hearing as to the necessity for the closing.

21 (b) Any person who violates any law or regulation of the commission relating to kelp.
22 The proceedings shall be conducted at one of the commission's regularly scheduled meetings.

23 **The Commission invites comment on whether that restatement would cause any**
24 **substantive change in the meaning of the provision.**

25 (2) Existing Section 6656(a) provides a sanction for a person who harvests kelp from a bed that
26 is closed, after notice of the closure and before "the decision of the commission upon a hearing as
27 to the necessity for the closing." The latter language refers to one way in which a bed closure can
28 end — if the commission decides, after an evidentiary hearing, that the closure is not necessary.
29 See existing Section 6655. However, that is not the only way that a closure can end. If there is no
30 hearing, or the commission affirms the closure, it will end automatically at the time specified in
31 the closure order (which is not to exceed a period of one year). See existing Section 6654.
32 Proposed Section 6000(a)(1) is phrased to be compatible with both possible endings.

33 **The Commission invites comment on whether that revision would cause any problems.**

34 TITLE 15. HABITAT CONSERVATION AND
35 ENHANCEMENT

36 § 6050. Wildlife area pass

37 6050. (a) Notwithstanding Section 4400, a violation of Section 56030 is an
38 infraction, not a misdemeanor, punishable by a fine of not less than one hundred
39 dollars (\$100) and not more than five hundred dollars (\$500). If a person
40 convicted of a violation of Section 56030 is granted probation, the court shall

1 impose as a condition of probation that the person pay at least the minimum fine
2 prescribed in this subdivision.

3 (b) If a person is convicted of a violation of Section 56030 and produces in court
4 a valid wildlife area pass, the court may reduce the fine imposed for the violation
5 of Section 56030 to fifty dollars (\$50).

6 **Comment.** Section 6050 continues former Fish and Game Code Section 12002.5 without
7 substantive change.

8 **Note.** Existing Section 12002.5 begins with the disclaimer, “Notwithstanding Section
9 12002...” The only provision of Section 12002 that appears to be relevant to the purpose of that
10 reference is Section 12002(a). Proposed Section 6050 would refer to the section that continues
11 Section 12002(a). **The Commission invites Comment on whether that revision would be**
12 **problematic.**

13 **§ 6052. Wildlife habitat enhancement and management area**

14 6052. After notice and a hearing, the commission may revoke a license issued
15 pursuant to Section 56525 for any violation of any provision of this code or any
16 regulations adopted pursuant thereto or for any violation of the terms of the
17 license.

18 **Comment.** Section 6052 continues former Fish and Game Code Section 3404(b) without
19 substantive change.

20 **§ 6054. Shared Habitat Alliance for Recreational Enhancement Program**

21 6054. The department may revoke, for up to three years, a public access
22 privilege granted pursuant to Title 7 (commencing with Section 56200) of Part 2
23 of Division 15, of any person who violates any provision of this code or regulation
24 adopted pursuant to this code while on any property that is subject to an agreement
25 under the SHARE program established under Title 7 (commencing with Section
26 56200) of Part 2 of Division 15.

27 **Comment.** Section 6054 continues former Fish and Game Code Section 1574(a) without
28 substantive change.

29 **TITLE 16. PROTECTED AND MANAGED AREAS**

30 **§ 6100. Violation of specific regulations**

31 6100. Notwithstanding Section 4400, a person who violates any of the following
32 regulations in Title 14 of the California Code of Regulations is guilty of an
33 infraction punishable by a fine of not less than one hundred dollars (\$100) and not
34 to exceed one thousand dollars (\$1,000), or of a misdemeanor:

35 (a) Section 630.

36 (b) Section 632, except if any of the following apply:

37 (1) The person who violates the regulation holds a commercial fishing license
38 issued pursuant to Section 14500.

1 (2) The person who violates the regulation is operating a boat or vessel licensed
2 pursuant to Title 12 (commencing with Section 12900) of Part 6 of Division 6 at
3 the time of the violation.

4 (3) The violation of the regulation occurred within two years of a prior violation
5 of the regulation that resulted in a conviction.

6 (c) Except as provided in Section 6104, a person described in paragraph (1) or
7 (2) of subdivision (b) who violates Section 632 of Title 14 of the California Code
8 of Regulations is guilty of a misdemeanor punishable pursuant to Sections 4400
9 and 4415.

10 **Comment.** Section 6100 continues former Fish and Game Code Section 12000(b)(11)-(12)
11 without substantive change.

12 **Note.** Proposed Section 6100(b)(2) and (c) would continue Section 12000(b)(12)(A), which
13 was amended by 2018 Cal. Stat. ch. 189. Although that bill will not take effect until 2019, it is
14 included here in anticipation of its effect.

15 **§ 6102. Prohibited conduct in refuges**

16 6102. The punishment for a violation of Section 58550, 58700, 59500, 59600,
17 60200, or 60300 is a fine of not more than two thousand dollars (\$2,000),
18 imprisonment in a county jail for not more than one year, or both the fine and
19 imprisonment.

20 **Comment.** Section 6102 continues former Fish and Game Code Section 12002(b)(6) without
21 substantive change.

22 **§ 6104. Unlawful take in marine protected area**

23 6104. (a) Notwithstanding Section 4400 or any other provision of this code, a
24 person who holds a commercial fishing license issued pursuant to Section 14500,
25 or is operating a commercial passenger fishing boat licensed pursuant to Title 12
26 (commencing with Section 21900) of Part 6 of Division 6, and, for commercial
27 purposes, either unlawfully takes a fish, within any meaning provided in Section
28 535, within a marine protected area, as defined in Section 60410, or engages in, or
29 knowingly facilitates another person's, fishing activity within the marine protected
30 area, is guilty of a misdemeanor punishable by a fine of not less than five thousand
31 dollars (\$5,000) nor more than forty thousand dollars (\$40,000), or imprisonment
32 in the county jail for not more than one year, or by both that fine and
33 imprisonment.

34 (b) If a person is convicted of a second or subsequent violation that is punishable
35 pursuant to subdivision (a) and the violation occurred within 10 years of a prior
36 violation that is punishable pursuant to subdivision (a) that resulted in a
37 conviction, the department may suspend that person's license described in
38 subdivision (a), as applicable, or other privilege issued pursuant to this code, and
39 that person shall be punished by a fine of not less than ten thousand dollars
40 (\$10,000) nor more than fifty thousand dollars (\$50,000), or imprisonment in the
41 county jail for not more than one year, or by both that fine and imprisonment.

1 (c) A person whose license or other privilege is suspended pursuant to this
2 section may appeal the suspension to the commission. The commission shall
3 initiate the appeal process within 12 months of the violator's appeal request. The
4 commission shall consider at least the nature, circumstances, extent, and gravity of
5 the person's violations, the person's culpability for the violations, and the injury to
6 natural resources by the violations, and may restore a person's license or other
7 privileges.

8 (d) Notwithstanding Section 802 of the Penal Code, prosecution of an offense
9 punishable under this section shall be commenced within three years after
10 commission of the offense.

11 **Comment.** Section 6104 continues former Fish and Game Code Section 12012.5 without
12 substantive change.

13  **Note.** Proposed Section 6104 would continue Section 12012.5, which was added by 2018
14 Cal. Stat. ch. 189. Although that bill will not take effect until 2019, it is included here in
15 anticipation of its effect.

16 TITLE 17. ACTIVITIES THAT AFFECT
17 WILDLIFE

18 CHAPTER 1. ENDANGERED SPECIES AND OTHER PROTECTED
19 WILDLIFE

20 **§ 6200. Forfeiture of proceeds from take of endangered, threatened, or protected animals**

21 6200. The judge before whom any person is tried for a violation of a provision
22 of this code that prohibits the taking of any endangered species, threatened
23 species, or fully protected bird, mammal, reptile, amphibian, or fish may, in the
24 court's discretion and upon the conviction of that person, order the forfeiture of
25 any proceeds resulting from the taking of the endangered species, threatened
26 species, or fully protected bird, mammal, reptile, amphibian, or fish.

27 **Comment.** Section 6200 continues former Fish and Game Code Section 12159.5 without
28 substantive change.

29 **§ 6202. Violation of California Endangered Species Act**

30 6202. Except as otherwise provided in Section 597 of the Penal Code, the
31 punishment for a violation of any provision of Part 1 (commencing with Section
32 62000) of Division 17 is a fine of not more than five thousand dollars (\$5,000) or
33 imprisonment in the county jail for not more than one year, or both the fine and
34 imprisonment.

35 **Comment.** Section 6202 continues former Fish and Game Code Section 12008(a) without
36 substantive change.

1 § 6204. Violation of specified provisions

2 6204. (a) Notwithstanding Section 4400 or 6202, the punishment for any
3 violation of Section 62600 or 62605 is a fine of not less than twenty-five thousand
4 dollars (\$25,000) or more than fifty thousand dollars (\$50,000) for each violation
5 or imprisonment in the county jail for not more than one year, or by both that fine
6 and imprisonment.

7 **Comment.** Section 6204 continues former Fish and Game Code Section 12008.1(a) without
8 substantive change.

9  **Note.** Existing Section 12008.1 begins with the disclaimer, “Notwithstanding Section
10 12002....” The only provision of Section 12002 that appears to be relevant to the purpose of that
11 reference is Section 12002(a). Proposed Section 6204 would refer to the section that continues
12 Section 12002(a). **The Commission invites Comment on whether that revision would be**
13 **problematic.**

14 § 6206. Deposit of fines and forfeitures

15 6206. Notwithstanding any other law, the moneys collected from any fine or
16 forfeiture imposed or collected for violating Part 1 (commencing with Section
17 62000) of Division 17 shall be deposited as follows:

18 (a) One-half in the Endangered Species Permitting Account established pursuant
19 to Section 63635.

20 (b) One-half in the county treasury of the county in which the violation
21 occurred. The board of supervisors shall first use revenues pursuant to this section
22 to reimburse the costs incurred by the district attorney or city attorney in
23 investigating and prosecuting the violation. Any excess revenues may be expended
24 in accordance with Section 67525.

25 **Comment.** Section 6206 continues former Fish and Game Code Section 12008.1(b) without
26 substantive change.

27 CHAPTER 2. PLANNING AND MITIGATION

28 § 6250. Nonpayment of CEQA fee

29 6250. Notwithstanding Section 4400, failure to pay the fee under Section 66215
30 is not a misdemeanor.

31 **Comment.** Section 6250 continues the first sentence of former Fish and Game Code Section
32 711.4(f) without substantive change.

33  **Note.** Existing Section 711.4(f) begins with the disclaimer, “Notwithstanding Section
34 12000....” The only provision of Section 12000 that appears to be relevant to the purpose of that
35 reference is Section 12000(a). Proposed Section 6250 would refer to the section that continues
36 Section 12000(a). **The Commission invites Comment on whether that revision would be**
37 **problematic.**

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CHAPTER 3. WATER POLLUTION

Article 1. Criminal Enforcement

§ 6300. Base penalty

6300. The punishment for a violation of subdivisions (a) or (b) of Section 66500 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

Comment. Section 6300 continues former Fish and Game Code Section 12002(b)(4) without substantive change.

§ 6302. Additional penalty

6302. (a) In addition to the penalty provided in Section 6300, any person convicted of a violation of Section 66500 is subject to an additional fine of all of the following:

(1) Not more than ten dollars (\$10) for each gallon or pound of material discharged. The amount of the fine shall be reduced for every gallon or pound of the illegally discharged material that is recovered and properly disposed of by the responsible party.

(2) An amount equal to the reasonable costs incurred by the state or local agency for cleanup and abatement and to fully mitigate all actual damages to fish, plant, bird, or animal life and habitat.

(3) Where the state or local agency is required to undertake cleanup or remedial action because the responsible person refuses or is unable to fully clean up the discharge, an amount equal to the reasonable costs incurred by the state or local agency, in addition to the amount of funds, if any, expended by the responsible person, in cleaning up the illegally discharged material or abating its effects, or both cleaning up and abating those effects.

(b) Notwithstanding the jurisdiction of the department over illegal discharges and pollution as provided in Article 1 (commencing with Section 66500) of Chapter 1, the fines specified in this section do not apply to discharges in compliance with a national pollution discharge elimination system permit or a state or regional board waste discharge permit.

Comment. Section 6302 continues former Fish and Game Code Section 12011 without substantive change.

Article 2. Civil Enforcement

§ 6320. Civil penalty for water pollution

6320. (a) A person who violates Article 1 (commencing with Section 66500) of Chapter 1 of Title 1 of Part 3 of Division 17 is subject to a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each violation.

1 (b) The civil penalty imposed for each separate violation pursuant to this article
2 is separate, and in addition to, any other civil penalty imposed for a separate
3 violation pursuant to this article or any other provision of law, except as provided
4 in Section 6324.

5 (c) In determining the amount of a civil penalty imposed pursuant to this article,
6 the court shall take into consideration all relevant circumstances, including, but
7 not limited to, the nature, circumstance, extent, and gravity of the violation. In
8 making this determination, the court shall consider the degree of toxicity and
9 volume of the discharge, the extent of harm caused by the violation, whether the
10 effects of the violation may be reversed or mitigated, and with respect to the
11 defendant, the ability to pay, the effect of any civil penalty on the ability to
12 continue in business, any voluntary cleanup efforts undertaken, any prior history
13 of violations, the gravity of the behavior, the economic benefit, if any, resulting
14 from the violation, and any other matters the court determines justice may require.

15 **Comment.** Section 6320 continues former Fish and Game Code Section 5650.1(a)-(c) without
16 substantive change.

17 **§ 6322. Additional penalty based on volume of discharge**

18 6322. Except as provided in Section 6324, in addition to any other penalty
19 provided by law, a person who violates Article 1 (commencing with Section
20 66500) of Chapter 1 of Title 1 of Part 3 of Division 17 is subject to a civil penalty
21 of not more than ten dollars (\$10) for each gallon or pound of material discharged.
22 The total amount of the civil penalty shall be reduced for every gallon or pound of
23 the illegally discharged material that is recovered and properly disposed of by the
24 responsible party.

25 **Comment.** Section 6322 continues former Fish and Game Code Section 5650.1(i) without
26 substantive change.

27 **§ 6324. Limitation on application of civil penalty**

28 6324. A person shall not be subject to a civil penalty imposed under this article
29 and to a civil penalty imposed pursuant to Article 9 (commencing with Section
30 8670.57) of Chapter 7.4 of Division 1 of Title 2 of the Government Code for the
31 same act or failure to act.

32 **Comment.** Section 6324 continues former Fish and Game Code Section 5650.1(j) without
33 substantive change.

34 **§ 6326. Apportionment of penalty**

35 6326. All civil penalties collected pursuant to this article shall not be considered
36 fines or forfeitures as defined in Section 3610 and shall be apportioned in the
37 following manner:

38 (a) Fifty percent shall be distributed to the county treasurer of the county in
39 which the action is prosecuted. Amounts paid to the county treasurer shall be

1 deposited in the county fish and wildlife propagation fund established pursuant to
2 Section 3900.

3 (b) Fifty percent shall be distributed to the department for deposit in the Fish and
4 Game Preservation Fund. These funds may be expended to cover the costs of legal
5 actions or for any other law enforcement purpose consistent with Section 9 of
6 Article XVI of the California Constitution.

7 **Comment.** Section 6326 continues former Fish and Game Code Section 5650.1(h) without
8 substantive change.

9 **§ 6328. Civil action**

10 6328. (a) Every civil action brought under this article shall be brought by the
11 Attorney General upon complaint by the department, or by the district attorney or
12 city attorney in the name of the people of the State of California, and any actions
13 relating to the same violation may be joined or consolidated.

14 (b) In a civil action brought pursuant to this article in which a temporary
15 restraining order, preliminary injunction, or permanent injunction is sought, it is
16 not necessary to allege or prove at any stage of the proceeding that irreparable
17 damage will occur if the temporary restraining order, preliminary injunction, or
18 permanent injunction is not issued, or that the remedy at law is inadequate.

19 (c) After the party seeking the injunction has met its burden of proof, the court
20 shall determine whether to issue a temporary restraining order, preliminary
21 injunction, or permanent injunction without requiring the defendant to prove that it
22 will suffer grave or irreparable harm. The court shall make the determination
23 whether to issue a temporary restraining order, preliminary injunction, or
24 permanent injunction by taking into consideration, among other things, the nature,
25 circumstance, extent, and gravity of the violation, the quantity and characteristics
26 of the substance or material involved, the extent of environmental harm caused by
27 the violation, measures taken by the defendant to remedy the violation, the relative
28 likelihood that the material or substance involved may pass into waters of the
29 state, and the harm likely to be caused to the defendant.

30 (d) The court, to the maximum extent possible, shall tailor a temporary
31 restraining order, preliminary injunction, or permanent injunction narrowly to
32 address the violation in a manner that will otherwise allow the defendant to
33 continue business operations in a lawful manner.

34 **Comment.** Section 6328 continues former Fish and Game Code Section 5650.1(d)-(g) without
35 substantive change.

36 **Note.** Existing Section 5650.1 authorizes the imposition of a civil penalty, in a civil action,
37 for a violation of existing Section 5650 (proposed Section 66500). Existing Section 5650.1(e)
38 provides special rules for injunctive relief in a civil action brought pursuant to “this chapter.”
39 Given that Section 5650.1 appears to address only a violation of Section 5650, the reference to
40 “this chapter” appears to be erroneously overbroad. In proposed Section 6328, the reference has
41 been narrowed to “this article.” **The Commission invites comment on whether that revision**
42 **would cause any problems.**

1 CHAPTER 4. WATER OBSTRUCTION AND DIVERSION

2 Article 1. Streambed Alteration

3 § 6350. Streambed alteration

4 6350. Notwithstanding Section 4400, the punishment for a second or subsequent
5 violation of Section 69750 or Article 3 (commencing with Section 69850) of
6 Chapter 2 of Title 3 of Part 4 of Division 17, on the same project or streambed
7 alteration agreement, is a fine of not more than five thousand dollars (\$5,000) or
8 imprisonment in the county jail for a period not to exceed one year, or both the
9 fine and imprisonment.

10 **Comment.** Section 6350 continues the part of former Fish and Game Code Section 12007 that
11 applies to Sections 1602 and 1605, without substantive change.

12 **Notes.** (1) Existing Section 12007 begins with the disclaimer, “Notwithstanding Section
13 12002...” The only provision of Section 12002 that appears to be relevant to the purpose of that
14 reference is Section 12002(a). Proposed Section 6350 would refer to the section that continues
15 Section 12002(a). **The Commission invites Comment on whether that revision would be**
16 **problematic.**

17 (2) Existing Section 12007 refers to a “violation of Section 1602.” Proposed Section 70165
18 would narrow that cross-reference to the part of Section 1602 that appears to be relevant to the
19 purpose of the reference (i.e., proposed Section 69795). **The Commission invites comment on**
20 **whether that revision would cause any problems.**

21 § 6352. Civil penalty

22 6352. (a) An entity that violates Title 3 (commencing with Section 69700) of
23 Part 4 of Division 17 is subject to a civil penalty of not more than twenty-five
24 thousand dollars (\$25,000) for each violation.

25 (b) The civil penalty imposed pursuant to subdivision (a) is separate from, and in
26 addition to, any other civil penalty imposed pursuant to this section or any other
27 provision of the law.

28 (c) In determining the amount of any civil penalty imposed pursuant to this
29 section, the court shall take into consideration all relevant circumstances,
30 including, but not limited to, the nature, circumstance, extent, and gravity of the
31 violation. In making this determination, the court may consider the degree of
32 toxicity and volume of the discharge, the extent of harm caused by the violation,
33 whether the effects of the violation may be reversed or mitigated, and, with respect
34 to the defendant, the ability to pay, the effect of any civil penalty on the ability to
35 continue in business, any voluntary cleanup efforts undertaken, any prior history
36 of violations, the gravity of the behavior, the economic benefit, if any, resulting
37 from the violation, and any other matters the court determines that justice may
38 require.

39 **Comment.** Section 6352 continues former Fish and Game Code Section 1615(a)-(c) without
40 substantive change.

1 **§ 6354. Civil action**

2 6354. (a) Every civil action brought under Section 6352 shall be brought by the
3 Attorney General upon complaint by the department, or by the district attorney or
4 city attorney in the name of the people of the State of California, and any actions
5 relating to the same violation may be joined or consolidated.

6 (b) In any civil action brought pursuant to this title in which a temporary
7 restraining order, preliminary injunction, or permanent injunction is sought, it is
8 not necessary to allege or prove at any stage of the proceeding any of the
9 following:

10 (1) That irreparable damage will occur if the temporary restraining order,
11 preliminary injunction, or permanent injunction is not issued.

12 (2) That the remedy at law is inadequate.

13 (c) The court shall issue a temporary restraining order, preliminary injunction, or
14 permanent injunction in a civil action brought pursuant to this title without the
15 allegations and without the proof specified in subdivision (b).

16 **Comment.** Section 6354 continues former Fish and Game Code Section 1615(d)-(e) without
17 substantive change.

18 **§ 6356. Apportionment of civil penalties**

19 6356. All civil penalties collected pursuant to Section 6352 shall not be
20 considered fines or forfeitures as defined in Section 3610, and shall be apportioned
21 in the following manner:

22 (a) Fifty percent shall be distributed to the county treasurer of the county in
23 which the action is prosecuted. Amounts paid to the county treasurer shall be
24 deposited in the county fish and wildlife propagation fund established pursuant to
25 Section 3900.

26 (b) Fifty percent shall be distributed to the department for deposit in the Fish and
27 Game Preservation Fund. These funds may be expended to cover the costs of any
28 legal actions or for any other law enforcement purpose consistent with Section 9
29 of Article XVI of the California Constitution.

30 **Comment.** Section 6356 continues former Fish and Game Code Section 1615(f) without
31 substantive change.

32 Article 2. Obstruction in Districts 2505, 2510, 2515, 2525, 2530,
33 2535, 2540, 2545, 2550, 2555, 2560, 2565, 2595, 2600, 2605, 2660,
34 and 2665

35 **§ 6380. Civil penalty**

36 6380. (a) In addition to any penalties imposed by any other law, a person found
37 to have violated Section 68105 shall be liable for a civil penalty of not more than
38 eight thousand dollars (\$8,000) for each violation.

1 (b) Each day that a violation of Section 68105 occurs or continues without a
2 good faith effort by the person to cure the violation after receiving notice from the
3 department shall constitute a separate violation.

4 **Comment.** Section 6380 continues former Fish and Game Code Section 12025.1(a) without
5 substantive change.

6 **§ 6382. Civil penalties are not fines or forfeitures**

7 6382. All civil penalties imposed or collected by a court for a separate violation
8 pursuant to this article shall not be considered to be fines or forfeitures, as
9 described in Section 3610.

10 **Comment.** Section 6382 continues the first parts of former Fish and Game Code Section
11 12025.1(b) & (c) without substantive change.

12 **§ 6384. Apportionment of civil penalty for violation connected to cultivation of controlled**
13 **substance**

14 6384. All civil penalties imposed or collected by a court for a separate violation
15 pursuant to this article, in connection with the production or cultivation of a
16 controlled substance, shall be apportioned in the manner described in Section
17 6558.

18 **Comment.** Section 6384 continues the second part of former Fish and Game Code Section
19 12025.1(b) without substantive change.

20 **§ 6386. Apportionment of civil penalty for violation unconnected to cultivation of controlled**
21 **substance**

22 6386. All civil penalties imposed or collected by a court for a separate violation
23 pursuant to this article, not in connection with the production or cultivation of a
24 controlled substance, shall be apportioned in the following manner:

25 (a) Thirty percent shall be distributed to the county in which the violation was
26 committed pursuant to Section 13003. The county board of supervisors shall first
27 use any revenues from those penalties to reimburse the costs incurred by the
28 district attorney or city attorney in investigating and prosecuting the violation.

29 (b) (1) Thirty percent shall be distributed to the investigating agency to be used
30 to reimburse the cost of any investigation directly related to the violations
31 described in this article.

32 (2) If the department receives reimbursement pursuant to this subdivision for
33 activities funded pursuant to subdivision (f) of Section 4629.6 of the Public
34 Resources Code, the reimbursement funds shall be deposited into the Timber
35 Regulation and Forest Restoration Fund, created by Section 4629.3 of the Public
36 Resources Code, if there is an unpaid balance for a loan authorized by subdivision
37 (f) of Section 4629.6 of the Public Resources Code.

38 (c) Forty percent shall be deposited into the Fish and Game Preservation Fund.

39 **Comment.** Section 6386 continues the second part of former Fish and Game Code Section
40 12025.1(c) without substantive change.

1 **§ 6388. Administrative penalty**

2 6388. (a) Civil penalties authorized pursuant to Section 6380 may be imposed
3 administratively by the department according to the procedures described in
4 paragraphs (1) through (4), inclusive, of subdivision (a) of Section 6560.

5 (b) The department shall adopt emergency regulations to implement this section
6 in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing
7 with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).
8 The adoption of these regulations shall be deemed to be an emergency and
9 necessary for the immediate preservation of the public peace, health and safety, or
10 general welfare.

11 **Comment.** Section 6388 continues former Fish and Game Code Section 12025.1(d) without
12 substantive change.

13 **§ 6390. Administrative penalties are not fines or forfeitures**

14 6390. All administrative penalties imposed or collected by the department for a
15 separate violation pursuant to this article shall not be considered to be fines or
16 forfeitures, as described in Section 3610.

17 **Comment.** Section 6390 continues the first parts of former Fish and Game Code Section
18 12025.1(e) & (f) without substantive change.

19 **§ 6392. Apportionment of administrative penalty for violation connected to cultivation of**
20 **controlled substance**

21 6392. All administrative penalties imposed or collected by the department for a
22 separate violation pursuant to this article, in connection with the production or
23 cultivation of a controlled substance, shall be deposited according the provisions
24 of subdivisions (b) and (c) of Section 6560.

25 **Comment.** Section 6392 continues the second part of former Fish and Game Code Section
26 12025.1(e) without substantive change.

27 **§ 6394. Apportionment of administrative penalty for violation unconnected to cultivation of**
28 **controlled substance**

29 6394. (a) All administrative penalties imposed or collected by the department for
30 a separate violation pursuant to this article, not in connection with the production
31 or cultivation of a controlled substance, shall be deposited into the Timber
32 Regulation and Forest Restoration Fund, created by Section 4629.3 of the Public
33 Resources Code, to repay any unpaid balance of a loan authorized by subdivision
34 (f) of Section 4629.6 of the Public Resources Code.

35 (b) Any remaining funds from administrative penalties collected pursuant to this
36 section shall be apportioned in the following manner:

37 (1) Fifty percent shall be deposited into the Fish and Game Preservation Fund.

38 (2) Fifty percent shall be deposited into the Timber Regulation and Forest
39 Restoration Fund for grants authorized pursuant to subdivision (h) of Section
40 4629.6 of the Public Resources Code.

1 **Comment.** Section 6394 continues the second part of former Fish and Game Code Section
2 12025.1(f) without substantive change.

3 **§ 6396. Definition of “controlled substance”**

4 6396. For purposes of this article, “controlled substance” has the same meaning
5 as defined in Section 11007 of the Health and Safety Code.

6 **Comment.** Section 6396 continues former Fish and Game Code Section 12025.1(g) without
7 substantive change.

8 Article 3. Obstruction in District 2520

9 **§ 6410. Obstruction of Klamath River**

10 6410. (a) Every person, firm, corporation, or company that violates Section
11 69250 is guilty of a misdemeanor.

12 (b) The penalty for a violation of Section 69250 is a fine of not less than one
13 thousand dollars (\$1,000), imprisonment in county jail for not less than 100 days,
14 or both that fine and imprisonment.

15 **Comment.** Section 6410 continues part of the fourth paragraph of former Fish and Game Code
16 Section 11036 without substantive change.

17 CHAPTER 5. MINING

18 **§ 6500. Vacuum or suction dredging**

19 6500. If a person uses vacuum or suction dredge equipment other than as
20 authorized by a permit issued by the department consistent with regulations
21 adopted pursuant to Section 71010, that person is guilty of a misdemeanor.

22 **Comment.** Section 6500 continues the third sentence of former Fish and Game Code Section
23 5653(c) without substantive change.

24 **Note.** Existing Section 5653(c) refers to “regulations implementing this section.” Proposed
25 Section 6500 would revise the reference to refer to “regulations adopted pursuant to Section
26 71010.” This would parallel the scope of the regulations incorporated in existing Section 5653(a)
27 (proposed Section 71050), the provision that establishes the underlying prohibition at issue in
28 Section 5653(c). **The Commission believes that this would be a rational harmonization of the**
29 **two provisions, but invites comment on whether it would cause any problems.**

30 CHAPTER 6. CULTIVATION OR PRODUCTION OF CONTROLLED
31 SUBSTANCE

32 **§ 6550. “Controlled substance” defined**

33 6550. For purposes of this chapter, “controlled substance” has the same meaning
34 as defined in Section 11007 of the Health and Safety Code.

35 **Comment.** Section 6550 continues former Fish and Game Code Section 12025(h) without
36 substantive change.

1 **§ 6552. Cultivation or production of controlled substance on public land**

2 6552. In addition to any penalties imposed by any other law, a person found to
3 have violated the code sections described in subdivisions (a) to (k), inclusive, in
4 connection with the production or cultivation of a controlled substance on land
5 under the management of the Department of Parks and Recreation, the Department
6 of Fish and Wildlife, the Department of Forestry and Fire Protection, the State
7 Lands Commission, a regional park district, the United States Forest Service, or
8 the United States Bureau of Land Management, or within the respective ownership
9 of a timberland production zone, as defined in Chapter 6.7 (commencing with
10 Section 51100) of Part 1 of Division 1 of Title 5 of the Government Code, of more
11 than 50,000 acres, or while trespassing on other public or private land in
12 connection with the production or cultivation of a controlled substance, shall be
13 liable for a civil penalty as follows:

14 (a) A person who violates Section 69750 in connection with the production or
15 cultivation of a controlled substance is subject to a civil penalty of not more than
16 ten thousand dollars (\$10,000) for each violation.

17 (b) A person who violates Section 66500 in connection with the production or
18 cultivation of a controlled substance is subject to a civil penalty of not more than
19 forty thousand dollars (\$40,000) for each violation.

20 (c) A person who violates Section 66525 in connection with the production or
21 cultivation of a controlled substance is subject to a civil penalty of not more than
22 forty thousand dollars (\$40,000) for each violation.

23 (d) A person who violates subdivision (a) of Section 374.3 of the Penal Code in
24 connection with the production or cultivation of a controlled substance is subject
25 to a civil penalty of not more than forty thousand dollars (\$40,000) for each
26 violation.

27 (e) A person who violates paragraph (1) of subdivision (h) of Section 374.3 of
28 the Penal Code in connection with the production or cultivation of a controlled
29 substance is subject to a civil penalty of not more than forty thousand dollars
30 (\$40,000) for each violation.

31 (f) A person who violates subdivision (b) of Section 374.8 of the Penal Code in
32 connection with the production or cultivation of a controlled substance is subject
33 to a civil penalty of not more than forty thousand dollars (\$40,000) for each
34 violation.

35 (g) A person who violates Section 384a of the Penal Code in connection with the
36 production or cultivation of a controlled substance is subject to a civil penalty of
37 not more than ten thousand dollars (\$10,000) for each violation.

38 (h) A person who violates subdivision (a) of Section 4571 of the Public
39 Resources Code in connection with the production or cultivation of a controlled
40 substance is subject to a civil penalty of not more than ten thousand dollars
41 (\$10,000) for each violation.

42 (i) A person who violates Section 4581 of the Public Resources Code in
43 connection with the production or cultivation of a controlled substance is subject

1 to a civil penalty of not more than ten thousand dollars (\$10,000) for each
2 violation.

3 (j) A person who violates Section 8000 in connection with the production or
4 cultivation of a controlled substance is subject to a civil penalty of not more than
5 ten thousand dollars (\$10,000) for each violation.

6 (k) A person who violates Section 8010 in connection with the production or
7 cultivation of a controlled substance is subject to a civil penalty of not more than
8 ten thousand dollars (\$10,000) for each violation.

9 **Comment.** Section 6552 continues former Fish and Game Code Section 12025(a) without
10 substantive change.

11 **§ 6554. Cultivation or production of controlled substance on other land**

12 6554. (a) In addition to any penalties imposed by any other law, a person found
13 to have violated the code sections described in this section in connection with the
14 production or cultivation of a controlled substance on land that the person owns,
15 leases, or otherwise uses or occupies with the consent of the landowner shall be
16 liable for a civil penalty as follows:

17 (1) A person who violates Section 69750 in connection with the production or
18 cultivation of a controlled substance is subject to a civil penalty of not more than
19 eight thousand dollars (\$8,000) for each violation.

20 (2) A person who violates Section 66500 in connection with the production or
21 cultivation of a controlled substance is subject to a civil penalty of not more than
22 twenty thousand dollars (\$20,000) for each violation.

23 (3) A person who violates Section 66525 in connection with the production or
24 cultivation of a controlled substance is subject to a civil penalty of not more than
25 twenty thousand dollars (\$20,000) for each violation.

26 (4) A person who violates subdivision (a) of Section 374.3 of the Penal Code in
27 connection with the production or cultivation of a controlled substance is subject
28 to a civil penalty of not more than twenty thousand dollars (\$20,000) for each
29 violation.

30 (5) A person who violates paragraph (1) of subdivision (h) of Section 374.3 of
31 the Penal Code in connection with the production or cultivation of a controlled
32 substance is subject to a civil penalty of not more than twenty thousand dollars
33 (\$20,000) for each violation.

34 (6) A person who violates subdivision (b) of Section 374.8 of the Penal Code in
35 connection with the production or cultivation of a controlled substance is subject
36 to a civil penalty of not more than twenty thousand dollars (\$20,000) for each
37 violation.

38 (7) A person who violates Section 384a of the Penal Code in connection with the
39 production or cultivation of a controlled substance is subject to a civil penalty of
40 not more than ten thousand dollars (\$10,000) for each violation.

41 (8) A person who violates subdivision (a) of Section 4571 of the Public
42 Resources Code in connection with the production or cultivation of a controlled

1 substance is subject to a civil penalty of not more than eight thousand dollars
2 (\$8,000) for each violation.

3 (9) A person who violates Section 4581 of the Public Resources Code in
4 connection with the production or cultivation of a controlled substance is subject
5 to a civil penalty of not more than eight thousand dollars (\$8,000) for each
6 violation.

7 (10) A person who violates Section 8000 in connection with the production or
8 cultivation of a controlled substance is subject to a civil penalty of not more than
9 eight thousand dollars (\$8,000) for each violation.

10 (11) A person who violates Section 8010 in connection with the production or
11 cultivation of a controlled substance is subject to a civil penalty of not more than
12 eight thousand dollars (\$8,000) for each violation.

13 (b) Each day that a violation of a code section described in this section occurs or
14 continues to occur shall constitute a separate violation.

15 **Comment.** Section 6554 continues former Fish and Game Code Section 12025(b) without
16 substantive change.

17 **§ 6556. Consideration of civil penalty in conjunction with other penalties**

18 6556. (a) A civil penalty imposed for each separate violation pursuant to this
19 chapter is in addition to any other civil penalty imposed for another violation of
20 this chapter, or any violation of any other law.

21 (b) A civil penalty imposed or collected by a court for a separate violation
22 pursuant to this chapter shall not be considered to be a fine or forfeiture, as
23 described in Section 3610.

24 (c) A civil penalty imposed pursuant to this chapter for the violation of an
25 offense described in subdivision (d), (e), or (f) of Section 6552 or paragraphs (4),
26 (5), or (6) of subdivision (a) of Section 6554, for which the person was convicted,
27 shall be offset by the amount of any restitution ordered by a criminal court.

28 **Comment.** Subdivision (a) of Section 6556 continues former Fish and Game Code Section
29 12025(c) without substantive change.

30 Subdivision (b) continues the first part of former Fish and Game Code Section 12025(d)
31 without substantive change.

32 Subdivision (c) continues former Fish and Game Code Section 12025(g) without substantive
33 change.

34 **§ 6558. Apportionment of penalty**

35 6558. A civil penalty imposed or collected by a court for a separate violation
36 pursuant to this chapter shall be apportioned in the following manner:

37 (a) Thirty percent shall be distributed to the county in which the violation was
38 committed, pursuant to Section 3610. The county board of supervisors shall first
39 use any revenues from those penalties to reimburse the costs incurred by the
40 district attorney or city attorney in investigating and prosecuting the violation.

1 (b) (1) Thirty percent shall be distributed to the investigating agency to be used
2 to reimburse the cost of any investigation directly related to the violations
3 described in this chapter.

4 (2) If the department receives reimbursement pursuant to this subdivision for
5 activities funded pursuant to subdivision (f) of Section 4629.6 of the Public
6 Resources Code, the reimbursement funds shall be deposited into the Timber
7 Regulation and Forest Restoration Fund, created by Section 4629.3 of the Public
8 Resources Code, if there is an unpaid balance for a loan authorized by subdivision
9 (f) of Section 4629.6 of the Public Resources Code.

10 (c) Forty percent shall be deposited into the Timber Regulation and Forest
11 Restoration Fund, created by Section 4629.3 of the Public Resources Code, and
12 used for grants authorized pursuant to Section 4629.6 of the Public Resources
13 Code that improve forest health by remediating former marijuana growing
14 operations.

15 **Comment.** Section 6558 continues former Fish and Game Code Section 12025(d) without
16 substantive change.

17 **§ 6560. Imposition of administrative penalty by Department of Fish and Wildlife**

18 6560. (a) A civil penalty authorized pursuant to this chapter may be imposed
19 administratively by the department, if all of the following occur:

20 (1) The chief deputy director or law enforcement division assistant chief in
21 charge of marijuana-related enforcement issues a complaint to any person or entity
22 on which a civil penalty may be imposed pursuant to this chapter. The complaint
23 shall allege the act or failure to act that constitutes a violation, any facts related to
24 natural resources impacts, the provision of law authorizing an administrative
25 penalty to be imposed, and the proposed penalty amount.

26 (2) The complaint and order is served by personal notice or certified mail and
27 informs the party served that the party may request a hearing not later than 20 days
28 from the date of service. If a hearing is requested, it shall be scheduled before the
29 director or his or her designee, which designee shall not be the chief deputy or
30 assistant chief issuing the complaint and order. A request for a hearing shall
31 contain a brief statement of the material facts the party claims support his or her
32 contention that no administrative penalty should be imposed or that an
33 administrative penalty of a lesser amount is warranted. A party served with a
34 complaint pursuant to this subdivision waives his or her right to a hearing if a
35 hearing is not requested within 20 days of service of the complaint, in which case
36 the order imposing the administrative penalty shall become final.

37 (3) The director, or his or her designee, shall control the nature and order of
38 hearing proceedings. Hearings shall be informal in nature, and need not be
39 conducted according to the technical rules relating to evidence. The director or his
40 or her designee shall issue a final order within 45 days of the close of the hearing.
41 A copy of the final order shall be served by certified mail upon the party served
42 with the complaint.

1 (4) A party may obtain review of the final order by filing a petition for a writ of
2 mandate with the superior court within 30 days of the date of service of the final
3 order. The administrative penalty shall be due and payable to the department
4 within 60 days after the time to seek judicial review has expired, or, where the
5 party did not request a hearing of the order, within 20 days after the order
6 imposing an administrative penalty becomes final.

7 (5) The department may adopt regulations to implement this subdivision.

8 (d) All administrative penalties imposed or collected by the department for a
9 separate violation pursuant to this chapter shall not be considered to be fines or
10 forfeitures, as described in Section 3610.

11 (e) All administrative penalties imposed or collected by the department for a
12 separate violation pursuant to this chapter shall be deposited into the Timber
13 Regulation and Forest Restoration Fund, created by Section 4629.3 of the Public
14 Resources Code, to repay any unpaid balance of a loan authorized by subdivision
15 (f) of Section 4629.6 of the Public Resources Code. Any remaining funds from
16 administrative penalties collected pursuant to this chapter shall be apportioned in
17 the following manner:

18 (1) Fifty percent shall be deposited into the Timber Regulation and Forest
19 Restoration Fund for grants authorized pursuant to subdivision (h) of Section
20 4629.6 of the Public Resources Code, with priority given to grants that improve
21 forest health by remediating former marijuana growing operations.

22 (2) Fifty percent shall be deposited into the Fish and Game Preservation Fund.

23 **Comment.** Section 6560 continues former Fish and Game Code Section 12025(e) and (f)
24 without substantive change.

25 DIVISION 4. INTER-JURISDICTIONAL AGREEMENTS

26 PART 1. UNITED STATES

27 TITLE 1. ACCEPTANCE OF FEDERAL ACTS

28 § 7200. Assent to Public Law 415, 75th Congress

29 7200. The State of California hereby assents to the provisions of the act of
30 Congress entitled “An act to provide that the United States shall aid the states in
31 wildlife-restoration projects, and for other purposes,” approved September 2, 1937
32 (Public Law 415, 75th Congress). The department, with the approval of the
33 commission, shall perform any acts needed to conduct or establish cooperative
34 wildlife-restoration projects, as defined in that act of Congress, in compliance with
35 that act and rules and regulations adopted under that act, and funds accruing to the
36 State of California from license fees paid by hunters shall not be diverted for a
37 purpose other than the administration of the department and the protection,
38 propagation, preservation, and investigation of fish and wildlife.

1 **Comment.** Section 7200 continues former Fish and Game Code Section 400 without
2 substantive change.

3 **§ 7205. Assent to Public Law 681, 81st Congress**

4 7205. The State of California hereby assents to the provisions of the act of
5 Congress entitled “An act to provide that the United States shall aid the states in
6 fish restoration and management projects, and for other purposes,” approved
7 August 9, 1950 (Public Law 681, 81st Congress). The department, with the
8 approval of the commission, may perform any acts needed to conduct or establish
9 cooperative fish restoration projects, as defined in that act of Congress, in
10 compliance with that act and rules and regulations adopted under that act, and
11 funds accruing to the State of California from license fees paid by fishermen shall
12 not be diverted for a purpose other than the administration of the department and
13 the protection, propagation, preservation, and investigation of fish and wildlife.

14 **Comment.** Section 7205 continues former Fish and Game Code Section 401 without
15 substantive change.

16 **TITLE 2. MANAGEMENT OF FISH AND**
17 **WILDLIFE ON MILITARY LANDS**

18 **§ 7210. Statement of policy**

19 7210. It is the policy of the state to actively encourage the biologically sound
20 management of fish and other wildlife resources on lands administered by the
21 United States Department of Defense. The department may develop a program to
22 implement this title in cooperation with the military services.

23 **Comment.** Section 7210 continues former Fish and Game Code Section 3450 without
24 substantive change.

25 **§ 7215. Coordination and cooperation with military services**

26 7215. The department may coordinate and cooperate with all branches of the
27 United States military service, Department of Defense, for the purpose of
28 developing fish and wildlife management plans and programs on military
29 installations. The plans and programs shall be designed to provide biologically
30 optimum levels of fish and wildlife resource management and use compatible with
31 the primary military use of those lands. Military lands involved in programs
32 developed pursuant to this title shall not be available to the general public without
33 the consent of the military service administering the lands.

34 **Comment.** Section 7215 continues former Fish and Game Code Section 3451 without
35 substantive change.

1 **§ 7220. Regulations and agreements authorized**

2 7220. The commission may adopt regulations and authorize the department to
3 enter into agreements with the United States Department of Defense for the
4 administration of this title.

5 **Comment.** Section 7220 continues former Fish and Game Code Section 3452 without
6 substantive change.

7 **§ 7225. Management plans and programs**

8 7225. (a) Upon approval of specific management plans and programs, which
9 reflect the recommendations of the department, the commission may authorize
10 actions and adopt regulations governing those actions pursuant to this title.

11 (b) The provisions of Sections 34520, 34525, and 34530 do not apply to
12 regulations adopted pursuant to this title.

13 (c) The activities conducted pursuant to this program shall be reviewed annually
14 by the department and the commission.

15 **Comment.** Section 7225 continues former Fish and Game Code Section 3453 without
16 substantive change.

17 **TITLE 3. FEDERAL BIRD RESERVATIONS**

18 **§ 7230. Acceptance of Migratory Bird Conservation Act**

19 7230. The people of the state, through their legislative authority, accept the
20 provisions and benefits of the act of Congress known as the “Migratory Bird
21 Conservation Act,” approved February 18, 1929. Upon approval by the
22 commission, they consent to the acquisition by the United States, by purchase,
23 lease, gift, or devise, of areas of land, water, or land and water, within the state,
24 that the United States or its properly constituted officers or agents may deem
25 necessary for migratory bird reservations in carrying out the provisions of the act
26 of Congress; saving and reserving, however, to the state full and complete
27 jurisdiction and authority over any areas that is not incompatible with the
28 administration, maintenance, protection, and control thereof by the United States
29 under the terms of the act of Congress, and saving and reserving to all persons
30 within those areas all rights, privileges, and immunities under the laws of the
31 State, insofar as they are compatible with the administration, maintenance,
32 protection, and control of those areas by the United States under the terms of the
33 act of Congress.

34 **Comment.** Section 7230 continues former Fish and Game Code Section 10680 without
35 substantive change.

36 **§ 7235. Consent of concerned county**

37 7235. Prior to approval by the commission under Section 7230, the legislative
38 body of the county concerned shall have given its written consent to the
39 commission for the proposed acquisition.

1 **Comment.** Section 7235 continues former Fish and Game Code Section 10681 without
2 substantive change.

3 **§ 7240. Insufficient payments from United States to county**

4 7240. (a) If in any year, on lands hereafter acquired, the in lieu payments from
5 the United States to the county do not equal the taxes assessed on a given project,
6 the department shall pay from income derived from hunting privileges on the
7 project an amount equal to the balance of the taxes on the entire project.

8 (b) For the purposes of this section, the taxes on a given project are the assessed
9 taxes on the project at the time of acquisition, plus any subsequent increases that
10 may accrue from general county increases in the tax rates, but not subject to re-
11 evaluation of the project properties after the time of acquisition.

12 **Comment.** Section 7240 continues former Fish and Game Code Section 10682 without
13 substantive change.

14 **§ 7245. Federal compliance with state law**

15 7245. The consent of the state to the acquisition by the United States of land,
16 water, or land and water for migratory bird reservations in accordance with this
17 title, is subject to the condition that the United States conform to the laws of the
18 state relating to the acquisition, control, use, and distribution of water with respect
19 to the land acquired.

20 **Comment.** Section 7245 continues former Fish and Game Code Section 10683 without
21 substantive change.

22 **§ 7250. Conditions on continuing consent**

23 7250. The consent contained in Section 7230 continues only so long as the
24 property continues to belong to the United States and is held by it in accordance
25 and in compliance with each and all of the conditions and reservations as
26 prescribed in this title, and is used for the purposes for which it was acquired.

27 **Comment.** Section 7250 continues former Fish and Game Code Section 10684 without
28 substantive change.

29 **§ 7255. Additional consent**

30 7255. With the approval of the commission, the people of the state, through their
31 legislative authority, also consent to the declaration, withdrawal, or determination
32 of any part of any national forest or power site, and do further consent to the
33 condemnation of any lands lying and being below an elevation known and
34 described as minus 230-foot elevation below sea level, as a migratory bird
35 reservation under the provisions of the act of Congress cited in Section 7230.

36 **Comment.** Section 7255 continues former Fish and Game Code Section 10685 without
37 substantive change.

1 PART 2. STATES AND OTHER JURISDICTIONS

2 TITLE 1. RECIPROCAL AGREEMENTS WITH
3 ADJOINING STATES

4 **§ 7300. Reciprocal sport fishing license agreements**

5 7300. The commission, subject to the approval of the Attorney General, may
6 enter into reciprocal agreements with corresponding state or county official
7 agencies of adjoining states pertaining to the establishment of a basis whereby
8 valid sport fishing licenses issued by the parties to the reciprocal agreements may
9 be used by their licensees within the jurisdiction of either, in accordance with the
10 terms of the agreements.

11 **Comment.** Section 7300 continues former Fish and Game Code Section 390 without
12 substantive change.

13 **§ 7305. Reciprocal operational agreement with law enforcement**

14 7305. (a) The director, or a designated representative, may enter into reciprocal
15 operational agreements with authorized representatives of any Oregon, Nevada, or
16 Arizona state law enforcement agency, including, but not limited to, the Oregon
17 State Police, the Nevada Department of Wildlife, and the Arizona Game and Fish
18 Department, to promote expeditious and effective law enforcement service to the
19 public, and assistance between the members of the department and those agencies,
20 in areas adjacent to the borders of this state and each of the adjoining states
21 pursuant to Section 7310.

22 (b) The reciprocal operational agreement shall be in writing and may cover the
23 reciprocal exchange of law enforcement services, resources, facilities, and any
24 other necessary and proper matters between the department and the respective
25 agency.

26 (c) Any agreement shall specify all of the following:

27 (1) The involved departments, divisions, or units of the agencies.

28 (2) The duration and purpose of the agreement.

29 (3) Responsibility for damages.

30 (4) The method of financing any joint or cooperative undertaking.

31 (5) The methods to be employed to terminate an agreement.

32 (d) The director may establish operational procedures in implementation of any
33 reciprocal operational agreement that are necessary to achieve the purposes of the
34 agreement.

35 **Comment.** Section 7305 continues former Fish and Game Code Section 392 without
36 substantive change.

1 **§ 7310. Status of law enforcement officers of adjoining states**

2 7310. (a) A regularly employed law enforcement officer of an Oregon, Nevada,
3 or Arizona state law enforcement agency, including, but not limited to, the Oregon
4 State Police, the Nevada Department of Wildlife, or the Arizona Game and Fish
5 Department, is a peace officer in this state, if all of the following conditions are
6 met:

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

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

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

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

19 (3) The officer is providing, or attempting to provide, law enforcement services
20 for the purpose of assisting a member of the department in response to
21 misdemeanor or felony criminal activity, pursuant to the authority of a peace
22 officer as provided in subdivision (e) of Section 830.2 of the Penal Code, or, in the
23 event of an emergency incident or other similar public safety problem, whether or
24 not a member of the department is present at the scene of the event.

25 (4) An agreement pursuant to Section 7305 is in effect between the department
26 and the agency of the adjoining state employing the officer, the officer acts in
27 accordance with that agreement, and the agreement specifies that the officer and
28 employing agency of the adjoining state shall be subject to the same civil
29 immunities and liabilities as a peace officer and his or her employing agency in
30 this state.

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

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

35 (b) Notwithstanding any other provision of law, a person who is acting as a
36 peace officer in this state in the manner described in this section shall be deemed
37 to have met the requirements of Section 1031 of the Government Code and the
38 selection and training standards of the Commission on Peace Officer Standards
39 and Training, if the officer has completed the basic training required for peace
40 officers in his or her state.

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

1 **Comment.** Section 7310 continues former Fish and Game Code Section 393 without
2 substantive change.

3 **TITLE 2. INFORMATION RELEASE**

4 **§7315. Release of information to other jurisdictions**

5 7315. The department may exchange or release to any appropriate federal, state,
6 or local agency or agencies in other states, for purposes of law enforcement, any
7 information collected or maintained by the department under any provision of this
8 code or any regulation adopted pursuant to this code.

9 **Comment.** Section 7315 continues former Fish and Game Code Section 391 without
10 substantive change.

11 **TITLE 3. CALIFORNIA-ARIZONA COMPACT**

12 **§ 7320. California-Arizona Compact authorized**

13 7320. (a) The commission may negotiate the terms of a compact between the
14 States of Arizona and California with any appropriate officials of the State of
15 Arizona in relation to reciprocal privileges and licenses for hunting and fishing by
16 residents of one of the states within the territorial jurisdiction of the other. The
17 negotiations shall include, but shall not be limited to, provisions relating to sport
18 fishing and the hunting of migratory waterfowl in, on, or along the Colorado
19 River.

20 (b) It is the primary purpose of this section to provide a method whereby the
21 hunting and fishing opportunities afforded by the Colorado River may be mutually
22 enjoyed by the residents of the States of Arizona and California despite the
23 difficulties and inconveniences that result from the fact that the boundary line
24 between the States of Arizona and California is the middle of the channel of the
25 Colorado River.

26 **Comment.** Section 7320 continues former Fish and Game Code Section 375 without
27 substantive change.

28 **TITLE 4. WILDLIFE VIOLATOR COMPACT**

29 **CHAPTER 1. GENERAL PROVISIONS**

30 **§ 7325. Enactment of Wildlife Violator Compact**

31 7325. The Wildlife Violator Compact is hereby enacted into law and entered
32 into with all other participating states.

33 **Comment.** Section 7325 continues former Fish and Game Code Section 716 without
34 substantive change.

1 **§ 7330. Statement of policy**

2 7330. It is the policy of this state in entering into the compact to do all of the
3 following:

4 (a) Promote compliance with the statutes, ordinances, and administrative rules
5 and regulations relating to the management of wildlife resources in this state.

6 (b) Recognize the suspension of wildlife license privileges of any person whose
7 license privileges have been suspended by a participating state and treat that
8 suspension as if it had occurred in the licensee's home state if the violation that
9 resulted in the suspension could have been the basis for suspension in the home
10 state.

11 (c) Allow a violator, except as provided in subdivision (b) of Section 7450, to
12 accept a wildlife citation and, without delay or detention, proceed on his or her
13 way whether or not the violator is a resident of the state in which the citation was
14 issued, if the violator's home state is a party to this compact.

15 (d) Report to the appropriate participating states, as provided in the compact
16 manual, any conviction recorded against any person whose home state was not the
17 issuing state.

18 (e) Allow the home state to recognize and treat convictions recorded against its
19 residents, if those convictions occurred in a participating state, as though they had
20 occurred in the home state.

21 (f) Extend cooperation to its fullest extent among the participating states for
22 enforcing compliance with the terms of a wildlife citation issued in one
23 participating state to a resident of another participating state.

24 (g) Maximize effective use of law enforcement personnel and information.

25 (h) Assist court systems in the efficient disposition of wildlife violations.

26 **Comment.** Section 7330 continues former Fish and Game Code Section 716.1 without
27 substantive change.

28 **§ 7335. Purposes of title**

29 7335. The purposes of this title include both of the following:

30 (a) To provide a means by which participating states may join in a reciprocal
31 program to effectuate the policies enumerated in Section 7330 in a uniform and
32 orderly manner.

33 (b) To provide for the fair and impartial treatment of wildlife violators operating
34 within participating states in recognition of the violator's right to due process and
35 the sovereign status of the participating states.

36 **Comment.** Section 7335 continues former Fish and Game Code Section 716.2 without
37 substantive change.

38 CHAPTER 2. DEFINITIONS

39 **§ 7340. Application of chapter**

40 7340. The definitions in this chapter govern the construction of this title.

1 **Comment.** Section 7340 restates the introductory clause of former Fish and Game Code
2 Section 716.3 without substantive change.

3 **§ 7345. “Board”**

4 7345. “Board” means the board of compact administrators established pursuant
5 to Section 7470.

6 **Comment.** Section 7345 continues former Fish and Game Code Section 716.3(a) without
7 substantive change.

8 **§ 7350. “Citation”**

9 7350. “Citation” means any summons, complaint, ticket, penalty assessment, or
10 other official document issued to a person by a wildlife officer or other peace
11 officer for a wildlife violation pertaining to sport fishing, hunting, or trapping,
12 which contains an order requiring the person to respond.

13 **Comment.** Section 7350 continues former Fish and Game Code Section 716.3(b) without
14 substantive change.

15 **§ 7355. “Collateral”**

16 7355. “Collateral” means any cash or other security deposited to secure an
17 appearance for trial in connection with the issuance by a wildlife officer or other
18 peace officer of a citation for a wildlife violation.

19 **Comment.** Section 7355 continues former Fish and Game Code Section 716.3(c) without
20 substantive change.

21 **§ 7360. “Compact manual”**

22 7360. “Compact manual” is a manual used and adopted by the participating
23 states that prescribes the procedures to be followed in administering the wildlife
24 violator compact in participating states.

25 **Comment.** Section 7360 continues former Fish and Game Code Section 716.3(d) without
26 substantive change.

27 **§ 7365. “Compliance”**

28 7365. “Compliance,” with respect to a citation, means the act of answering a
29 citation through an appearance in a court or tribunal, or through the payment of
30 fines, penalties, costs, and surcharges, if any.

31 **Comment.** Section 7365 continues former Fish and Game Code Section 716.3(e) without
32 substantive change.

33 **§ 7370. “Conviction”**

34 7370. “Conviction” means a conviction, including, but not limited to, any court
35 conviction for an offense related to sport fishing, hunting, or trapping, that is
36 prohibited by statute, ordinance, or administrative rule or regulation, that involves
37 the forfeiture of any bail, bond, or other security deposited to secure appearance
38 by a person charged with having committed an offense, the payment of a penalty

1 assessment, a plea of nolo contendere, and the imposition of a deferred or
2 suspended sentence by the court.

3 **Comment.** Section 7370 continues former Fish and Game Code Section 716.3(f) without
4 substantive change.

5 **§ 7375. “Court”**

6 7375. “Court” means a court of law, including a magistrate’s court and a justice
7 of the peace court.

8 **Comment.** Section 7375 continues former Fish and Game Code Section 716.3(g) without
9 substantive change.

10 The reference to a “justice of the peace court” in Section 7375 is retained, notwithstanding the
11 elimination of such courts in California, based on the existence of such courts in other states that
12 are members of the Interstate Violator Compact.

13 **§ 7380. “Home state”**

14 7380. “Home state” means the state of primary residence of a person.

15 **Comment.** Section 7380 continues former Fish and Game Code Section 716.3(h) without
16 substantive change.

17 **§ 7385. “Issuing state”**

18 7385. “Issuing state” means the participating state that issues a wildlife citation
19 to the violator.

20 **Comment.** Section 7385 continues former Fish and Game Code Section 716.3(i) without
21 substantive change.

22 **§ 7390. “License”**

23 7390. “License” means any license, permit, entitlement to use, or other public
24 document that conveys to the person to whom it is issued the privilege of sport
25 fishing, hunting, or trapping, that is regulated by statute, ordinance, or
26 administrative rule or regulation of a participating state.

27 **Comment.** Section 7390 continues former Fish and Game Code Section 716.3(j) without
28 substantive change.

29 **§ 7400. “Licensing authority”**

30 7400. “Licensing authority,” with reference to this state, means the department,
31 which is the state agency authorized by law to issue or approve licenses or permits
32 to sport fish, hunt, or trap.

33 **Comment.** Section 7400 continues former Fish and Game Code Section 716.3(k) without
34 substantive change.

35 **§ 7405. “Participating state”**

36 7405. “Participating state” means any state that enacts legislation to become a
37 member of the wildlife compact.

38 **Comment.** Section 7405 continues former Fish and Game Code Section 716.3(l) without
39 substantive change.

1 **§ 7410. “Personal recognizance”**

2 7410. “Personal recognizance” means an agreement by a person made at the
3 time of issuance of the wildlife citation that the person will comply with the terms
4 of the citation.

5 **Comment.** Section 7410 continues former Fish and Game Code Section 716.3(m) without
6 substantive change.

7 **§ 7415. “State”**

8 7415. “State” means any state, territory, or possession of the United States, the
9 District of Columbia, the Commonwealth of Puerto Rico, the Provinces of Canada,
10 and other countries.

11 **Comment.** Section 7415 continues former Fish and Game Code Section 716.3(n) without
12 substantive change.

13 **§ 7420. “Suspension”**

14 7420. “Suspension” means any revocation, denial, or withdrawal of any or all
15 license privileges, including the privilege to apply for, purchase, or exercise the
16 benefits conferred by any license for sport fishing, hunting, or trapping.

17 **Comment.** Section 7420 continues former Fish and Game Code Section 716.3(o) without
18 substantive change.

19 **§ 7425. “Terms of the citation”**

20 7425. “Terms of the citation” means those conditions and options expressly
21 stated upon a citation.

22 **Comment.** Section 7425 continues former Fish and Game Code Section 716.3(p) without
23 substantive change.

24 **§ 7430. “Wildlife”**

25 7430. “Wildlife” means all species of animals including, but not limited to,
26 mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are
27 defined as “wildlife” and are protected or otherwise regulated by statute,
28 ordinance, or administrative rule or regulation in a participating state. The species
29 included in the definition of “wildlife” vary from state to state and the
30 determination of whether a species is “wildlife” for the purposes of this compact
31 shall be based on the law of the participating state.

32 **Comment.** Section 7430 continues former Fish and Game Code Section 716.3(q) without
33 substantive change.

34 **§ 7435. “Wildlife law”**

35 7435. “Wildlife law” means any statute, regulation, ordinance, or administrative
36 rule or regulation developed and enacted for the management of wildlife resources
37 and the uses thereof.

38 **Comment.** Section 7435 continues former Fish and Game Code Section 716.3(r) without
39 substantive change.

1 **§ 7440. “Wildlife officer”**

2 7440. “Wildlife officer” means any individual authorized in this state to issue a
3 citation for a wildlife violation.

4 **Comment.** Section 7440 continues former Fish and Game Code Section 716.3(s) without
5 substantive change.

6 **§ 7445. “Wildlife violation”**

7 7445. “Wildlife violation” means the violation of a statute, ordinance, or
8 administrative rule or regulation developed and enacted for the management of
9 wildlife resources and the uses thereof pertaining to sport fishing, hunting, and
10 trapping and for which a prosecution is initiated.

11 **Comment.** Section 7445 continues former Fish and Game Code Section 716.3(t) without
12 substantive change.

13 CHAPTER 3. ISSUING STATE VIOLATION PROCEDURES

14 **§ 7450. Issuance of citation**

15 7450. (a) Notwithstanding any other provision of law, when issuing a citation
16 for a wildlife violation for purposes of this title, a wildlife officer of the issuing
17 state may issue a citation to any person whose primary residence is in a
18 participating state in the same manner as though the person were a resident of the
19 issuing state, and shall not require that person to post collateral to secure
20 appearance, except as provided in subdivision (b), if the officer receives the
21 personal recognizance of the person that he or she will comply with the terms of
22 the citation.

23 (b) Personal recognizance is acceptable unless prohibited by ordinance of a city
24 or county, the policy of the issuing agency, a procedure or regulation, or by the
25 compact manual, and only if the violator provides adequate proof of identification
26 to the wildlife officer.

27 (c) Upon conviction or failure of a person to comply with the terms of a wildlife
28 citation, the appropriate wildlife officer shall report the conviction or failure to
29 comply to the licensing authority of the participating state in which the wildlife
30 citation was issued. The report shall be made in accordance with procedures
31 specified by the issuing state, and shall contain information as prescribed in the
32 compact manual.

33 (d) Upon receipt of the report of conviction or noncompliance pursuant to
34 subdivision (c), the licensing authority of the issuing state shall transmit to the
35 licensing authority of the home state of the violator the information in the form
36 and content prescribed in the compact manual.

37 **Comment.** Section 7450 continues former Fish and Game Code Section 716.4 without
38 substantive change.

1

CHAPTER 4. HOME STATE PROCEDURES

2 **§ 7455. Action by home state**

3 7455. (a) Upon receipt of a report from the licensing authority of the issuing
4 state reporting the failure of a violator to comply with the terms of a citation, the
5 licensing authority shall notify the violator and shall initiate a suspension action.
6 The licensing authority shall suspend the violator's license privileges, in
7 accordance with the requirements of due process, until satisfactory evidence of
8 compliance with the terms of the wildlife citation has been furnished to the
9 licensing authority.

10 (b) Upon receipt of a report of conviction from the licensing authority of the
11 issuing state, the licensing authority of the home state may enter that conviction in
12 its records and may treat the conviction as though it occurred in the home state for
13 the purposes of the suspension of license privileges, if the violation that resulted in
14 the conviction would constitute a wildlife violation in the home state.

15 (c) The licensing authority of the home state shall maintain a record of actions
16 taken and shall make reports to issuing states as provided in the compact manual.

17 **Comment.** Section 7455 continues former Fish and Game Code Section 716.5 without
18 substantive change.

19

CHAPTER 5. RECIPROCAL RECOGNITION OF SUSPENSION

20 **§ 7460. Recognition of suspension in other state**

21 7460. (a) As a participating member of the wildlife violator compact, the
22 licensing authority of this state may recognize the suspension of license privileges
23 of any person by any participating state if both of the following occur:

24 (1) The violation that resulted in the conviction would constitute a wildlife
25 violation in this state.

26 (2) The conviction that resulted in the suspension could have been the basis for
27 suspension under the statutes, ordinances, or administrative rules or regulations of
28 this state.

29 (b) The licensing authority shall communicate suspension information to other
30 participating states in the form and content prescribed by the compact manual.

31 **Comment.** Section 7460 continues former Fish and Game Code Section 716.6 without
32 substantive change.

33

CHAPTER 6. APPLICABILITY OF OTHER LAWS

34 **§ 7465. Right of participating state to apply its own laws**

35 7465. Except as expressly required by this title, this title shall not be construed
36 to affect the right of any participating state to apply any of its statutes, ordinances,
37 or administrative rules or regulations relating to license privileges to any person or
38 circumstance, or to invalidate or prevent any agreement or other cooperative

1 arrangement between a participating state and a nonparticipating state, concerning
2 wildlife law enforcement.

3 **Comment.** Section 7465 continues former Fish and Game Code Section 716.7 without
4 substantive change.

5 CHAPTER 7. COMPACT ADMINISTRATOR PROCEDURES

6 **§ 7470. Establishment, duties, and powers**

7 7470. (a)(1) A board of compact administrators is hereby established to serve as
8 a governing body for the resolution of all matters relating to the operation of this
9 compact. The board shall be composed of one member from each of the
10 participating states to be known as the compact administrator.

11 (2) A compact administrator of any participating state may provide for the
12 discharge of his or her duties and the performance of his or her functions as a
13 board member by an alternate, designated by that member. An alternate is not
14 entitled to serve unless written notification of his or her identity is provided to the
15 board.

16 (3) The compact administrator for this state shall be appointed by the director
17 and shall serve, and be subject to removal, in accordance with the laws of this
18 state.

19 (b) Each member of the board is entitled to one vote. No action of the board
20 shall be binding unless taken at a meeting at which a majority of the membership
21 of the board vote in favor thereof. Action by the board may only be taken at a
22 meeting at which a majority of the membership of the board is present.

23 (c) The board shall elect annually from its membership a chairperson and vice
24 chairperson.

25 (d) The board shall adopt bylaws, not inconsistent with this compact, and may
26 amend and rescind the bylaws.

27 (e) The board may accept for any of its purposes and functions under this
28 compact any donation and grant of money, equipment, supplies, materials, and
29 services, conditional or otherwise, from any state, the United States, or any
30 governmental agency, and may receive, utilize, and dispose thereof.

31 (f) The board may contract with, or accept services or personnel from, any
32 governmental or intergovernmental agency, individual, firm, or corporation,
33 including any private nonprofit organization or institution.

34 (g) The board shall formulate all necessary procedures and develop uniform
35 forms and documents for administering this compact. All procedures and forms
36 adopted pursuant to board action shall be contained in a compact manual.

37 **Comment.** Section 7470 continues former Fish and Game Code Section 716.8 without
38 substantive change.

1

CHAPTER 8. ENTRY INTO COMPACT AND WITHDRAWAL

2 § 7475. Application of compact

3 7475. (a) This title shall become effective when it is adopted in substantially
4 similar form by this state and one or more other states, subject to the following
5 conditions:

6 (1) The entry into the compact shall be made by resolution executed and ratified
7 by authorized officials of the applying state and submitted to the chairperson of
8 the board of contract administrators.

9 (2) The resolution shall substantially be in the form and content as provided in
10 the compact manual, and shall include all of the following:

11 (A) A citation of the authority authorizing the state to become a party to this
12 compact.

13 (B) An agreement to comply with the terms and provisions of this compact.

14 (C) An agreement that the state entering into the compact agrees to participate
15 with all participating states in the compact.

16 (b) The effective date of entry into the compact shall be specified by the
17 applying state but shall not be less than 60 days after notice has been given by
18 either the chairperson or secretary of the board to each participating state that the
19 resolution from the applying state has been received.

20 (c) A participating state may withdraw from participation in this compact by
21 giving written notice to the compact administrator of each participating state. The
22 withdrawal shall not become effective until 90 days from the date on which the
23 written notice of withdrawal is sent to each participating state. The withdrawal of
24 any state shall not affect the validity of this compact as to the remaining
25 participating states.

26 **Comment.** Section 7475 continues former Fish and Game Code Section 716.9 without
27 substantive change.

28

CHAPTER 9. AMENDMENTS TO THE COMPACT

29 § 7480. Amendment

30 7480. (a) This compact may be amended periodically. Amendments shall be
31 presented in resolution form to the chairperson of the board, and shall be initiated
32 by one or more participating states.

33 (b) The adoption of an amendment requires endorsement by all participating
34 states and becomes effective 30 days after the date of the last endorsement.

35 (c) The failure of any participating state to respond to the appropriate authority
36 within 60 days after receipt of a proposed amendment constitutes endorsement
37 thereof.

38 **Comment.** Section 7480 continues former Fish and Game Code Section 717 without
39 substantive change.

1 Nothing herein contained shall be construed so as to authorize the compacting
2 states or any of them to limit the production of fish or fish products for the purpose
3 of establishing or fixing the prices thereof or creating and perpetuating a
4 monopoly.

5 Article II

6 This agreement shall become operative immediately as to those states executing
7 it in the form that is in accordance with the laws of the executing state and when
8 the Congress has given its consent.

9 Article III

10 Each state joining herein shall appoint, as determined by state statutes, one or
11 more representatives to a commission hereby constituted and designated as the
12 Pacific States Marine Fisheries Commission, of whom one shall be the
13 administrative or other officer of the agency of that state charged with the
14 conservation of the fisheries resources to which this compact pertains. This
15 commission shall be invested with the powers and duties set forth herein.

16 The term of each commissioner of the Pacific States Marine Fisheries
17 Commission shall be four years. A commissioner shall hold office until a
18 successor shall be appointed and qualified but the successor's term shall expire
19 four years from legal date of expiration of the term of the predecessor. Vacancies
20 occurring in the office of a commissioner from any reason or cause shall be filled
21 for the unexpired term, or a commissioner may be removed from office, as
22 provided by the statutes of the state concerned. Each commissioner may delegate
23 in writing from time to time, to a deputy, the power to be present and participate,
24 including voting as a representative or substitute, at any meeting of or hearing by
25 or other proceeding of the commission.

26 Voting powers under this compact shall be limited to one vote for each state
27 regardless of the number of representatives.

28 Article IV

29 The duty of the said commission shall be to make inquiry and ascertain from
30 time to time any methods, practices, circumstances and conditions as may be
31 disclosed for bringing about the conservation and the prevention of the depletion
32 and physical waste of the fisheries, marine, shell, and anadromous in all of those
33 areas of the Pacific Ocean over which the states signatory to this compact jointly
34 or separately now have or may hereafter acquire jurisdiction. The commission
35 shall have power to recommend the coordination of the exercise of the police
36 powers of the several states within their respective jurisdictions and said
37 conservation zones to promote the preservation of those fisheries and their
38 protection against overfishing, waste, depletion or any abuse whatsoever and to

1 assure a continuing yield from the fisheries resources of the signatory parties
2 hereto.

3 To that end the commission shall draft and, after consultation with the advisory
4 committee hereinafter authorized, recommend to the governors and legislative
5 branches of the various signatory states hereto legislation dealing with the
6 conservation of the marine, shell, and anadromous fisheries in all of those areas of
7 the Pacific Ocean over which the states signatory to this compact jointly or
8 separately now have or may hereafter acquire jurisdiction. The commission shall,
9 more than one month prior to any regular meeting of the legislative branch in any
10 state signatory hereto, present to the governor of that state its recommendations
11 relating to enactments by the legislative branch of that state in furthering the
12 intents and purposes of this compact.

13 The commission shall consult with and advise the pertinent administrative
14 agencies in the signatory states with regard to problems connected with the
15 fisheries and recommend the adoption of any regulations that it deems advisable
16 and which lie within the jurisdiction of the agencies.

17 The commission shall have power to recommend to the states signatory hereto
18 the stocking of the waters of the states with marine, shell or anadromous fish and
19 fish eggs or joint stocking by some or all of the states and when two or more of the
20 said states shall jointly stock waters the commission shall act as the coordinating
21 agency for the stocking.

22 Article V

23 The commission shall elect from its number a chairperson and a vice
24 chairperson and shall appoint and at its pleasure remove or discharge any officers
25 and employees as may be required to carry the provisions of this compact into
26 effect and shall fix and determine their duties, qualifications and compensation.
27 Said commission shall adopt rules and regulations for the conduct of its business.
28 It may establish and maintain one or more offices for the transaction of its
29 business and may meet at any time or place within the territorial limits of the
30 signatory states but must meet at least once a year.

31 Article VI

32 No action shall be taken by the commission except by the affirmative vote of a
33 majority of the whole number of compacting states represented at any meeting. No
34 recommendation shall be made by the commission in regard to any species of fish
35 except by the vote of a majority of the compacting states which have an interest in
36 the species.

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Article VII

The fisheries research agencies of the signatory states shall act in collaboration as the official research agency of the Pacific States Marine Fisheries Commission.

An advisory committee to be representative of the commercial fishers, commercial fishing industry and any other interests of each state as the commission deems advisable shall be established by the commission as soon as practicable for the purpose of advising the commission upon any recommendations as it may desire to make.

Article VIII

Nothing in this compact shall be construed to limit the powers of any state or to repeal or prevent the enactment of any legislation or the enforcement of any requirement by any state imposing additional conditions and restrictions to conserve its fisheries.

Article IX

Continued absence of representation or of any representative on the commission from any state party hereto, shall be brought to the attention of the governor thereof.

Article X

The states agree to make available annual funds for the support of the commission on the following basis:

Eighty percent of the annual budget shall be shared equally by those member states having as a boundary the Pacific Ocean. Not less than 5 percent of the annual budget shall be contributed by any other member state. The balance of the annual budget shall be shared by those member states having as a boundary the Pacific Ocean, in proportion to the primary market value of the products of their commercial fisheries on the basis of the latest five-year catch records.

The annual contribution of each member state shall be figured to the nearest one hundred dollars (\$100).

Article XI

This compact shall continue in force and remain binding upon each state until renounced by it. Renunciation of this compact must be preceded by sending six months' notice in writing of intention to withdraw from the compact to the other parties hereto.

1 Article XII

2 Hawaii or any other state having rivers or streams tributary to the Pacific Ocean
3 may become a contracting state by enactment of the Pacific Marine Fisheries
4 Compact. Upon admission of any new state to the compact, the purposes of the
5 compact and the duties of the commission shall extend to the development of joint
6 programs for the conservation, protection and prevention of physical waste of
7 fisheries in which the contracting states are mutually concerned and to all waters
8 of the newly admitted state necessary to develop the programs.

9 This compact shall become effective upon its enactment by the states signatory
10 to this compact and upon ratification by Congress by virtue of the authority vested
11 in it under Article 1, Section 10, of the Constitution of the United States.

12 **Comment.** Section 7505 continues former Fish and Game Code Section 14001 without
13 substantive change.

14 **§ 7510. Operation of compact**

15 7510. Participation by this State in this compact shall continue until the
16 Legislature otherwise provides by law. Notice of intention to withdraw from the
17 compact shall be executed and transmitted by the Governor after the Legislature
18 provides by law for discontinuance of participation therein by this State.

19 **Comment.** Section 7510 continues former Fish and Game Code Section 14002 without
20 substantive change.

21 CHAPTER 2. THE COMMISSION

22 **§ 7550. Members**

23 7550. In furtherance of the provisions contained in the compact there shall be
24 three members of the Pacific States Marine Fisheries Commission from the State
25 of California, appointed by the Governor by and with the advice and consent of
26 the Senate. One commissioner shall be the administrative or other officer of the
27 department or agency of this state charged with the conservation of its marine
28 fisheries resources. Another commissioner shall be a Member of the Legislature of
29 this state who is a member of a committee on interstate cooperation of the
30 Legislature. Another member shall be a citizen of this state who shall have wide
31 knowledge of and interest in the marine fisheries problem.

32 **Comment.** Section 7550 continues former Fish and Game Code Section 14100 without
33 substantive change.

34 **§ 7555. Term**

35 7555. The term of each commissioner shall be four years. A commissioner shall
36 hold office until a successor shall be appointed and qualified but the successor's
37 term shall expire four years from the legal date of expiration of the term of the
38 predecessor. Any commissioner may be removed from office by the Governor
39 upon charges and after a hearing. The term of any commissioner who ceases to

1 hold the qualifications required shall terminate when a successor may be duly
2 appointed. Vacancies occurring in the office of a commissioner from any reason or
3 cause shall be filled for the unexpired term in the same manner as for a full term
4 appointment.

5 **Comment.** Section 7555 continues former Fish and Game Code Section 14101 without
6 substantive change.

7 **§ 7560. Compensation**

8 7560. Each commissioner who is not also a state officer shall receive one
9 hundred dollars (\$100) for each day of performing official duties pursuant to the
10 direction of the commission, and each commissioner shall receive actual and
11 necessary travel expenses incurred in performing official duties on behalf of the
12 commission.

13 **Comment.** Section 7560 continues former Fish and Game Code Section 14102 without
14 substantive change.

15 **Note.** Section 14102 provides for a per diem of \$10. That provision appears to be obsolete.
16 See Gov't Code § 11564.5 (default per diem is \$100, notwithstanding any other provision of law).
17 Proposed Section 7560 provides for the \$100 per diem provided under the Government Code.

18 **The Commission invites comment on whether this revision would be consistent with**
19 **existing practice.**

20 **§ 7565. Performance**

21 7565. All officers of the state are authorized and directed to do all things falling
22 within their respective provinces and jurisdiction necessary or incidental to the
23 carrying out of the compact in every particular. The policy of this state is to
24 perform and carry out the compact and to accomplish the purposes thereof. All
25 officers, bureaus, departments, and persons of and in the state government or
26 administration of the state are hereby authorized and directed at convenient times
27 and upon request of the commission to furnish the commission with information
28 and data possessed by them and to aid the commission by any means lying within
29 their legal rights.

30 **Comment.** Section 7565 continues former Fish and Game Code Section 14103 without
31 substantive change.

32 **§ 7570. Annual report**

33 7570. The commission shall keep accurate accounts of its activities and shall
34 report to the Governor and the Legislature on or before the thirty-first day of
35 December in each year, setting forth in detail the transactions conducted by it
36 during that calendar year and shall make recommendations for any legislative
37 action deemed by it advisable, including amendments to the statutes that may be
38 necessary to carry out the intent and purposes of the compact between the
39 signatory states.

40 **Comment.** Section 7570 continues former Fish and Game Code Section 14104 without
41 substantive change.

1 § 7575. Execution of compact

2 7575. When the Governor on behalf of the state executes the compact, the
3 Governor shall sign under a recital that the compact is executed pursuant to the
4 provisions thereof, subject to the limitations and qualifications contained in the
5 sections of this title in aid and furtherance thereof.

6 **Comment.** Section 7575 continues former Fish and Game Code Section 14105 without
7 substantive change.

8 DIVISION 5. NATIVE AMERICANS

9 **Note.** The provisions collected in this division have been drafted to continue existing law
10 without any substantive change. When the Commission first examined these provisions, the
11 Department of Fish and Wildlife requested that the Commission's review of these provisions be
12 deferred until after the Department had completed its formal process of consulting with affected
13 tribes. See Memorandum 2016-48. The Commission agreed to do so. See Minutes of September
14 22, 2016, Commission Meeting.

15 At the same meeting, the Commission decided that it would not recommend any controversial
16 changes to the Fish and Game Code in this study. It seems likely that any significant change to
17 existing law regarding the authority of the state to regulate tribal fishing would implicate policies
18 that may be in dispute. Such policies are best addressed through direct consultation and
19 substantive reform, rather than as part of a mostly technical statutory clean-up project.

20 **The Commission invites public comment on whether there are any purely technical**
21 **changes that should be made to the provisions collected in this division.**

22 PART 1. GENERAL PROVISIONS

23 § 7600. Application of code

24 7600. (a) Notwithstanding any other provision of law, the provisions of this code
25 are not applicable to California Indians whose names are inscribed upon the tribal
26 rolls, while on the reservation of that tribe and under those circumstances in this
27 state where the code was not applicable to them immediately before the effective
28 date of Public Law 280, Chapter 505, First Session, 1953, 83d Congress of the
29 United States.

30 (b) No Indian described in subdivision (a) shall be prosecuted for the violation
31 of any provision of this code occurring in the places and under the circumstances
32 described in subdivision (a). Nothing in this section, however, prohibits or restricts
33 the prosecution of an Indian for the violation of a provision of this code
34 prohibiting the sale of a bird, mammal, fish, amphibian, or reptile.

35 **Comment.** Section 7600 continues former Fish and Game Code Section 12300 without
36 substantive change.

37 § 7605. Tribal committee

38 7605. The commission shall form a tribal committee from its membership
39 consisting of at least one commissioner. The committee shall report to the
40 commission from time to time on its activities and shall make recommendations

1 on all tribal matters considered by the commission. The committee or its designee
2 shall, to the extent practicable, attend meetings of the department staff, including
3 meetings of the department staff with interested parties, in which significant tribal
4 management documents are being developed.

5 **Comment.** Section 7605 continues former Fish and Game Code Section 106.5 without
6 substantive change.

7 **PART 2. SPECIFIC PROVISIONS**

8 **CHAPTER 1. YUROK TRIBE**

9 **§ 7650. Fishing**

10 7650. Notwithstanding any other provision of this code, California Indians who
11 are bona fide registered members of the Yurok Indian Tribe may take fish, for
12 subsistence purposes only, from the Klamath River between the mouth of that
13 river and the junction of Tectah Creek with it, exclusive of tributaries, without
14 regard to seasons, under the following conditions:

15 (a) Upon application therefor, the department shall issue to any Yurok Indian
16 who is listed on the register of the Yurok Tribal Organization, as furnished to the
17 department, a renewable, nontransferable permit to take fish pursuant to this
18 section for a period of one calendar year. Any Indian of the Yurok tribe while
19 taking fish pursuant to this section shall have upon his person such valid permit,
20 and shall display it upon the request of any duly authorized officer.

21 (b) Hand dip nets, and hook and line only may be used for taking fish pursuant
22 to this section.

23 (c) Pursuant to this section not more than three trout or salmon or combination
24 thereof, or more than one sturgeon, may be taken in any one day. There is no bag
25 limit on any other fish.

26 (d) No Yurok Indian while fishing pursuant to this section may be accompanied
27 by any person who does not possess a valid permit as prescribed by this section. It
28 is unlawful for any person who does not hold such permit to accompany any
29 Yurok Indian who is taking fish pursuant to this section.

30 (e) The sale of any fish taken under the provisions of this section shall constitute
31 cause for permanent revocation by the commission of the permit held by the
32 person making the sale.

33 **Comment.** Section 7650 continues former Fish and Game Code Section 7155 without
34 substantive change.

1 CHAPTER 2. STATE-TRIBAL AGREEMENTS ON INDIAN FISHING BY
2 COVELLO INDIAN COMMUNITY

3 Article 1. Legislative Findings

4 **§ 7720. Legislative findings**

5 7720. The Legislature finds:

6 (a) Jurisdiction over the protection and development of natural resources,
7 especially the fish resource, is of great importance to both the State of California
8 and California Indian tribes.

9 (b) To California Indian tribes, control over their minerals, lands, water,
10 wildlife, and other resources is crucial to their economic self-sufficiency and the
11 preservation of their heritage. On the other hand, the State of California is
12 concerned about protecting and developing its resources; protecting, restoring, and
13 developing its commercial and recreational salmon fisheries; ensuring public
14 access to its waterways; and protecting the environment within its borders.

15 (c) More than any other issue confronting the State of California and California
16 Indian tribes, the regulation of natural resources, especially fish, transcends
17 political boundaries.

18 (d) In many cases, the State of California and California Indian tribes have
19 differed in their respective views of the nature and extent of state versus tribal
20 jurisdiction in areas where Indians have historically fished. Despite these frequent
21 and often bitter disputes, both the state and the tribes seek, as their mutual goal,
22 the protection and preservation of the fish resource. This division is an attempt to
23 provide a legal mechanism, other than protracted and expensive litigation over
24 unresolved legal issues, for achieving that mutual goal.

25 (e) This chapter creates a pilot project that will involve and encourage the efforts
26 of the State of California and the Covelo Indian Community of the Round Valley
27 Indian Reservation to reach a mutual agreement regarding the legal framework for
28 the exercise of Indian subsistence fishing in the boundary streams of the historic
29 1873 Round Valley Indian Reservation. It is hoped that this pilot project, if
30 successful, will provide the incentive for enactment of broader legislation that
31 would authorize similar negotiated agreements with other California Indian tribes.

32 **Comment.** Section 7720 continues former Fish and Game Code Section 16000 without
33 substantive change.

34 Article 2. Definitions

35 **§ 7725. Application of definitions**

36 7725. The definition in this article shall govern the construction of this chapter.

37 **Comment.** Section 7725 continues former Fish and Game Code Section 16001 without
38 substantive change.

1 **§ 7730. “Covelo Indian Community”**

2 7730. “Covelo Indian Community” means the confederated tribes of the Round
3 Valley Indian Reservation located in Mendocino County, California, recognized as
4 an Indian tribe by the Secretary of the Interior.

5 **Comment.** Section 7730 continues former Fish and Game Code Section 16002 without
6 substantive change.

7 **§ 7735. “Historic 1873 Round Valley Indian Reservation”**

8 7735. “Historic 1873 Round Valley Indian Reservation” means the reservation
9 described and set aside by Congress for the Covelo Indian Community in the Act
10 of March 3, 1873 (17 Stat. 633).

11 **Comment.** Section 7735 continues former Fish and Game Code Section 16005 without
12 substantive change.

13 **§ 7740. “Take”**

14 7740. “Take” means pursue, catch, capture, or kill, or attempt to pursue, catch,
15 capture, or kill.

16 **Comment.** Section 7740 continues former Fish and Game Code Section 16003 without
17 substantive change.

18 **§ 7745. “Traditional Indian fishing practice”**

19 7745. “Traditional Indian fishing practice” means a mode, method, or way of
20 taking fish that is recognized in the customs and traditions of the Covelo Indian
21 Community.

22 **Comment.** Section 7745 continues former Fish and Game Code Section 16004 without
23 substantive change.

24 Article 3. Negotiation and Approval of Agreement

25 **§ 7750. Subject of negotiations**

26 7750. Subject to the approval of the commission, the department may enter into
27 a mutual agreement or compact with the Covelo Indian Community respecting
28 jurisdiction and authority to regulate traditional Indian subsistence fishing
29 practices in the boundary streams of the historic 1873 Round Valley Indian
30 Reservation.

31 **Comment.** Section 7750 continues former Fish and Game Code Section 16006 without
32 substantive change.

33 **§ 7755. Submission of agreement to commission**

34 7755. Any agreement or compact entered into pursuant to Section 7750 shall be
35 submitted by the department to the commission for review and approval.

36 **Comment.** Section 7755 continues former Fish and Game Code Section 16007 without
37 substantive change.

1 **§ 7760. Commission review and approval**

2 7760. Any agreement or compact entered into pursuant to Section 7750 shall not
3 be effective until they are approved by the commission. The commission may
4 consider and approve an agreement or compact at any of its regular or special
5 meetings.

6 **Comment.** Section 7760 continues former Fish and Game Code Section 16008 without
7 substantive change.

8 **§ 7765. Meetings**

9 7765. The commission shall give notice of the time and place of any meeting at
10 which the approval of an agreement or compact entered into under this chapter
11 will be considered by publishing prior notice in any publication issued by the
12 Resources Agency or the department after determining the time and place of the
13 meeting. The commission shall make copies of the proposed agreement or
14 compact available to the public on request and the notice shall contain a statement
15 to that effect. All meetings required by this section shall be open to the public.

16 **Comment.** Section 7765 continues former Fish and Game Code Section 16009 without
17 substantive change.

18 Article 4. Enforceability of an Agreement or Compact

19 **§ 7775. Enforcement governed by agreement**

20 7775. Any agreement or compact entered into pursuant to this division shall be
21 enforceable by the parties only to the extent and in the forum or forums provided
22 for under the terms of the agreement or compact.

23 **Comment.** Section 7775 continues former Fish and Game Code Section 16010 without
24 substantive change.

25 **§ 7780. Regulations**

26 7780. The department may promulgate regulations consistent with the
27 provisions of any agreement or compact entered into pursuant to Section 7750.
28 The application and enforcement of those regulations shall be in accordance with
29 the express provisions of the agreement or compact.

30 **Comment.** Section 7780 continues former Fish and Game Code Section 16011 without
31 substantive change.

32 CHAPTER 3. STATE-TRIBAL AGREEMENTS ON INDIAN FISHING ON
33 THE KLAMATH RIVER

34 Article 1. Legislative Findings

35 **§ 7850. Legislative findings**

36 7850. The Legislature finds:

1 (a) Jurisdiction over the protection and development of natural resources,
2 especially the fish resource, is of great importance to both the State of California
3 and California Indian tribes.

4 (b) To California Indian tribes, control over their minerals, lands, water,
5 wildlife, and other resources within Indian country is crucial to their economic
6 self-sufficiency and the preservation of their heritage. On the other hand, the State
7 of California is concerned about protecting and developing its resources;
8 protecting, restoring, and developing its commercial and recreational salmon
9 fisheries; ensuring public access to its waterways; and protecting the environment
10 within its borders.

11 (c) More than any other issue confronting the State of California and California
12 Indian tribes, the regulation of natural resources, especially fish, transcends
13 political boundaries.

14 (d) In many cases, the State of California and California Indian tribes have
15 differed in their respective views of the nature and extent of state versus tribal
16 jurisdiction in areas where Indians have historically fished. Despite these frequent
17 and often bitter disputes, both the state and the tribes seek, as their mutual goal,
18 the protection and preservation of the fish resource. This chapter is an attempt to
19 provide a legal mechanism, other than protracted and expensive litigation over
20 unresolved legal issues, for achieving that mutual goal on the Klamath River.

21 (e) The department has exercised jurisdiction over the Klamath River from the
22 mouth of the river through the Yurok Reservation and the Hoopa Valley
23 Reservation, but the Bureau of Indian Affairs and the Indian tribes thereon have
24 also asserted jurisdiction over that river. The river itself lies within a disputed area
25 and proper management of the resource presents, therefore, unique and difficult
26 problems in the exercise of fishing practices by all user groups.

27 (f) Although commercial fishing may not be a traditional practice of the tribes
28 existing along the Klamath River within the boundaries of the land of the Yurok
29 Reservation and the Hoopa Valley Reservation, nevertheless, the department has
30 historically supported the concept of tribal fishing, including a tribal commercial
31 fishing industry where the industry is consistent with the need to preserve the
32 species, sound management, and where that usage would not adversely effect
33 other user groups, including sportfishing and the ocean commercial fishery.

34 (g) A commercial fishery existed on the Klamath River in the late 19th century
35 and early 20th century, in which the Indian tribes existing along the river
36 participated, but commercial fishing was abolished in 1933 with the passage of the
37 predecessor to Section 15150, and, further, that salmon resources have declined
38 historically due to past water developmental policies and timber harvesting
39 practices. With a reduced number of fish available, special laws are needed to
40 protect those resources and allocate them fairly among the various user groups.

41 (h) This division is not only enacted to provide the legal mechanism described
42 above, but is also intended to encourage cooperative agreements to allow
43 protection of the resource among all of the user groups. In so doing, the

1 Legislature recognizes the unique status of the Klamath River and the fishing
2 therein.

3 **Comment.** Section 7850 continues former Fish and Game Code Section 16500 without
4 substantive change.

5 Article 2. Definitions

6 § 7855. Application of definitions

7 7855. The definition in this article shall govern the construction of this chapter.

8 **Comment.** Section 7855 continues former Fish and Game Code Section 16510 without
9 substantive change.

10 § 7860. “Ceremonial or religious purposes”

11 7860. “Ceremonial or religious purposes” means fish taken by qualified Indian
12 tribal members of the Klamath River Indian Tribes for recognized religious or
13 ceremonial activities, which activities are consistent with the customs and
14 traditions of the particular tribe in the Klamath River Indian Tribes.

15 **Comment.** Section 7860 continues former Fish and Game Code Section 16517 without
16 substantive change.

17 § 7865. “Commercial fishing”

18 7865. “Commercial fishing” means the taking of fish by qualified Indian tribal
19 members of the Klamath River Indian Tribes, for sale or to be offered for sale
20 within California.

21 **Comment.** Section 7865 continues former Fish and Game Code Section 16518 without
22 substantive change.

23 § 7870. “Disputed area”

24 7870. “Disputed area” means that part of the Klamath River or Trinity River
25 where jurisdiction to regulate Indian fishing is asserted by both the State of
26 California and by one or more of the Indian tribes in the Klamath River Indian
27 Tribes or by the United States government acting as trustee therefor.

28 **Comment.** Section 7870 continues former Fish and Game Code Section 16515 without
29 substantive change.

30 § 7875. “Hoopa Valley Reservations”

31 7875. “Hoopa Valley Reservations” means those lands lying within the Hoopa
32 Square.

33 **Comment.** Section 7875 continues the second sentence of former Fish and Game Code Section
34 16514 without substantive change.

35 § 7880. “Klamath Fishery Management Council”

36 7880. “Klamath Fishery Management Council” means that council created
37 pursuant to Section 460ss–2 of Title 16 of the United States Code that is composed

1 of one representative each from the department, the Pacific Fishery Management
2 Council, National Marine Fisheries Service, Department of the Interior, Oregon
3 Department of Fish and Wildlife, the Hoopa Valley Business Council, non-Hoopa
4 Indians, the California commercial salmon fishing industry, the Oregon
5 commercial salmon fishing industry, the Klamath River in-river sportfishing
6 community, and the California offshore recreational fishing industry.

7 **Comment.** Section 7880 continues former Fish and Game Code Section 16520 without
8 substantive change.

9 **§ 7885. “Klamath River Indian Tribes”**

10 7885. “Klamath River Indian Tribes” means those tribes existing within the
11 boundaries of the Yurok Reservation and the Hoopa Valley Reservation, located in
12 Humboldt and Del Norte Counties in California, which tribes are recognized as
13 Indian tribes by the Secretary of the Interior.

14 **Comment.** Section 7885 continues former Fish and Game Code Section 16511 without
15 substantive change.

16 **§ 7890. “Subsistence purposes”**

17 7890. “Subsistence purposes” means fish or game taken by qualified Indian
18 tribal members of the Klamath River Indian Tribes for personal consumption by
19 the tribal members or their immediate families.

20 **Comment.** Section 7890 continues former Fish and Game Code Section 16516 without
21 substantive change.

22 **§ 7900. “Take”**

23 7900. “Take” means pursue, catch, capture, or kill, or attempt to pursue, catch,
24 capture, or kill.

25 **Comment.** Section 7900 continues former Fish and Game Code Section 16512 without
26 substantive change.

27 **§ 7905. “Traditional Indian fishing practice”**

28 7905. “Traditional Indian fishing practice” means a mode, method, or way of
29 taking fish that is recognized in the customs and traditions of the Klamath River
30 Indian Tribes.

31 **Comment.** Section 7905 continues former Fish and Game Code Section 16513 without
32 substantive change.

33 **§ 7910. “Yurok Reservation”**

34 7910. “Yurok Reservation” means the land extending one mile in width on each
35 side of the Klamath River from the mouth of the Klamath River to the confluence
36 of the Trinity and Klamath Rivers.

37 **Comment.** Section 7910 continues the first sentence of former Fish and Game Code Section
38 16514 without substantive change.

1 Article 3. Negotiation and Approval of Agreement

2 **§ 7925. Subject of negotiations**

3 7925. The director may enter into a mutual agreement or compact with the
4 Hoopa Valley Business Council regarding the taking of fish from the Trinity River
5 within the exterior boundaries of the Hoopa Valley Reservation or with the Yurok
6 Tribe, or the Bureau of Indian Affairs acting as trustee for the Yurok Indians,
7 regarding the taking of fish from the Klamath River within the exterior boundaries
8 of the Yurok Reservation.

9 **Comment.** Section 7925 continues former Fish and Game Code Section 16530 without
10 substantive change.

11 **§ 7930. Timing**

12 7930. Negotiations shall take place following the completion each year of the
13 salmon allocation agreement recommended by the Klamath Fishery Management
14 Council, and subsequently adopted by the Pacific Fishery Management Council
15 and the United States Department of Commerce. Any agreement or compact under
16 this division shall reflect those allocations.

17 **Comment.** Section 7930 continues former Fish and Game Code Section 16531 without
18 substantive change.

19 **§ 7935. Commercial sale of salmon**

20 7935. Notwithstanding Sections 15150, 18040, 18045, and 18050, the compact
21 or agreement may include provisions for commercial sales of salmon allocated to
22 qualified Indian members of the Klamath River Indian Tribes and that the salmon
23 may be taken by traditional Indian methods, including, but not limited to, use of
24 gill nets, if the agreement or compact includes provisions for all of the following:

25 (a) Separating the salmon taken for commercial purposes from the salmon taken
26 for subsistence use, which may include tagging or marking of the salmon to be
27 sold.

28 (b) Limiting the number of the salmon to be sold.

29 (c) A portion of the sales to benefit the members or programs of the Klamath
30 River Indian Tribes in accordance with the wishes of the tribes or the Bureau of
31 Indian Affairs acting on behalf of the tribes as trustee.

32 **Comment.** Section 7935 continues former Fish and Game Code Section 16532 without
33 substantive change.

34 Article 4. Enforceability of an Agreement or Compact

35 **§ 7950. Enforcement governed by agreement**

36 7950. Any agreement or compact entered into pursuant to this division shall be
37 enforceable by the parties only to the extent and in the form or forms provided for
38 under the terms of the agreement or compact.

1 **Comment.** Section 7950 continues former Fish and Game Code Section 16540 without
2 substantive change.

3 **§ 7955. Regulations**

4 7955. The department may adopt regulations consistent with the provisions of
5 any agreement or compact entered into pursuant to Section 7925 or 7930. The
6 application and enforcement of those regulations shall be in accordance with the
7 express provisions of the agreement or compact.

8 **Comment.** Section 7955 continues former Fish and Game Code Section 16541 without
9 substantive change.

10 DIVISION 6. HUNTING, TRAPPING, AND FISHING

11 PART 1. GENERAL PROVISIONS

12 TITLE 1. GENERAL PROHIBITIONS AND OBLIGATIONS

13 CHAPTER 1. GENERAL PROHIBITIONS

14 **§ 8000. Unauthorized take**

15 8000. (a) It is unlawful to take a bird, mammal, fish, reptile, or amphibian,
16 except as provided in this code or in a regulation adopted pursuant to this code.

17 (b) Possession of a bird, mammal, fish, reptile, or amphibian, or part of any of
18 those animals, in or on the fields, forests, or waters of this state, or while returning
19 therefrom with fishing or hunting equipment, is prima facie evidence the possessor
20 took the bird, mammal, fish, reptile, amphibian, or part of that animal.

21 **Comment.** Section 8000 continues former Fish and Game Code Section 2000 without
22 substantive change. The reference to a “part” of an animal in this section is superfluous. See
23 Section 95 (reference to animal generally includes part of animal). It is retained solely for clarity,
24 and is not intended to affect the meaning of any other provision of this code that includes or omits
25 a reference to a “part” of an animal.

26 See also Sections 4570, 6552, 6554 (enforcement).

27 **§ 8005. Accidental take**

28 8005. (a) Notwithstanding Sections 1025, 8000, or any other provision of law,
29 and notwithstanding any requirement for a permit or license or other entitlement to
30 take a species, the accidental taking of a bird, mammal, reptile, or amphibian by
31 collision with a motor vehicle while the vehicle is being operated on a road or
32 highway is not a violation of this code or a regulation adopted pursuant to this
33 code.

34 (b) For purposes of this section, “highway” means highway as defined by
35 Section 360 of the Vehicle Code and “road” means road as defined by Section 527
36 of the Vehicle Code.

1 (c) Nothing in this section authorizes a person to possess any bird, mammal,
2 reptile, or amphibian accidentally taken by collision with a motor vehicle as
3 provided in this subdivision. However, accidental takes on the road or highway
4 may be removed by the state or local agency having jurisdiction over the road or
5 highway.

6 (d) This section does not apply to Part 1 (commencing with Section 62000) of
7 Division 17.

8 **Comment.** Section 8005 continues former Fish and Game Code Section 2000.5 without
9 substantive change.

10 **§ 8010. Unlawful possession**

11 8010. It is unlawful to possess a bird, mammal, fish, reptile, amphibian, or part
12 of any of those animals, taken in violation of this code or a regulation adopted
13 pursuant to this code.

14 **Comment.** Section 8010 continues former Fish and Game Code Section 2002 without
15 substantive change. The reference to a “part” of an animal in this section is superfluous. See
16 Section 95 (reference to animal generally includes part of animal). It is retained solely for clarity,
17 and is not intended to affect the meaning of any other provision of this code that includes or omits
18 a reference to a “part” of an animal.

19 See also Sections 6552, 6554 (enforcement).

20 **§ 8015. Season and possession limits**

21 8015. (a) It is unlawful to take a mammal, bird, fish, reptile, or amphibian
22 outside of an established season or to exceed a bag limit or possession limit
23 established in this code or by a regulation adopted by the commission. Violation of
24 an established season, bag limit, or possession limit may be charged as a violation
25 of this section or of the specific code section or regulation that establishes the
26 season or limit.

27 (b) Unless otherwise provided, it is unlawful to possess a fish, reptile, or
28 amphibian, except during the open season where the fish, reptile, or amphibian
29 was taken or during the 10-day period immediately following that open season.
30 Any possession limit applicable during the open season applies during that 10-day
31 period.

32 (c) Except as provided in Section 10805, it is unlawful to possess a game bird or
33 mammal except during the open season where taken.

34 **Comment.** Section 8015 continues former Fish and Game Code Section 2001 without
35 substantive change.

36 See also Section 4572, 5330, 5450 (enforcement).

37 **Notes.** (1) Subdivision (b) of proposed Section 8015 is intended to restate subdivision (b) of
38 existing Section 2001 to improve its clarity, without changing its substantive effect. The existing
39 provision reads as follows:

40 Unless otherwise provided, it is unlawful to possess fish, reptiles, or amphibians except
41 during the open season where taken and for 10 days thereafter; and not more than the possession
42 limit thereof may be possessed during the period after the close of the open season.

1 **The Commission invites comment on whether the proposed restatement would cause any**
2 **substantive change in the meaning of the provision.**

3 (2) Subdivision (c) refers to “game” birds and mammals. The Commission has two questions
4 regarding this reference.

5 (a) In subdivision (c), is the word “game” meant to modify only “birds,” or both “birds” and
6 “mammals”?

7 (b) What is the rationale for limiting the application of subdivision (c) to “game” birds (and
8 mammals)? Is there a reason that rationale does not apply to subdivisions (a) and (b)?

9 **The Commission invites comment on both of these issues.**

10 CHAPTER 2. SPECIAL PROHIBITIONS

11 § 8110. Torture

12 8110. (a) Any person who maliciously and intentionally maims, mutilates, or
13 physically tortures any fish, reptile, bird, amphibian, or mammal governed by this
14 code is guilty of a crime.

15 (b) Nothing in this section affects any legal activity pursuant to this code,
16 including, but not limited to, hunting, fishing, trapping, hunting dog training,
17 hunting dog field trials, predation control, and efforts to dispatch a wounded
18 mammal, bird, or fish taken legally.

19 **Comment.** Subdivision (a) of Section 8110 continues the first clause of the first sentence of
20 former Fish and Game Code Section 12013(c) without substantive change.

21 Subdivision (b) continues the second sentence of former Fish and Game Code Section
22 12013(c) without substantive change.

23 See also Section 4664 (enforcement).

24 § 8115. Prize

25 8115. (a) Except as specified in subdivisions (b), (c), and (d), it is unlawful to
26 offer a prize or other inducement as a reward for the taking of a game bird, or the
27 taking of any mammal, fish, reptile, or amphibian, in an individual contest,
28 tournament, or derby.

29 (b) The department may issue a permit to a person authorizing that person to
30 offer a prize or other inducement as a reward for the taking of a game fish, as
31 defined by the commission by regulation, if it finds that there would be no
32 detriment to the resource. The permit is subject to regulations adopted by the
33 commission. The application for the permit shall be accompanied by a fee in the
34 amount determined by the department as necessary to cover the reasonable
35 administrative costs incurred by the department in issuing the permit. However,
36 the department may waive the permit fee if the contest, tournament, or derby is for
37 persons who are under 16 years of age or have a physical or mental disability, and
38 if the primary purpose of the contest, tournament, or derby is to introduce those
39 anglers to or educate them about fishing. All permits for which the fee is waived
40 pursuant to this subdivision shall comply with all other requirements set forth in
41 this section.

1 (c) This section does not apply to a person conducting what is generally known
2 as a frog-jumping contest, or, in waters of the Pacific Ocean, what is generally
3 known as a fish contest.

4 (d) This section does not apply to a person conducting an individual contest,
5 tournament, or derby for the taking of a game bird or game mammal, if the total
6 value of all prizes or other inducements is less than five hundred dollars (\$500) for
7 the individual contest, tournament, or derby.

8 **Comment.** Section 8115 restates former Fish and Game Code Section 2003 to make clear that
9 (1) the general prohibition in subdivision (a) applies to game birds, as well as all mammals, fish,
10 reptiles and amphibians, and (2) the exception in subdivision (d) applies only to game birds and
11 game mammals.

12 In subdivision (b), the word “disability” is not used in any defined sense.

13 **Note.** Proposed Section 8115(a) and (d) are intended to restate existing Fish and Game Code
14 Section 2003(a) and (d) without changing their substantive effect, to make clear which references
15 to types of animals are limited to “game” animals.

16 Existing Section 2003 reads as follows:

17 2003. (a) Except as specified in subdivisions (b), (c), and (d), it is unlawful to offer a prize or
18 other inducement as a reward for the taking of a game bird, mammal, fish, reptile, or amphibian
19 in an individual contest, tournament, or derby.

20 (b) The department may issue a permit to a person authorizing that person to offer a prize or
21 other inducement as a reward for the taking of a game fish, as defined by the commission by
22 regulation, if it finds that there would be no detriment to the resource. The permit is subject to
23 regulations adopted by the commission. The application for the permit shall be accompanied by a
24 fee in the amount determined by the department as necessary to cover the reasonable
25 administrative costs incurred by the department in issuing the permit. However, the department
26 may waive the permit fee if the contest, tournament, or derby is for persons who are under 16
27 years of age or have a physical or mental disability, and the primary purpose of the contest,
28 tournament, or derby is to introduce those anglers to or educate them about fishing. All permits
29 for which the fee is waived pursuant to this subdivision shall comply with all other requirements
30 set forth in this section.

31 (c) This section does not apply to a person conducting what is generally known as a frog-
32 jumping contest, or, in waters of the Pacific Ocean, what is generally known as a fish contest.

33 (d) This section does not apply to a person conducting an individual contest, tournament, or
34 derby for the taking of a game bird or mammal, if the total value of all prizes or other
35 inducements is less than five hundred dollars (\$500) for the individual contest, tournament, or
36 derby.

37 **The Commission invites comment on whether the proposed restatement would cause any**
38 **substantive change in the meaning of any provision of existing Section 2003.**

39 **§ 8120. Property damage**

40 8120. It is unlawful for any person, while taking any bird, mammal, fish, reptile,
41 or amphibian, to cause damage, or assist in causing damage, to real or personal
42 property, or to leave a gate or bar open, or to break down, destroy, or damage a
43 fence, or to tear down or scatter a pile of rails, posts, stone, or wood, or, through
44 carelessness or negligence, to injure any livestock.

45 **Comment.** Section 8120 continues former Fish and Game Code Section 2004 without
46 substantive change.

47 See also Section 4572 (enforcement).

1 § 8125. Lights

2 8125. (a) Except as otherwise provided by this section, it is unlawful to use an
3 artificial light to assist in the taking of a game bird, game mammal, or game fish.

4 (b) It is unlawful for one or more persons to throw or cast the rays of a spotlight,
5 headlight, or other artificial light on a highway or in a field, woodland, or forest
6 where game mammals, fur-bearing mammals, or nongame mammals are
7 commonly found, or upon a game mammal, fur-bearing mammal, or nongame
8 mammal, while having in his or her possession or under his or her control a
9 firearm or weapon with which that mammal could be killed, even though the
10 mammal is not killed, injured, shot at, or otherwise pursued.

11 (c) It is unlawful to use or possess any night vision equipment to assist in the
12 taking of any bird, mammal, amphibian, reptile, or fish. For purposes of this
13 subdivision, “night vision equipment” includes but is not limited to the following:

14 (1) Any infrared or similar light, used in connection with an electronic viewing
15 device.

16 (2) Any optical device, including but not limited to binoculars or a scope, that
17 uses electrical or battery powered light amplifying circuits.

18 (d) This section does not apply to any of the following:

19 (1) Sport fishing in ocean waters, or other waters where night fishing is
20 permitted, if an artificial light is not used on or as part of the fishing tackle.

21 (2) Commercial fishing.

22 (3) The taking of a mammal that is expressly authorized by this code because the
23 mammal is damaging crops, livestock, or other property.

24 (4) The use of a hand-held flashlight that is no larger and emits no more light
25 than a two-cell, three-volt flashlight, and is not affixed to a weapon.

26 (5) The use of a lamp or lantern that does not cast a directional beam of light.

27 (6) Headlights of a motor vehicle that are operated in a usual manner and
28 without attempt or intent to locate a game mammal, fur-bearing mammal, or
29 nongame mammal.

30 (7) An owner of land devoted to the agricultural industry, or his or her
31 employee, while on that land.

32 (8) An owner of land devoted to the agricultural industry, or the owner’s
33 employee, while on land controlled by the owner in connection with the
34 agricultural industry.

35 (9) Other uses as the commission may authorize by regulation.

36 (e) A person shall not be arrested for violation of this section except by a peace
37 officer.

38 **Comment.** Section 8125 continues former Fish and Game Code Section 2005 without
39 substantive change.

40 **Notes.** (1) The exception to this section in existing Section 2005(d)(3) – continued in
41 proposed Section 8125(d)(7) and (8) – is convoluted. It appears to exempt owners of agricultural
42 land and their employees, but not tenants of such land. Is this distinction intended as a matter of

1 policy? If not, would it be sufficient for the exception to apply to “a person who owns or controls
2 land devoted to the agricultural industry, or that person’s employee, while on that land”?

3 **The Commission invites comment on this issue.**

4 (2) Existing Fish and Game Code Section 2005(d)(3) (which would be continued by proposed
5 Section 8125(d)(3)) provides that the section does not apply to the “taking of mammals governed
6 by Article 2 (commencing with Section 4180) of Chapter 3 of Part 3 of Division 4.” In the
7 proposed law, the many provisions contained in that cross-referenced article, which governs the
8 taking of depredator mammals, are continued in many different locations.

9 **The Commission invites comment on whether the continuation of that cross-reference in
10 proposed Section 8125(d)(3) by instead describing the subject matter of the cross-reference
11 would cause any problems.**

12 **§ 8130. Interference with lawful activities**

13 8130. (a) A person shall not willfully interfere with the participation of any
14 individual in the lawful activity of shooting, hunting, fishing, falconry, hunting
15 dog field trials, hunting dog training, or trapping at the location where that activity
16 is taking place.

17 (b) For purposes of this section, “interfere with” means any action that
18 physically impedes, hinders, or obstructs the lawful pursuit of any activity listed in
19 subdivision (a), including, but not limited to, any of the following:

20 (1) An action intended to frighten away animals from the location where the
21 lawful activity is taking place.

22 (2) Placing or maintaining a sign, gate, lock, or barricade that prohibits or denies
23 access to land without authorization from the landowner or lessee or an authorized
24 designee of the landowner or lessee.

25 (3) Placing food on land not belonging to the person placing the food for
26 purposes of eliminating the lawful ability to hunt due to the presence of bait, as
27 defined in this code or in a regulation adopted pursuant to this code.

28 (c) In order to be liable for a violation of this section, the person is required to
29 have had the specific intent to interfere with the participation of an individual who
30 was engaged in lawful shooting, hunting, fishing, falconry, hunting dog field trials,
31 hunting dog training, or trapping.

32 (d) This section does not apply to the actions of any peace officer or personnel
33 of the department in the performance of official duties. This section does not
34 obstruct the rights and normal activities of landowners or tenants, including, but
35 not limited to, farming, ranching, and limiting unlawful trespass.

36 **Comment.** Section 8130 continues former Fish and Game Code Section 2009(a), (d)-(f)
37 without substantive change.

38 See also Section 4600 (enforcement).

39 **§ 8135. Signs**

40 8135. It is unlawful to do any of the following:

41 (a) Post any sign indicating an area is a state or federal refuge unless established
42 by state or federal law.

1 (b) Post any sign prohibiting trespass or hunting on any land unless authorized
2 by the owner or the person in lawful possession of that land.

3 (c) Maliciously tear down, mutilate, or destroy any sign, signboard or other
4 notice forbidding hunting or trespass on land.

5 **Comment.** Section 8135 continues former Fish and Game Code Section 2018 without
6 substantive change.

7 **§ 8140. Use of sodium cyanide**

8 8140. Notwithstanding Section 31605, subdivision (b) of Section 32150, Section
9 32155, 32305, 35215, 35610, 35710, or 36010 of this code, or Section 14063 of
10 the Food and Agricultural Code, no person, including an employee of the federal,
11 state, county, or municipal government, may poison or attempt to poison any
12 animal by using sodium fluoroacetate, also known as Compound 1080, or sodium
13 cyanide.

14 **Comment.** Section 8140 continues former Fish and Game Code Section 3003.2 without
15 substantive change.

16 See also Section 4712 (enforcement).

17 **Note.** Section 3003.2 was added by Proposition 4 (1998). The Commission believes that the
18 nonsubstantive continuation of those provisions in the proposed law would not be an
19 impermissible amendment. See discussion of initiative statutes *supra* at notes 20-22 and
20 associated text.

21 **§ 8145. Explosives**

22 8145. It is unlawful to use explosives in waters of the state inhabited by fish,
23 except in one of the following circumstances:

24 (a) Pursuant to a permit first obtained by the user from the department,
25 consistent with terms and conditions set by the commission. The department's
26 decision to grant or deny a permit may be appealed to the commission by any
27 person.

28 (b) In an emergency, to remove an accidental obstruction to the flow of water.

29 **Comment.** Section 8145 restates former Fish and Game Code Section 5500 without
30 substantive change.

31 **Note.** Proposed Section 8145 is intended to restate existing Fish and Game Code Section
32 5500 to clarify the meaning of that provision, without changing its substantive effect. The
33 existing provision reads as follows:

34 5500. It is unlawful to use explosives in the waters of this state inhabited by fish, except under
35 a permit first obtained by the user from the department consistent with terms and conditions set
36 by the commission, or except in case of emergency, to remove an accidental obstruction to the
37 flow of water. Any person may appeal the department's decision to grant or deny a permit to the
38 commission.

39 **The Commission invites comment on whether the restatement would cause any**
40 **substantive change in the meaning of the provision.**

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CHAPTER 3. OBLIGATIONS

§ 8300. Possession of license

8300. Every person while engaged in taking a bird, mammal, fish, amphibian, or reptile shall have on his or her person, in his or her immediate possession, or where otherwise specifically required by law to be kept, any license, tag, stamp, or permit that is required in order to take the bird, mammal, fish, amphibian, or reptile. In the case of a person diving from a boat, the license or permit may be kept on the boat, or in the case of a person diving from shore, the license or permit may be kept within 500 yards of the shore.

Comment. Section 8300 continues former Fish and Game Code Section 1054.2 without substantive change.

See also Sections 4874, 5450 (enforcement).

§ 8305. Display of license, take, and equipment

8305. All licenses, tags, and the birds, mammals, fish, reptiles, or amphibians taken or otherwise dealt with under this code, and any device or apparatus designed to be and capable of being used to take any bird, mammal, fish, reptile, or amphibian, shall be exhibited upon demand to any person authorized by the department to enforce this code or any law relating to the protection and conservation of birds, mammals, fish, reptiles, or amphibians.

Comment. Section 8305 continues former Fish and Game Code Section 2012 without substantive change.

TITLE 2. SPECIAL SEASONS AND LIMITS

§ 8700. Fire seasons

8700. Whenever, because of extreme fire hazard, an area is closed to entry by the public by an order or proclamation issued or concurred in by the Governor, the commission may establish a season for hunting or fishing within the area. The season shall begin on or after the end of the closure, and correspond in length of time as nearly as possible to the amount of time the area was closed to hunting or fishing.

Comment. Section 8700 continues former Fish and Game Code Section 306 without substantive change.

§ 8705. Reduced limits based on scarcity

8705. (a) Whenever after due investigation the commission finds that game fish, resident game birds, migratory game birds, game mammals, fur-bearing mammals, game amphibians, or game reptiles have decreased in numbers in any area, district, or part of an area or district to the extent that a scarcity exists, the commission may reduce the daily bag limit and the possession limit on those fish, birds, mammals, amphibians, or reptiles that are in danger of depletion, for a period of

1 time that the commission may specify, or until new legislation addressing the
2 scarcity becomes operative.

3 (b) A regulation adopted pursuant to this section shall be filed with the Secretary
4 of State, and that filing shall be deemed a legal notice thereof.

5 (c) The regulation shall be published twice in at least one newspaper of general
6 circulation in every county affected by the order. The publications shall be
7 separated by a period of not less than one week and not more than two weeks. The
8 regulation shall be posted in any public places in each county that the director may
9 direct.

10 **Comment.** Section 8705 restates former Fish and Game Code Section 307 to make clear that it
11 applies to “game” animals of the specified types.

12 **Notes.** (1) Proposed Section 8705 would continue existing Fish and Game Code Section 307
13 with minor revisions. The revisions would make clear that the section applies to “game” animals
14 of the specified types (rather than all animals of those types). See also proposed Sections 445,
15 455, and 465 (“game amphibian,” “game fish,” and “game reptile” defined).

16 **The Commission invites comment on the merits of those revisions.**

17 (2) A provision of existing Section 307, continued in proposed Section 8705(b), requires that a
18 regulation be filed with the Secretary of State. That requirement appears to be redundant. Existing
19 Section 300 generally requires that “any regulation issued under any subsequent provisions of this
20 code shall be filed with the Secretary of State, as required by Chapter 4 (commencing with
21 Section 11370), Part 1, Division 3, Title 2, of the Government Code.”

22 **The Commission invites comment on whether the filing requirement in Section 8705(b)
23 can be deleted.**

24 (3) Proposed Section 8705 also provides that the filing of the regulation with the Secretary of
25 State “shall be deemed a legal notice thereof.” The Commission is not certain of the meaning of
26 that provision. Moreover, the Commission is concerned that this statement could create a
27 problematic negative inference that other regulations filed with the Secretary of State do not
28 create “legal notice” of the regulation. See also Gov’t Code §§ 11343.6 (filing regulation with
29 Secretary of State creates rebuttable presumption of regulation’s proper promulgation; courts
30 shall take judicial notice of filed regulation), 11344.6 (publication of regulation in California
31 Regulatory Notice Register creates rebuttable presumption of regulation’s proper promulgation;
32 courts shall take judicial notice of filed regulation).

33 **The Commission invites comment on whether the “legal notice” clause of Section 8705(b)
34 should be deleted.**

35 **§ 8710. Prohibited take in protected areas**

36 8710. (a) The commission at any time may close to the taking of any species or
37 subspecies of bird or mammal any area newly stocked by the department with
38 resident or migratory game birds or game or fur-bearing mammals, or any area
39 where, in the judgment of the commission, added protection for birds or mammals
40 is needed to properly conserve the birds or mammals, for such time as the
41 commission may designate, or until such time as new legislation thereon enacted
42 by the Legislature may become effective.

43 (b) The commission may at any time close any stream, lake, or other inland
44 waters, or portions thereof, to the taking of any species or subspecies of fish to
45 protect and properly conserve the fish, except for the taking of fish otherwise
46 permitted by this code under a commercial fishing license, for such time as the

1 commission may designate, or until such time as new legislation thereon enacted
2 by the Legislature may become effective.

3 **Comment.** Subdivision (a) of Section 8710 continues former Fish and Game Code Section 314
4 without substantive change.

5 Subdivision (b) continues former Fish and Game Code Section 315 without substantive
6 change.

7 **§ 8715. Opening identified waters to take**

8 8715. The commission may, at any time when facts are presented to the
9 commission that were not presented to the commission at the time of a meeting
10 held pursuant to Section 1105, open any stream, lake, or other inland waters, or
11 portions thereof to the taking of any species or subspecies of fish for the proper
12 utilization of the fish, for such time as the commission may designate, or until
13 such time as new legislation thereon enacted by the Legislature may become
14 effective.

15 **Comment.** Section 8715 continues former Fish and Game Code Section 315.3 without
16 substantive change.

17 **Note.** Existing Fish and Game Code Section 315.3 (which would be continued by proposed
18 Section 8715) references a Fish and Game Commission meeting held in December, pursuant to
19 “Section 209.” However, former Fish and Game Code Section 209, which provided for such
20 December meetings, was repealed in 2006, and replaced by Fish and Game Code 206, which did
21 not limit either the dates or subject matter of Commission meetings. See 2006 Cal. Stat. ch. 667.
22 In 2016, Section 206 was in turn repealed and replaced by Section 255. See 2016 Cal. Stat. ch.
23 546. Existing Section 255 would in turn be continued in the proposed law by proposed Section
24 1105.

25 **The Commission invites comment on the substitution of proposed Section 1105 as a cross-**
26 **reference in this provision, in place of the existing reference to “Section 209.”**

27 **§ 8720. Restricted take in Fish and Wildlife District 2655**

28 8720. (a) Notwithstanding any other provisions of this code, in District 2655 the
29 taking of birds, mammals, fish, amphibians, or reptiles shall be subject to
30 regulations adopted, from time to time, by the commission, except that it is
31 unlawful to take birds or mammals within one-eighth mile of any gallinaceous
32 guzzler, if the area surrounding it is posted in the manner prescribed by the
33 commission. In the Colorado River, in District 2655, the commission may adopt
34 regulations in agreement with the proper authorities of the State of Arizona.

35 **Comment.** Section 8720 continues former Fish and Game Code Section 308 without
36 substantive change.

37 **Notes.** (1) Is the prohibition in existing Section 308 against the take of birds or mammals
38 within one-eighth mile of any gallinaceous guzzler, if the area surrounding the guzzler is posted
39 in the manner prescribed by the commission (which would be continued by proposed Section
40 8720(b)) intended to apply only in existing District 22?

41 **The Commission invites comment on this question.**

42 (2) Should that prohibition against take around a gallinaceous guzzler also be made applicable
43 to the take of animals others than birds and mammals?

44 **The Commission invites comment on this question.**

1 TITLE 3. HUNTING AND FISHING GUIDES

2 CHAPTER 1. GUIDES GENERALLY

3 § 8800. “Guide” defined

4 8800. As used in this chapter, “guide” means any person who is engaged in the
5 business of packing or guiding, or who, for a fee, assists another person in taking
6 or attempting to take any bird, mammal, fish, amphibian, or reptile. “Guide” also
7 includes any person who, for profit, transports other persons, their equipment, or
8 both to or from a hunting or fishing area.

9 **Comment.** Section 8800 continues former Fish and Game Code Section 2535 without
10 substantive change.

11 § 8805. Guide license required

12 8805. (a) It is unlawful for any person to engage in the business of guiding or
13 packing, or to act as a guide for any consideration or compensation, without first
14 having secured a guide license from the department.

15 (b) An employee of a licensee who acts as a guide only in connection with, and
16 within the scope of, his or her employment is exempt from the requirement of
17 subdivision (a) if all of the following conditions are met:

18 (1) The employment is subject to and the person is reported to the carrier of the
19 employer’s workers’ compensation insurance.

20 (2) The person is subject to and reported to the state and federal taxing
21 authorities for withholding of income tax.

22 (3) The person is reported to the department, on forms provided by the
23 department, as an employee of the guide prior to any contact with any person
24 being guided, and a registration fee has been paid. The base fee for an employee
25 guide registration for the 2004 license year shall be thirty-three dollars (\$33),
26 which shall be adjusted annually thereafter pursuant to Section 3755.

27 (c) A person who is licensed in another state to provide guide services for the
28 purposes of fishing is exempt from the requirements of subdivision (a) if all of the
29 following conditions are met:

30 (1) The state in which the person is licensed grants a similar exemption to
31 licensed guides who are residents of this state.

32 (2) Evidence of a valid guide license is provided to the department upon request.

33 (3) The person is engaged in the business of guiding only in conjunction with
34 and during the term of a multistate fishing tournament approved by the appropriate
35 agency in each of the affected states.

36 (4) The tournament sponsor provides to the department any information or
37 documents necessary to administer and enforce this paragraph, as determined by
38 the department, including, but not limited to, the identities of all guides
39 participating in the tournament, verification of another state’s license exemption,

1 and information sufficient to determine the validity of another state's guide
2 licenses.

3 (5) The tournament sponsor pays the department an amount, determined by the
4 department, to be sufficient to cover the department's cost to administer and
5 enforce this subdivision.

6 (6) The net proceeds of the tournament are used for resource management
7 projects or habitat improvement projects, or both.

8 (d) The commission shall adjust the amount of the fees specified in paragraph
9 (3) of subdivision (b), as necessary, to fully recover, but not exceed, all reasonable
10 administrative and implementation costs of the department and the commission
11 relating to those licenses.

12 **Comment.** Section 8805 continues former Fish and Game Code Section 2536 without
13 substantive change.

14 See also Section 4592 (revocation for violation of code or regulations).

15 **§ 8810. Exception**

16 8810. A person operating under a commercial passenger fishing boat license
17 issued pursuant to Section 21905 is not required to obtain a guide license.

18 **Comment.** Section 8810 continues former Fish and Game Code Section 2537 without
19 substantive change.

20 **§ 8815. Grazing permit required**

21 8815. If the licensee operates with pack or riding animals in any area in which a
22 grazing permit is required, the license is not valid unless the licensee has a valid
23 grazing permit for the area. A licensee shall not guide clients on any land under
24 the jurisdiction of the United States Department of the Interior or Department of
25 Agriculture where a permit is required without first obtaining the permit from that
26 federal agency.

27 **Comment.** Section 8815 continues former Fish and Game Code Section 2539 without
28 substantive change.

29 **§ 8820. Regulations**

30 8820. The commission shall adopt regulations governing the conduct and
31 qualifications of guides to ensure the safety and welfare of persons engaging the
32 services of a guide, and may adopt regulations governing the procedures for
33 applications for guide licenses. The qualifications shall include, but not be limited
34 to, knowledge of basic first aid and rescue operations.

35 **Comment.** Section 8820 continues former Fish and Game Code Section 2542 without
36 substantive change.

37 **§ 8825. Records**

38 8825. The commission may require licensed guides to maintain and submit
39 records of their operations. The records may be examined at any time by
40 representatives of the department. It is unlawful for any licensed guide to fail to

1 maintain or submit any required record or to refuse to allow the examination of a
2 record on request of a department representative.

3 **Comment.** Section 8825 continues former Fish and Game Code Section 2543 without
4 substantive change.

5 CHAPTER 2. LICENSE APPLICATION

6 **§ 8900. Information required**

7 8900. An application for a guide license shall be on a form furnished by the
8 department on request. The application shall show all of the following:

9 (a) The name, date of birth, physical description, age, address, and telephone
10 number, if any, of the applicant.

11 (b) The area or areas of the state in which the applicant proposes to operate.

12 (c) The type of guiding or packing in which the applicant proposes to engage.

13 (d) The experience that qualifies the applicant for the type of guiding or packing
14 he or she proposes to conduct.

15 (e) The type and amount of the equipment, vehicles, animals, and other property
16 the applicant proposes to use in his or her operations.

17 (f) Any other information that the department or the commission may require.

18 **Comment.** Section 8900 continues former Fish and Game Code Section 2538 without
19 substantive change.

20 **§ 8905. License fee**

21 8905. (a) The base fee for a guide license issued to a resident is one hundred
22 fifty dollars (\$150).

23 (b) The base fee for a guide license issued to a nonresident is three hundred fifty
24 dollars (\$350).

25 (c) The base fees specified in this section are applicable to the 2004 license year,
26 and shall be adjusted annually thereafter pursuant to Section 3755.

27 (d) The commission shall adjust the amount of the fees specified in this section,
28 as necessary, to fully recover, but not exceed, all reasonable administrative and
29 implementation costs of the department and the commission relating to those
30 licenses.

31 **Comment.** Section 8905 continues former Fish and Game Code Section 2540(a), (b), (d), and
32 (e) without substantive change.

33 **§ 8910. License duration**

34 8910. A guide license is valid for the license year beginning on February 1 and
35 ending on January 31 of the succeeding year or, if issued after the beginning of the
36 license year, for the remainder of that license year.

37 **Comment.** Section 8910 continues former Fish and Game Code Section 2540(c) without
38 substantive change.

1 **§ 8915. Surety bond**

2 8915. Each applicant for a guide license shall submit proof of having obtained a
3 surety bond in the amount of not less than one thousand dollars (\$1,000),
4 conditioned on faithful performance of the guide and the guide’s agents or
5 employees in fulfilling their responsibilities to their clients. No guide license shall
6 be issued to any applicant who does not submit proof of having a bond that is valid
7 for the term of the license.

8 **Comment.** Section 8915 continues former Fish and Game Code Section 2541 without
9 substantive change.

10 ☞ **Note.** The language used in existing Section 2541 to describe the purpose of the surety bond
11 referenced in the section is non-standard. Proposed Section 8915 would conform the language to
12 that used in more recently enacted provisions. Se e.g., Fin. Code § 12104(g), Health and Safety
13 Code § 1376(b), Rev. & Tax. Code § 30165.1(b)(4)(B).

14 **The Commission invites comment on whether this revision is appropriate.**

15 **§ 8920. Grounds for refusal of license**

16 8920. The department may refuse to issue a guide license to an applicant upon a
17 showing of any of the following:

18 (a) The applicant has failed to fulfill his responsibilities to a client.

19 (b) The applicant has violated this code or any regulation adopted pursuant to
20 this code, or has knowingly permitted a client or another member of a party being
21 guided to violate this code or any regulation adopted pursuant to this code, and the
22 applicant had the authority and means to prevent the violation.

23 **Comment.** Section 8920 continues former Fish and Game Code Section 2544 without
24 substantive change.

25 **§ 8925. Appeal of refusal**

26 8925. An applicant denied a guide license by the department may request a
27 hearing before the commission and the commission shall determine whether or not
28 the license shall be issued.

29 **Comment.** Section 8925 continues former Fish and Game Code Section 2545 without
30 substantive change.

31 **TITLE 4. SPECIAL LICENSES**

32 **CHAPTER 1. LIFETIME LICENSES**

33 **§ 9105. Deposit of fees from lifetime licenses**

34 9105. Notwithstanding Section 3600, the department shall deposit funds from
35 the sale of lifetime hunting licenses and lifetime hunting privileges issued pursuant
36 to Section 10225, and lifetime sport fishing licenses and lifetime privileges issued
37 pursuant to Section 13105 as follows:

1 (a) For each lifetime fishing license issued pursuant to Section 13105, the
2 collected fee shall be deposited as follows:

3 (1) Of those funds, 66.67 percent shall be deposited into the Fish and Game
4 Preservation Fund.

5 (2) Of those funds, 33.33 percent shall be deposited into the Hatchery and Inland
6 Fisheries Fund.

7 (b) For each lifetime hunting license issued pursuant to Section 10225, 100
8 percent of the collected fee shall be deposited into the Fish and Game Preservation
9 Fund pursuant to Section 3600.

10 (c) For each lifetime sport fishing privilege package issued pursuant to
11 subdivision (e) of Section 13105, the collected fee shall be deposited as follows:

12 (1) Of those funds, 48.37 percent shall be deposited into the Fish and Game
13 Preservation Fund.

14 (2) Of those funds, 14.75 percent shall be deposited into the Hatchery and Inland
15 Fisheries Fund.

16 (3) Of those funds, 21.31 percent shall be deposited into the Steelhead Trout
17 account in the Fish and Game Preservation Fund.

18 (4) Of those funds, 15.57 percent shall be deposited into the California Ocean
19 Resources Enhancement and Hatchery Program account in the Fish and Game
20 Preservation Fund.

21 (d) The collected fee for each big game privilege package purchased pursuant to
22 subdivision (c) of Section 10225 shall be deposited as follows:

23 (1) Of those funds, 91.92 percent shall be deposited into the Big Game
24 Management Account in the Fish and Game Preservation Fund.

25 (2) Of those funds, 8.08 percent shall be deposited into the Fish and Game
26 Preservation Fund.

27 (e) The collected fee for each lifetime bird hunting privilege package issued
28 pursuant to subdivision (d) of Section 10225 shall be deposited as follows:

29 (1) Of those funds, 68.47 percent shall be deposited into the State Duck Stamp
30 Account in the Fish and Game Preservation Fund.

31 (2) Of those funds, 31.53 percent shall be deposited into the Upland Game Bird
32 Account in the Fish and Game Preservation Fund.

33 **Comment.** Section 9105 continues former Fish and Game Code Section 13005 without
34 substantive change.

35 CHAPTER 2. SURVIVAL SCHOOL

36 § 9150. Survival School

37 9150. (a) The commission may issue a permit authorizing a member of the
38 armed forces of the United States or a student or faculty member of an elementary
39 or secondary school in the public school system actually assigned to, and
40 participating in, an organized survival training course, to take fish, amphibians,
41 reptiles, birds, or mammals, except rare or endangered species, notwithstanding

1 any other law or regulation, pursuant to the terms and conditions of that permit. A
2 permit involving training by the armed forces of the United States shall be issued
3 to the commanding officer of the unit having jurisdiction over the conduct of the
4 survival training course. A permit involving training by an elementary or
5 secondary school in the public school system shall be issued to the governing
6 board or superintendent of the district having jurisdiction over that school and the
7 conduct of the survival training course. A permit shall be applicable only to the
8 area established for that survival training as designated by the commission in the
9 permit and for the species and numbers designated in the permit.

10 (b) The commission may revise a condition of a permit if it finds revision is
11 necessary to properly protect the fish, amphibians, reptiles, birds, or mammals in
12 the area.

13 (c) The term of a permit issued pursuant to subdivision (a) shall be for not more
14 than a calendar year.

15 (d) A report shall be submitted on the expiration of the permit period specified
16 pursuant to subdivision (c), or as otherwise required by the commission, of all fish,
17 amphibians, reptiles, birds, or mammals taken during the period covered by the
18 report in each permit area. A new permit shall not be issued until the report has
19 been submitted, and an existing permit may be canceled if a report is not
20 submitted when required by the commission.

21 (e) A person engaged in survival training taking a fish, amphibian, reptile, bird,
22 or mammal pursuant to a permit issued under this section shall not use a firearm,
23 bow and arrow, steel trap, explosive, chemical, poison, drug, net, or fish tackle,
24 except that hooks, handlines, and improvised poles and lines may be used to take
25 fish.

26 **Comment.** Section 9150 continues former Fish and Game Code Section 312 without
27 substantive change.

28 CHAPTER 3. SCIENTIFIC RESEARCH

29 § 9200. Permit for scientific, educational, or propagation take or possession

30 9200. (a) The department may issue permits, subject to restrictions and
31 regulations that the department determines are desirable, to take or possess, in any
32 part of the state, for scientific, educational, or propagation purposes, mammals,
33 birds and the nests and eggs thereof, fish, amphibians, reptiles, or any other form
34 of plant or animal life.

35 (b) The department may issue a permit that is valid for 36 months from the date
36 of issuance on the payment of a nonrefundable application fee of one hundred
37 dollars (\$100) and a permit fee of three hundred dollars (\$300), as adjusted under
38 Section 3755.

39 (c) Notwithstanding subdivision (b), the department may issue a permit without
40 fee that is valid for 12 months from the date of issuance to authorize only the

1 banding of birds and the exhibition of live or dead wildlife specimens by public
2 zoological gardens, scientific, or educational institutions.

3 (d)(1) The department may issue a special student permit that is valid for 12
4 months from the date of issuance on the payment of a nonrefundable application
5 fee of twenty-five dollars (\$25) and a permit fee of fifty dollars (\$50), as adjusted
6 under Section 3755, to any student in a school of collegiate level or a commercial
7 fishing class who is required by an instructor to collect specimens used in
8 laboratory work in the school under supervision and in connection with a course in
9 wildlife research or in the conduct of wildlife investigations and studies on behalf
10 of the public.

11 (2) All fish taken under permit for a commercial fishing class student shall be
12 taken in accordance with state law, except that subdivisions (a), (b), (c), and
13 paragraph (1) of subdivision (d) of Section 14500, and Sections 14615, 14750,
14 14755, 14765, 14775, 14780, 14785, and 14790 do not apply. All fish taken under
15 a permit for a commercial fishing class student may be sold only to a person
16 licensed to receive fish from commercial fishermen as provided in Section 20205,
17 20450, or 20460, or donated to a charitable institution. All funds received from the
18 sale of the fish shall be used solely for the support of commercial fishing classes.

19 (e) It is not necessary for the holder of the permit to have a sport fishing or
20 hunting license to collect any fish, amphibian, reptile, aquatic animal or plant,
21 bird, or mammal for scientific, educational, or propagation purposes in this state.

22 (f) Nothing in this section authorizes any act that violates Section 597 of the
23 Penal Code.

24 (g) A permit under this section does not authorize the taking of fish or mammals
25 from the ocean waters of the state that are within the boundaries of any city if the
26 city has filed with the department an objection to the taking.

27 (h) The adjustment of the nonrefundable application fee and permit fees
28 pursuant to Section 3755 that are specified in subdivisions (b) and (d) shall be
29 applicable to permits issued on or after January 1, 2013.

30 (i) The department, by regulation, may adjust the amount of the fees specified in
31 subdivisions (b) and (d) as necessary to fully recover, but not exceed, all
32 reasonable administrative and implementation costs of the department relating to
33 those permits.

34 (j) No permit under this section is required for species listed as threatened or
35 endangered pursuant to the California Endangered Species Act, when an entity
36 holds a valid permit or memorandum of understanding for the subject species and
37 the proposed activities, issued pursuant to Section 62650 or 62700.

38 (k) No permit under this section is required for fully protected species listed in
39 Section 340, 345, 350, 355, or 360, if the entity holds a valid memorandum of
40 understanding issued by the department for the subject species and proposed
41 activities, in accordance with the respective section.

42 (l) A permit or amendment issued pursuant to this section is not transferable
43 between individuals or entities.

1 **Comment.** Section 9200 continues former Fish and Game Code Section 1002(a)-(l) without
2 substantive change.

3 See also Section 4602 (enforcement).

4 **§ 9205. Issuance of permit to public, private, or nonprofit entity**

5 9205. (a) The department may issue a permit pursuant to Section 9200 to an
6 appropriate public, private, or nonprofit entity, or a person, as determined by the
7 department, in the name of a principal scientific investigator or the permitted
8 entity or person.

9 (b) The department may approve individual temporary employees or volunteers
10 to work under the permit, after receiving notification from the permittee. The
11 permittee shall have adequate supervision over any temporary employees or
12 volunteers approved to work under the permit.

13 (c) A permittee that allows a temporary employee or volunteer to work under a
14 permit without approval from the department in accordance with this section is
15 subject to Section 4400.

16 (d) The department shall charge a fee pursuant to subdivision (b) of Section
17 9200 for the issuance of a permit authorized by this section. If the department
18 determines that the costs to issue a permit authorized by this section are greater
19 than the costs to issue a permit pursuant to Section 9200, the department may
20 charge a permit fee in an amount that is greater than the amount imposed by
21 subdivision (b) of Section 9200 to recover those additional costs.

22 (e) The department may amend a permit issued under this section, including, but
23 not limited to, the addition or removal of individual temporary employees or
24 volunteers working under the permit, on the payment of a nonrefundable
25 application fee of one hundred dollars (\$100), as adjusted under Section 3755 or
26 regulations adopted by the department.

27 **Comment.** Section 9205 continues former Fish and Game Code Section 1002.5 without
28 substantive change.

29 **§ 9210. Transport of take pursuant to scientific or propagation permit**

30 9210. Mammals, birds and their nests and eggs, fish and their eggs, reptiles,
31 amphibians, mollusks, crustaceans, or any other form of plant or animal life taken
32 under the provisions of a scientific or propagation permit issued pursuant to
33 Section 9200 may be shipped or transported anywhere within or without the state
34 if prior written approval is obtained from the department and the shipment is
35 accompanied by the name, address, and permit number of the person holding the
36 scientific or propagation permit.

37 **Comment.** Section 9210 continues former Fish and Game Code Section 1003 without
38 substantive change.

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PART 2. HUNTING

TITLE 1. GENERAL PROVISIONS

CHAPTER 1. GENERAL LICENSURE REQUIREMENT

§ 9500. Take without license or entitlement

9500. Except as provided in this code or regulations adopted pursuant to this code, every person who takes any bird or mammal shall procure a license or entitlement therefor.

Comment. Section 9500 restates former Fish and Game Code Section 3007 without substantive change.

See also Sections 4704, 5464 (enforcement).

CHAPTER 2. PROHIBITED METHODS

§ 9550. Shooting from vehicle

9550. It is unlawful to shoot at any game bird or mammal, including a marine mammal as defined in Section 32500, from a powerboat, sailboat, motor vehicle, or airplane.

Comment. Section 9550 continues former Fish and Game Code Section 3002 without substantive change.

<p>Note. The Commission invites comment on whether proposed Section 9550 should apply to all birds and mammals, only game birds and game mammals, or some other combination of categories.</p>

§ 9555. Prohibited shotguns

9555. (a) It is unlawful to use or possess a shotgun larger than 10-gauge, or to use or possess a shotgun capable of holding more than six cartridges at one time, to take a mammal or bird.

(b) A shotgun that has been modified with the insertion of a plug is deemed, for the purpose of this section, to have a cartridge capacity equal to the number of cartridges that can be loaded into the weapon as modified.

(c) After a public hearing, the commission may adopt regulations relative to the ammunition capacity of shotguns for taking mammals or birds that are more restrictive than the limits provided in subdivision (a), or that it determines may be needed to conform to federal law.

Comment. Section 9555 continues former Fish and Game Code Section 2010 without substantive change.

§ 9560. Trap gun

9560. (a) It is unlawful to set, cause to be set, or placed any trap gun.

1 (b) A “trap gun” is a firearm loaded with other than blank cartridges and
2 connected to a string or other contrivance with which contact will cause the
3 firearm to be discharged.

4 **Comment.** Section 9560 continues former Fish and Game Code Section 2007 without
5 substantive change.

6 **Note.** In the first sentence of existing Section 2007, which would be continued by subdivision
7 (a) of proposed Section 9560, the intended meaning of the word “placed” is unclear.

8 (1) Is the term intended to have a different meaning than the word “set”? If so, what is the
9 distinction? If not, can the word “placed” be deleted from the provision?

10 (2) Does the provision make it unlawful to place a trap gun, or to cause a trap gun to be placed?

11 **The Commission invites comment on these questions.**

12 **§ 9565. Other prohibited methods of taking**

13 9565. (a) It is unlawful to take birds or mammals with any net, pound, cage,
14 trap, set line or wire, or poisonous substance, or to possess birds or mammals so
15 taken, whether taken within or without this state, except as provided in this code
16 or, when relating to ongoing mining operations, in accordance with a mitigation
17 plan approved by the department pursuant to Title 2 (commencing with Section
18 71500) of Part 5 of Division 17.

19 (b) Proof of possession of any bird or mammal that does not show evidence of
20 having been taken by means other than a net, pound, cage, trap, set line or wire, or
21 poisonous substance, is prima facie evidence that the birds or mammals were
22 taken in violation of this section.

23 (c) This section does not apply to any of the following:

24 (1) The lawful taking of a fur-bearing mammal, nongame bird, or nongame
25 mammal.

26 (1) The lawful taking of a mammal found to be injuring crops or property.

27 (2) The taking of a bird or mammal under a depredation permit.

28 (3) The taking of a bird or mammal by an employee of the department acting in
29 an official capacity.

30 (4) The taking of a bird or mammal in accordance with the conditions of a
31 scientific or propagation permit by the holder of that permit.

32 **Comment.** Subdivision (a) of Section 9565 restates former Fish and Game Code Section
33 3005(a) without substantive change.

34 Subdivision (b) restates former Fish and Game Code Section 3005(c) without substantive
35 change.

36 Subdivision (c) restates former Fish and Game Code Section 3005(d) without substantive
37 change.

38 **Notes.** (1) The law governing mining mitigation plans has been relocated. A cross-reference
39 to that law has been added to proposed Section 9565(a).

40 (2) Proposed Section 9565(c) restates existing Section 3005(d) for clarity. The existing
41 subdivision read as follows:

42 3005. (d) This section does not apply to the lawful taking of fur-bearing mammals, nongame
43 birds, nongame mammals, or mammals found to be injuring crops or property, to the taking of
44 birds or mammals under depredation permits, to taking by employees of the department acting in

1 an official capacity, or to taking in accordance with the conditions of a scientific or propagation
2 permit by the holder of that permit.

3 **The Commission invites comment on whether the proposed restatement would cause any**
4 **substantive change in the meaning of the provisions.**

5 (3) Existing Section 3005(d), which would be continued by proposed Section 9565(c), exempts
6 from application of the section various specified *takings* of mammals and birds, but does not
7 exempt *possession* of mammals or birds taken in any of those specified circumstances. That
8 possession, which would seem to necessarily follow from the taking, would therefore appear to
9 remain expressly prohibited by subdivision (a) of both sections.

10 **The Commission invites comment on whether this distinction was intended to be drawn**
11 **by the existing provision.**

12 **§ 9570. Herding with vehicle**

13 9570. It is unlawful to pursue, drive, or herd any bird or mammal with any
14 motorized water, land, or air vehicle, including, but not limited to, a motor vehicle,
15 airplane, powerboat, or snowmobile, except in any of the following circumstances:

16 (a) On private property, by the landowner or tenant, to haze birds or mammals
17 for the purpose of preventing damage by that wildlife to private property.

18 (b) Pursuant to a permit from the department issued under regulations adopted
19 by the commission.

20 (c) In the pursuit of agriculture.

21 **Comment.** Section 9570 continues former Fish and Game Code Section 3003.5 without
22 substantive change.

23 **§ 9575. Remote use of computer or other device**

24 9575. (a) It is unlawful for a person to shoot, shoot at, or kill a bird or mammal
25 with a gun or other device accessed via an Internet connection in this state.

26 (b) It is unlawful for a person, firm, corporation, partnership, limited liability
27 company, association, or other business entity to do either of the following:

28 (1) Own or operate a shooting range, site, or gallery located in the state for the
29 purpose of online shooting or spearing of a bird or mammal.

30 (2) Create, maintain, or utilize an Internet Web site, or other service or business
31 in this state, for the purpose of online shooting or spearing of a bird or mammal.

32 (c) It is unlawful to possess or confine a bird or mammal in furtherance of an
33 activity prohibited by this section.

34 (d) It is unlawful for a person in this state to import into, or export from, this
35 state a bird or mammal that is killed by a device accessed via an Internet
36 connection.

37 (e) A bird or mammal that is possessed in violation of this section shall be
38 subject to seizure by the department.

39 (f) For the purposes of this section, “online shooting or spearing” means the use
40 of a computer or other device, equipment, software, or technology to remotely
41 control the aiming and discharge of a weapon, including, but not limited to, a
42 firearm, bow and arrow, spear, slingshot, harpoon, or other projectile device.

1 **Comment.** Section 9575 continues former Fish and Game Code Section 3003 without
2 substantive change.

3 **§ 9580. Unlawful entry onto land**

4 9580. It is unlawful to enter land for the purpose of discharging a firearm or
5 taking or destroying a mammal or bird, including waterfowl, on that land, without
6 having first obtained written permission from the owner, the owner’s agent, or the
7 person in lawful possession of that land, if either of the following is true:

8 (a) The land belongs to or is occupied by another person and is either under
9 cultivation or enclosed by a fence.

10 (b) There are signs of any size and wording forbidding trespass or hunting or
11 both displayed along all exterior boundaries and at all roads and trails entering the
12 land, including land temporarily inundated by water flowing outside the
13 established banks of a river, stream, slough, or other waterway, at intervals not
14 less than three to the mile, which fairly advise a person about to enter the land that
15 the use of the land is so restricted.

16 **Comment.** Section 9580 continues former Fish and Game Code Section 2016 without
17 substantive change.

18 See also Section 4572 (enforcement).

19  **Note.** Existing Section 2016 by its terms prohibits entering specified lands only for the
20 purpose of “discharging any firearm or taking or destroying any mammal or bird.”

21 **The Commission invites comment on whether proposed Section 9580 should be revised to**
22 **include entering the specified lands for the purpose of taking or destroying any reptile or**
23 **amphibian.**

24 **§ 9585. Bird or mammal calls**

25 9585. It is unlawful to use any recorded or electrically amplified bird or
26 mammal call or sound, or recorded or electrically amplified imitation of a bird or
27 mammal call or sound, to assist in taking any bird or mammal, except nongame
28 birds and nongame mammals as permitted by regulations of the commission.

29 **Comment.** Section 9585 continues former Fish and Game Code Section 3012 without
30 substantive change.

31 **§ 9590. Hunting at night**

32 9590. (a) It is unlawful to take any bird or mammal, except a nongame mammal,
33 between one-half hour after sunset and one-half hour before sunrise of the
34 following day at the place of taking, except as otherwise provided in this code or
35 under regulations adopted by the commission.

36 (b) The commission may adopt regulations prohibiting the taking of any
37 nongame mammal between one-half hour after sunset and one-half hour before
38 sunrise of the following day at the place of taking.

39 **Comment.** Section 9590 continues former Fish and Game Code Section 3000 without
40 substantive change.

1 **§ 9720. Hunting dogs**

2 9720. (a) It is unlawful for the owner of a dog engaged in hunting in an area
3 where the owner is authorized to hunt to fail to exercise physical control of the
4 dog, as required by this code or regulations adopted pursuant to this code.

5 (b) Dogs used for hunting that have been vaccinated for rabies in their county of
6 residence in conformity with state law regulating vaccinations in rabies areas are
7 not subject to rabies vaccination requirements of local ordinances outside their
8 county of residence.

9 **Comment.** Section 9720 continues former Fish and Game Code Section 3008 without
10 substantive change.

11 **§ 9725. Removal of hunting dog collar**

12 9725. (a) It is unlawful for a person to remove from a hunting dog any collar,
13 including an electronic or radio transmitting device, without possessing written
14 permission from the dog’s owner allowing the removal of the collar.

15 (b) As used in this section, “hunting dog” means a dog in the field actively
16 engaged in the taking of mammals or birds, or a dog actively being trained for the
17 taking of mammals or birds, that is located in an area where mammals or birds can
18 be taken, at that time and place, in accordance with existing law.

19 (c) This section does not apply to a law enforcement officer or an animal control
20 officer in the performance of his or her duty, or to a person who is assisting an
21 injured dog.

22 **Comment.** Section 9725 continues former Fish and Game Code Section 2011.5 without
23 substantive change.

24 **§ 9730. Bounty**

25 9730. It is unlawful for any person, including state, federal, county, and city
26 officials or their agents, to authorize, offer or pay a bounty for any bird or
27 mammal. This section does not apply to any person with respect to the taking of
28 any bird or mammal on the private property of such person.

29 **Comment.** Section 9730 continues former Fish and Game Code Section 2019 without
30 substantive change.

31 **§ 9735. Bird or mammal in possession of another**

32 9735. (a) It is unlawful for any person to take, mutilate, or destroy any bird or
33 mammal lawfully in the possession of another.

34 (b) For the purpose of this section, a bird or mammal shall be deemed in
35 possession when it is actually reduced to physical possession or when it is
36 wounded or otherwise maimed and the person who wounded or otherwise maimed
37 it is in hot pursuit.

38 **Comment.** Section 9735 continues former Fish and Game Code Section 2011 without
39 substantive change.

1 this chapter can be implemented practicably, in whole or in part, in advance of
2 July 1, 2019, the commission shall implement those requirements. The
3 commission shall not reduce or eliminate any existing regulatory restrictions on
4 the use of lead ammunition in California condor range unless or until the
5 additional requirements for use of nonlead ammunition as required by this chapter
6 are implemented.

7 (c)(1) The prohibition in subdivision (a) shall be temporarily suspended for a
8 specific hunting season and caliber upon a finding by the director that nonlead
9 ammunition of a specific caliber is not commercially available from any
10 manufacturer because of federal prohibitions relating to armor-piercing
11 ammunition pursuant to Chapter 44 (commencing with Section 921) of Title 18 of
12 the United States Code.

13 (2) Notwithstanding a suspension pursuant to paragraph (1), nonlead
14 ammunition shall be used when taking big game mammals, nongame birds, or
15 nongame mammals in the California condor range, as defined in Section 10000.

16 **Comment.** Subdivision (a) of Section 10005 continues former Fish and Game Code Section
17 3004.5(b) without substantive change.

18 Subdivision (b) continues former Fish and Game Code Section 3004.5(i) without substantive
19 change.

20 Subdivision (c) continues former Fish and Game Code Section 3004.5(j) without substantive
21 change.

22 See also Section 4714 (enforcement).

23 § 10010. Certification

24 10010. (a) The commission shall maintain, by regulation, a public process to
25 certify ammunition as nonlead ammunition, and shall define, by regulation,
26 nonlead ammunition as including only ammunition in which there is no lead
27 content, excluding the presence of trace amounts of lead. The commission shall
28 establish and annually update a list of certified ammunition.

29 (b) The list of certified ammunition shall include, but not be limited to, any
30 federally approved nontoxic shotgun ammunition.

31 **Comment.** Section 10010 continues former Fish and Game Code Section 3004.5(c) without
32 substantive change.

33 § 10015. Providing reduced cost nonlead ammunition

34 10015. (a) To the extent that funding is available, the commission shall establish
35 a process that will provide hunters with nonlead ammunition at no or reduced
36 charge. The process shall provide that the offer for nonlead ammunition at no or
37 reduced charge may be redeemed through a coupon sent to a permit holder with the
38 appropriate permit tag. If available funding is not sufficient to provide nonlead
39 ammunition at no charge, the commission shall set the value of the reduced charge
40 coupon at the maximum value possible through available funding, up to the
41 average cost within this state for nonlead ammunition, as determined by the
42 commission.

1 (b) The nonlead ammunition coupon program described in paragraph (1) shall
2 be implemented only to the extent that sufficient funding, as determined by the
3 Department of Finance, is obtained from local, federal, public, or other nonstate
4 sources in order to implement the program.

5 (c) If the nonlead ammunition coupon program is implemented, the commission
6 shall issue a report on the usage and redemption rates of ammunition coupons. The
7 report shall cover calendar years 2008, 2009, and 2012. Each report shall be issued
8 by June of the following year.

9 **Comment.** Section 10015 continues former Fish and Game Code Section 3004.5(d) without
10 substantive change.

11 **Note.** Were the reports required in proposed Section 10015(c) prepared? If so, can that
12 provision be omitted as obsolete?

13 **§ 10020. Report on California condors**

14 10020. The commission shall issue a report on the levels of lead found in
15 California condors. This report shall cover calendar years 2008, 2009, and 2012.
16 Each report shall be issued by June of the following year.

17 **Comment.** Section 10020 continues former Fish and Game Code Section 3004.5(e) without
18 substantive change.

19 **Note.** Were the reports required in proposed Section 10020 prepared? If so, can that provision
20 be omitted as obsolete?

21 **§ 10025. Government officials exempted**

22 10025. This chapter does not apply to government officials or their agents when
23 carrying out a statutory duty required by law.

24 **Comment.** Section 10025 continues former Fish and Game Code Section 3004.5(h) without
25 substantive change.

26 **§ 10030. Notice**

27 10030. The department shall notify those hunters who may be affected by this
28 chapter.

29 **Comment.** Section 10030 continues former Fish and Game Code Section 3004.5(f) without
30 substantive change.

31 **TITLE 2. HUNTING LICENSES**

32 **CHAPTER 1. GENERAL PROVISIONS**

33 **§ 10200. Eligibility**

34 10200. (a) No hunting license may be issued to any person unless that person
35 presents to the person authorized to issue that license any of the following:

36 (1) Evidence that the person has held a hunting license issued by this state in a
37 prior year.

1 (2) Evidence that the person holds a current hunting license, or a hunting license
2 issued in either of the two previous hunting years by another state or province.

3 (3) A certificate of completion of a course in hunter education, principles of
4 conservation, and sportsmanship, as provided in Title 3. A hunter education
5 instruction validation stamp shall be permanently affixed to certificates of
6 completion that have been issued before January 1, 2008.

7 (4) A certificate of successful completion of a hunter education course in
8 another state or province.

9 (5) Evidence of completion of a course in hunter education, principles of
10 conservation, and sportsmanship, which the commission may, by regulation,
11 require.

12 (b) The evidence required in subdivision (a) shall be forwarded to the
13 department.

14 (c) Subdivision (a) does not apply to any person purchasing a hunting license
15 under paragraph (5) of subdivision (a) of Section 10210. However, that license
16 shall not qualify as evidence required in subdivision (a) of this section.

17 **Comment.** Section 10200 continues former Fish and Game Code Section 3050 without
18 substantive change.

19 **§ 10205. Hunter education**

20 10205. Applicants for hunting licenses shall first satisfactorily complete a hunter
21 education equivalency examination and obtain a certificate of equivalency as
22 provided by regulations adopted by the commission, or show proof of completion
23 of a hunter education training course, or show a previous year's hunting license.

24 **Comment.** Section 10205 continues former Fish and Game Code Section 1053.5 without
25 substantive change.

26 See also Section 4874 (enforcement).

27 **§ 10210 (repealed July 1, 2020). Fees**

28 10210. (a) A hunting license, granting the privilege to take birds and mammals,
29 shall be issued to any of the following:

30 (1) A resident of this state, 18 years of age or older, upon the payment of a base
31 fee of thirty-one dollars and twenty-five cents (\$31.25).

32 (2) A resident or nonresident, who is under 18 years of age on July 1 of the
33 licensing year, upon the payment of a base fee of eight dollars and twenty-five
34 cents (\$8.25), regardless of whether that person applies before or after July 1 of
35 that year. A license issued pursuant to this paragraph shall be known as a junior
36 hunting license and a person who holds one of these licenses shall be known as a
37 junior hunter.

38 (3) A nonresident, 18 years of age or older, upon the payment of a base fee of
39 one hundred eight dollars and fifty cents (\$108.50).

40 (4) A nonresident, 18 years of age or older, valid only for two consecutive days
41 upon payment of the fee set forth in paragraph (1). A license issued pursuant to

1 this paragraph is valid only for taking resident and migratory game birds, resident
2 small game mammals, fur-bearing mammals, and nongame mammals, as defined
3 in this code or in regulations adopted by the commission.

4 (5) A nonresident, valid for one day and only for the taking of domesticated
5 game birds and pheasants while on the premises of a licensed game bird club, or
6 for the taking of domesticated migratory game birds in areas licensed for shooting
7 those birds, upon the payment of a base fee of fifteen dollars (\$15).

8 (b) The base fees specified in this section are applicable to the 2004 license year,
9 and shall be adjusted annually thereafter pursuant to Section 713.

10 (c) The commission shall adjust the amount of the fees specified in subdivision
11 (b), as necessary, to fully recover, but not exceed, all reasonable administrative
12 and implementation costs of the department and the commission relating to those
13 licenses.

14 (d) A person who is 16 or 17 years of age, is in possession of a valid junior
15 hunting license, and is issued an entry permit pursuant to Section 551 of Title 14
16 of the California Code of Regulations may hunt in the area described in the entry
17 permit unaccompanied by a person over 18 years of age but shall not be
18 accompanied by a person under 16 years of age.

19 (e) This section shall remain in effect only until July 1, 2020, and as of that date
20 is repealed, unless a later enacted statute, that is enacted before January 1, 2021,
21 deletes or extends that date.

22 **Comment.** Section 10210 continues former Fish and Game Code Section 3031, as amended by
23 2018 Cal. Stat. ch. 295, § 5, without substantive change.

24 See also Section 4700 (enforcement).

25 **Note.** This version of proposed Section 10210 would continue Section 3031, as amended by
26 2014 Cal. Stat. ch. 456, § 1. That provision was amended by 2018 Cal. Stat. ch. 295, § 5.
27 Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

28 **§ 10210 (operative on July 1, 2020). Fees**

29 10210. (a) A hunting license, granting the privilege to take birds and mammals,
30 shall be issued to any of the following:

31 (1) A resident of this state, 16 years of age or older, upon the payment of a base
32 fee of thirty-one dollars and twenty-five cents (\$31.25).

33 (2) A resident or nonresident, who is under 16 years of age on July 1 of the
34 licensing year, upon the payment of a base fee of eight dollars and twenty-five
35 cents (\$8.25), regardless of whether that person applies before or after July 1 of
36 that year. A license issued pursuant to this paragraph shall be known as a junior
37 hunting license and a person who holds one of these licenses shall be known as a
38 junior hunter.

39 (3) A nonresident, 16 years of age or older, upon the payment of a base fee of
40 one hundred eight dollars and fifty cents (\$108.50).

41 (4) A nonresident, 16 years of age or older, valid only for two consecutive days
42 upon payment of the fee set forth in paragraph (1). A license issued pursuant to

1 this paragraph is valid only for taking resident and migratory game birds, resident
2 small game mammals, fur-bearing mammals, and nongame mammals, as defined
3 in this code or in regulations adopted by the commission.

4 (5) A nonresident, valid for one day and only for the taking of domesticated
5 game birds and pheasants while on the premises of a licensed game bird club, or
6 for the taking of domesticated migratory game birds in areas licensed for shooting
7 those birds, upon the payment of a base fee of fifteen dollars (\$15).

8 (b) The base fees specified in this section are applicable to the 2004 license year,
9 and shall be adjusted annually thereafter pursuant to Section 3755.

10 (c) The commission shall adjust the amount of the fees specified in subdivision
11 (b), as necessary, to fully recover, but not exceed, all reasonable administrative
12 and implementation costs of the department and the commission relating to those
13 licenses.

14 (d) A person who is 16 or 17 years of age, is in possession of a valid resident or
15 nonresident hunting license, and is issued an entry permit pursuant to Section 551
16 of Title 14 of the California Code of Regulations may hunt in the area described in
17 the entry permit unaccompanied by a person over 18 years of age but shall not be
18 accompanied by a person under 16 years of age.

19 (e) This section shall become operative on July 1, 2020.

20 **Comment.** Section 10210 continues former Fish and Game Code Section 3031, as added by
21 2018 Cal. Stat. ch. 295, § 6, without substantive change.

22 See also Section 4700 (enforcement).

23 **Note.** This version of proposed Section 10210 would continue Section 3031, as amended by
24 2014 Cal. Stat. ch. 456, § 2, which was amended by 2018 Cal. Stat. ch. 295, § 6. Although that
25 bill will not take effect until 2019, it is included here in anticipation of its effect.

26 **§ 10215. Job Corps enrollees**

27 10215. For the purpose of obtaining a hunting license, enrollees in the Job
28 Corps, created by the Economic Opportunity Act of 1964 (Public Law 88-452),
29 shall be deemed to be residents of California.

30 **Comment.** Section 10215 continues former Fish and Game Code Section 3031.5 without
31 substantive change.

32 **§ 10220. Term of license**

33 10220. A hunting license authorizes the person to whom it is issued to take birds
34 and mammals, in accordance with law, for a term of one year from July 1 to June
35 30, or, if issued after the beginning of the term, for the remainder of the term.

36 **Comment.** Section 10220 continues the first part of former Fish and Game Code Section 3037
37 without substantive change.

38 **§ 10225. Lifetime license**

39 10225. (a) In addition to Section 10210, and notwithstanding Section 10220, the
40 department shall issue lifetime hunting licenses under this section. A lifetime
41 hunting license authorizes the taking of birds and mammals anywhere in this state

1 in accordance with the law for purposes other than profit for the life of the person
2 to whom issued, unless revoked for a violation of this code or regulations adopted
3 pursuant to this code. A lifetime hunting license is not transferable. A lifetime
4 hunting license is valid for one year from July 1 through June 30 and may be
5 renewed annually, regardless of any lapse of the license, at no additional cost to
6 the licensee. A lifetime hunting license does not include any special tags, stamps,
7 or fees.

8 (b) A lifetime hunting license may be issued to residents of this state, as follows:

9 (1) To a person 62 years of age or over, upon payment of a base fee of three
10 hundred sixty-five dollars (\$365).

11 (2) To a person 40 years of age or over, and less than 62 years of age, upon
12 payment of a base fee of five hundred forty dollars (\$540).

13 (3) To a person 10 years of age or over, and less than 40 years of age, upon
14 payment of a base fee of six hundred dollars (\$600).

15 (4) To a person less than 10 years of age, upon payment of a base fee of three
16 hundred sixty-five dollars (\$365).

17 (c) Upon payment of a base fee of four hundred forty-five dollars (\$445), a
18 person holding a lifetime hunting license shall be issued annually one deer tag
19 application pursuant to Section 34225 and five wild pig tags pursuant to Section
20 4654. Lifetime privileges issued pursuant to this subdivision are not transferable.

21 (d) Upon payment of a base fee of two hundred ten dollars (\$210), a person
22 holding a lifetime hunting license shall be entitled annually to the privileges
23 afforded to a person holding a state duck stamp or validation issued pursuant to
24 Section 30515 and an upland game bird stamp or validation issued pursuant to
25 Section 29505. Lifetime privileges issued pursuant to this subdivision are not
26 transferable.

27 (e) Nothing in this section requires a person less than 16 years of age to obtain a
28 license to take birds or mammals except as required by law.

29 (f) Nothing in this section exempts an applicant for a license from meeting other
30 qualifications or requirements otherwise established by law for the privilege of
31 sport hunting.

32 (g) The base fees specified in this section are applicable commencing January 1,
33 2004, and shall be adjusted annually thereafter pursuant to Section 3755.

34 (h) The commission shall adjust the amount of the fees specified in subdivisions
35 (b), (c), and (d), as necessary, to fully recover, but not exceed, all reasonable
36 administrative and implementation costs of the department and the commission
37 relating to those licenses.

38 **Comment.** Section 10225 continues former Fish and Game Code Section 3031.2 without
39 substantive change.

40 **§ 10230. “Free Hunting Day”**

41 10230. (a) Notwithstanding Section 10210, the director may designate two days
42 per year as “Free Hunting Days.” One free hunting day may be established during

1 the fall hunting season, and the other free hunting day may be established during
2 the winter hunting season. The department shall publish the exact dates of the free
3 hunting days in annual publications of the department regarding current hunting
4 regulations.

5 (b) During a free hunting day, a California resident may hunt if accompanied by
6 a hunter who holds a valid hunting license issued by the State of California, has
7 held a valid hunting license for at least the last three consecutive years, is at least
8 21 years of age, and accompanies only one unlicensed hunter in the field at a time.
9 An unlicensed hunter shall participate in the free hunting days for only one license
10 year and shall complete a hunter education course approved by the department and
11 register with the department, or an agent of the department, prior to participating
12 in a free hunting day. While engaged in hunting activities, the unlicensed hunter
13 shall remain in close visual and verbal contact with the licensed hunter at all times
14 so that the licensed hunter is able to provide adequate direction and immediately
15 assume control of a firearm from the unlicensed hunter at any time.

16 (c) An unlicensed hunter who participates in a free hunting day shall have in his
17 or her possession all of the following:

18 (1) A certificate of completion of a course in hunter education as required in
19 paragraph (3) of subdivision (a) of Section 10200.

20 (2) Any required tags or report cards.

21 (3) Any required federal entitlements.

22 (4) Any required entry permits.

23 (d) Unlicensed hunters participating in free hunting days shall not take any
24 species that requires a draw or lottery to obtain a tag.

25 (e) An unlicensed hunter hunting pursuant to this section is subject to all of the
26 limitations, restrictions, conditions, statutes, rules, and regulations applicable to
27 the holder of a valid hunting license, except the requirement to possess a valid
28 hunting license.

29 (f) The department may adopt additional minimum requirements and restrictions
30 for a licensed hunter or unlicensed hunter participating in a free hunting day
31 pursuant to this section.

32 (g) This section shall not be implemented until the department's Automated
33 License Data System is fully operational for at least one year.

34 **Comment.** Section 10230 continues former Fish and Game Code Section 3040 without
35 substantive change.

36  **Note.** The Commission invites comment on whether subdivision (g) of this section is
37 **obsolete.**

38 CHAPTER 2. MILITARY PERSONNEL

39 § 10300. Disabled veteran or recovering service member

40 10300. (a) Pursuant to this section, the department shall issue to any disabled
41 veteran or recovering service member who has not been convicted of any violation

1 of this code a reduced fee hunting license that authorizes the licensee to take a bird
2 or mammal as authorized by this code and regulations adopted pursuant to this
3 code.

4 (b) The base license fee for a reduced fee hunting license shall be four dollars
5 (\$4) for the hunting license year beginning on July 1, 1995, and, for the following
6 years, this license fee may be annually reviewed and adjusted in accordance with
7 Section 3755.

8 (c) For the purposes of this section, the following terms have the following
9 meanings:

10 (1) “Disabled veteran” means a person having a 50 percent or greater service-
11 connected disability and an honorable discharge from military service.

12 (2) “Recovering service member” means a member of the military who meets
13 the definition of “recovering service member” in Section 1602(7) of the federal
14 National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181).

15 (d) A person applying for a reduced fee hunting license shall submit to the
16 department adequate documentation for the department to determine whether the
17 person is, in fact, eligible for a reduced fee hunting license. The department shall
18 not issue a reduced fee hunting license to a person unless it is satisfied that the
19 person has provided adequate documentation of eligibility for that license.

20 (e) A disabled veteran must submit the following documentation:

21 (1) Proof of an honorable discharge from military service.

22 (2) Proof of the disability described in paragraph (1) of subdivision (c), either by
23 certification from the United States Department of Veterans Affairs or by
24 presentation of a license issued pursuant to this section in the preceding license
25 year.

26 (f) A recovering service member must submit a letter to the department stating
27 that the person is a recovering service member as defined in subdivision (d), from
28 either that person’s commanding officer or a military medical doctor. The letter
29 may be submitted either in hard copy form or online.

30 **Comment.** Section 10300 continues former Fish and Game Code Section 3033 without
31 substantive change.

32 **§ 10305. Occupant of military medical facility**

33 10305. (a) Any member of the armed forces of the United States who is in a
34 military medical facility and who is at least 70 percent disabled shall, on
35 application, be issued a hunting permit by the department, in lieu of a hunting
36 license and appropriate tags, authorizing the taking of birds and mammals. If the
37 permit covers a period during which birds or mammals may only be taken or
38 shipped with appropriate tags, the department may issue those tags with the permit
39 or shall endorse the permit to authorize that taking and shipping without the tags.

40 (b) A permit issued pursuant to this section shall be valid only during the period
41 of time the permittee is in a military medical facility and is at least 70 percent
42 disabled.

1 (c) Certification by the commanding officer of the military medical facility shall
2 be sufficient proof of this period of time and extent of disability.

3 **Comment.** Section 10305 continues former Fish and Game Code Section 3038 without
4 substantive change.

5 **§ 10310. Special hunt by military personnel**

6 10310. Any organization conducting a special hunt by service members or
7 veterans residing in or assigned to a United States veterans or armed services
8 medical facility may apply to the commission for, and the commission may issue,
9 under terms and conditions it may impose, a permit to take birds and mammals
10 notwithstanding the provisions of Sections 9550 and 9715.

11 **Comment.** Section 10310 continues former Fish and Game Code Section 317 without
12 substantive change.

13 **CHAPTER 3. COLORADO RIVER HUNTING LICENSES**

14 **§ 10350. Qualification for license**

15 10350. A special Colorado River hunting license may be issued to any person
16 holding a hunting license issued by the State of Arizona.

17 **Comment.** Section 10350 continues former Fish and Game Code Section 3061 without
18 substantive change.

19 **§ 10355. Additional qualification**

20 10355. The department, in conformity with regulations adopted by the
21 commission, may issue a special Colorado River hunting license when the
22 commission finds and determines that under the laws of the State of Arizona
23 substantially similar licenses are authorized to be issued to licensees of the State of
24 California upon substantially the same terms and conditions as are provided in this
25 article for the issuance of licenses to licensees of the State of Arizona.

26 **Comment.** Section 10355 continues former Fish and Game Code Section 3060 without
27 substantive change.

28 **§ 10360. Allowed take**

29 10360. A special Colorado River hunting license shall entitle the holder of the
30 license to take only migratory waterfowl and only in, on, or along the Colorado
31 River in accordance with the applicable state and federal laws and regulations or
32 orders made pursuant to those laws and regulations.

33 **Comment.** Section 10360 continues former Fish and Game Code Section 3062 without
34 substantive change.

35 **§ 10365. Fee and term**

36 10365. (a) The fee for a special Colorado River hunting license shall be two
37 dollars (\$2).

1 (b) The license shall be valid until the end of the calendar year in which it is
2 issued.

3 **Comment.** Section 10365 continues former Fish and Game Code Section 3063 without
4 substantive change.

5 TITLE 3. HUNTER SAFETY

6 § 10400. Legislative declaration

7 10400. (a) It is the intent of the Legislature in enacting this title to ensure the
8 health and safety of its citizens engaged in activities requiring the use of hunting
9 implements.

10 (b) The Legislature finds and declares that individuals who engage in hunting
11 should possess an adequate understanding of hunter safety practices, principles of
12 conservation, and sportsmanship.

13 (c) It is also the intent of the Legislature that persons engaged in hunting be
14 mindful of their responsibilities to others, toward wildlife, and toward their natural
15 environment. The department shall take all steps necessary to carry out the
16 provisions of this title.

17 **Comment.** Section 10400 continues former Fish and Game Code Section 3049 without
18 substantive change.

19 **Note.** The Commission invites comment on whether any equivalent gender-neutral term
20 can be substituted for the term “sportsmanship” as used in subdivision (b) of proposed
21 Section 10400.

22 § 10405. Hunter instruction

23 10405. (a) The department shall provide for a course of instruction in hunter
24 education, principles of conservation, and sportsmanship, and for this purpose may
25 cooperate with any reputable association or organization having as one of its
26 objectives the promotion of hunter safety, principles of conservation, and
27 sportsmanship.

28 (b) The department may designate as a hunter education instructor any person
29 found by it to be competent to give instruction in the courses required in this title.

30 (c) A hunter education instructor shall issue a certificate of completion as
31 provided by the department to a person that completes a course of instruction in
32 hunter safety, principles of conservation, and sportsmanship.

33 (d) The department shall prescribe a minimum level of skill and knowledge to
34 be required of all hunter education instructors, and may limit the number of
35 students per instructor in all required classes.

36 (e) The department may revoke the certificate of an instructor when, in the
37 opinion of the department, it is in the best interest of the state to do so.

38 (f) In order to recruit and retain hunter education instructors, the department
39 shall offer special hunting opportunities to qualified hunter education instructors
40 by providing a limited number of existing tags and other hunting opportunities.

1 The department may provide these tags and hunting opportunities through any of
2 the following methods:

3 (1) The private lands management program described in Title 8 (commencing
4 with Section 56500) of Part 2 of Division 15.

5 (2) The Shared Habitat Alliance for Recreational Enhancement (SHARE)
6 program described in Title 7 (commencing with Section 56200) of Part 2 of
7 Division 15.

8 (3) Entering into cooperative agreements with federal, state, and local agencies
9 that hold title to, or administer, lands or waters.

10 (4) Entering into cooperative agreements with landowners or tenants seeking
11 deprecation permits for game mammals as described in Section 31115, 34605, or
12 37365.

13 (5) Authorizing a maximum of 15 tags from the annual tag quota, as determined
14 by the department.

15 (g) The department shall determine eligibility criteria for hunter education
16 instructors seeking the hunting opportunities offered pursuant to subdivision (f).
17 The department shall offer hunting opportunities to eligible hunter education
18 instructors only by random drawing.

19 (h) The department may adopt regulations to implement this section.

20 **Comment.** Section 10405 continues former Fish and Game Code Section 3051 without
21 substantive change.

22 **Note.** The Commission invites comment on whether any equivalent gender-neutral term
23 can be substituted for the term “sportsmanship” as used in subdivisions (a) and (b) of
24 proposed Section 10405.

25 **§ 10410. Fee and expenses**

26 10410. A person receiving instruction from a hunter education instructor shall
27 not be charged a fee for the service provided by the instructor, but may be charged
28 a fee to cover the costs incurred by the instructor in teaching the class. A record of
29 these costs shall be kept for inspection by the department. Costs may include, but
30 are not limited to, range fees, ammunition, and transportation of students.

31 **Comment.** Section 10410 continues former Fish and Game Code Section 3052 without
32 substantive change.

33 **§ 10415. Loss or destruction of certificate**

34 10415. In the case of loss or destruction of a certificate of completion, a
35 duplicate certificate may be issued by the instructor who issued the original
36 certificate, or, by an instructor of the sponsoring organization having adequate
37 records to establish successful completion of the course, or by the department if
38 verified by adequate records to establish successful completion of the course. An
39 administrative fee of three dollars (\$3) shall be charged for the issuance of a
40 duplicate certificate, for the hunting license year commencing on July 1, 1990,
41 and, for the following years as adjusted pursuant to Section 3755.

1 **Comment.** Section 10415 continues former Fish and Game Code Section 3053 without
2 substantive change.

3 **§ 10420. Material for instructors**

4 10420. The department shall furnish information on hunter safety, principles of
5 conservation, and sportsmanship that shall be distributed free of charge to persons
6 designated as hunter education instructors for instructional purposes.

7 **Comment.** Section 10420 continues former Fish and Game Code Section 3054 without
8 substantive change.

9 **TITLE 4. EXTENDED HUNTING**

10 **§ 10500. Authority of commission**

11 10500. (a) Whenever after due investigation the commission finds that game
12 mammals, other than deer, fur-bearing mammals, or resident game birds have
13 increased in numbers in any area, district, or portion thereof other than a refuge or
14 preserve established by statute, to the extent that a surplus exists, or to the extent
15 that the mammals or birds are damaging public or private property, or are
16 overgrazing their range, the commission may by regulation do any of the
17 following:

18 (1) Provide for a special hunting season for the mammals or birds, additional to,
19 or concurrent with any other open season specified by law.

20 (2) Provide for increased bag limits.

21 (3) Remove sex restrictions specified by law.

22 (4) Establish a license fee for special hunting and designate the number of
23 special licenses to be issued, the area in which the special hunting will be
24 permitted, the number and sex of animals or birds that may be killed by each
25 holder of a special license, and the conditions and regulations to govern the special
26 hunting.

27 (b) Cooperative hunting areas, as described in Section 10700, may be
28 established in connection with any area opened to hunting under the provisions of
29 this title.

30 **Comment.** Paragraphs (1)-(3) of subdivision (a) of Section 10500 continue former Fish and
31 Game Code Section 325 without substantive change.

32 Paragraph (4) of subdivision (a) continues former Fish and Game Code Section 329 without
33 substantive change.

34 Subdivision (b) continues former Fish and Game Code Section 330 without substantive
35 change.

36 **Note.** Existing Section 330, which would be continued by subdivision (b) of proposed Section
37 10500, contains a reference to “cooperative hunting areas, as described in Sections 1570 to
38 1572.” The versions of Sections 1570, 1571, and 1572 that described cooperative hunting areas
39 were repealed in 2003, with the provisions of the repealed sections continued, largely without
40 substantive change, in existing Section 1575. Existing Section 1575 would be continued in the
41 proposed law by proposed Section 10700.

1 **The Commission invites comment on whether the inclusion of a reference to proposed**
2 **Section 10700 in subdivision (b) of proposed Section 10500 is appropriate.**

3 **§ 10505. Required hearing**

4 10505. (a) Before adopting a regulation pursuant to paragraph (1), (2), or (3) of
5 subdivision (a) of Section 10500, the commission at an open meeting shall
6 publicly announce the contents of the proposed regulation, and fix a time and
7 place for a hearing on the proposed regulation in each county that would be
8 affected by the regulation. The time for each hearing shall be at least 21 days after
9 the announcement, and the place shall be the county seat of the affected county.

10 (b) Employees of the department that are necessary or are requested by any
11 interested group of persons, shall be present at a hearing.

12 **Comment.** Subdivision (a) of Section 10505 continues former Fish and Game Code Section
13 326 without substantive change.

14 Subdivision (b) continues the first sentence of former Fish and Game Code Section 328
15 without substantive change.

16 **§ 10510. Notice of hearing**

17 10510. (a) Notice of a hearing held pursuant to Section 10505 shall be published
18 at least once, and at least 10 days prior to the hearing, in a newspaper of general
19 circulation in each of the counties in which a hearing is to be held, or if no
20 newspaper of general circulation is published in that county or counties then in a
21 newspaper of general circulation in an adjoining county. The hearing shall be
22 conducted by either the commission, a member of the commission designated by
23 it, or the director if requested so to do by the commission.

24 (b) At least 10 days prior to the hearing, the commission shall notify each
25 member of the board of supervisors of an affected county, at the member's home
26 address, of the details of the proposed regulation, and the time and date of the
27 hearing.

28 **Comment.** Section 10510 continues former Fish and Game Code Section 327 without
29 substantive change.

30 **§ 10515. Commission decision**

31 10515. After a hearing held pursuant to Section 10505 the commission may
32 abandon the proposed regulation, or may make a final regulation, with any
33 modifications it deems appropriate, or without modification.

34 **Comment.** Section 10515 continues the second sentence of former Fish and Game Code
35 Section 328 without substantive change.

36 **TITLE 5. COMMERCIAL HUNTING CLUB**

37 **§ 10600. Definitions**

38 10600. For purposes of this title, the following terms have the following
39 meanings:

1 (a) “Commercial hunting club” means property with respect to which a fee is
2 imposed or collected for either of the following:

3 (1) Taking or attempting to take birds or mammals on the property.

4 (2) Any type of entry or use permit that includes permission to take birds or
5 mammals on the property.

6 (b) “Property” means a number of contiguous legal parcels owned by one or
7 more owners and held out for a common purpose.

8 **Comment.** Section 10600 continues former Fish and Game Code Section 3240.5(a) without
9 substantive change.

10 **§ 10605. License required**

11 10605. A person, including but not limited to an owner, renter, or lessee, who is
12 in possession or control of a commercial hunting club, shall procure a commercial
13 hunting club license before a bird or mammal may be taken on the property.

14 **Comment.** Section 10605 restates a part of former Fish and Game Code Section 3240.5(b)
15 without substantive change.

16 See also Section 4770 (enforcement).

17 **§ 10610. Exceptions**

18 10610. (a) This title does not apply under any of the following circumstances:

19 (1) The fees described in subdivision (a) of Section 10600 that are received by
20 the owner, renter or lessee of the property are less than one hundred dollars (\$100)
21 per entrant and total less than one thousand dollars (\$1,000) between July 1 and
22 the following June 30. Pursuant to Section 3755, the department may adjust the
23 threshold amounts established in this paragraph.

24 (2) The property is used in conjunction with the Shared Habitat Alliance for
25 Recreational Enhancement (SHARE) program under Title 7 (commencing with
26 Section 56200) of Part 2 of Division 15.

27 (3) A domesticated game bird hunting club licensed under Section 29365
28 operates on the property.

29 (4) A domesticated migratory game bird shooting area licensed under Title 2
30 (commencing with Section 26200) of Part 4 operates on the property.

31 (5) The property is used by a hunting club or program licensed under regulations
32 adopted pursuant to this code.

33 (6) The property is used in conjunction with the private wildlife habitat
34 enhancement and management program under Title 8 (commencing with Section
35 56500) of Part 2 of Division 15.

36 (7) The property is used for an officially sanctioned field trial event pursuant to
37 regulations adopted pursuant to this code.

38 (8) The property is subject to a recorded state, federal, or nonprofit wildlife
39 conservation or agricultural easement or is enrolled in a habitat protection or
40 enhancement program under this code, including, but not limited to, Title 9
41 (commencing with Section 56700) of Part 2 of Division 15.

1 (b) This title does not apply to an owner of property that is rented or leased to a
2 commercial hunting club, if the owner is not involved in the operation of the club
3 and the club is licensed in accordance with this title.

4 **Comment.** Section 10610 continues former Fish and Game Code Section 3240.5(c)-(d)
5 without substantive change.

6 **§ 10615. Application for license**

7 10615. (a) An application for a commercial hunting club license shall be
8 submitted on a form furnished by the department. The application, which shall set
9 forth all of the exemptions and conditions established in Sections 10600, 10605,
10 and 10610, shall require the applicant to include all of the following information:

11 (1) The name of the club and the ownership.

12 (2) The business telephone number and mailing address of the club.

13 (3) The number of properties used by the club and the physical location of each
14 property.

15 (4) The total acreage of the club property.

16 (5) A list of all species of game hunted on the club property.

17 (6) Information as to whether the club owner owns any of the properties used by
18 the club.

19 (7) The name and address of each property owner, if the property owner is
20 substantially involved in the operation of the club, but does not own the club.

21 (8) The signature and title of the applicant.

22 (9) Any other information the department may require.

23 (b) The department shall allow a commercial hunting club that leases or rents
24 more than one property for hunting purposes to submit a single application listing
25 each of the properties for which the club is seeking a license, if all of the
26 information required for each property is submitted in a format approved by the
27 department.

28 **Comment.** Section 10615 continues former Fish and Game Code Section 3241 without
29 substantive change.

30 **§ 10620. Fee**

31 10620. (a) The department may issue a commercial hunting club license to any
32 person upon submission of a completed application and payment of the required
33 fee, according to the number of properties used by the club, as follows:

34 (1) The fee for one property shall be two hundred dollars (\$200).

35 (2) The fee for two to five properties shall be five hundred dollars (\$500).

36 (3) The fee for six to 10 properties shall be one thousand dollars (\$1,000).

37 (4) The fee for 11 or more properties shall be two thousand dollars (\$2,000).

38 (b) The fees specified in this section are applicable to the 2010 license year, and
39 shall be adjusted annually thereafter pursuant to Section 3755.

40 **Comment.** Section 10620 continues former Fish and Game Code Section 3242 without
41 substantive change.

1 **§ 10625. Transfer of license**

2 10625. The commission may transfer a commercial hunting club license to other
3 land owned or controlled by the licensee, in the same county as the originally
4 licensed land, without an additional fee, if the commission finds the new land
5 suitable for the purposes of the license and the transfer does not conflict with the
6 public interest.

7 **Comment.** Section 10625 continues former Fish and Game Code Section 3243.5 without
8 substantive change.

9 **§ 10630. Term and authority**

10 10630. A commercial hunting club license is valid for a term of one year from
11 July 1, or, if issued after the beginning of the term, for the remainder of the term.
12 A license authorizes the person to whom it is issued to maintain a hunting club in
13 accordance with the provisions of this code and regulations adopted by the
14 commission.

15 **Comment.** Section 10630 continues former Fish and Game Code Section 3245 without
16 substantive change.

17 **TITLE 6. COOPERATIVE HUNTING AREAS**

18 **§ 10700. Cooperative hunting areas**

19 10700. To provide added protection for landowners from the depredation of
20 trespassers and to provide additional hunting opportunities to public hunters and
21 private landowners, the department may contract with landowners for the
22 establishment of cooperative hunting areas according to terms as the respective
23 parties may agree upon, subject to the following conditions:

24 (a) Cooperative deer and elk hunting areas shall be at least 5,000 acres in size,
25 including the open, restricted, and portions thereof, and may consist of the
26 adjoining lands of one or more owners.

27 (b) The boundaries of each area shall be posted by the department with a sign
28 stating legal hunting may be allowed in the area if written permission is obtained
29 from the owner or the owner’s duly authorized agent.

30 (c) The department shall enforce the trespass provisions of the Penal Code and
31 the provisions of this code within these areas.

32 (d) The commission may establish regulations and set fees for the management
33 and control of hunting in these areas.

34 **Comment.** Section 10700 continues former Fish and Game Code Section 1575 without
35 substantive change.

36 **Note.** The Commission invites comment on the meaning of the phrase “including the
37 open, restricted, and portions thereof” in subdivision (a) of this section.

1 TITLE 7. POSSESSION OF BIRDS AND
2 MAMMALS AFTER SEASON

3 § 10800. “Donor intermediary” defined

4 10800. For the purposes of this title, “donor intermediary” means a recipient
5 who receives a game bird, game mammal, or fur-bearing mammal from a donor to
6 give to a charitable organization or charitable entity.

7 **Comment.** Section 10800 restates former Fish and Game Code Section 3080(a) to make clear
8 that it applies to game mammals and fur-bearing mammals, rather than all mammals.

9  **Note.** Proposed Section 10800 would continue existing Fish and Game Code Section 3080(a)
10 with minor revisions. The revisions would make clear that the section applies to game and fur-
11 bearing mammals, rather than all mammals.

12 **The Commission invites comment on the merits of those revisions.**

13 § 10805. Possession out of season

14 10805. A person may possess a game bird, game mammal, or fur-bearing
15 mammal during a period other than the open season for that bird or mammal, up to
16 the possession limit allowed for that bird or mammal during the open season, in
17 any of the following circumstances:

18 (a) The person possesses a hunting license and a validated tag or tags for the
19 species possessed, or a copy of the license and tag or tags. The license and tag or
20 tags shall have been issued to that person for the current or immediate past license
21 year.

22 (b) The person is a donor intermediary who received the game bird, game
23 mammal, or fur-bearing mammal from a donor described in paragraph (a), and has
24 a written confirmation of the donation that is signed and dated by the donor, and a
25 photocopy of the donor’s hunting license and the applicable validated tag or tags
26 from the current or immediate past license year.

27 (c) The person is a donor intermediary who received the game bird, game
28 mammal, or fur-bearing mammal from a donor described in paragraph (a), and has
29 a written confirmation of the donation signed and dated by the donor, which
30 includes the donor’s name, address, hunting license number, and applicable tag
31 numbers for the species possessed. The license and tag or tags shall be for the
32 current or immediate past license year.

33 **Comment.** Section 10805 restates former Fish and Game Code Section 3080(b) to make clear
34 that it applies to game mammals and fur-bearing mammals, rather than all mammals.

35  **Note.** Proposed Section 10805 would continue existing Fish and Game Code Section 3080(b)
36 with minor revisions. The revisions would make clear that the section applies to game and fur-
37 bearing mammals, rather than all mammals.

38 **The Commission invites comment on the merits of those revisions.**

1 **§ 10810. Required documentation**

2 10810. (a) The documentation required by Section 10805 shall be made
3 available to the department as described in Section 8305.

4 (b) There is no required format for the documentation. Any written
5 documentation containing the required information shall be deemed to comply
6 with Section 10805.

7 (c) A charitable organization or charitable entity receiving and distributing a
8 game bird, game mammal, or fur-bearing mammal for a charitable or humane
9 purpose shall maintain the documentation described in subdivisions (b) or (c) of
10 Section 10805 for one year from the date of disposal.

11 **Comment.** Section 10810 continues former Fish and Game Code Section 3080(c) to make
12 clear that it applies to game mammals and fur-bearing mammals, rather than all mammals.

13 **Note.** Proposed Section 10810 would continue existing Fish and Game Code Section 3080(c)
14 with minor revisions. The revisions would make clear that the section applies to game and fur-
15 bearing mammals, rather than all mammals.

16 **The Commission invites comment on the merits of those revisions.**

17 **§ 10815. Exception**

18 10815. This title does not authorize the possession of a game bird contrary to
19 regulations adopted pursuant to the federal Migratory Bird Treaty Act (16 U.S.C.
20 Sec. 703 et seq.).

21 **Comment.** Section 10815 continues former Fish and Game Code Section 3080(d) without
22 substantive change.

23 **§ 10820. Implementing legislation or regulations**

24 10820. On or before January 1, 2015, and subject to the requirements of Section
25 10815, the commission shall recommend legislation or adopt regulations to clarify
26 when a possession limit is not violated by processing into food lawfully taken
27 game birds, game mammals, or fur-bearing mammals.

28 **Comment.** Section 10820 continues former Fish and Game Code Section 3080(e) to make
29 clear that it applies to game mammals and fur-bearing mammals, rather than all mammals.

30 **Note.** Proposed Section 10820 would continue existing Fish and Game Code Section 3080(e)
31 with minor revisions. The revisions would make clear that the section applies to game and fur-
32 bearing mammals, rather than all mammals.

33 **The Commission invites comment on the merits of those revisions.**

34 **§ 10825. Cold storage**

35 10825. Cold storage plants and frozen food locker plants shall make and keep a
36 complete detailed record of all game birds, game mammals, or fur-bearing
37 mammals stored in the plants. A record of each game bird, game mammal, or fur-
38 bearing mammal shall be made at the time it is received at the plant for storage.
39 The record shall be open for inspection at all times by wardens of the department.

40 **Comment.** Section 10825 restates former Fish and Game Code Section 3086 to make clear that
41 it applies to game mammals and fur-bearing mammals, rather than all mammals.

1 **Note.** Proposed Section 10825 would continue existing Fish and Game Code Section 3086
2 with minor revisions. The revisions would make clear that the section applies to game and fur-
3 bearing mammals, rather than all mammals.

4 **The Commission invites comment on the merits of those revisions.**

5 **§ 10830. Taxidermy**

6 10830. (a) Every person who prepares, stuffs, or mounts the skin of any fish,
7 reptile, amphibian, bird, or mammal for another person for a fee shall make and
8 keep an accurate and detailed record, as prescribed by regulations of the
9 commission, regarding all fish, reptile, amphibian, bird, or mammal carcasses,
10 skins, or parts thereof that are acquired, possessed, or stored for taxidermy
11 purposes.

12 (b) The record required by this section shall be made at the time the fish, reptile,
13 amphibian, bird, or mammal carcasses, skins, or parts thereof, are received, and
14 shall include the name and address of each person from and to whom fish, reptile,
15 amphibian, bird, or mammal carcasses, skins, or parts thereof are received or
16 delivered and the number and species of all fish, reptile, amphibian, bird, or
17 mammal carcasses, skins, or parts thereof received or delivered.

18 (c) The record shall be open for inspection at all times pursuant to regulations
19 adopted by the commission.

20 (d) Where a taxidermist has prepared, stuffed, or mounted the skin of any fish,
21 reptile, amphibian, bird, or mammal for another person and that person does not
22 pay the cost thereof, or take delivery thereof, the taxidermist may sell the skin only
23 if the commission adopts regulations permitting the sale, as provided in this
24 subdivision.

25 (1) The commission may adopt regulations permitting a sale pursuant to Chapter
26 6 (commencing with Section 3046) of Title 14 of Part 4 of Division 3 of the Civil
27 Code, and may adopt any other regulations governing the sale, including, but not
28 limited to, regulations that require a taxidermist to record, and provide to the
29 department, the name and address of any person failing to pay for work performed
30 on a skin, that list species of fish, reptiles, amphibians, birds, or mammals whose
31 prepared skins shall not be sold, and that limit the sales price of prepared skins to
32 the actual cost of preparation.

33 (2) The commission may adopt regulations permitting a sale of a prepared skin
34 pursuant to this subdivision only if the commission also adopts regulations that
35 require the posting of a notice or otherwise giving notice at the place of business
36 of the taxidermist informing patrons of this subdivision and regulations adopted
37 pursuant to this subdivision.

38 (e) Upon the second conviction of any person of a violation of this section or
39 any regulation adopted pursuant to this section, in any five-year period, and upon
40 any conviction subsequent to the two convictions during a five-year period, it shall
41 be unlawful for that person to conduct any of the activities described in
42 subdivision (a) for three years from the date of the last conviction.

1 **Comment.** Subdivisions (a) through (d) of Section 10830 continue former Fish and Game
2 Code Section 3087 without substantive change.

3 Subdivision (e) continues former Fish and Game Code Section 12002.11 without substantive
4 change.

5 PART 3. TRAPPING

6 TITLE 1. GENERAL PROHIBITIONS AND
7 REQUIREMENTS

8 CHAPTER 1. GENERAL PROHIBITIONS

9 § 11000. Inspection and removal of animals

10 11000. (a) It is unlawful to fail to visit and remove all animals from traps at least
11 once daily.

12 (b) If trapping is done pursuant to Section 32155, 32305, 35215, 35610, 35710,
13 or 36010, the inspection and removal shall be done by the person who sets the trap
14 or the owner of the land where the trap is set or an agent of either.

15 **Comment.** Section 11000 restates former Fish and Game Code Section 4004(d) without
16 substantive change.

17 See also Section 4806 (enforcement).

18 § 11005. Signs warning of conibear traps

19 11005. (a) When any conibear trap is set on publicly owned land or land
20 expressly open to public use, it is unlawful to fail to post signs at each entrance
21 and exit to the property indicating the presence of conibear traps, and at least four
22 additional signs within a radius of 50 feet of each trap, one in each cardinal
23 direction, with lettering that is a minimum of three inches high stating: “Danger!
24 Traps Set For Wildlife. Keep Out.”

25 (b) Signs required to be posted by this section shall be maintained and checked
26 daily.

27 **Comment.** Section 11005 restates former Fish and Game Code Section 4004(f) without
28 substantive change.

29 See also Section 4806 (enforcement).

30 **Note.** Proposed Section 11005 is intended to restate existing Fish and Game Code Section
31 4004(f) to clarify the meaning of that provision, without changing its substantive effect. The
32 existing provision reads as follows:

33 4004. It is unlawful to do any of the following:

34

35 (f) When any conibear trap is set on publicly owned land or land expressly open to public use,
36 fail to post signs at every entrance and exit to the property indicating the presence of conibear
37 traps and at least four additional signs posted within a radius of 50 feet of the trap, one in each
38 cardinal direction, with lettering that is a minimum of three inches high stating: “Danger! Traps
39 Set For Wildlife. Keep Out.” Signs shall be maintained and checked daily.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

§ 11010. Killing of trapped animal

11010. (a) It is unlawful to kill any trapped mammal by any of the following methods:

- (1) Intentional drowning.
- (2) Injection with any chemical not sold for the purpose of euthanizing animals.
- (3) Thoracic compression, commonly known as chest crushing.

(b) The prohibition in subdivision (a) does not apply to either of the following:

- (1) A lawfully set conibear trap that is set partially or wholly submerged in water to trap beaver or muskrat.
- (2) A lawfully set colony trap that is set in water to trap muskrat.

Comment. Section 11010 restates former Fish and Game Code Section 4004(g) without substantive change.

See also Section 4806 (enforcement).

Notes. (1) Proposed Section 11010 is intended to restate existing Fish and Game Code Section 4004(g) to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

4004. It is unlawful to do any of the following:

....

(g) Kill any trapped mammal in accordance with this section by intentional drowning, injection with any chemical not sold for the purpose of euthanizing animals, or thoracic compression, commonly known as chest crushing. This subdivision shall not be construed to prohibit the use of lawfully set conibear traps set partially or wholly submerged in water for beaver or muskrat or the use of lawfully set colony traps set in water for muskrat.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

(2) Section 4004(g) prohibits killing any trapped mammal “in accordance with this section.” In proposed Section 11010, that limiting language has been deleted. The Commission sees no policy reason why the prohibition on killing trapped mammals by certain methods should only apply to mammals that were trapped lawfully.

The Commission invites comment on whether the deletion of that language creates a problem.

(3) Although animals that are trapped are normally mammals, is it intended that this provision not apply to any other type of animal that is trapped, whether intentionally or inadvertently? The Notes that none of the other prohibitions in existing Section 4004 (which would be continued by the other proposed provisions in this chapter) are limited in their scope to mammals.

The Commission invites comment on whether the word “mammal” in proposed Section 11010(a) should be revised to read “animal.”

§ 11015. Removing or disturbing trap

11015. (a) It is unlawful to remove or disturb the trap of any person with a valid trapping license while the trap is being used by the licensee on public land, or on land where the licensee has permission to trap.

1 (b) Subdivision (a) does not prohibit the removal or disturbance of a trap by an
2 employee of the department engaged in the performance of official duties.

3 **Comment.** Section 11015 continues former Fish and Game Code Section 4009 without
4 substantive change.

5 See also Section 4806 (enforcement).

6 **§ 11020. Unmarked trap**

7 11020. (a) It is unlawful to set or maintain a trap that does not bear a mark as
8 follows:

9 (1) If set or maintained by a federal, state, county, or city agency, a mark
10 containing the name of that agency.

11 (2) If set pursuant to Section 32155, 32305, 35215, 35610, 35710, or 36010, an
12 identifying mark as specified by the department.

13 (3) In all other cases, a number or other identifying mark registered to the
14 department.

15 (b) No registration fee shall be charged pursuant to this section.

16 **Comment.** Section 11020 restates former Fish and Game Code Section 4004(c) without
17 substantive change.

18 See also Sections 4800, 4806 (enforcement).

19 **Note.** Proposed Section 11020 is intended to restate existing Fish and Game Code Section
20 4004(c) to clarify the meaning of that provision, without changing its substantive effect. The
21 existing provision reads as follows:

22 4004. It is unlawful to do any of the following:

23

24 (c) Set or maintain traps that do not bear a number or other identifying mark registered to the
25 department or, in the case of a federal, state, county, or city agency, bear the name of that agency,
26 except that traps set pursuant to Section 4152 or 4180 shall bear an identifying mark in a manner
27 specified by the department. No registration fee shall be charged pursuant to this subdivision.

28 **The Commission invites comment on whether the restatement would cause any**
29 **substantive change in the meaning of the provision.**

30 **CHAPTER 2. BODY-GRIPPING TRAPS**

31 **Note.** Existing Fish and Game Code Section 3003.1 is an initiative statute, added to the Fish
32 and Game Code in 1998 by Proposition 4, Section 1. The Commission believes that the
33 nonsubstantive continuation of that provision in the proposed law would not be an impermissible
34 amendment. See discussion of initiative statutes *supra* at notes 20-22 and associated text.

35 **§ 11100. Definitions**

36 11100. For the purposes of this article, the following terms have the following
37 meanings:

38 (a) A body-gripping trap is one that grips the mammal's body or body part,
39 including, but not limited to, steel-jawed leghold traps, padded-jaw leghold traps,
40 conibear traps, and snares. Cage and box traps, nets, suitcase-type live beaver

1 traps, and common rat and mouse traps shall not be considered body-gripping
2 traps.

3 (b) Fur-bearing mammals, game mammals, nongame mammals, and protected
4 mammals are those mammals so defined by statute on January 1, 1997.

5 **Comment.** Subdivision (a) of Section 11100 continues the second and third sentences of
6 former Fish and Game Code Section 3003.1(a) without substantive change.

7  **Note.** Section 3003.1 was added by Proposition 4 (1998). The Commission believes that the
8 nonsubstantive continuation of those provisions in the proposed law would not be an
9 impermissible amendment. See discussion of initiative statutes *supra* at notes 20-22 and
10 associated text.

11 **§ 11105. Use of body-gripping trap for recreation or commerce in fur**

12 11105. It is unlawful to use a body-gripping trap for recreation or commerce in
13 fur.

14 **Comment.** Section 11105 continues former Fish and Game Code Section 4004(b) without
15 substantive change.

16 See also Section 4806 (enforcement).

17 **§ 11110. Use of body-gripping trap generally**

18 11110. Notwithstanding Section 1700, 4400, 4450, 4462, 4600, 4702, 5540,
19 5800, 9200, 11000, 11005, 11105, 11010, 11020, 11155, 11220, 11225, 11235,
20 11300, 11310, 11340, Section 31110, subdivision (a) of Section 32150, Section
21 32155, 32305, 33520, 33710, 35000, 35215, 35610, 35710, 36010, 36015, 37150,
22 subdivision (f) of Section 37355, or Section 37360:

23 (a) It is unlawful for any person to trap for the purposes of recreation or
24 commerce in fur any fur-bearing mammal or nongame mammal with any body-
25 gripping trap.

26 (b) It is unlawful for any person to buy, sell, barter, or otherwise exchange for
27 profit, or offer to buy, sell, barter, or otherwise exchange for profit, the raw fur, as
28 defined in Section 475, of a fur-bearing mammal or nongame mammal that was
29 trapped in this state with a body-gripping trap.

30 (c) It is unlawful for any person, including an employee of the federal, state,
31 county, or municipal government, to use or authorize the use of any steel-jawed
32 leghold trap, padded or otherwise, to capture any game mammal, fur-bearing
33 mammal, nongame mammal, protected mammal, or any dog or cat. The
34 prohibition in this subdivision does not apply to federal, state, county, or
35 municipal government employees or their duly authorized agents in the
36 extraordinary case where the otherwise prohibited padded-jaw leghold trap is the
37 only method available to protect human health or safety.

38 **Comment.** Section 11110 continues the first sentence of former Fish and Game Code Section
39 3003.1(a), subdivision (b), and subdivision (c), without substantive change.

40 See also Section 4802 (enforcement).

41  **Note.** Section 3003.1 was added by Proposition 4 (1998). The Commission believes that the
42 nonsubstantive continuation of those provisions in the proposed law would not be an

1 impermissible amendment. See discussion of initiative statutes *supra* at notes 20-22 and
2 associated text.

3 CHAPTER 3. OTHER TRAPS

4 § 11150. Steel-jawed, saw-toothed, or spiked jaw trap

5 11150. It is unlawful to use a steel-jawed leghold trap, or a trap with saw-
6 toothed or spiked jaws.

7 **Comment.** Section 11150 continues former Fish and Game Code Section 4004(a) without
8 substantive change.

9 See also Section 4806 (enforcement).

10 **Note.** Existing Fish and Game Code Section 4004 is located in a chapter entitled “Fur-
11 Bearing Mammals.” However, the prohibitions in the section do not on their face appear to be
12 limited in their application to only those mammals, and existing Section 4 provides that
13 “Division, part, chapter, article, and section headings do not in any manner affect the scope,
14 meaning, or intent of the provisions of this code.”

15 **The Commission invites comment as to whether relocation of the prohibitions in Section**
16 **4004 as proposed would substantively change the meaning of any provision in Section 4004.**

17 § 11155. Conibear traps

18 11155. (a) It is unlawful to use a conibear trap that is larger than 6 inches by 6
19 inches, unless the trap is partially or wholly submerged in water.

20 (b) Notwithstanding subdivision (a), a lawfully set conibear trap that is 10
21 inches by 10 inches or less may be set pursuant to subdivision (g) of Section 465.5
22 of Title 14 of the California Code of Regulations, unless prohibited by the
23 department as a permit condition.

24 **Comment.** Section 11155 restates former Fish and Game Code Section 4004(e) without
25 substantive change.

26 See also Section 4806 (enforcement).

27 **Note.** Proposed Section 11155 is intended to restate existing Fish and Game Code Section
28 4004(e) to clarify the meaning of that provision, without changing its substantive effect. The
29 existing provision reads as follows:

30 4004. It is unlawful to do any of the following:

31

32 (e) Use a conibear trap that is larger than 6 inches by 6 inches, unless partially or wholly
33 submerged in water. Unless prohibited by the department as a permit condition, a lawfully set
34 conibear trap that is 10 inches by 10 inches or less may be set pursuant to subdivision (g) of
35 Section 465.5 of Title 14 of the California Code of Regulations.

36 **The Commission invites comment on whether the restatement would cause any**
37 **substantive change in the meaning of the provision.**

TITLE 2 . LICENSES

CHAPTER 1. TRAPPING LICENSE

§ 11200. Required license

11200. (a) Except as otherwise provided in this section, any person who traps fur-bearing mammals or nongame mammals, designated by the commission or who sells raw furs of those mammals, is required to obtain a trapping license.

(b) The license requirement imposed by this section does not apply to any of the following:

(1) Fur dealers.

(2) Officers or employees of federal, county, or city agencies or the department, when acting in their official capacities.

(3) Officers or employees of the Department of Food and Agriculture, when acting pursuant to the Food and Agricultural Code pertaining to pests, or when acting pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code.

(4) Structural pest control operators licensed pursuant to Chapter 14 (commencing with Section 8500) of Division 3 of the Business and Professions Code, when trapping rats, mice, voles, moles, or gophers.

(5) Persons and businesses licensed or certified by the Department of Pesticide Regulation pursuant to Chapter 4 (commencing with Section 11701) and Chapter 8 (commencing with Section 12201) of Division 6 of, and Chapter 3.6, (commencing with Section 14151) of Division 7 of, the Food and Agricultural Code, when trapping rats, mice, voles, moles, or gophers.

(6) Persons trapping mammals in accordance with Section 32305, 32155, 35215, 35610, 35710, or 36010, except when providing trapping services for profit.

Comment. Subdivisions (a) and (b)(1) of Section 11200 restate the first sentence of former Fish and Game Code Section 4005(a) without substantive change.

Subdivision (b)(2)-(5) continues former Fish and Game Code Section 4005(e) without substantive change.

Subdivision (b)(6) continues former Fish and Game Code Section 4005(c) without substantive change.

See also Section 4806 (enforcement).

Notes. (1) Proposed Sections 11200(a) and 11200(b)(1) are intended to restate the first sentence of existing Fish and Game Code Section 4005(a) to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

Except as otherwise provided in this section, every person, other than a fur dealer, who traps fur-bearing mammals or nongame mammals, designated by the commission or who sells raw furs of those mammals, shall procure a trapping license.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

(2) **The Commission invites comment on the meaning of “designated by the commission” in Section 4005(a).**

(3) The definition of “raw fur” in Section 4005(a) is continued by proposed Section 475.

1 § 11205. Sale of raw fur

2 11205. No raw furs taken by persons providing trapping services for profit may
3 be sold.

4 **Comment.** Section 11205 continues former Fish and Game Code Section 4005(d) without
5 substantive change.

6 See also Section 4806 (enforcement).

7 **Note.** Although existing Section 4005(d) could be read as applying broadly to *all* persons
8 providing trapping services for profit, the provision is oddly placed (in the middle of Section
9 4005) if that is its intended effect. Instead, it may be that the provision is intended to apply only
10 to persons providing trapping services for profit *that are described in existing Section 4005(c)*,
11 the paragraph immediately preceding Section 4005(d).

12 **The Commission invites comment on this issue.**

13 § 11210. Standards for license

14 11210. The department shall develop standards that are necessary to ensure the
15 competence and proficiency of applicants for a trapping license. No person shall
16 be issued a trapping license until passing a test of knowledge and skill in trapping.

17 **Comment.** Section 11210 continues former Fish and Game Code Section 4005(b) without
18 substantive change.

19 § 11215. Fee for license

20 11215. (a) The fee for a trapping license is as follows:

21 (1) For a resident of this state 16 years of age or older, a base fee of forty-five
22 dollars (\$45), adjusted under Section 3755.

23 (2) For a resident of this state under the age of 16 years, a base fee of fifteen
24 dollars (\$15), adjusted under Section 3755.

25 (3) For a nonresident of this state, a base fee of two hundred twenty-five dollars
26 (\$225), adjusted under Section 3755.

27 (b) The commission shall adjust the amount of the fees specified in subdivision
28 (a) as necessary to fully recover, but not exceed, all reasonable administrative and
29 implementation costs of the department and the commission relating to those
30 licenses.

31 **Comment.** Subdivision (a) of Section 11215 continues former Fish and Game Code Section
32 4006(a) without substantive change.

33 Subdivision (b) continues former Fish and Game Code Section 4006(c) without substantive
34 change.

35 § 11220. Authorization and term

36 11220. A trapping license authorizes the licensee to do both of the following:

37 (a) Take fur-bearing mammals and nongame mammals during the open season
38 for those mammals, for a term of one year beginning on July 1, or if the license is
39 issued after the beginning of a term, for the remainder of that term.

40 (b) Sell the raw fur of any animal taken pursuant to subdivision (a).

41 **Comment.** Section 11220 restates former Fish and Game Code Section 4007 without
42 substantive change.

1 **Notes.** (1) Proposed Section 11220 is intended to restate existing Fish and Game Code
2 Section 4007 to improve its clarity, without changing its substantive effect. The existing
3 provision reads as follows:

4 4007. A trapping license authorizes the person to whom it is issued to take, during the open
5 season, fur-bearing mammals and nongame mammals for a term of one year from July 1st, or if
6 issued after the beginning of such term, for the remainder thereof and to sell the raw fur of any
7 such animal.

8 **The Commission invites comment on whether the restatement would cause any**
9 **substantive change in the meaning of the provision.**

10 (2) Section 4007 provides that a trapping license authorizes both specified take of specified
11 animals during a specified term, and the sale of raw fur from the animals taken. However, the
12 phrasing of the provision makes it unclear whether the sale of raw fur may also only occur during
13 the specified term.

14 **The Commission invites comment on whether, under Section 4007, a trapper may sell**
15 **raw fur from an animal taken pursuant to a trapping license at any time, or only during the**
16 **period in which the trapping license is valid.**

17 **§ 11225. Statement of prior year's take**

18 11225. No trapping license shall be issued to any applicant within one year
19 following the expiration of any trapping license previously issued to the applicant,
20 unless the applicant has submitted to the department a sworn statement showing
21 the number of each kind of fur-bearing mammal and nongame mammal taken
22 under the previous license, and the names and addresses of any persons to whom
23 the mammals were shipped or sold.

24 **Comment.** Section 11225 continues former Fish and Game Code Section 4008 without
25 substantive change.

26 **§ 11230. Issuance to nonresident**

27 11230. (a) A trapping license may be issued to a nonresident only if the state in
28 which the nonresident resides provides for issuance of a nonresident trapping
29 license to California residents.

30 (b) A nonresident issued a license under subdivision (a) may take only those
31 species, and may take or possess only that quantity of a species, that a resident of
32 California may take or possess under a nonresident trapping license or permit in
33 the state of residence of that nonresident.

34 **Comment.** Section 11230 continues former Fish and Game Code Section 4006(b) without
35 substantive change.

36 **§ 11235. Commission regulations**

37 11235. The commission may adopt regulations that it determines to be necessary
38 to regulate the taking and sale of fur-bearing mammals or nongame mammals
39 taken under a trapping license.

40 **Comment.** Section 11235 continues former Fish and Game Code Section 4009.5 without
41 substantive change.

1 CHAPTER 2. FUR DEALER LICENSE

2 **§ 11300. Required license**

3 11300. (a) A person engaging in, carrying on, or conducting wholly or in part
4 the business of buying, selling, trading or dealing in raw furs of fur-bearing
5 mammals or nongame mammals is a fur dealer and shall procure a fur dealer
6 license.

7 (b) No fur dealer license shall be required of a licensed trapper selling raw furs
8 that were lawfully taken, or a domesticated game breeder selling raw furs of
9 animals that the breeder has raised.

10 **Comment.** Section 11300 continues former Fish and Game Code Section 4030 without
11 substantive change.

12 See also Section 4804 (enforcement).

13 **§ 11305. Fee for license**

14 11305. A revocable fur dealer license shall be issued to any person upon
15 payment of a base fee of seventy dollars (\$70), as adjusted under Section 3755.

16 **Comment.** Section 11305 restates former Fish and Game Code Section 4031 without
17 substantive change.

18 **§ 11310. Authorization and term**

19 11310. A fur dealer license authorizes the person to whom it is issued to buy,
20 sell, barter, exchange, or possess raw furs or parts thereof of fur-bearing mammals
21 and nongame mammals for a term of one year beginning on July 1, or if the
22 license is issued after the beginning of the term, for the remainder of the term.

23 **Comment.** Section 11310 continues former Fish and Game Code Section 4034 without
24 substantive change.

25 **§ 11315. Fur agent license**

26 11315. (a) Any person who is employed by a licensed fur dealer to engage in the
27 business of buying, selling, trading, or dealing in raw furs only on behalf of the fur
28 dealer, and not on the person's own behalf, is a fur agent.

29 (b) Except as otherwise provided in this code, it is unlawful to act as a fur agent
30 without a fur agent license.

31 (c) A revocable fur agent license shall be issued to any person who is employed
32 by a licensed fur dealer upon payment of a base fee of thirty-five dollars (\$35), as
33 adjusted under Section 3755.

34 **Comment.** Subdivisions (a) and (b) of Section 11315 continues former Fish and Game Code
35 Section 4032 without substantive change.

36 Subdivision (c) continues former Fish and Game Code Section 4033 without substantive
37 change.

38 See also Section 4804 (enforcement).

1 **§ 11320. Display of license**

2 11320. A fur dealer license or fur agent license shall be shown upon request to
3 any person authorized to enforce the provisions of this code.

4 **Comment.** Section 11320 continues former Fish and Game Code Section 4035 without
5 substantive change.

6 **§ 11325. Record of transfers**

7 11325. (a) A fur dealer licensed pursuant to this chapter shall maintain a true
8 and legible record of any transfer of raw furs that includes:

9 (1) The license number, name, and address of any seller.

10 (2) The signature, name, and license number, if applicable, of any buyer.

11 (3) The number and species of raw furs transferred, by county of take.

12 (4) The price paid or terms of exchange.

13 (5) The date of transfer.

14 (6) Any other information that the department requires.

15 (b) The record of sale, exchange, barter, or gift shall be available for inspection
16 at any time by the department.

17 **Comment.** Subdivision (a) of Section 11325 continues former Fish and Game Code Section
18 4037 without substantive change.

19 Subdivision (b) continues former Fish and Game Code Section 4038 without substantive
20 change.

21 **§ 11330. Annual report**

22 11330. Each licensed fur dealer shall submit an annual report to the department
23 on the sale, exchange, barter, or gift of raw furs, on forms furnished by the
24 department. No license shall be renewed until the report is received.

25 **Comment.** Section 11330 continues former Fish and Game Code Section 4040 without
26 substantive change.

27 **§ 11335. Confidentiality of documents**

28 11335. The receipts, records, and reports required by this chapter, and the
29 information contained in those documents, shall be confidential, and the records
30 shall not be public records. Any publication of information in the documents shall
31 preserve the confidentiality of the persons involved.

32 **Comment.** Section 11335 continues former Fish and Game Code Section 4041 without
33 substantive change.

34 **§ 11340. Regulation**

35 11340. The commission may regulate the buying, selling, trading, or dealing in
36 raw fur or part of raw fur of any fur-bearing mammal or nongame mammal under
37 a fur dealer license.

38 **Comment.** Section 11340 continues former Fish and Game Code Section 4042 without
39 substantive change.

40 See also Section 4804 (enforcement).

1 that is necessary to begin the gear setting period on the next day that is not one of
2 those days.

3 (e) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
4 Title 2 of the Government Code does not apply to actions taken pursuant to this
5 section.

6 **Comment.** Section 11500 continues former Fish and Game Code Section 5523 without
7 substantive change.

8 **Note.** Proposed Section 11500 would continue Section 5523, which was amended by 2018
9 Cal. Stat. ch. 663 as an urgency measure.

10 **§ 11505. Take from propagation or conservation facilities**

11 11505. It is unlawful to take a fish in a pond, reservoir, or other water-retaining
12 structure that belongs to or is controlled by the department and used for
13 propagating, raising, holding, protecting, or conserving fish.

14 **Comment.** Section 11505 continues former Fish and Game Code Section 1124 without
15 substantive change.

16 **§ 11510. Fish spear or gaff**

17 11510. (a) It is unlawful for a person to possess a fish spear or gaff within 300
18 feet of a lake or stream in this state, at a time when spearing is prohibited in that
19 lake or stream.

20 (b) This section does not apply to either of the following acts:

21 (1) Possession of a gaff carried as an accessory while angling.

22 (2) Possession of a fish spear or gaff in one's own home.

23 **Comment.** Section 11510 restates former Fish and Game Code Section 5507 without
24 substantive change.

25 **Note.** Proposed Section 11510 is intended to restate existing Fish and Game Code Section
26 5507 to clarify the meaning of that provision, without changing its substantive effect. The
27 existing provision reads as follows:

28 5507. It is unlawful for any person to possess, except in his home, any fish spear or gaff within
29 300 feet of any lake or stream in this State, at any time when spearing is prohibited in such lake
30 or stream. This section does not apply to the possession of a gaff carried as an accessory while
31 angling.

32 **The Commission invites comment on whether the restatement would cause any**
33 **substantive change in the meaning of the provision.**

34 **§ 11515. Possession when size or weight cannot be determined**

35 11515. (a) It is unlawful to possess on a boat, or to bring ashore, a fish for which
36 a size or weight limit is prescribed, in such a condition that its size or weight
37 cannot be determined.

38 (b) The commission may adopt regulations allowing fish other than whole fish
39 to be brought ashore, which establish sizes or weights for cleaned or otherwise cut
40 fish equivalent to sizes or weights for whole fish.

1 **Comment.** Section 11515 continues former Fish and Game Code Section 5508 without
2 substantive change.

3 **§ 11520. Possession when species cannot be determined**

4 11520. (a) It is unlawful to possess on a boat, or to bring ashore, a fish in such a
5 condition that its species cannot be determined, except as otherwise provided in
6 this code or regulations adopted pursuant to this code.

7 (b) Subject to Section 11515, the commission may adopt regulations allowing
8 fish taken by a person fishing from a vessel licensed pursuant to Section 21905 to
9 be brought ashore in such a condition that its species cannot be determined.

10 **Comment.** Section 11520 continues former Fish and Game Code Section 5509 without
11 substantive change.

12 **§ 11525. Removal of eggs**

13 11525. (a) It is unlawful to take any fish for the sole purpose of removing its
14 eggs, except for the purpose of developing a brood stock for aquaculture purposes
15 under Part 1 (commencing with Section 23300) of Division 7 pursuant to
16 regulations adopted by the Fish and Game Commission.

17 (b) The commission shall determine ownership and regulate distribution of
18 progeny taken from wild brood stock, other than those obtained pursuant to
19 Section 23900.

20 **Comment.** Section 11525 continues former Fish and Game Code Section 5503 without
21 substantive change.

22 **§ 11530. Mollusks, crustaceans, and amphibians as bait**

23 11530. Mollusks, crustaceans, and amphibians may be used for bait, or may be
24 released in waters from which they were taken.

25 **Comment.** Section 11530 continues former Fish and Game Code Section 5505 without
26 substantive change.

27 **§ 11535. Use of artificial bait**

28 11535. A river, stream, lake, or other body of water restricted by the
29 commission to the use of only artificial flies or artificial lures for fishing shall be
30 posted by the department at logical places of entry so as to inform persons fishing
31 in those waters as to the nature of the restrictions.

32 **Comment.** Section 11535 continues former Fish and Game Code Section 5516 without
33 substantive change.

34 **§ 11540. Predatory fish**

35 11540. The department may take any fish that, in its opinion, is unduly preying
36 upon any bird, mammal, or fish. The commission may prescribe the terms of a
37 permit to take any fish that, in the opinion of the department, is harmful to other
38 species of fish and should be reduced in numbers.

1 **Comment.** Section 11710 continues former Fish and Game Code Section 1726.1 without
2 substantive change.

3 **§ 11715. Determinations by department**

4 11715. (a) For the purposes of this chapter, “trout” includes steelhead trout.

5 (b) The department, in administering its existing wild trout program, shall
6 maintain an inventory of all California trout streams and lakes to determine the
7 most suitable angling regulations for each stream or lake. The department shall
8 determine for each stream or lake whether it should be managed as a wild trout
9 fishery, or whether its management should involve the temporary planting of
10 native trout species to supplement wild trout populations that is consistent with
11 this chapter. In maintaining the inventory, the department shall give priority to
12 those streams and lakes that have the highest biological potential for producing
13 sizeable wild trout, which are inhabited by rare species, or where the quality of the
14 fishery is threatened or endangered and take into consideration public use. The
15 biological and physical inventories prepared and maintained for each stream,
16 stream system, or lake shall include an assessment of the resource status, threats to
17 the continued well-being of the fishery resource, the potential for fishery resource
18 development, and recommendations, including necessary changes in the allowed
19 take of trout, for the development of each stream or lake to its full capacity as a
20 fishery, consistent with this chapter.

21 (c) This section does not provide any public entity or private party with any new
22 or additional authority to affect the management of, or access to, any private land
23 without the written consent of the owner. Privately owned lakes and ponds not
24 open to the use of the general public shall be subject to this section only with the
25 written consent of the owner. This chapter shall not be construed as authorizing or
26 requiring special treatment of adjacent land areas or requiring land use restrictions.
27 It is the intent of the Legislature that this chapter should not diminish the existing
28 authority of the department.

29 (d) The department shall make the inventory maintained pursuant to subdivision
30 (b) publicly available on the department’s Internet Web site and the department
31 shall continuously revise that inventory with the goal of reviewing every
32 watershed once per decade.

33 **Comment.** Section 11715 continues former Fish and Game Code Section 1726.4 without
34 substantive change.

35 **§ 11720. Declaration regarding funding**

36 11720. The Legislature further finds and declares that activities and programs
37 mandated by this chapter are a continuation and perpetuation of the department’s
38 existing wild trout program and other programs, and as such they shall be funded
39 from existing budgetary resources.

40 **Comment.** Section 11720 continues former Fish and Game Code Section 1726.5 without
41 substantive change.

1 **§ 11725. Declaration of intended development**

2 11725. (a) In order to provide for a diversity of available angling experiences
3 throughout the state, it is the intent of the Legislature that the commission
4 maintain the existing wild trout program, and as part of the program, develop
5 additional wild trout waters in the more than 20,000 miles of trout streams and
6 approximately 5,000 lakes containing trout in California.

7 (b) The department shall prepare a list of no less than 25 miles of stream or
8 stream segments and at least one lake that it deems suitable for designation as wild
9 trout waters. The department shall submit this list to the commission for its
10 consideration at the regular October commission meeting.

11 (c) The commission may remove any stream or lake that it has designated as a
12 wild trout fishery from the program at any time. If any of those waters are
13 removed from the program, an equivalent amount of stream mileage or an
14 equivalent size lake shall be added to the wild trout program.

15 (d) The department shall prepare and complete management plans for all wild
16 trout waters not more than three years following their initial designation by the
17 commission and update the management plan every five years following
18 completion of the initial management plan.

19 **Comment.** Section 11725 continues former Fish and Game Code Section 1727 without
20 substantive change.

21 **§ 11730. Update of trout management plan**

22 11730. (a) Every five years the department shall update the Strategic Plan for
23 Trout Management published in November 2003 as necessary to guide the state's
24 trout management.

25 (b) The Strategic Plan for Trout Management shall be intended to ensure all of
26 the following:

27 (1) Thriving and self-sustaining, wild and native trout populations throughout
28 their historic ranges.

29 (2) Providing and improving angling opportunities for wild and native trout and
30 other trout.

31 (3) Providing for the conservation of wild and native trout.

32 (4) Environmental sustainability and overall ecosystem and watershed health.

33 (c) The Strategic Plan for Trout Management shall be guided by all of the
34 following considerations:

35 (1) Adaptively managing trout populations, including, but not limited to,
36 stocking practices, to establish thriving and self-sustaining native and wild trout
37 fisheries in wild trout waters and, where possible, in other waters.

38 (2) Increasing angler satisfaction.

39 (3) Ensuring appropriate age distribution of wild trout when appropriate.

40 (4) Establishing ecologically and environmentally sustainable hatchery and
41 stocking practices for native trout, including, but not limited to, the following:

42 (A) Hatchery and stocking practices consistent with this chapter.

1 (B) Stocking plans shall include consideration of angler satisfaction and public
2 use of, and access to, the waters for angling. This may include, but is not limited
3 to, harvest and catch rates, including, but not limited to, trophy catch rates, the
4 potential for high angler satisfaction, and where appropriate, put and grow
5 stocking.

6 (C) Native trout shall be preferentially stocked when stocking is employed.

7 (D) Designing stocking plans to maintain and optimize the genetic diversity of
8 trout populations and to be consistent with the direction provided by the strategic
9 trout management team.

10 (E) Stocking plans for species listed in Section 420 shall not exceed the
11 documented biological carrying capacity of the water or ecosystem.

12 (5) Integrating stakeholder involvement into the planning process.

13 (6) Monitoring and evaluating management processes through angler surveys,
14 public meetings coordinated with county fish and game commissions, or by other
15 means.

16 (d) The department shall prepare and complete trout management plans
17 consistent with the Strategic Plan for Trout Management for all wild trout waters
18 not more than three years following their initial designation by the commission.
19 The department shall update the management plan every five years or as necessary
20 following completion of the initial management plan. The department shall
21 prepare trout management plans for other waters consistent with the Strategic Plan
22 for Trout Management as appropriate.

23 (e) Before implementation, the Strategic Plan for Trout Management produced
24 by the department shall be reviewed by the strategic trout management team, the
25 hatchery operations committee, and an ad hoc peer review committee convened by
26 the department to ensure compliance with sound management practices, improved
27 genetic diversity, and use of the best available scientific information.

28 (f) The Strategic Plan for Trout Management and plans completed pursuant to
29 subdivision (d) shall be publicly available on the department's Internet Web site.

30 **Comment.** Section 11730 continues former Fish and Game Code Section 1728 without
31 substantive change.

32 **§ 11735. Priority for stocking native hatchery-produced species**

33 11735. (a) The department shall give priority to stocking native hatchery-
34 produced species in California's waters, where stocking is determined to be
35 appropriate by the department. Stocking of hatchery-produced fish is not
36 appropriate in all of California's waters, including, but not limited to, stocking in
37 California's waters that would adversely affect species listed under the federal
38 Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or the California
39 Endangered Species Act (Part 1 (commencing with Section 62000) of Division
40 17).

1 (b) Hatchery-produced trout shall be stocked to support sustainable angling
2 recreation and promote angler access to trout fishing, including, but not limited to,
3 urban fisheries.

4 (c) The department may provide outreach and educational materials to all
5 anglers to promote awareness of environmental sustainability, ecosystem health,
6 fish genetics, angling opportunities, and fish population management.

7 (d) Educational programs utilizing the hatcheries shall be encouraged.

8 (e) The department shall ensure that all trout stocked in waters of the state for
9 recreational purposes are unable to reproduce through triploidy or other means,
10 with the exception of fish planted into brood stock lakes, surplus brood stock
11 planted according to fishery management decisions, fish planted to supplement
12 waters that the department has determined to be genetically isolated from native
13 fish populations, and native trout species produced for recovery and restoration
14 within their native range.

15 (f) The department may develop, conduct, and respond to regular angler
16 preference and satisfaction surveys. This is not a substitute for a preferred
17 scientific data collection and monitoring program that would facilitate adaptive
18 management of California's inland trout fisheries.

19 (g) The department shall review angling regulations periodically and adjust
20 those regulations to ensure consistency with the strategic plan described in Section
21 11730.

22 **Comment.** Section 11735 continues former Fish and Game Code Section 1729 without
23 substantive change.

24 **§ 11740. Intradepartmental strategic trout management team**

25 11740. (a) By January 1, 2014, the department shall form an intradepartmental
26 strategic trout management team to provide direction and oversee trout
27 management statewide. Working under the framework of the Strategic Plan for
28 Trout Management, the strategic trout management team shall direct and
29 implement focused management and monitoring efforts for trout at the watershed
30 level, in cooperation with local stakeholders.

31 (b) The strategic trout management team shall be responsible for developing
32 basin management plans that are conservation based and are consistent throughout
33 California for inland watersheds.

34 (c) The basin plans in subdivision (b) shall be reviewed by an ad hoc peer
35 review committee, which may be convened under the guidance of the
36 department's Science Institute to ensure compliance with sound management
37 practices and utilization of the best available scientific information.

38 **Comment.** Section 11740 continues former Fish and Game Code Section 1730 without
39 substantive change.

1 CHAPTER 2. SALMON, STEELHEAD TROUT, AND ANADROMOUS
2 FISHERIES PROGRAM ACT

3 **§ 11800. Title**

4 11800. This chapter shall be known and may be cited as the Salmon, Steelhead
5 Trout, and Anadromous Fisheries Program Act.

6 **Comment.** Section 11800 continues former Fish and Game Code Section 6900 without
7 substantive change.

8 **§ 11805. Definitions**

9 11805. Unless the context clearly requires a different meaning, the following
10 definitions govern the construction of this chapter:

11 (a) “Production” means the survival of fish to adulthood as measured by the
12 abundance of the recreational and commercial catch together with the return of
13 fish to the state’s spawning streams.

14 (b) “Program” means the program for protecting and increasing the naturally
15 spawning salmon and steelhead trout of the state provided for in Section 11825.

16 **Comment.** Subdivision (a) of Section 11805 combines and continues former Fish and Game
17 Code Sections 6910 and 6911 without substantive change.

18 Subdivision (b) combines and continues former Fish and Game Code Sections 6910 and 6912
19 without substantive change.

20 **§ 11810. Legislative findings**

21 11810. The Legislature, for purposes of this chapter, finds as follows:

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

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

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

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

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

38 (f) Reliance upon hatchery production of salmon and steelhead trout in
39 California is at or near the maximum percentage that it should occupy in the mix
40 of natural and artificial hatchery production in the state. Hatchery production may

1 be an appropriate means of protecting and increasing salmon and steelhead in
2 specific situations; however, when both are feasible alternatives, preference shall
3 be given to natural production.

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

7 (h) Funds provided by the Legislature since 1978 to further the protection and
8 increase of the fisheries of the state have been administered by the department in a
9 successful program of contracts with local government and nonprofit agencies and
10 private groups in ways that have attracted substantial citizen effort.

11 (i) The department's contract program has demonstrated that California has a
12 large and enthusiastic corps of citizens that are eager to further the restoration of
13 the stream and fishery resources of this state and that are willing to provide
14 significant amounts of time and labor to that purpose.

15 (j) There is need for a comprehensive salmon, steelhead trout, and anadromous
16 fisheries plan, program, and state government organization to guide the state's
17 efforts to protect and increase the naturally spawning salmon, steelhead trout, and
18 anadromous fishery resources of the state.

19 **Comment.** Section 11810 continues former Fish and Game Code Section 6901 without
20 substantive change.

21 **§ 11815. Legislative policy declarations**

22 11815. The Legislature, for purposes of this chapter, declares as follows:

23 (a) It is the policy of the state to significantly increase the natural production of
24 salmon and steelhead trout by the end of this century. The department shall
25 develop a plan and a program that strives to double the current natural production
26 of salmon and steelhead trout resources.

27 (b) It is the policy of the state to recognize and encourage the participation of the
28 public in privately and publicly funded mitigation, restoration, and enhancement
29 programs in order to protect and increase naturally spawning salmon and steelhead
30 trout resources.

31 (c) It is the policy of the state that existing natural salmon and steelhead trout
32 habitat shall not be diminished further without offsetting the impacts of the lost
33 habitat.

34 **Comment.** Section 11815 continues former Fish and Game Code Section 6902 without
35 substantive change.

36 **§ 11820. Nonprofit salmon release and return operations**

37 11820. (a) It is the policy of the state and the department to encourage nonprofit
38 salmon release and return operations subject to this code operated by, or on behalf
39 of, licensed commercial salmon fishermen for the purpose of enhancing
40 California's salmon populations and increasing the salmon harvest by commercial
41 and recreational fishermen.

1 (b) The department shall, to the extent that funds and personnel are available,
2 cooperate with fishing organizations in the siting and establishment of those
3 operations to ensure the protection of natural spawning stocks of native salmon.
4 The organizations conducting the operations may receive salmon eggs and
5 juvenile salmon for the purposes of the operation, and, where appropriate, shall
6 have priority to receive salmon eggs and juvenile salmon for those purposes after
7 the needs of habitat mitigation efforts, and state hatcheries are met.

8 **Comment.** Section 11820 continues former Fish and Game Code Section 6903 without
9 substantive change.

10 **§ 11825. Creation of program**

11 11825. (a) The department shall, with the advice of the Advisory Committee on
12 Salmon and Steelhead Trout and the Commercial Salmon Trollers Advisory
13 Committee, prepare and maintain a detailed and comprehensive program for the
14 protection and increase of salmon, steelhead trout, and anadromous fisheries.

15 (b) The program shall identify the measures the department will carry out to
16 achieve the policies set forth in Section 11815.

17 **Comment.** Subdivision (a) of Section 11825 continues former Fish and Game Code Section
18 6920(a) without substantive change.

19 Subdivision (b) continues former Fish and Game Code Section 6921 without substantive
20 change.

21 **§ 11830. Consultation with other agencies**

22 11830. The department shall consult with every public agency whose policies or
23 decisions may affect the goals of this program to determine if there are feasible
24 means for those public agencies to help the department achieve the goals of this
25 program.

26 **Comment.** Section 11830 continues former Fish and Game Code Section 6920(b) without
27 substantive change.

28 **§ 11835. Report of determined elements of program**

29 11835. The department shall determine the initial elements of the program and
30 transmit a report describing those elements to the Legislature and the Advisory
31 Committee on Salmon and Steelhead Trout by March 31, 1989.

32 **Comment.** Section 11835 continues former Fish and Game Code Section 6924 without
33 substantive change.

34 **Note.** Existing Fish and Game Code Section 6924 (which would be continued by proposed
35 Section 11835) requires the Department to take specified actions within six months of the
36 effective date of the chapter in which Section 6924 appears (Chapter 8 (commencing with Section
37 6900) of Part 1 of Division 6 of the existing code).

38 The effective date of that chapter (added by 1988 Cal. Stat. ch. 1545) was January 1, 1989,
39 suggesting the strong likelihood that the Department has long ago complied with the one-time
40 requirements of Section 6924.

41 **The Commission invites comment on whether existing Section 6924 can be discontinued**
42 **from the proposed law as obsolete.**

1 **§ 11840. Ineligibility**

2 11840. Measures that are the responsibility of other agencies or persons, such as
3 the repair or replacement of dysfunctional fish screens, are not eligible for funding
4 under the program.

5 **Comment.** Section 11840 continues former Fish and Game Code Section 6923 without
6 substantive change.

7 **§ 11845. Program elements**

8 11845. The program shall include, but is not limited to, all of the following
9 elements:

10 (a) Identification of streams where the natural production of salmon and
11 steelhead trout can be increased primarily through the improvement of stream and
12 streambank conditions without effect on land ownership, land use practices, or
13 changes in streamflow operations.

14 (b) Identification of streams where the natural production of salmon and
15 steelhead trout can be increased only through the improvement of land use
16 practices or changes in streamflow operations.

17 (c) Identification of streams where the protection of, and increase in, salmon and
18 steelhead trout resources require, as a result of significant prior loss of stream
19 habitat, the construction of artificial propagation facilities.

20 (d) A program element for evaluating the effectiveness of the program.

21 (e) Recommendations for an organizational structure, staffing, budgeting, long-
22 term sources of funding, changes in state statutes and regulations and federal and
23 local government policy and such other administrative and legislative actions as
24 the department finds to be necessary to accomplish the purposes of this chapter.

25 (f) Identification of measures to protect and increase the production of other
26 anadromous fisheries consistent with policies set forth in Section 11815.

27 (g) Identification of alternatives to, or mitigation of, manmade factors that cause
28 the loss of juvenile and adult fish in California's stream system.

29 **Comment.** Section 11845 continues former Fish and Game Code Section 6922 without
30 substantive change.

31 **§ 11850. Study of effect of reduced flow**

32 11850. (a) Subject to the availability of funds for the purposes of this section,
33 the department shall contract with the University of California to conduct a study
34 of the effects that reduced waterflows at the mouths and upstream estuaries of
35 rivers selected under subdivision (b) would have on existing salmon and steelhead
36 populations, and on existing or prospective salmon and steelhead population
37 restoration or reintroduction programs.

38 (b) The department shall select the rivers to be included in the study, and shall
39 limit its selection to rivers that satisfy both of the following conditions:

40 (1) The river is within the combined river systems described in paragraph (7) of
41 subdivision (a) of Section 1215.5 of the Water Code.

1 (2) The river is the subject of an application filed with the State Water
2 Resources Control Board to appropriate water in an amount equal to more than
3 three cubic feet per second or more than 500 acre feet per annum of storage,
4 involving the delivery of water by means other than a pipeline, natural
5 watercourse, well, or aqueduct, to any place of use that is outside of the protected
6 area described in paragraph (7) of subdivision (a) of Section 1215.5 of the Water
7 Code.

8 (c) The findings of the study conducted under this section shall be a factor in
9 any decision of the State Water Resources Control Board to approve or deny an
10 application to appropriate water from any river selected under this section. If the
11 application involves the delivery of water, by means other than a pipeline, natural
12 watercourse, well, or aqueduct, to any place of use outside of the protected area
13 described in paragraph (7) of subdivision (a) of Section 1215.5 of the Water Code,
14 the board may not approve that application until after the study has been
15 completed.

16 (d) Any study conducted pursuant to this section shall conclude within five years
17 of the start of that study.

18 (e) This section applies to the University of California only if the Regents of the
19 University of California, by resolution, make it applicable to the university.

20 **Comment.** Section 11850 continues former Fish and Game Code Section 6930 without
21 substantive change.

22 CHAPTER 3. KEENE-NIELSEN FISHERIES RESTORATION ACT OF 1985

23 § 11900. Title

24 11900. This chapter shall be known and may be cited as the Keene-Nielsen
25 Fisheries Restoration Act of 1985.

26 **Comment.** Section 11900 continues former Fish and Game Code Section 2760 without
27 substantive change.

28 § 11905. Legislative findings and declarations

29 11905. The Legislature finds and declares as follows:

30 (a) Many of California's significant fish and wildlife resources in inland and
31 coastal waters have declined as the result of many development projects which
32 have provided valuable economic growth.

33 (b) Fish and wildlife have been adversely affected by water developments that
34 have significantly altered water flows in many of California's rivers and streams,
35 thereby affecting fish and wildlife, their habitat, adjacent riparian habitat,
36 spawning areas, and migration routes.

37 (c) Fish and wildlife are important public resources with significant economical,
38 environmental, recreational, aesthetic, and educational values.

1 (d) California intends to make reasonable efforts to prevent further declines in
2 fish and wildlife, to restore fish and wildlife to historic levels where possible, and
3 to enhance fish and wildlife resources where possible.

4 (e) Protection of, and an increase in, the naturally spawning salmon and
5 steelhead trout resources of the state would provide a valuable public resource to
6 the residents, a large statewide economic benefit, and would, in addition, provide
7 employment opportunities not otherwise available to the citizens of this state,
8 particularly in rural areas of underemployment.

9 (f) The protection of, and increase in, the naturally spawning salmon and
10 steelhead trout resources of the state should be accomplished primarily through the
11 improvement of stream habitat.

12 (g) The Salmon, Steelhead Trout, and Anadromous Fisheries Program Act
13 (Chapter 2 (commencing with Sec. 11800)), declares that it is the policy of the
14 state to increase the state's salmon and steelhead trout resources, and directs the
15 department to develop a plan and program that strives to double the salmon and
16 steelhead trout resources.

17 **Comment.** Section 11905 continues former Fish and Game Code Section 2761 without
18 substantive change.

19 **§ 11910. Fisheries Restoration Account**

20 11910. (a) The Fisheries Restoration Account is hereby created in the Fish and
21 Game Preservation Fund. The moneys in the Fisheries Restoration Account are
22 hereby appropriated to the department for expenditure in fiscal years 1991–92 to
23 1993–94, inclusive, pursuant to subdivision (b).

24 (b) The moneys in the Fisheries Restoration Account may be expended for the
25 construction, operation, and administration of projects designated in the plan
26 developed by the department in accordance with the Salmon, Steelhead Trout, and
27 Anadromous Fisheries Program Act (Chapter 2 (commencing with Sec. 11800)),
28 and projects designed to restore and maintain fishery resources and their habitat
29 that have been damaged by past water diversions and projects and other
30 development activities. Expenditures shall not be authorized for a project to be
31 funded under this subdivision before a date that is 30 days after the department has
32 furnished a copy of the proposal for the project to be funded, together with
33 supporting descriptions, to the Joint Committee on Fisheries and Aquaculture and
34 to the Joint Legislative Budget Committee. These projects shall have as their
35 primary objective the restoration of fishery resources identified in the Salmon,
36 Steelhead Trout, and Anadromous Fisheries Program Act. Projects may include,
37 but shall not be limited to, watershed assessments, fisheries restoration planning,
38 acquisition of lands, restoration of habitat, restoration or creation of spawning
39 areas, construction of fish screens or fish ladders, stream rehabilitation, and
40 installation of pollution control facilities. Projects for restoration or creation of
41 spawning areas shall utilize natural spawning rather than hatcheries to the extent
42 possible.

1 Under no circumstances shall any water project be absolved under this
2 subdivision of any mitigation requirements that are placed upon it under existing
3 law.

4 No land shall be acquired pursuant to this chapter by eminent domain
5 proceedings.

6 (c) Priority for funding shall be given to projects that employ fishermen, fish
7 processing workers, and others who are unemployed or underemployed due to the
8 elimination of a commercial fishing season as a result of restrictions imposed by
9 federal regulations. This priority shall remain in effect only as long as those
10 restrictions are in force.

11 (d) Expenditures shall not be authorized for multiyear projects funded under
12 subdivision (b) before a date that is 30 days after the department has submitted an
13 annual progress report on the project and a copy of the work schedule for
14 subsequent year funding of the project to the Joint Committee on Fisheries and
15 Aquaculture and to the Joint Legislative Budget Committee.

16 (e) The department shall conduct a preproject and postproject evaluation on each
17 project recommended in the plan and program developed by the department in
18 accordance with the Salmon, Steelhead Trout, and Anadromous Fisheries Program
19 Act for which money has been appropriated from the Fisheries Restoration
20 Account.

21 (f) The department may expend not more than 5 percent of the funds annually
22 appropriated from the Fisheries Restoration Account for the administration of
23 projects.

24 (g) The department may contract for services for the purpose of conducting a
25 preproject and postproject evaluation or for the administration of projects.

26 (h) The department shall, during the last fiscal year of funding, conduct a review
27 of all previous and ongoing projects to determine if the elements of the plan and
28 program developed by the department pursuant to the Salmon, Steelhead Trout,
29 and Anadromous Fisheries Program Act are being met, including the goal of
30 doubling the 1988 population of salmon and steelhead trout, as declared in Section
31 11815.

32 **Comment.** Section 11910 continues former Fish and Game Code Section 2762 without
33 substantive change.

34 **§ 11915. Partial funding of projects**

35 11915. The department may advance partial finding, of up to 50 percent of the
36 amount contracted for, to contractors for projects under subdivision (b) of Section
37 11910 if the director finds the organization meets all of the following
38 requirements:

39 (1) It has a previously demonstrated record of successfully completing one or
40 more fishery restoration projects funded under contract with the department.

41 (2) It utilizes generally accepted accounting procedures.

1 (3) It demonstrates that the project can be accomplished more efficiently and
2 economically with partial funding advanced at the initiation of the project.

3 **Comment.** Section 11915 continues former Fish and Game Code Section 2762.2 without
4 substantive change.

5 **§ 11920. Administrative costs of Advisory Committee on Salmon and Steelhead Trout**

6 11920. In addition to subdivision (b) of Section 11910, the moneys in the
7 Fisheries Restoration Account may be expended, upon appropriation by the
8 Legislature, by the department to fund the administrative costs of the Advisory
9 Committee on Salmon and Steelhead Trout.

10 **Comment.** Section 11920 continues former Fish and Game Code Section 2762.5 without
11 substantive change.

12 **§ 11925. Allocation from Cigarette and Tobacco Products Surtax Fund**

13 11925. The department shall, after consultation with the Advisory Committee on
14 Salmon and Steelhead Trout, allocate that amount of moneys appropriated to the
15 department from the Public Resources Account in the Cigarette and Tobacco
16 Products Surtax Fund that the department determines to be necessary to pay the
17 costs for the advisory committee.

18 **Comment.** Section 11925 continues former Fish and Game Code Section 2762.6 without
19 substantive change.

20 **§ 11930. Consultation with other agencies and committees in determining projects**

21 11930. The director shall consult with the Resources Agency, the Department of
22 Water Resources, the State Water Resources Control Board, the State Coastal
23 Conservancy, the San Francisco Bay Conservation and Development Commission,
24 and the California Coastal Commission in determining projects proposed for
25 funding pursuant to Section 11910.

26 **Comment.** Section 11930 continues former Fish and Game Code Section 2763 without
27 substantive change.

28 **§ 11935. Consultation with other agencies and committees in developing projects**

29 11935. The director shall consult with other responsible state agencies and
30 appropriate fishery advisory committees, including, but not limited to, the
31 Advisory Committee on Salmon and Steelhead Trout and the Striped Bass Stamp
32 Advisory Committee, in developing projects to be funded pursuant to Section
33 11910.

34 **Comment.** Section 11935 continues former Fish and Game Code Section 2764 without
35 substantive change.

36 **§ 11940. Recommendation of California Water Commission to Congress**

37 11940. The California Water Commission, in any recommendation it may make
38 to the Congress of the United States on funding for water projects, shall include
39 recommendations for studies, programs, and facilities necessary to correct fish and

1 wildlife problems caused, fully or partially, by federal water facilities and
2 operation, including, but not limited to, all of the following:

3 (a) The Red Bluff Dam.

4 (b) The Trinity and Lewiston Dams.

5 (c) The facilities necessary to protect wildlife areas in the Suisun Marsh and the
6 Sacramento-San Joaquin Delta from adverse water quality effects caused by the
7 federal Central Valley Project.

8 (d) The Kesterson Reservoir and the San Luis Drain.

9 **Comment.** Section 11940 continues former Fish and Game Code Section 2765 without
10 substantive change.

11 CHAPTER 4. HATCHERY AND INLAND FISHERIES FUND

12 **§ 12000. Creation of fund**

13 12000. Notwithstanding Section 3600, 33 1/3 percent of all sport fishing license
14 fees collected pursuant to 12850, 13100, 13105, 13150, or 13250 shall be
15 deposited into the Hatchery and Inland Fisheries Fund, which is hereby established
16 in the State Treasury.

17 **Comment.** Section 12000 continues the first sentence of former Fish and Game Code Section
18 13007(a) without substantive change.

19 **§ 12005. Authorized purposes**

20 12005. (a) Moneys in the Hatchery and Inland Fisheries Fund may be expended,
21 consistent with the Strategic Plan for Trout Management and Chapter 1
22 (commencing with Section 11700) and, upon appropriation by the Legislature, to
23 support programs of the department related to management, maintenance, and
24 capital improvement of California's fish hatcheries, the Heritage and Wild Trout
25 program, and enforcement activities related thereto, and to support other activities
26 eligible to be funded from revenue generated by sport fishing license fees.

27 (b) The department shall use sport fishing license fees collected and subject to
28 appropriation pursuant to subdivision (a) for the following purposes:

29 (1) For the department's attainment of a state hatchery production goal of 2.75
30 pounds of released trout per sport fishing license sold in the calendar year ending
31 two and one-half years earlier, based on the sales of the following types of sport
32 fishing licenses: resident; lifetime; nonresident year; nonresident, 10-day; 2-day;
33 1-day; and reduced fee. The predominant number of released fish shall be of
34 catchable size or larger. The department shall attain this goal in compliance with
35 Fish and Game Commission trout policies concerning catchable-sized trout
36 stocking, the Strategic Plan for Trout Management, and Chapter 1 (commencing
37 with Section 11700).

38 (2) To the Heritage and Wild Trout Program, at least two million dollars
39 (\$2,000,000), for the following purposes:

1 (A) At least seven new permanent positions for the Heritage and Wild Trout
2 Program.

3 (B) Permanent positions and seasonal aides in each region of the state as
4 necessary to contribute to the objectives of this section, the objectives of the
5 Strategic Plan for Trout Management pursuant to Section 11730, and other
6 activities necessary to the program.

7 (C) The development of trout management plans pursuant to Chapter 1
8 (commencing with Section 11700).

9 (D) The department may expend up to 25 percent of the funds made available to
10 the Heritage and Wild Trout Program for watershed restoration projects, resource
11 assessment, or scientific inquiry. The department may enter into contracts with
12 qualified entities including local governments, special districts, tribes, and
13 nonprofit organizations for the purposes of this subparagraph.

14 (3) For the development of the department's Strategic Plan for Trout
15 Management pursuant to Section 11730.

16 (4) The department shall ensure that the numbers of native California trout, as
17 defined in Section 420, produced are sufficient to equal or exceed 25 percent of
18 the numbers of trout produced by the state fish hatcheries to comply with
19 paragraph (1). The native trout produced in accordance with this paragraph shall
20 support department efforts to protect and restore cold water ecosystems, maintain
21 biological diversity, and provide diverse angling opportunities. Coastal rainbow
22 trout/steelhead produced for anadromous mitigation purposes shall be excluded
23 from contributing to the native trout production goals required by this paragraph.
24 Coastal rainbow trout/steelhead propagated for purposes other than anadromous
25 mitigation and released into their source watersheds may be counted toward the 25
26 percent native trout production goal. Native trout produced shall be naturally
27 indigenous stocks from their original source watersheds. The department may
28 release native trout produced into watersheds other than their original source
29 watershed only if the released trout will cause no harm to other native trout or
30 other biota in their original watersheds.

31 (5) The department may hire additional staff for state fish hatcheries, in order to
32 comply with this subdivision.

33 (c) The department may allocate any funds under this section, not necessary to
34 maintain the minimums specified in paragraphs (1) and (4) of subdivision (b), and
35 after the expenditure in paragraph (2) of subdivision (b), to the Fish and Game
36 Preservation Fund.

37 (d) The department may utilize federal funds to meet the funding formula
38 specified in subdivision (a) if those funds are otherwise legally available for this
39 purpose.

40 (e) A portion of the moneys subject to appropriation pursuant to subdivision (a)
41 may be used for the purpose of obtaining scientifically valid genetic
42 determinations of California native trout stocks, consistent with the department's
43 Strategic Plan for Trout Management.

1 (f) On an annual basis, the department shall invest in hatchery facility
2 improvements and rehabilitation to ensure progress towards achievement of the
3 hatchery fish production targets established pursuant to this section.

4 (g) Commencing January 1, 2015, the department may obtain hatchery-produced
5 fish from any California-based hatchery if all of the following criteria are satisfied:

6 (1) The goal specified in subdivision (b) is unmet.

7 (2) The department, following an inspection, determines that the California
8 hatchery is in compliance with operations, management, and monitoring standards
9 that are as stringent as those in effect at state hatcheries, in order to minimize the
10 risk of the spread of disease or invasive species into inland state waters and
11 fisheries.

12 (3) The cost per fish or per pound of fish provided by the California hatchery
13 shall not exceed the cost to the department of state hatchery fish calculated
14 equivalently and including transportation costs.

15 **Comment.** Section 12005 continues the second sentence of former Fish and Game Code
16 Section 13007(a), and subdivisions (b) through (g), without substantive change.

17 CHAPTER 5. EXPERIMENTAL FISHING PERMIT

18 § 12050. Definitions

19 12050. For purposes of this chapter, the following terms have the following
20 meanings:

21 (a) “Compensation fishing” means fishing conducted for the purpose of
22 recovering costs associated with resource surveys and scientific studies that
23 support the management of a fishery, or fishing that serves as an incentive for
24 participation in those studies. Compensation fishing may include fishing before,
25 during, or following those surveys or studies.

26 (b) “Conservation engineering” means the study of fish behavior and the
27 development and testing of new gear technology and fishing techniques that
28 promote efficient and sustainable harvest of target species or reduce collateral
29 effects, such as bycatch and adverse effects on habitat, or both.

30 (c) “EFP” means an experimental fishing permit.

31 (d) “Exploratory fishing” means fishing to collect data or conduct other
32 research, typically to provide information that could inform the potential opening
33 of a new fishery or an area currently closed to fishing.

34 **Comment.** Section 12050 continues former Fish and Game Code Section 1022(h), without
35 substantive change.

36  **Note.** Proposed Section 12050 would continue Section 1022(h), which was added by 2018
37 Cal. Stat. ch. 477. Although that bill will not take effect until 2019, it is included here in
38 anticipation of its effect.

1 **§ 12055. Issuance and conditions of experimental fishing permit**

2 12055. The commission may authorize, for research, educational, limited
3 testing, data collection, compensation fishing, conservation engineering, or
4 exploratory fishing, or any combination of these purposes, an EFP to be issued by
5 the department that authorizes commercial or recreational marine fishing activity
6 otherwise prohibited by this code or any regulation adopted pursuant to this code,
7 subject, at a minimum, to all of the following conditions:

8 (a) Activities conducted under the EFP shall be consistent with policies set forth
9 in Section 12100 and any applicable fishery management plan.

10 (b) An EFP is subject to those conditions the commission deems necessary to
11 ensure the protection of marine resources, and shall be revoked if the continued
12 use would have an adverse impact on any resource or allocation of a resource, or
13 other adverse impact to established fisheries or other marine living resources.

14 (c)(1) Except as provided in paragraph (2), activities conducted under the EFP
15 shall not involve engaging in bottom trawling in ocean waters of the state.

16 (2) Activities conducted under the EFP may involve engaging in bottom
17 trawling if the EFP is issued to a person who holds a permit issued pursuant to
18 Section 39950 or 51100 and the activities conducted under the EFP are limited to
19 locations where bottom trawling is authorized under the applicable permit.

20 (d) An EFP exempts a permittee only from the provisions of this code and
21 regulations adopted pursuant to this code specified in the EFP. All other applicable
22 laws and regulations shall remain in effect.

23 (e) Permits shall be issued pursuant to the process established in Section 12060.

24 **Comment.** Section 12055 continues former Fish and Game Code Section 1022(a), without
25 substantive change.

26 **Note.** Proposed Section 12055 would continue Section 1022(a), which was added by 2018
27 Cal. Stat. ch. 477. Although that bill will not take effect until 2019, it is included here in
28 anticipation of its effect.

29 **§ 12060. Procedure**

30 12060. The commission shall establish by regulation an expeditious process for
31 department review, public notice and comment, commission approval, and prompt
32 department issuance of EFPs, that is consistent with Section 12165.

33 **Comment.** Section 12060 continues former Fish and Game Code Section 1022(b), without
34 substantive change.

35 **Note.** Proposed Section 12060 would continue Section 1022(b), which was added by 2018
36 Cal. Stat. ch. 477. Although that bill will not take effect until 2019, it is included here in
37 anticipation of its effect.

38 **§ 12065. Period of validity**

39 12065. Unless otherwise specified by the commission, an EFP issued pursuant
40 to this section is valid for a period of one year. However, the department shall not
41 issue an EFP for the same purposes for more than four consecutive years.

1 **Comment.** Section 12065 continues former Fish and Game Code Section 1022(d), without
2 substantive change.

3 **Note.** Proposed Section 12065 would continue Section 1022(d), which was added by 2018
4 Cal. Stat. ch. 477. Although that bill will not take effect until 2019, it is included here in
5 anticipation of its effect.

6 **§ 12070. Fee**

7 12070. The commission may charge a permit fee as necessary to fully recover,
8 but not exceed, all reasonable implementation and administrative costs of the
9 department and the commission relating to the EFP.

10 **Comment.** Section 12070 continues former Fish and Game Code Section 1022(g) without
11 substantive change.

12 **Note.** Proposed Section 12070 would continue Section 1022(g), which were added by 2018
13 Cal. Stat. ch. 477. Although that bill will not take effect until 2019, it is included here in
14 anticipation of its effect.

15 **§ 12075. Reporting**

16 12075. (a) Upon completion of the activities authorized in an EFP, or
17 periodically under terms specified by the commission, a person fishing under an
18 EFP shall submit to the commission and the department a final report summarizing
19 the EFP research and findings, and any scientific reports or other publications
20 created as a result of the activity.

21 (b) The department shall post, and annually update, information regarding
22 approved EFP activities, including information on the fishery and region affected,
23 the experimental intent, and other relevant information on its Internet Web site.

24 (c) On or before January 1, 2025, and every five years thereafter, the department
25 shall complete and provide to the appropriate legislative committees a report
26 summarizing the approved EFPs and benefits of the EFP program to the
27 sustainability of California fisheries, efficiency of fishing effort, and reduction of
28 bycatch in California fisheries.

29 **Comment.** Subdivision (a) of Section 12075 continues former Fish and Game Code Section
30 1022(c) without substantive change.

31 Subdivisions (b) and (c) continue former Fish and Game Code Section 1022(e)-(f) without
32 substantive change.

33 **Note.** Proposed Section 12075 would continue Section 1022(c), (e)-(f), which were added by
34 2018 Cal. Stat. ch. 477. Although that bill will not take effect until 2019, it is included here in
35 anticipation of its effect.

1 TITLE 3. CONSERVATION AND MANAGEMENT
2 OF MARINE LIVING RESOURCES

3 CHAPTER 1. GENERAL POLICIES

4 § 12100. Findings and declarations

5 12100. (a) The Legislature finds and declares that the Pacific Ocean and its rich
6 marine living resources are of great environmental, economic, aesthetic,
7 recreational, educational, scientific, nutritional, social, and historic importance to
8 the people of California.

9 (b) It is the policy of the state to ensure the conservation, sustainable use, and,
10 where feasible, restoration of California's marine living resources for the benefit
11 of all the citizens of the state. The objective of this policy shall be to accomplish
12 all of the following:

13 (1) Conserve the health and diversity of marine ecosystems and marine living
14 resources.

15 (2) Allow and encourage only those activities and uses of marine living
16 resources that are sustainable.

17 (3) Recognize the importance of the aesthetic, educational, scientific, and
18 recreational uses that do not involve the taking of California's marine living
19 resources.

20 (4) Recognize the importance to the economy and the culture of California of
21 sustainable sport and commercial fisheries and the development of commercial
22 aquaculture consistent with the marine living resource conservation policies of this
23 title.

24 (5) Support and promote scientific research on marine ecosystems and their
25 components to develop better information on which to base marine living resource
26 management decisions.

27 (6) Manage marine living resources on the basis of the best available scientific
28 information and other relevant information that the commission or department
29 possesses or receives.

30 (7) Involve all interested parties, including, but not limited to, individuals from
31 the sport and commercial fishing industries, aquaculture industries, coastal and
32 ocean tourism and recreation industries, marine conservation organizations, local
33 governments, marine scientists, and the public in marine living resource
34 management decisions.

35 (8) Promote the dissemination of accurate information concerning the condition
36 of, or management of, marine resources and fisheries by seeking out the best
37 available information and making it available to the public through the marine
38 resources management process.

39 (9) Coordinate and cooperate with adjacent states, as well as with Mexico and
40 Canada, and encourage regional approaches to management of activities and uses

1 that affect marine living resources. Particular attention shall be paid to coordinated
2 approaches to the management of shared fisheries.

3 **Comment.** Section 12100 continues former Fish and Game Code Section 7050 without
4 substantive change.

5 **§ 12105. Scope of regulations**

6 12105. (a) A regulation adopted pursuant to this title shall apply only to ocean
7 waters and bays. Notwithstanding any other provision of this title, nothing
8 contained in this title grants the department or any other agency of the state any
9 regulatory authority not in existence on January 1, 1999, in any river upstream of
10 the mouth of such river, in the Sacramento-San Joaquin Delta or in any other
11 estuary.

12 (b) The policies in this title shall apply only to fishery management plans and
13 regulations adopted by the commission on or after January 1, 1999. No power is
14 delegated to the commission or the department by this title to regulate fisheries
15 other than the nearshore fishery, the white sea bass fishery, emerging fisheries,
16 and fisheries for which the commission or department had regulatory authority
17 prior to January 1, 1999.

18 **Comment.** Section 12105 continues former Fish and Game Code Section 7051 without
19 substantive change.

20 **CHAPTER 2. MARINE FISHERIES GENERALLY**

21 **§ 12150. Declaration of policy**

22 12150. The Legislature finds and declares that it is the policy of the state that:

23 (a) California's marine sport and commercial fisheries, and the resources upon
24 which they depend, are important to the people of the state and, to the extent
25 practicable, shall be managed in accordance with the policies and other
26 requirements of this title in order to assure the long-term economic, recreational,
27 ecological, cultural, and social benefits of those fisheries and the marine habitats
28 on which they depend.

29 (b) Programs for the conservation and management of the marine fishery
30 resources of California shall be established and administered to prevent
31 overfishing, to rebuild depressed stocks, to ensure conservation, to facilitate long-
32 term protection and, where feasible, restoration of marine fishery habitats, and to
33 achieve the sustainable use of the state's fishery resources.

34 (c) Where a species is the object of sport fishing, a sufficient resource shall be
35 maintained to support a reasonable sport use, taking into consideration the
36 necessity of regulating individual sport fishery bag limits to the quantity that is
37 sufficient to provide a satisfying sport.

38 (d) The growth of commercial fisheries, including distant-water fisheries, shall
39 be encouraged.

1 **Comment.** Section 12150 continues former Fish and Game Code Section 7055 without
2 substantive change.

3 **§ 12155. Management**

4 12155. In order to achieve the primary fishery management goal of
5 sustainability, every sport and commercial marine fishery under the jurisdiction of
6 the state shall be managed under a system whose objectives include all of the
7 following:

8 (a) The fishery is conducted sustainably so that long-term health of the resource
9 is not sacrificed in favor of short-term benefits. In the case of a fishery managed
10 on the basis of maximum sustainable yield, management shall have optimum yield
11 as its objective.

12 (b) The health of marine fishery habitat is maintained and, to the extent feasible,
13 habitat is restored, and where appropriate, habitat is enhanced.

14 (c) Depressed fisheries are rebuilt to the highest sustainable yields consistent
15 with environmental and habitat conditions.

16 (d) The fishery limits bycatch to acceptable types and amounts, as determined
17 for each fishery.

18 (e) The fishery management system allows fishery participants to propose
19 methods to prevent or reduce excess effort in marine fisheries.

20 (f) Management of a species that is the target of both sport and commercial
21 fisheries or of a fishery that employs different gears is closely coordinated.

22 (g) Fishery management decisions are adaptive and are based on the best
23 available scientific information and other relevant information that the
24 commission or department possesses or receives, and the commission and
25 department have available to them essential fishery information on which to base
26 their decisions.

27 (h) The management decisionmaking process is open and seeks the advice and
28 assistance of interested parties so as to consider relevant information, including
29 local knowledge.

30 (i) The fishery management system observes the long-term interests of people
31 dependent on fishing for food, livelihood, or recreation.

32 (j) The adverse impacts of fishery management on small-scale fisheries, coastal
33 communities, and local economies are minimized.

34 (k) Collaborative and cooperative approaches to management, involving fishery
35 participants, marine scientists, and other interested parties are strongly
36 encouraged, and appropriate mechanisms are in place to resolve disputes such as
37 access, allocation, and gear conflicts.

38 (l) The management system is proactive and responds quickly to changing
39 environmental conditions and market or other socioeconomic factors and to the
40 concerns of fishery participants.

1 (m) The management system is periodically reviewed for effectiveness in
2 achieving sustainability goals and for fairness and reasonableness in its interaction
3 with people affected by management.

4 **Comment.** Section 12155 continues former Fish and Game Code Section 7056 without
5 substantive change.

6 **§ 12160. Commission regulation**

7 12160. Any fishery management regulation adopted by the commission shall, to
8 the extent practicable, conform to the policies of Sections 12150 and 12155.

9 **Comment.** Section 12160 continues former Fish and Game Code Section 7058 without
10 substantive change.

11 **§ 12165. Collaborative process**

12 12165. (a) The Legislature finds and declares all of the following:

13 (1) Successful marine life and fishery management is a collaborative process
14 that requires a high degree of ongoing communication and participation of all
15 those involved in the management process, particularly the commission, the
16 department, and those who represent the people and resources that will be most
17 affected by fishery management decisions, especially fishery participants and
18 other interested parties.

19 (2) In order to maximize the marine science expertise applied to the complex
20 issues of marine life and fishery management, the commission and the department
21 are encouraged to continue to, and to find creative new ways to, contract with or
22 otherwise effectively involve Sea Grant staff, marine scientists, economists,
23 collaborative factfinding process and dispute resolution specialists, and others with
24 the necessary expertise at colleges, universities, private institutions, and other
25 agencies.

26 (3) The benefits of the collaborative process required by this section apply to
27 most marine life and fishery management activities including, but not limited to,
28 the development and implementation of research plans, marine managed area
29 plans, fishery management plans, and plan amendments, and the preparation of
30 fishery status reports such as those required by Section 12250.

31 (4) Because California is a large state with a long coast, and because travel is
32 time consuming and costly, the involvement of interested parties shall be
33 facilitated, to the extent practicable, by conducting meetings and discussions in the
34 areas of the coast and in ports where those most affected are concentrated.

35 (b) In order to fulfill the intent of subdivision (a), the commission and the
36 department shall do all of the following:

37 (1) Periodically review marine life and fishery management operations with a
38 view to improving communication, collaboration, and dispute resolution, seeking
39 advice from interested parties as part of the review.

40 (2) Develop a process for the involvement of interested parties and for
41 factfinding and dispute resolution processes appropriate to each element in the

1 marine life and fishery management process. Models to consider include, but are
2 not limited to, the take reduction teams authorized under the Marine Mammal
3 Protection Act (16 U.S.C. Sec. 1361 et seq.) and the processes that led to
4 improved management in the California herring, sea urchin, prawn, angel shark,
5 and white seabass fisheries.

6 (3) Consider the appropriateness of various forms of fisheries co-management,
7 which involves close cooperation between the department and fishery participants,
8 when developing and implementing fishery management plans.

9 (4) When involving fishery participants in the management process, give
10 particular consideration to the gear used, involvement of sport or commercial
11 sectors or both sectors, and the areas of the coast where the fishery is conducted in
12 order to ensure adequate involvement.

13 **Comment.** Section 12165 continues former Fish and Game Code Section 7059 without
14 substantive change.

15 CHAPTER 3. FISHERIES SCIENCE

16 § 12200. Legislative findings and declarations

17 12200. (a) The Legislature finds and declares that for the purposes of sustainable
18 fishery management and this title, essential fishery information is necessary for
19 federally and state-managed marine fisheries important to the people of this state
20 to provide sustainable economic and recreational benefits to the people of
21 California. The Legislature further finds and declares that acquiring essential
22 fishery information can best be accomplished through the ongoing cooperation and
23 collaboration of participants in fisheries.

24 (b) The department, to the extent feasible, shall conduct and support research to
25 obtain essential fishery information for all marine fisheries managed by the state.

26 (c) The department, to the maximum extent practicable and consistent with
27 Section 12165, shall encourage the participation of fishermen in fisheries research
28 within a framework that ensures the objective collection and analysis of data, the
29 collaboration of fishermen in research design, and the cooperation of fishermen in
30 carrying out research.

31 (d) The department may apply for grants to conduct research and may enter into
32 contracts or issue competitive grants to public or private research institutions to
33 conduct research.

34 **Comment.** Section 12200 continues former Fish and Game Code Section 7060 without
35 substantive change.

36 § 12205. External peer review program

37 12205. (a) The department shall establish a program for external peer review of
38 the scientific basis of marine living resources management documents. The
39 department, in its discretion and unless otherwise required by this title, may
40 submit to peer review, documents that include, but are not limited to, fishery

1 management plans and plan amendments, marine resource and fishery research
2 plans.

3 (b) The department may enter into an agreement with one or more outside
4 entities that are significantly involved with researching and understanding marine
5 fisheries and are not advocacy organizations. These entities may include, but not
6 be limited to, the Sea Grant program of any state, the University of California, the
7 California State University, the Pacific States Marine Fisheries Commission, or
8 any other entity approved by the commission to select and administer peer review
9 panels, as needed. The peer review panels shall be composed of individuals with
10 technical expertise specific to the document to be reviewed. The entity with which
11 the department enters into an agreement for a peer review shall be responsible for
12 the scientific integrity of the peer review process. Each peer reviewer may be
13 compensated as needed to ensure competent peer review. Peer reviewers shall not
14 be employees or officers of the department or the commission and shall not have
15 participated in the development of the document to be reviewed.

16 (c) The external peer review entity, within the timeframe and budget agreed
17 upon by the department and the external scientific peer review entity, shall provide
18 the department with the written report of the peer review panel that contains an
19 evaluation of the scientific basis of the document. If the report finds that the
20 department has failed to demonstrate that a scientific portion of the document is
21 based on sound scientific knowledge, methods, and practices, the report shall state
22 that finding, and the reasons for the finding. The department may accept the
23 finding, in whole or in part, and may revise the scientific portions of the document
24 accordingly. If the department disagrees with any aspect of the finding of the
25 external scientific peer review, it shall explain, and include as part of the record,
26 its basis for arriving at such a determination in the analysis prepared for the
27 adoption of the final document, including the reasons why it has determined that
28 the scientific portions of the document are based on sound scientific knowledge,
29 methods, or practice. The department shall submit the external scientific peer
30 review report to the commission with any peer reviewed document that is to be
31 adopted or approved by the commission.

32 (d) The requirements of this section do not apply to any emergency regulation
33 adopted pursuant to subdivision (b) of Section 11346.1 of the Government Code.

34 (e) Nothing in this section shall be interpreted, in any way, to limit the authority
35 of the commission or department to adopt a plan or regulation.

36 **Comment.** Section 12205 continues former Fish and Game Code Section 7062 without
37 substantive change.

38 CHAPTER 4. COMMISSION AND DEPARTMENT

39 § 12250. Report to Commission

40 12250. (a) The director shall report annually in writing to the commission on the
41 status of sport and commercial marine fisheries managed by the state. The date of

1 the report shall be chosen by the commission with the advice of the department.
2 Each annual report shall cover at least one-fourth of the marine fisheries managed
3 by the state so that every fishery will be reported on at least once every four years.
4 The department shall, consistent with Section 12165, involve expertise from
5 outside the department in compiling information for the report, which may
6 include, but need not be limited to, Sea Grant staff, other marine scientists, fishery
7 participants, and other interested parties.

8 (b) For each fishery reported on in an annual report, the report shall include
9 information on landings, fishing effort, areas where the fishery occurs, and other
10 factors affecting the fishery as determined by the department and the commission.
11 Each restricted access program shall be reviewed at least every five years for
12 consistency with the policies of the commission on restricted access fisheries.

13 (c) Notwithstanding subdivision (a), the first annual report shall be presented to
14 the commission on or before September 1, 2001, and shall cover all the marine
15 fisheries managed by the state. To the extent that the requirements of this section
16 and Section 12325 are duplicative, the first annual report may be combined with
17 the plan required pursuant to Section 12325.

18 **Comment.** Section 12250 continues former Fish and Game Code Section 7065 without
19 substantive change.

20 **§ 12255. Additional report content**

21 12255. (a) The Legislature finds and declares that a number of human-caused
22 and natural factors can affect the health of marine fishery resources and result in
23 marine fisheries that do not meet the policies and other requirements of this title.

24 (b) To the extent feasible, the director's report to the commission pursuant to
25 Section 12250 shall identify any marine fishery that does not meet the
26 sustainability policies of this title. In the case of a fishery identified as being
27 depressed, the report shall indicate the causes of the depressed condition of the
28 fishery, describe steps being taken to rebuild the fishery, and, to the extent
29 practicable, recommend additional steps to rebuild the fishery.

30 (c) The director's report to the commission pursuant to Section 12250,
31 consistent with subdivision (m) of Section 12155, shall evaluate the management
32 system and may recommend modifications of that system to the commission.

33 **Comment.** Section 12255 continues former Fish and Game Code Section 7066 without
34 substantive change.

35 **CHAPTER 5. FISHERY MANAGEMENT PLANS – GENERAL POLICIES**

36 **§ 12300. Finding and declaration**

37 12300. The Legislature finds and declares that the critical need to conserve,
38 utilize, and manage the state's marine fish resources and to meet the policies and
39 other requirements stated in this title require that the state's fisheries be managed
40 by means of fishery management plans.

1 **Comment.** Section 12300 continues former Fish and Game Code Section 7070 without
2 substantive change.

3 **§ 12305. White seabass fishery management plans**

4 12305. (a) Any white seabass fishery management plan adopted by the
5 commission on or before January 1, 1999, shall remain in effect until amended
6 pursuant to this title.

7 (b) Notwithstanding paragraph (2) of subdivision (b) of Section 12325, any
8 white seabass fishery management plan adopted by the commission and in
9 existence on January 1, 1999, shall be amended to comply with this title on or
10 before January 1, 2002.

11 **Comment.** Section 12305 continues former Fish and Game Code Section 7071(a) without
12 substantive change.

13 **§ 12310. Effect of commission regulations**

14 12310. (a) In the case of any fishery for which the commission has management
15 authority, including white seabass, regulations that the commission adopts to
16 implement a fishery management plan or plan amendment for that fishery may
17 make inoperative, in regard to that fishery, any fishery management statute that
18 applies to that fishery, including, but not limited to, statutes that govern allowable
19 catch, restricted access programs, permit fees, and time, area, and methods of
20 taking.

21 (b) On and after January 1, 2000, the commission may adopt regulations as it
22 determines necessary, based on the advice and recommendations of the
23 department, and in a process consistent with Section 12165, to regulate all
24 emerging fisheries, consistent with Chapter 8 (commencing with Section 12600),
25 all fisheries for nearshore fish stocks, and all fisheries for white seabass.
26 Regulations adopted by the commission may include, but need not be limited to,
27 establishing time and area closures, requiring submittal of landing and permit
28 information, regulating fishing gear, permit fees, and establishing restricted access
29 fisheries.

30 **Comment.** Section 12310 continues former Fish and Game Code Section 7071(b) and (c)
31 without substantive change.

32 **§ 12315. Basis and use of plans**

33 12315. (a) Fishery management plans shall form the primary basis for managing
34 California's sport and commercial marine fisheries.

35 (b) Fishery management plans shall be based on the best scientific information
36 that is available, on other relevant information that the department possesses, or on
37 the scientific information or other relevant information that can be obtained
38 without substantially delaying the preparation of the plan.

39 (c) To the extent that conservation and management measures in a fishery
40 management plan either increase or restrict the overall harvest or catch in a

1 fishery, fishery management plans shall allocate those increases or restrictions
2 fairly among recreational and commercial sectors participating in the fishery.

3 **Comment.** Section 12315 continues former Fish and Game Code Section 7072(a)-(c) without
4 substantive change.

5 **§ 12320. Nearshore fishery**

6 12320. Consistent with Chapter 3 (commencing with Section 22600) of Title 15
7 of Part 6, the commission shall adopt a fishery management plan for the nearshore
8 fishery on or before January 1, 2002, if funds are appropriated for that purpose in
9 the annual Budget Act or pursuant to any other law.

10 **Comment.** Section 12320 continues former Fish and Game Code Section 7072(d) without
11 substantive change.

12 **§ 12325. Submission, content, and consideration of master plan**

13 12325. (a) On or before September 1, 2001, the department shall submit to the
14 commission for its approval a master plan that specifies the process and the
15 resources needed to prepare, adopt, and implement fishery management plans for
16 sport and commercial marine fisheries managed by the state. Consistent with
17 Section 12165, the master plan shall be prepared with the advice, assistance, and
18 involvement of participants in the various fisheries and their representatives,
19 marine conservationists, marine scientists, and other interested persons.

20 (b) The master plan shall include all of the following:

21 (1) A list identifying the fisheries managed by the state, with individual fisheries
22 assigned to fishery management plans as determined by the department according
23 to conservation and management needs and consistent with subdivision (f) of
24 Section 12155.

25 (2) A priority list for preparation of fishery management plans. Highest priority
26 shall be given to fisheries that the department determines have the greatest need
27 for changes in conservation and management measures in order to comply with the
28 policies and requirements set forth in this title. Fisheries for which the department
29 determines that current management complies with the policies and requirements
30 of this title shall be given the lowest priority.

31 (3) A description of the research, monitoring, and data collection activities that
32 the department conducts for marine fisheries and of any additional activities that
33 might be needed for the department to acquire essential fishery information, with
34 emphasis on the higher priority fisheries identified pursuant to paragraph (2).

35 (4) A process consistent with Section 12165 that ensures the opportunity for
36 meaningful involvement in the development of fishery management plans and
37 research plans by fishery participants and their representatives, marine scientists,
38 and other interested parties.

39 (5) A process for periodic review and amendment of the master plan.

40 (c) The commission shall adopt or reject the master plan or master plan
41 amendment, in whole or in part, after a public hearing. If the commission rejects a

1 part of the master plan or master plan amendment, the commission shall return that
2 part to the department for revision and resubmission pursuant to the revision and
3 resubmission procedures for fishery management plans as described in subdivision
4 (a) of Section 12400.

5 **Comment.** Section 12325 continues former Fish and Game Code Section 7073 without
6 substantive change.

7 **§ 12330. Interim protocols**

8 12330. (a) The department shall prepare interim fishery research protocols for at
9 least the three highest priority fisheries identified pursuant to paragraph (2) of
10 subdivision (b) of Section 12325. An interim fishery protocol shall be used by the
11 department until a fishery management plan is implemented for that fishery.

12 (b) Consistent with Section 12165, each protocol shall be prepared with the
13 advice, assistance, and involvement of participants in the various fisheries and
14 their representatives, marine conservationists, marine scientists, and other
15 interested persons.

16 (c) Interim protocols shall be submitted to peer review as described in Section
17 12205 unless the department, pursuant to subdivision (d), determines that peer
18 review of the interim protocol is not justified. For the purpose of peer review,
19 interim protocols may be combined in the following circumstances:

20 (1) For related fisheries.

21 (2) For two or more interim protocols that the commission determines will
22 require the same peer review expertise.

23 (d) The commission, with the advice of the department, shall adopt criteria to be
24 applied in determining whether an interim protocol may be exempted from peer
25 review.

26 **Comment.** Section 12330 continues former Fish and Game Code Section 7074 without
27 substantive change.

28 CHAPTER 6. FISHERY MANAGEMENT PLAN PREPARATION,
29 APPROVAL, AND REGULATIONS

30 **§ 12400. Preparation of plans and amendments**

31 12400. (a) The department shall prepare fishery management plans and plan
32 amendments, including any proposed regulations necessary to implement plans or
33 plan amendments, to be submitted to the commission for adoption or rejection.
34 Prior to submitting a plan or plan amendment, including any proposed regulations
35 necessary for implementation, to the commission, the department shall submit the
36 plan to peer review pursuant to Section 12205, unless the department determines
37 that peer review of the plan or plan amendment may be exempted pursuant to
38 subdivision (c). If the department makes that determination, it shall submit its
39 reasons for that determination to the commission with the plan. If the commission
40 rejects a plan or plan amendment, including proposed regulations necessary for

1 implementation, the commission shall return the plan or plan amendment to the
2 department for revision and resubmission together with a written statement of
3 reasons for the rejection. The department shall revise and resubmit the plan or plan
4 amendment to the commission within 90 days of the rejection. The revised plan or
5 plan amendment shall be subject to the review and adoption requirements of this
6 chapter.

7 (b) The department may contract with qualified individuals or organizations to
8 assist in the preparation of fishery management plans or plan amendments.

9 (c) The commission, with the advice of the department and consistent with
10 Section 12165, shall adopt criteria to be applied in determining whether a plan or
11 plan amendment may be exempted from peer review.

12 (d) Fishery participants and their representatives, fishery scientists, or other
13 interested parties may propose plan provisions or plan amendments to the
14 department or commission. The commission shall review any proposal submitted
15 to the commission and may recommend to the department that the department
16 develop a fishery management plan or plan amendment to incorporate the
17 proposal.

18 **Comment.** Section 12400 continues former Fish and Game Code Section 7075 without
19 substantive change.

20 **§ 12405. Use of peer review panel**

21 12405. (a) To the extent practicable, and consistent with Section 12165, the
22 department shall seek advice and assistance in developing a fishery management
23 plan from participants in the affected fishery, marine scientists, and other
24 interested parties. The department shall also seek the advice and assistance of
25 other persons or entities that it deems appropriate, which may include, but is not
26 limited to, Sea Grant, the National Marine Fisheries Service, the Pacific States
27 Marine Fisheries Commission, the Pacific Fishery Management Council, and any
28 advisory committee of the department.

29 (b) In the case of a fishery management plan or a plan amendment that is
30 submitted to peer review, the department shall provide the peer review panel with
31 any written comments on the plan or plan amendment that the department has
32 received from fishery participants and other interested parties.

33 **Comment.** Section 12405 continues former Fish and Game Code Section 7076 without
34 substantive change.

35 **§ 12410. Availability for public review**

36 12410. A fishery management plan or plan amendment, or proposed regulations
37 necessary for implementation of a plan or plan amendment, developed by the
38 department shall be available to the public for review at least 30 days prior to a
39 hearing on the management plan or plan amendment by the commission. Persons
40 requesting to be notified of the availability of the plan shall be notified in
41 sufficient time to allow them to review and submit comments at or prior to a

1 hearing. Proposed plans and plan amendments and hearing schedules and agendas
2 shall be posted on the department's Internet website.

3 **Comment.** Section 12410 continues former Fish and Game Code Section 7077 without
4 substantive change.

5 **§ 12415. Public hearings**

6 12415. (a) The commission shall hold at least two public hearings on a fishery
7 management plan or plan amendment prior to the commission's adoption or
8 rejection of the plan.

9 (b) The plan or plan amendment shall be heard not later than 60 days following
10 receipt of the plan or plan amendment by the commission. The commission may
11 adopt the plan or plan amendment at the second public hearing, at the
12 commission's meeting following the second public hearing, or at any duly noticed
13 subsequent meeting, subject to subdivision (c).

14 (c) When scheduling the location of a hearing or meeting relating to a fishery
15 management plan or plan amendment, the commission shall consider factors,
16 including, among other factors, the area of the state, if any, where participants in
17 the fishery are concentrated.

18 **Comment.** Section 12415 continues former Fish and Game Code Section 7078(a)-(c) without
19 substantive change.

20 **§ 12420. Copy to Legislature**

21 12420. Notwithstanding Section 7550.5 of the Government Code, prior to the
22 adoption of a fishery management plan or plan amendment that would make
23 inoperative a statute, the commission shall provide a copy of the plan or plan
24 amendment to the Legislature for review by the Joint Committee on Fisheries and
25 Aquaculture or, if there is no such committee, to the appropriate policy committee
26 in each house of the Legislature.

27 **Comment.** Section 12420 continues former Fish and Game Code Section 7078(d) without
28 substantive change.

29 **§ 12425. Adoption of implementing regulations**

30 12425. (a) The commission shall adopt any regulations necessary to implement
31 a fishery plan or plan amendment no more than 60 days following adoption of the
32 plan or plan amendment. All implementing regulations adopted under this
33 subdivision shall be adopted as a regulation pursuant to the rulemaking provisions
34 of the Administrative Procedure Act, Chapter 3.5 (commencing with Section
35 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The
36 commission's adoption of regulations to implement a fishery management plan or
37 plan amendment shall not trigger an additional review process under the California
38 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
39 Public Resources Code).

1 (b) Regulations adopted by the commission to implement a plan or plan
2 amendment shall specify any statute or regulation of the commission that is to
3 become inoperative as to the particular fishery. The list shall designate each statute
4 or regulation by individual section number, rather than by reference to articles or
5 chapters.

6 **Comment.** Section 12425 continues former Fish and Game Code Section 7078(e) and (f)
7 without substantive change.

8 CHAPTER 7. CONTENTS OF FISHERY MANAGEMENT PLANS

9 **§ 12500. Summary of plan**

10 12500. Consistent with subdivision (b) of Section 12315, each fishery
11 management plan prepared by the department shall summarize readily available
12 information about the fishery including, but not limited to, all of the following:

13 (a) The species of fish and their location, number of vessels and participants
14 involved, fishing effort, historical landings in the sport and commercial sectors,
15 and a history of conservation and management measures affecting the fishery.

16 (b) The natural history and population dynamics of the target species and the
17 effects of changing oceanic conditions on the target species.

18 (c) The habitat for the fishery and known threats to the habitat.

19 (d) The ecosystem role of the target species and the relationship of the fishery to
20 the ecosystem role of the target species.

21 (e) Economic and social factors related to the fishery.

22 **Comment.** Section 12500 continues former Fish and Game Code Section 7080 without
23 substantive change.

24 **§ 12505. Procedure for review and amendment**

25 12505. Each fishery management plan prepared by the department shall include
26 a procedure for review and amendment of the plan, as necessary.

27 **Comment.** Section 12505 continues former Fish and Game Code Section 7087(a) without
28 substantive change.

29 **§ 12510. Fishery research protocol**

30 12510. Consistent with subdivision (b) of Section 12315, each fishery
31 management plan or plan amendment prepared by the department shall include a
32 fishery research protocol that does all of the following:

33 (a) Describe past and ongoing monitoring of the fishery.

34 (b) Identify essential fishery information for the fishery, including, but not
35 limited to, age and growth, minimum size at maturity, spawning season, age
36 structure of the population, and, if essential fishery information is lacking, identify
37 the additional information needed and the resources and time necessary to acquire
38 the information.

1 (c) Indicate the steps the department shall take to monitor the fishery and to
2 obtain essential fishery information, including the data collection and research
3 methodologies, on an ongoing basis.

4 **Comment.** Section 12510 continues former Fish and Game Code Section 7081 without
5 substantive change.

6 **§ 12515. Conservation and management measures**

7 12515. Each fishery management plan or plan amendment prepared by the
8 department shall contain the measures necessary and appropriate for the
9 conservation and management of the fishery according to the policies and other
10 requirements in this title. The measures may include, but are not limited to, all of
11 the following:

12 (a) Limitations on the fishery based on area, time, amount of catch, species, size,
13 sex, type or amount of gear, or other factors.

14 (b) Creation or modification of a restricted access fishery that contributes to a
15 more orderly and sustainable fishery.

16 (c) A procedure to establish and to periodically review and revise a catch quota
17 in any fishery for which there is a catch quota.

18 (d) Requirement for a personal, gear, or vessel permit and reasonable fees.

19 **Comment.** Section 12515 continues former Fish and Game Code Section 7082 without
20 substantive change.

21 **§ 12520. Incorporation of existing conservation and management measures**

22 12520. (a) Each fishery management plan prepared by the department shall
23 incorporate the existing conservation and management measures provided in this
24 code that are determined by the department to result in a sustainable fishery.

25 (b) If additional conservation and management measures are included in the
26 plan, the department shall, consistent with subdivision (b) of Section 12315,
27 summarize anticipated effects of those measures on relevant fish populations and
28 habitats, on fishery participants, and on coastal communities and businesses that
29 rely on the fishery.

30 **Comment.** Section 12520 continues former Fish and Game Code Section 7083 without
31 substantive change.

32 **§ 12525. Minimizing adverse effects on habitat**

33 12525. (a) Consistent with subdivision (b) of Section 12315, each fishery
34 management plan or plan amendment prepared by the department for a fishery that
35 the department has determined has adverse effects on marine fishery habitat shall
36 include measures that, to the extent practicable, minimize adverse effects on
37 habitat caused by fishing.

38 (b) Subdivision (a) does not apply to activities regulated by Title 1 (commencing
39 with Section 54000) of Part 4 of Division 14.

40 **Comment.** Section 12525 continues former Fish and Game Code Section 7084 without
41 substantive change.

1 **§ 12530. Bycatch information**

2 12530. Consistent with subdivision (b) of Section 12315, each fishery
3 management plan or plan amendment prepared by the department, in fisheries in
4 which bycatch occurs, shall include all of the following:

- 5 (a) Information on the amount and type of bycatch.
- 6 (b) Analysis of the amount and type of bycatch based on the following criteria:
 - 7 (1) Legality of the bycatch under any relevant law.
 - 8 (2) Degree of threat to the sustainability of the bycatch species.
 - 9 (3) Impacts on fisheries that target the bycatch species.
 - 10 (4) Ecosystem impacts.

11 (c) In the case of unacceptable amounts or types of bycatch, conservation and
12 management measures that, in the following priority, do the following:

- 13 (1) Minimize bycatch.
- 14 (2) Minimize mortality of discards that cannot be avoided.

15 **Comment.** Section 12530 continues former Fish and Game Code Section 7085 without
16 substantive change.

17 **§ 12535. Overfishing information**

18 12535. (a) Consistent with subdivision (b) of Section 12315, each fishery
19 management plan or plan amendment prepared by the department shall specify
20 criteria for identifying when the fishery is overfished.

21 (b) In the case of a fishery management plan for a fishery that has been
22 determined to be overfished or in which overfishing is occurring, the fishery
23 management plan shall contain measures to prevent, end, or otherwise
24 appropriately address overfishing and to rebuild the fishery.

25 (c) Any fishery management plan, plan amendment, or regulation prepared
26 pursuant to subdivision (b), shall do both of the following:

27 (1) Specify a time period for preventing or ending or otherwise appropriately
28 addressing overfishing and rebuilding the fishery that shall be as short as possible,
29 and shall not exceed 10 years except in cases where the biology of the population
30 of fish or other environmental conditions dictate otherwise.

31 (2) Allocate both overfishing restrictions and recovery benefits fairly and
32 equitably among sectors of the fishery.

33 **Comment.** Section 12535 continues former Fish and Game Code Section 7086 without
34 substantive change.

35 **§ 12540. Other required information**

36 12540. Each fishery management plan or plan amendment prepared by the
37 department shall include the following:

38 (a) A specification of the types of regulations that the department may adopt
39 without a plan amendment.

40 (b) A list of any statutes and regulations that shall become inoperative, as to the
41 particular fishery covered by the fishery management plan or plan amendment,

1 upon the commission’s adoption of implementing regulations for that fishery
2 management plan or plan amendment.

3 **Comment.** Subdivision (a) of Section 12540 continues former Fish and Game Code Section
4 7087(b) without substantive change.

5 Subdivision (b) continues former Fish and Game Code Section 7088 without substantive
6 change.

7 CHAPTER 8. EMERGING FISHERIES

8 **§ 12600. Legislative declaration and duty of commission**

9 12600. The Legislature finds and declares that a proactive approach to
10 management of emerging fisheries will foster a healthy marine environment and
11 will benefit both commercial and sport fisheries and other marine-dependent
12 activities. Therefore, the commission, based upon the advice and
13 recommendations of the department, shall encourage, manage, and regulate
14 emerging fisheries consistent with the policies of this title.

15 **Comment.** Section 12600 continues former Fish and Game Code Section 7090(a) without
16 substantive change.

17 **§ 12605. “Emerging fishery”**

18 12605. For the purposes of this chapter, “emerging fishery,” in regard to a
19 marine fishery, means a fishery that meets both of the following requirements:

20 (a) A fishery that the director has determined is an emerging fishery, based on
21 criteria that are approved by the commission and are related to a trend of increased
22 landings or participants in the fishery and the degree of existing regulation of the
23 fishery.

24 (b) A fishery that is not an established fishery.

25 **Comment.** Section 12605 continues former Fish and Game Code Section 7090(b)(1), and the
26 first sentence of former Fish and Game Code Section 7090(b)(2), without substantive change.

27 **Note.** Proposed Section 12605 would continue part of Section 7090(b), which was amended
28 by 2018 Cal. Stat. ch. 477. Although that bill will not take effect until 2019, it is included here in
29 anticipation of its effect.

30 **§ 12610. “Established fishery”**

31 12610. “Established fishery,” in regard to a marine fishery, means, prior to
32 January 1, 1999, one or more of the following:

33 (a) A restricted access fishery has been established in this code or in regulations
34 adopted by the commission.

35 (b) A fishery, for which a federal fishery management plan exists, and in which
36 the catch is limited within a designated time period.

37 (c) A fishery for which a population estimate and catch quota is established
38 annually.

39 (d) A fishery for which regulations for the fishery are considered at least
40 biennially by the commission.

1 (e) A fishery for which this code or regulations adopted by the commission
2 prescribes at least two management measures developed for the purpose of
3 sustaining the fishery. Management measures include minimum or maximum size
4 limits, seasons, time, gear, area restriction, and prohibition on sale or possession of
5 fish.

6 **Comment.** Section 12610 continues the second sentence of former Fish and Game Code
7 Section 7090(b)(2), and former Fish and Game Code Section 7090(b)(2)(A)-(E) without
8 substantive change.

9 **Note.** Existing Fish and Game Code Section 7090(b)(2) (which would be continued by
10 proposed Section 12610), provides that an “established fishery” means, “prior to January 1,
11 1999,” any of a list of described fisheries.

12 **The Commission invites comment on whether this definition is now obsolete and should**
13 **be discontinued, or alternatively continued without the date limitation.**

14 **§ 12615. Department monitoring requirement**

15 12615. The department shall closely monitor landings and other factors it
16 deems relevant in each emerging fishery and shall notify the commission of the
17 existence of an emerging fishery.

18 **Comment.** Section 12615 continues former Fish and Game Code Section 7090(c) without
19 substantive change.

20 **§ 12620. Commission authority**

21 12620. The commission, upon the recommendation of the department, may do
22 either, or both, of the following:

23 (a) Adopt regulations that limit taking in the fishery by means that may include,
24 but not be limited to, restricting landings, time, area, gear, or access. These
25 regulations may remain in effect until a fishery management plan is adopted.

26 (b) Direct the department to prepare a fishery management plan for the fishery
27 and regulations necessary to implement the plan.

28 **Comment.** Section 12620 continues former Fish and Game Code Section 7090(d) without
29 substantive change.

30 **§ 12625. Compliance with requirements for fishery management plan generally**

31 12625. (a) A fishery management plan for an emerging fishery shall comply
32 with the requirements for preparing and adopting fishery management plans
33 contained in this title.

34 (b) In addition to those requirements, to allow for adequate evaluation of the
35 fishery and the acquisition of essential fishery information, the fishery
36 management plan shall provide an evaluation period, which shall not exceed three
37 years unless extended by the commission.

38 (c) During the evaluation period, the plan shall do both of the following:

39 (1) In order to prevent excess fishing effort during the evaluation period, limit
40 taking in the fishery by means that may include, but need not be limited to,

1 restricting landings, time, area, gear, or access to a level that the department
2 determines is necessary for evaluation of the fishery.

3 (2) Contain a research plan that includes objectives for evaluating the fishery, a
4 description of the methods and data collection techniques for evaluating the
5 fishery, and a timetable for completing the evaluation.

6 **Comment.** Section 12625 continues former Fish and Game Code Section 7090(e) without
7 substantive change.

8 **§ 12630. Fee**

9 12630. (a) The commission is authorized to impose a fee on an emerging
10 fishery in order to pay the costs of implementing this chapter.

11 (b) The fees may include, but need not be limited to, ocean fishing stamps and
12 permit fees.

13 (c) The fees may not be levied in excess of the necessary costs to implement and
14 administer this chapter.

15 (d) The commission may reduce fees annually if it determines that sufficient
16 revenues exist to cover costs incurred by the department in administering this
17 chapter.

18 (e) The commission and the department, with the advice of fishery participants
19 and other interested parties, shall consider alternative ways to fund the evaluation
20 of emerging fisheries.

21 **Comment.** Section 12630 continues former Fish and Game Code Section 7090(f) without
22 substantive change.

23 **§ 12635. Incorporation into fishery management plan**

24 12635. An emerging fishery is subject to this chapter unless the department
25 incorporates the fishery into a fishery management plan developed under Sections
26 12300 to 12540, inclusive.

27 **Comment.** Section 12635 continues former Fish and Game Code Section 7090(g) without
28 substantive change.

29 **§ 12640. Conflict of chapter with other sections**

30 12640. In the event that this chapter is found to conflict with Section 19900 or
31 19910, or Chapter 5 (commencing with Section 12050) of Title 2, this section
32 shall prevail.

33 **Comment.** Section 12640 continues former Fish and Game Code Section 7090(h) without
34 substantive change.

35 **Note.** Proposed Section 12640 would continue Section 7090(h), which was amended by 2018
36 Cal. Stat. ch. 477. Although that bill will not take effect until 2019, it is included here in
37 anticipation of its effect.

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PART 5. SPORT FISHING

TITLE 1. GENERAL PROVISIONS

§ 12800. Application of other provisions

12800. Sport fishing is also governed by Part 4 (commencing with Section 11500).

Comment. Section 12800 is new. It is added for drafting convenience.

§ 12805. Scope of part

12805. The provisions of this part apply to the taking and possession of fish for any purpose other than commercial.

Comment. Section 12805 continues former Fish and Game Code Section 7100 without substantive change.

TITLE 2. LICENSING

CHAPTER 1. GENERAL PROVISIONS

§ 12850. Authority to take

12850. Except as otherwise provided by law, a valid sport fishing license authorizes sport fishing anywhere in this state.

Comment. Section 12850 continues part of former Fish and Game Code Section 7149.05(a) without substantive change.

§ 12855. “Sport fishing”

12855. For the purposes of this title, “sport fishing” means the take of a fish, amphibian, or reptile, for a purpose other than profit.

Comment. Section 12855 is new. It is consistent with former usage. See, e.g., former Fish and Game Code §§ 7145, 7149.05, 7149.2, 7150, 7151, 7180.1.

CHAPTER 2. REQUIREMENTS

Article 1. General Provisions

§ 12900. Valid license in possession

12900. (a) Except as otherwise provided by law, all persons shall obtain a valid sport fishing license before sport fishing.

(b) A person required to obtain a valid sport fishing license shall have that license on his or her person or in his or her immediate possession, or where otherwise specifically required by law or regulation to be kept, when sport fishing. In the case of a person diving from a boat, the license may be kept in the boat, or

1 in the case of a person diving from the shore, the license may be kept within 500
2 yards of the shore.

3 **Comment.** Section 12900 continues former Fish and Game Code Section 7145(a) without
4 substantive change. The referenced exception for persons under the age of 16 years is continued
5 by Section 13000.

6 See also Section 4862 (enforcement).

7 **§ 12905. Fishing with two rods**

8 12905. (a) A person sport fishing in inland water with two rods must first obtain
9 a second-rod sport fishing validation, in addition to a valid California sport fishing
10 license and any other required stamp or validation, and have that second-rod
11 validation affixed to his or her valid sport fishing license.

12 (b) A person who has a valid second-rod sport fishing validation affixed to his or
13 her valid sport fishing license may sport fish with two rods in inland waters in any
14 sport fishery in which the regulations of the commission provide for the taking of
15 fish by angling, except in the following circumstances:

16 (1) In waters in which only artificial lures or barbless hooks may be used.

17 (2) When sport fishing with a second-rod sport fishing validation, in the Smith
18 River in Del Norte County.

19 (c) A person may sport fish in ocean waters with two or more rods, without a
20 second-rod sport fishing validation, as allowed by regulations of the commission.

21 **Comment.** Subdivisions (a) and (b) of Section 12905 continue former Fish and Game Code
22 Section 7149.45(a) without substantive change.

23 Subdivision (c) is new. It is added to clarify what is implied from the entirety of former Fish
24 and Game Code Section 7149.45(a), but not expressly stated.

25 See also Section 4860 (enforcement).

26 **Note.** The Fish and Game Code does not appear to expressly address whether a second-rod
27 enhancement is required to fish in ocean waters with multiple rods. However, based on
28 educational material published by the Department of Fish and Wildlife, and inferences drawn
29 from Fish and Game Commission regulations, it is the Commission's understanding that fishing
30 in the ocean with multiple rods is generally permitted without any second-rod validation, limited
31 only by Fish and Game Commission regulations relating to specified locations, or specified types
32 of fish. See, e.g., 14 CCR § 28.65.

33 **The Commission invites comment on whether proposed Section 12905(c), which would**
34 **codify this understanding, is an accurate statement of existing law, and if so, whether it**
35 **should be added to the proposed law.**

36 **§ 12910. Ocean sport fishing in specified waters**

37 12910. (a) In addition to a valid California sport fishing license and any other
38 applicable license stamp or validation issued pursuant to this code, a person sport
39 fishing in ocean waters south of a line extending due west from Point Arguello
40 shall have a valid sport fishing ocean enhancement validation permanently affixed
41 to his or her fishing license.

42 (b) A person fishing pursuant to a sport fishing license issued pursuant to
43 paragraph (4) or (5) of subdivision (a) of Section 13100 is exempt from the
44 requirement in subdivision (a).

1 **Comment.** Section 12910 continues the first and third sentences of former Fish and Game
2 Code Section 6596.1(a) without substantive change.

3 See also Section 4864 (enforcement).

4 **Notes.** (1) The Fish and Game Code does not appear to expressly address whether a second-
5 rod enhancement is required to fish in ocean waters with multiple rods. However, based on
6 educational material published by the Department of Fish and Wildlife, and inferences drawn
7 from Fish and Game Commission regulations, it is the Commission’s understanding that fishing
8 in the ocean with multiple rods is generally permitted without any second-rod validation, limited
9 only by Fish and Game Commission regulations relating to specified locations, or specified types
10 of fish. See, e.g., 14 CCR § 28.65.

11 **The Commission invites comment on whether proposed Section 12905(c), which would**
12 **codify this understanding, is an accurate statement of existing law, and if so, whether it**
13 **should be added to the proposed law.**

14 (2) Under existing law, the provisions of Section 6596.1(a) are governed by existing Section
15 6403, which makes the provisions of Section 6596.1(a) inapplicable to aquaculture business
16 activities. The continuation of the first and third sentences of Section 6596.1(a) in this location
17 would make Section 6403 (proposed Section 25400) inapplicable to those provisions.
18 Technically, this would make those provisions applicable to aquaculture business activities.
19 However, the provisions appear to have no application to such activities. For that reason, the
20 change described in this Note would seem to have no practical effect.

21 **The Commission invites comment on whether this change would be a problem.**

22 Article 2. Colorado River

23 **§ 12950. “Colorado River”**

24 12950. As used in this article, “Colorado River” refers to the waters of the
25 Colorado River, and adjacent waters other than canals, drains, or ditches used to
26 transport water used for irrigation or domestic purposes.

27 **Comment.** Section 12950 is drawn from former Fish and Game Code Section 7180.1(a).

28 **§ 12955. Fishing on Colorado River**

29 (a) Any person taking fish or amphibia for purposes other than profit from or on
30 a boat or other floating device on the waters of the Colorado River and on adjacent
31 waters, except canals, drains, or ditches used to transport water used for irrigation
32 or domestic purposes, shall have in his or her possession a valid sportfishing
33 license issued by either the State of Arizona or State of California.

34 (b) In addition to either of the licenses, a person taking fish or amphibia as
35 indicated shall have in his or her possession a Colorado River special use
36 validation. If he or she is a person having in his or her possession a valid
37 California sportfishing license, he or she shall have an Arizona special use
38 validation to fish legally the waters described above. If he or she is a person
39 having in his or her possession a valid Arizona sportfishing license, he or she shall
40 have a California special use validation to fish legally the waters described above.

41 (c) A special use validation, when accompanied by the proper license, permits
42 fishing in any portion of those waters, and permit fishermen to enter the waters
43 from any point.

1 **Comment.** Section 12955 continues former Fish and Game Code Section 7180.1(a), (b), and
2 the first sentence of subdivision (c), without substantive change.
3 See also Section 4860 (enforcement).

4 **Note.** The Commission has been informed by the Department of Fish and Wildlife that the
5 “Colorado River Special Use Validation” no longer exists. See Memorandum 2018-22, Exhibit
6 comment 106. **The Commission invites comment on how existing Section 7180.1(b) (which**
7 **would be continued by proposed Section 12955(b)) should be revised to reflect that fact.**
8 **Should it be deleted entirely? Modified to remove the first sentence only?**

9 **§ 12960. Colorado River shoreline fishing**

10 12960. (a) A person fishing from the shore in the waters of the Colorado River
11 located in Arizona or California shall have in his or her possession a valid
12 sportfishing license issued by the state that has jurisdiction over that shore. That
13 shoreline fishing does not require a Colorado River special use validation as long
14 as the fisherman remains on the shore and does not embark on the water.

15 (b) Any person, however, having in his or her possession a valid Arizona
16 sportfishing license and a California special use validation may fish from the shore
17 in the waters of the Colorado River, or adjacent waters, except canals, drains, and
18 ditches used to transport water used for irrigation or domestic purposes, located in
19 California without a sport fishing license issued by the State of California.

20 **Comment.** Section 12960 continues subdivision (a) of former Fish and Game Code Section
21 7181.1 without substantive change.

22 **Note.** The Commission has been informed by the Department of Fish and Wildlife that the
23 “Colorado River Special Use Validation” no longer exists. See Memorandum 2018-22, Exhibit
24 comment 106. **The Commission invites comment on how existing Section 7181.1(a) (which**
25 **would be continued by proposed Section 12960) should be revised to reflect that fact.**
26 **Should it be deleted entirely? Modified to remove the second sentence only?**

27 **§ 12965. Effectiveness of article**

28 12965. This article shall become ineffective if Chapter 6 (commencing with
29 Section 13350) becomes ineffective pursuant to subdivision (a) of Section 13350.

30 **Comment.** Section 12965 continues the effect of former Fish and Game Code Section 7185 as
31 that provision applied to former Fish and Game Code Sections 7180.1 and 7181.1. See Section
32 13350(a).

33 **CHAPTER 3. EXCEPTIONS**

34 **§ 13000. Persons under the age of 16 years**

35 13000. Section 12900 and subdivision (a) of Section 12905 do not apply to
36 persons under the age of 16 years.

37 **Comment.** Section 13000 continues a part of former Fish and Game Code Section 7145(a)
38 without substantive change.

39 **Notes.** (1) It is the Commission’s understanding from a review of published Department of
40 Fish and Wildlife material that a person under the age of 16 years is exempted from both the

1 general sport fishing license requirement in existing Section 7145, *and* the second-rod sport
2 fishing validation requirement in existing Section 7149.45.

3 **The Commission invites comment on whether proposed Section 13000, exempting persons**
4 **under 16 years of age from both the sport fishing licensing requirement in proposed Section**
5 **12900 *and* the second-rod sport fishing validation requirement in proposed Section**
6 **12905(a), accurately states existing law.**

7 (2) The Commission has located no information indicating whether persons under 16 years of
8 age are exempted from the ocean enhancement validation requirement in existing Section 6596.1
9 (which would be continued by proposed Section 12910).

10 **The Commission invites comment on whether an exemption from proposed Section 12910**
11 **should be added to proposed Section 13000.**

12 (3) The Commission has located no information indicating whether persons under 16 years of
13 age are exempted from the special requirements for fishing in or on the shore of the Colorado
14 River, as provided by existing Sections 7180.1 and 7181.1 (sections that would be continued by
15 proposed Sections 12955 and 12960).

16 **The Commission invites comment on whether an exemption from proposed Sections**
17 **12955 and 12960 should be added to proposed Section 13000.**

18 **§ 13005. Fishing from public pier**

19 13005. (a) Section 12900 and subdivision (a) of Section 12905 do not apply to
20 sport fishing by any legal means from a public pier, as defined by commission
21 regulation, in the ocean waters of the state.

22 (b) For purposes of this section, “ocean waters of the state” include, but are not
23 limited to, any of the following:

24 (1) Open waters adjacent to the ocean and any island.

25 (2) Waters of any open or enclosed bay contiguous to the ocean.

26 (3) The San Francisco and San Pablo Bays, including any tidal bay belonging to
27 either of those bays.

28 (4) Any slough or estuary between the Golden Gate Bridge and the Benicia-
29 Martinez Bridge.

30 **Comment.** Section 13005 continues the part of former Fish and Game Code Section 7153(a)
31 applicable to fishing from a public pier, and Section 7153(b), without substantive change.

32 **Note.** It is the Commission’s understanding from a review of published Department of Fish
33 and Wildlife material that persons sport fishing from public piers who are exempted from the
34 general sport fishing license requirement by existing Section 7153 are also exempted from the
35 second-rod sport fishing validation requirement in existing Section 7149.45.

36 **The Commission invites comment on whether proposed Section 13005, exempting**
37 **specified persons fishing from specified public piers from both the sport fishing licensing**
38 **requirement in proposed Section 12900 *and* the second-rod sport fishing validation**
39 **requirement in proposed Section 12905(a), accurately states existing law.**

40 **§ 13010. Fishing on private property**

41 13010. (a) Section 12900 and subdivision (a) of Section 12905 do not apply to
42 sport fishing by an owner of privately owned real property, or an invitee of an
43 owner who does not provide the owner compensation, from a lake or pond that is
44 wholly enclosed by that owner’s real property, that is located offstream, and that
45 does not at any time derive water from, or supply water to, any permanent or

1 intermittent artificial or natural lake, pond, stream, wash, canal, river, creek,
2 waterway, aqueduct, or similar water conveyance system of the state. Access and
3 control of the real property shall be under the direct authority of the owner, and
4 not of another person or entity.

5 (b) This section does not, and shall not be construed to, authorize the
6 introduction, migration, stocking, or transfer of aquatic species, prohibited species,
7 or any other nonnative or exotic species, into waters of the state or waterways.

8 (c) This section does not supersede or otherwise affect any provision of law that
9 governs aquaculture, including, but not limited to, the operation of a trout farm, or
10 any activity that is an adjunct to or a feature of, or that is operated in conjunction
11 with, any other enterprise operated for a fee, including, but not limited to, a private
12 park or private recreation area.

13 **Comment.** Section 13010 continues former Fish and Game Code Section 7145(b) without
14 substantive change.

15 **Note.** It is the Commission's sense, based on the apparent interplay between the second-rod
16 sport fishing validation requirement and other exemptions from sport fishing license
17 requirements, that persons exempted from the general sport fishing license requirement by
18 existing Section 7145(b) are also exempted from the second-rod sport fishing validation
19 requirement in existing Section 7149.45.

20 **The Commission invites comment on whether proposed Section 13010, exempting**
21 **specified persons who take fish on specified private property from both the sport fishing**
22 **licensing requirement in proposed Section 12900 and the second-rod sport fishing validation**
23 **requirement in proposed Section 12905(a), accurately states existing law.**

24 **§ 13015. Angling at aquaculture facility**

25 13015. Section 12900 and subdivision (a) of Section 12905 do not apply to sport
26 fishing by angling at an aquaculture facility site that is registered pursuant to
27 Section 235 of Title 14 of the California Code of Regulations.

28 **Comment.** Section 13015 continues the part of former Fish and Game Code Section 7153(a)
29 applicable to angling from an aquaculture facility site without substantive change.

30 **Note.** It is the Commission's sense, based on the apparent interplay between the second-rod
31 sport fishing validation requirement and other exemptions from sport fishing license
32 requirements, that persons angling at specified aquaculture facilities who are exempted from the
33 general sport fishing license requirement by existing Section 7153 are also exempted from the
34 second-rod sport fishing validation requirement in existing Section 7149.45.

35 **The Commission invites comment on whether proposed Section 13015, exempting**
36 **specified persons angling at specified aquaculture facilities from both the sport fishing**
37 **licensing requirement in proposed Section 12900 and the second-rod sport fishing validation**
38 **requirement in proposed Section 12905(a), accurately states existing law.**

39 **§ 13020. Free sport fishing days**

40 13020. Notwithstanding Section 12900, the director may designate not more
41 than two days, which may or may not be consecutive, in each year, as free sport
42 fishing days, during which residents and nonresidents may, without a sport fishing
43 license and without the payment of any fee, exercise the privileges of a holder of a
44 sport fishing license, subject to all limitations, restrictions, conditions, laws, rules,

1 and regulations applicable to the holder of a sport fishing license, including but not
2 limited to the provisions of Sections 12905, 12910, 12955, and 12960.

3 **Comment.** Section 13020 continues former Fish and Game Code Section 7149.7 without
4 substantive change.

5 **Note.** It is the Commission’s understanding from a review of educational Department of Fish
6 and Wildlife material that persons sport fishing on free sport fishing days are *not* exempted from
7 the sport fishing ocean enhancement validation requirement in existing Section 6596.1, the
8 second-rod sport fishing validation requirement in existing Section 7149.45, or the special
9 requirements for fishing in or on the shore of the Colorado River, as provided by existing
10 Sections 7180.1 and 7181.1. To provide clarity on this issue, proposed Section 13020 expressly
11 states the continued applicability of those requirements.

12 However, it remains unclear how a person sport fishing without a sport fishing license on a free
13 sport fishing day would be able to comply with any of these validation requirements, given that
14 the enhancements are required to be permanently affixed to a sport fishing license. See, e.g.,
15 existing Sections 6596.1(a), 7149.45(a), and 7180.1(b). It may be that “free fishing day”
16 privileges do not include permission to engage in certain types of sport fishing (i.e., with two rods
17 in inland waters, or in specified parts of the ocean or on the Colorado River), that require special
18 enhancements.

19 **The Commission invites comment on whether the Commission’s understanding of the**
20 **application of existing Section 7149.7 is correct, and if so, how that interpretation is**
21 **intended to be reconciled with the requirement that the identified enhancements be**
22 **permanently affixed to a sport fishing license.**

23 CHAPTER 4. FEES

24 Article 1. Sport Fishing License

25 **§ 13100. Sport fishing license**

26 13100. (a) The fee for a sport fishing license is as follows:

27 (1) For a resident, for a calendar year, or, if issued after the beginning of that
28 year, for the remainder of that year, a base fee of thirty-one dollars and twenty-five
29 cents (\$31.25).

30 (2) For a nonresident, for a calendar year, or, if issued after the beginning of that
31 year, for the remainder of that year, a base fee of eighty-four dollars (\$84).

32 (3) For a nonresident, for 10 consecutive days beginning on the date specified on
33 the license, the fee set forth in paragraph (1).

34 (4) For a resident or nonresident, for two consecutive designated calendar days,
35 one-half of the fee set forth in paragraph (1). Notwithstanding Section 2930, more
36 than one two-day license issued for different two-day periods may be issued to or
37 possessed by a person at one time.

38 (5) For a resident or nonresident, for one designated day, a base fee of ten
39 dollars (\$10).

40 (b) The base fees specified in this section are applicable commencing January 1,
41 2004, and shall be adjusted annually thereafter pursuant to Section 3755.

42 (c) The commission shall adjust the amount of the fees specified in subdivision
43 (b), as necessary, to fully recover, but not exceed, all reasonable administrative

1 and implementation costs of the department and the commission relating to those
2 licenses.

3 **Comment.** Subdivision (a) of Section 13100 continues former Fish and Game Code Section
4 7149.05(a) without substantive change.

5 Subdivision (b) continues former Fish and Game Code Section 7149.05(d) without substantive
6 change.

7 Subdivision (c) continues former Fish and Game Code Section 7149.05(e) without substantive
8 change.

9 **Note.** Existing Section 7149.05(a)(4) cross-refers to existing Section 1053 of the existing
10 code, a section that was repealed by 2015 Cal. Stat. ch. 683. Section 1053 generally prohibited
11 obtaining more than one paper license – a form of license that is now obsolete – of the same class,
12 for the same license year, except under specified conditions. As a substantially similar prohibition
13 applicable to electronic licenses appears in existing Section 1053.1, proposed Section 13100(a)(4)
14 would cross-refer to the section of the proposed law that continues existing Section 1053.1.

15 **The Commission seeks comment on whether that revision is appropriate.**

16 **§ 13105. Lifetime sport fishing license**

17 13105. (a) In addition to Section 12850, the department shall issue a lifetime
18 sport fishing license pursuant to this section.

19 (b) A lifetime sport fishing license authorizes sport fishing anywhere in this state
20 in accordance with the law for the life of the person to whom issued, unless
21 revoked for a violation of this code or regulations adopted pursuant to this code. A
22 lifetime sport fishing license is valid for a one-year period from January 1 through
23 December 31 and may be renewed annually, regardless of any lapse of the license,
24 at no additional cost to the licensee. A lifetime sport fishing license is not
25 transferable.

26 (c) A lifetime sport fishing license does not include any special tags, stamps, or
27 fees, and may be issued only to a resident.

28 (d) The fee for a lifetime sport fishing license is as follows:

29 (1) For a person 62 years of age or over, a base fee of three hundred sixty-five
30 dollars (\$365).

31 (2) For a person 40 years of age or over and less than 62 years of age, a base fee
32 of five hundred forty dollars (\$540).

33 (3) For a person 10 years of age or over and less than 40 years of age, a base fee
34 of six hundred dollars (\$600).

35 (4) For a person less than 10 years of age, a base fee of three hundred sixty-five
36 dollars (\$365).

37 (e) Upon payment of a base fee of two hundred forty-five dollars (\$245), a
38 person holding a lifetime sport fishing license shall be entitled annually to the
39 privileges afforded to a person holding a second-rod validation issued pursuant to
40 Section 12905, a sport fishing ocean enhancement validation issued pursuant to
41 Section 12910, one steelhead trout report restoration card issued pursuant to
42 Section 44000, and one salmon report card issued pursuant to regulations adopted
43 by the commission. Lifetime privileges issued pursuant to this subdivision are not
44 transferable.

1 (f) The base fees specified in this section are applicable commencing January 1,
2 2004, and shall be adjusted annually thereafter pursuant to Section 3755.

3 (g) Nothing in this section requires a person less than 16 years of age to obtain a
4 license to engage in sport fishing.

5 (h) Nothing in this section exempts a license applicant from meeting other
6 qualifications or requirements otherwise established by law for the privilege of
7 sport fishing.

8 **Comment.** Section 13105 continues former Fish and Game Code Section 7149.2 without
9 substantive change. References in subdivision (e) of former Fish and Game Code Section 7149.2
10 to a second-rod “stamp” and a sport fishing ocean enhancement “stamp” are discontinued as
11 obsolete. See 2015 Cal. Stat. ch. 683, §§ 19, 23 (repeal of former Fish and Game Code sections
12 providing for issuance of such stamps).

13 **§ 13110. Job Corps enrollee**

14 13110. For the purpose of obtaining a sport fishing license, enrollees in the Job
15 Corps, created by the Economic Opportunity Act of 1964 (Public Law 88-452),
16 shall be deemed to be residents of California.

17 **Comment.** Section 13110 continues former Fish and Game Code Section 7149.5 without
18 substantive change.

19 **Article 2. Reduced Fee Licenses**

20 **§ 13150. Reduced fee license**

21 13150. (a) Upon application to the department’s headquarters office in
22 Sacramento, the following persons shall be issued a reduced fee sport fishing
23 license:

24 (1) A disabled veteran having a 50 percent or greater service-connected
25 disability, upon presentation of proof of an honorable discharge from military
26 service and proof of the disability. Proof of the disability shall be by certification
27 from the United States Veterans Administration or by presentation of a license
28 issued pursuant to this paragraph in the preceding license year.

29 (2) A member of the military who is a “recovering service member” pursuant to
30 Section 1602(7) of the federal National Defense Authorization Act for Fiscal Year
31 2008 (Public Law 110-181). Proof of eligibility for a reduced fee sport fishing
32 license pursuant to this paragraph shall be by submission of a letter, online or in
33 hardcopy, to the department from that person’s commanding officer or from a
34 military medical doctor, stating that the person is a recovering service member.

35 (3) A resident over 65 years of age whose total monthly income from all
36 sources, including any old age assistance payments, does not exceed the amount in
37 effect on September 1 of each year contained in subdivision (c) of Section 12200
38 of the Welfare and Institutions Code, for single persons, or subdivision (d) of
39 Section 12200 of the Welfare and Institutions Code combined income for married
40 persons, as adjusted pursuant to that section. The amount in effect on September 1
41 of each year shall be the amount used to determine eligibility for a reduced fee

1 license during the following calendar year. Proof of eligibility for a reduced fee
2 sport fishing license pursuant to this paragraph shall be by a letter or other
3 document, as specified by the department, from a public agency.

4 (b) A person who has been convicted of any violation of this code is ineligible
5 for a license pursuant to this section.

6 (c) A person applying for a reduced fee sport fishing license shall submit
7 adequate documentation for the department to determine whether the applicant is
8 eligible for a reduced fee sport fishing license. The department shall not issue a
9 reduced fee sport fishing license to any person unless the department is satisfied
10 that the applicant has provided adequate documentation of eligibility for that
11 license.

12 (d) The fee for a license issued pursuant to this section shall be a base fee of
13 four dollars (\$4) applicable commencing January 1, 1996, and annually adjusted
14 thereafter pursuant to Section 3755.

15 (e) A license issued pursuant to this section is valid for a calendar year, or if
16 issued after the beginning of that year, for the remainder of that year.

17 **Comment.** Section 13150 continues former Fish and Game Code Section 7150 without
18 substantive change.

19 Article 3. Free Licenses

20 **§ 13200. Free license for individuals**

21 13200. (a) Upon application to the department, the following persons shall be
22 issued a sport fishing license, free of any charge or fee:

23 (1) A blind person, upon presentation of proof of blindness. For purposes of this
24 paragraph, “blind person” means a person who in each eye has central visual
25 acuity of 20/200 or less with the aid of the best possible correcting lens, or central
26 visual acuity better than 20/200 if the widest diameter of the remaining visual field
27 is no greater than 20 degrees. Proof of blindness shall be by certification from a
28 qualified licensed optometrist or ophthalmologist, or by presentation of a license
29 issued pursuant to this paragraph in a previous license year.

30 (2) A person with a developmental disability, upon presentation of certification
31 of that disability from a qualified licensed physician, or from the director of a state
32 regional center for the developmentally disabled.

33 (3) A resident who is permanently unable to move from place to place without
34 the aid of a wheelchair, walker, forearm crutches, or a comparable mobility-related
35 device. Proof of the disability shall be by certification from a licensed physician or
36 surgeon, or by presentation of a license issued pursuant to this paragraph in a
37 license year after 1996.

38 (4) A resident Native American who, in the discretion of the department, is
39 financially unable to pay the fee required for the license.

40 (b) A person who has been convicted of any violation of this code is ineligible
41 for a license pursuant to this section.

1 (c) Sport fishing licenses issued pursuant to paragraphs (1), (2), and (3) of
2 subdivision (a) are valid for five calendar years, or if issued after the beginning of
3 the first year, for the remainder of the five calendar years.

4 (d) Sport fishing licenses issued pursuant to paragraph (4) of subdivision (a) are
5 valid for a calendar year or, if issued after the beginning of that year, for the
6 remainder of that year.

7 **Comment.** Section 13200 continues former Fish and Game Code Section 7151(a)-(c) without
8 substantive change.

9 **§ 13205. Free group sport fishing license for persons with disabilities**

10 13205. (a) Upon application to the department, the department may issue a
11 group sport fishing license, free of any charge or fee, to a group of persons with
12 mental or physical disabilities who are under the care of any of the following
13 entities:

14 (1) A certified federal, state, county, city, or private licensed care center that is a
15 community care facility as defined in subdivision (a) of Section 1502 of the Health
16 and Safety Code.

17 (2) An organization exempt from taxation under Section 501(c)(3) of the federal
18 Internal Revenue Code.

19 (3) A school or school district.

20 (b) The organization listed in subdivision (a) shall provide evidence that it is a
21 legitimate private licensed care center, tax-exempt organization, school, or school
22 district.

23 (c) The license shall be issued to the person in charge of the group and shall be
24 in that person's possession when the group is fishing.

25 (d) The license shall identify the location and the date or dates for which fishing
26 is authorized, and the maximum number of people that may be included in the
27 group that will be fishing. The license holder shall notify the local department
28 office before sport fishing and indicate where, when, and how long the group will
29 be sport fishing.

30 (e) Employees of the entity listed in subdivision (a) are exempt from Section
31 12900 while assisting the group that that is sport fishing pursuant to the license.

32 **Comment.** Section 13205 restates former Fish and Game Code Section 7151(d) without
33 substantive change.

34 **Note.** Proposed Section 13205 is intended to restate existing Section 7151(d) to clarify the
35 meaning of that provision, without changing its substantive effect. The existing provision reads as
36 follows:

37 7151.....

38 (d) Upon application to the department, the department may issue, free of any charge or fee, a
39 sport fishing license to groups of mentally or physically handicapped persons under the care of a
40 certified federal, state, county, city, or private licensed care center that is a community care
41 facility as defined in subdivision (a) of Section 1502 of the Health and Safety Code, to
42 organizations exempt from taxation under Section 501(c)(3) of the federal Internal Revenue
43 Code, or to schools or school districts. Any organization that applies for a group fishing license

1 shall provide evidence that it is a legitimate private licensed care center, tax-exempt organization,
2 school, or school district. The license shall be issued to the person in charge of the group and
3 shall be in his or her possession when the group is fishing. Employees of private licensed care
4 centers, tax-exempt organizations, schools, or school districts are exempt from Section 7145 only
5 while assisting physically or mentally disabled persons fishing under the authority of a valid
6 license issued pursuant to this section. The license shall include the location where the activity
7 will take place, the date or dates of the activity, and the maximum number of people in the group.
8 The licenseholder shall notify the local department office before fishing and indicate where,
9 when, and how long the group will fish.

10 **The Commission invites comment on whether the proposed restatement would cause any**
11 **substantive change in the meaning of existing Section 7151(d).**

12 **§ 13210. Free group sport fishing license for military personnel with injuries or disabilities**

13 13210. (a) Upon application to the department, the department may issue, free of
14 any charge or fee, a group sport fishing license to a nonprofit organization for day-
15 fishing trips that provide recreational rehabilitation therapy for active duty
16 members of the United States military who are currently receiving inpatient care in
17 a military or Veterans Administration hospital and veterans with service-
18 connected disabilities. To be eligible, the nonprofit organization shall be registered
19 to do business in this state, or exempt from taxation under Section 501(c) of the
20 federal Internal Revenue Code.

21 (b) The license shall be valid for the calendar year of issue or, if issued after the
22 beginning of that year, for the remainder of that year.

23 (c) The license shall be issued to the person in charge of the group, and shall be
24 in that person's possession when the group is fishing.

25 (d) The organization shall notify the local department office before sport fishing,
26 and indicate where, when, and for how long the group will be sport fishing.

27 **Comment.** Section 13210 continues former Fish and Game Code Section 7151(e) without
28 substantive change.

29  **Note.** The Commission is unsure why this provision refers to "day-fishing trips." That
30 language sounds like a limitation. Is it intended as one?

31 **The Commission invites input on this point.**

32 **§ 13215. Funding for free licenses**

33 13215. (a) On January 15 of each year, the department shall determine the
34 number of free sport fishing licenses in effect during the preceding year.

35 (b) There shall be appropriated from the General Fund a sum equal to two
36 dollars (\$2) per free sport fishing license issued pursuant to Section 13200 or
37 13205 during the preceding license year. That sum may be appropriated annually
38 in the Budget Act for transfer to the Fish and Game Preservation Fund, and
39 appropriated in the Budget Act from the Fish and Game Preservation Fund to the
40 department, for the purposes of provisions of this code that govern sport fishing.

41 **Comment.** Section 13215 continues former Fish and Game Code Section 7151(f) and (g)
42 without substantive change.

1 **Note.** The last clause of existing Fish and Game Code Section 7151(g) (which would be
2 continued by proposed Section 13215) reads “for the purposes of this part,” referring to Part 2
3 (commencing with Section 7100) of Division 6 of the existing code. As in the proposed law the
4 provisions of that part appear in several different locations, proposed Section 13215 would revise
5 that clause to read “for the purposes of provisions of this code that govern sport fishing.”

6 **The Commission invites comment on whether that revision would cause any substantive**
7 **change in the meaning of the provision.**

8 Article 4. Validations

9 **§ 13250. Second rod validation**

10 13250. The fee for a second-rod sport fishing validation issued pursuant to
11 Section 12905 is a base fee of seven dollars and fifty cents (\$7.50), applicable
12 commencing January 1, 1995, and annually adjusted thereafter pursuant to Section
13 3755.

14 **Comment.** Section 13250 continues former Fish and Game Code Section 7149.45(b) without
15 substantive change.

16 **§ 13255. Sport fishing ocean enhancement validation**

17 13255. (a) The fee for a sport fishing ocean enhancement validation issued
18 pursuant to Section 12910 is a base fee of three dollars and fifty cents (\$3.50),
19 applicable commencing January 1, 2004, and annually adjusted thereafter pursuant
20 to Section 3755.

21 (b) The commission shall adjust the amount of the fees specified in subdivision
22 (a), as necessary, to fully recover, but not exceed, all reasonable administrative
23 and implementation costs of the department and the commission relating to those
24 licenses.

25 **Comment.** Subdivision (a) of Section 13255 continues the second sentence of former Fish and
26 Game Code Section 6596.1(a) (as applied to sport fishing ocean enhancement validation), and
27 former Fish and Game Code Section 6596.1(f), without substantive change.

28 Subdivision (b) continues former Fish and Game Code Section 6596.1(g) (as applied to sport
29 fishing ocean enhancement validation) without substantive change.

30 **Note.** Under existing law, the provisions of Section 6596.1 are governed by existing Section
31 6403, which makes the provisions of Section 6596.1 inapplicable to aquaculture business
32 activities. The continuation of the second sentence of Section 6596.1(a), Section 6596.1(f), and
33 Section 6596.1(g) in this location would make Section 6403 (proposed Section 25400)
34 inapplicable to those provisions. Technically, this would make those provisions applicable to
35 aquaculture business activities. However, the provisions appear to have no application to such
36 activities. For that reason, the change described in this Note would seem to have no practical
37 effect.

38 **The Commission invites comment on whether this change would be a problem.**

1 CHAPTER 5. PENALTIES

2 CHAPTER 6. RECIPROCAL LICENSING

3 **§ 13350. Operation of chapter**

4 13350. (a) This chapter shall remain effective so long as the commission finds
5 and determines that under the laws of the State of Arizona, substantially similar
6 Arizona licenses are authorized to be issued to licensees of this state, upon
7 substantially the same terms and conditions as are provided for in this chapter,
8 relating to the issuance of California licenses to licensees of the State of Arizona.

9 (b) If Arizona issues a resident sport fishing license for a term less than one year
10 for the purpose of changing to a calendar year license from a fiscal year license,
11 that license shall be deemed to be a license upon substantially the same terms and
12 conditions as are provided for the issuance of California licenses to licensees of
13 the State of Arizona, for the purposes of subdivision (a).

14 **Comment.** Subdivision (a) of Section 13350 continues former Fish and Game Code Section
15 7185 without substantive change.

16 Subdivision (b) continues former Fish and Game Code Section 7186.1(b) without substantive
17 change.

18 **§ 13355. Responsibilities of state commissions relating to licenses and special use stamps**
19 **and validations**

20 13355. (a) The Arizona Game and Fish Commission shall handle California
21 sport fishing licenses and California special use validations and issue them
22 through Arizona license dealers. Prior to August 31 of each year, that commission
23 shall make an audit report and send a remittance for those sales to the department.

24 (b) The department shall handle Arizona special use validations and issue them
25 through California license dealers. Prior to August 31 of each year, the department
26 shall make an audit report and send a remittance for those sales to the Arizona
27 Game and Fish Commission.

28 **Comment.** Section 13355 continues former Fish and Game Code Section 7183.1(a) and (b)
29 without substantive change.

30 **§ 13360. Terms of special use validations**

31 13360. (a) An Arizona special use validation is valid from January 1 to
32 December 31, inclusive, of each year, to coincide with the period for which a
33 California sport fishing license is issued.

34 (b) A California special use validation is valid for one year, to coincide with the
35 period for which an Arizona fishing license is issued.

36 **Comment.** Section 13360 continues former Fish and Game Code Section 7184.1(a) and (b)
37 without substantive change.

TITLE 3. TAKE LIMITS

§ 13500. Bag limits

13500. It is unlawful for a person to possess more than one daily bag limit of any fish, amphibian, or reptile taken by sport fishing under a license issued pursuant to Title 2 (commencing with Section 12850), unless authorized by regulations adopted by the commission.

Comment. Section 13500 continues former Fish and Game Code Section 7120 without substantive change, except to add references to amphibians and reptiles.

Note. Proposed Section 13500 would revise existing Section 7120 to make the provision expressly applicable to amphibians and reptiles.

The Commission invites comment on the appropriateness of this revision.

TITLE 4. COMMERCE

§ 13600. Unauthorized purchase or sale

13600. Except as otherwise provided by this code or by regulation, it is unlawful to buy or sell a fish or amphibian that was taken in, brought into, or brought ashore from, any waters of the state.

Comment. Section 13600 continues the first paragraph of former Fish and Game Code Section 7121 without substantive change.

See also Sections 4930, 4932, 4934, 5102, 5108, 5802 (enforcement).

Note. The Commission invites comment on whether existing Section 7121 should be revised to apply to reptiles.

§ 13605. Disposition of fish or amphibians caught on sport fishing vessel

13605. (a) In any place of business where fish are bought, sold, or processed, it is unlawful to buy, sell, or possess a fish or amphibian that was taken by sport fishing on a boat, barge, or vessel.

(b) Subdivision (a) does not apply to possession for the purposes of canning or smoking pursuant to regulations adopted by the commission.

Comment. Section 13605 restates the second paragraph of former Fish and Game Code Section 7121 without substantive change.

See also Sections 4930, 4932, 4934, 5102, 5108, 5802 (enforcement).

Note. Proposed Section 13605 is intended to restate the second paragraph of existing Fish and Game Code Section 7121 to clarify the meaning of that provision, without changing its substantive effect. The existing provision reads as follows:

7121.....

It is unlawful to buy, sell, or possess in any place of business where fish are bought, sold, or processed, any fish or amphibia taken on any boat, barge, or vessel which carries sport fishermen, except those fish may be possessed in such a place only for the purposes of canning or smoking under regulations adopted by the commission.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

1

TITLE 5. PROCESSING AND WASTE

2 **§ 13700. Canning or smoking**

3 13700. (a) Subject to Sections 13600 and 13605, fish lawfully taken under a
4 sport fishing license may be canned or smoked by a fish cannery or processor as a
5 service for a licensed sport fisherman.

6 (b) Any cannery or packing plant in which fish taken by lawful sport fishing are
7 canned shall emboss or imprint on the top of each can the words “not to be sold”
8 in letters of such size as to be clearly legible, and the embossment or imprint shall
9 remain affixed to the can.

10 (c) Any cannery or packing plant in which fish taken by lawful sport fishing are
11 smoked shall permanently imprint on each package the words “not to be sold” in
12 letters of such size as to be clearly legible, and the imprint shall remain visible on
13 the package.

14 (d) Fish that are canned or smoked under this section shall not be sold,
15 purchased, or offered for sale.

16 **Comment.** Section 13700 continues former Fish and Game Code Section 7230 without
17 substantive change.

18 **§ 13705. Fish offal**

19 13705. (a) Notwithstanding Sections 13600 and 13605, any offal from a fish
20 taken under a sport fishing license which is delivered by the license holder to a
21 fish canner or fish processor may be processed, used, or sold by that fish canner or
22 fish processor.

23 (b) Nothing in this section authorizes a holder of a sport fishing license to sell,
24 or a fish canner or fish processor to purchase from a holder of a sport fishing
25 license, any fish taken under a sport fishing license.

26 **Comment.** Section 13705 continues former Fish and Game Code Section 7232 without
27 substantive change. A reference to a “portion” of a fish is deleted as superfluous. See Section 95
28 (reference to animal generally includes part of animal).

29 **§ 13710. Deterioration and waste**

30 13710. The commission may adopt regulations to prevent deterioration and
31 waste of fish taken by sport fishing, and to regulate the disposal of the offal of that
32 fish.

33 **Comment.** Section 13710 continues former Fish and Game Code Section 5510 without
34 substantive change.

35 **TITLE 6. SPORT FISHING REGULATIONS**

36 **§ 13800. Conforming to federal regulations**

37 13800. (a) The commission may establish by regulation an automatic process to
38 conform its sport fishing regulations to federal regulations.

1 (b) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
2 Title 2 of the Government Code does not apply to conforming actions
3 implemented pursuant to the automatic process specified in subdivision (a).

4 (c) The department shall provide public notice of a conforming action
5 implemented pursuant to this section.

6 **Comment.** Section 13800 continues former Fish and Game Code Section 7110 without
7 substantive change.

8 **§ 13805. Conforming of sport fishing regulations to federal regulations**

9 13805. (a) The department shall identify property it owns or manages that
10 includes areas for sport fishing accessible to persons with disabilities.

11 (b) Commencing with the booklet of sport fishing regulations published by the
12 commission in 1986, the availability of sport fishing areas, identified by the
13 department as accessible to persons with disabilities under subdivision (a), shall be
14 noted in the booklet of regulations, together with telephone numbers and
15 instructions for obtaining a list of those areas from regional department offices.

16 (c) Commencing with the booklet of sport fishing regulations published in 1987,
17 the booklet shall also contain any human health advisories relating to fish that are
18 formally issued by the State Department of Public Health, or summaries of those
19 human health advisories. The summaries shall be prepared in consultation with the
20 State Department of Public Health.

21 **Comment.** Section 13805 continues former Fish and Game Code Section 7115 without
22 substantive change.

23 **TITLE 7. SPECIAL PROGRAMS**

24 **CHAPTER 1. BAY-DELTA SPORT FISHING ENHANCEMENT STAMP**

25 **§ 13900. Deposit and use of funds**

26 13900. (a) Fees received by the department from the sale of the Bay-Delta Sport
27 Fishing Enhancement Stamp or validation shall be deposited in a separate account
28 in the Fish and Game Preservation Fund. The Bay-Delta Sport Fishing
29 Enhancement Stamp or validation shall not be required, and no fee shall be
30 collected, as of January 1, 2010.

31 (b) The department shall expend the funds in that account for the long-term,
32 sustainable benefit of the primary Bay-Delta sport fisheries, including, but not
33 limited to, striped bass, sturgeon, black bass, halibut, salmon, surf perch, steelhead
34 trout, and American shad. Funds shall be expended to benefit sport fish
35 populations, sport fishing opportunities, and anglers within the tidal waters of the
36 San Francisco Bay Delta and the main stem of the Sacramento and San Joaquin
37 Rivers, including major tributaries, below the most downstream dam, and
38 consistent with the requirements of the federal Endangered Species Act of 1973
39 (16 U.S.C. Sec. 1531 et seq.) and the California Endangered Species Act (Part 1

1 (commencing with Section 62000) of Division 17), the ecosystem restoration
2 component of the CALFED Programmatic Record of Decision dated August 28,
3 2000, and applicable commission policies.

4 (c) It is the intent of the Legislature that these funds be used to augment, not
5 replace, funding that would otherwise be allocated to Bay-Delta sport fisheries
6 from the sale of fishing licenses, the California Bay-Delta Authority, or other
7 federal, state, or local funding sources.

8 **Comment.** Section 13900 continues former Fish and Game Code Section 7361 without
9 substantive change.

10 **§ 13905. Advisory committee**

11 13905. (a) The director shall appoint a Bay-Delta Sport Fishing Enhancement
12 Stamp Fund Advisory Committee, consisting of nine members. The committee
13 members shall be selected from names of persons submitted by anglers and
14 associations representing Bay-Delta anglers of this state and shall serve at the
15 discretion of the director for terms of not more than four years. The director shall
16 appoint persons to the committee who possess experience in subjects with specific
17 value to the committee and shall attempt to balance the perspective of different
18 anglers.

19 (b) The advisory committee shall recommend to the department projects and
20 budgets for the expenditure of the funds from the account established in Section
21 13900. The department shall give full consideration to the committee's
22 recommendations.

23 (c) The department shall submit to the advisory committee and the Chief Clerk
24 of the Assembly and the Secretary of the Senate for distribution to the appropriate
25 fiscal and policy committees of the Legislature, at least annually, on or before
26 January 10 of each year, an accounting of funds derived from the Bay-Delta Sport
27 Fishing Enhancement Stamps and validations, including the funds generated and
28 expended and administrative expenditures, and the status of programs funded
29 pursuant to this article. In addition, the department shall report, at least annually,
30 to the committee on the status of projects undertaken with funds from that stamp
31 or validation, including reporting the department's reasoning in cases where
32 committee recommendations are not followed.

33 (d) The department shall post on its Internet Web site projects undertaken with
34 funds from the account established in Section 13900. At a minimum, the Internet
35 Web site shall list the project title, applicant, a brief description of the project, the
36 amount approved, and the project's status.

37 **Comment.** Section 13905 continues former Fish and Game Code Section 7363 without
38 substantive change.

1 **§ 13910. Grant program**

2 13910. (a) The department, in consultation with the advisory committee created
3 pursuant to Section 13905, shall develop a grant program to support activities
4 consistent with Section 13900.

5 (b) The department, in consultation with the advisory committee, shall develop
6 priority areas for funding under the grant program. The department shall give the
7 advisory committee an opportunity to review any draft public solicitation notice
8 before that notice is finalized and released to the public.

9 (c) The advisory committee shall assist the department in providing outreach to
10 encourage wide participation in the grant program.

11 (d) The department shall provide the advisory committee a copy of all grant
12 applications. The advisory committee shall have a minimum of 30 days to review
13 projects and provide recommendations to the department.

14 **Comment.** Section 13910 continues former Fish and Game Code Section 7362 without
15 substantive change.

16 **§ 13915. Additional responsibilities of department**

17 13915. (a) The department shall do all of the following:

18 (1) In consultation with the advisory committee, develop a spending plan that
19 focuses on identifying and funding viable projects and monitoring revenues to
20 assist the department in effectively expending available stamp revenues in a
21 manner consistent with the purposes described in Section 13900. The spending
22 plan shall be completed by January 31, 2010. Upon completion, a copy of the
23 spending plan shall be provided to the Legislature.

24 (2) Track and report the costs of projects funded pursuant to this article by doing
25 both of the following:

26 (A) Improve the tracking of individual project expenditures by assigning a
27 separate account to each project within the department's accounting system.

28 (B) Require a project manager to approve all expenditures directly related to the
29 manager's projects, periodically reconcile records for each project with accounting
30 records, and report expenditures to staff responsible for preparing advisory
31 committee reports.

32 (3) Reimburse the department's general fund appropriation for any lease
33 payment charged to the department's general fund appropriation on or before
34 January 1, 2010, that was eligible to be paid from the account established in
35 Section 13900.

36 (4) Ensure that employees of the department appropriately charge their time to
37 projects funded pursuant to this article by providing guidelines to employees
38 concerning when to charge activities to the account established in Section 13900.

39 (b) The department shall not charge payroll costs to the account established in
40 Section 13900 for employee activities that are not related to the implementation of
41 this article. The department shall determine whether any other expenditure has

1 been inappropriately charged to the account established in Section 13900 and shall
2 make all necessary accounting adjustments.

3 **Comment.** Section 13915 continues former Fish and Game Code Section 7364 without
4 substantive change.

5 See also Section 5102 (enforcement).

6 CHAPTER 2. JUNIOR FISHING RESERVE

7 § 13950. Districts 2510 and 2515

8 13950. (a) In that part of District 2510 comprising the waters of the Sawmill
9 Pond, and in that part of District 2515 comprising the waters of Francis Creek,
10 Rees Creek, and Williams Creek, it is unlawful for any person over the age of 14
11 to take any fish. Not more than five fish may be taken and possessed from those
12 waters during one day.

13 (b) It is the purpose of this section to create a junior fishing reserve for young
14 people so that they may practice the art of angling safely without interference
15 with, or being interfered with by, licensed sport fishermen and others during
16 lawful fishing seasons.

17 **Comment.** Section 13950 continues former Fish and Game Code Section 10925 without
18 substantive change.

19 PART 6. COMMERCIAL FISHING AND RELATED ACTIVITY

20 TITLE 1. GENERAL PROVISIONS

21 CHAPTER 1. DEFINITIONS

22 § 14200. “Stamp”

23 14200 For the purposes of this part, except where otherwise specified, “stamp”
24 includes an electronic validation of privileges issued to the licensee.

25 **Comment.** Section 14200 continues former Fish and Game Code Section 7700(d) without
26 substantive change, except that it is applicable to Sections 14610, 14760, 14770, and 16850.13.

27  **Note.** Proposed Section 14200 would apply to certain provisions that currently use the term
28 “stamp” without any governing definition (existing Fish and Game Code §§ 7852.1, 7852.2,
29 7857, 12003.5).

30 **The Commission invites comment on whether that application would cause any problems.**

31 § 14205. “Vessel owner”

32 14205. (a) For the purposes of this part, “vessel owner,” or a reference to an
33 owner of a vessel, means a person designated as the registered owner of a vessel,
34 on a certificate of documentation issued by the United States Coast Guard or on a
35 copy of the vessel registration issued by the vessel registration agency of the state
36 where the owner is a resident.

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

4 **Comment.** Section 14205 restates former Fish and Game Code Section 7601 without
5 substantive change.

6 **Note.** The definition of “vessel owner” has been continued in two places, so that it will
7 continue to have its existing scope of application. See also Section 37805.

8 CHAPTER 2. APPLICATION

9 **§ 14250. Application of part**

10 14250. (a) The provisions of this part apply to the taking and possession of fish
11 for any commercial purpose.

12 (b) This part does not apply to activities governed by Part 1 (commencing with
13 Section 23300) of Division 7.

14 **Comment.** Section 14250 continues former Fish and Game Code Section 7600 without
15 substantive change.

16 **§ 14255. Application of other provisions**

17 14255. Commercial fishing and related activity are also governed by Part 4
18 (commencing with Section 11500).

19 **Comment.** Section 14255 is new.

20 **§ 14260. General authority for commercial take**

21 14260. All fish, the taking of which is not otherwise restricted for commercial
22 purposes, by state or federal law or any regulations adopted pursuant to those
23 laws, may be taken at any time for commercial purposes.

24 **Comment.** Section 14260 continues former Fish and Game Code Section 8140 without
25 substantive change.

26 CHAPTER 3. PROHIBITIONS

27 **§ 14300. Prohibition against use of gear to take fish except as authorized**

28 14300. It is unlawful to use or operate, or assist in using or operating, any net,
29 trap, line, spear, or appliance, in taking fish, other than in connection with angling
30 or as authorized by this code.

31 **Comment.** Section 14300 continues former Fish and Game Code Section 8603 without
32 substantive change.

33 **Note.** As written, existing Section 8603 contains a blanket prohibition against the use of any
34 type of net to take a fish, except in connection with angling, or “as provided in Chapter 3 or
35 Chapter 4 of Part 3 of Division 6” of the existing code. The latter exception appears to be too
36 narrow. There are other provisions of the code not located in either of those two chapters that
37 authorize the use of nets to take fish in non-angling situations. See, e.g., existing Sections 8183(e)
38 (bait net may be used to take anchovies), 8561(b) (drift gill net of specified size may be used to

1 take shark and swordfish). In proposed Section 14300, the exception was revised to include any
2 use of nets that is “authorized by this code.”

3 **The Commission invites comment on whether that proposed revision would cause any**
4 **problems.**

5 **§ 14305. Interference with use of fishing gear**

6 14305. (a) It is unlawful to willfully disturb or damage a net, trap, or other
7 apparatus that is being lawfully used to take fish in waters of this state.

8 (b) This section does not apply to a department employee engaged in the
9 performance of official duties.

10 **Comment.** Section 14305 continues former Fish and Game Code Section 8604 without
11 substantive change.

12 **§ 14310. Deterioration or waste**

13 14310. It is unlawful to cause or permit deterioration or waste of a fish taken in
14 the waters of this state, or brought into this state, or to take, receive, or agree to
15 receive more fish than can be used without deterioration, waste, or spoilage.

16 **Comment.** Section 14310 continues former Fish and Game Code Section 7704(a) without
17 substantive change.

18 **CHAPTER 4. REGULATION**

19 **§ 14350. Prohibition against use of gear to take fish except as authorized**

20 14350. The commission may make and enforce such regulations as may be
21 necessary or convenient for carrying out any power, authority, or jurisdiction
22 conferred under the following provisions:

23 (a) Section 14310.

24 (b) Section 21605.

25 (c) Section 21610.

26 (d) Section 21615.

27 (e) Section 21750.

28 (f) Section 21800.

29 (g) Section 21810.

30 (h) Section 21850.

31 (i) Section 21855.

32 (j) Section 22800.

33 (k) Section 22805.

34 (l) Section 22810.

35 (m) Section 22815.

36 (n) Section 23150.

37 (o) Section 42750.

38 **Comment.** Section 14350 continues former Fish and Game Code Section 7708 without
39 substantive change.

1 TITLE 2. COMMERCIAL FISHING

2 CHAPTER 1. LICENSE AND RELATED ENTITLEMENTS

3 Article 1. Requirements

4 § 14500. Activity requiring license

5 14500. (a) Except for persons expressly exempted under this code, no person
6 shall engage in any of the following activities without a commercial fishing
7 license:

8 (1) Using, operating, or assisting in using or operating, any boat, aircraft, net,
9 trap, line, or other device, to take a fish or amphibian, for a commercial purpose.

10 (2) Bringing, or contributing to bringing, a fish or amphibian ashore, for the
11 purpose of selling the fish or amphibian in a fresh state.

12 (3) Materially contributing to the activities on board the commercial fishing
13 vessel.

14 (b) Any person on board a commercial fishing vessel who is not required under
15 subdivision (a) to hold a commercial fishing license shall register his or her
16 presence on board the vessel in a log that is maintained by the owner or operator
17 of the vessel pursuant to the requirements of the department.

18 (c) As used in subdivisions (a) and (b), the term “person” means a natural person
19 16 years of age or greater.

20 (d) This section does not apply to any of the following persons:

21 (1) The holder of a live freshwater bait fish license issued pursuant to Section
22 22100 when taking, transporting, or selling live freshwater fish for bait.

23 (2) A person employed by a fish receiver to unload fish or fish products, or load
24 or unload food and supplies, on or from a commercial fishing boat at a dock.

25 **Comment.** Subdivision (a) of Section 14500 continues former Fish and Game Code Section
26 7850(a) without substantive change.

27 Subdivision (b) continues former Fish and Game Code Section 7850(b) without substantive
28 change.

29 Subdivision (c) continues the first sentence of former Fish and Game Code Section 7850(c)
30 without substantive change.

31 Paragraph (1) of subdivision (d) continues former Fish and Game Code Section 7850(d)
32 without substantive change.

33 Paragraph (2) of subdivision (d) continues former Fish and Game Code Section 7850.5 without
34 substantive change.

35 **Note.** Existing Fish and Game Code Section 7850(c) (which would be continued by proposed
36 Section 14500(c)) provides that the “persons” to whom the section applies do not include
37 “persons who are less than 16 years of age, a partnership, corporation, or association.” This
38 language, if interpreted literally, would indicate that the section may apply to other business
39 entities, such as a limited liability company or trust. See existing Fish and Game Code Section 67
40 (“person” means “any natural person or any partnership, corporation, limited liability company,
41 trust, or other type of association.”)

1 This application appears inadvertent, as several other sections of the code relating to
2 commercial fishing licenses make clear that the licensee must be a natural person. See, e.g.,
3 existing Sections 7851 (application for license must indicate applicant’s sex, height, weight, and
4 eye and hair color), 7852.27 (when engaging in licensed activity, licensee must also have in his or
5 her possession a valid driver’s license, identification card, or passport).

6 Proposed Section 14500 would revise existing Section 7850(c) to indicate that the term
7 “person” as used in the section includes only natural persons.

8 **The Commission invites comment on the appropriateness of that revision.**

9 **§ 14505. Possession and display of identification**

10 14505. (a) At all times when engaged in any activity for which a commercial
11 fishing license is required, the licensee shall have in his or her possession, or
12 immediately available to the licensee, a valid driver’s license or identification card
13 issued to him or her by the Department of Motor Vehicles, or by the entity issuing
14 driver’s licenses from the licensee’s state of domicile.

15 (b) A current passport may be used in lieu of a valid driver’s license or
16 identification card by a holder of a valid nonresident commercial fishing license
17 issued pursuant to this chapter.

18 (c) The licensee’s driver’s license, identification card or, if applicable, passport
19 shall be exhibited upon demand to any person authorized by the department to
20 enforce this code, or regulations adopted pursuant to this code.

21 **Comment.** Section 14505 continues the part of former Fish and Game Code Section 7852.27
22 applicable to commercial fishing licenses without substantive change.

23 **Article 2. Issuance**

24 **§ 14550. Additional application requirements for license**

25 14550. (a) An applicant for a commercial fishing license must be at least 16
26 years of age on the date the license is issued.

27 (b) An application for a commercial fishing license shall state the applicant’s
28 sex, age, height, weight, the color of eyes and hair, and whether or not the
29 applicant is a citizen of the United States.

30 (c) Nothing in this section affects any other provision of law relating to the
31 employment of minors.

32 **Comment.** Subdivision (a) of Section 14550 continues a part of former Fish and Game Code
33 Section 7852(a) and (b) without substantive change.

34 Subdivision (b) continues former Fish and Game Code Section 7851 without substantive
35 change.

36 Subdivision (c) continues former Fish and Game Code Section 7852(e) without substantive
37 change.

38 **§ 14555. Denial of application based on prior dishonored check**

39 14555. Notwithstanding any other provision of law, an application for the
40 issuance or renewal of a commercial fishing entitlement may be denied by the
41 department if, within the preceding year the applicant for the issuance or renewal

1 has presented a check to the department that was dishonored by the bank upon
2 which the check was drawn, and the person has not reimbursed the department for
3 the amount due plus any dishonored check charges incurred by the department,
4 and paid an additional fee of thirty (\$30) dollars.

5 **Comment.** Section 14555 continues the part of former Fish and Game Code Section 7852.25
6 applicable to licenses and other entitlements related to commercial fishing without substantive
7 change.

8 **§ 14560. Conditions of license or other entitlement**

9 14560. Unless otherwise specified, the following conditions apply to a
10 commercial fishing entitlement:

11 (a) An applicant for a commercial fishing entitlement other than a commercial
12 fishing license shall have a valid commercial fishing license issued pursuant to this
13 chapter that is not revoked or suspended.

14 (b) The person to whom the commercial fishing entitlement is issued shall be
15 present when fish are being taken, possessed aboard a boat, or landed for a
16 commercial purpose.

17 (c) The commercial fishing entitlement shall be in the possession of the person
18 issued the entitlement, or immediately available to that person, at all times when
19 that person is engaged in any activity for which the entitlement is required.

20 (d) A person may not hold more than one individual commercial fishing
21 entitlement of a single type at the same time.

22 (e) Any landing of fish used to qualify for, or renew, a commercial fishing
23 entitlement shall be reported on a landing receipt that is delivered to the
24 department pursuant to Section 21150.

25 (f) A person or entity issued a commercial fishing entitlement shall comply with
26 all applicable requirements of Title 10 (commencing with Section 20900).

27 (g) The name of the person issued a commercial fishing entitlement authorizing
28 the taking of fish shall be included on the landing receipt for any landing of fish.

29 (h) An applicant for a commercial fishing entitlement shall provide the
30 information required by the department on the application form.

31 (i) A commercial fishing entitlement shall be signed by the holder prior to use.

32 (j) A person whose commercial fishing entitlement to engage in a fishery is
33 suspended or revoked shall not engage in that fishery, and shall not obtain another
34 commercial fishing entitlement that authorizes engaging in that fishery, while the
35 suspension or revocation is in effect.

36 (k) A commercial fishing entitlement is not transferable, unless otherwise
37 expressly specified in this code.

38 (l) A commercial fishing entitlement is valid from April 1 to March 31 of the
39 next following calendar year or, if issued after the beginning of that term, for the
40 remainder of that term.

1 (m) A person who moves or acquires a new address after being issued a
2 commercial fishing entitlement shall notify the department of the old and new
3 addresses within three months of moving or acquiring the new address.

4 **Comment.** Section 14560 continues the part of former Fish and Game Code Section 7857(a),
5 (c)-(k), and (m) applicable to commercial fishing without substantive change.

6 **Note.** Proposed Section 14560(h) is intended to restate the first sentence of existing Fish and
7 Game Code Section 7857(h) to clarify the meaning of that provision, without changing its
8 substantive effect. The existing provision reads as follows:

9 An application for a commercial fishing license, permit, or other entitlement shall be made on a
10 form containing the information the department may require.

11 **The Commission invites comment on whether the restatement of this provision in**
12 **proposed Section 14560(h) would substantively change its intended meaning.**

13 **§ 14565. Additional conditions for limited entry fishery permit**

14 14565. In addition to the conditions specified in Sections 14560, 4870, 14760,
15 14850, 14855, and 14865, the following conditions apply to a permit, other than a
16 permit issued pursuant to Section 40350, to take, possess aboard a boat, or land
17 fish for commercial purposes in a limited entry fishery, as defined in Section 395:

18 (a) The permit shall be renewed annually.

19 (b) Except as otherwise provided by law, an appeal of a denial of renewal
20 application, or for a waiver of a landing requirement, shall be reviewed and
21 decided by the department.

22 (c) The appeal shall be received by the department or, if mailed, postmarked, on
23 or before March 31 following the permit year in which the appellant last held a
24 valid permit for that fishery.

25 (d) The decision of the department may be appealed to the commission.

26 **Comment.** Section 14565 continues former Fish and Game Code Section 7858 without
27 substantive change.

28 **Article 3. Fees**

29 **§ 14600. Fee**

30 14600. (a) The fee for a commercial fishing license is as follows:

31 (1) For a resident, a base fee of ninety-five dollars (\$95).

32 (2) For a nonresident, a base fee of two hundred eighty-five dollars (\$285).

33 (b) The base fees specified in this section are applicable to the 2004 license year,
34 and shall be adjusted annually thereafter pursuant to Section 3755.

35 (c) The commission shall adjust the amount of the fees specified in subdivision
36 (b), as necessary, to fully recover, but not exceed, all reasonable administrative
37 and implementation costs of the department and the commission relating to those
38 licenses.

39 **Comment.** Section 14600 continues former Fish and Game Code Section 7852(a)-(d) without
40 substantive change.

1 **Note.** Proposed Section 14600(a) is intended to restate existing Fish and Game Code Section
2 7852(a)-(b) to clarify the meaning of those provisions, without changing their substantive effect.
3 The existing provisions read as follows:

4 7852. (a) The department shall issue a commercial fishing license to any resident who is 16
5 years of age or older, upon payment of a base fee of ninety-five dollars (\$95) for each resident
6 vessel crewmember or resident vessel operator.

7 (b) The department shall issue a commercial fishing license to any nonresident who is 16 years
8 of age or older, upon payment of a base fee of two hundred eighty-five dollars (\$285) for a
9 nonresident vessel crewmember or nonresident vessel operator.

10 **The Commission invites comment on whether the restatement of existing Section 7852(a)-**
11 **(b) in proposed Section 14600(a) would substantively change the intended meaning of the**
12 **existing provisions.**

13 **§ 14605. Late fee for renewal after deadline**

14 14605. Notwithstanding any other provision of law, a commercial fishing
15 entitlement for which there is a renewal deadline shall not be renewed after that
16 deadline, except as follows:

17 (a) In addition to the base fee for the entitlement, the department shall assess a
18 late fee for any renewal application that is received after the deadline, according to
19 the following schedule:

20 (1) One to 30 days after the deadline, a fee of one hundred twenty-five dollars
21 (\$125).

22 (2) Thirty-one to 60 days after the deadline, a fee of two hundred fifty dollars
23 (\$250).

24 (3) Sixty-one days or more after the deadline, a fee of five hundred dollars
25 (\$500).

26 (b) The department shall not waive the applicable late fee. The late fees
27 specified in subdivision (a) are applicable to the 2008 license year, and shall be
28 adjusted annually thereafter pursuant to Section 3755.

29 (c) The department shall deny any application for renewal received after March
30 31 of the permit year following the year in which the applicant last held a valid
31 permit for that fishery.

32 (d) An applicant who is denied renewal of a late application by the department
33 may submit a written appeal of the denial to the commission, within 60 days of the
34 date of the department's denial. The commission, upon consideration of the
35 appeal, may grant the renewal. If the commission grants the renewal, it shall assess
36 the applicable late fee pursuant to subdivision (a).

37 **Comment.** Section 14605 continues former Fish and Game Code Section 7852.2 without
38 substantive change.

39 **Note.** It is unclear whether the application of existing Fish and Game Code Section 7852.2(c)
40 (which would be continued by proposed Section 14605(c)), is intended to be limited to
41 applications for renewal of permits, or is also meant to apply to applications for renewal of any
42 other entitlements.

43 **The Commission invites comment on this question.**

1 **§ 14610. Refund of fee based on death**

2 14610. (a) The department may refund the fee paid for a commercial fishing or
3 entitlement to the estate of the deceased holder of the entitlement, if proof is
4 provided by the estate that the death of the holder occurred prior to the opening of
5 the season for which the entitlement was valid.

6 (b) The department may deduct from the refund an amount equal to the cost of
7 issuing the refund, not to exceed twenty-five dollars (\$25).

8 **Comment.** Section 14610 continues the part of former Fish and Game Code Section 7852.1
9 applicable to commercial fishing licenses and other entitlements without substantive change.

10 **§ 14615. Payment of fee by another**

11 14615. Any person, partnership, corporation, limited liability company, or
12 association may pay the fee for a commercial fishing entitlement issued to any
13 person.

14 **Comment.** Section 14615 generalizes the second sentence of former Fish and Game Code
15 Section 7850(c).

16 **Note.** Existing Fish and Game Section 7850(c) provides that business entities can pay for a
17 commercial fishing license for any person. This makes sense, as it allows businesses to pay for
18 licenses for their employees. The Commission sees no policy reason why this provision should
19 not be extended to other commercial fishing entitlements, as employees might also be required to
20 obtain those entitlements. Proposed Section 14615 has therefore been generalized to apply to all
21 commercial fishing entitlements.

22 **The Commission invites comment on this minor substantive change.**

23 **§ 14620. Commercial fishing ocean enhancement validation**

24 14620. (a) The base fee for a commercial fishing ocean enhancement validation
25 is thirty-five dollars (\$35). That base fee is applicable to the 2004 license year, and
26 shall be adjusted annually thereafter pursuant to Section 3755.

27 (b) The commission shall adjust the amount of the fee specified in subdivision
28 (a), as necessary, to fully recover, but not exceed, all reasonable administrative
29 and implementation costs of the department and the commission relating to the
30 validation.

31 **Comment.** Subdivision (a) of Section 14620 continues former Fish and Game Code Section
32 6596.1(d) and (f) (as applied to commercial fishing ocean enhancement validation) without
33 substantive change.

34 Subdivision (b) continues former Fish and Game Code Section 6596.1(g) (as applied to
35 commercial fishing ocean enhancement validation) without substantive change.

36 **Note.** Under existing law, the provisions of Section 6596.1 are governed by existing Section
37 6403, which makes the provisions of Section 6596.1 inapplicable to aquaculture business
38 activities. The continuation of Section 6596.1(d), (f), and (g) in this location would make Section
39 6403 (proposed Section 25400) inapplicable to those provisions. Technically, this would make
40 those provisions applicable to aquaculture business activities. However, the provisions appear to
41 have no application to such activities. For that reason, the change described in this Note would
42 seem to have no practical effect.

43 **The Commission invites comment on whether this change would be a problem.**

1 Article 4. Transfer

2 **§ 14650. Deferral while enforcement pending**

3 14650. An application to transfer any permit or other entitlement to take fish for
4 commercial purposes shall be deferred if the current holder of the permit or other
5 entitlement is awaiting final resolution of any pending criminal, civil, or
6 administrative action that could affect the status of the permit or other entitlement.

7 **Comment.** Section 14650 continues former Fish and Game Code Section 7857(n) without
8 substantive change.

9 **Note.** Proposed Section 14650 would continue Section 7857(n), which was added by 2018
10 Cal. Stat. ch. 189. Although that bill will not take effect until 2019, it is included here in
11 anticipation of its effect.

12 CHAPTER 2. COMMERCIAL FISHING VESSELS

13 Article 1. Boat Registrations and Other Vessel Permits

14 **§ 14750. Application of article**

15 14750. This article does not apply to a person required to be licensed as a guide
16 pursuant to Section 8805.

17 **Comment.** Section 14750 continues former Fish and Game Code Section 7881(e) without
18 substantive change.

19 **§ 14755. Activity requiring registration**

20 14755. Every person who owns or operates a vessel in public waters in
21 connection with fishing operations for profit in this state, or to bring fish into this
22 state, or who, for profit, permits persons to fish from the vessel, shall submit an
23 application for commercial boat registration on forms provided by the department,
24 and shall be issued a registration number.

25 **Comment.** Section 14755 continues former Fish and Game Code Section 7881(a) without
26 substantive change.

27 **§ 14760. Term**

28 14760. A commercial boat registration or other entitlement issued pursuant to
29 this part authorizing the use of a vessel, is valid from April 1 to March 31 of the
30 next following calendar year or, if issued after the beginning of that term, for the
31 remainder of that term.

32 **Comment.** Section 14760 continues the part of former Fish and Game Code Section 7857(k)
33 applicable to commercial boat registrations and related entitlements without substantive change.

34 **§ 14765. Fee for registration**

35 14765. (a) The fee for a commercial boat registration is as follows:

1 (1) For a resident owner or operator of a vessel, a base fee of two hundred fifty
2 dollars (\$250).

3 (2) For a nonresident owner or operator of a vessel, a base fee of seven hundred
4 fifty dollars (\$750).

5 (b) The base fees specified in subdivision (a) are applicable to the 2004 license
6 year, and shall be adjusted annually thereafter pursuant to Section 3755.

7 (c) The commission shall adjust the amount of the fees specified in subdivision
8 (b), as necessary, to fully recover, but not exceed, all reasonable administrative
9 and implementation costs of the department and the commission relating to those
10 licenses.

11 **Comment.** Subdivision (a) of Section 14765 continues the first sentences of former Fish and
12 Game Code Section 7881(b) and (c) without substantive change.

13 Subdivision (b) continues former Fish and Game Code Section 7881(f) without substantive
14 change.

15 Subdivision (c) continues former Fish and Game Code Section 7881(g) without substantive
16 change.

17 **§ 14770. Refund of fee based on death**

18 14770. (a) The department may refund the fee paid for a commercial boat
19 registration to the estate of the deceased holder of the registration, if proof is
20 provided by the estate that the death of the holder occurred prior to the opening of
21 the season for which the registration was valid.

22 (b) The department may deduct from the refund an amount equal to the cost of
23 issuing the refund, not to exceed twenty-five dollars (\$25).

24 **Comment.** Section 14770 continues the part of former Fish and Game Code Section 7852.1
25 applicable to commercial boat registrations without substantive change.

26 **§ 14775. Posting of registration on vessel**

27 14775. A commercial boat registration shall be carried aboard the vessel at all
28 times, and shall be posted in a conspicuous place.

29 **Comment.** Section 14775 continues the second sentences of former Fish and Game Code
30 Section 7881(b) and (c) without substantive change.

31 **§ 14780. Issuance of registration number**

32 14780. A person issued a commercial boat registration shall also be issued a
33 registration number.

34 **Comment.** Section 14780 continues a part of former Fish and Game Code Section 7881(a)
35 without substantive change.

36 **§ 14785. Display of registration number**

37 14785. (a) A person who owns or operates a vessel used in connection with
38 fishing operations for profit who has been issued a commercial boat registration
39 pursuant to this article shall display, for the purpose of identification, registration
40 number on the vessel in a manner designated by the department shall display on

1 the vessel, for the purpose of identification, the vessel's registration number, in a
2 manner specified by the department.

3 (b) The method of displaying the registration number on the vessel shall be
4 determined by the department after consultation with the Department of Boating
5 and Waterways, taking into consideration the responsibilities and duties of the
6 Department of Boating and Waterways as prescribed in the Harbors and
7 Navigation Code.

8 (c) The registration number is not transferable, and shall be a permanent fixture
9 on the vessel for which it is issued.

10 **Comment.** Section 14785 continues former Fish and Game Code Section 7880 without
11 substantive change.

12 **§ 14790. Report of lost, destroyed, or sold vessel**

13 14790. If a registered vessel is lost, destroyed, or sold, the owner of the vessel
14 shall immediately report the loss, destruction, or sale to the department.

15 **Comment.** Section 14790 continues former Fish and Game Code Section 7881(d) without
16 substantive change.

17 **Article 2. Obligations and Prohibitions**

18 **§ 14850. Change of address**

19 14850. A person who moves or acquires a new address after being issued a
20 commercial boat registration or other entitlement authorizing the use of a vessel
21 shall notify the department of the old and new addresses within three months of
22 moving or acquiring the new address.

23 **Comment.** Section 14850 continues the part of former Fish and Game Code Section 7857(m)
24 applicable to commercial boat registrations and related entitlements without substantive change.

25 **§ 14855. Additional application requirement for permit or other entitlement**

26 14855. A person who applies for a commercial fishing vessel permit or other
27 entitlement authorizing the use of a vessel for commercial fishing other than a
28 commercial boat registration shall also hold a valid commercial boat registration
29 for that vessel issued pursuant to Section 14755 that has not been suspended or
30 revoked.

31 **Comment.** Section 14855 continues former Fish and Game Code Section 7857(l) without
32 substantive change.

33 **§ 14860. Required insurance**

34 14860. An owner of a vessel on which a person who is at least 16 but less than
35 18 years of age, and required to be licensed under Section 14550, is working, shall
36 obtain, and maintain in full force and effect at all times that a person is working on
37 or about the vessel, a policy of insurance that provides indemnification for
38 accident or injury to that person.

1 **Comment.** Section 14860 restates former Fish and Game Code Section 7852.4 without
2 substantive change.

3 **Note.** Proposed Section 14860 is intended to restate existing Fish and Game Code Section
4 7852.4 to clarify the meaning of that provision, without changing its substantive effect. The
5 existing provision reads as follows:

6 7852.4. The owner of a vessel upon which a person who is at least 16, but less than 18, years of
7 age, and who is licensed under Section 7852 is working shall obtain, and maintain in full force
8 and effect at all times that a person is working on or about the vessel, a policy of insurance that
9 provides indemnification to the person licensed under Section 7852 in case of accident or injury
10 while working on or about the vessel.

11 **The Commission invites comment on whether this restatement of existing Fish and Game**
12 **Code Section 7852.4 would substantively change the intended meaning of the existing**
13 **provision.**

14 **§ 14865. Prohibition against multiple entitlements of same type**

15 14865. Not more than one commercial boat registration, commercial vessel
16 fishing license, or any other entitlement of a single type shall be issued for a single
17 vessel.

18 **Comment.** Section 14865 continues the part of former Fish and Game Code Section 7857(e)
19 applicable to commercial fishing vessels without substantive change.

20 **Note.** Existing Fish and Game Code Section 7857(e) (which would be continued by proposed
21 Section 14865) does not expressly reference a commercial boat registration, although the policy
22 underlying the section appears to apply. Proposed Section 14865 would revise Section 7857(e) to
23 add that reference.

24 **The Commission invites comment on the appropriateness of that revision.**

25 **§ 14870. Preparation of fish on commercial fishing vessel for human consumption**

26 14870. Notwithstanding any other provision of this code governing commercial
27 fishing, except as provided in Section 14875, Section 14880, or when prohibited
28 by federal law, fish may be prepared for human consumption aboard a commercial
29 fishing vessel only under the following conditions:

30 (a) The fish was taken in compliance with all existing commercial fishing laws
31 and regulations and is of a species and size that can be lawfully taken under
32 sportfishing regulations in the area where taken.

33 (b) The fish was taken incidental to normal commercial fishing operations.

34 (c) The fish is kept separated from other fish, and stored with other foodstuff for
35 consumption by the crew and passengers aboard the vessel.

36 (d) The fish is not bought, sold, offered for sale, transferred to another person,
37 landed, brought ashore, or used for a purpose other than consumption by the crew
38 and passengers.

39 (e) The fish is maintained in a condition that its species can be determined, and
40 if a size or weight limitation applies, its size or weight can be determined, until the
41 fish is prepared for immediate consumption.

1 (f) If the fish is filleted, a patch of skin is retained on each fillet as prescribed by
2 the commission in its sportfishing regulations, until the fish is prepared for
3 immediate consumption.

4 (g) Fillets from fish possessed under sportfishing regulations shall be of the
5 minimum length prescribed by commission sportfishing regulations.

6 (h) The quantity of fish prepared shall not exceed the aggregate sportfishing bag
7 limit for that fish applicable to the total number of crew members and passengers
8 on board the vessel.

9 **Comment.** Subdivisions (a) through (g) of Section 14870 continue former Fish and Game
10 Code Section 7856(a)-(d) without substantive change.

11 Subdivision (h) restates former Fish and Game Code Section 7856(e) without substantive
12 change.

13 **Note.** Proposed Section 14870(h) is intended to restate existing Fish and Game Code Section
14 7856(e) to clarify the meaning of that provision, without changing its substantive effect. The
15 existing provision reads as follows:

16 A fish that may be possessed under sportfishing regulations shall not be possessed in excess of
17 the sport bag limit for each crew member and passenger on board the vessel.

18 **The Commission invites comment on whether this restatement of existing Fish and Game**
19 **Code Section 7856(e) would substantively change the intended meaning of the existing**
20 **provision.**

21 **§ 14875. Possession of specified fish on board commercial fishing vessel**

22 14875. (a) Notwithstanding Section 14870, kelp bass, sand bass, spotted bass,
23 yellowfin croaker, spotfin croaker, California corbina, and marlin, shall not be
24 possessed aboard a commercial fishing vessel while that vessel is on a commercial
25 fishing trip.

26 (b) Lobster, salmon, or abalone shall not be possessed aboard a commercial
27 fishing vessel while that vessel is on a commercial fishing trip for preparation for
28 human consumption pursuant to this section unless that lobster, salmon, or abalone
29 is taken and possessed in compliance with all applicable laws pertaining to
30 commercial fishing methods of take, licenses, permits, and size limits.

31 (c) Sturgeon or striped bass shall not be possessed aboard a commercial fishing
32 vessel.

33 **Comment.** Section 14875 continues the first three sentences of former Fish and Game Code
34 Section 7856(f) without substantive change.

35 **§ 14880. Take or possession pursuant to sportfishing license**

36 14880. No person shall take or possess any fish pursuant to a sportfishing
37 license while on a commercial fishing vessel engaged in a commercial fishing
38 activity, including going to or from an area where fish are taken for a commercial
39 purpose.

40 **Comment.** Section 14880 continues the fourth sentence of former Fish and Game Code
41 Section 7856(f) without substantive change.

1 Article 3. Fuel Conservation Assistance Program

2 **§ 15000. Purpose of program**

3 15000. The California Energy Extension Service of the Office of Planning and
4 Research shall implement a revolving loan fund program to assist low-income
5 fishing fleet operators reduce their energy costs and conserve fuel by providing
6 low-interest loans to those operators.

7 **Comment.** Section 15000 continues former Fish and Game Code Section 9100 without
8 substantive change.

9 **§ 15005. Report to Legislature**

10 15005. Commencing January 1, 1994, and thereafter biennially, the California
11 Energy Extension Service of the Office of Planning and Research shall report to
12 the Legislature on the status of the loan program, including the number and the
13 amounts of loans made, the amount of loans repaid, and a comparison of the ethnic
14 background of the loan recipients with the ethnic background of the low-income
15 fishing fleet operators.

16 **Comment.** Section 15005 continues former Fish and Game Code Section 9101 without
17 substantive change.

18 CHAPTER 3. AIRCRAFT

19 **§ 15050. Required registration**

20 15050. A person who owns or operates an aircraft used in connection with
21 commercial fishing operations in this state shall obtain a commercial aircraft
22 registration for that aircraft from the department.

23 **Comment.** Section 15050 continues the first sentence of former Fish and Game Code Section
24 7892 without substantive change.

25 **§ 15055. Requirement that registration be carried onboard**

26 15055. A commercial aircraft registration issued pursuant to Section 15050 shall
27 be carried aboard the aircraft at all times when the aircraft is used in connection
28 with commercial fishing operations.

29 **Comment.** Section 15055 continues the second sentence of former Fish and Game Code
30 Section 7892 without substantive change.

31 **§ 15060. Fee for registration**

32 15060. The fee for a commercial aircraft registration shall be two hundred
33 dollars (\$200).

34 **Comment.** Section 15060 continues the third sentence of former Fish and Game Code Section
35 7892 without substantive change.

1 **Note.** Unlike many license fee provisions in the existing Fish and Game Code, the fee
2 provision in existing Section 7892 does not expressly provide for annual adjustment pursuant to
3 existing Section 713.

4 **Is this adjustment nevertheless understood to be applicable to this fee?**

5 CHAPTER 4. GEOGRAPHIC RESTRICTIONS

6 Article 1. Take

7 **§ 15100. Take in Tomales Bay**

8 15100. (a) It is unlawful to take fish for a commercial purpose in that portion of
9 Tomales Bay in District 2590 between a line drawn from the most northern tip of
10 Tomales Point northeast, 47° magnetic, to the opposite shore in the vicinity of
11 Dillon Beach, and a line drawn west from the western tip of Tom's Point, 252°
12 magnetic, to the opposite eastern shore of Tomales Point.

13 (b) This section does not apply to the taking of oysters by persons licensed under
14 Article 4 (commencing with Section 6480), Chapter 5, Part 1, Division 6, from
15 their allotted areas.

16 **Comment.** Section 15100 restates former Fish and Game Code Section 8398 without
17 substantive change.

18 **Note.** The statutory article referenced in the second paragraph of existing Fish and Game
19 Code Section 8398 (which would be continued by proposed Section 15100(b)) was repealed in
20 1971, and was not clearly continued elsewhere in the code. See 1971 Cal. Stat. ch. 347. The
21 cultivation of oysters is now more generally regulated under the aquaculture provisions of the
22 existing code, and pursuant to oyster leases. See existing Fish and Game Code Sections 15406.5,
23 15406.7.

24 **The Commission invites comment on how to properly continue this aspect of existing**
25 **Section 8398.**

26 **§ 15105. Take only in baitfish traps**

27 15105. (a) California killifish (*Fundulus parvipinnis*), mudsuckers (*Gillichthys*
28 *mirabilis*), and yellowfin gobies (*Acanthogobius flavimanus*) may only be taken
29 for a commercial purpose with baitfish traps in the tidewaters of Districts 2545,
30 2550, 2555, 2565, 2610, 2615, and 2650, in the tidewaters of District 2590 south
31 of the City and County of San Francisco, in the Salton Sea, and in Imperial and
32 Riverside Counties.

33 (b) Shiner perch (*Cymatogaster aggregata*), staghorn sculpin (*Leptocottus*
34 *armatus*), mudsuckers (*Gillichthys mirabilis*), and yellowfin gobies
35 (*Acanthogobius flavimanus*) may only be taken for a commercial purpose with
36 baitfish traps in Districts 2595, 2600, and 2605, and in the tidewaters of Districts
37 2525 and 2535.

38 (c) Any unauthorized species taken incidentally in a baitfish trap in a district
39 listed in subdivision (a) or (b) shall be immediately released.

1 (d) Baitfish traps, as described in Section 19610, may be used subject to Title 6
2 (commencing with Section 19150) of Part 6 of Division 6.

3 **Comment.** Section 15105 continues former Fish and Game Code Section 8400 without
4 substantive change.

5 **Note.** Proposed Section 15100(d) is intended to restate existing Fish and Game Code Section
6 8400(d) without changing its substantive effect. Section 8400(d) reads as follows:

7 Baitfish traps, as described in Section 9020, may be used subject to Article 1 (commencing
8 with Section 9000) of Chapter 4.

9 **The Commission invites comment on whether restatement of Section 8400(d) would**
10 **substantively change its intended meaning.**

11 Article 2. Sale or Purchase

12 **§ 15150. Sale or purchase of fish in District 2670 or Smith River**

13 15150. (a) It is unlawful to sell or purchase any fresh, canned, or cured fish
14 taken in District 2670, or in the waters of the Smith River.

15 (b) Nothing in this article applies to trout grown pursuant to Part 1 (commencing
16 with Section 23300) of Division 7.

17 **Comment.** Subdivision (a) of Section 15150 continues former Fish and Game Code Section
18 8434 without substantive change.

19 Subdivision (b) continues the part of former Fish and Game Code Section 8433 applicable to
20 former Fish and Game Code Section 8434 without substantive change.

21 Article 3. Out-of-State Delivery of Fish

22 **§ 15200. Permit to deliver fish out of state**

23 15200. (a) Section 1110 as added to the former Fish and Game code by the
24 initiative measure adopted at the General Election of November 8, 1938, is set
25 forth in subdivision (b).

26 (b) The law relating to the subject of control of fishing in state waters when
27 delivery is to points beyond state waters was adopted as an initiative measure at
28 the General Election of November 8, 1938. The reference to Section 845 in the last
29 sentence is to Sections 4975, 4980, 4986, and subdivision (a) of Section 15400.
30 The initiative measure reads as follows:

31 1110—No person shall use or operate or assist in using or operating in this State
32 or the waters thereof, any boat or vessel used in connection with fishing
33 operations, irrespective of its home port or port of registration, which delivers or
34 by which there is delivered to any place other than within this State any fish,
35 mollusks or crustaceans which are caught in, or taken aboard said boat or vessel
36 from, the waters of the Pacific Ocean within this State, or on the high seas, or
37 elsewhere, unless a permit authorizing the same shall have been issued by the Fish
38 and Game Commission.

1 Where it appears to the commission that such permit will not tend to prevent,
2 impede or obstruct the operation, enforcement, or administration of this code or
3 any provision thereof, and will not tend to result in fish, mollusks or crustaceans in
4 the waters of this State being taken or used otherwise than is authorized by this
5 code, the commission may issue revocable permits under such rules and
6 regulations and upon such terms and conditions as it may prescribe to deliver fish,
7 mollusks or crustaceans by the use of such boat or vessel outside of this State,
8 provided that nothing herein shall authorize the transportation or carrying out of
9 this State or any district thereof, of any fish, mollusks or crustaceans where the
10 same is prohibited by law, and no permit shall be issued which may tend to deplete
11 any species of fish, mollusk or crustacean, or result in waste thereof. Any person
12 who uses or operates or assists in using or operating any boat or vessel in violation
13 of the provisions of this section is guilty of a misdemeanor and such boat or vessel
14 and the net, gear or other equipment of said boat or vessel is a public nuisance and
15 shall be forfeited. It is the duty of every person authorized to make an arrest for
16 the violation of any of the provisions of this code, to seize and keep such boat,
17 vessel, net, gear or other equipment and to report such seizure to the commission.
18 The commission shall thereupon commence, in the superior court of the county or
19 city and county in which or nearest to which the seizure is made, proceedings for
20 forfeiture of the seized property for its use in violation of this section, and such
21 proceeding shall be had in the manner and according to the procedure provided by
22 Section 845 of this code for the forfeiture of nets.

23 **Comment.** Subdivision (a) of Section 15200 continues former Fish and Game Code Sections
24 1110 without substantive change.

25 Subdivision (b) continues former Fish and Game Code Section 7891 without substantive
26 change.

27 **Note.** Former Fish and Game Code Section 1110 was added in 1938 by an initiative statute,
28 Proposition 5. That provision was continued as Fish and Game Code Section 7891 when the code
29 was recodified in 1957. See 1957 Cal. Stat. ch. 456. In that legislation, Section 1110 was
30 amended to serve as a cross-reference to Section 7891. The Commission believes that the
31 nonsubstantive continuation of those provisions in proposed Section 15200 would not be an
32 impermissible amendment. See discussion of initiative statutes *supra* at notes 20-22 and
33 associated text.

34 TITLE 3. NETS GENERALLY

35 CHAPTER 1. GENERAL PROVISIONS

36 § 15300. Length of meshes

37 15300. The length of the meshes of a net shall be determined by taking at least
38 four meshes and measuring them inside the knots or, in the case of knotless nets,
39 inside the points at which the meshes are joined while they are simultaneously
40 drawn closely together.

1 **Comment.** Section 15300 continues former Fish and Game Code Section 8602 without
2 substantive change.

3 **§ 15305. Use near pier, wharf, jetty, breakwater, or dock**

4 15305. Notwithstanding Sections 15500, 15510, 15915, and 18210, the
5 commission may, after a public hearing, when it determines that it is in the best
6 interests of the state’s marine resources and fisheries, adopt regulations,
7 authorizing the use of nets not less than 75 feet from any private pier, wharf, jetty,
8 breakwater, or dock, and restricting the use of the nets within 750 feet of any
9 public pier. However, nothing in this section authorizes the commission to adopt
10 regulations which would extend beyond the maximum of 750 feet the area in
11 which the use of nets is prohibited, as specified in Sections 15500, 15510, 15915,
12 and 18210, or which would prohibit the use of any nets within 75 feet of any
13 private pier, wharf, jetty, breakwater, or dock if that use of the net is permitted by
14 law.

15 **Comment.** Section 15305 continues former Fish and Game Code Section 8608 without
16 substantive change.

17 **CHAPTER 2. PUBLIC NUISANCE**

18 **§ 15400. Seizure**

19 15400. Any net or trap used for taking fish in violation of the provisions of this
20 code is a public nuisance. It is the duty of every person authorized to make an
21 arrest for such a violation to seize and keep the net and report the seizure to the
22 department.

23 **Comment.** Section 15400 continues the first paragraph of former Fish and Game Code Section
24 8630 without substantive change.

25 See also Sections 4975-4988 (seizure).

26 **Note.** Existing Section 8630 initially refers to a “net or trap,” but then only refers to a trap.
27 The rules for when a trap must be seized as a nuisance are provided in existing Sections 9007 and
28 9008. The reference to a trap in Section 8630 may have been erroneous. **The Commission invites
29 comment on whether the reference to a trap should be deleted from proposed Section
30 15400(a).**

31 **CHAPTER 3. SPECIAL RULES FOR IDENTIFIED WATERS**

32 **Comment.** The provisions appearing in this chapter and in Chapter 3 (commencing with
33 Section 17000) of Title 4 together continue the provisions of former Article 4 (commencing with
34 Section 8660) of Chapter 3 of Part 3 of Division 6 of the Fish and Game Code, which are
35 governed by Section 4(b) of Article X B of the California Constitution.

36 **§ 15500. Districts 2625 and 2630**

37 15500. Nothing in this chapter or in Chapter 3 (commencing with Section
38 17000) of Title 4 authorizing the use of nets in District 2625 or 2630 shall
39 authorize the use of any net within 750 feet of any pier, wharf, jetty, or

1 breakwater, except that dip nets may be used subject to the provisions of Chapter 9
2 (commencing with Section 16400) of Title 4.

3 **Comment.** Section 15500 continues former Fish and Game Code Section 8660.

4 Section 15500 is governed by Section 16865, a section that codifies and implements Section 4
5 of Article X B of the California Constitution. See Section 16850.1. To avoid any possible
6 impairment of constitutional requirements, former Section 8660 has been continued without
7 change, except to update cross-references to reflect renumbering required by the enactment of this
8 code.

9 When enacting the bill that added this section, the Legislature did not evaluate the relationship
10 of this section to Section 16865 or Article X B of the California Constitution. See Section 16800.

11 **§ 15505. Districts 2630 and 2640**

12 15505. Vessels may carry nets across Districts 2630 and 2640 to open water
13 outside those districts. Vessels carrying nets may enter harbors in Districts 2630
14 and 2640 only in cases of distress or emergency.

15 **Comment.** Section 15505 continues former Fish and Game Code Section 8661.

16 Section 15505 is governed by Section 16865, a section that codifies and implements Section 4
17 of Article X B of the California Constitution. See Section 16850.1. To avoid any possible
18 impairment of constitutional requirements, former Section 8661 has been continued without
19 change, except to update cross-references to reflect renumbering required by the enactment of this
20 code.

21 When enacting the bill that added this section, the Legislature did not evaluate the relationship
22 of this section to Section 16865 or Article X B of the California Constitution. See Section 16800.

23 **§ 15510. District 2685**

24 15510. In District 2685, a net may not be used within 750 feet of any pier or
25 dock, except for bait nets described in Section 235 used to capture live bait and
26 lobster traps authorized for use pursuant to Sections 49700, 49705, and 49710.

27 **Comment.** Section 15510 continues former Fish and Game Code Section 8665.

28 Section 15510 is governed by Section 16865, a section that codifies and implements Section 4
29 of Article X B of the California Constitution. See Section 16850.1. To avoid any possible
30 impairment of constitutional requirements, former Section 8665 has been continued without
31 change, except to update cross-references to reflect renumbering required by the enactment of this
32 code.

33 When enacting the bill that added this section, the Legislature did not evaluate the relationship
34 of this section to Section 16865 or Article X B of the California Constitution. See Section 16800.

35 **§ 15515. Area upstream from Antioch area**

36 15515. No gill net, trammel net, or fyke net may be possessed on a boat in the
37 waters of any district lying upstream from a line drawn between Antioch Point and
38 the westerly tip of Kimball Island and from a line drawn from Point Sacramento
39 across the stream and touching the most easterly point on Montezuma Island.

40 **Comment.** Section 15515 continues former Fish and Game Code Section 8663.

41 Section 15515 is governed by Section 16865, a section that codifies and implements Section 4
42 of Article X B of the California Constitution. See Section 16850.1. To avoid any possible
43 impairment of constitutional requirements, former Section 8663 has been continued without
44 change.

1 When enacting the bill that added this section, the Legislature did not evaluate the relationship
2 of this section to Section 16865 or Article X B of the California Constitution. See Section 16800.

3 **§ 15520. Area in or near Klamath, Smith, Eel, Mad, Van Dusen, or Mattole Rivers**

4 15520. Except in Districts 2570 and 2575, any net found in, or within 500 feet of
5 the Klamath, Smith, Eel, Mad, Van Dusen, or Mattole Rivers, or their tributaries,
6 is prima facie evidence that the owner or person in possession of the net is or has
7 been using it unlawfully.

8 The provisions of this section do not apply to trawl or drag nets being
9 transported.

10 **Comment.** Section 15520 continues former Fish and Game Code Section 8664.

11 Section 15520 is governed by Section 16865, a section that codifies and implements Section 4
12 of Article X B of the California Constitution. See Section 16850.1. To avoid any possible
13 impairment of constitutional requirements, former Section 8664 has been continued without
14 change, except to update cross-references to reflect renumbering required by the enactment of this
15 code.

16 When enacting the bill that added this section, the Legislature did not evaluate the relationship
17 of this section to Section 16865 or Article X B of the California Constitution. See Section 16800.

18 **§ 15525. Take of mullet or carp in Salton Sea and New and Alamo Rivers**

19 15525. No fish other than mullet or carp, and no mullet less than 14 inches in
20 length may be taken or possessed by a licensed commercial fisherman while
21 fishing in the Salton Sea or the New and Alamo Rivers.

22 **Comment.** Section 15525 continues former Fish and Game Code Section 8667.

23 Section 15525 is governed by Section 16865, a section that codifies and implements Section 4
24 of Article X B of the California Constitution. See Section 16850.1. To avoid any possible
25 impairment of constitutional requirements, former Section 8667 has been continued without
26 change.

27 When enacting the bill that added this section, the Legislature did not evaluate the relationship
28 of this section to Section 16865 or Article X B of the California Constitution. See Section 16800.

29 **Note.** Existing Section 8667 (which would be continued by proposed Section 15525) appears
30 in the existing code in an article entitled “Nets Generally in Particular Districts.” As a result,
31 proposed Section 15525 has been located, along with the continuations of the other provisions in
32 that existing article, in a Title entitled “Nets Generally.”

33 However, Section 8667 may apply to take by means other than the use of net, and the
34 placement of proposed Section 15525 in a title referring only to nets could create confusion, or
35 prevent some readers from being aware of the provision.

36 **The Commission invites comment on whether the proposed location of proposed Section**
37 **15525 is problematic.**

38 **§ 15530. Salton Sea and New and Alamo Rivers**

39 15530. No commercial fishing under Section 17025, 15525, or 15535, shall be
40 carried on within the boundaries of any state or federal game refuge.

41 **Comment.** Section 15530 continues former Fish and Game Code Section 8668.

42 Section 15530 is governed by Section 16865, a section that codifies and implements Section 4
43 of Article X B of the California Constitution. See Section 16850.1. To avoid any possible
44 impairment of constitutional requirements, former Section 8668 has been continued without

1 change, except to update cross-references to reflect renumbering required by the enactment of this
2 code.

3 When enacting the bill that added this section, the Legislature did not evaluate the relationship
4 of this section to Section 16865 or Article X B of the California Constitution. See Section 16800.

5 **Note.** Existing Section 8668 (which would be continued by proposed Section 15530) appears
6 in the existing code in an article entitled “Nets Generally in Particular Districts.” As a result,
7 proposed Section 15530 has been located, along with the continuations of the other provisions in
8 that existing article, in a Title entitled “Nets Generally.”

9 However, Section 8668 appears to have a significantly broader application than to the use of
10 nets, and the placement of proposed Section 15530 in a title referring only to nets could create
11 confusion, or prevent some readers from being aware of the provision.

12 **The Commission invites comment on whether the proposed location of proposed Section**
13 **15530 is problematic.**

14 **§ 15535. Possession of certain gear near Salton Sea and New and Alamo Rivers**

15 15535. It is unlawful to possess gill nets, seines, or other devices capable of
16 being used to take mullet or carp for commercial purposes, within 500 yards of the
17 Salton Sea and those portions of the New and Alamo Rivers designated as
18 commercial fishing waters lying in District 2655, except during such open season
19 as may be prescribed by the commission.

20 **Comment.** Section 15535 continues former Fish and Game Code Section 8669.

21 Section 15535 is governed by Section 16865, a section that codifies and implements Section 4
22 of Article X B of the California Constitution. See Section 16850.1. To avoid any possible
23 impairment of constitutional requirements, former Section 8669 has been continued without
24 change, except to update cross-references to reflect renumbering required by the enactment of this
25 code.

26 When enacting the bill that added this section, the Legislature did not evaluate the relationship
27 of this section to Section 16865 or Article X B of the California Constitution. See Section 16800.

28 **Note.** Existing Section 8669 (which would be continued by proposed Section 15535) appears
29 in the existing code in an article entitled “Nets Generally in Particular Districts.” As a result,
30 proposed Section 15535 has been located, along with the continuations of the other provisions in
31 that existing article, in a Title entitled “Nets Generally.”

32 However, Section 8669 appears to have a broader application than to the use of nets, and the
33 placement of proposed Section 15535 in a title referring only to nets could create confusion, or
34 prevent some readers from being aware of the provision.

35 **The Commission invites comment on whether the proposed location of proposed Section**
36 **15535 is problematic.**

37 **§ 15540. Waters upstream from Carquinez Bridge**

38 15540. It is unlawful for any person to use, operate, or assist in using or
39 operating any net to take salmon, steelhead, striped bass, sturgeon, or shad for
40 commercial purposes in any of the tidal waters lying upstream from the Carquinez
41 Bridge, or to possess on any boat in these waters any net the use of which is illegal
42 in such waters.

43 **Comment.** Subdivision (a) of Section 15540 continues former Fish and Game Code Section
44 8670.

45 Subdivision (a) is governed by Section 16865, a section that codifies and implements Section 4
46 of Article X B of the California Constitution. See Section 16850.1. To avoid any possible

1 impairment of constitutional requirements, former Section 8670 has been continued in the
2 subdivision without change.

3 When enacting the bill that added this section, the Legislature did not evaluate the relationship
4 of any provision of this section to Section 16865, or to Article X B of the California Constitution.
5 See Section 16800.

6 See also Section 4950 (enforcement).

7 CHAPTER 4. SET NETS

8 Article 1. General Provisions

9 § 15600. “Set net”

10 15600. (a) “Set net” means either of the following:

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

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

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

16 (1) A fyke net.

17 (2) A shrimp net.

18 (3) A crab net.

19 **Comment.** Section 15600 generalizes the part of former Fish and Game Code Section 8601
20 applicable to set nets.

21 See also Section 5000 (enforcement).

22 § 15605. Markings

23 15605. (a) A set net shall be marked at both ends with buoys displaying above
24 their waterlines, in numerals at least 2 inches high, the commercial fishing license
25 identification number of the owner of the net.

26 (b) Each piece or panel of a set net shall be marked along the corkline of the net,
27 in a manner determined by the department to adequately identify the net, with the
28 commercial fishing license identification number of the owner of the net. The
29 distance between the markings shall not exceed 45 fathoms.

30 **Comment.** Subdivision (a) of Section 15605 continues the part of former Fish and Game Code
31 Section 8601.5(a) applicable to set nets without substantive change.

32 Subdivision (b) continues the first two sentences of former Fish and Game Code Section
33 8601.5(b) without substantive change.

34 **Notes.** (1) Existing Fish and Game Code Sections 8601.5(a) (and (b) both reference “the
35 fisherman’s identification number.” Existing Fish and Game Code Section 9029(c) provides that,
36 for purposes of Section 8601.5, “fisherman’s identification number” means the number of the
37 person’s commercial fishing license issued pursuant to Section 7850.” Proposed Section 15605
38 would incorporate that clarification.

39 (2) Is the “fisherman” in the phrase “fisherman’s identification number” intended to be the
40 commercial fisherman who *owns* the net, or the commercial fisherman *fishing* with the net?
41 Because much of the remainder of Section 8601.5 appears to focus substantially on the
42 responsibility of the owner of the net, the Commission reads these provisions as intended to

1 identify the owner of the net, rather than the user, and proposed Section 15605(a) and (b) would
2 expressly reflect that interpretation.

3 **The Commission invites comment on the appropriateness of this revision.**

4 **§ 15610. Breaking strength of footrope**

5 15610. The footrope (leadline) of any set net shall have a breaking strength of at
6 least 50 pounds less than the combined breaking strength of the headrope and
7 corkline.

8 **Comment.** Section 15610 continues former Fish and Game Code Section 8601.6(a) without
9 substantive change.

10 **§ 15615. Lost net**

11 15615. (a) If a person is unable to recover a set net or portion of a set net, the
12 person shall contact one of the department offices located in the cities of Belmont,
13 Monterey, Los Alamitos, or San Diego, not later than 72 hours after returning to
14 port following the loss, and shall report all of the following information:

15 (1) The date and time when the net was lost.

16 (2) The location, including depth, where the net was lost.

17 (3) A description of the lost net, including the mesh size, length, height, and
18 target species, and whether anchors remain attached to the net.

19 (4) The name and commercial fishing license identification number of the owner
20 of the net.

21 (5) The name and commercial fishing license identification number of the
22 person fishing with the net, if different from the owner of the net.

23 (6) The name and commercial boat registration number of the vessel from which
24 the lost net was being fished.

25 (b) If the lost or abandoned net is recovered by the department or persons
26 designated by the department, the commission may require the owner of the lost or
27 abandoned net to pay for all recovery costs.

28 **Comment.** Subdivision (a) of Section 15615 continues former Fish and Game Code Section
29 8601.5(c) without substantive change.

30 Subdivision (b) continues the third sentence of former Fish and Game Code Section 8601.5(b)
31 without substantive change.

32 See also Section 5000 (enforcement).

33 **Note.** Existing Fish and Game Code Section 8601.5(c)(4) and (5) both reference a
34 “fisherman’s identification number.” Based on a reference in Section 8601.5(c)(6) to what is
35 described as a “California Fish and Game number” of an identified *vessel*, the Commission reads
36 the reference to an identification number in Sections 8601.5(c)(4) and (5) as referring to a
37 commercial fishing license identification number.

38 **The Commission invites comment on whether that interpretation is correct.**

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CHAPTER 5. ROUND HAUL NETS

Article 1. General Provisions

§ 15650. “Round haul net”

15650. As used in this chapter, “round haul net” means a circle seine, and includes a purse seine, ring net, half ring net, and lampara net.

Comment. Section 15650 generalizes former Fish and Game Code Section 8750.

Article 2. Special District Rules

§ 15700. District 2505

15700. In District 2505, a round haul net shall not be possessed on a boat.

Comment. Section 15700 continues the part of former Fish and Game Code Section 8751 applicable to former Fish and Game District 1 without substantive change.

§ 15705. District 2525

15705. In District 2525, a round haul net shall not be possessed on a boat, except in the part of the district lying within Marin County.

Comment. Section 15705 continues the part of former Fish and Game Code Section 8751 applicable to former Fish and Game District 2 without substantive change.

§ 15710. District 2540

15710. In District 2540, a round haul net shall not be possessed on a boat, except within the boundaries of Moss Landing Harbor District.

Comment. Section 15710 continues the part of former Fish and Game Code Section 8751 applicable to former Fish and Game District 3 without substantive change.

§ 15715. District 2570

15715. In District 2570, purse nets and round haul nets may be used.

Comment. Section 15715 continues the part of former Fish and Game Code Section 8752 applicable to former Fish and Game District 6 without substantive change.

<p>Note. It is the Commission’s understanding that a purse net is one type of round haul net. If this is correct, can the separate reference to purse nets in proposed Section 15715 and similarly worded provisions that follow be deleted as superfluous?</p>

§ 15720. District 2575

15720. In District 2575, purse nets and round haul nets may be used.

Comment. Section 15720 continues the part of former Fish and Game Code Section 8752 applicable to former Fish and Game District 7 without substantive change.

§ 15725. District 2580

15725. In District 2580, purse nets and round haul nets may be used.

1 **Comment.** Section 15725 continues the part of former Fish and Game Code Section 8752
2 applicable to former Fish and Game District 8 without substantive change.

3 **§ 15730. District 2585**

4 15730. In District 2585, purse nets and round haul nets may be used.

5 **Comment.** Section 15730 continues the part of former Fish and Game Code Section 8752
6 applicable to former Fish and Game District 9 without substantive change.

7 **§ 15735. District 2590**

8 15735. In District 2590, purse nets and round haul nets may be used.

9 **Comment.** Section 15735 continues the part of former Fish and Game Code Section 8752
10 applicable to former Fish and Game District 10 without substantive change.

11 **§ 15740. District 2595**

12 15740. In District 2595, purse nets and round haul nets may be used.

13 **Comment.** Section 15740 continues the part of former Fish and Game Code Section 8752
14 applicable to former Fish and Game District 11 without substantive change.

15 **§ 15745. District 2610**

16 15745. In District 2610, purse nets and round haul nets may be used.

17 **Comment.** Section 15745 continues the part of former Fish and Game Code Section 8754
18 applicable to former Fish and Game District 16 without substantive change.

19 **§ 15750. District 2615**

20 15750. In District 2615, purse nets and round haul nets may be used.

21 **Comment.** Section 15750 continues the part of former Fish and Game Code Section 8754
22 applicable to former Fish and Game District 17 without substantive change.

23 **§ 15755. District 2620**

24 15755. In District 2620, purse nets and round haul nets may be used.

25 **Comment.** Section 15755 continues the part of former Fish and Game Code Sections 8754
26 applicable to former Fish and Game District 18 without substantive change.

27 **§ 15760. District 2625**

28 15760. (a) In District 2625, purse nets and round haul nets may be used, except
29 as otherwise provided in this section.

30 (b) Purse seines or ring nets may not be used in that portion of the district lying
31 within three miles offshore from the line of the high-water mark along the coast of
32 Orange County from sunrise Saturday to sunset Sunday from May 1 to September
33 10, inclusive.

34 (c) Purse seine or ring nets may not be used from May 1 to September 10,
35 inclusive, in the following portions of the district:

36 (1) Within a two-mile radius of Dana Point.

37 (2) Within a two-mile radius of San Mateo Point.

1 (3) Within two miles offshore from the line of the high-water mark along that
2 portion of the coast of Orange County lying between the northernmost bank of the
3 mouth of the Santa Ana River and a point on that coast six miles south therefrom.

4 (d) Subdivisions (b) and (c) do not apply to the use of a round haul net to take
5 fish for use or sale as live bait. It is unlawful to buy, sell, or possess any dead fish
6 taken under the authority of this subdivision, in any place of business where fish
7 are bought, sold, or processed.

8 **Comment.** Section 15760(a)-(c) continues the part of former Fish and Game Code Section
9 8754 applicable to former Fish and Game District 19 without substantive change.

10 Subdivision (d) continues the part of former Fish and Game Code Section 8757 applicable to
11 former Fish and Game District 19 without substantive change.

12 **Note.** Proposed Section 15760(a)-(d) is intended to combine and restate the parts of existing
13 Fish and Game Code Sections 8754 and 8757 that apply to existing Fish and Game District 19, to
14 clarify the meaning of those provisions without changing their substantive effect. The existing
15 provisions read as follows:

16 8754. In Districts 16, 17, 18, and 19, purse and round haul nets may be used, except that purse
17 seines or ring nets may not be used in that portion of District 19 lying within three miles offshore
18 from the line of the high-water mark along the coast of Orange County from sunrise Saturday to
19 sunset Sunday from May 1 to September 10, inclusive.

20 Purse seine or ring nets may not be used from May 1 to September 10, inclusive, in the
21 following portions of District 19:

22 (a) Within a two-mile radius of Dana Point.

23 (b) Within a two-mile radius of San Mateo Point.

24 (c) Within two miles offshore from the line of the high-water mark along that portion of the
25 coast of Orange County lying between the northernmost bank of the mouth of the Santa Ana
26 River and a point on that coast six miles south therefrom.

27 8757. Notwithstanding Section 8661, and in addition to Sections 8754, 8755, and 8780, round
28 haul nets may be used to take fish in those portions of Districts 19 and 20 that are closed to the
29 use of round haul nets by Sections 8754 and 8755 and in Districts 19A and 19B, but only for use
30 or sale of those fish for live bait and subject to the following restrictions:

31 (a) In Districts 19A and 19B, round haul nets may not be used within 750 feet of any public
32 pier.

33 (b) It is unlawful to buy, sell, or possess in any place of business where fish are bought, sold, or
34 processed, any dead fish taken under the authority of this section.

35 **The Commission invites comment on whether the combination and restatement of the**
36 **parts of existing Fish and Game Code Sections 8754 and 8757 applicable to existing Fish**
37 **and Game District 19 in proposed Section 15760 would substantively change the intended**
38 **meaning of the existing provisions.**

39 **§ 15765. District 2630**

40 15765. In District 2630, notwithstanding Section 15505, a round haul net may
41 be used to take fish for use or sale as live bait, subject to the following restrictions:

42 (a) The net shall not be used within 750 feet of any public pier.

43 (b) It is unlawful to buy, sell, or possess any dead fish taken under the authority
44 of this section, in any place of business where fish are bought, sold, or processed.

1 **Comment.** Section 15765 continues the part of former Fish and Game Code Section 8757
2 applicable to former Fish and Game District 19A without substantive change.

3 **§ 15770. District 2635**

4 15770. In District 2635, a round haul net may be used to take fish for use or sale
5 as live bait, subject to the following restrictions:

6 (a) The net shall not be used within 750 feet of any public pier.

7 (b) It is unlawful to buy, sell, or possess any dead fish taken under the authority
8 of this section, in any place of business where fish are bought, sold, or processed.

9 **Comment.** Subdivisions (a) and (b) of Section 15770 continues the part of former Fish and
10 Game Code Section 8757 applicable to former Fish and Game District 19B without substantive
11 change.

12 **§ 15775. District 2640**

13 15775. (a) In District 2640, purse nets and round haul nets may be used, except
14 at the following times in the following locations:

15 (1) From sunrise Saturday to sunset Sunday, in the area from a line extending
16 three nautical miles east magnetically from the extreme easterly end of Santa
17 Catalina Island southwesterly and northerly, to a line extending three nautical
18 miles southwest magnetically from the most southerly promontory of China Point.

19 (2) At any time during the period from June 1 to September 10, in the area from
20 a line extending three nautical miles east magnetically from the extreme easterly
21 end of Santa Catalina Island southerly, to a line extending three nautical miles
22 southeasterly magnetically from the United States government light on the
23 southeasterly end of Santa Catalina Island.

24 (b) Subdivision (a) shall not be construed as restricting the right to use the
25 waters described in that subdivision for anchorage of vessels at any time.

26 (c) In addition to subdivision (a), and notwithstanding Section 15505, a round
27 haul net may be used to take fish in the district for use or sale as live bait. It is
28 unlawful to buy, sell, or possess any dead fish taken under the authority of this
29 section, in any place of business where fish are bought, sold, or processed.

30 **Comment.** Subdivisions (a) and (b) of Section 15775 continue the part of former Fish and
31 Game Code Section 8755 applicable to former Fish and Game District 20 without substantive
32 change.

33 Subdivision (c) continues the part of former Fish and Game Code Section 8757 applicable to
34 former Fish and Game District 20 without substantive change.

35 **Note.** There appears to be some text missing from existing Fish and Game Code Section
36 8755. The existing section reads as follows:

37 In Districts 20A and 21, purse and round haul nets may be used.

38 (a) Purse and round haul nets may be used, except: (1) from sunrise Saturday to sunset Sunday,
39 in that portion of District 20 from a line extending three nautical miles east magnetically from the
40 extreme easterly end of Santa Catalina Island southwesterly and northerly to a line extending
41 three nautical miles southwest magnetically from the most southerly promontory of China Point
42 and (2) at any time during the period commencing on June 1st and ending on September 10 in
43 each year, in that portion of District 20 from a line extending three nautical miles east

1 magnetically from the extreme easterly end of Santa Catalina Island southerly to a line extending
2 three nautical miles southeasterly magnetically from the United States government light on the
3 southeasterly end of Santa Catalina Island.

4 (b) Subdivision (a) shall not be construed as restricting the right to use the waters therein
5 specified for anchorage of vessels at any time.

6 Based on the construction of the section, the Commission surmises that the beginning of
7 subdivision (a) of this section was meant to read “(a) Purse and round haul nets may be used *in*
8 *District 20*, except:...” Proposed Section 15775 is based on this understanding.

9 **The Commission invites comment on whether proposed Section 15775 properly states the**
10 **intended application of existing Section 8755 to existing Fish and Game District 20.**

11 **§ 15780. District 2645**

12 15780. In District 2645, purse nets and round haul nets may be used.

13 **Comment.** Section 15780 continues the part of former Fish and Game Code Sections 8755
14 applicable to former Fish and Game District 20A without substantive change.

15 **§ 15785. District 2650**

16 15785. In District 2650, purse nets and round haul nets may be used.

17 **Comment.** Section 15785 continues the part of former Fish and Game Code Sections 8755
18 applicable to former Fish and Game District 21 without substantive change.

19 CHAPTER 6. BAIT NETS

20 **§ 15900. “Bait net”**

21 15900. As used in this chapter, “bait net” means a lampara net or round haul
22 type net, the mesh of which is constructed of twine not exceeding Standard No. 9
23 medium cotton seine twine, or synthetic twine of equivalent size or strength.
24 Notwithstanding Sections 15760 through 15775, inclusive, except for drum seines
25 and other round haul nets authorized under a permit issued by the department
26 pursuant to this chapter, the nets may not have rings along the lead line or any
27 method of pursing the bottom of the net.

28 **Comment.** Section 15900 continues the first sentence of former Fish and Game Code Section
29 8780(a) without substantive change.

30 **§ 15902. Authority of commission**

31 15902. The commission may, upon the recommendation of the department,
32 adopt regulations governing the use of bait nets.

33 **Comment.** Section 15902 continues former Fish and Game Code Section 8780.1 without
34 substantive change.

35 **§ 15910. Districts allowing use of bait nets**

36 15910. (a) A bait net may be used to take fish for bait in Districts 2570, 2575,
37 2580, 2585, 2590, 2595, 2600, 2605, 2610, 2615, 2620, 2625, 2630, 2635, 2645,
38 2650, 2680, and 2685.

1 **Comment.** Section 15910 continues former Fish and Game Code Section 8780(b) without
2 substantive change.

3 **§ 15915. District 2630**

4 15915. (a) In District 2630, a bait net may be used only to take anchovies,
5 queenfish, white croakers, sardines, mackerel, squid, and smelt, for live bait
6 purposes only. A bait net may not be used within 750 feet of Seal Beach Pier or
7 Belmont Pier.

8 (b) No other species of fish may be taken on any boat carrying a bait net in
9 District 2630, except that loads or lots of fish may contain not more than 18
10 percent, by weight of the fish, of other bait fish species taken incidentally to other
11 fishing operations and that are mixed with other fish in the load or lot.

12 **Comment.** Section 15915 continues former Fish and Game Code Section 8780(c) and (d)
13 without substantive change.

14 **Note.** There exists some ambiguity in existing Fish and Game Code Section 8780 relating to
15 the allowed use of bait nets in existing Fish and Game District 19A. Subdivision (b) of the
16 section, as applicable to District 19A, reads as follows:

17 (b) Bait nets may be used to take fish for bait in Districts... 19A.....

18 However, subdivision (c) of the same section reads:

19 (c) In District 19A, bait nets may be used only to take anchovies, queenfish, white croakers,
20 sardines, mackerel, squid, and smelt for live bait purposes only. Bait nets may not be used within
21 750 feet of Seal Beach Pier or Belmont Pier.

22 Based on the construction of the section, the Commission reads subdivision (c) as a limitation
23 on subdivision (b), effectively rendering subdivision (b) superfluous as relates to District 19A.
24 Proposed Section 15915 is based on this understanding.

25 **The Commission invites comment on whether proposed Section 15915 properly states the**
26 **intended application of existing Section 8780 to existing Fish and Game District 19A.**

27 **CHAPTER 7. BEACH NETS**

28 **Article 1. General Provisions**

29 **§ 16000. “Beach net”**

30 16000. As used in this chapter, “beach net” means a net hauled from the water to
31 the beach or shore, and includes a beach seine and a haul seine.

32 **Comment.** Section 16000 continues former Fish and Game Code Section 8800 without
33 substantive change.

34 **Article 2. Special District Rules**

35 **§ 16010. Possession on boat prohibited**

36 16010. In Districts 2505, 2525, 2540, and 2605, a beach net shall not be
37 possessed on a boat.

1 **Comment.** Section 16000 continues former Fish and Game Code Sections 8801 and 8805
2 without substantive change.

3 **§ 16015. Permitted use**

4 16015. In Districts 2580, 2585, and 2595, a beach net may be used.

5 **Comment.** Section 16015 continues former Fish and Game Code Sections 8802 and 8804
6 without substantive change.

7 **§ 16020. Prohibition**

8 16020. In District 2620, a beach net shall not be used.

9 **Comment.** Section 16020 continues former Fish and Game Code Section 8806 without
10 substantive change.

11 **§ 16025. District 2590**

12 16025. (a) In District 2590, a beach net may be used if its meshes are at least 1
13 1/2 inches in length.

14 (b) In that portion of District 2590 lying south of Point Lobos, a beach net may
15 be used to take surf smelt only if it is over 20 feet in length and has meshes at least
16 seven-eighths of an inch in length.

17 **Comment.** Section 16025 continues former Fish and Game Code Section 8803 without
18 substantive change.

19 **§ 16030. District 2625**

20 16030. In District 2625, a beach net, the meshes of which are at least 1 1/2
21 inches in length, may be used to take smelt between September 1 and January 31.

22 **Comment.** Section 16030 continues former Fish and Game Code Section 8807 without
23 substantive change.

24 CHAPTER 8. TRAWL NETS

25 Article 1. General Provisions

26 **§ 16100. Legislative declaration**

27 16100. (a) The Legislature finds and declares that the use of nearshore trawl nets
28 was authorized through the experimental gear permit process and the alternative
29 gear development program as a potential alternative to the use of gill and trammel
30 nets in areas where the use of that gear type has been prohibited.

31 (b) The Legislature, in considering the needs of user groups, requires the use of
32 nearshore trawl nets to be phased out effective January 1, 1993.

33 **Comment.** Section 16100 continues former Fish and Game Code Section 8606.1 without
34 substantive change.

35  **Note. The Commission invites comment on whether existing Fish and Game Code**
36 **Section 8606.1 is obsolete and can be discontinued.**

1 **§ 16105. Conformity with federal regulations**

2 16105. (a) Except as otherwise provided in this article, the use of a trawl net
3 shall conform to federal groundfish regulations adopted pursuant to the Magnuson
4 Fishery Conservation and Management Act (16 U.S.C. Sec. 1801 et seq.).

5 (b) A commercial bottom trawl vessel issued a state permit is subject to the
6 requirements and policies of the federal groundfish observer program (50 C.F.R.
7 660.360).

8 **Comment.** Subdivision (a) of Section 16105 continues the second sentence of former Fish and
9 Game Code Section 8830 without substantive change.

10 Subdivision (b) continues former Fish and Game Code Section 8841(d) without substantive
11 change.

12 **§ 16110. Commission and department authority**

13 16110. (a) The commission is hereby granted authority over all state-managed
14 bottom trawl fisheries not managed under a federal fishery management plan
15 pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (16
16 U.S.C. Sec. 1801 et seq.), or a state fishery management plan pursuant to Title 3
17 (commencing with Section 12100) of Part 4, to ensure that resources are
18 sustainably managed, to protect the health of ecosystems, and to provide for an
19 orderly transition to sustainable gear types in situations where bottom trawling
20 may not be compatible with these goals.

21 (b) The commission is hereby granted authority to manage all of the following
22 fisheries in a manner that is consistent with this section and Title 3 (commencing
23 with Section 12100) of Part 4:

- 24 (1) California halibut.
25 (2) Sea cucumber.
26 (3) Ridge-back, spot, and golden prawn.
27 (4) Pink shrimp.

28 (c) The commission is also granted authority over other types of gear targeting
29 the same species as the bottom trawl fisheries referenced in subdivision (a) to
30 manage in a manner that is consistent with the requirements of Title 3
31 (commencing with Section 12100) of Part 4.

32 (d) The commission may only authorize additional fishing areas for bottom
33 trawls after it determines, based on the best available scientific information, that
34 bottom trawling in those areas is sustainable, does not harm bottom habitat, and
35 does not unreasonably conflict with other users.

36 (e) The commission shall facilitate the conversion of bottom trawlers to gear that
37 is more sustainable if the commission determines that conversion will not
38 contribute to overcapacity or overfishing. The commission may participate in, and
39 encourage programs that support, conversion to low-impact gear or capacity
40 reduction by trawl fleets. The department may not issue new permits to bottom
41 trawlers to replace those retired through a conversion program.

1 (f) As soon as practicable, but not later than May 1, 2005, the commission and
2 the department shall submit to the Pacific Fishery Management Council and the
3 National Marine Fisheries Service a request for federal management measures for
4 the pink shrimp fishery that the commission and the department determine are
5 needed to reduce bycatch or protect habitat, to account for uncertainty, or to
6 otherwise ensure consistency with federal groundfish management.

7 (g) This section does not apply to the use of trawl nets pursuant to a scientific
8 research permit.

9 **Comment.** Section 16110 continues former Fish and Game Code Section 8841(a)-(c), (e), and
10 (j)-(k) without substantive change. In combination with Sections 16160(b), 16165(b), 16170(b),
11 and 51010(c), Section 16110 also continues former Fish and Game Code Section 8841(i) without
12 substantive change.

13 **Note.** The Commission invites comment on whether existing Section 8841(k) (which
14 would be continued by proposed Section 16110(f)) is obsolete.

15 **§ 16115. “Trawl net”**

16 16115. For the purposes of this chapter, “trawl net” means a cone or funnel-
17 shaped net that is towed or drawn through the water by a fishing vessel, and
18 includes any gear appurtenant to the net.

19 **Comment.** Section 16115 continues the first sentence of former Fish and Game Code Section
20 8830 without substantive change.

21 **Article 2. Prohibitions**

22 **§ 16150. Mesh size**

23 16150. It is unlawful for a person to use a trawl net with meshes that are less
24 than 4 1/2 inches in length, except as provided in this article or as provided by
25 federal groundfish regulations adopted pursuant to the Magnuson Fishery
26 Conservation and Management Act (16 U.S.C., Sec. 1801 et seq.).

27 **Comment.** Section 16150 continues former Fish and Game Code Section 8831 without
28 substantive change.

29 **§ 16155. Bag or cod-end**

30 16155. It is unlawful to use or possess a trawl net that includes a bag or cod-end,
31 or modification of a bag or cod-end, except a bag or cod-end of a single layer of
32 webbing or as otherwise authorized by Section 40115 or by the commission.

33 **Comment.** Section 16155 continues former Fish and Game Code Section 8837 without
34 substantive change.

35 **§ 16160. Prohibited roller gear**

36 16160. (a) It is unlawful to use roller gear more than eight inches in diameter.

37 (b) This section does not apply to the use of a trawl net pursuant to a scientific
38 research permit.

1 **Comment.** Subdivision (a) of Section 16160 continues former Fish and Game Code Section
2 8841(f) without substantive change.

3 In combination with Sections 16110(g), 16165(b), 16170(b), and 51010(c), subdivision (b) of
4 Section 16160 continues former Fish and Game Code Section 8841(i) without substantive
5 change.

6 **Note.** Existing Fish and Game Code Section 8841(f) (which would be continued by proposed
7 Section 16160(a)) is one provision in a much longer section that generally relates to bottom
8 trawling. However, the provision itself provides no context for its prohibition, and on its face
9 could be given broader application than intended.

10 **The Commission invites comment on whether the provision should be revised to prohibit**
11 **use of roller gear in connection with a trawl net.**

12 **§ 16165. Bottom trawling in ocean waters**

13 16165. (a) Except as provided in Sections 40100, 40105, and 40110, or in
14 Sections 40125, 51100, 51105, 51110, and 51115, it is unlawful to engage in
15 bottom trawling in ocean waters of the state.

16 (b) This section does not apply to the use of a trawl net pursuant to a scientific
17 research permit.

18 **Comment.** Subdivision (a) of Section 16165 continues former Fish and Game Code Section
19 8841(h) without substantive change.

20 In combination with Sections 16110(g), 16160(b), 16170(b), and 51010(c), subdivision (b) of
21 Section 16165 continues former Fish and Game Code Section 8841(i) without substantive
22 change.

23 **§ 16170. Required permit for vessel**

24 16170. (a) No vessel may utilize bottom trawling gear without a state or federal
25 permit.

26 (b) This section does not apply to the use of trawl nets pursuant to a scientific
27 research permit.

28 **Comment.** Subdivision (a) of Section 16170 continues former Fish and Game Code Section
29 8841(l) without substantive change.

30 In combination with Sections 16110(g), 16060(b), 16165(b), and 51010(c), subdivision (b) of
31 Section 16170 continues former Fish and Game Code Section 8841(i) without substantive
32 change.

33 **§ 16175. Chafing gear**

34 16175. (a) Chafing gear may be used or possessed, but shall not be connected
35 directly to the terminal or closed end of the cod-end.

36 (b) Except for chafing gear prescribed under federal groundfish regulations
37 adopted pursuant to the Magnuson Fishery Conservation and Management Act (16
38 U.S.C., Sec. 1801 et seq.), all chafing gear shall have a minimum mesh size of six
39 inches, unless only the bottom one-half, or underside, of the cod-end is covered by
40 chafing gear, which may be of any size mesh.

41 **Comment.** Section 16175 continues former Fish and Game Code Section 8840 without
42 substantive change.

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Article 3. Special District Rules

§ 16250. District 2550

16250. In District 2550, a trawl net or dragnet shall not be possessed, except under regulations that the commission shall adopt.

Comment. Section 16250 continues the part of former Fish and Game Code Section 8833 applicable to former Fish and Game District 4 without substantive change.

§ 16255. District 2570

16255. In District 2570, a trawl net may be used in waters not less than three nautical miles from the nearest point of land on the mainland shore.

Comment. Section 16255 continues the part of former Fish and Game Code Section 8835 applicable to former Fish and Game District 6 without substantive change.

§ 16260. District 2575

16260. In District 2575, a trawl net may be used in waters not less than three nautical miles from the nearest point of land on the mainland shore.

Comment. Section 16260 continues the part of former Fish and Game Code Section 8835 applicable to former Fish and Game District 7 without substantive change.

§ 16265. District 2590

16265. In District 2590, a trawl net may be used in waters not less than three nautical miles from the nearest point of land on the mainland shore.

Comment. Section 16265 continues the part of former Fish and Game Code Section 8835 applicable to former Fish and Game District 10 without substantive change.

§ 16270. District 2615

16270. In District 2615, a trawl net may be used in waters not less than three nautical miles from the nearest point of land on the mainland shore, including those parts of Monterey Bay, Estero Bay, and San Luis Obispo Bay that lie within that district.

Comment. Section 16270 continues the part of former Fish and Game Code Section 8836 applicable to former Fish and Game District 17 without substantive change.

§ 16275. District 2620

16275. In District 2620, a trawl net may be used in waters not less than three nautical miles from the nearest point of land on the mainland shore, including those parts of Monterey Bay, Estero Bay, and San Luis Obispo Bay that lie within that district.

Comment. Section 16275 continues the part of former Fish and Game Code Section 8836 applicable to former Fish and Game District 18 without substantive change.

1 **§ 16280. District 2625**

2 16280. In District 2625, a trawl net or dragnet shall not be possessed, except
3 under regulations that the commission shall adopt.

4 **Comment.** Section 16280 continues the part of former Fish and Game Code Section 8833
5 applicable to former Fish and Game District 19 without substantive change.

6 **§ 16285. District 2630**

7 16285. In District 2630, a trawl net or dragnet shall not be possessed, except
8 under regulations that the commission shall adopt.

9 **Comment.** Section 16285 continues the part of former Fish and Game Code Section 8833
10 applicable to former Fish and Game District 19A without substantive change.

11 **§ 16290. District 2635**

12 16290. In District 2635, a trawl net or dragnet may be possessed under
13 regulations that the commission shall adopt.

14 **Comment.** Section 16290 continues the part of former Fish and Game Code Section 8833
15 applicable to former Fish and Game District 19B without substantive change.

16 **§ 16295. District 2640**

17 16295. In District 2640, a trawl net or dragnet shall not be possessed.

18 **Comment.** Section 16295 continues the part of former Fish and Game Code Section 8833
19 applicable to former Fish and Game District 20 without substantive change.

20 **§ 16300. District 2645**

21 16300. In District 2645, a trawl net or dragnet shall not be possessed.

22 **Comment.** Section 16300 continues the part of former Fish and Game Code Section 8833
23 applicable to former Fish and Game District 20A without substantive change.

24 **§ 16305. District 2650**

25 16305. In District 2650, a trawl net or dragnet shall not be possessed, except
26 under regulations that the commission shall adopt.

27 **Comment.** Section 16305 continues the part of former Fish and Game Code Section 8833
28 applicable to former Fish and Game District 21 without substantive change.

29 **§ 16310. District 2685**

30 16310. In District 2685, a trawl net may be used in waters not less than three
31 nautical miles from the nearest point of land on the mainland shore, including
32 those parts of Monterey Bay, Estero Bay, and San Luis Obispo Bay that lie within
33 that district.

34 **Comment.** Section 16310 continues the part of former Fish and Game Code Section 8836
35 applicable to former Fish and Game District 118.5 without substantive change.

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Article 4. Special Rules for Identified Waters

2 **§ 16350. Golden Gate Bridge area**

3 16350. A trawl net may be used in marine and brackish waters inside of the
4 Golden Gate Bridge to take shrimp, oriental gobies, longjaw mudsuckers, plainfin
5 midshipmen, and staghorn sculpin, only in accordance with regulations that the
6 commission may adopt.

7 **Comment.** Section 16350 continues the part of former Fish and Game Code Section 8832
8 applicable to trawl nets without substantive change.

9 **§ 16355. Small cod-end mesh in specified area**

10 16355. It is unlawful to use any trawl net with cod-end mesh less than 7 1/2
11 inches in length and with a cod-end less than 29 meshes long and a circumference
12 of not less than 47 meshes in waters lying between one and three nautical miles
13 from the mainland shore between a line running due west (270° true) from Point
14 Arguello and a line running due south (180° true) from Point Mugu.

15 **Comment.** Section 16355 continues former Fish and Game Code Section 8843 without
16 substantive change.

17

CHAPTER 9. DIP NETS

18

Article 1. General Provisions

19 **§ 16400. Permitted except where specifically restricted**

20 16400. Except as provided in this chapter, a dip net may be used for commercial
21 fishing in all waters of the state.

22 **Comment.** Section 16400 continues part of former Fish and Game Code Section 8870
23 applicable to general use of dip nets without substantive change.

24

Article 2. Special District Rules

25 **§ 16450. District 2505**

26 16450. In District 2505, a dip net shall not be baited, and may not measure more
27 than six feet in greatest breadth.

28 **Comment.** Section 16450 continues the part of former Fish and Game Code Section 8870(a)
29 applicable to former Fish and Game District 1 without substantive change.

30 **§ 16455. District 2515**

31 16455. In District 2515, a dip net shall not be baited, and may not measure more
32 than six feet in greatest breadth.

33 **Comment.** Section 16455 continues the part of former Fish and Game Code Section 8870(a)
34 applicable to former Fish and Game District 1 1/2 without substantive change.

1 (b) The incidental take of certain species of seabirds and marine mammals in set
2 gill and trammel nets could be increasing to a level which may be adversely
3 impacting the viability of the populations of nontarget species.

4 **Comment.** Section 16805 continues former Fish and Game Code Section 8609 without
5 substantive change.

6 CHAPTER 2. MARINE RESOURCES PROTECTION ACT OF 1990

7 **§ 16850.1. Statement of codification and implementation**

8 16850.1. The Marine Resources Protection Act of 1990 (Art. X B, Cal. Const.)
9 was adopted as an initiative constitutional amendment at the November 6, 1990,
10 general election. This chapter codifies and implements that initiative constitutional
11 amendment.

12 **Comment.** Section 16850.1 continues former Fish and Game Code Section 8610.1 without
13 substantive change.

14 **§ 16850.2. Meaning of references**

15 16850.2. (a) “District” for the purposes of this chapter and of Article X B of the
16 California Constitution means a fish and game district as defined in this code on
17 January 1, 1990.

18 (b) Except as specifically provided in this chapter, all references to sections,
19 articles, chapters, parts, and divisions of this code are to those statutes in effect on
20 January 1, 1990.

21 (c) “Ocean waters” means the waters of the Pacific Ocean regulated by the state.

22 (d) “Zone” means the Marine Resources Protection Zone established pursuant to
23 this chapter. The zone consists of the following:

24 (1) In waters less than 70 fathoms or within one mile, whichever is less, around
25 the Channel Islands consisting of the Islands of San Miguel, Santa Rosa, Santa
26 Cruz, Anacapa, San Nicolaus, Santa Barbara, Santa Catalina, and San Clemente.

27 (2) The area within three nautical miles offshore of the mainland coast, and the
28 area within three nautical miles off any manmade breakwater, between a line
29 extending due west from Point Arguello and a line extending due west from the
30 Mexican border.

31 (3) In waters less than 35 fathoms between a line running 180 degrees true from
32 Point Fermin and a line running 270 degrees true from the south jetty of Newport
33 Harbor.

34 **Comment.** Section 16850.2 continues former Fish and Game Code Section 8610.2.

35 Former Section 8610.2 was enacted to codify and implement Section 2 of Article X B of the
36 California Constitution. See former Section 8610.1 (continued without change in Section
37 16850.1). To avoid any possible impairment of constitutional requirements, former Section
38 8610.2 has been continued in this section without change.

39 When enacting the bill that added this section, the Legislature did not evaluate the relationship
40 between this section and Article X B of the California Constitution. See Section 16800.

1 **§ 16850.3. Prohibited use of gill or trammel net to take rockfish**

2 16850.3. (a) From January 1, 1991, to December 31, 1993, inclusive, gill nets or
3 trammel nets may only be used in the zone pursuant to a nontransferable permit
4 issued by the department pursuant to Section 16850.5.

5 (b) On and after January 1, 1994, gill nets and trammel nets shall not be used in
6 the zone.

7 **Comment.** Section 16850.3 continues former Fish and Game Code Section 8610.3.

8 Former Section 8610.3 was enacted to codify and implement Section 3 of Article X B of the
9 California Constitution. See former Section 8610.1 (continued without change in Section
10 16850.1). To avoid any possible impairment of constitutional requirements, former Section
11 8610.3 has been continued in this section without change, except to update a cross-reference to
12 reflect renumbering required by the recodification of this code.

13 When enacting the bill that added this section, the Legislature did not evaluate the relationship
14 between this section and Article X B of the California Constitution. See Section 16800.

15 **§ 16850.4. Authorized use of gill nets and trammel nets**

16 16850.4. (a) Notwithstanding any other provision of law, gill nets and trammel
17 nets may not be used to take any species of rockfish.

18 (b) In ocean waters north of Point Arguello on and after November 7, 1990, the
19 use of gill nets and trammel nets shall be regulated by the provisions of Chapter 3
20 (commencing with Section 17000), Chapter 4 (commencing with Section 18000),
21 and Chapter 5 (commencing with Section 18200), of this title, and Chapter 3
22 (commencing with Section 15500) of Title 3, or any regulation or order issued
23 pursuant to those provisions, in effect on January 1, 1990, except that as to
24 Sections 18000, 18005, 18015, and 18020, and subdivisions (a) to (f), inclusive, of
25 Section 18010, or any regulation or order issued pursuant to these sections, the
26 provisions in effect on January 1, 1989, shall control where not in conflict with
27 other provisions of this chapter, and shall be applicable to all ocean waters.
28 Notwithstanding the provisions of this section, the Legislature shall not be
29 precluded from imposing more restrictions on the use or possession of gill nets or
30 trammel nets. The director shall not authorize the use of gill nets or trammel nets
31 in any area where the use is not permitted even if the director makes specified
32 findings.

33 **Comment.** Section 16850.4 continues former Fish and Game Code Section 8610.4.

34 Former Section 8610.4 was enacted to codify and implement Section 4 of Article X B of the
35 California Constitution. See former Section 8610.1 (continued without change in Section
36 16850.1). To avoid any possible impairment of constitutional requirements, former Section
37 8610.4 has been continued in this section without change, except to update cross-references to
38 reflect renumbering required by the recodification of this code.

39 When enacting the bill that added this section, the Legislature did not evaluate the relationship
40 between this section and Article X B of the California Constitution. See Section 16800.

41 **§ 16850.5. Permit process during transitional period**

42 16850.5. The department shall issue a permit to use a gill net or trammel net in
43 the zone for the period specified in subdivision (a) of Section 16850.3 to any
44 applicant who meets both of the following requirements:

- 1 (a) Has a commercial fishing license issued pursuant to Section 14500.
2 (b) Has a permit issued pursuant to Section 18005 and is presently the owner or
3 operator of a vessel equipped with a gill net or trammel net.

4 **Comment.** Section 16850.5 continues former Fish and Game Code Section 8610.5.
5 Former Section 8610.5 was enacted to codify and implement Section 5 of Article X B of the
6 California Constitution. See former Section 8610.1 (continued without change in Section
7 16850.1). To avoid any possible impairment of constitutional requirements, former Section
8 8610.5 has been continued in this section without change, except to update cross-references to
9 reflect renumbering required by the recodification of this code.

10 When enacting the bill that added this section, the Legislature did not evaluate the relationship
11 between this section and Article X B of the California Constitution. See Section 16800.

12 **§ 16850.6. Fees for permit during transitional period**

13 16850.6. The department shall charge the following fees for permits issued
14 pursuant to Section 16850.5 pursuant to the following schedule:

15 Calendar Year	Fee
16 1991	\$250
17 1992	\$500
18 1993	\$1,000

19 **Comment.** Section 16850.6 continues former Fish and Game Code Section 8610.6.
20 Former Section 8610.6 was enacted to codify and implement Section 6 of Article X B of the
21 California Constitution. See former Section 8610.1 (continued without change in Section
22 16850.1). To avoid any possible impairment of constitutional requirements, former Section
23 8610.6 has been continued in this section without change, except to update a cross-reference to
24 reflect renumbering required by the recodification of this code.

25 When enacting the bill that added this section, the Legislature did not evaluate the relationship
26 between this section and Article X B of the California Constitution. See Section 16800.

27 **§ 16850.9. Use of funds in Marine Resources Protection Account**

28 16850.9. Any funds remaining in the Marine Resources Protection Account in
29 the Fish and Game Preservation Fund on or after January 1, 1995, shall, with the
30 approval of the commission, be used to provide grants to colleges, universities,
31 and other bona fide scientific research groups to fund marine resource related
32 scientific research within the ecological reserves established by Section 16900. An
33 amount, not to exceed 15 percent of the total funds remaining in that account on or
34 after January 1, 1995, may be expended for the administration of this section.

35 **Comment.** Section 16850.9 continues former Fish and Game Code Section 8610.9.
36 Former Section 8610.9 was enacted to codify and implement Section 9 of Article X B of the
37 California Constitution. See former Section 8610.1 (continued without change in Section
38 16850.1). To avoid any possible impairment of constitutional requirements, former Section
39 8610.9 has been continued in this section without change, except to update a cross-reference to
40 reflect renumbering required by the recodification of this code.

41 When enacting the bill that added this section, the Legislature did not evaluate the relationship
42 between this section and Article X B of the California Constitution. See Section 16800.

1 **§ 16850.11. Unlawful take**

2 16850.11. It is unlawful for any person to take, possess, receive, transport,
3 purchase, sell, barter, or process any fish obtained in violation of this chapter.

4 **Comment.** Section 16850.11 continues former Fish and Game Code Section 8610.11.

5 Former Section 8610.11 was enacted to codify and implement Section 11 of Article X B of the
6 California Constitution. See former Section 8610.1 (continued without change in Section
7 16850.1). To avoid any possible impairment of constitutional requirements, former Section
8 8610.11 has been continued in this section without change.

9 When enacting the bill that added this section, the Legislature did not evaluate the relationship
10 between this section and Article X B of the California Constitution. See Section 16800.

11 **§ 16850.12. Department monitoring of take**

12 16850.12. To increase the state’s scientific and biological information on the
13 ocean fisheries of this state, the department shall establish a program whereby it
14 can monitor and evaluate the daily landings of fish by commercial fishermen who
15 are permitted under this chapter to take these fish. The cost of implementing this
16 monitoring program shall be borne by the commercial fishing industry.

17 **Comment.** Section 16850.12 continues former Fish and Game Code Section 8610.12.

18 Former Section 8610.12 was enacted to codify and implement Section 12 of Article X B of the
19 California Constitution. See former Section 8610.1 (continued without change in Section
20 16850.1). To avoid any possible impairment of constitutional requirements, former Section
21 8610.12 has been continued in this section without change.

22 When enacting the bill that added this section, the Legislature did not evaluate the relationship
23 between this section and Article X B of the California Constitution. See Section 16800.

24 **§ 16850.14. Ecological reserves**

25 16850.14. (a) Prior to January 1, 1994, the commission shall establish four new
26 ecological reserves in ocean waters along the mainland coast. Each ecological
27 reserve shall have a surface area of at least two square miles. The commission
28 shall restrict the use of these ecological reserves to scientific research relating to
29 the management and enhancement of marine resources, including, but not limited
30 to, scientific research as it relates to sportfishing and commercial fishing.

31 Recreational uses, including, but not limited to, hiking, walking, viewing,
32 swimming, diving, surfing, and transient boating are not in conflict with this
33 section.

34 (b) Prior to establishing the four ecological reserves, the commission shall
35 conduct a public hearing at each of the recommended sites or at the nearest
36 practicable location.

37 (c) On and after January 1, 2002, the four ecological reserves established
38 pursuant to subdivision (a) shall be called state marine reserves, unless otherwise
39 reclassified pursuant to Section 60500, and shall become part of the state system
40 of marine managed areas.

41 (d) Recreational uses, including, but not limited to, hiking, walking, viewing,
42 swimming, diving, surfing, and transient boating are not in conflict with this
43 section.

1 **Comment.** Section 16850.14 continues former Fish and Game Code Section 8610.14.
2 Former Section 8610.14 was enacted to codify and implement Section 14 of Article X B of the
3 California Constitution. See former Section 8610.1 (continued without change in Section
4 16850.1). To avoid any possible impairment of constitutional requirements, former Section
5 8610.14 has been continued in this section without change, except to update a cross-reference to
6 reflect renumbering required by the recodification of this code.
7 When enacting the bill that added this section, the Legislature did not evaluate the relationship
8 between this section and Article X B of the California Constitution. See Section 16800.

9 **§ 16850.13. Use of gill nets and trammel nets**

10 16850.13. The penalty for a violation of Section 16850.3 or 16850.4 is as
11 specified in subdivisions (b) and (c).

12 (b) The penalty for a first violation of Section 16850.3 or 16850.4 is a fine of not
13 less than one thousand dollars (\$1,000) and not more than five thousand dollars
14 (\$5,000) and a mandatory suspension of any license, permit, or stamp to take,
15 receive, transport, purchase, sell, barter, or process fish for commercial purposes
16 for six months. The penalty for a second or subsequent violation of Section
17 16850.3 or 16850.4 is a fine of not less than two thousand five hundred dollars
18 (\$2,500) and not more than ten thousand dollars (\$10,000) and a mandatory
19 suspension of any license, permit, or stamp to take, receive, transport, purchase,
20 sell, barter, or process fish for commercial purposes for one year.

21 (c) If a person convicted of a violation of Section 16850.3 or 16850.4, is granted
22 probation, the court shall impose as a term or condition of probation, in addition to
23 any other term or condition of probation, a requirement that the person pay at least
24 the minimum fine prescribed in this section.

25 **Comment.** Subdivision (a) of Section 8610.13 continues former Fish and Game Code Section
26 12003.5 without substantive change.

27 Subdivisions (b) and (c) continue former Fish and Game Code Section 12003.5 without
28 substantive change.

29 Former Section 8610.13 was enacted to codify and implement Section 13 of Article X B of the
30 California Constitution. See former Section 8610.1 (continued without change in Section
31 16850.1). Former Section 12003.5 substantially duplicated the provisions of former Section
32 8610.13. To avoid any possible impairment of constitutional requirements, former Section
33 8610.13 has been continued in this section without change, except to update cross-references to
34 reflect renumbering required by the recodification of this code.

35 When enacting the bill that added this section, the Legislature did not evaluate the relationship
36 between this section and Article X B of the California Constitution. See Section 16800.

37 **§ 16850.15. Closures to protect wildlife**

38 16850.15. This chapter does not preempt or supersede any other closures to
39 protect any other wildlife, including sea otters, whales, and shorebirds.

40 **Comment.** Section 16850.15 continues former Fish and Game Code Section 8610.15.

41 Former Section 8610.15 was enacted to codify and implement Section 15 of Article X B of the
42 California Constitution. See former Section 8610.1 (continued without change in Section
43 16850.1). To avoid any possible impairment of constitutional requirements, former Section
44 8610.15 has been continued in this section without change, except to update a cross-reference to
45 reflect renumbering required by the recodification of this code.

1 When enacting the bill that added this section, the Legislature did not evaluate the relationship
2 between this section and Article X B of the California Constitution. See Section 16800.

3 **§ 16850.16. Severability of provisions of chapter**

4 16850.16. If any provision of this chapter or the application thereof to any
5 person or circumstances is held invalid, that invalidity shall not affect other
6 provisions or applications of this chapter which can be given effect without the
7 invalid provision or application, and to this end the provisions of this chapter are
8 severable.

9 **Comment.** Section 16850.16 continues former Fish and Game Code Section 8610.16.

10 Former Section 8610.16 was enacted to codify and implement Section 16 of Article X B of the
11 California Constitution. See former Section 8610.1 (continued without change in Section
12 16850.1). To avoid any possible impairment of constitutional requirements, former Section
13 8610.16 has been continued in this section without change, except to update a cross-reference to
14 reflect renumbering required by the recodification of this code.

15 When enacting the bill that added this section, the Legislature did not evaluate the relationship
16 between this section and Article X B of the California Constitution. See Section 16800.

17 **CHAPTER 3. USE OF GILL NETS IN PARTICULAR DISTRICTS**

18 **Comment.** The provisions appearing in this chapter and in Chapter 3 (commencing with
19 Section 15500) of Title 3 together continue the provisions of former Article 4 (commencing with
20 Section 8660) of Chapter 3 of Part 3 of Division 6 of the Fish and Game Code, which are
21 governed by Section 4(b) of Article X B of the California Constitution.

22 **§ 17000. Additional rules for Districts 2590, 2615 and 2620**

23 17000. (a) Notwithstanding Sections 18085 and 18210, gill nets and trammel
24 nets shall not be used in those portions of District 2615 between a line extending
25 220° magnetic from the mouth of Waddell Creek in Santa Cruz County and a line
26 extending 252° magnetic from Yankee Point, Carmel Highlands, in Monterey
27 County in waters 30 fathoms or less in depth at mean lower low water.

28 (b) Notwithstanding Sections 18085 and 18210, gill nets and trammel nets shall
29 not be used in that portion of District 2620 north of a line extending due west from
30 Point Sal in Santa Barbara County in waters 30 fathoms or less in depth at mean
31 lower low water.

32 (c) Notwithstanding Sections 18085 and 18210, any person using gill nets or
33 trammel nets in those portions of Districts 2615 and 2620 from a line extending
34 220° magnetic from the mouth of Waddell Creek in Santa Cruz County to a line
35 extending due west from Point Sal in Santa Barbara County in waters between 30
36 fathoms and 40 fathoms in depth at mean lower low water shall comply with all of
37 the following requirements in order to ensure adequate monitoring of fishing effort
38 to protect marine mammals:

39 (1) Prior to the use, the person shall notify the department that gill nets or
40 trammel nets will be set in the area.

41 (2) The person shall give adequate notification, as determined by the
42 department, to the department at its office in Monterey or Morro Bay at least 24

1 hours prior to each fishing trip to ensure full compliance and cooperation with the
2 monitoring program. The department may require that an authorized monitor be on
3 board the vessel. The department shall determine whether on board, at sea, or
4 shoreside monitoring is appropriate. If the authorized monitor is not on board the
5 fishing vessel, the fishing vessel operator and the authorized monitor shall make
6 every effort to remain in radio contact if the radio equipment is made available to
7 the monitor.

8 (3) To ensure the effectiveness of the monitoring program, gill nets and trammel
9 nets may be set or pulled only between one-half hour after sunrise and one-half
10 hour before sunset.

11 (4) A permit may be revoked and canceled pursuant to Section 18005 for failure
12 to comply with the department's notification and monitoring requirements.

13 (d) If the director determines that the use of gill or trammel nets is having an
14 adverse impact on any population of any species of seabird, marine mammal, or
15 fish, the director shall issue an order prohibiting or restricting the use, method of
16 use, size, or materials used in the construction of either or both types of those nets
17 in all or any part of District 2590 or 2615, or in all or any part of District 2620
18 north of a line extending due west from Point Conception in Santa Barbara County
19 for a specified period. The order shall take effect no later than 48 hours after its
20 issuance. The director shall hold a properly noticed public hearing in a place
21 convenient to the affected area within one week of the effective date of the order
22 to describe the action taken and shall take testimony as to the effect of the order
23 and determine whether any modification of the order is necessary.

24 (e) For purposes of this section, "adverse impact" means either of the following:

25 (1) The danger of irreparable injury to, or mortality in, any population of any
26 species of seabird, marine mammal, or fish which is occurring at a rate that
27 threatens the viability of the population as a direct result of the use of gill nets or
28 trammel nets.

29 (2) The impairment of the recovery of a species listed as an endangered species
30 or threatened species pursuant to the federal Endangered Species Act (16 U.S.C.
31 Sec. 1531 et seq.) or the California Endangered Species Act (Part 1 (commencing
32 with Section 62000) of Division 17) or a species of seabird, marine mammal, or
33 fish designated as fully protected under this code, as a direct result of the use of
34 gill nets or trammel nets.

35 (f) This section does not apply to any gill net with meshes 3 1/2 inches or less in
36 length in any portion of District 2590 between Yankee Point in Monterey County
37 and Point Sal in Santa Barbara County.

38 (g) The Legislature finds and declares that this section, which continues former
39 Fish and Game Code Section 8664.5 as amended by Chapter 884 of the Statutes of
40 1990, and as amended by the act that amended former Fish and Game Code
41 Section 8664.5 during the 1992 portion of the 1991–92 Regular Session, is more
42 restrictive on the use and possession of gill nets and trammel nets than the version
43 of former Fish and Game Code Section 8664.5 in effect on January 1, 1990, and

1 therefore complies with former Section 8610.4, and Section 4 of Article X B of the
2 California Constitution.

3 **Comment.** Section 17000 continues former Fish and Game Code Section 8664.5.

4 Section 17000 is governed by Section 16865, a section that codifies and implements Section 4
5 of Article X B of the California Constitution. See Section 16850.1.

6 To avoid any possible impairment of constitutional requirements, former Section 8664.5 has
7 been continued in this section without change, except to update cross-references to reflect
8 renumbering required by the recodification of this code.

9 When enacting the bill that added this section, the Legislature did not evaluate the relationship
10 between this section and Article X B of the California Constitution. See Section 16800.

11 **§ 17005. “Impacted fisherman”**

12 17005. “Impacted fisherman” for purposes of Section 17000 and former Fish
13 and Game Code Section 8664.65, means any person who, from January 1, 1986, to
14 December 31, 1990, inclusive, landed a minimum of 1,000 pounds of fish, other
15 than shark or rockfish, in each of at least three calendar years during that period
16 with set gill and trammel nets and landed the fish at ports within areas subject to
17 gill and trammel net closures pursuant to Section 17000. Landings shall be
18 verified by the fisherman’s submittal of landing receipts as provided in Section
19 21000.

20 **Comment.** Section 17005 continues former Fish and Game Code Section 8664.67.

21 Section 17005 is governed by Section 16865, a section that codifies and implements Section 4
22 of Article X B of the California Constitution. See Section 16850.1.

23 To avoid any possible impairment of constitutional requirements, former Section 8664.67 has
24 been continued in this section without change, except to update cross-references to reflect
25 renumbering required by the recodification of this code.

26 When enacting the bill that added this section, the Legislature did not evaluate the relationship
27 between this section and Article X B of the California Constitution. See Section 16800.

28 **§ 17010. Order by department**

29 17010. The initial period of effectiveness of an order issued pursuant to
30 subdivision (c) of Section 17000 shall not exceed 120 days. After a further public
31 hearing, the director may, on the basis of a report prepared by the department on
32 the condition of the local population of any species of seabird, marine mammal, or
33 fish, extend the order for a further specified period or reissue the order for a
34 further specified period.

35 **Comment.** Section 17010 continues former Fish and Game Code Section 8664.7.

36 Section 17010 is governed by Section 16865, a section that codifies and implements Section 4
37 of Article X B of the California Constitution. See Section 16850.1.

38 To avoid any possible impairment of constitutional requirements, former Section 8664.7 has
39 been continued in this section without change, except to update a cross-reference to reflect
40 renumbering required by the recodification of this code.

41 When enacting the bill that added this section, the Legislature did not evaluate the relationship
42 between this section and Article X B of the California Constitution. See Section 16800.

1 **§ 17015. Additional rules for specified northern California ocean waters**

2 17015. (a) Notwithstanding Sections 18035, 18060, 18095, and 18210, and
3 except as provided in subdivisions (c) and (d), set or drift gill or trammel nets shall
4 not be used in ocean waters between a line extending 245° magnetic from the most
5 westerly point of the west point of the Point Reyes headlands in Marin County and
6 the westerly extension of the California-Oregon boundary.

7 (b)(1) Notwithstanding Sections 17000, 18060, 18095, and 18210, set or drift
8 gill or trammel nets shall not be used in waters which are 40 fathoms or less in
9 depth at mean lower low water between a line extending 245° magnetic from the
10 most westerly point of the west point of the Point Reyes headlands in Marin
11 County and a line extending 225° magnetic from Pillar Point at Half Moon Bay in
12 San Mateo County.

13 (2) Notwithstanding Sections 17000, 18060, 18095, and 18210, set or drift gill
14 or trammel nets shall not be used in ocean waters which are 60 fathoms or less in
15 depth at mean lower low water between a line extending 225° magnetic from
16 Pillar Point at Half Moon Bay in San Mateo County to a line extending 220°
17 magnetic from the mouth of Waddell Creek in Santa Cruz County.

18 (c) Subdivisions (a) and (b) do not apply to the use of drift gill nets operated
19 under a permit issued by the department in that part of Arcata Bay in Humboldt
20 County lying northeast of the Samoa Bridge during the period from April 1 to
21 September 30, inclusive. The department may issue not more than six permits
22 pursuant to this subdivision. Each permit shall specify the amount and type of gear
23 which may be used under the permit.

24 (d) Subdivisions (a) and (b) do not apply to the use of set gill nets used pursuant
25 to Chapter 2 (commencing with Section 40350) of Title 2 of Part 13 of Division
26 10 or regulations adopted pursuant to that chapter or to the use of drift gill nets
27 with a mesh size of 14 inches or more.

28 (e)(1) Notwithstanding subdivision (b) and Sections 18060, 18095, and 18210,
29 gill or trammel nets shall not be used within three nautical miles of the Farallon
30 Islands in San Francisco County, and within three nautical miles of Noonday Rock
31 buoy located approximately 3 1/2 miles 276° magnetic from North Farallon Island.

32 (2) If the director determines that the use of set or drift gill or trammel nets is
33 having an adverse impact on any population of any species of sea bird, marine
34 mammal, or fish, the director shall issue an order prohibiting the use of those nets
35 between three nautical miles and five nautical miles of the Farallon Islands and
36 Noonday Rock buoy or any portion of that area. The order shall take effect not
37 later than 48 hours after its issuance. The director shall hold a properly noticed
38 public hearing in a place convenient to the affected area within one week of the
39 effective date of the order to describe the action taken and shall take testimony as
40 to the effect of the order and determine whether any modification of the order is
41 necessary. Gill and trammel nets used to take fish in District 2590 shall be marked
42 at each end with a buoy displaying above its waterline in Arabic numerals at least
43 two inches high, the fisherman's identification number issued by the department

1 under Section 14550. Nets shall be marked at both ends and at least every 250
2 fathoms between the ends with flags of the same color and at least 144 square
3 inches in size, acceptable to the department.

4 (f) The Legislature finds and declares that this section, which continues former
5 Fish and Game Code Section 8664.8 as amended by Chapter 1633 of the Statutes
6 of 1990, is more restrictive on the use and possession of gill nets and trammel nets
7 than the version of former Fish and Game Code Section 8664.8 in effect on
8 January 1, 1990, and therefore complies with former Section 8610.4, and Section 4
9 of Article X B of the California Constitution.

10 **Comment.** Section 17015 continues former Fish and Game Code Section 8664.8.

11 Section 17015 is governed by Section 16865, a section that codifies and implements Section 4
12 of Article X B of the California Constitution. See Section 16850.1.

13 To avoid any possible impairment of constitutional requirements, former Section 8664.8 has
14 been continued in this section without change, except to update cross-references to reflect
15 renumbering required by the recodification of this code.

16 When enacting the bill that added this section, the Legislature did not evaluate the relationship
17 between this section and Article X B of the California Constitution. See Section 16800.

18 § 17020. Ocean area south of Point Conception

19 17020. During the period from December 15 to May 15, inclusive, set gill nets
20 and trammel nets with mesh eight inches or greater and less than 12 inches used in
21 ocean waters 25 fathoms or less in depth between a line extending due west
22 magnetic from Point Conception and the westerly extension of the boundary line
23 between the Republic of Mexico and the United States shall be constructed with
24 breakaway and anchoring features, as follows:

25 (a) The corkline and any other line which may extend across the top of the net
26 shall have a combined breaking strength not to exceed 2,400 pounds.

27 (b) A breakaway device shall be used along the corkline (headrope) and along
28 the leadline (footrope) at regular intervals of 45 fathoms or less.

29 (c) Each breakaway or disconnect device shall be constructed as described in
30 either of the following:

31 (1) Of nylon twine, or an equivalent material, with a breaking strength of 200
32 pounds or less, using not more than eight complete circular (360) wraps of the
33 twine to connect the ends of each corkline and leadline interval, which allows each
34 breakaway or disconnect device a breaking strength of not more than 1,600
35 pounds.

36 (2) As the department may otherwise authorize.

37 (d) Anchors used to secure each end of the net to the ocean bottom shall weigh
38 not less than 35 pounds each, and shall be attached to the net by a ground rope and
39 bridle with combined length of not less than 15 fathoms from the anchor to the net.

40 **Comment.** Section 17020 continues former Fish and Game Code Section 8664.13.

41 Section 17020 is governed by Section 16865, a section that codifies and implements Section 4
42 of Article X B of the California Constitution. See Section 16850.1.

43 To avoid any possible impairment of constitutional requirements, former Section 8664.13 has
44 been continued in this section without change.

1 When enacting the bill that added this section, the Legislature did not evaluate the relationship
2 between this section and Article X B of the California Constitution. See Section 16800.

3 **§ 17025. Salton Sea and New and Alamo Rivers**

4 17025. The department may issue a revocable permit to take with set gill nets or
5 seines, mullet or carp in the waters of the Salton Sea and in those portions of the
6 New and Alamo Rivers upstream one mile from their mouths as marked by the
7 department, under commercial license, subject to such restrictions as the
8 commission deems advisable.

9 **Comment.** Section 17025 continues former Fish and Game Code Section 8666.

10 Section 17025 is governed by Section 16865, a section that codifies and implements Section 4
11 of Article X B of the California Constitution. See Section 16850.1.

12 To avoid any possible impairment of constitutional requirements, former Section 8666 has
13 been continued in this section without change.

14 When enacting the bill that added this section, the Legislature did not evaluate the relationship
15 between this section and Article X B of the California Constitution. See Section 16800.

16 **CHAPTER 4. GILL AND TRAMMEL NETS**

17 **Comment.** The provisions appearing in this chapter continue the provisions of former Article 5
18 (commencing with Section 8680) of Chapter 3 of Part 3 of Division 6 of the Fish and Game
19 Code, which are governed by Section 4(b) of Article X B of the California Constitution.

20 **§ 18000. Legislative declaration**

21 18000. (a) The Legislature finds and declares that it is in the best interest of the
22 people of the state, the commercial fishing industry, and California's marine
23 resources that fishermen who use gill nets or trammel nets be experienced in the
24 use of those nets.

25 (b) In accordance with Section 4 of Article X B of the California Constitution,
26 this section contains the provisions of former Fish and Game Code Section 8680
27 in effect on January 1, 1990.

28 **Comment.** Section 18000 continues former Fish and Game Code Section 8680.

29 Section 18000 is governed by Section 16865, a section that codifies and implements Section 4
30 of Article X B of the California Constitution. See Section 16850.1.

31 To avoid any possible impairment of constitutional requirements, former Section 8680 has
32 been continued in this section without change.

33 When enacting the bill that added this section, the Legislature did not evaluate the relationship
34 between this section and Article X B of the California Constitution. See Section 16800.

35 **§ 18005. Required permit**

36 18005. (a) Gill nets or trammel nets shall not be used for commercial purposes
37 except under a revocable, nontransferable permit issued by the department. Each
38 permittee shall keep an accurate record of his or her fishing operations in a
39 logbook furnished by the department. The commission may suspend, revoke, or
40 cancel a permit, license, and commercial fishing privileges pursuant to Section
41 4870. A permit may be revoked and canceled for a period not to exceed one year
42 from the date of revocation.

1 (b) In accordance with Section 4 of Article X B of the California Constitution,
2 this section contains the provisions of former Fish and Game Code Section 8681
3 in effect on January 1, 1989.

4 **Comment.** Section 18005 continues former Fish and Game Code Section 8681.

5 Section 18005 is governed by Section 16865, a section that codifies and implements Section 4
6 of Article X B of the California Constitution. See Section 16850.1.

7 To avoid any possible impairment of constitutional requirements, former Section 8681 has
8 been continued in this section without change, except to update a cross-reference to reflect
9 renumbering required by the recodification of this code.

10 When enacting the bill that added this section, the Legislature did not evaluate the relationship
11 between this section and Article X B of the California Constitution. See Section 16800.

12 **§ 18010. Grandfathered and transferred permits**

13 18010. (a) The department shall issue no new gill net or trammel net permits
14 under Section 18005. However, the department may renew an existing, valid
15 permit issued under Section 18005, under regulations adopted pursuant to Section
16 18020 and upon payment of the fee prescribed under Section 18025.

17 (b) Notwithstanding subdivision (a) or Section 18005, any person who has an
18 existing, valid permit issued pursuant to Section 18005, and presents to the
19 department satisfactory evidence that he or she has taken and landed fish for
20 commercial purposes in at least 15 of the preceding 20 years, may transfer that
21 permit to any person otherwise qualified under the regulations adopted pursuant to
22 Section 18020 upon payment of the fee prescribed under Section 18025.

23 (c) The fee collected by the department for the transfer of a gill and trammel net
24 permit issued pursuant to Section 18020 shall not exceed the cost of the permit fee
25 as prescribed under Section 18025.

26 (d) For purposes of subdivision (b), the death of the holder of the permit is a
27 disability which authorizes transfer of the permit by that person's estate to a
28 qualified fisherman pursuant to Section 18020. For purposes of a transfer under
29 this subdivision, the estate shall renew the permit, as specified in Section 18005, if
30 the permittee did not renew the permit before his or her death. The application for
31 transfer by that person's estate shall be received by the department, including the
32 name, address, and telephone number of the qualified fisherman to whom the
33 permit will be transferred, within one year of the date of death of the permitholder.
34 If no transfer is initiated within one year of the date of death of the permitholder,
35 the permit shall revert to the department for disposition pursuant to Section 18005.

36 (e) Any active participant who becomes disabled in such a manner that he or she
37 can no longer earn a livelihood from commercial fishing may transfer his or her
38 permit as provided under this section.

39 (f) The Legislature finds and declares that this section, which continues former
40 Section 8681.5 as amended by Chapter 94 of the Statutes of 1992, is more
41 restrictive on the use and possession of gill nets and trammel nets than the version
42 of former Section 8681.5 in effect on January 1, 1989, and therefore complies with
43 former Section 8610.4, and Section 4 of Article X B of the California Constitution.

1 **Comment.** Section 18010 continues former Fish and Game Code Section 8681.5.

2 Section 18010 is governed by Section 16865, a section that codifies and implements Section 4
3 of Article X B of the California Constitution. See Section 16850.1.

4 To avoid any possible impairment of constitutional requirements, former Section 8681.5 has
5 been continued in this section without change, except to update cross-references to reflect
6 renumbering required by the recodification of this code.

7 When enacting the bill that added this section, the Legislature did not evaluate the relationship
8 between this section and Article X B of the California Constitution. See Section 16800.

9 **§ 18015. Appeal of permit denial**

10 18015. (a) Notwithstanding Section 18010, any person who possessed a valid
11 permit issued pursuant to Section 18005 and who was denied renewal of that
12 permit may appeal to the commission where evidence can be presented that illness
13 or the loss of a vessel resulted in the person not meeting the qualifications for
14 renewal or reissuance of that permit.

15 (b) The appeal shall be filed with the commission within 60 days of a denial of
16 the renewal of a permit.

17 (c) If the commission determines that a permit is to be issued to a prior permittee
18 under this section, a permit shall be made available to that person upon payment of
19 required fees.

20 (d) In accordance with Section 4 of Article X B of the California Constitution,
21 this section contains the provisions of former Fish and Game Code Section 8681.7
22 in effect on January 1, 1989.

23 **Comment.** Section 18015 continues former Fish and Game Code Section 8681.7.

24 Section 18015 is governed by Section 16865, a section that codifies and implements Section 4
25 of Article X B of the California Constitution. See Section 16850.1.

26 To avoid any possible impairment of constitutional requirements, former Section 8681.7 has
27 been continued in this section without change, except to update cross-references to reflect
28 renumbering required by the recodification of this code.

29 When enacting the bill that added this section, the Legislature did not evaluate the relationship
30 between this section and Article X B of the California Constitution. See Section 16800.

31 **§ 18020. Regulations**

32 18020. (a) The commission shall establish regulations for the issuance of gill net
33 and trammel net permits as necessary to establish an orderly gill net and trammel
34 net fishery. In promulgating regulations, the commission shall consider
35 recommendations of the gill net and trammel net advisory committee created
36 pursuant to subdivision (b). The regulations shall include, but are not limited to, a
37 requirement that persons being granted a permit have had previous experience as a
38 crewmember of a vessel using gill nets or trammel nets or have successfully
39 passed a proficiency test administered by the department, under such regulations
40 as the commission shall prescribe.

41 (b) The director shall establish an advisory committee, consisting of fishermen
42 experienced in the use of gill nets and trammel nets, to advise the department in
43 developing regulations to be proposed to the commission governing the use of gill
44 nets and trammel nets.

1 (c) In accordance with Section 4 of Article X B of the California Constitution,
2 this section contains the provisions of former Fish and Game Code Section 8682
3 in effect on January 1, 1989.

4 **Comment.** Section 18020 continues former Fish and Game Code Section 8682.

5 Section 18020 is governed by Section 16865, a section that codifies and implements Section 4
6 of Article X B of the California Constitution. See Section 16850.1.

7 To avoid any possible impairment of constitutional requirements, former Section 8682 has
8 been continued in this section without change.

9 When enacting the bill that added this section, the Legislature did not evaluate the relationship
10 between this section and Article X B of the California Constitution. See Section 16800.

11 **§ 18025. Permit fee**

12 18025. (a) The fee for a permit issued pursuant to Section 18005 is three
13 hundred thirty dollars (\$330).

14 **Comment.** Section 18025 continues former Fish and Game Code Section 8683.

15 Section 18025 is governed by Section 16865, a section that codifies and implements Section 4
16 of Article X B of the California Constitution. See Section 16850.1.

17 To avoid any possible impairment of constitutional requirements, former Section 8683 has
18 been continued in this section without change, except to update a cross-reference to reflect
19 renumbering required by the recodification of this code.

20 When enacting the bill that added this section, the Legislature did not evaluate the relationship
21 between this section and Article X B of the California Constitution. See Section 16800.

22 **§ 18030. Incidental catch of swordfish or marlin**

23 18030. No incidental catch of swordfish or marlin is authorized by this chapter.
24 Any swordfish or marlin caught incidentally by a gill or trammel net permittee
25 operating under a permit issued pursuant to Section 18005 shall be delivered to the
26 department.

27 A permit issued pursuant to Section 18005 shall be revoked for conviction of a
28 violation of this section.

29 **Comment.** Section 18030 continues former Fish and Game Code Section 8684.

30 Section 18030 is governed by Section 16865, a section that codifies and implements Section 4
31 of Article X B of the California Constitution. See Section 16850.1.

32 To avoid any possible impairment of constitutional requirements, former Section 8684 has
33 been continued in this section without change, except to update cross-references to reflect
34 renumbering required by the recodification of this code.

35 When enacting the bill that added this section, the Legislature did not evaluate the relationship
36 between this section and Article X B of the California Constitution. See Section 16800.

37 **§ 18035. Districts 2505, 2525, and 2540**

38 18035. In Districts 2505, 2525, and 2540, gill nets and trammel nets may not be
39 possessed on any boat.

40 **Comment.** Section 18035 continues former Fish and Game Code Section 8685.

41 Section 18035 is governed by Section 16865, a section that codifies and implements Section 4
42 of Article X B of the California Constitution. See Section 16850.1.

43 To avoid any possible impairment of constitutional requirements, former Section 8685 has
44 been continued in this section without change, except to update cross-references to reflect
45 renumbering required by the recodification of this code.

1 When enacting the bill that added this section, the Legislature did not evaluate the relationship
2 between this section and Article X B of the California Constitution. See Section 16800.

3 **§ 18040. Take of salmon, steelhead, or striped bass**

4 18040. Notwithstanding any other provision of law, gill nets may not be used to
5 take salmon, steelhead, or striped bass.

6 **Comment.** Section 18040 continues former Fish and Game Code Section 8685.5.

7 Section 18040 is governed by Section 16865, a section that codifies and implements Section 4
8 of Article X B of the California Constitution. See Section 16850.1.

9 To avoid any possible impairment of constitutional requirements, former Section 8685.5 has
10 been continued in this section without change.

11 When enacting the bill that added this section, the Legislature did not evaluate the relationship
12 between this section and Article X B of the California Constitution. See Section 16800.

13 See also Sections 4460, 4492 (enforcement).

14 **§ 18045. Sale or possession for sale of salmon, steelhead, or striped bass**

15 18045. It is unlawful to sell or possess for sale any salmon, steelhead, or striped
16 bass which were taken in California waters by the use of a gill net.

17 **Comment.** Section 18045 continues former Fish and Game Code Section 8685.6.

18 Section 18045 is governed by Section 16865, a section that codifies and implements Section 4
19 of Article X B of the California Constitution. See Section 16850.1.

20 To avoid any possible impairment of constitutional requirements, former Section 8685.6 has
21 been continued in this section without change.

22 When enacting the bill that added this section, the Legislature did not evaluate the relationship
23 between this section and Article X B of the California Constitution. See Section 16800.

24 See also Sections 4460, 4492 (enforcement).

25 **§ 18050. Purchase of salmon, steelhead, or striped bass**

26 18050. It is unlawful for any person to knowingly purchase any salmon,
27 steelhead, or striped bass which were taken in California waters by the use of a gill
28 net.

29 For the purpose of this section, “person” includes a broker who purchases
30 salmon, steelhead, or striped bass which were unlawfully taken by gill net for the
31 purpose of reselling those fish.

32 **Comment.** Section 18050 continues former Fish and Game Code Section 8685.7.

33 Section 18050 is governed by Section 16865, a section that codifies and implements Section 4
34 of Article X B of the California Constitution. See Section 16850.1.

35 To avoid any possible impairment of constitutional requirements, former Section 8685.7 has
36 been continued in this section without change.

37 When enacting the bill that added this section, the Legislature did not evaluate the relationship
38 between this section and Article X B of the California Constitution. See Section 16800.

39 See also Sections 4460, 4492 (enforcement).

40 **§ 18055. Districts 2515, 2535, and 2675**

41 18055. In Districts 2515, 2535, and 2675, it is unlawful to possess any gill or
42 trammel net with meshes over 1 3/4 inches in length, except under regulations
43 which may be prescribed by the commission.

1 **Comment.** Section 18055 continues former Fish and Game Code Section 8686.
2 Section 18055 is governed by Section 16865, a section that codifies and implements Section 4
3 of Article X B of the California Constitution. See Section 16850.1.
4 To avoid any possible impairment of constitutional requirements, former Section 8686 has
5 been continued in this section without change, except to update cross-references to reflect
6 renumbering required by the recodification of this code.
7 When enacting the bill that added this section, the Legislature did not evaluate the relationship
8 between this section and Article X B of the California Constitution. See Section 16800.

9 **§ 18060. Districts 2570, 2575, 2580, 2585, and 2590**

10 18060. Except as otherwise provided in this code, drift gill nets may be used in
11 Districts 2570, 2575, 2580, 2585, and 2590.

12 **Comment.** Section 18060 continues former Fish and Game Code Section 8687.
13 Section 18060 is governed by Section 16865, a section that codifies and implements Section 4
14 of Article X B of the California Constitution. See Section 16850.1.
15 To avoid any possible impairment of constitutional requirements, former Section 8687 has
16 been continued in this section without change, except to update cross-references to reflect
17 renumbering required by the recodification of this code.
18 When enacting the bill that added this section, the Legislature did not evaluate the relationship
19 between this section and Article X B of the California Constitution. See Section 16800.

20 **§ 18065. Districts 2595, 2600, and 2605**

21 18065. In Districts 2595, 2600, and 2605, gill nets may be used to take only
22 herring, subject to Chapter 2 (commencing with Section 40350) of Title 2 of Part
23 13 of Division 10. No gill net may be possessed on any boat in Districts 2595,
24 2600, and 2605, except by persons possessing a valid permit aboard boats
25 specifically authorized to take herring during the open seasons established by the
26 commission.

27 **Comment.** Section 18065 continues former Fish and Game Code Section 8688.
28 Section 18065 is governed by Section 16865, a section that codifies and implements Section 4
29 of Article X B of the California Constitution. See Section 16850.1.
30 To avoid any possible impairment of constitutional requirements, former Section 8688 has
31 been continued in this section without change, except to update cross-references to reflect
32 renumbering required by the recodification of this code.
33 When enacting the bill that added this section, the Legislature did not evaluate the relationship
34 between this section and Article X B of the California Constitution. See Section 16800.
35 See also Sections 4460, 4492 (enforcement).

36 **§ 18070. Point Reyes ocean area**

37 18070. Set gill nets and trammel nets with mesh smaller than 4 1/8 inches shall
38 not be used or possessed on any boat taking rockfish or lingcod in ocean waters
39 between a line extending 245° magnetic from the most westerly point of the Point
40 Reyes headlands and a line extending 250° magnetic from the Pigeon Point
41 Lighthouse.

42 **Comment.** Section 18070 continues former Fish and Game Code Section 8691.
43 Section 18070 is governed by Section 16865, a section that codifies and implements Section 4
44 of Article X B of the California Constitution. See Section 16850.1.

1 To avoid any possible impairment of constitutional requirements, former Section 8691 has
2 been continued in this section without change.

3 When enacting the bill that added this section, the Legislature did not evaluate the relationship
4 between this section and Article X B of the California Constitution. See Section 16800.

5 **§ 18075. Monterey County ocean area**

6 18075. Notwithstanding Section 18085, it is unlawful to use gill nets to take
7 rockfish or lingcod in the following waters:

8 (a) Between a line running 240° magnetic from Santa Cruz Point and a line
9 running 240° magnetic from Point Sur lighthouse in Monterey County in waters
10 100 fathoms or less in depth.

11 (b) Between a line running 240° magnetic from Point Sur lighthouse and a line
12 running 240° magnetic from Pfeiffer Point in Monterey County in waters 75
13 fathoms or less in depth.

14 **Comment.** Section 18075 continues former Fish and Game Code Section 8692.

15 Section 18075 is governed by Section 16865, a section that codifies and implements Section 4
16 of Article X B of the California Constitution. See Section 16850.1.

17 To avoid any possible impairment of constitutional requirements, former Section 8692 has
18 been continued in this section without change, except to update a cross-reference to reflect
19 renumbering required by the recodification of this code.

20 When enacting the bill that added this section, the Legislature did not evaluate the relationship
21 between this section and Article X B of the California Constitution. See Section 16800.

22 **§ 18080. Permissible net length**

23 18080. (a) Not more than 1,250 fathoms (7,500 feet) of gill net or trammel net
24 shall be fished in combination each day from any vessel for lingcod in ocean
25 waters.

26 (b) The Legislature finds and declares that this section, which continues former
27 Fish and Game Code Section 8692.5 as amended at the 1991–92 Regular Session
28 of the Legislature, is more restrictive on the use and possession of gill nets and
29 trammel nets than the provisions in effect on January 1, 1990, and therefore
30 complies with former Section 8610.4, and Section 4 of Article X B of the
31 California Constitution.

32 **Comment.** Section 18080 continues former Fish and Game Code Section 8692.5.

33 Section 18080 is governed by Section 16865, a section that codifies and implements Section 4
34 of Article X B of the California Constitution. See Section 16850.1.

35 To avoid any possible impairment of constitutional requirements, former Section 8692.5 has
36 been continued in this section without change, except to update a cross-reference to reflect
37 renumbering required by the recodification of this code.

38 When enacting the bill that added this section, the Legislature did not evaluate the relationship
39 between this section and Article X B of the California Constitution. See Section 16800.

40 **§ 18085. Districts 2615, 2620, 2625, and 2645**

41 18085. (a) Except as otherwise provided in this code, drift gill nets and set gill
42 nets may be used in Districts 2615, 2620, 2625, and 2645, except for the taking of
43 salmon.

1 (b) Rockfish and lingcod may be taken with drift gill nets and set gill nets in
2 Districts 2615, 2620, 2625, and 2645, subject to the following restrictions:

3 (1) Rockfish and lingcod shall not be taken between a line running due west
4 magnetic from the lighthouse at Point Piedras Blancas and a line running due west
5 magnetic from Point Sal in water less than 40 fathoms.

6 (2) Rockfish and lingcod shall not be taken between a line running 250°
7 magnetic from the Pigeon Point Lighthouse and a line running 240° magnetic from
8 Point Santa Cruz, inside 40 fathoms, by means of drift gill nets or set gill nets
9 which have mesh smaller than 5 1/2 inches.

10 (3) Drift gill nets and set gill nets shall not be used nor shall they be possessed
11 on any boat taking rockfish and lingcod with mesh smaller than 4 1/8 inches when
12 used in Districts 2615 and 2620 north of Point Buchon, or with mesh smaller than
13 4 1/8 inches when used in District 2620 south of Point Buchon or in District 2625.
14 Drift gill nets and set gill nets used or possessed on any boat taking rockfish and
15 lingcod in District 2615, 2620, or 2625, shall not be constructed of twine larger
16 than number 6 nylon, except that the bottom 15 meshes may be constructed of
17 heavier twine.

18 (4) In District 2620 south of Point Sal and in District 2625, drift gill nets and set
19 gill nets shall not be used to take rockfish and lingcod with the mesh of the net in
20 waters less than 70 fathoms in depth, except that those nets shall not be used in
21 waters less than 100 fathoms in depth at the Sixty Mile Bank.

22 (5) Loads or lots of fish taken in the areas described in paragraphs 1 to 4,
23 inclusive, may contain 200 pounds or less of rockfish and lingcod in combination,
24 but in no instance more than 100 pounds of rockfish.

25 (6) Gill nets shall not be used to take rockfish in District 2645.

26 **Comment.** Section 18085 continues former Fish and Game Code Section 8693.

27 Section 18085 is governed by Section 16865, a section that codifies and implements Section 4
28 of Article X B of the California Constitution. See Section 16850.1.

29 To avoid any possible impairment of constitutional requirements, former Section 8693 has
30 been continued in this section without change, except to update cross-references to reflect
31 renumbering required by the recodification of this code.

32 When enacting the bill that added this section, the Legislature did not evaluate the relationship
33 between this section and Article X B of the California Constitution. See Section 16800.

34 **§ 18090. District 2630**

35 18090. In District 2630, gill nets may not be used, nor may they be possessed on
36 any boat.

37 **Comment.** Section 18090 continues former Fish and Game Code Section 8694.

38 Section 18090 is governed by Section 16865, a section that codifies and implements Section 4
39 of Article X B of the California Constitution. See Section 16850.1.

40 To avoid any possible impairment of constitutional requirements, former Section 8694 has
41 been continued in this section without change, except to update a cross-reference to reflect
42 renumbering required by the recodification of this code.

43 When enacting the bill that added this section, the Legislature did not evaluate the relationship
44 between this section and Article X B of the California Constitution. See Section 16800.

1 To avoid any possible impairment of constitutional requirements, former Section 8721 has
2 been continued in this section without change, except to update cross-references to reflect
3 renumbering required by the recodification of this code.

4 When enacting the bill that added this section, the Legislature did not evaluate the relationship
5 between this section and Article X B of the California Constitution. See Section 16800.

6 **§ 18210. Districts 2590, 2615, 2620, and 2625**

7 18210. (a) Except as otherwise provided, in Districts 2590, 2615, 2620, and
8 2625, drift and set trammel nets may be used if the meshes are at least 8 1/2 inches
9 in length, except that these nets may not be used in District 2620 within 750 feet
10 of any pier or jetty, nor may they be used for the taking of salmon.

11 (b) This section shall become operative on August 15, 1989.

12 **Comment.** Section 18210 continues former Fish and Game Code Section 8724.

13 Section 18210 is governed by Section 16865, a section that codifies and implements Section 4
14 of Article X B of the California Constitution. See Section 16850.1.

15 To avoid any possible impairment of constitutional requirements, former Section 8724 has
16 been continued in this section without change, except to update cross-references to reflect
17 renumbering required by the recodification of this code.

18 When enacting the bill that added this section, the Legislature did not evaluate the relationship
19 between this section and Article X B of the California Constitution. See Section 16800.

20 **§ 18215. District 2630**

21 18215. In District 2630, trammel nets may not be used, nor may they be
22 possessed on any boat.

23 **Comment.** Section 18215 continues former Fish and Game Code Section 8725.

24 Section 18215 is governed by Section 16865, a section that codifies and implements Section 4
25 of Article X B of the California Constitution. See Section 16850.1.

26 To avoid any possible impairment of constitutional requirements, former Section 8725 has
27 been continued in this section without change, except to update a cross-reference to reflect
28 renumbering required by the recodification of this code.

29 When enacting the bill that added this section, the Legislature did not evaluate the relationship
30 between this section and Article X B of the California Constitution. See Section 16800.

31 **CHAPTER 6. TAKE OF SHARK AND SWORDFISH**

32 **§ 18300. Required permit**

33 18300. (a) Notwithstanding subdivision (a) of Section 43655, shark and
34 swordfish shall not be taken for commercial purposes with drift gill nets except
35 under a valid drift gill net shark and swordfish permit issued to that person that has
36 not been suspended or revoked and is issued to at least one person aboard the boat.

37 (b) A drift gill net shark and swordfish permit shall not be required for the
38 taking of sharks with drift gill nets with a mesh size smaller than eight inches in
39 stretched mesh and twine size no. 18 or the equivalent of this twine size or
40 smaller.

41 (c) Notwithstanding Section 22505 or any other law, a permit issued pursuant to
42 this section shall be surrendered or revoked as of January 31 of the fourth year

1 following the department's notification to the Legislature pursuant to paragraph
2 (2) of subdivision (b) of Section 18400.

3 **Comment.** Section 18300 continues former Fish and Game Code Section 8561 without
4 substantive change.

5 See also Sections 5104 (enforcement), 5700 (marlin).

6 **Note.** Proposed Section 18300 would continue Section 8561, which was amended by 2018
7 Cal. Stat. ch. 844. Although that bill will not take effect until 2019, it is included here in
8 anticipation of its effect.

9 **§ 18305. Transfer of permit (operative until March 31, 2019)**

10 18305. (a) Notwithstanding Section 22505, a permit issued pursuant to Section
11 18300 may be transferred by the permittee only if one of the following conditions
12 is met:

13 (1) The permittee has held the permit for three or more years.

14 (2) The permittee is permanently injured or suffers a serious illness that will
15 result in a hardship, as determined in a written finding by the director, to the
16 permittee or his or her family if the permit may not otherwise be transferred or
17 upon dissolution of a marriage where the permit is held to be community property.

18 (3) The permittee has died and his or her surviving spouse, heirs, or estate seeks
19 to transfer the permit within six months of the death of the permittee or, with the
20 written approval of the director, within the length of time that it may reasonably
21 take to effect the transfer.

22 (b) A permit may be transferred only to a person who holds a valid general gill
23 net permit issued to that person pursuant to Section 18005 that has not been
24 suspended or revoked.

25 (c) The transfer of a permit shall only become effective upon notice from the
26 department. An application for transfer shall be submitted to the department with
27 such reasonable proof as the department may require to establish the qualification
28 of the person the permit is to be transferred to, the payment to the department of a
29 transfer fee of one thousand five hundred dollars (\$1,500), and a written
30 disclosure, filed under penalty of perjury, of the terms of the transfer.

31 (d) Any restrictions on participation that were required in a permit transferred
32 pursuant to Section 22505 before January 1, 1990, are of no further force or effect.

33 (e) This section shall become inoperative on March 31, 2019, and, as of January
34 1, 2020, is repealed.

35 **Comment.** Section 18305 continues former Fish and Game Code Section 8561.5, as amended
36 by 2018 Cal. Stat. ch. 844, § 4, without substantive change.

37 **Note.** Proposed Section 18305 would continue Section 8561.5, which was amended by 2018
38 Cal. Stat. ch. 844, § 4. Although that bill will not take effect until 2019, it is included here in
39 anticipation of its effect.

1 **§ 18305. Transfer of permit (operative on March 31, 2019)**

2 18305. (a) Notwithstanding Section 22505 or any other law, a permit issued
3 pursuant to Section 18300 may not be transferred.

4 (b) This section shall become operative on March 31, 2019.

5 **Comment.** Section 18305 continues former Fish and Game Code Section 8561.5, as added by
6 2018 Cal. Stat. ch. 844, § 5, without substantive change.

7 **Note.** Proposed Section 18305 would continue Section 8561.5, which was added by 2018
8 Cal. Stat. ch. 844, § 5. Although that bill will not take effect until 2019, it is included here in
9 anticipation of its effect.

10 **§ 18310. Application**

11 18310. Applications delivered to a department office after April 30, or if mailed,
12 postmarked after April 30, shall not be accepted unless approved by the
13 commission pursuant to Section 18340.

14 **Comment.** Section 18310 continues former Fish and Game Code Section 8562 without
15 substantive change.

16 **§ 18315. Possession and use of permit**

17 18315. (a) Except as provided in subdivision (b), the permittee shall be aboard
18 the vessel and shall be in possession of a valid drift gill net shark and swordfish
19 permit when engaged in operations authorized by the permit.

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

33 **Comment.** Section 18315 continues former Fish and Game Code Section 8563 without
34 substantive change.

35 **§ 18320. Specification of vessel**

36 18320. When the permittee applies for a drift gill net shark and swordfish
37 permit, the permittee shall specify the vessel he or she will use in operations
38 authorized by the permit. Transfer to another vessel shall be authorized by the
39 department upon receipt of a written request from the permittee, accompanied by a
40 transfer fee of one hundred thirty dollars (\$130), as follows:

1 (a) One transfer requested between February 1 and April 30 shall be made by the
2 department upon request and payment of the fee.

3 (b) Any transfer, except as provided in subdivision (a), shall be authorized by
4 the department only after receipt of proof of a compelling reason, which shall be
5 submitted with the request for transfer, such as the sinking of the vessel specified
6 for use in operations authorized by the permit.

7 **Comment.** Section 18320 continues former Fish and Game Code Section 8564 without
8 substantive change.

9 **§ 18325. Fee**

10 18325. The fee for a drift gill net shark and swordfish permit shall be three
11 hundred thirty dollars (\$330).

12 **Comment.** Section 18325 continues former Fish and Game Code Section 8567 without
13 substantive change.

14 **§ 18330. Eligibility for permit**

15 18330. Drift gill net shark and swordfish permits shall be issued to any prior
16 permittee who possesses a valid drift gill net shark and swordfish permit issued
17 pursuant to this section, but only if the permittee meets both of the following
18 requirements:

19 (a) Possesses a valid permit for the use of gill nets authorized pursuant to
20 Section 18005.

21 (b) Possessed a valid drift gill net shark and swordfish permit during the
22 preceding season and that permit was not subsequently revoked.

23 **Comment.** Section 18330 continues former Fish and Game Code Section 8568 without
24 substantive change.

25 **§ 18335. Minimum landing requirement**

26 18335. Any person holding a valid drift gill net shark and swordfish permit on
27 or after January 1, 2000, who did not make, on or after January 1, 2000, the
28 minimum landings required under subdivision (c) of Section 18330, is eligible for
29 that permit when that person meets all other qualifications for the permit.

30 **Comment.** Section 18335 continues former Fish and Game Code Section 8568.5 without
31 substantive change.

32 **§ 18340. Conditions for late application**

33 18340. The commission may establish conditions for the issuance of a permit if
34 the person's drift gill net shark and swordfish permit was revoked during a
35 preceding season or if the person possessed a valid permit during the preceding
36 season but did not apply for renewal of his or her permit on or before April 30.
37 The applicant for a permit under this section may appeal to the director for the
38 issuance of the permit under those conditions.

39 **Comment.** Section 18340 continues former Fish and Game Code Section 8569 without
40 substantive change.

1 **§ 18345. Allowed locations and conditions for use of net**

2 18345. Drift gill nets may be used to take shark and swordfish under the permit
3 provided in this chapter, subject to Section 16860 and all of the following
4 restrictions:

5 (a) From June 1 to November 15, inclusive, shark or swordfish gill nets shall not
6 be in the water from two hours after sunrise to two hours before sunset east of a
7 line described as follows:

8 From a point beginning at Las Pitas Point to San Pedro Point on Santa Cruz
9 Island, thence to Gull Island Light, thence to the northeast extremity of San
10 Nicolas Island, thence along the high water mark on the west side of San Nicolas
11 Island to the southeast extremity of San Nicolas Island, thence to the northwest
12 extremity of San Clemente Island, thence along the high water mark on the west
13 side of San Clemente Island to the southeast extremity of San Clemente Island,
14 thence along a line running 150° true from the southeast extremity of San
15 Clemente Island to the westerly extension of the boundary line between the
16 Republic of Mexico and San Diego County.

17 (b)(1) The total maximum length of a shark or swordfish gill net on the net reel
18 on a vessel, on the deck of the vessel, and in the water at any time shall not exceed
19 6,000 feet in float line length. The float line length shall be determined by
20 measuring the float line, as tied, of all the net panels, combined with any other
21 netted lines. The existence of holes, tears, or gaps in the net shall have no bearing
22 on the measurement of the float line. The float line of any net panels with holes,
23 tears, or gaps shall be included in the total float line measurement.

24 (2) Any shark or swordfish gill net on the reel shall have the float lines of the
25 adjacent panels tied together, the lead lines of the adjacent panels tied together,
26 and the web of the adjacent panels laced together. No quick disconnect device may
27 be used unless the total maximum length of all shark and swordfish gill nets,
28 including all spare gill nets or net panels on the vessel and all gill nets or net
29 panels on the net reels on the vessel, on the deck of the vessel, stored aboard the
30 vessel, and in the water, does not exceed 6,000 feet in float line length as
31 determined under paragraph (1).

32 (3) Spare shark or swordfish gill net aboard the vessel shall not exceed 250
33 fathoms (1,500 feet) in total length, and the spare net shall be in separated panels
34 not to exceed 100 fathoms (600 feet) in float line length for each panel, with the
35 float lines and leadlines attached to each panel separately gathered and tied, and
36 the spare net panels stowed in lockers, wells, or other storage space.

37 (4) If a torn panel is replaced in a working shark or swordfish gill net, the torn
38 panel shall be removed from the working net before the replacement panel is
39 attached to the working net.

40 (c) Any end of a shark or swordfish gill net not attached to the permittee's vessel
41 shall be marked by a pole with a radar reflector. The reflector shall be at least six
42 feet above the surface of the ocean and not less than 10 inches in any dimension
43 except thickness. The permittee's permit number shall be permanently affixed to at

1 least one buoy or float that is attached to the radar reflector staff. The permit
2 number shall be at least one and one-half inches in height and all markings shall
3 be at least one-quarter inch in width.

4 (d) For the purposes of this chapter, “shark or swordfish gill net” means a drift
5 gill net of 14-inch or greater mesh size.

6 **Comment.** Section 18345 continues former Fish and Game Code Section 8573 without
7 substantive change.

8 **§ 18350. Mesh size**

9 18350. (a) Drift gill nets with mesh size less than 14 inches in stretched mesh
10 shall not be used to take shark and swordfish by permittees operating under a drift
11 gill net shark and swordfish permit, and the permittee shall not have aboard the
12 vessel or in the water a drift gill net with mesh size less than 14 inches and more
13 than 8 inches in stretched mesh.

14 (b) No permittee shall deploy a drift gill net of less than 14-inch mesh size at the
15 time that the permittee has a shark or swordfish gill net deployed.

16 **Comment.** Section 18350 continues former Fish and Game Code Section 8574 without
17 substantive change.

18 **§ 18355. Seasonal prohibitions**

19 18355. Drift gill nets used to take shark and swordfish under the permit provided
20 in this chapter shall not be used under the following circumstances:

21 (a) From May 1 through July 31, within six nautical miles westerly, northerly,
22 and easterly of the shoreline of San Miguel Island between a line extending six
23 nautical miles west magnetically from Point Bennett and a line extending six
24 nautical miles east magnetically from Cardwell Point and within six nautical miles
25 westerly, northerly, and easterly of the shoreline of Santa Rosa Island between a
26 line extending six nautical miles west magnetically from Sandy Point and a line
27 extending six nautical miles east magnetically from Skunk Point.

28 (b) From May 1 through July 31, within 10 nautical miles westerly, southerly,
29 and easterly of the shoreline of San Miguel Island between a line extending 10
30 nautical miles west magnetically from Point Bennett and a line extending 10
31 nautical miles east magnetically from Cardwell Point and within 10 nautical miles
32 westerly, southerly, and easterly of the shoreline of Santa Rosa Island between a
33 line extending 10 nautical miles west magnetically from Sandy Point and a line
34 extending 10 nautical miles east magnetically from Skunk Point.

35 (c) From May 1 through July 31, within a radius of 10 nautical miles of the west
36 end of San Nicolas Island.

37 (d) From August 15 through September 30, in ocean waters bounded as follows:
38 beginning at Dana Point, Orange County, in a direct line to Church Rock, Catalina
39 Island; thence in a direct line to Point La Jolla, San Diego County; and thence
40 northwesterly along the mainland shore to Dana Point.

1 (e) From August 15 through September 30, in ocean waters within six nautical
2 miles of the coastline on the northerly and easterly side of San Clemente Island,
3 lying between a line extending six nautical miles west magnetically from the
4 extreme northerly end of San Clemente Island to a line extending six nautical
5 miles east magnetically from Pyramid Head.

6 (f) From December 15 through January 31, in ocean waters within 25 nautical
7 miles of the mainland coastline.

8 **Comment.** Section 18355 continues former Fish and Game Code Section 8575 without
9 substantive change.

10 **§ 18360. Prohibited areas**

11 18360. Drift gill nets used to take shark and swordfish under the permit provided
12 in this chapter shall not be used in the following areas:

13 (a) Within 12 nautical miles from the nearest point on the mainland shore north
14 of a line extending due west from Point Arguello.

15 (b) East of a line running from Point Reyes to Noonday Rock to the westernmost
16 point of Southeast Farallon Island to Pillar Point.

17 **Comment.** Section 18360 continues former Fish and Game Code Section 8575.5 without
18 substantive change.

19 **§ 18365. Additional prohibitions**

20 18365. (a) Drift gill nets shall not be used to take shark or swordfish from
21 February 1 to April 30, inclusive.

22 (b) Drift gill nets shall not be used to take shark or swordfish in ocean waters
23 within 75 nautical miles from the mainland coastline between the westerly
24 extension of the California-Oregon boundary line and the westerly extension of
25 the United States-Republic of Mexico boundary line from May 1 to August 14,
26 inclusive.

27 (c) Subdivisions (a) and (b) apply to any drift gill net used pursuant to a permit
28 issued under Section 18005 or 18300, except that drift gill nets with a mesh size
29 smaller than eight inches in stretched mesh and twine size number 18, or the
30 equivalent of this twine size, or smaller, used pursuant to a permit issued under
31 Section 18005, may be used to take species of sharks other than thresher shark,
32 shortfin mako shark, and white shark during the periods specified in subdivisions
33 (a) and (b). However, during the periods of time specified in subdivisions (a) and
34 (b), not more than two thresher sharks and two shortfin mako sharks may be
35 possessed and sold if taken incidentally in drift gill nets while fishing for
36 barracuda or white seabass and if at least 10 barracuda or five white seabass are
37 possessed and landed at the same time as the incidentally taken thresher or shortfin
38 mako shark. No thresher shark or shortfin mako shark taken pursuant to this
39 subdivision shall be transferred to another vessel before landing the fish. Any
40 vessel possessing thresher or shortfin mako sharks pursuant to this section shall
41 not have any gill or trammel net aboard that is constructed with a mesh size

1 greater than eight inches in stretched mesh and twine size greater than number 18,
2 or the equivalent of a twine size greater than number 18.

3 (d) Notwithstanding the closure from May 1 to August 14, inclusive, provided
4 by subdivision (b), a permittee may land swordfish or thresher shark taken in
5 ocean waters more than 75 nautical miles from the mainland coastline in that
6 period if, for each landing during that closed period, the permittee signs a written
7 declaration under penalty of perjury that the fish landed were taken more than 75
8 nautical miles from the mainland coastline. The declaration shall be completed and
9 signed before arrival at any port in this state. Within 72 hours of the time of
10 arrival, the permittee shall deliver the declaration to the department.

11 (e) From August 15 of the year of issue to January 31, inclusive, of the
12 following year, swordfish may be taken under a permit issued pursuant to this
13 chapter.

14 **Comment.** Section 18365 continues former Fish and Game Code Section 8576(a)-(d), (f)
15 without substantive change.

16 See also Section 4964 (enforcement).

17 **§ 18370. Take of thresher shark**

18 18370. Thresher shark taken with drift gill nets shall not have the pelvic fin
19 severed from the carcass until after the shark is brought ashore.

20 **Comment.** Section 18370 continues former Fish and Game Code Section 8576.5 without
21 substantive change.

22 **§ 18375. Closure of fishery by director**

23 18375. Notwithstanding subdivision (a) of Section 43655, the director may close
24 the drift gill net shark and swordfish fishery, the swordfish harpoon fishery, or any
25 area where either or both fisheries are conducted, if, after a public hearing, the
26 director determines the action is necessary to protect the swordfish or thresher
27 shark and bonito (mako) shark resources.

28 The director shall reopen a fishery or any fishing areas previously closed
29 pursuant to this section if the director determines that the conditions which
30 necessitated the closure no longer exist.

31 **Comment.** Section 18375 continues former Fish and Game Code Section 8577 without
32 substantive change.

33 **§ 18380. Surrender of permit**

34 18380. (a) A permittee shall be subject to the provisions of this chapter
35 whenever the permittee is using a drift gill net, unless the permittee has
36 surrendered his or her permit to the department.

37 (b) A permittee may surrender his or her permit by notifying the department of
38 his or her intentions by submitting a notarized form provided by the department
39 and by sending or delivering his or her permit to a department office as prescribed
40 on the form.

1 **Comment.** Section 18380 continues former Fish and Game Code Section 8579 without
2 substantive change.

3 **Note.** Proposed Section 18380 would continue Section 8579, which was amended by 2018
4 Cal. Stat. ch. 844. Although that bill will not take effect until 2019, it is included here in
5 anticipation of its effect.

6 **§ 18385. Sale of swordfish**

7 18385. It is unlawful for any permittee to sell swordfish taken by him or her to
8 other than the licensees described in Chapter 2 (commencing with Section 20300)
9 of Title 9.

10 **Comment.** Section 18385 continues former Fish and Game Code Section 8580 without
11 substantive change.

12 **§ 18395. Legislative intent regarding marlin**

13 18395. (a) The Legislature finds and declares that the intent of this this chapter
14 is not to permit or encourage the taking of marlin for commercial purposes.

15 (b) In the event a marlin is taken incidentally in a drift gill net, the permittee
16 shall notify the department immediately that the fish is on the boat. No marlin may
17 be removed from the boat except for delivery to the department.

18 **Comment.** Subdivision (a) of Section 18395 continues the first sentence of former Fish and
19 Game Code Section 8582 without substantive change.

20 Subdivision (b) continues the second sentence of former Fish and Game Code Section 8582
21 without substantive change.

22 **§ 18400. Transitional program**

23 18400 (a) By March 31, 2020, the department shall establish a program to
24 transition the holders of drift gill net permits issued pursuant to Section 18300 out
25 of the drift gill net fishery that includes the following conditions:

26 (1) A permittee who chooses to participate in the transition program shall
27 indicate his or her intention to the department to participate by submitting a
28 notarized form provided by the department on or before January 1, 2020.

29 (2) A permittee who has landed swordfish or thresher shark with a shark or
30 swordfish gill net or with a federal deep set buoy gear exempted fishing permit
31 between April 1, 2012, and March 31, 2018, inclusive, and who voluntarily
32 surrenders his or her drift gill net permit issued pursuant to Section 18300 and
33 shark or swordfish gill net or nets shall receive, to the extent that funds for the
34 transition program are available, the following amounts:

35 (A) Ten thousand dollars (\$10,000) to surrender the permit.

36 (B) One hundred thousand dollars (\$100,000) to surrender the net or nets.

37 (3) A permittee who has not landed swordfish or thresher shark on or after April
38 1, 2012, and who voluntarily surrenders his or her drift gill net permit issued
39 pursuant to Section 18300 and shark or swordfish gill net or nets shall receive, to
40 the extent that funds for the transition program are available, ten thousand dollars
41 (\$10,000).

1 (4) The department shall inform a permittee who submits a notarized form
2 pursuant to paragraph (1) whether the permittee meets the requirements of
3 paragraph (2) or (3) and the department shall submit this information to the fiscal
4 agent.

5 (5) Any permittee who participates in the transition program by surrendering his
6 or her permit pursuant to paragraph (2) or (3) shall be prohibited from obtaining a
7 new California drift gill net shark and swordfish permit, shall agree not to fish
8 under a federal drift gill net permit, shall agree not to transfer or renew a federal
9 drift gill net permit, and shall surrender his or her shark or swordfish gill net or
10 nets to an entity approved by the department for the purpose of destroying the
11 nets.

12 (b) (1) The department shall enter into an agreement with a fiscal agent for the
13 fiscal agent to receive state and nonstate funds made available for purposes of the
14 transition program, to put those funds in an escrow account, and, upon the receipt
15 of adequate funds, to pay the applicable amount described in subdivision (a) to a
16 participating permittee. As part of the agreement, the department shall require the
17 fiscal agent to notify the department within 10 days of the receipt of one million
18 dollars (\$1,000,000) from nonstate sources for purposes of transitioning permittees
19 out of the drift gill net fishery. If the department enters into an agreement with a
20 fiscal agent that is a state entity pursuant to this subdivision, notwithstanding
21 Section 13340 of the Government Code, any funds received from nonstate sources
22 are continuously appropriated to that state entity for purposes of the transition
23 program without regard to fiscal years.

24 (2) The department shall notify the Legislature pursuant to Section 9795 of the
25 Government Code within 10 days of the date that the fiscal agent receives one
26 million dollars (\$1,000,000) from nonstate sources for purposes of the transition
27 program and secures one million dollars (\$1,000,000) through an agreement with
28 the Ocean Protection Council pursuant to Section 35651 of the Public Resources
29 Code.

30 (3) For purposes of this section, “fiscal agent” includes any of the following:

31 (A) The Department of Finance.

32 (B) The Pacific States Marine Fisheries Commission.

33 (C) The Controller.

34 (D) Any appropriate state or federal agency.

35 **Comment.** Section 18400 continues former Fish and Game Code Section 8583 without
36 substantive change.

37  **Note.** Proposed Section 18400 would continue Section 8583, which was added by 2018 Cal.
38 Stat. ch. 844. Although that bill will not take effect until 2019, it is included here in anticipation
39 of its effect.

40 **§ 18405. Disclaimer**

41 18405. This chapter does not create or recognize a property right in fish
42 expected to be caught using a permit issued pursuant to Section 18300.

1 **Comment.** Section 18405 continues former Fish and Game Code Section 8583.5 without
2 substantive change.

3 **Note.** Proposed Section 18405 would continue Section 8583.5, which was added by 2018
4 Cal. Stat. ch. 844. Although that bill will not take effect until 2019, it is included here in
5 anticipation of its effect.

6 CHAPTER 7. TAKE OF OTHER FISH

7 **§ 18500. Yellowtail, barracuda, and white sea bass**

8 18500. (a) It is unlawful to use any purse seine or round haul net to take
9 yellowtail, barracuda, or white sea bass.

10 (b) It is unlawful to possess any yellowtail, barracuda, or white sea bass, except
11 those taken south of the international boundary between the United States and
12 Mexico, and imported into the state under regulations of the commission as
13 provided in Section 38705, subdivision (a) or (b) of Section 38875, or Section
14 44650, on any boat carrying or using any purse seine or round haul net, including,
15 but not limited to, a bait net as described in Section 15900.

16 (c) Gill nets with meshes of a minimum length of 3 1/2 inches may be used to
17 take yellowtail and barracuda.

18 (d) Gill nets with meshes of a minimum length of six inches may be used to take
19 white sea bass; however, during the period from June 16 to March 14, inclusive,
20 not more than 20 percent by number of a load of fish may be white seabass 28
21 inches or more in total length, up to a maximum of 10 white seabass per load, if
22 taken in gill nets or trammel nets with meshes from 3 1/2 to 6 inches in length.

23 (e) Notwithstanding the provisions of this section, the department may issue
24 permits to hook and line commercial fishermen to possess a bona fide bait net on
25 their vessels for the purpose of taking bait for their own use only.

26 **Comment.** Section 18500 continues former Fish and Game Code Section 8623(c) and (d)
27 without substantive change.

28 **§ 18505. California halibut generally**

29 18505. (a) Except as otherwise provided in this code, set gill nets and trammel
30 nets with mesh size of not less than 8 1/2 inches may be used to take California
31 halibut.

32 (b) Except as provided in subdivision (c), not more than 1,500 fathoms (9,000
33 feet) of gill net or trammel net shall be fished in combination each day for
34 California halibut from any vessel in ocean waters.

35 (c) Not more than 1,000 fathoms (6,000 feet) of gill net or trammel net shall be
36 fished in combination each day for California halibut from any vessel in ocean
37 waters between a line extending due west magnetic from Point Arguello in Santa
38 Barbara County and a line extending 172° magnetic from Rincon Point in Santa
39 Barbara County to San Pedro Point at the east end of Santa Cruz Island in Santa

1 Barbara County, then extending southwesterly 188° magnetic from San Pedro
2 Point on Santa Cruz Island.

3 **Comment.** Section 18505 continues former Fish and Game Code Section 8625(a)-(c) without
4 substantive change.

5 **Note.** Existing Fish and Game Code Section 8625(d), identifying the operative date of the
6 section as August 15, 1989, is deleted as obsolete.

7 **§ 18510. Special rules for California halibut**

8 18510. (a) Notwithstanding Section 18505, and where consistent with the
9 determination made pursuant to subdivisions (b) and (c), the director may reduce
10 the minimum mesh size permitted for gill and trammel nets used to take California
11 halibut from 8 1/2 inches to not less than 8 inches in any or all areas south of a line
12 extending 240° magnetic from the boundary line between the Counties of Los
13 Angeles and Ventura.

14 (b) If, on or before October 1, 1990, the department determines that commercial
15 landings of California halibut taken south of the line extending 240° magnetic
16 from the boundary line between the Counties of Los Angeles and Ventura in the
17 period between September 1, 1989, and August 31, 1990, decline by 10 percent or
18 more compared with landings of California halibut taken in this area during the
19 period between September 1, 1988, and August 31, 1989, the department shall
20 assess the impact of the 8 1/2 inch minimum mesh size restriction on the
21 California halibut fishery in the area described in subdivision (a). The assessment
22 shall include, but is not limited to, an analysis of landing data, including landings
23 of California halibut in Los Angeles, Orange, and San Diego Counties, the age and
24 size composition of the catch, and the department's monitoring at sea of the gill
25 and trammel net fishery.

26 (c) If the department determines that the 8 1/2 inch minimum mesh size,
27 established pursuant to Section 18505 has directly resulted in a decline of 10
28 percent or more in landings of California halibut south of the line extending 240°
29 magnetic from the boundary between the Counties of Los Angeles and Ventura,
30 the director shall hold a public hearing in the area affected to make findings and
31 take public testimony prior to taking any action pursuant to subdivision (a).

32 **Comment.** Section 18510 continues former Fish and Game Code Section 8626(a)-(c) without
33 substantive change.

34 **Note.** Existing Fish and Game Code Section 8626(d), identifying the operative date of the
35 section as August 15, 1989, is deleted as obsolete.

1 TITLE 5. FISHING LINES

2 CHAPTER 1. GENERAL PROVISIONS

3 § 18700. Legislative declaration

4 18700. The Legislature finds and declares that it is in the best interest of the
5 people of the state and California’s marine resources and fisheries that the use of
6 commercial hook and line fishing gear be regulated in a manner that assures the
7 orderly development of the fisheries, maintenance of viable resources, and
8 sustainable and satisfying commercial and recreational harvests.

9 **Comment.** Section 18700 continues former Fish and Game Code Section 9025.1 without
10 substantive change.

11 § 18705. Permitted length

12 18705. Notwithstanding Section 14300 and Chapter 4 (commencing with
13 Section 18950), it is unlawful to use a fishing line, including, but not limited to, a
14 troll line or handline, that is more than 900 feet in length, except when used as a
15 set line pursuant to subdivisions (a) and (b) of Section 18900 or when used as part
16 of deep-set buoy gear authorized under federal law.

17 **Comment.** Section 18705 continues former Fish and Game Code Section 9028 without
18 substantive change.

19 **Note.** Proposed Section 18705 would continue Section 9028, which was amended by 2018
20 Cal. Stat. ch. 844. Although that bill will not take effect until 2019, it is included here in
21 anticipation of its effect.

22 § 18710. “Set line”

23 18710. As used in this title, “set line” means a line used to take fish that is
24 anchored to the bottom on each end and is not free to drift with the tide or current.

25 **Comment.** Section 18710 combines and continues parts of former Fish and Game Code
26 Sections 8601 and 9029.5 without substantive change, except that the application of the provision
27 is broadened to include Sections 18705 and 18900.

28 **Note.** Proposed Section 18710 would broaden the definition of “set line” slightly, so that it
29 applies to proposed Section 18705 and 18900. **The Commission invites comment on whether**
30 **that change would cause any problems.**

31 § 18715. “Troll line”

32 18715. “Troll line” means a line with one or more hooks towed by a vessel
33 underway and making way.

34 **Comment.** Section 18715 continues former Fish and Game Code Section 9025.5(b) without
35 substantive change.

1 § 18720. “Vertical fishing line”

2 18720. “Vertical fishing line” means a fishing line that is anchored to the ocean
3 bottom at one end and attached at the other end on the surface to a fishing vessel
4 or a buoy.

5 **Comment.** Section 18720 continues part of the second sentence of former Fish and Game
6 Code Section 9029 without substantive change.

7 CHAPTER 2. SPECIAL DISTRICT RULES

8 § 18800. District 2570

9 18800. (a) In District 2570, notwithstanding Section 18705, a fishing line that is
10 anchored to the ocean bottom at one end and attached at the surface to a fishing
11 vessel or a buoy may be used, except under any of the following circumstances:

12 (1) To take shortfin mako (bonito) sharks, thresher sharks, swordfish, or marlin.

13 (2) If the fishing line exceeds 3,000 feet in length, from the anchor to the surface
14 vessel or buoy.

15 (3) If any hooks are attached to the upper one-third of the line.

16 (b) A buoy attached to the surface end of a fishing line used pursuant to
17 subdivision (a) shall display above its waterline, in numerals at least two inches
18 high, the fisherman’s commercial fishing license identification number.

19 (c) Notwithstanding subdivision (a), subdivision (a) or (b) of Section 18900, or
20 Section 18705, in waters of the district within one mile of the mainland shore, the
21 following additional restrictions apply:

22 (1) It is unlawful to use more than 150 hooks on a vessel to take a fish for
23 commercial purposes when using fishing lines authorized pursuant to this title.

24 (2) Not more than 15 hooks shall be attached to any one fishing line, and no
25 fishing line shall be attached to another fishing line, while those lines are being
26 used for commercial fishing pursuant to this title, except that a single troll line
27 with not more than 30 hooks may be used to take California halibut.

28 (3) Each fishing line used pursuant to this title that is not attached to a fishing
29 vessel shall be buoyed, and the commercial fishing license identification number
30 issued to the permittee who is using the fishing line shall be marked on and visible
31 on the upper one-half of each buoy, in numbers at least two inches high.

32 **Comment.** Subdivisions (a) and (b) of Section 18800 continue the part of former Fish and
33 Game Code Section 9029 applicable to former Fish and Game District 6 without substantive
34 change.

35 Subdivision (c) continues the part of former Fish and Game Code Section 9027 applicable to
36 former Fish and Game District 6 without substantive change.

37 **Note.** Existing Fish and Game Code Section 9029(c) (which would be continued in part by
38 proposed Section 18800(c)) requires a fishing line used in specified Fish and Game districts to be
39 attached to a buoy displaying “the fisherman’s” identification number. Although the section
40 further provides that the term “fisherman’s identification number” refers to the number of “the
41 person’s” commercial fishing license issued pursuant to Section 7850, it remains unclear whether
42 this reference is intended to refer to the *owner of the line*, or the person *fishing* with the line.

1 This same issue is presented by several other sections of the existing Fish and Game Code, but
2 it is possible that context in these sections dictates different conclusions. For example, this same
3 reference to the display on a buoy of the “fisherman’s” identification number is part of the
4 general regulation of set nets in existing Section 8601.5, where the context of that section seems
5 to suggest the required marking should be that of the *owner* of the net. (See Note following
6 proposed Section 15605.) On the other hand, existing Section 9027, another section that governs
7 the use of fishing lines in a specially described geographic area, expressly requires the
8 identification number displayed on the buoy attached to a fishing line “the commercial fishing
9 license identification number issued... to the permittee who is *using* the fishing line.”

10 **The Commission invites comment on whether existing Section 9029(c) is intended to**
11 **require the display of the commercial fishing license identification number of the *owner* of**
12 **the fishing line, or of the fisherman who is presently *fishing* with the line.**

13 **§ 18805. District 2575**

14 18805. (a) In District 2575, notwithstanding Section 18705, a fishing line that is
15 anchored to the ocean bottom at one end and attached at the surface to a fishing
16 vessel or a buoy may be used, except under any of the following circumstances:

17 (1) To take shortfin mako (bonito) sharks, thresher sharks, swordfish, or marlin.

18 (2) If the fishing line exceeds 3,000 feet in length, from the anchor to the surface
19 vessel or buoy.

20 (3) If any hooks are attached to the upper one-third of the line.

21 (b) A buoy attached to the surface end of a fishing line used pursuant to
22 subdivision (a) shall display above its waterline, in numerals at least two inches
23 high, the fisherman’s commercial fishing license identification number.

24 (c) Notwithstanding subdivision (a), subdivision (a) or (b) of Section 18900, or
25 Section 18705, in waters of the district within one mile of the mainland shore
26 excluding ocean waters between a line extending 203 degrees magnetic from
27 Gitchell Creek and a line extending 252 degrees magnetic from False Cape in
28 Humboldt County, the following additional restrictions apply:

29 (1) It is unlawful to use more than 150 hooks on a vessel to take a fish for
30 commercial purposes when using fishing lines authorized pursuant to this title.

31 (2) Not more than 15 hooks shall be attached to any one fishing line, and no
32 fishing line shall be attached to another fishing line, while those lines are being
33 used for commercial fishing pursuant to this title, except that a single troll line
34 with not more than 30 hooks may be used to take California halibut.

35 (3) Each fishing line used pursuant to this title that is not attached to a fishing
36 vessel shall be buoyed, and the commercial fishing license identification number
37 issued to the permittee who is using the fishing line shall be marked on and visible
38 on the upper one-half of each buoy, in numbers at least two inches high.

39 (d) Notwithstanding subdivision (a), subdivision (a) or (b) of Section 18900, or
40 Section 19005, in waters of the district within one mile of the mainland shore, it is
41 unlawful to use a set line, vertical fishing line, or troll line to take any fish other
42 than salmon or California halibut for a commercial purpose, from sunset on Friday
43 to sunset on the following Sunday, or from sunset of the day before a state
44 recognized legal holiday until sunset on that holiday.

1 **Comment.** Subdivisions (a) and (b) of Section 18805 continue the part of former Fish and
2 Game Code Section 9029 applicable to former Fish and Game District 7 without substantive
3 change.

4 Subdivision (c) continues the part of former Fish and Game Code Section 9027 applicable to
5 former Fish and Game District 7 without substantive change.

6 Subdivision (d) continues the parts of the first and third sentences of former Fish and Game
7 Code Section 9029.5 applicable to former Fish and Game District 7 without substantive change.

8 **§ 18810. District 2590**

9 18810. (a) In District 2590, notwithstanding Section 18705, a fishing line that is
10 anchored to the ocean bottom at one end and attached at the surface to a fishing
11 vessel or a buoy may be used, except under any of the following circumstances:

12 (1) To take shortfin mako (bonito) sharks, thresher sharks, swordfish, or marlin.

13 (2) If the fishing line exceeds 3,000 feet in length, from the anchor to the surface
14 vessel or buoy.

15 (3) If any hooks are attached to the upper one-third of the line.

16 (b) A buoy attached to the surface end of a fishing line used pursuant to
17 subdivision (a) shall display above its waterline, in numerals at least two inches
18 high, the fisherman's commercial fishing license identification number.

19 (c) Notwithstanding subdivision (a), subdivision (a) or (b) of Section 18900, or
20 Section 18705, in waters of the district within one mile of the mainland shore
21 excluding ocean waters between a line extending 245 degrees magnetic from the
22 most westerly point of the west point of the Point Reyes headlands in Marin
23 County and a line extending due west magnetic from Point Bolinas in Marin
24 County, the following additional restrictions apply:

25 (1) It is unlawful to use more than 150 hooks on a vessel to take a fish for
26 commercial purposes when using fishing lines authorized pursuant to this title.

27 (2) Not more than 15 hooks shall be attached to any one fishing line, and no
28 fishing line shall be attached to another fishing line, while those lines are being
29 used for commercial fishing pursuant to this title, except that a single troll line
30 with not more than 30 hooks may be used to take California halibut.

31 (3) Each fishing line used pursuant to this title that is not attached to a fishing
32 vessel shall be buoyed, and the commercial fishing license identification number
33 issued to the permittee who is using the fishing line shall be marked on and visible
34 on the upper one-half of each buoy, in numbers at least two inches high.

35 (d) Notwithstanding subdivision (a), subdivision (a) or (b) of Section 18900, or
36 Section 19010, in waters of the district within one mile of the mainland shore, it is
37 unlawful to use a set line, vertical fishing line, or troll line to take any fish other
38 than salmon or California halibut for a commercial purpose, from sunset on Friday
39 to sunset on the following Sunday, or from sunset of the day before a state
40 recognized legal holiday until sunset on that holiday.

41 **Comment.** Subdivisions (a) and (b) of Section 18810 continue the part of former Fish and
42 Game Code Section 9029 applicable to former Fish and Game District 10 without substantive
43 change.

1 Subdivision (c) continues the part of former Fish and Game Code Section 9027 applicable to
2 former Fish and Game District 10 without substantive change.

3 Subdivision (d) continues the parts of the first and third sentences of former Fish and Game
4 Code Section 9029.5 applicable to former Fish and Game District 10 without substantive change.

5 **§ 18815. District 2615**

6 18815. (a) In District 2615, notwithstanding Section 18705, a fishing line that is
7 anchored to the ocean bottom at one end and attached at the surface to a fishing
8 vessel or a buoy may be used, except under any of the following circumstances:

9 (1) To take shortfin mako (bonito) sharks, thresher sharks, swordfish, or marlin.

10 (2) If the fishing line exceeds 3,000 feet in length, from the anchor to the surface
11 vessel or buoy.

12 (3) If any hooks are attached to the upper one-third of the line.

13 (b) A buoy attached to the surface end of a fishing line used pursuant to
14 subdivision (a) shall display above its waterline, in numerals at least two inches
15 high, the fisherman's commercial fishing license identification number.

16 (c) Notwithstanding subdivision (a), subdivision (a) or (b) of Section 18900, or
17 Section 18705, in waters of the district within one mile of the mainland shore, the
18 following additional restrictions apply:

19 (1) It is unlawful to use more than 150 hooks on a vessel to take fish for
20 commercial purposes when using a fishing line authorized pursuant to this title.

21 (2) Not more than 15 hooks shall be attached to any one fishing line, and no
22 fishing line shall be attached to another fishing line, while those lines are being
23 used for commercial fishing pursuant to this title.

24 (3) Each fishing line used pursuant to this title that is not attached to a fishing
25 vessel shall be buoyed, and the commercial fishing license identification number
26 issued to the permittee who is using the fishing line shall be marked on, and
27 visible on the upper one-half of each buoy, in numbers not less than two inches in
28 height.

29 (d) Subdivision (c) does not apply to persons who are fishing south of a line
30 extending due west from Point Conception for halibut, white sea bass, sharks,
31 skates, or rays if at least 80% of the total number of fish possessed by persons
32 aboard the vessel are halibut, white sea bass, sharks, skates, and rays.

33 **Comment.** Subdivisions (a) and (b) of Section 18815 continue the part of former Fish and
34 Game Code Section 9029 applicable to former Fish and Game District 17 without substantive
35 change.

36 Subdivisions (c) and (d) restate the part of former Fish and Game Code Section 9027.5
37 applicable to former Fish and Game District 17 without substantive change.

38 **Note.** Proposed Section 18815(d) is intended to restate the part of existing Fish and Game
39 Code Section 9027.5(c) applicable to existing Fish and Game District 17 to clarify the meaning of
40 that provision, without changing its substantive meaning. The existing provision reads as follows:

41 (c) Subdivision (a) does not apply to persons who are fishing south of a line extending due
42 west from Point Conception and who are fishing for halibut, white sea bass, sharks, skates, or
43 rays. The exemption in this subdivision does not apply if all of the fish possessed by persons

1 aboard the vessel does not consist of at least 80 percent by number of halibut, white sea bass,
2 sharks, skates, and rays.

3 **The Commission invites comment on whether proposed Section 18815(d) correctly**
4 **restates the part of existing Section 9027.5(c) applicable to existing Fish and Game District**
5 **17.**

6 **§ 18820. District 2620**

7 18820. (a) In District 2620, notwithstanding Section 18705, a fishing line that is
8 anchored to the ocean bottom at one end and attached at the surface to a fishing
9 vessel or a buoy may be used, except under any of the following circumstances:

10 (1) To take shortfin mako (bonito) sharks, thresher sharks, swordfish, or marlin.

11 (2) If the fishing line exceeds 3,000 feet in length, from the anchor to the surface
12 vessel or buoy.

13 (3) If any hooks are attached to the upper one-third of the line.

14 (b) A buoy attached to the surface end of a fishing line used pursuant to
15 subdivision (a) shall display above its waterline, in numerals at least two inches
16 high, the fisherman's commercial fishing license identification number.

17 (c) Notwithstanding subdivision (a), subdivision (a) or (b) of Section 18900, or
18 Section 18705, in waters of the district within one mile of the mainland shore, the
19 following additional restrictions apply:

20 (1) It is unlawful to use more than 150 hooks on a vessel to take fish for
21 commercial purposes when using a fishing line authorized pursuant to this title.

22 (2) Not more than 15 hooks shall be attached to any one fishing line, and no
23 fishing line shall be attached to another fishing line, while those lines are being
24 used for commercial fishing pursuant to this title.

25 (3) Each fishing line used pursuant to this title that is not attached to a fishing
26 vessel shall be buoyed, and the commercial fishing license identification number
27 issued to the permittee who is using the fishing line shall be marked on, and
28 visible on the upper one-half of each buoy, in numbers not less than two inches in
29 height.

30 (d) Subdivision (d) does not apply to persons who are fishing south of a line
31 extending due west from Point Conception for halibut, white sea bass, sharks,
32 skates, or rays if at least 80% of the total number of fish possessed by persons
33 aboard the vessel are halibut, white sea bass, sharks, skates, and rays.

34 **Comment.** Subdivisions (a) and (b) of Section 18820 continues the part of former Fish and
35 Game Code Section 9029 applicable to former Fish and Game District 18 without substantive
36 change.

37 Subdivisions (c) and (d) restate the part of former Fish and Game Code Section 9027.5
38 applicable to former Fish and Game District 18 without substantive change.

39 **Note.** Proposed Section 18820(d) is intended to restate the part of existing Fish and Game
40 Code Section 9027.5(c) applicable to existing Fish and Game District 18 to clarify the meaning of
41 that provision, without changing its substantive meaning. The existing provision reads as follows:

42 (c) Subdivision (a) does not apply to persons who are fishing south of a line extending due
43 west from Point Conception and who are fishing for halibut, white sea bass, sharks, skates, or
44 rays. The exemption in this subdivision does not apply if all of the fish possessed by persons

1 aboard the vessel does not consist of at least 80 percent by number of halibut, white sea bass,
2 sharks, skates, and rays.

3 **The Commission invites comment on whether proposed Section 18820(d) correctly**
4 **restates the part of existing Section 9027.5(c) applicable to existing Fish and Game District**
5 **18.**

6 **§ 18825. District 2625**

7 18825. (a) In District 2625, notwithstanding Section 18705, a fishing line that is
8 anchored to the ocean bottom at one end and attached at the surface to a fishing
9 vessel or a buoy may be used, except under any of the following circumstances:

10 (1) To take shortfin mako (bonito) sharks, thresher sharks, swordfish, or marlin.

11 (2) If the fishing line exceeds 3,000 feet in length, from the anchor to the surface
12 vessel or buoy.

13 (3) If any hooks are attached to the upper one-third of the line.

14 (b) A buoy attached to the surface end of a fishing line used pursuant to
15 subdivision (a) shall display above its waterline, in numerals at least two inches
16 high, the fisherman's commercial fishing license identification number.

17 (c) Notwithstanding subdivision (a), subdivision (a) or (b) of Section 18900, or
18 Section 18705, in waters of the district within one mile of the mainland shore, the
19 following additional restrictions apply:

20 (1), It is unlawful to use more than 150 hooks on a vessel to take fish for
21 commercial purposes when using a fishing line authorized pursuant to this title.

22 (2) Not more than 15 hooks shall be attached to any one fishing line, and no
23 fishing line shall be attached to another fishing line, while those lines are being
24 used for commercial fishing pursuant to this title.

25 (3) Each fishing line used pursuant to this title that is not attached to a fishing
26 vessel shall be buoyed, and the commercial fishing license identification number
27 issued to the permittee who is using the fishing line shall be marked on, and
28 visible on the upper one-half of each buoy, in numbers not less than two inches in
29 height.

30 (d) Subdivision (c) does not apply to persons who are fishing south of a line
31 extending due west from Point Conception for halibut, white sea bass, sharks,
32 skates, or rays if at least 80% of the total number of fish possessed by persons
33 aboard the vessel are halibut, white sea bass, sharks, skates, and rays.

34 **Comment.** Subdivisions (a) and (b) of Section 18825 continue the part of former Fish and
35 Game Code Section 9029 applicable to former Fish and Game District 19 without substantive
36 change.

37 Subdivisions (c) and (d) restate the part of former Fish and Game Code Section 9027.5
38 applicable to former Fish and Game District 19 without substantive change.

39 **Note.** Proposed Section 18825(d) is intended to restate the part of existing Fish and Game
40 Code Section 9027.5(c) applicable to existing Fish and Game District 19 to clarify the meaning of
41 that provision, without changing its substantive meaning. The existing provision reads as follows:

42 (c) Subdivision (a) does not apply to persons who are fishing south of a line extending due
43 west from Point Conception and who are fishing for halibut, white sea bass, sharks, skates, or
44 rays. The exemption in this subdivision does not apply if all of the fish possessed by persons

1 aboard the vessel does not consist of at least 80 percent by number of halibut, white sea bass,
2 sharks, skates, and rays.

3 **The Commission invites comment on whether proposed Section 18825(d) correctly**
4 **restates the part of existing Section 9027.5(c) applicable to existing Fish and Game District**
5 **19.**

6 CHAPTER 3. SET LINES

7 § 18900. Set line

8 18900. (a) A set line may be used in Districts 2570, 2575, 2590, 2615, 2620, and
9 2625.

10 (b) It is unlawful to use a set line with hooks more than 100 feet above the
11 anchor or ocean bottom.

12 (c) A set line shall be marked at both ends with buoys displaying above their
13 waterlines, in numerals at least 2 inches high, the owner's commercial fishing
14 license identification number.

15 **Comment.** Subdivisions (a) and (b) of Section 18900 continue former Fish and Game Code
16 Section 9026 without substantive change.

17 Subdivision (c) continues the part of former Fish and Game Code Section 8601.5(a) applicable
18 to set lines without substantive change.

19 **Note.** Existing Fish and Game Code Section 8601.5(a) requires both a set *net* and a set *line* to
20 be attached to a buoy displaying "the fisherman's" identification number. It is unclear whether
21 this reference is intended to refer to the commercial fisherman who *owns* the net or line, or the
22 commercial fisherman *fishing* with the net or line.

23 The Commission has suggested that, as much of the remainder of Section 8601.5 appears to
24 relate to the responsibilities of the owner of a set net, this display requirement in Section 8601.5,
25 at least with regard to a set *net*, is meant to refer to the owner of the net. (See Note following
26 proposed Section 15605.) If this interpretation is correct, it would suggest that the display
27 requirement relating to a set *line* also refers to the owner of the line, and proposed Section
28 18900(c) therefore tentatively incorporates that interpretation.

29 On the other hand, existing Section 9027, which governs the use of fishing lines in a specially
30 described geographic area, expressly requires the identification number displayed on the buoy
31 attached to a fishing line "the commercial fishing license identification number issued... to the
32 permittee who is *using* the fishing line."

33 **The Commission invites comment on whether the display requirement in existing Section**
34 **8601.5 relating to the use of a set line is intended to require the display of the commercial**
35 **fishing license identification number of the owner of the line, or of the fisherman who is**
36 **presently fishing with the line.**

37 CHAPTER 4. TROLL LINES

38 Article 1. General Provisions

39 § 18950. Use of troll line

40 18950. A troll line or handline having not more than two hooks (plugs excepted)
41 may be used in any district.

1 **§ 19020. District 2600**

2 19020. In District 2600, notwithstanding Section 18950, the use of troll lines or
3 handlines is subject to the following restrictions:

4 (a) A commercial fisherman shall not use more than four troll lines or handlines
5 at any time with not more than two hooks attached to each line.

6 (b) When more than one commercial fisherman is aboard a vessel, not more than
7 six lines with a maximum of two hooks per line may be fished aboard that vessel.

8 **Comment.** Section 19020 continues the part of former Fish and Game Code Section 9025.5(c)
9 applicable to former Fish and Game District 12 without substantive change.

10 **§ 19025. District 2605**

11 19025. (a) In District 2605, notwithstanding Section 18950, the use of troll lines
12 or handlines is subject to the following restrictions:

13 (a) A commercial fisherman shall not use more than four troll lines or handlines
14 at any time with not more than two hooks attached to each line.

15 (b) When more than one commercial fisherman is aboard a vessel, not more than
16 six lines with a maximum of two hooks per line may be fished aboard that vessel.

17 **Comment.** Section 19025 continues the part of former Fish and Game Code Section 9025.5(c)
18 applicable to former Fish and Game District 13 without substantive change.

19 **§ 19030. District 2610**

20 19030. In District 2610, a troll line with more than two hooks may be used.

21 **Comment.** Section 19030 continues the second part of former Fish and Game Code Section
22 9025.5(a) applicable to former Fish and Game District 16 without substantive change.

23 **§ 19035. District 2615**

24 19035. In District 2615, a troll line with more than two hooks may be used.

25 **Comment.** Section 19035 continues the second part of former Fish and Game Code Section
26 9025.5(a) applicable to former Fish and Game District 17 without substantive change.

27 **§ 19040. District 2620**

28 19040. In District 2620, a troll line with more than two hooks may be used.

29 **Comment.** Section 19040 continues the second part of former Fish and Game Code Section
30 9025.5(a) applicable to former Fish and Game District 18 without substantive change.

31 **§ 19045. District 2625**

32 19045. In District 2625, a troll line with more than two hooks may be used.

33 **Comment.** Section 19045 continues the second part of former Fish and Game Code Section
34 9025.5(a) applicable to former Fish and Game District 19 without substantive change.

35 **§ 19050. District 2630**

36 19050. In District 2630, a troll line with more than two hooks may be used.

37 **Comment.** Section 19050 continues the second part of former Fish and Game Code Section
38 9025.5(a) applicable to former Fish and Game District 19A without substantive change.

1 TITLE 6. TRAPS

2 CHAPTER 1. GENERAL PROVISIONS

3 § 19150. “Definitions”

4 19150. For the purposes of this title, the following terms have the following
5 meanings:

6 (a) “Deeper nearshore species” means those finfish identified as deeper
7 nearshore species in regulations adopted by the commission pursuant to Section
8 22620.

9 (b) “General trap permit” means a valid permit to take fish for a commercial
10 purpose issued pursuant to Section 19205 that has not been suspended or revoked.

11 (c) “Nearshore species” means those finfish identified as such in regulations
12 adopted by the commission pursuant to Section 22620.

13 (d) “Popup” means a mechanism capable of releasing a submerged buoy at a
14 predetermined time.

15 **Comment.** Section 19150 continues former Fish and Game Code Section 9000.5(b)-(c) and
16 (e)-(f) without substantive change.

17 § 19200. Allowed use of traps

18 19200. (a) Except as expressly authorized in this title, no person shall use a trap
19 to take any finfish, mollusk, or crustacean in the waters of the state for commercial
20 purposes.

21 (b) Traps may be used to take finfish in ocean waters only as authorized by this
22 title.

23 **Comment.** Section 19200 continues former Fish and Game Code Section 9000(a) and (b)
24 specifically without substantive change.

25 § 19205. Required permit

26 19205. (a) Finfish, mollusks, or crustaceans shall not be taken by a person for a
27 commercial purpose in ocean waters with a trap, except under a valid general trap
28 permit issued to that person that has not been suspended or revoked.

29 (b) Any person who operates or assists in operating any trap to take a finfish,
30 mollusk or crustacean, other than a lobster or Dungeness crab as defined in or who
31 possesses or transports a finfish, mollusk or crustacean on any boat, barge, or
32 vessel when any trap is aboard, shall have a general trap permit issued to that
33 person that has not been revoked or suspended, while engaged in the activity.

34 (c) The fee for the general trap permit shall be thirty-five dollars (\$35).

35 (d) This section does not apply to the taking of lobster under Section 49700 or to
36 the taking of Dungeness crab under Section 47450.

37 **Comment.** Section 19205 continues former Fish and Game Code Section 9001 without
38 substantive change.

1 § 19210. Destruction device

2 19210. (a) A trap shall have at least one destruction device that meets
3 specifications approved by the department.

4 (b) In order to minimize the adverse effects on living marine resources, the
5 specifications for destruction devices shall provide for a device that destructs
6 rapidly enough to facilitate escape of a substantial proportion of all species
7 confined in a trap that cannot be raised.

8 **Comment.** Section 19210 continues former Fish and Game Code Section 9003 without
9 substantive change.

10 § 19215. Required maintenance

11 19215. A trap shall be raised, cleaned, serviced, and emptied at intervals not to
12 exceed 96 hours, weather conditions at sea permitting.

13 **Comment.** Section 19215 continues the first part of former Fish and Game Code Section 9004
14 without substantive change.

15 § 19220. Abandonment

16 19220. No trap shall be abandoned in waters of the state.

17 **Comment.** Section 19220 continues the second part of former Fish and Game Code Section
18 9004 without substantive change.

19 § 19225. Marking

20 19225. A trap or string of traps shall be marked with a buoy. The department
21 shall implement regulations by January 1, 2020, requiring standardized gear
22 marking for those fisheries in which the department determines it is appropriate.
23 As part of the regulations, the department shall establish a fee for each fishery
24 requiring standardized gear marking pursuant to this section and shall set and
25 adjust each fee in an amount to fully recover, but not exceed, all reasonable
26 administrative and implementation costs of the department relating to the
27 standardized gear marking requirement.

28 **Comment.** Section 19225 continues former Fish and Game Code Section 9005 without
29 substantive change.

30 **Notes.** (1) Proposed Section 19225 would continue Section 9005, which was amended by
31 2018 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in
32 anticipation of its effect.

33 (2) The second sentence of proposed Section 19225 uses the term “gear,” which could perhaps
34 be read broadly as including other kinds of gear besides traps. **The Commission invites**
35 **comment on whether that broader meaning was intended and, if so, whether the sentence**
36 **would be better located in a more generally applicable location.**

37 § 19230. Required marking of trap

38 19230. Every trap used to take finfish or crustaceans shall be marked with a
39 buoy. Each buoy shall be marked to identify the operator as follows:

1 (a) For a trap used to take lobster the commercial fishing license identification
2 number followed by the letter “P.”

3 (b) For a trap used to take Dungeness crab or hagfish, the commercial fishing
4 license identification number only.

5 (c) For a trap used to take finfish other than sablefish or hagfish, the commercial
6 fishing license identification number followed by the letter “Z.”

7 (d) For a trap used to take sablefish, the commercial fishing license
8 identification number followed by the letter “B.”

9 **Comment.** Section 19230 continues former Fish and Game Code Section 9006 without
10 substantive change.

11 CHAPTER 2. DISTURBANCE OF TRAPS

12 § 19300. Disturbance of trap

13 19300. (a) Except as provided in Sections 19305 and 19310, it is unlawful to
14 willfully or recklessly disturb, move, or damage a trap that belongs to another
15 person and that is marked with a buoy identification number pursuant to Section
16 19230.

17 (b) Subdivision (a) does not apply to employees of the department while
18 engaged in the performance of official duties.

19 **Comment.** Subdivision (a) of Section 19300 continues former Fish and Game Code Section
20 9002(a) without substantive change.

21 Subdivision (b) continues former Fish and Game Code Section 9002(c) without substantive
22 change.

23 § 19305. Permit to pull or raise trap

24 19305. (a) A person, who has been issued a general trap permit under Section
25 19205 and has it in his or her possession, may pull or raise a trap marked with a
26 buoy, if the buoy is marked with a buoy identification number pursuant to
27 subdivision (b) of Section 19230.

28 (b) A person pulling or raising a trap marked with a buoy identification number
29 other than his or her own buoy identification number shall have written permission
30 in his or her possession from the other person who holds the buoy identification
31 number that is marked on the buoy.

32 **Comment.** Section 19305 continues former Fish and Game Code Section 9002(b) without
33 substantive change.

34 § 19310. Publicly employed safety personnel

35 19310. (a) Section 19300 does not apply to publicly employed safety personnel,
36 including, but not limited to, lifeguards, marine safety officers, harbor patrol
37 officers, and peace officers, who, in the performance of their official duties,
38 remove a trap, buoy, or line located in or near breaking surf or adjacent to a public
39 beach if they believe that the trap poses a public safety hazard.

1 (b) A person who removes a trap or an attachment to a trap pursuant to this
2 section that is identified by a buoy identification number is required to do the
3 following:

4 (1) Immediately return any marine life captured in the trap to the ocean.

5 (2) Make an attempt to contact the person whose permit or license number is
6 marked on the buoy, by personal contact, telephone, recorded message left on a
7 telephone answering machine, regular United States Postal Service, or by other
8 means, advising where the property is located.

9 (c) Employees of the department may disclose the name, address, and buoy
10 identification numbers of currently permitted or licensed persons to
11 representatives of public safety agencies described in this section, to assist in the
12 return of traps and attachments to their proper owners or operators.

13 (d) A person who removes a trap or an attachment to a trap pursuant to this
14 section shall have no responsibility to secure the trap or attachment against loss or
15 damage.

16 (e) If the person whose permit or license number is marked on the buoy does not
17 retrieve the trap within seven days of notification pursuant to this section, or if that
18 person cannot be identified within seven days after the trap has been removed, the
19 trap may be discarded.

20 (f) This section does not create a duty on the part of any state or local agency to
21 remove or move a trap, line, or buoy that does not create any liability pursuant to
22 Part 2 (commencing with Section 814) of Division 3.6 of Title 1 of the
23 Government Code.

24 **Comment.** Section 19310 continues former Fish and Game Code Section 9002(d) without
25 substantive change.

26 **§ 19315. Retrieval of commercial crab traps**

27 19315. (a) Notwithstanding Sections 19300, 19305, and 19310, the department,
28 in consultation with the Dungeness crab task force, shall establish a retrieval
29 program to provide for the retrieval of lost or abandoned commercial Dungeness
30 crab traps by June 30, 2019.

31 (b) The retrieval program developed pursuant to subdivision (a) shall be
32 consistent with all of the following:

33 (1) The department shall establish a retrieval permit that grants a person who
34 obtains a retrieval permit the authority to retrieve Dungeness crab traps located in
35 ocean waters belonging to another person without written permission from that
36 person during the closed season of the Dungeness crab commercial fishery, as
37 described in Section 47300. The department may establish any qualifications it
38 deems necessary for a person to obtain a retrieval permit. The department shall
39 require a permit fee in an amount necessary to fully recover, but not exceed, all
40 reasonable administrative and implementation costs to the department of the
41 retrieval program.

1 (2) Notwithstanding Chapter 4 (commencing with Section 2080) of Title 6 of
2 Part 4 of Division 3 of the Civil Code or any other law, any Dungeness crab trap
3 retrieved under the authority of a retrieval permit shall become the property of the
4 retrieval permitholder.

5 (3) The department shall require a retrieval permitholder to notify the former
6 trap owner of the retrieval of a Dungeness crab trap and shall offer to sell the trap
7 to the former owner for a reasonable recovery fee, as determined by the retrieval
8 permitholder, based on the cost of trap retrieval and storage of the trap. The
9 department shall impose per-trap fees on any former trap owner who refuses to
10 pay the recovery fee to the retrieval permitholder. The department shall set the rate
11 of these per-trap fees at a level sufficient to recover any costs to the department
12 from handling noncompliance with the gear retrieval program and to reimburse the
13 retrieval permitholder for the reasonable cost of trap retrieval, storage, and
14 disposal of crab traps belonging to a former owner who refuses to pay the recovery
15 fees for those traps and, upon appropriation by the Legislature, shall use the
16 proceeds of the per-trap fees for these purposes. The department shall annually
17 adjust the per-trap fees pursuant to Section 3755.

18 (4) Notwithstanding Section 22205, the department may release contact
19 information to a retrieval permitholder for purposes of the retrieval program under
20 terms and conditions as the department deems necessary to preserve the
21 confidentiality of the information released. Any release of information pursuant to
22 this section shall not constitute a waiver of any applicable exemptions from
23 disclosure under the California Public Records Act (Chapter 3.5 (commencing
24 with Section 6250) of Division 7 of Title 1 of the Government Code).

25 (5) The department may deny an application for renewal or transfer of a
26 Dungeness crab vessel permit until the applicant pays any fees imposed pursuant
27 to paragraph (3).

28 (6) The department shall submit the proposed retrieval program developed
29 pursuant to this section to the Dungeness crab task force for review, and shall not
30 implement the retrieval program until the task force has had 60 days or more to
31 review the proposed retrieval program and recommend any proposed changes. The
32 director may implement the retrieval program earlier than 60 days after it is
33 submitted to the Dungeness crab task force for review, if recommended by the task
34 force.

35 (c) This section shall become inoperative on April 1, 2029, and, as of January 1,
36 2030, is repealed, unless a later enacted statute, that becomes operative on or
37 before January 1, 2030, deletes or extends the dates on which it becomes
38 inoperative and is repealed.

39 **Comment.** Section 19315 continues former Fish and Game Code Section 9002.5 without
40 substantive change.

41  **Note.** Proposed Section 19315 would continue Section 9002.5, which was amended by 2018
42 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in
43 anticipation of its effect.

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CHAPTER 3. NUISANCE

§ 19400. Abatement of nuisance

19400. A trap used without a buoy, or with a buoy that is not marked pursuant to Section 19230, is a public nuisance and shall be removed from the waters of this state by any person authorized to enforce this code.

(b) Any trap used in violation of this code, or any regulations adopted pursuant thereto, is a public nuisance and, except as provided in Section 9007, shall be seized.

Comment. Subdivision (a) of Section 19400 continues former Fish and Game Code Section 9007 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 9008 without substantive change.

See also Section 4975-4988 (seizure).

CHAPTER 4. TRAPPING OF FINFISH

§ 19500. Criteria for use of trap

19500. Finfish, other than sablefish and hagfish, may be taken under a general trap permit if all of the following criteria are also met:

(a) Every person aboard the vessel a valid general trap permit that has not been suspended or revoked.

(b) If nearshore species are present, at least one person aboard the vessel possesses a valid nearshore fishery permit and a nearshore fishery trap endorsement that has not been suspended or revoked.

(c) If deeper nearshore species are present, at least one person aboard the vessel possesses a valid deeper nearshore species fishery permit that has not been suspended or revoked.

(d) During the period from one hour after sunset to one hour before sunrise, finfish traps that are left in the water shall be unbaited with the door secured open. If, for reasons beyond the control of the permittee, all trap doors cannot be secured open prior to one hour after sunset, the permittee shall immediately notify the department.

(e) Popups shall not be used on buoy lines attached to finfish traps, and shall not be possessed aboard a vessel when taking finfish under a general trap permit.

(f) Trap destruction devices used on finfish traps shall conform to the current regulatory requirements for those devices pursuant to Section 19210 and as adopted by the commission.

(g) No finfish traps shall be set within 750 feet of any pier, breakwall, or jetty in District 2570, 2575, 2615, 2620, 2625, 2630, 12635, 2640, 2645, or 2650.

(h) No more than 50 finfish traps may be used in waters of the state along the mainland shore.

1 (i) The mesh of any finfish trap used pursuant to this section shall measure not
2 less than two inches by two inches.

3 (j) The following fish shall not be used as bait in finfish traps:

4 (1) Lobster.

5 (2) Crabs of the genus cancer, except rock crab, yellow crab, and red crab, as
6 identified in Section 48650, which may be used as bait under the authority of a
7 rock crab trap permit issued pursuant to Section 48650.

8 (3) Any other finfish or invertebrate to which a minimum size limit applies that
9 is used or possessed in a condition so that its size cannot be determined.

10 **Comment.** Section 19500 continues former Fish and Game Code Section 9001.7(a)-(j) without
11 substantive change.

12 **Note.** Existing Fish and Game Code Section 9001.7(g) (which would be continued by
13 proposed Section 19500(g)) prohibits the setting of finfish traps in described areas in specified
14 existing Fish and Game Districts, including District “20B.” The Commission has found no
15 section in the existing code identifying that district, and proposed Section 19500 would therefore
16 discontinue the reference to it.

17 **The Commission invites comment on whether proposed Section 19500(g) properly**
18 **continues the intended meaning of existing Section 9001.7(g).**

19 **§ 19505. Take of species generally**

20 19505. Except as otherwise prohibited, any species may be taken in a finfish
21 trap.

22 **Comment.** Section 19505 continues former Fish and Game Code Section 8403(c) without
23 substantive change.

24 **Note.** Proposed Section 19505 is intended to restate existing Fish and Game Code Section
25 8403(c) to clarify the meaning of that provision, without changing its substantive effect. The
26 existing provision (shown in italics) reads as follows:

27 8403. (a) To the extent not in conflict with Section 8607, marine species of fin fish which are
28 classified as groundfish may be taken under the regulations of the commission.

29 (b) Marine species of fin fish, including, but not limited to, fin fish which are classified as
30 groundfish, may be taken with fin fish traps, subject to Article 1 (commencing with Section 9000)
31 of Chapter 4, under regulations of the commission. The regulations may limit the number of fin
32 fish traps which any vessel may use, designate the areas in which the traps may be used, and
33 prescribe other limitations on the use of fin fish traps.

34 (c) *Any other species not otherwise prohibited may be taken in a fin fish trap.*

35 **The Commission invites comment on whether the restatement would cause any**
36 **substantive change in the meaning of the provision.**

37 **§ 19510. Marine species**

38 19510. (a) Except as otherwise provided in Section 19515, marine species of
39 finfish, including, but not limited to, finfish that are classified as groundfish, may
40 be taken with finfish traps, subject to other provisions of this code that govern
41 finfish traps, under a general trap permit issued pursuant to Section 19205, and
42 subject to regulations of the commission.

1 (b) The regulations may limit the number of finfish traps that any vessel may
2 use, designate the areas in which the traps may be used, and prescribe other
3 limitations on the use of finfish traps.

4 **Comment.** Subdivision (a) of Section 19510 combines and restates the first sentence of former
5 Fish and Game Code Section 8403(b), and Section 9022(b) without substantive change.

6 Subdivision (b) continues the second sentence of former Fish and Game Code Section 8403(b)
7 without substantive change.

8 **Note.** Proposed Section 19510(a) is intended to combine and restate the first sentence of
9 existing Fish and Game Code Section 8403(b), and Section 9022(b), to clarify the meaning of
10 those provisions, without changing their substantive effect. The existing provisions read as
11 follows:

12 8403.....

13 (b) Marine species of fin fish, including, but not limited to, fin fish which are classified as
14 groundfish, may be taken with fin fish traps, subject to Article 1 (commencing with Section 9000)
15 of Chapter 4, under regulations of the commission.

16 9022.....

17 (b) Except as otherwise provided in subdivision (a), all marine species of fin fish subject to
18 Section 8403 may be taken with one or more fin fish traps as prescribed by the commission under
19 a general trap permit issued pursuant to Section 9001.

20 **The Commission invites comment on whether the combining and restatement of these two**
21 **provisions would cause any substantive change in the meaning of either provision.**

22 **§ 19515. Special rules for Districts 2590, 2595 and 2600**

23 19515. Notwithstanding Section 19200, traps used to take finfish may not be
24 used in Districts 2590, 2595 and 2600, except for baitfish traps as provided in
25 Sections 15105, 19605, and 19610.

26 **Comment.** Section 19515 continues former Fish and Game Code Section 9022(a) without
27 substantive change.

28 CHAPTER 5. BAITFISH TRAPS

29 **§ 19600. Baitfish traps**

30 19600. A freshwater baitfish trap that is used as provided in Section 22125 is not
31 subject to the provisions of this title.

32 **Comment.** Section 19600 continues former Fish and Game Code Section 9000(c) without
33 substantive change.

34 **§ 19605. Fish that may be taken**

35 19605. Subject to Section 15105, California killifish (*Fundulus parvipinnis*),
36 mudsuckers (*Gillichthys mirabilis*), yellowfin gobies (*Acanthogobius flavimanus*),
37 shiner perch (*Cymatogaster aggregata*), and staghorn sculpin (*Leptocottus*
38 *armatus*) may be taken with baitfish traps under a general trap permit issued
39 pursuant to Section 19205.

40 **Comment.** Section 19605 continues former Fish and Game Code Section 9020(a) without
41 substantive change.

1 CHAPTER 2. DEVELOPMENT OF ALTERNATIVE FISHING GEAR

2 § 19900. Revocation or non-renewal of permit

3 19900. (a) Except as provided in subdivision (c), if an experimental permit that
4 was issued pursuant to Chapter 5 (commencing with Section 12050) of Title 2 of
5 Part 4 is not renewed, or is revoked or not renewed, pursuant to a judgment,
6 decision of the commission, or legislative enactment, and the permittee has an
7 outstanding loan with the State Coastal Conservancy under former Section 31125
8 of the Public Resources Code, as added by Chapter 910 of the Statutes of 1986, for
9 the purchase of alternative fishing gear, the unpaid balance of the loan shall be
10 excused from the date of revocation or nonrenewal of the permit, or from the date
11 of any judgment, decision, or enactment that terminates the permit, if the permittee
12 relinquishes the permit and returns the collateral fishing gear to the department, in
13 which case the department shall take possession of the alternative fishing gear for
14 the State Coastal Conservancy.

15 (b) Any alternative gear received by the department due to a revocation,
16 nonrenewal, or termination of an experimental permit may be resold by the State
17 Coastal Conservancy at fair market value to other experimental permit applicants
18 or holders under this chapter. If the permittee chooses to keep the alternative gear
19 and repay the loan, the rate of interest shall be reduced to 3 percent for the
20 remaining balance of the loan.

21 (c) If the Legislature approves the permanent use or type of gear and the
22 commercial fishing permit or the license for the permanent use or type of gear is
23 revoked for a violation of the terms and conditions under which the fishery is
24 conducted, the permittee shall be responsible for any remaining balance on any
25 outstanding loan with the State Coastal Conservancy for the purchase of
26 alternative fishing gear.

27 **Comment.** Section 19900 continues former Fish and Game Code Section 8614 without
28 substantive change.

29 **Note.** Proposed Section 19900(a) would revise existing Section 8614 to replace a reference to
30 Section 8606 (which was repealed by 2018 Cal. Stat. ch. 477) with a reference to “Chapter 5
31 (commencing with Section 12050) of Title 2 of Part 4.” That approach is based on similar
32 changes made by 2018 Cal. Stat. ch. 477, §§ 5, 6, & 8. **The Commission invites comment on
33 whether that revision is the proper way to conform to the repeal of Section 8606.**

34 § 19910. Request to terminate permit

35 19910. (a) Within the first six months of operation pursuant to an experimental
36 permit and after a reasonable and concerted effort to utilize a new type of
37 commercial fishing gear, the permittee may request that the experimental permit
38 be terminated, if it is economically infeasible to harvest the target species or if the
39 alternative gear is impractical, inefficient, or ineffective within the fishery or
40 regional area selected. The permittee shall submit copies of all landing receipts, a
41 financial statement setting forth the expenses and any revenue generated by the

1 operation of the alternative fishing gear, and a brief summary from any observers,
2 monitors, and employees regarding the operation of the alternative fishing gear to
3 the department. The department shall review the permittee's submitted material.

4 (b) If the submitted material supports the claim that the new type of commercial
5 fishing gear utilized by the permittee was either inefficient, impractical, or
6 ineffective, or that it was not economically feasible for the permittee to harvest the
7 target species, the department shall terminate the experimental permit and submit
8 its findings to the State Coastal Conservancy. Upon receiving the department's
9 report, the State Coastal Conservancy may terminate the permittee's loan. If the
10 permittee returns the collateral fishing gear to the department, the State Coastal
11 Conservancy shall reimburse the permittee from the loan fund for the principal
12 amount of the loan repaid by the permittee. The department shall take possession
13 of the fishing gear for the State Coastal Conservancy, which may resell the gear as
14 set forth in Section 19900.

15 (c) If the information does not support the claim made by the permittee, the
16 department may still terminate the experimental permit. The State Coastal
17 Conservancy may terminate the remaining balance on the loan if the permittee
18 returns the collateral fishing gear to the department, but the State Coastal
19 Conservancy shall not reimburse the permittee for previous loan payments.

20 (d) After six months of operation pursuant to an experimental permit, any
21 request to terminate the permit for the reasons set forth in subdivision (a) shall
22 include, in addition to the information required by subdivision (a), an explanation
23 of the changed circumstances or reasons that cause the new type of gear to become
24 inefficient, impractical, or ineffective or economically infeasible to harvest the
25 target species after the initial six-month operating period. The department shall
26 review the request and make its recommendation to the State Coastal Conservancy
27 following the procedures set forth in subdivisions (b) and (c). If the department
28 terminates the experimental gear permit, the State Coastal Conservancy may
29 terminate the remaining balance on the loan if the permittee returns the collateral
30 fishing gear to the department, but it shall not reimburse the permittee for any loan
31 payments received. The department shall take possession of the alternative fishing
32 gear for the State Coastal Conservancy, which may resell the gear as set forth in
33 Section 19900.

34 **Comment.** Section 19910 continues former Fish and Game Code Section 8615 without
35 substantive change.

1 TITLE 8. COMMERCIAL TAKE OF FRESHWATER FISH

2 CHAPTER 1. GENERAL PROVISIONS [*RESERVED*]

3 CHAPTER 2. TAKE

4 § 20100. Allowed take

5 20100. (a) The following fresh-water fish may be taken for commercial purposes
6 pursuant to regulations adopted by the commission:

7 (a) Threadfin shad (*Dorosoma petenense*).

8 (b) Species of the following families:

9 (1) Carp or minnow (*Cyprinidae*).

10 (2) Cichlid (*Cichlidae*).

11 (3) Goby (*Gobiidae*).

12 (4) Killifish (*Cyprinodontidae*).

13 (5) Lamprey (*Petromyzontidae*).

14 (6) Livebearer (*Peociliidae*).

15 (7) Mullet (*Mudilidae*).

16 (8) Sculpin (*Cottidae*).

17 (8) Silverside (*Antherinidae*).

18 (9) Smelt (*Osmeridae*).

19 (10) Stickleback (*Casterosteidae*).

20 (11) Sucker (*Catostomidae*).

21 (b) The commission may authorize the use of commercial fishing gear and
22 fishing methods to take any fish listed in this section, in those areas of the state
23 otherwise closed to that use pursuant to this code.

24 **Comment.** Subdivision (a) of Section 20100 continues former Fish and Game Code Section
25 8437 without substantive change.

26 Subdivision (b) continues former Fish and Game Code Section 8437.1 without substantive
27 change.

28 § 20105. Centrarchidae

29 20105. Except as provided in subdivision (b), fish of the family Centrarchidae
30 (Sacramento perch, crappie, black bass, and sunfish) shall not be taken or
31 possessed for a commercial purpose, sold, or purchased, other than fish that are
32 cultured pursuant to Part 1 (commencing with Section 23305) of Division 7.

33 (b) Notwithstanding subdivision (a), the commission shall adopt regulations
34 which authorize the importation and sale of dead fish of the family Centrarchidae
35 if the fish have been lawfully taken outside of California, they have been taken in
36 another state or foreign country that permits their sale, and they are brought into
37 California with a bill of lading or similar accountable documentation specifying
38 the origin of the fish.

1 **Comment.** Subdivision (a) of Section 20105 continues former Fish and Game Code Section
2 8436 without substantive change.

3 Subdivision (b) continues former Fish and Game Code Section 8436.5 without substantive
4 change.

5 TITLE 9. FISH-RELATED BUSINESSES

6 CHAPTER 1. GENERAL PROVISIONS

7 Article 1. Definitions

8 **§ 20150. Application**

9 20150. The definitions in this article govern the construction of this title.

10 **Comment.** Section 20150 continues the introductory clause of former Fish and Game Code
11 Section 8031(a) without substantive change.

12 **§ 20155. “Commercial fisherman”**

13 20155 “Commercial fisherman” means a person who has a valid, unrevoked
14 commercial fishing license issued pursuant to Section 14500.

15 **Comment.** Section 20155 continues former Fish and Game Code Section 8031(a)(4) without
16 substantive change.

17 **§ 20160. “Import”**

18 20160. “Import” means receiving or purchasing fish taken outside of this state
19 which are not landed in this state by a licensed commercial fisherman.

20 **Comment.** Section 20160 continues former Fish and Game Code Section 8031(a)(3) without
21 substantive change.

22 **§ 20165. “Process fish”**

23 20165. (a) “Process fish” means any activity for profit of preserving or
24 preparing fish for sale or delivery to other than the ultimate consumer, including,
25 but not limited to, cleaning, cutting, gutting, scaling, shucking, peeling, cooking,
26 curing, salting, canning, breading, packaging, or packing fish. “Process fish” also
27 means the activity for profit of manufacturing fish scraps, fish meal, fish oil, or
28 fertilizer made from fish.

29 (b) “Process fish” does not include the cleaning, beheading, gutting, or chilling
30 of fish by a licensed commercial fisherman which is required to preserve the fish
31 while aboard a fishing vessel and which is to prevent deterioration, spoilage, or
32 waste of the fish before they are landed and delivered to a person licensed to
33 purchase or receive fish from a commercial fisherman.

34 **Comment.** Section 20165 continues former Fish and Game Code Section 8031(a)(1) without
35 substantive change.

1 § 20170. “Wholesale

2 20170. “Wholesale” means the purchase of fish from persons licensed to
3 purchase or receive fish from a commercial fisherman, processors, importers, or
4 any other wholesaler for the purpose of resale to other than the ultimate consumer.

5 **Comment.** Section 20170 continues former Fish and Game Code Section 8031(a)(2) without
6 substantive change.

7 Article 2. Licensing Generally

8 § 20200. Activity requiring license

9 20200. Any person who engages in any business for profit involving fish shall
10 be licensed pursuant to this article, except as follows:

11 (a) A commercial fisherman who sells fish only to persons who are licensed
12 under this article to purchase or receive fish from commercial fishermen and who
13 does not engage in any activity described in Section 20350, 20400, or 20550
14 unless licensed to engage in both activities.

15 (b) A person licensed pursuant to Section 22100 who only takes, transports, or
16 sells live freshwater fish for bait.

17 (c) A person who sells fish or aquaculture products only at retail to the ultimate
18 consumer if that person does not conduct any activities described in Section
19 20350, 20450, or 20550.

20 (d) Pursuant to Part 1 (commencing with Section 23300) of Division 7, a person
21 who deals only in products of aquaculture.

22 (e) A person who deals only with nonnative live products that are not utilized for
23 human consumption but that are utilized solely for pet industry or hobby purposes
24 and who does not engage in the activities described in Section 20600.

25 (f) A person who is employed by the fish receiver to unload fish or fish products
26 from a commercial fishing boat at a dock.

27 (g) A person who purchases, sells, takes, or receives live marine fish for use as
28 live bait, that are not brought ashore, and who does not engage in any activity
29 described in Section 20350, 20450, 20600, 20400, or 20550.

30 (h) A person who does not purchase or obtain fish, but who acts as an agent for
31 others while negotiating purchases, or sales of fish in return for a fee, commission,
32 or other compensation.

33 **Comment.** Section 20200 continues former Fish and Game Code Section 8030 without
34 substantive change.

35 § 20205. Types of licenses

36 20205. (a) A multi-function commercial fish business license shall be issued that
37 authorizes any or all activities described in Section 20350, 20400, 20450, or
38 20550.

39 (b) Specialty licenses for part of, but not all, activities described in subdivision
40 (a) shall be issued in five classes, as follows:

1 (1) A fish importer’s license, issued to any person who is engaged in the
2 business of importing fish as provided in Section 20350.

3 (2) A fish processor’s license, issued to any person engaged in the business of
4 processing fish as provided in Section 20400.

5 (3) A fish receiver’s license, issued to any person engaged in the business of
6 receiving fish as provided in Section 20450.

7 (4) A fish wholesaler’s license, issued to any person who is engaged in the
8 business of wholesaling fish as provided in Section 20550.

9 (5) A marine aquaria receiver’s license, issued to any person engaged in the
10 business of receiving live marine species indigenous to California waters from a
11 person required to be a licensed commercial fisherman for the purpose of
12 wholesaling or retailing those species for pet industry or hobby purposes as
13 provided in Section 20600.

14 **Comment.** Subdivision (a) of Section 20205 continues the first sentence of former Fish and
15 Game Code Section 8032(a) without substantive change.

16 Subdivision (b) restates former Fish and Game Code Section 8032(b) without substantive
17 change.

18  **Note.** Proposed Section 20205(a) would identify the “commercial fish business license”
19 referenced in the first sentence of existing Fish and Game Code Section 8032(a) as a “multi-
20 function commercial fish business license,” using the nomenclature assigned to that license by the
21 Department of Fish and Wildlife.

22 **§ 20210. Conditions of license**

23 20210. Unless otherwise specified, all of the following conditions apply to each
24 commercial fish business license, permit, or other entitlement issued pursuant to
25 this title:

26 (a) An application for a commercial fish business license, permit, or other
27 entitlement shall be made on a form containing information as required by the
28 department.

29 (b) A commercial fish business license shall be signed by the holder before use.

30 (c) A person who has had a commercial fish business license suspended or
31 revoked shall not engage in that business activity, and shall not receive any other
32 commercial fish business license, permit, or other entitlement that authorizes
33 engaging in that business activity, while the suspension or revocation is in effect.

34 (d) A commercial fish business license, permit, or other entitlement is not
35 transferable, unless otherwise expressly specified in this code.

36 (e) Any person who holds a commercial fish business license, permit, or other
37 entitlement, who moves or acquires a new or additional plant, facility, or other
38 place of business for profit involving fish, shall notify the department of the
39 address within three months of commencing business activities at the address.

40 (f) Each plant, facility, or other place of business in which an activity occurs that
41 is required to be licensed under this title shall have a copy of each required license
42 on display and available for inspection at any time by the department.

1 (g) Any person required to be licensed pursuant to this title shall provide the
2 department, at the time of application, with the business name, business address,
3 and business telephone number for all locations doing business under the authority
4 of the person’s commercial fish business license, permit, or entitlement.

5 (h) Any person licensed pursuant to this title who is subject to landing fees as
6 defined in Section 20950, and has failed to pay all landing fees and penalties
7 pursuant to Section 21350, shall not be allowed to renew or obtain a commercial
8 fish business license, permit, or entitlement, until payment is made in full to the
9 department.

10 (i) Any person licensed pursuant to this title who is subject to landing fees as
11 defined in Section 20950, and fails to submit landing receipts pursuant to Section
12 21150), may be subject to suspension or revocation of his or her commercial fish
13 business license, permit, or entitlement.

14 **Comment.** Section 20210 continues former Fish and Game Code Section 8032.5(a), (b), and
15 (d)-(i) without substantive change.

16 **§ 20215. Term of license**

17 20215. A license issued under this title is valid from January 1 to December 31,
18 inclusive, or, if issued after the beginning of that term, for the remainder of that
19 term.

20 **Comment.** Section 20215 continues former Fish and Game Code Section 8038 without
21 substantive change.

22 **§ 20220. License on premises of business**

23 20220. Each plant, facility, or other place of business in which an activity occurs
24 that is required to be licensed pursuant to this title shall have a copy of the
25 required license on the premises.

26 **Comment.** Section 20220 continues the second sentence of former Fish and Game Code
27 Section 8037(a) without substantive change.

28 **Note.** Proposed Section 20220 would continue the second sentence of existing Fish and Game
29 Code Section 8037(a).

30 Section 8037(a) in its entirety reads as follows (with the second sentence italicized):

31 A person who engages in business involving fish which business activity would require more
32 than one class of license under this article shall obtain either a commercial fish business license
33 issued under subdivision (a) of Section 8032 or each of the specialty licenses which are required
34 for the classes of activities engaged in. *Each plant, facility, or other place of business in which an*
35 *activity occurs that is required to be licensed shall have a copy of the required license.*

36 **The Commission invites comment on whether proposed Section 20220 correctly continues**
37 **the intended application of the second sentence of existing Section 8037(a).**

38 **§ 20225. Possession and display of identification**

39 20225. (a) At all times when engaged in any activity for which a commercial
40 fishing license is required, or in any activity described in this title for which a
41 commercial fish business license is required, the person engaged in that activity

1 shall have in his or her possession, or immediately available to the person, a valid
2 driver's license or identification card issued to him or her by the Department of
3 Motor Vehicles, or by the entity issuing driver's licenses from the person's state of
4 domicile.

5 (b) The driver's license or identification card shall be exhibited upon demand to
6 any person authorized by the department to enforce this code, or regulations
7 adopted pursuant to this code.

8 **Comment.** Section 20225 continues the part of former Fish and Game Code Section 7852.27
9 applicable to fishing business licenses without substantive change.

10 **Note.** Existing Fish and Game Code Section 7852.27 (which, as applicable to fish business
11 licenses would be continued by proposed Section 20225), in requiring a license to have in
12 possession at all times a valid driver's license or identification card, appears to limit "persons"
13 who may receive a fish business license to only natural persons. Given that existing Section 67
14 defines "person" as including a partnership, corporation, limited liability company, trust, or other
15 type of association, is it the intent of this provision to foreclose any of these listed entities from
16 being issued a fish business license in the name of the entity?

17 **The Commission invites comment on this issue.**

18 **§ 20230. Fee for multi-function fish business license**

19 20230. (a) The annual fee for a multi-function commercial fish business license
20 is one thousand three hundred seventy-three dollars (\$1,373).

21 (b) The commission shall adjust the amount of the fee specified in subdivision
22 (a), as necessary, to fully recover, but not exceed, all reasonable administrative
23 and implementation costs of the department and the commission relating to those
24 licenses.

25 (c) The fee specified in this section is applicable to the 2004 license year, and
26 shall be adjusted annually thereafter pursuant to Section 3755.

27 **Comment.** Subdivision (a) of Section 20230 continues the second sentence of former Fish and
28 Game Code Section 8032(a) without substantive change.

29 Subdivision (b) continues former Fish and Game Code Section 8032(c) without substantive
30 change.

31 Subdivision (c) continues the part of former Fish and Game Code Section 8039 applicable to
32 multi-function commercial fish business licenses without substantive change.

33 **CHAPTER 2. SPECIALTY LICENSES**

34 **Article 1. General Provisions**

35 **§ 20300. Licensing for persons engaged in multiple businesses**

36 20300. A person who engages in business involving fish which business
37 activity would require more than one class of license under this chapter shall
38 obtain either a multi-function commercial fish business license pursuant to
39 subdivision (a) of Section 20205, or shall obtain each specialty license required for
40 each activity engaged in, as provided in this chapter.

1 licensed under Section 14500, or any person who removes fish from the point of
2 the first landing that the person has caught for his or her own processing or sale,
3 shall obtain a fish receiver's license.

4 (b) Subdivision (a) does not apply to the following persons:

5 (1) A person who holds a valid and unrevoked marine aquaria receiver license.

6 (2) A person who holds a valid and unrevoked fisherman's retail license.

7 (3) Transporting fish from the point of first landing to a fish receiver under a
8 transportation receipt completed pursuant to Chapter 4 (commencing with Section
9 21200) of Title 10.

10 **Comment.** Section 20450 combines and restates former Fish and Game Code Sections 8033(a)
11 and 8047(c)(4) without substantive change.

12 **Note.** Proposed Section 20450 is intended to combine and restate existing Fish and Game
13 Code Sections 8033(a) and 8047(c)(4) to clarify the meaning of those provisions, without
14 changing their substantive meaning. The existing provisions read as follows:

15 8033. (a) Except as provided in Section 8033.1 or 8033.5, or subdivision (c) of Section 8047,
16 any person who purchases or receives fish for commercial purposes from a fisherman who is
17 required to be licensed under Section 7850, or any person who removes fish from the point of the
18 first landing that the person has caught for his or her own processing or sale, shall obtain a fish
19 receiver's license.

20 8047. (c)(4) A person transporting fish from the point of first landing under a transportation
21 receipt is not required to be licensed to conduct the activities of a fish receiver as described in
22 Section 8033.

23 **The Commission invites comment on whether proposed Section 20450 accurately**
24 **continues the intended meaning of existing Sections 8033(a) and 8047(c)(4).**

25 **§ 20455. License fee**

26 20455. (a) The annual fee for a fish receiver's license is five hundred forty-nine
27 dollars (\$549).

28 (b) The fee specified in this section applies to the 2004 license year, and shall be
29 adjusted annually thereafter pursuant to Section 3755.

30 **Comment.** Subdivision (a) of Section 20455 continues former Fish and Game Code Section
31 8033(b) without substantive change.

32 Subdivision (b) continues the part of former Fish and Game Code Section 8039 applicable to
33 the fee for a fish receiver's license, without substantive change.

34 **§ 20460. Cooperative association**

35 20460. A cooperative association of fishers may be licensed as fish receivers.

36 **Comment.** Section 20460 continues former Fish and Game Code Section 8033(c) without
37 substantive change.

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Article 5. Fish Retailer

§ 20500. Required license

20500. Any commercial fisherman who sells fish for other than marine aquaria pet trade or research purposes that he or she has taken to the ultimate consumer of that fish shall obtain a fisherman's retail license.

Comment. Section 20500 continues the first sentence of former Fish and Game Code Section 8033.5(a) without substantive change.

§ 20505. Fee

20505. (a) The annual fee for a fish retailer's license is sixty-nine dollars (\$69).

(b) The fee specified in this section is applicable to the 2004 license year, and shall be adjusted annually thereafter pursuant to Section 3755.

Comment. Subdivision (a) of Section 20505 continues the second sentence of former Fish and Game Code Section 8033.5(a) without substantive change.

Subdivision (b) continues the part of former Fish and Game Code Section 8039 applicable to the fee for a fish retailer's license without substantive change.

Article 6. Fish Wholesaler

§ 20550. Required license

20550. (a) Except as provided in Section 20200, any person who, for the purpose of resale to other than the ultimate consumer, purchases or obtains fish from another person, who is required to be licensed as a fish receiver, fish processor, fish importer, or fish wholesaler under this title, shall obtain a fish wholesaler's license.

(b) This section does not apply to either of the following:

(1) Persons required to have a marine aquaria receiver's license pursuant to Section 20600.

(2) Persons licensed pursuant to Section 20350 who only purchase or obtain fish from outside this state.

Comment. Subdivision (a) of Section 20550 continues former Fish and Game Code Section 8035(a) without substantive change.

Subdivision (b) continues former Fish and Game Code Section 8035(c) without substantive change.

§ 20555. Fee

20555. (a) The annual fee for a fish wholesaler's license is three hundred seventy-one dollars (\$371).

(b) The fee specified in this section is applicable to the 2004 license year, and shall be adjusted annually thereafter pursuant to Section 3755.

Comment. Subdivision (a) of Section 20555 continues former Fish and Game Code Section 8035(b) without substantive change.

Subdivision (b) continues the part of former Fish and Game Code Section 8039 applicable to the fee for a fish wholesaler's license, without substantive change.

1 Article 7. Marine Aquaria Receiver

2 § 20600. Required license

3 20600. Any person engaged in any of the following activities involving species
4 identified in Section 20710 shall obtain a nontransferable marine aquaria
5 receiver's license:

6 (a) A person who is required to have a marine aquaria collector's permit
7 pursuant to Section 20705 who sells live marine organisms indigenous to
8 California, that the person has taken, to the ultimate consumer.

9 (b) A person who purchases or receives live marine species indigenous to
10 California for commercial purposes from any of the following:

11 (1) A fisherman who is required to have a marine aquaria collector's permit
12 pursuant to Section 20705.

13 (2) A person who imports from neighboring states species that are also
14 indigenous to California waters.

15 **Comment.** Section 20600 continues former Fish and Game Code Section 8033.1(a) without
16 substantive change.

17 § 20605. License fee

18 20605. (a) The annual fee for a marine aquaria receiver's license is one thousand
19 three hundred seventy-three dollars (\$1,373).

20 (b) The fee specified in this section is applicable to the 2004 license year, and
21 shall be adjusted annually thereafter pursuant to Section 3755.

22 **Comment.** Subdivision (a) of Section 20605 continues former Fish and Game Code Section
23 8033.2 without substantive change.

24 Subdivision (b) continues the part of former Fish and Game Code Section 8039 applicable to
25 the fee for a marine aquaria receiver's license, without substantive change.

26 § 20610. Source of indigenous organisms

27 20610. A person required to be licensed as a marine aquaria receiver shall obtain
28 all live marine organisms indigenous to California waters only from fishermen,
29 aquaculturists, or importers who hold current and appropriate licenses or permits.

30 **Comment.** Section 20610 continues former Fish and Game Code Section 8033.1(b) without
31 substantive change.

32 CHAPTER 3. MARINE AQUARIA PET TRADE

33 § 20700. Definitions

34 20700. The following definitions govern the construction of this chapter:

35 (a) "Marine aquaria pet trade" means any activities connected with collecting,
36 holding, selling, and displaying live aquatic marine life for pet, hobby, curio, or
37 display purposes. "Marine aquaria pet trade" does not include activities connected
38 with collecting, holding, selling, or displaying live aquatic marine life by, or for,

1 scientific institutions exempted from permits pursuant to subdivision (c) of Section
2 26710.

3 (b) “Drop net” means a small, circular net with weights attached along the
4 perimeter and a single float attached at the center. A drop net is not more than 48
5 inches in its greatest diameter.

6 **Comment.** Section 20700 continues former Fish and Game Code Section 8596 without
7 substantive change.

8 **§ 20705. Permit requirement**

9 20705. (a) It is unlawful for any person to take, possess aboard a boat, or land,
10 for a marine aquaria pet trade purpose, any live organism identified in Section
11 20710, unless that person has a valid marine aquaria collector’s permit that has not
12 been suspended or revoked. If the activity takes place on board or from a boat on
13 which more than one person is aboard, at least one person aboard the boat shall
14 have a valid marine aquaria collector permit.

15 **Comment.** Section 20705 continues former Fish and Game Code Section 8597(a) without
16 substantive change.

17 See also Section 5106 (enforcement).

18 **§ 20710. Permitted organisms**

19 20710. Except as provided in Section 20725, and unless otherwise prohibited in
20 this code, or regulations adopted pursuant to this code, specimens of the following
21 groups or species may be taken, possessed aboard a boat, or landed under a marine
22 aquaria collector’s permit:

23 (a) Marine plants:

24 (1) Chlorophyta.

25 (2) Phaeophyta.

26 (3) Rhodophyta.

27 (4) Spermatophyta, all species.

28 (b) Invertebrates:

29 (1) Polychaeta—worms; all species.

30 (2) Crustacea—shrimp, crabs; all species, except the following:

31 (A) Dungeness crab—*Cancer magister*.

32 (B) Yellow crab—*Cancer anthonyi*.

33 (C) Red crab—*Cancer productus*.

34 (D) Sheep crab—*Loxorhynchus grandis*.

35 (E) Spot prawn—*Pandalus platyceros*.

36 (F) Ridgeback prawn—*Sicyonia ingentis*.

37 (G) Golden prawn—*Penaeus californiensis*.

38 (H) Sand crab—*Emerita analoga*.

39 (I) Redrock shrimp—*Lysmata californica*.

40 (J) Bay shrimp—*Crangon* sp. and *Palaemon macrodactylus*.

41 (K) Ghost shrimp—*Callinassa* sp.

- 1 (3) Asteroidea—Sea stars; all species.
- 2 (4) Ophiuroidea—Brittle stars; all species.
- 3 (5) Gastropoda—snails, limpets, sea slugs; all species, except Kellet’s whelk—
- 4 *Kelletia kelletii*.
- 5 (6) Bivalvia—clams and mussels; all species.
- 6 (7) Polyplacophora—Chitons; all species.
- 7 (8) Cephalopoda—Octopuses and squids; all species, except two spot
- 8 octopuses—*Octopus bimaculatus* and *Octopus maculoides*—and market squid—
- 9 *Loligo opalescens*.
- 10 (9) Tunicata—Sea squirts; all species.
- 11 (c) Vertebrates:
- 12 (1) Osteichthyes—Finfishes; all species, except the following:
- 13 (A) Rockfish—*Sebastes* sp. larger than six inches total length.
- 14 (B) Sheephead—*Semicossyphus pulcher* larger than six inches total length.
- 15 (C) Anchovy—*Engraulis mordax*.
- 16 (D) Sardine—*Sardinops sagax*.
- 17 (E) Pacific/chub —*Scomber japonicus*.
- 18 (F) Jack mackerel—*Trachurus symmetricus*.
- 19 (G) Queenfish—*Seriphus politus*.
- 20 (H) White Croaker—*Genyonemus lineatus*.
- 21 (I) Top smelt—*Atherinops affinis*.
- 22 (J) Grunion—*Leuresthes tenuis*.
- 23 (K) Shiner surf perch—*Cymatogaster aggregata*.
- 24 (L) Longjawed mudsucker—*Gillichthys mirabilis*.
- 25 (2) Chondrichthyes—sharks, rays, and skates; all species less than 18 inches
- 26 total length, except that leopard shark (*Triakis semifasciata*) shall be 36 inches or
- 27 larger in total length.
- 28 **Comment.** Section 20710 continues former Fish and Game Code Section 8597(b) without
- 29 substantive change.

30 **§ 20715. Scope of permit**

31 20715. The holder of a permit issued pursuant to this title is not required to
32 obtain or possess a kelp harvester’s license issued pursuant to Section 54030, a
33 tidal invertebrate permit issued pursuant to Section 45010, or a general trap permit
34 issued pursuant to Section 19205, when taking, possessing, or landing a live
35 organism for a marine aquaria pet trade purpose pursuant to subdivision (b),
36 subject to regulations governing the taking of tidal invertebrates. The commission
37 shall adopt regulations to implement this section, and, for that purpose, may
38 incorporate other regulations by reference.

39 **Comment.** Section 20715 continues former Fish and Game Code Section 8597(c) without
40 substantive change.

1 § 20720. Prohibited take or possession

2 20720. (a) Notwithstanding Section 14260 or Section 20710, specimens of the
3 following groups or species shall not be taken, possessed aboard a boat, or landed
4 for a commercial purpose. Taking, possessing, or landing of any of the following
5 species in a commercial operation is prima facie evidence that it was taken,
6 possessed, or landed for a commercial purpose:

7 (1) Invertebrates:

8 (A) Phylum Porifera—all sponges.

9 (B) Genus *Pelagia* sp.—jellyfish.

10 (C) Coelenterata—corals, anemones; all species.

11 (D) Order Gorgonacea—all gorgonians.

12 (E) Order Pennatulacea—all species, except *Renilla kollikeri*.

13 (F) Feather-duster worm—*Eudistylia polymorpha*.

14 (G) Fiddler crab—*Uca crenulata*.

15 (H) Umbrella crab—*Cryptolithodes sitchensis*.

16 (I) Stalked or goose barnacles—*Pollicipes* sp.

17 (J) Giant acorn barnacle—*Balanus nubilus* or *B. aguilae*.

18 (K) Owl limpet—*Lottia gigantea*.

19 (L) Coffee bean shells—*Trivia* sp.

20 (M) Three-winged murex—*Pteropurpura trialata*.

21 (N) Vidler's simnia—*Simnia vidleri*.

22 (O) Queen tegula—*Tegula regina*.

23 (P) Opisthobranchia (including nudibranchs)—all subclass Opisthobranchia
24 species except:

25 (i) Sea hares—*Aplysia californica* and *Aplysia vaccaria*.

26 (ii) *Hermisenda crassicornis*.

27 (iii) Lion's mouth—*Melibe leonina*.

28 (iv) *Aeolidia papillosa*.

29 (v) Spanish shawl—*Flabellina iodinea*.

30 (2) Vertebrates:

31 (A) All shark and ray eggcases.

32 (B) Brown smoothhound sharks—*Mustelus hinlei*—that are less than 18 inches
33 in a whole condition or dressed with head and tail removed.

34 (C) Family Agonidae—all poachers.

35 (D) Wolf-eel—*Anarrhichthys ocellatus*.

36 (E) Juvenile sheephead—*Semicossyphus pulcher* (under six inches).

37 (F) Garibaldi—*Hypsypops rubicundus*.

38 (3) Live rocks.

39 (A) Rocks with living organisms attached, commonly called “live rocks,” shall
40 not be taken or possessed except as provided in subparagraph (C).

41 (B) Rocks shall not be broken to take marine aquaria species, and any rock
42 displaced to access any of those species shall be returned to its original position.

1 (C) Rocks cultured under the authority of an aquaculture registration may be
2 possessed.

3 (b) No organisms may be taken, possessed, or landed for a marine aquaria pet
4 trade purpose under the terms of a marine aquaria collector's permit in any of the
5 following areas:

6 (1) On the north side of Santa Catalina Island from a line extending three
7 nautical miles 90 degrees true from Church Rock to a line extending three nautical
8 miles 270 degrees true from the extreme west end of the island.

9 (2) On the south or "back" side of Santa Catalina Island from a line extending
10 three nautical miles 90 degrees true from Church Rock to a line extending three
11 nautical miles 270 degrees true from the extreme west end of the island.

12 (3) A marine life refuge, marine reserve, ecological reserve, or state reserve.

13 **Comment.** Section 20720 continues former Fish and Game Code Section 8598 without
14 substantive change.

15 See also Section 5106 (enforcement).

16 **§ 20725. Methods of take**

17 20725. (a) Marine organisms identified in Section 20710 shall not be taken
18 except by the following methods:

19 (1) Hook and line.

20 (2) Drop net.

21 (3) Dip Net.

22 (4) Trap.

23 (5) Hand.

24 (6) Slurp gun.

25 (7) Spatula.

26 (b) Chemical anesthetics, poisons, or irritants shall not be used or possessed by
27 any person taking or possessing fish, plants, or other marine organisms for the
28 marine aquaria industry. For the purposes of this section, chemicals commonly
29 used aboard vessels for insect and rodent control may be possessed aboard a vessel
30 if no means of delivering those chemicals, including, but not limited to, squirt
31 bottles, that can be used to target those marine organisms, is possessed aboard the
32 vessel.

33 (c) Appliances shall be used so that rocks or other mineral matter, aquatic plants,
34 fish, or other aquatic life not listed in Section 20710 are not removed from the
35 bottom or otherwise disturbed.

36 **Comment.** Section 20725 continues former Fish and Game Code Section 8598.2 without
37 substantive change.

38 See also Section 5106 (enforcement).

39 **§ 20730. Permit fee**

40 20730. (a) The fee for a marine aquaria collector's permit shall be three hundred
41 thirty dollars (\$330).

1 (b) A person engaged in taking, possessing, or landing marine species under a
2 marine aquaria collector’s permit shall not take, possess aboard a boat, or land any
3 species under the authority of a scientific collector’s permit issued pursuant to
4 Section 9200, 38200, or 58630 on the same fishing trip.

5 (c) The commission shall adjust the amount of the fee specified in subdivision
6 (a), as necessary, to fully recover, but not exceed, all reasonable administrative
7 and implementation costs of the department and the commission relating to marine
8 aquaria collector’s permits.

9 **Comment.** Section 20730 continues former Fish and Game Code Section 8598.3(a) and (c)
10 without substantive change.

11 **§ 20735. Concurrent take or possession under scientific collector’s permit**

12 20735. A person engaged in taking, possessing, or landing marine species under
13 a marine aquaria collector’s permit shall not take, possess aboard a boat, or land
14 any species under the authority of a scientific collector’s permit issued pursuant to
15 Section 9200, 38200, or 58630, on the same fishing trip.

16 **Comment.** Section 20735 continues former Fish and Game Code Section 8598.3(b) without
17 substantive change.

18 **§ 20740. Closure of fishery**

19 20740. (a) Notwithstanding any other provision of this code, the director may
20 close any portion of the fishery established under this chapter or any area in which
21 that fishery is conducted, if, upon written finding, the director determines the
22 action is necessary to protect any organisms listed in Section 20710, or the
23 environment in which any of those organisms are located.

24 (b) The director shall reopen a fishery or any fishing areas previously closed
25 pursuant to this section, if the director determines that the condition or conditions
26 that necessitated the closure no longer exist.

27 **Comment.** Section 20740 continues former Fish and Game Code Section 8598.4 without
28 substantive change.

29 **TITLE 10. LANDING FEES AND RECEIPTS**

30 **CHAPTER 1. GENERAL PROVISIONS**

31 **§ 20900. Definitions**

32 20900. The following definitions govern the construction of this title:

33 (a) “Commercial fisherman” means a person who has a valid, unrevoked
34 commercial fishing license issued pursuant to Section 14500.

35 (b) “Landing fee” means a fee imposed on a fish receiver or processor, as
36 described in Section 20950.

37 **Comment.** Section 20900 continues former Fish and Game Code Section 8040 without
38 substantive change.

1 § 20905. Information from marine aquaria receivers

2 20905. The department may require any information from a marine aquaria
3 receiver that the department deems necessary to carry out this title.

4 **Comment.** Section 20905 continues former Fish and Game Code Section 8043.1(b) without
5 substantive change.

6 CHAPTER 2. LANDING FEE

7 § 20950. Persons required to pay fee

8 20950. (a) The following persons shall pay the landing fee determined pursuant
9 to Section 20955:

10 (1) A person who is required to be licensed as a fish receiver, and any person
11 who is licensed before January 1, 1987, as a wholesaler or a processor pursuant to
12 former Fish and Game Code Section 8040 and who receives fish from commercial
13 fishermen.

14 (2) A commercial fisherman who sells fish to a person who is not a licensed fish
15 receiver.

16 (b) The following people are exempt from the landing fee imposed under this
17 title:

18 (1) A person licensed pursuant to Section 22100 who only takes, transports, or
19 sells live freshwater fish for bait.

20 (2) A commercial fisherman who sells live freshwater fish for bait to person
21 described in paragraph (1).

22 (3) A person licensed pursuant to Section 20600 who takes, transports, or sells
23 live aquaria fish as described in Section 20600.

24 (4) A commercial fisherman who sells live aquaria fish.

25 (c) It is the intent of the Legislature that the license fee for live aquaria fish
26 described in Section 20600 shall be in lieu of a landing fee imposed under this
27 title.

28 **Comment.** Section 20950 restates existing Fish and Game Code Section 8041 without
29 substantive change.

30 See also Section 5150 (enforcement).

31 **Notes.** (1) Proposed Section 20950 is intended to restate existing Fish and Game Code
32 Section 8041 for clarity, without changing their substantive effect. The existing provision reads as
33 follows:

34 8041. (a) The following persons shall pay the landing fee determined pursuant to Section 8042:

35 (1) Any person who is required to be licensed as a fish receiver, and any person who is licensed
36 before January 1, 1987, as a wholesaler or a processor pursuant to former Section 8040 and who
37 receives fish from commercial fishermen.

38 (2) Any commercial fisherman who sells fish to any person who is not a licensed fish receiver.

39 (b) Notwithstanding subdivision (a), a person licensed pursuant to Section 8460 who only
40 takes, transports, or sells live freshwater fish for bait or a commercial fisherman who sells live
41 freshwater fish for bait to such a licensed person, and a person licensed pursuant to Section
42 8033.1 who takes, transports, or sells live aquaria fish as described in Section 8597 or a
43 commercial fisherman who sells live aquaria fish, are exempt from the landing fee imposed under

1 this article. It is the intent of the Legislature that the license fee for live aquaria fish described in
2 Section 8033.1 shall be in lieu of a landing fee imposed under this article.

3 (c) Notwithstanding subdivision (a), a person who purchases, sells, takes, or receives live
4 marine fish for use as live bait as described in subdivision (g) of Section 8030 is exempt from the
5 landing fee imposed under this article.

6 **The Commission invites comment on whether that restatement would cause any change**
7 **in meaning.**

8 (2) As indicated above, existing Section 8041 includes among the persons obligated to pay the
9 fee, in addition to fish receivers, person “licensed before January 1, 1987, as a wholesaler or a
10 processor pursuant to former Section 8040 and who receives fish from commercial fishermen.

11 It is not clear whether such persons still exist in practice. If not, the reference could perhaps be
12 deleted as obsolete.

13 **The Commission invites comment on that issue.**

14 **§ 20955. Calculation of fee**

15 20955. (a) The amount of the landing fee under this article shall be determined
16 by multiplying the weight of fish delivered in this state by a commercial
17 fisherman, in pounds, or fraction of pounds, by the rate per pound for the type of
18 fish delivered set forth in the following table:

	Rate per pound
22 Lobster	\$ 0.1333
23 Spot prawn and abalone	\$ 0.1000
24 Salmon and swordfish, based only on the weight in the round	\$ 0.0333
25 Halibut, sea cucumber, white seabass, sheephead, and Dungeness crab	\$ 0.0333
26 Shortspine thornyhead, sablefish, lingcod, and prawns and shrimp 27 (except spot prawn and pink shrimp)	\$ 0.0133
28 Angel, thresher, and bonito sharks, based only on the weight in the round	\$ 0.0097
29 All fish and invertebrates unless otherwise specified	\$ 0.0067
30 Sea urchin, pink shrimp, smelts, soles, turbot, longspine thornyhead, 31 night smelt, and sanddabs	\$ 0.0047
32 Bonito, flounder, grenadiers, herring, and skates	\$ 0.0027
33 Market squid	\$ 0.0023
34 Anchovy, mackerel, sardines, and Pacific whiting	\$ 0.0010

35 (b) If the fee is imposed based upon weight in the round, and the fish is cleaned,
36 gutted, beheaded, or otherwise not in the round at the time of delivery, the fee
37 shall be adjusted by a conversion factor as determined by the department by
38 regulation.

39 **Comment.** Subdivision (a) of Section 20955 combines and continues the first sentence of
40 former Fish and Game Code Section 8042, and former Fish and Game Code Section 8051,
41 without substantive change.

42 Subdivision (b) continues the second sentence of former Fish and Game Code Section 8042
43 without substantive change.

1 § 20960. Remittance of fee

2 20960. Persons subject to Section 21000 shall remit the landing fee imposed by
3 Section 20950.

4 **Comment.** Section 20960 continues the second sentence of former Fish and Game Code
5 Section 8047(b) without substantive change.

6 CHAPTER 3. LANDING RECEIPTS

7 Article 1. Completion

8 § 21000. Persons required to complete receipt

9 21000. The following persons are required to make a true, legible, and complete
10 landing receipt, on a form and in a manner prescribed by the department:

11 (a) The fish receiver, if any.

12 (b) The marine aquaria receiver, if any.

13 (c) A commercial fisherman who sells or delivers fish that he or she has taken to
14 any person who is not required to be licensed under Title 9 (commencing with
15 Section 20150).

16 (d) A person required to be licensed under Title 9 (commencing with Section
17 20150) who takes his or her own fish.

18 **Comment.** Subdivision (a) of Section 21000 combines and restates the second clause of the
19 first sentence of former Fish and Game Code Section 8043(a) and the second sentence of former
20 Fish and Game Code Section 8047(a)(2) without substantive change.

21 Subdivision (b) continues former Fish and Game Code Section 8043.1(a) without substantive
22 change.

23 Subdivision (c) combines and restates the first clause of the first sentence of former Fish and
24 Game Code Section 8043(a), the third sentence of former Fish and Game Code Section
25 8047(a)(2), and the first sentence of former Fish and Game Code Section 8047(b), without
26 substantive change.

27 Subdivision (d) continues the first clause of the first sentence of former Fish and Game Code
28 Section 8047(a)(1) without substantive change.

29 See also Section 5104 (enforcement).

30 **Note.** Proposed Section 21000(a) is intended to combine and restate the second clause of the
31 first sentence of existing Fish and Game Code Section 8043(a), and the second sentence of
32 existing Fish and Game Code Section 8047(a)(2) (shown in italics), to clarify the meaning of
33 those provisions without changing their substantive effect. The existing provisions read as
34 follows:

35 8043. (a) Every ... person who is required to be licensed under Article 7 (commencing with
36 Section 8030) to conduct the activities of a fish receiver, as described in Section 8033, shall make
37 a legible landing receipt record on a form to be furnished by the department....

38 8047. (a)(2) A person licensed under Section 8033.5 who sells his or her fish to a licensed
39 receiver may use a transportation receipt to transport those fish only to that licensed receiver. *The*
40 *receiver shall complete a landing receipt for those fish....*

41 **The Commission invites comment on whether the restatement of these provisions in**
42 **proposed Section 21000(a) would cause any substantive change in the meaning of any of the**
43 **provisions.**

1 (2) Proposed Section 21000(c) is intended to combine and restate the first clause of the first
2 sentence of existing Fish and Game Code Section 8043(a), the third sentence of existing Fish and
3 Game Code Section 8047(a)(2) (shown in italics), and the first sentence of existing Fish and
4 Game Code Section 8047(b), to clarify the meaning of those provisions without changing their
5 substantive effect. The existing provisions read as follows:

6 8043. (a) Every commercial fisherman who sells or delivers fish that he or she has taken to any
7 person who is not licensed under Article 7 (commencing with Section 8030)... shall make a
8 legible landing receipt record on a form to be furnished by the department....

9 8047. (a)(2) A person licensed under Section 8033.5 who sells his or her fish to a licensed
10 receiver may use a transportation receipt to transport those fish only to that licensed receiver. The
11 receiver shall complete a landing receipt for those fish. *A person who sells his or her fish to the*
12 *ultimate consumer shall complete a landing receipt pursuant to Sections 8043 and 8043.2.*

13 8047. (b) Every commercial fisherman who sells fish taken from the waters of this state or
14 brought into this state in fresh condition to persons not licensed to receive fish for commercial
15 purposes pursuant to Article 7 (commencing with Section 8030) shall make a legible record in the
16 form of the landing receipt required by Sections 8043 and 8043.1....

17 **The Commission invites comment on whether the restatement of these provisions in**
18 **proposed Section 21000(c) would cause any substantive change in the meaning of any of the**
19 **provisions.**

20 **§ 21005. When receipt must be completed**

21 21005. (a) A fish receiver or commercial fisherman who is required to complete
22 a landing receipt shall do so at the time of the receipt, purchase, or transfer of the
23 fish, whichever occurs first.

24 (b) A marine aquaria receiver who is required to complete a landing receipt shall
25 do so at the time of the receipt of the organisms.

26 (c) A person required to be licensed under Title 9 (commencing with Section
27 20150) who takes his or her own fish or marine aquaria organisms shall complete
28 a landing receipt at the time the fish or marine aquaria organisms are brought
29 ashore.

30 **Comment.** Subdivision (a) of Section 21005 restates the second sentence of former Fish and
31 Game Code Section 8043(a) without substantive change.

32 Subdivision (b) restates the first sentence of former Fish and Game Code Section 8043.1(c)
33 without substantive change.

34 Subdivision (c) combines and restates the second sentence of former Fish and Game Code
35 Section 8043.1(c) and the second clause of the first sentence of former Fish and Game Code
36 Section 8047(a)(1) without substantive change.

37 **Notes.** (1) Proposed Section 21005(a) is intended to restate the second sentence of existing
38 Fish and Game Code Section 8043(a), to clarify the meaning of that provision without changing
39 its substantive effect. The existing provision (indicated in italics) reads as follows:

40 8043. (a) Every commercial fisherman who sells or delivers fish that he or she has taken to
41 any person who is not licensed under Article 7 (commencing with Section 8030), and every
42 person who is required to be licensed under Article 7 (commencing with Section 8030) to conduct
43 the activities of a fish receiver, as described in Section 8033, shall make a legible landing receipt
44 record on a form to be furnished by the department. *The landing receipt shall be completed at the*
45 *time of the receipt, purchase, or transfer of fish, whichever occurs first.*

1 **The Commission invites comment on whether the restatement of this provision in**
2 **proposed Section 21005(a) would cause any substantive change in the meaning of the**
3 **provision.**

4 (2) Proposed Section 21005(b) is intended to restate the first sentence of existing Fish and
5 Game Code Section 8043.1(c), to clarify the meaning of that provision without changing its
6 substantive effect. The existing provision (indicated in italics) reads as follows:

7 8043.1. (a) A person required to be licensed as a marine aquaria receiver shall make a legible,
8 true, and complete record of the landing receipts on a form and in a manner prescribed by the
9 department.

10
11 (c) *The landing receipt form shall be completed at the time the organisms are received from the*
12 *commercial fisherman. ...*

13 **The Commission invites comment on whether the restatement of this provision in**
14 **proposed Section 21005(b) would cause any substantive change in the meaning of the**
15 **provision.**

16 (3) Proposed Section 21005(c) is intended to combine and restate the second sentence of
17 former Fish and Game Code Section 8043.1(c) and the second clause of the first sentence of
18 existing Fish and Game Code Section 8047(a)(1) (shown in italics), to clarify the meaning of
19 those provisions, without changing their substantive effect. The existing provisions read as
20 follows:

21 8043.1(c) ... A person required to be licensed as a marine aquaria receiver who takes his or her
22 own organisms shall complete a marine aquaria landing receipt form at the time the organisms are
23 brought ashore.

24 8047. (a)(1) A person licensed under Article 7 (commencing with Section 8030) who takes his
25 or her own fish shall make a legible record in the form of the landing receipt as required by
26 Sections 8043 and 8043.1 *at the time the fish are brought ashore.*

27 **The Commission invites comment on whether the restatement of this provision in**
28 **proposed Section 21005(c) would cause any substantive change in the meaning of the**
29 **provision.**

30 **§ 21010. Method of completion by commercial fisherman**

31 21010. A commercial fisherman who is required to complete a landing receipt
32 shall do so in either of the following ways:

33 (a) For each individual sale by that commercial fisherman, at the time of the
34 sale.

35 (b) For each day that the commercial fisherman is engaged in one or more sales
36 to the ultimate consumers, the commercial fisherman shall maintain an accurate
37 tally sheet of sales, which shall include complete header and signature box
38 information filled out prior to any sales, and the number of pounds, by species, of
39 fish sold. The total of the daily sales shall be recorded on the landing receipt at the
40 completion of sales for that day. A copy of the completed tally sheet shall be
41 attached to the corresponding landing receipt. The original completed tally sheet
42 shall be attached to the commercial fisherman's copy of the corresponding landing
43 receipt and maintained for a period of four years.

44 **Comment.** Section 21010 restates former Fish and Game Code Section 8043.2(a) without
45 substantive change.

1 **Note.** Proposed Section 21010 is intended to restate existing Fish and Game Code Section
2 8043.2(a) to clarify the meaning of that provision, without changing its substantive effect. The
3 existing provision reads as follows:

4 8043.2. (a) A commercial fisherman licensed pursuant to Section 8033.5 who sells fish from a
5 vessel directly to the ultimate consumer and who is required pursuant to Section 8043 to make a
6 landing receipt shall make a landing receipt in either of the following ways:

7 (1) For each individual sale by that fisherman at the time of the sale.

8 (2) For each day that the fisherman is engaged in one or more sales to the ultimate consumers,
9 the fisherman shall maintain an accurate tally sheet of sales, which shall include complete header
10 and signature box information filled out prior to any sales, and the number of pounds by species
11 of fish sold. The total of the daily sales shall be recorded at the completion of sales for that day on
12 a landing receipt. A copy of the completed tally sheet shall be attached to the corresponding
13 landing receipt. The original completed tally sheet shall be attached to the fisherman's copy of the
14 corresponding landing receipt and maintained for a period of four years.

15 **The Commission invites comment on whether the restatement of this provision in**
16 **proposed Section 21010 would cause any substantive change in the meaning of the**
17 **provision.**

18 **§ 21015. Advance notification to agent when specified fish landed**

19 21015. On delivery of sardines, anchovies, mackerel, squid, tuna, or bonito
20 intended to be processed or sold as fresh fish, the person who completes the
21 landing receipt, upon request of the authorized agent described in Section 21110,
22 shall notify that agent of the unloading and weighing of the fish, and shall permit
23 the agent to be present at all times during the weighing of the fish.

24 **Comment.** Section 21015 restates former Fish and Game Code Section 8046(b) without
25 substantive change.

26 **Note.** Proposed Section 21015 is intended to restate existing Fish and Game Code Section
27 8046(b) to clarify the meaning of that provision, without changing its substantive effect. The
28 existing provision reads as follows:

29 8046. (b) On delivery of sardines, anchovies, mackerel, squid, tuna, or bonito intended to be
30 processed or sold as fresh fish, the person licensed pursuant to Article 7 (commencing with
31 Section 8030) who filled out the landing receipt, upon request of the authorized agent described
32 in subdivision (c), shall notify the authorized agent of the unloading and weighing of the fish and
33 shall permit the authorized agent to be present at all times during the weighing of the fish.

34 **The Commission invites comment on whether the restatement of this provision in**
35 **proposed Section 21015 would cause any substantive change in the meaning of the**
36 **provision.**

37 **§ 21020. Content of receipt**

38 21020. A landing receipt shall show all of the following:

39 (a) The names of the species of landed fish as designated by the department, or
40 if not designated, the commonly used name of the species.

41 (b) The accurate weight of the species of fish received. Sablefish may be
42 reported in dressed weight, and if so reported, shall have the round weights
43 computed, for purposes of management quotas, by multiplying 1.6 times the
44 reported dressed weight.

1 (c) The commercial fisherman’s name and commercial fishing license
2 identification number.

3 (d) The commercial boat registration number of the boat.

4 (e) The name of the recipient of the fish, and that person’s identification
5 number, if applicable.

6 (f) The date of receipt.

7 (g) The price paid for the fish.

8 (h) The department origin block number where the fish were caught.

9 (i) The type of gear used.

10 (j) Any other information the department may require.

11 **Comment.** Section 21020 combines and restates former Fish and Game Code Sections 8043(b)
12 and 8045 without substantive change.

13 **Note.** Proposed Section 21020 is intended to combine and restate existing Fish and Game
14 Code Sections 8043(b) and 8045, to clarify the meaning of those provisions without changing
15 their substantive effect. The existing provisions read as follows:

16 8043. (b) The landing receipt shall show all of the following:

17 (1) The accurate weight of the species of fish received, as designated pursuant to Section 8045.
18 Sablefish may be reported in dressed weight, and if so reported, shall have the round weights
19 computed, for purposes of management quotas, by multiplying 1.6 times the reported dressed
20 weight.

21 (2) The name of the fisherman and the fisherman’s identification number.

22 (3) The department registration number of the boat.

23 (4) The recipient’s name and identification number, if applicable.

24 (5) The date of receipt.

25 (6) The price paid.

26 (7) The department origin block number where the fish were caught.

27 (8) The type of gear used.

28 (9) Any other information the department may prescribe.

29 8045. The names used in the landing receipt and transportation receipt made under Sections
30 8043 and 8047 for designating the species of fish dealt with shall be those in common usage
31 unless otherwise designated by the department.

32 **The Commission invites comment on whether the restatement of these two provisions in**
33 **proposed Section 21020 would cause any substantive change in the meaning of either**
34 **provision.**

35 **§ 21025. Additional requirements applicable to completion of landing receipts**

36 21025. (a) The person that completes the landing receipt shall sign the receipt.

37 (b) The numbered landing receipts in each individual landing receipt book shall
38 be completed sequentially.

39 (c) A voided fish landing receipt shall have the word “VOID” plainly and
40 noticeably written on the face of the receipt, and shall be submitted to the
41 department in the same manner as a completed fish landing receipt is submitted to
42 the department.

43 **Comment.** Subdivision (a) of Section 21025 restates the third sentence of former Fish and
44 Game Code Section 8047(b) without substantive change.

1 Subdivision (b) continues the first sentence of former Fish and Game Code Section 8043(c)
2 without substantive change.

3 Subdivision (c) continues the second and third sentences of former Fish and Game Code
4 Section 8043(c) without substantive change.

5 **Note.** Proposed Section 21025(a) is intended to restate the third sentence of existing Fish
6 and Game Code Section 8047(b) to clarify the meaning of that provision, without changing its
7 substantive effect. The existing provision reads as follows:

8 8047. (b).... The person taking, purchasing, or receiving the fish, whether or not licensed under
9 Article 7 (commencing with Section 8030), shall sign the landing receipt.

10 **The Commission invites comment on whether the restatement of this provision in**
11 **proposed Section 21025(a) would cause any substantive change in the meaning of the**
12 **provision.**

13 Article 2. Retention and Delivery of Copies

14 § 21100. When receipt completed by fish receiver or marine aquaria receiver

15 21100. (a) A fish receiver or marine aquaria receiver who completes a landing
16 receipt shall retain a completed copy of the receipt for a period of four years,
17 which shall be available for inspection at any time within that period by the
18 department.

19 (b) The receiver shall also deliver a completed copy of the receipt to the
20 commercial fisherman at the time of the purchase or receipt of the fish, which
21 shall be retained by the commercial fisherman for a period of four years, and shall
22 be available for inspection at any time during that period by the department.

23 **Comment.** Section 21100 restates the third, fourth, and fifth sentences of former Fish and
24 Game Code Section 8046(a) without substantive change.

25 **Note.** Proposed Section 21100 is intended to restate the third, fourth, and fifth sentences of
26 existing Fish and Game Code Section 8046(a) to clarify the meaning of those sentences, without
27 changing their substantive effect. The existing sentences read as follows:

28 8046. (a).... A copy of the landing receipt shall be delivered to the commercial fisherman at the
29 time of the purchase or receipt of the fish. That copy of the landing receipt shall be retained by
30 the commercial fisherman for a period of four years and shall be available for inspection at any
31 time during that period by the department. A copy of the landing receipt shall be kept by the
32 person licensed pursuant to Article 7 (commencing with Section 8030) who filled out the landing
33 receipt for a period of four years and shall be available for inspection at any time within that
34 period by the department.

35 **The Commission invites comment on whether the restatement of these sentences in**
36 **proposed Section 21100 would cause any substantive change in the meaning of the**
37 **provision.**

38 § 21105. When receipt completed by commercial fisherman

39 21105. (a) A commercial fisherman who completes a landing receipt shall retain
40 a completed copy of the receipt for a period of four years, which shall be available
41 for inspection at any time within that period by the department.

1 (b) The commercial fisherman shall also deliver a completed copy of the receipt
2 to the person taking, purchasing, or receiving the fish, which shall be retained by
3 that person until the fish are prepared for consumption or otherwise disposed of.

4 **Comment.** Subdivision (a) of Section 21105 combines and restates the third sentence of
5 existing Fish and Game Code Section 8047(a)(1) and the fifth sentence of former Fish and Game
6 Code Section 8047(b) without substantive change.

7 Subdivision (b) restates the sixth sentence of former Fish and Game Code Section 8047(b)
8 without substantive change.

9 **Note.** Proposed Section 21105(a) is intended to combine and restate the third sentence of
10 existing Fish and Game Code Section 8047(a)(1) and the fifth and sixth sentences of existing Fish
11 and Game Code Section 8047(b) to clarify the meaning of those sentences, without changing their
12 substantive effect. The existing sentences read as follows:

13 8047(a)(1)... A copy of the landing receipt shall be retained by [a person licensed under
14 Article 7 (commencing with Section 8030) who takes his or her own fish] for a period of four
15 years and shall be available for inspection at any time within that period by the department.

16 8047. (b)... A copy of the landing receipt shall be retained by the commercial fisherman for a
17 period of four years and shall be available for inspection at any time within that period by the
18 department. A copy of the landing receipt shall be retained by the person taking, purchasing, or
19 receiving the fish until they are prepared for consumption or otherwise disposed of.

20 **The Commission invites comment on whether the restatement of these sentences in**
21 **proposed Section 21105 would cause any substantive change in the meaning of the**
22 **provision.**

23 **§ 21110. Delivery of copy to agent**

24 21110. Any person completing a landing receipt shall also deliver a completed
25 copy of the receipt to any agent authorized in writing by the majority of the
26 persons who participated in the taking of the fish, excluding the commercial
27 fisherman receiving a copy of the receipt pursuant to Section 21100.

28 **Comment.** Section 21110 combines and restates former Fish and Game Code Section 8046(c),
29 the fourth sentence of former Fish and Game Code Section 8047(a)(1), and the 7th sentence of
30 former Fish and Game Code Section 8047(b) without substantive change.

31 **Note.** Proposed Section 21110 is intended to combine and restate existing Fish and Game
32 Code Section 8046(c), the fourth sentence of existing Fish and Game Code Section 8047(a)(1),
33 and the 7th sentence of existing Fish and Game Code Section 8047(b) (which are themselves
34 identical) to clarify the meaning of those sentences, without changing their substantive effect. All
35 three of those provisions read as follows:

36 A copy of the landing receipt shall be delivered to an agent authorized in writing by the
37 majority of the persons who participated in the taking of the fish, excluding the commercial
38 fisherman receiving the original copy.

39 **The Commission invites comment on whether the restatement of these sentences in**
40 **proposed Section 21110 would cause any substantive change in the meaning of the**
41 **provision.**

42 **§ 21115. Landing of groundfish**

43 21115. In addition to the requirements of Sections 21015, 21100, 21110, and
44 21150, any person landing groundfish subject to federal groundfish regulations

1 adopted pursuant to the Magnuson Fishery Conservation and Management Act (16
2 U.S.C. Sec. 1801 et seq.) shall keep a copy of the landing receipt on board the
3 fishing vessel throughout, and for 15 days following, each period for which
4 cumulative landings by individual vessels are limited.

5 **Comment.** Section 21115 continues former Fish and Game Code Section 8046.1 without
6 substantive change.

7 Article 3. Delivery to Department

8 § 21150. Delivery of landing receipt to department

9 21150. (a) The original signed copy of a paper landing receipt shall be delivered
10 to the department by the person completing the receipt on or before the 16th or last
11 day of the month in which the fish were landed, whichever date occurs first after
12 the landing.

13 (b) Landing receipt records completed and submitted electronically shall be
14 submitted to the department within three business days of the landing.

15 (c) For purposes of this section, “business day” means Monday to Friday,
16 inclusive, excluding days designated as state or federal holidays.

17 **Comment.** Subdivision (a) of Section 21150 combines and restates former Fish and Game
18 Code Section 8043.1(d), the first sentence of former Fish and Game Code Section 8046(a), and
19 the second sentence of former Fish and Game Code Section 8047(a)(1), without substantive
20 change.

21 Subdivision (b) continues the second sentence of former Fish and Game Code Section 8046(a)
22 without substantive change.

23 Subdivision (c) continues former Fish and Game Code Section 8046(d) without substantive
24 change.

25 **Note.** Proposed subdivision (a) of Section 21150 is intended to combine and restate former
26 Fish and Game Code Section 8043.1(d), the first sentence of existing Fish and Game Code
27 Section 8046(a), and the second sentence of existing Fish and Game Code Section 8047(a)(1),
28 and the fourth sentence of former Fish and Game Code Section 8047(b), to clarify the meaning of
29 those provisions, without changing their substantive effect. The existing provisions read as
30 follows:

31 8043.1. (d) The copies of the aquaria landing receipts shall be delivered to the department, as
32 provided in Section 8046.

33 8046. (a) The original signed copy of the landing receipt made under Section 8043 or 8043.1
34 shall be delivered to the department on or before the 16th or last day of the month in which the
35 fish were landed, whichever date occurs first after the landing.

36 8047. (a)(1).... The original signed copy of the landing receipt shall be delivered by [a person
37 licensed under Article 7 (commencing with Section 8030) who takes his or her own fish] to the
38 department, as provided in Section 8046.

39 8047. (b).... The original signed copy of the landing receipt shall be delivered by the
40 commercial fisherman to the department, as provided in Section 8046.

41 **The Commission invites comment on whether the restatement of these provisions in**
42 **proposed Section 21150 would cause any substantive change in the meaning of the**
43 **provisions.**

(2) Proposed Section 21150 would continue part of the substance of Section 8046(a), which was parts of Sections 8043.1 and 8046, which were both amended by 2018 Cal. Stat. ch. 601. Although that bill will not operate until 2019, it is included here in anticipation of its operation.

§ 21155. Unused landing receipts

21155. A fish receiver who is no longer conducting business as a licensed receiver shall forward all unused landing receipts and landing receipt books to the department immediately upon terminating his or her business activity.

Comment. Section 21155 continues the fourth sentence of former Fish and Game Code Section 8043(c) without substantive change.

CHAPTER 4. TRANSPORTATION RECEIPTS

§ 21200. Issuance of transportation receipt book

21200. A transportation book receipt shall be issued to an individual commercial fisherman and is not transferable.

Comment. Section 21200 continues former Fish and Game Code Section 8047(c)(5) without substantive change.

§ 21205. Purpose

21205. A transportation receipt is required only for transit purposes.

Comment. Section 21205 continues former Fish and Game Code Section 8047(c)(3) without substantive change.

§ 21210. Persons required to complete

21210. (a) Every commercial fisherman or his or her designee, who transports, causes to be transported, or delivers to another person for transportation, any fish, except herring, taken from the waters of this state or brought into this state in fresh condition, shall fill out a transportation receipt according to the instructions and on forms provided by the department.

(b) A commercial fisherman who sells his or her fish to a fish receiver may use a transportation receipt to transport those fish only to that receiver.

Comment. Subdivision (a) of Section 21210 continues the first part of former Fish and Game Code Section 8047(c)(1) without substantive change.

Subdivision (b) restates the first sentence of former Fish and Game Code Section 8047(a)(2) without substantive change.

Note. Proposed Section 21210(b) is intended to restate the first sentence of existing Fish and Game Code Section 8047(a)(1) to clarify the meaning of that provision, without changing its substantive effect. The existing provision reads as follows:

8047. (a)(1) A person licensed under Section 8033.5 who sells his or her fish to a licensed receiver may use a transportation receipt to transport those fish only to that licensed receiver. The receiver shall complete a landing receipt for those fish.

As a “person licensed under existing Section 8033.5” is a commercial fisherman who sells fish to an ultimate consumer (rather than a receiver), the Commission has interpreted that language as referring to commercial fishers generally.

1 **The Commission invites comment on whether that interpretation is correct, and whether**
2 **the restatement of this provision in proposed Section 21210(b) would cause any substantive**
3 **change in the meaning of the provision.**

4 **§ 21215. Time of completion**

5 21215. A transportation receipt shall be completed at the time fish are
6 transferred from the fishing vessel to the shore.

7 **Comment.** Section 21215 combines and restates the fourth sentence of former Fish and Game
8 Code Section 8047(a)(2) and the last part of former Fish and Game Code Section 8047(c)(1),
9 without substantive change.

10 **Note.** Proposed Section 21215 is intended to combine and restate the fourth sentence of
11 existing Fish and Game Code Section 8047(a)(2) and the last part of existing Fish and Game
12 Code Section 8047(c)(1) to clarify the meaning of those provisions, without changing their
13 substantive effect. The existing provisions read as follows:

14 8047. (a)(2)..... Transportation receipts shall be completed at the time the fish are transferred
15 from the fishing vessel.

16 8047. (c)(1).... Every commercial fisherman... shall fill out a transportation receipt... at the time
17 the fish are brought ashore.

18 **The Commission invites comment on whether the restatement of these provisions in**
19 **proposed Section 14450 would cause any substantive change in the meaning of the**
20 **provisions.**

21 **§ 21220. Method of completion**

22 21220. The numbered transportation receipt forms in each individual
23 transportation receipt book shall be completed sequentially.

24 **Comment.** Section 21220 continues the first sentence of former Fish and Game Code Section
25 8047(e) without substantive change.

26 **§ 21225. Content**

27 21225. The transportation receipt shall contain all of the following information:

28 (a) The name of each transported species of fish as designated by the
29 department, or if not designated, the commonly used name of each species.

30 (b) The date and time of the receipt.

31 (c) The accurate weight of the species of fish being transported. Sablefish may
32 be reported in dressed weight, and if so reported, shall have the round weights
33 computed, for purposes of management quotas, by multiplying 1.6 times the
34 reported dressed weight.

35 (d) The name and identification number of the commercial fisherman.

36 (e) The signature of the commercial fisherman authorizing transportation.

37 (f) The name of the person transporting the fish.

38 (g) The name of the fish business and fish business identification number.

39 (h) The corresponding landing receipt number issued by the fish business to the
40 commercial fisherman.

41 (i) The department registration number of the vessel.

1 (j) The name of the vessel.

2 (k) The department origin block number where the fish were caught.

3 (l) The port of first landing.

4 (m) Any other information the department may prescribe.

5 **Comment.** Section 21225 combines and restates former Fish and Game Code Sections 8045
6 and 8047(d) without substantive change.

7 **Note.** Proposed Section 21225 is intended to combine and restate existing Fish and Game
8 Code Sections 8045 and 8047(d), to clarify the meaning of those provisions without changing
9 their substantive effect. The existing provisions read as follows:

10 8045. The names used in the landing receipt and transportation receipt made under Sections
11 8043 and 8047 for designating the species of fish dealt with shall be those in common usage
12 unless otherwise designated by the department.

13 8047. (d) The transportation receipt shall contain all of the following information:

14 (1) The name of each species of fish, pursuant to Section 8045.

15 (2) The date and time of the receipt.

16 (3) The accurate weight of the species of fish being transported. Sablefish may be reported in
17 dressed weight, and if so reported, shall have the round weights computed, for purposes of
18 management quotas, by multiplying 1.6 times the reported dressed weight.

19 (4) The name and identification number of the fisherman. The signature of the fisherman
20 authorizing transportation.

21 (5) The name of the person transporting the fish.

22 (6) The name of the fish business, the fish business identification number, and the
23 corresponding landing receipt number issued by the fish business to the commercial fisherman.

24 (7) The department registration number of the vessel and the name of the vessel.

25 (8) The department origin block number where the fish were caught.

26 (9) The port of first landing.

27 (10) Any other information the department may prescribe.

28 **The Commission invites comment on whether the restatement of these two provisions in**
29 **proposed Section 21225 would cause any substantive change in the meaning of either**
30 **provision.**

31 **§ 21230. Retention and delivery of copies**

32 21230. (a) A copy of a completed transportation receipt shall be retained by the
33 commercial fisherman who filled it out for a period of four years, and shall be
34 available for inspection at any time within that period by the department.

35 (b) A copy of the transportation receipt shall be given to and retained by the
36 person transporting the fish until the fish are sold fresh, processed, or otherwise
37 disposed of.

38 **Comment.** Subdivision (a) of Section 21230 continues the second sentence of former Fish and
39 Game Code Section 8047(c)(2) without substantive change.

40 Subdivision (b) continues the third sentence of former Fish and Game Code Section 8047(c)(2)
41 without substantive change.

42 **§ 21235. Delivery to department**

43 21235. The original transportation receipt shall be signed and delivered by the
44 commercial fisherman to the department on or before the 16th day or the last day

1 of the month in which the fish were landed, whichever date occurs first after
2 landing.

3 **Comment.** Section 21235 restates the first sentence of former Fish and Game Code Section
4 8047(c)(2) without substantive change.

5 **Note.** Proposed Section 21235 is intended to restate the first sentence of existing Fish and
6 Game Code Section 8047(c)(2) to clarify the meaning of that provision, without changing its
7 substantive effect. The existing provision reads as follows:

8 8047. (c)(2) The original signed copy of the transportation receipt shall be delivered by the
9 commercial fisherman to the department on or before the 16th day or the last day of the month in
10 which the fish were landed, whichever date occurs first after landing.

11 **The Commission invites comment on whether the restatement of this provision in**
12 **proposed Section 21235 would cause any substantive change in the meaning of the**
13 **provision.**

14 **§ 21240. Void receipts**

15 21240. A voided fish transportation receipt shall have the word “VOID” plainly
16 and noticeably written on the face of the receipt, and shall be submitted to the
17 department in the same manner as a completed fish transportation receipt is
18 submitted to the department.

19 **Comment.** Section 21240 continues the second and third sentences of former Fish and Game
20 Code Section 8047(e) without substantive change.

21 **§ 21245. Unused receipts**

22 21245. A person who was previously but is no longer conducting business as a
23 commercial fisherman shall forward all unused transportation receipts and
24 transportation receipt books to the department immediately upon terminating his
25 or her business activity.

26 **Comment.** Section 21245 continues the fourth sentence of former Fish and Game Code
27 Section 8047(e) without substantive change.

28 **Note.** Proposed Section 21245 is intended to restate the existing sentence of former Fish
29 and Game Code Section 8047(e) to clarify the meaning of that provision, without changing its
30 substantive effect. The existing provision reads as follows:

31 8047. (e) A commercial fisherman who is no longer conducting business as a licensed
32 fisherman shall forward all unused transportation receipts and transportation receipt books to the
33 department immediately upon terminating his or her business activity.

34 **The Commission invites comment on whether the restatement of this provision in**
35 **proposed Section 21245 would cause any substantive change in the meaning of the**
36 **provision.**

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CHAPTER 5. ACCOUNTING RECORDS

§ 21300. Accounting records

21300. (a) In addition to the receipt required by Section 21000, accounting records containing the information specified in subdivision (b) shall be kept by all of the following persons:

(1) Any person required to be licensed under Title 9 (commencing with Section 20150).

(2) Any person who deals in fresh or frozen fish for profit.

(b) The accounting records shall contain all of the following:

(1) The name as designated by the department of each different species of fish sold, distributed, or taken, or if not designated, the commonly used name of each species.

(2) The number of pounds sold, distributed, or taken of each different species.

(3) The name of the person to whom the fish were sold or distributed.

(4) The name, address, and phone number of the seller or distributor.

(5) The date of sale.

(6) The price paid.

(7) The intended use of the fish.

(c) Accounting record information required by this section that is transmitted from any person identified in subdivision (a) to any business that deals in fish for profit shall be in the English language.

(d) The accounting records shall be maintained within the state by both buyer and seller for a period of three years. Upon request, the records shall be open for inspection during normal business hours by the department.

Comment. Section 21300 restates former Fish and Game Code Section 8050 without substantive change.

Note. Proposed Section 21300 is intended to restate existing Fish and Game Code Section 8050 to clarify the meaning of that provision, without changing its substantive effect. The existing provision reads as follows:

8050. (a) In addition to the receipt required in Section 8043, every person licensed under Article 7 (commencing with Section 8030), and any commercial fisherman who sells fish to persons who are not licensed under Article 7 (commencing with Section 8030), and any person who deals in fresh or frozen fish for profit, shall keep accounting records in which all of the following shall be recorded:

(1) The names of the different species.

(2) The number of pounds sold, distributed, or taken of each different species.

(3) The name of the person to whom the fish were sold or distributed.

(4) The name, address, and phone number of the seller or distributor.

(5) The date of sale.

(6) The price paid.

(7) The intended use.

(b) Accounting record information required by this section that is transmitted from any person identified in subdivision (a) to any business that deals in fish for profit shall be in the English language.

1 (c) The accounting records shall be maintained by both buyer and seller for a period of three
2 years and upon request, shall be open for inspection during normal business hours by the
3 department. The accounting records shall be maintained within the State of California.

4 (d) The names used for designating the species of fish shall be those in common usage unless
5 otherwise designated by the department.

6 **The Commission invites comment on whether the restatement of this provision in**
7 **proposed Section 21300 would cause any substantive change in the meaning of the**
8 **provision.**

9 CHAPTER 6. PAYMENT AND USE OF FEE

10 § 21350. Quarterly payment to department

11 21350. (a) Landing fees imposed by this title shall be paid quarterly to the
12 department, within 30 days after the close of each quarter.

13 (b) The department may adopt regulations specifying the procedures for
14 collecting landing fees not paid within 30 days after the close of the quarter for
15 which they are due. These procedures may include, but are not limited to, the
16 procedures prescribed for sales and use taxes provided in Chapter 5 (commencing
17 with Section 6451) and Chapter 6 (commencing with Section 6701) of Part 1 of
18 Division 2 of the Revenue and Taxation Code.

19 **Comment.** Section 21350 continues former Fish and Game Code Section 8053 without
20 substantive change.

21 § 21355. Use of landing fee

22 21355. Except as otherwise provided in this title, all moneys collected pursuant
23 to this title shall be paid to the department, and shall be expended for the patrol of
24 packing plants, inspection and regulation of the fishing industry, and conservation
25 work for the benefit of the commercial fishing industries.

26 **Comment.** Section 21355 continues former Fish and Game Code Section 8056 without
27 substantive change.

28 § 21360. Exceptions to use of landing fee

29 21360. Landing fees shall be used only for the administration of laws relating to
30 the commercial fishing industry, except as follows:

31 (a) Not less than 90 percent of the landing fee on herring taken for roe shall be
32 expended for research and management activities to maintain and enhance the
33 herring resources within the waters of the state.

34 (b) Not less than 90 percent of the landing fee on thresher shark or bonito
35 (mako) shark shall be expended for the study required by, and for the costs of
36 administering, Chapter 6 (commencing with Section 18300) of Title 4 of Part 6.

37 **Comment.** Section 21360 continues former Fish and Game Code Section 8052 without
38 substantive change.

1 § 21365. Overpayment of fee

2 21365. (a) If the department determines that any fee or penalty has been paid
3 more than once or has been erroneously or illegally collected or computed, the
4 department shall set forth that fact in the records of the department. The excess
5 amount collected or paid shall be credited on any amounts then due and payable
6 from the person under this part, and the balance shall be refunded to the person, or
7 the person's successors, administrators, or executors.

8 (b) In the event of overpayment of any of the fees imposed by this title, the
9 feepayer may file a claim for refund or a claim for credit with the department. No
10 refund or credit shall be approved by the department unless the claim is filed with
11 the department within six months after the close of the calendar year in which the
12 overpayment was made.

13 (c) Every claim for refund or credit for overpayment of a landing fee shall be in
14 writing, and shall state the specific grounds upon which the claim is founded.

15 (d) Failure to file a claim for refund or credit within the time prescribed in this
16 title constitutes a waiver of any demand against the state on account of
17 overpayment of a landing fee.

18 (e) Within 30 days after disallowing any claim for refund or credit for
19 overpayment of a landing fee in whole or in part, the department shall serve notice
20 of its action on the claimant, either personally or by mail. If served by mail,
21 service shall be made pursuant to Section 1013 of the Code of Civil Procedure,
22 and shall be addressed to the licensee at the licensee's address as it appears in the
23 records of the department, but the service shall be deemed complete at the time of
24 the deposit of the notice in the mail without extension of time for any reason.

25 (f) Interest shall be paid upon any overpayment of landing fee at the rate of one-
26 half of 1 percent per month from the date of overpayment. The interest shall be
27 paid to the date the claim for refund or credit is approved by the department.

28 (g) If the department determines that any overpayment of a landing fee has been
29 made intentionally or by reason of carelessness, it shall not allow any interest on
30 that overpayment.

31 **Comment.** Subdivision (a) of Section 21365 continues former Fish and Game Code Section
32 8057 without substantive change.

33 Subdivision (b) continues former Fish and Game Code Section 8058 without substantive
34 change.

35 Subdivision (c) continues former Fish and Game Code Section 8059 without substantive
36 change.

37 Subdivision (d) continues former Fish and Game Code Section 8060 without substantive
38 change.

39 Subdivision (e) continues former Fish and Game Code Section 8061 without substantive
40 change.

41 Subdivision (f) continues former Fish and Game Code Section 8062 without substantive
42 change.

43 Subdivision (g) continues former Fish and Game Code Section 8063 without substantive
44 change.

1 **§ 21370. Legal process to prevent collection of fee**

2 21370. No injunction or writ of mandate or other legal or equitable process shall
3 issue in any suit, action, or proceeding in any court, against this state, or against
4 any officer of the state, to prevent or enjoin the collection under this title of any
5 landing fee.

6 **Comment.** Section 21370 continues former Fish and Game Code Section 8064 without
7 substantive change.

8 **§ 21375. Legal process to recover overpaid landing fee**

9 21375. (a) No suit or proceeding shall be maintained in any court for the
10 recovery of any amount of landing fee alleged to have been erroneously paid or
11 erroneously or illegally determined or collected, unless a claim for refund or credit
12 has been duly filed pursuant to Section 21365.

13 (b) Within 90 days after the mailing of the notice of the department's action
14 upon a claim filed pursuant to Section 21365, the claimant may bring an action
15 against the department on the grounds set forth in the claim, in a court of
16 competent jurisdiction in any city or city and county of this state in which the
17 Attorney General has an office, for the recovery of the whole or any part of the
18 amount with respect to which the claim has been disallowed. Failure to bring the
19 action within the time specified constitutes a waiver of any demand against the
20 state on account of alleged overpayments.

21 (c) If the department fails to mail notice of action on a claim for refund or credit
22 for overpayment of a landing fee within six months after the claim is filed, the
23 claimant may, before the mailing of notice by the department of its action on the
24 claim, consider the claim disallowed and bring an action against the department on
25 the grounds set forth in the claim for the recovery of the whole or any part of the
26 amount claimed as an overpayment.

27 (d) If judgment is rendered for the plaintiff, the amount of the judgment shall
28 first be credited on any landing fee due and payable from the plaintiff to the state
29 under this title. The balance of the judgment shall be refunded to the plaintiff.

30 (e) In any judgment, interest shall be allowed at the legal rate of interest on
31 unsatisfied judgments, as provided in Section 685.010 of the Code of Civil
32 Procedure, upon the amount found to have been illegally collected, from the date
33 of payment of the amount to the date of allowance of credit on account of the
34 judgment, or to a date to be determined by the department, preceding the date of
35 the refund warrant by not more than 30 days.

36 (f) A judgment shall not be rendered in favor of the plaintiff in any action
37 brought against the department to recover any amount paid, when the action is
38 brought by or in the name of an assignee of the person paying the amount or by
39 any person other than the person who paid the amount.

40 **Comment.** Subdivision (a) of Section 21375 continues former Fish and Game Code Section
41 8065 without substantive change.

42 Subdivision (b) continues former Fish and Game Code Section 8066 without substantive
43 change.

1 Subdivision (c) continues former Fish and Game Code Section 8067 without substantive
2 change.

3 Subdivision (d) continues former Fish and Game Code Section 8068 without substantive
4 change.

5 Subdivision (e) continues former Fish and Game Code Section 8069 without substantive
6 change.

7 Subdivision (f) continues former Fish and Game Code Section 8070 without substantive
8 change.

9 CHAPTER 8. MISCELLANEOUS PROVISIONS

10 § 21450. Weighmasters

11 21450. A commercial fisherman licensed pursuant to Section 20500 who sells
12 directly to the ultimate consumer, or a commercial fisherman who sells or delivers
13 fish that the fisherman has taken to any person who is not licensed under Title 9
14 (commencing with Section 20150) to conduct the activities of a fish receiver, shall
15 not be considered a weighmaster for purposes of Chapter 7 (commencing with
16 Section 12700) of Division 5 of the Business and Professions Code.

17 **Comment.** Section 21450 continues former Fish and Game Code Section 8043.2(b) without
18 substantive change.

19 § 21455. Requirement to make catch available for inspection and sampling

20 21455. A commercial fisherman selling his or her own catch to the ultimate
21 customer, upon request by an authorized agent or employee of the department,
22 shall immediately make available all fish in possession of the fisherman for
23 inspection and sampling by the agent or employee. Pursuant to Section 42110, the
24 fisherman shall relinquish the head from any sampled salmon with a missing
25 adipose fin.

26 **Comment.** Section 21455 restates former Fish and Game Code Section 8043.2(c) without
27 substantive change.

28 TITLE 11. FISH PROCESSING

29 CHAPTER 1. GENERAL PROVISIONS

30 § 21600. Definitions

31 21600. As used in this title:

32 (a) “Reduction plant” means any plant used in the reduction or conversion of
33 fish into fish flour, fishmeal, fish scrap, fertilizer, fish oil, or other fishery products
34 or byproducts.

35 (b) “Packer” means any person canning fish or preserving fish by the common
36 methods of drying, salting, pickling, smoking, cold packing, or vacuum packing.

1 (c) “Fish offal” means the head, viscera, or other parts of fish taken off in
2 preparing for canning, preserving, packing, and preparing for consumption in a
3 fresh state.

4 **Comment.** Section 21600 continues former Fish and Game Code Section 7700(a)-(c) without
5 substantive change.

6 **§ 21605. Commission regulation**

7 21605. The commission may regulate and control fishing boats, barges, lighters
8 or tenders, receptacles or vehicles containing fish, commercial fishers, packers,
9 reduction plants, plants where fish products are manufactured, and dealers in fish
10 or fishery products, insofar as necessary to insure the taking and delivery of fish
11 and fishery products in a wholesome and sanitary condition to canning, packing or
12 preserving plants, or to any plant where fishery products are manufactured, or to
13 any fresh fish dealer, and to prevent deterioration and waste of fish.

14 **Comment.** Section 21605 continues former Fish and Game Code Section 7701 without
15 substantive change.

16 **§ 21610. Department inspection**

17 21610. The department may enter and examine any canning, packing,
18 preserving, or reduction plant, or place of business where fish or other fishery
19 products are packed, preserved, manufactured, bought or sold, or board any
20 fishing boat, barge, lighter, tender, or vehicle or receptacle containing fish, and
21 ascertain the amount of fish received, or kind and amount of fishery products
22 packed or manufactured and the number and size of containers or cans for fishery
23 products purchased, received, used, or on hand and may examine any books and
24 records containing any account of fish caught, bought, canned, packed, stored or
25 sold.

26 **Comment.** Section 21610 continues former Fish and Game Code Section 7702 without
27 substantive change.

28 **§ 21615. Grading of fish by commission**

29 21615. The commission may establish grades for different varieties of fish or
30 fishery products, which shall be conformed to by all of the following persons or
31 entities:

32 (a) A person who takes or uses sardines for bait.

33 (b) A person who delivers fish or other fishery products to packers or to fresh
34 fish dealers.

35 (c) A packer of fish.

36 (d) A fish dealer.

37 (e) A manufacturer of fish products.

38 **Comment.** Section 21615 continues former Fish and Game Code Section 7703 without
39 substantive change.

1 (c) Copies of the receipt shall be handled in the manner provided in Chapter 3
2 (commencing with Section 21000) and Chapter 4 (commencing with Section
3 21200) of Title 10.

4 **Comment.** Section 21810 continues former Fish and Game Code Section 7702.1 without
5 substantive change.

6 Article 3. Enforcement

7 § 21850. Complaint alleging violation

8 21850. (a) A written complaint may be made to the commission against any
9 person who violates any provision of this title, or any regulation adopted pursuant
10 to Section 14350 or any provision of this title, by any person having information
11 or knowledge of the violation. If the person charged in the complaint is found
12 guilty of the offense charged, the commission may suspend, for a period not to
13 exceed 90 days, any license issued by any state board or officer to that person to
14 take, buy, sell, can, or preserve fish or fishery products. No other license shall be
15 issued to that person during the period of suspension.

16 (b) The proceedings on a complaint shall be conducted at one of the
17 commission's regularly scheduled meetings.

18 **Comment.** Section 21850 restates former Fish and Game Code Section 7706 without
19 substantive change.

20 **Note.** Proposed Section 21850 is intended to restate existing Fish and Game Code Section
21 7706 to clarify the meaning of that provision, without changing its substantive effect. The
22 existing provision reads as follows:

23 7706. A written complaint may be made to the commission against any person who violates
24 Section 7700 to 7705, inclusive, 7707, 7708, 8075 to 8080, inclusive, or 8153, or any regulation
25 adopted thereunder, by any person having information or knowledge of the violation. If the
26 person charged is found guilty of the offense charged, the commission may suspend, for a period
27 not to exceed 90 days, any license issued by any state board or officer to that person to take, buy,
28 sell, can, or preserve fish or fishery products. No other license shall be issued to that person
29 during the period of suspension. The proceedings shall be conducted at one of the commission's
30 regularly scheduled meetings.

31 **The Commission invites comment on whether the restatement of this provision in**
32 **proposed Section 21850 would cause any substantive change in the meaning of the**
33 **provision.**

34 § 21855. Nuisance

35 21855. (a) Any reduction plant in which any fish is used in violation of any
36 provision of this title, or in violation of any regulation of the commission, is a
37 nuisance.

38 (b) Whenever the existence of a nuisance under subdivision (a) is shown to the
39 satisfaction of the superior court of the county in which the reduction plant is
40 situated, by complaint filed in the name of the people of the State of California,

1 the court may issue a temporary injunction to abate and prevent the continuance or
2 recurrence of the nuisance.

3 (c) If the existence of a nuisance is established in an action pursuant to
4 subdivision (b), an order of abatement shall be entered as part of the judgment in
5 the case, which shall direct the closing, for 12 months, of the building or place
6 where the nuisance was maintained, and, during that time, the building or place
7 shall be and remain in the custody of the court.

8 **Comment.** Section 21855 restates former Fish and Game Code Section 7707 without
9 substantive change. Nothing in this section precludes the application of the general law governing
10 statutory nuisances. See Penal Code § 370; Civ. Code §§ 3479-3508.2.

11 The reference to a “part” of a fish in former Fish and Game Code Section 7707 is superfluous,
12 and has been deleted. See Section 95 (reference to animal generally includes part of animal).

13 **Note.** Proposed Section 21855 is intended to restate existing Fish and Game Code Section
14 7707 to clarify the meaning of that provision, without changing its substantive effect. The
15 existing provision reads as follows:

16 7707. Any reduction plant in which any fish or any part thereof is used in violation of the
17 provisions of Sections 7700 to 7706, inclusive, 7708, 8151, 8153 to 8157, inclusive, and 8075 to
18 8080, inclusive, of this code, or in violation of any regulation of the commission, is a nuisance.
19 Whenever the existence of such nuisance is shown to the satisfaction of the superior court of the
20 county in which the reduction plant is situated, by complaint filed in the name of the people of the
21 State of California, the court may issue a temporary injunction to abate and prevent the
22 continuance or recurrence of such nuisance. If the existence of a nuisance is established in such
23 action, an order of abatement shall be entered as part of the judgment in the case, which order
24 shall direct the closing, for 12 months, of the building or place where such nuisance was
25 maintained, and, during such time, the building or place shall be and remain in the custody of the
26 court.

27 Proposed Section 21855 would replace the cross-references in the first sentence of Section
28 7707 with a reference to all provisions in the title in which proposed Section 21855 would be
29 included. That replacement is based on the Commission’s belief that this title includes the
30 continuation of all provisions cross-referenced in Section 7707, other than sections that have been
31 repealed and not continued in substance in another provision.

32 The sections cross-referenced in Section 7707 that have been repealed read as follows:

33 8151. Sardines for use in a reduction plant, or by a packer, may be taken only in accordance
34 with this article, and at the following times in the following places:

- 35 (a) In District 4,....
36 (b) Elsewhere in the State,....

37 8154. Any person engaged in canning sardines may take and use in a reduction plant 32 1/2
38 percent of the amount of sardines actually received at his canning plant during each calendar
39 month.

40 8155. In determining the percentage of sardines that may be used for reduction purposes by a
41 cannery, it shall be deemed that a ton of sardines suitable in size and condition for canning will
42 produce 960 one-pound oval cans of sardines, or the equivalent if other size cans are used.

43 8156. A person engaged in preserving sardines by the common methods of drying, salting,
44 smoking, or pickling may use in a reduction plant or by a reduction process such sardines, or fish
45 delivered mixed with sardines, as are unfit for drying, salting, smoking, or pickling, which are not
46 intentionally taken into the plant in a condition unfit for processing for human consumption.

1 8157. Fish which are mixed with sardines when delivered to the packer are the equivalent of
2 sardines and shall be included within the percentage of the total amount of sardines received by
3 the packer during the calendar month.

4 However, while the “Section 8154” set forth above that was in existence at the time Section
5 7707 was enacted was repealed in 1973, the Legislature enacted a new “Section 8154” in 1989,
6 and *that* section remains an existing code section today. See 1988 Cal. Stat. ch. 858. That Section
7 8154 reads as follows:

8 8154. No person shall receive, possess, or sell sardines for any purpose except for that purpose
9 specified on the fish receipt completed at the time of landing of those sardines pursuant to Section
10 8043.”

11 Nevertheless, nothing in the legislative history of this enactment or the text of this provision
12 suggests the Legislature intended or contemplated that this provision would be a cross-reference
13 in Section 7707, and proposed Section 21855 would also not include this provision as a cross-
14 reference.

15 **The Commission invites comment on whether the restatement of existing Section 7707 in**
16 **proposed Section 15055 would cause any substantive change in the intended meaning of**
17 **Section 7707.**

18 TITLE 12. PASSENGER FISHING BOATS

19 § 21900. Application of chapter

20 21900. This title applies only to a boat or vessel whose owner or his or her
21 employee or other representative is with it when it is used for fishing.

22 **Comment.** Section 21900 continues the second sentence of former Fish and Game Code
23 Section 7920 without substantive change.

24 § 21905. Activity requiring license

25 21905. (a) The owner of any boat or vessel who, for profit, permits any person
26 to take fish, shall procure a commercial passenger fishing boat license.

27 (b) A person operating a guide boat is not required to obtain a commercial
28 passenger fishing boat license.

29 **Comment.** In combination with Section 275, Section 21905 continues the first and third
30 sentences of former Fish and Game Code Section 7920 without substantive change.

31 § 21910. Commercial boat registration

32 21910. An applicant for a commercial passenger fishing vessel license is
33 required to hold a commercial boat registration issued pursuant to Section 14755.

34 **Comment.** Section 21910 restates the second sentence of former Fish and Game Code Section
35 7921 without substantive change.

36 See also Section 4900 (suspension or revocation for specified violations).

37 **Note.** Proposed Section 21910 is intended to restate the second sentence of existing Fish and
38 Game Code Section 7921 to clarify the meaning of that provision, without changing its
39 substantive meaning. The existing provision reads as follows:

40 7921..... The commercial passenger fishing vessel license shall be issued to the holder of a
41 commercial boat registration issued pursuant to Section 7881.

1 **The Commission invites comment on whether proposed Section 21910 accurately**
2 **continues the intended meaning of the second sentence of existing Section 7921.**

3 **§ 21915. License fee**

4 21915. The base fee for a commercial passenger fishing boat license is two
5 hundred fifty dollars (\$250) in the 2004 license year, which shall be adjusted
6 annually thereafter pursuant to Section 3755.

7 **Comment.** Section 21915 continues the first sentence of former Fish and Game Code Section
8 7921 without substantive change.

9 **Note.** Existing Fish and Game Code Section 7921 (which would be continued by proposed
10 Sections 21910 and 21915) refer to both a “commercial passenger fishing *boat* license” and a
11 “commercial passenger fishing *vessel* license.”

12 **The Commission invites comment on whether and how this terminology should be**
13 **standardized.**

14 **§ 21920. Maintenance of records**

15 21920. The holder of a commercial passenger fishing boat license shall keep a
16 true record in the English language of all fish taken, and shall comply with all
17 regulations that the commission may adopt. The record and the information
18 contained in it shall be confidential, and the record shall not be a public record.

19 **Comment.** Section 21920 continues former Fish and Game Code Section 7923 without
20 substantive change.

21 **§ 21930. Fishing from commercial passenger fishing boat**

22 21930. The owner or operator of a boat or vessel licensed pursuant to Section
23 21905 shall not permit any person to fish from that boat or vessel unless that
24 person has, in his or her possession, a valid California sport fishing license and
25 any required stamp, report card, or validation issued pursuant to this code.

26 **Comment.** Section 21930 restates former Fish and Game Code Section 7147 without
27 substantive change.

28 **§ 21935. Ocean fishing**

29 21935. In addition to a valid California commercial passenger fishing boat
30 license issued pursuant to Section 21905, the owner of any boat or vessel who, for
31 profit, permits any person to fish from that boat or vessel, in ocean waters south of
32 a line extending due west from Point Arguello, shall have a valid commercial
33 fishing ocean enhancement validation issued for that vessel that has not been
34 suspended or revoked.

35 **Comment.** Section 21935 continues former Fish and Game Code Section 6596.1(b) without
36 substantive change.

37 **Note.** Under existing law, Section 6596.1(b) is governed by existing Section 6403, which
38 makes Section 6596.1(b) inapplicable to aquaculture business activities. The continuation of
39 Section 6596.1(b) in this location would make Section 6403 (proposed Section 25400)
40 inapplicable to Section 6596.1(b). Technically, this would make Section 6596.1(b) applicable to

1 aquaculture business activities. However, Section 6596.1(b) appears to have no application to
2 such activities. For that reason, the change described in this Note would seem to have no practical
3 effect.

4 **The Commission invites comment on whether this change would be a problem.**

5 **§ 21950. Possession limit for specified fish**

6 21950. No commercial fisherman, while on any barge or boat which for hire
7 carries any sport fisherman, may take or have in his or her possession in any one
8 day, more than the aggregate number of the following kinds of fish permitted in
9 the case of sport fishing: bluefin tuna, yellowfin tuna, skipjack, yellowtail, marlin,
10 broadbill swordfish, black seabass, albacore, barracuda, white seabass, bonito,
11 rock bass, kelp bass, California halibut, California corbina, yellowfin croaker, and
12 spotfin croaker.

13 **Comment.** Section 21950 continues former Fish and Game Code Section 8385 without
14 substantive change.

15 **TITLE 13. LIVE FRESHWATER FISH FOR BAIT**

16 **§ 22100. When license required**

17 22100. (a) Any person engaged for profit in the taking, transporting, or selling of
18 live fresh-water fish for bait shall first obtain from the department a live fresh-
19 water bait fish license to possess the fish for those purposes.

20 (b) A live freshwater bait fish license is not required for the raising, possession,
21 or sale of live freshwater fish for bait under authority of Part 1 (commencing with
22 Section 23300) of Division 7.

23 **Comment.** Subdivision (a) of Section 22100 continues the first paragraph of former Fish and
24 Game Code Section 8460 without substantive change.

25 Subdivision (b) continues the third paragraph of former Fish and Game Code Section 8460
26 without substantive change.

27 **§ 22105. Term of license**

28 22105. A live freshwater bait fish license shall be issued for a calendar year, or,
29 if issued after the beginning of the year, for the remainder of the year.

30 **Comment.** Section 22105 continues a part of the second paragraph of former Fish and Game
31 Code Section 8460 without substantive change.

32 **§ 22110. License fee**

33 22110. The annual fee for a live freshwater bait fish license is fifty-five dollars
34 (\$55).

35 **Comment.** Section 22110 continues former Fish and Game Code Section 8461 without
36 substantive change.

1 **§ 22120. Take only of permitted species**

2 22120. (a) A live freshwater bait fish license shall authorize the taking of only
3 golden shiners, fathead minnows, and any other species the department may
4 designate, under regulations adopted by the commission.

5 (b) The commission may prohibit in any part or all parts of the state the
6 possession alive of any species of fish that the commission considers a potential
7 threat to the fisheries of the state by reason of possible escape and establishment.

8 **Comment.** Section 22120 continues former Fish and Game Code Section 8462 without
9 substantive change.

10 **§ 22125. Restriction on gear used to take certain species**

11 22125. Traps not over 24 inches in greatest length nor more than 12 inches in
12 greatest depth or width, or seines of not over 1/2-inch mesh stretched measure and
13 not more than 4 x 30 feet in size, may be used for the taking of fish of the carp and
14 minnow family (family Cyprinidae), suckers (family Catostomidae), sculpins
15 (family Cottidae), or mosquito fish (genus Gambusia). Such traps may be used
16 only in lakes and impounded waters. Such seines may be used only in lakes,
17 impounded waters, and conduits.

18 (b) Fish taken as provided in this section may be sold only as bait.

19 (c) Fish other than those named in this section that may be taken in a trap or
20 seine described in this section shall be released and returned unharmed to the
21 water where taken.

22 **Comment.** Section 22125 continues former Fish and Game Code Section 8463 without
23 substantive change.

24 **§ 22130. Exemption**

25 22130. The provisions of this code on commercial fishing, packing, or
26 processing licenses, on reports by persons engaged in the commercial fish
27 industry, and on statements required by owners or operators of fishing boats, do
28 not apply to the taking, transporting, or selling of live fresh-water fish for bait.

29 **Comment.** Section 22130 continues the fourth paragraph of former Fish and Game Code
30 Section 8460 without substantive change.

31 **TITLE 14. COMMERCIAL FISHING REPORTS**

32 **§ 22200. Required record of fishing activities**

33 22200. The commission may require the owner and operator of a commercial
34 fishing vessel, the holder of a commercial fishing license or permit, and the owner
35 and licenseholder of a commercial passenger fishing boat to keep and submit a
36 complete and accurate record of fishing activities in a form prescribed by the
37 department.

38 **Comment.** Section 22200 continues former Fish and Game Code Section 8026(a) without
39 substantive change.

1 See also Sections 5170, 5172 (enforcement).

2 **§ 22205. Confidentiality of department records**

3 22205. (a) The receipts, reports, or other records filed with the department
4 pursuant to Title 1 (commencing with Section 14200), Title 2 (commencing with
5 Section 14500), Title 9 (commencing with Section 20150), Title 10 (commencing
6 with Section 20900), Title 11 (commencing with Section 21600), Title 12
7 (commencing with Section 21900), this title, Chapter 5 (commencing with Section
8 22800) of Title 15, Chapter 2 (commencing with Section 41350) of Title 2 of Part
9 17 of Division 10, Sections 42100 and 46150, and the information contained
10 therein, shall, except as otherwise provided in this section, be confidential, and the
11 records shall not be public records. Insofar as possible, the information contained
12 in the records shall be compiled or published as summaries, so as not to disclose
13 the individual record or business of any person.

14 (b) Notwithstanding any other provision of law, the department may release the
15 confidential information described in subdivision (a) to any federal agency
16 responsible for fishery management activities, provided the information is used
17 solely for the purposes of enforcing fishery management provisions and provided
18 the information will otherwise remain confidential. The department may also
19 release this information in accordance with Section 7315 or pursuant to a court
20 order, to a public or private postsecondary institution engaged in research under
21 the terms of a legally binding confidentiality agreement, or under other conditions
22 as the commission by regulation may provide.

23 (c) All forms, logs, books, covers, documents, electronic data, software, and
24 other records of any kind issued or otherwise supplied, directly or indirectly, by
25 the department, the purpose of which is to provide a means for reports, records, or
26 other information to be filed with the department pursuant to Title 1 (commencing
27 with Section 14200), Title 2 (commencing with Section 14500), Title 9
28 (commencing with Section 20150), Title 10 (commencing with Section 20900),
29 Title 11 (commencing with Section 21600), Title 12 (commencing with Section
30 21900), this title, Chapter 5 (commencing with Section 22800) of Title 15,
31 Chapter 2 (commencing with Section 41350) of Title 2 of Part 17 of Division 10,
32 Sections 42100 and 46150, continue to be the property of the department. Those
33 forms, logs, books, covers, documents, electronic data, software, other records,
34 and any portion of any of those items remain the property of the department,
35 whether used, unused, attached, or detached from their original binding,
36 packaging, or other medium and shall be immediately surrendered upon demand to
37 a peace officer of the department acting in his or her official capacity, without
38 being altered in any manner.

39 **Comment.** Section 22205 continues former Fish and Game Code Section 8022 without
40 substantive change.

1 (a) That the actions taken by the federal Pacific Fishery Management Council
2 have resulted in significant economic losses to California's salmon and groundfish
3 fisheries, have caused significant waste of fish, and have failed to manage and
4 conserve fisheries for their optimum yield.

5 (b) That the California Salmon Fishery has been severely affected by regulations
6 imposed by the Pacific Fishery Management Council and the federal Department
7 of Commerce.

8 (c) That the membership of the Pacific Fishery Management Council has never
9 included a commercial salmon troll fisherman, and has at times lacked balance and
10 representation from major fisheries subject to the fishery management plans of the
11 council.

12 **Comment.** Section 22305 continues former Fish and Game Code Section 7654 without
13 substantive change.

14 **§ 22310. Declaration of policy**

15 22310. (a) It is the policy of the state that it be represented on the Pacific Fishery
16 Management Council by people who are knowledgeable about fisheries directly
17 subject to the fishery management plans of the council. Nominations and
18 appointments to the Pacific Fishery Management Council shall be a balanced
19 representation of interested parties, including, but not limited to, representatives
20 from the commercial salmon troll fishery, the groundfish fishery, the coastal
21 pelagic species fishery, the seafood processing industry, the commercial passenger
22 carrying fishing industry, nongovernmental environmental organizations, and
23 marine scientists.

24 (b) When the Governor nominates persons for any seat on the Pacific Fishery
25 Management Council, those individuals shall be knowledgeable of California's
26 fishery resources and its fishing industry. Further, the nominations may be made
27 after consultation with fishery organizations and other interested parties, including
28 parties representing the public's interest in the fishery resources and marine
29 environment.

30 **Comment.** Section 22310 continues former Fish and Game Code Section 7655 without
31 substantive change.

32 **§ 22315. Inapplicability of Administrative Procedure Act**

33 22315. Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of
34 the Government Code does not apply to this title.

35 **Comment.** Section 22315 continues former Fish and Game Code Section 7652(d) without
36 substantive change.

1 Article 2. Adoption of New Regulations

2 **§ 22400. Required public hearing**

3 22400. (a) Notwithstanding any other section of this title or any other law, the
4 director shall hold a public hearing or hearings in the area of the fishery under
5 consideration after a recommendation by the council to the secretary of a fishery
6 management plan or amendment of a fishery management plan pursuant to the act,
7 or after approval by the secretary of a fishery management plan or amendment of a
8 fishery management plan pursuant to the act.

9 (b) If the secretary approves a fishery management plan or amendment of a
10 fishery management plan that is substantially identical to a fishery management
11 plan or amendment of a fishery management plan that has been recommended by
12 the council, and the director has held a public hearing on the council's
13 recommended fishery management plan or amendment of a fishery management
14 plan, the director is not required to hold a second public hearing under this section
15 after the approval by the secretary.

16 (c) The hearing shall be held not less than four days after the recommendation
17 by the council to the secretary of a fishery management plan or amendment of a
18 fishery management plan, or after the approval by the secretary of a fishery
19 management plan or amendment of a fishery management plan. The director shall
20 arrange the time and place of the hearing, shall provide adequate public notice and
21 adequate notice to the appropriate standing policy committee of each house of the
22 Legislature and to the joint committee, and shall convene the hearing at the time
23 and place arranged.

24 (c) At the hearing or hearings, the director shall take evidence of the effects any
25 proposed regulation would have on the state's fishery resources, the commercial or
26 recreational fishing industry, and the state's ability to manage fishery resources in
27 waters of the state.

28 (d) After the hearings, the director shall submit a written report to the
29 Legislature that summarizes the reasons for the proposed regulation.

30 (e) The report to the Legislature shall be delivered or placed in the United States
31 Postal Service addressed to the Chairperson of the Joint Committee on Fisheries
32 and Aquaculture and to the chairperson of the appropriate policy committee of
33 each house of the Legislature.

34 **Comment.** Subdivisions (a) through (d) of Section 22400 continue former Fish and Game
35 Code Section 7652.1 without substantive change.

36 Subdivision (e) continues the part of former Fish and Game Code Section 7652.3(b) applicable
37 to former Fish and Game Code Section 7652.1 without substantive change.

38 **§ 22405. Adoption of regulations to conform state law**

39 22405. Upon the preparation by the council, and the recommendation by the
40 council to the secretary, of a fishery management plan or amendment of a fishery
41 management plan pursuant to the act, or upon the approval by the secretary of a

1 fishery management plan, or amendment of a fishery management plan, pursuant
2 to the act, the director may do any of the following to conform state law or
3 regulations of the commission to the fishery management plan, or amendment of a
4 fishery management plan, if the director finds that the action is necessary to
5 achieve optimum yield in California, and that it is necessary to avoid a substantial
6 and adverse effect on the plan by that state law or the regulations in order to
7 continue state jurisdiction pursuant to Section 1856 of the act:

8 (a) Adopt regulations that would make inoperative any statute or regulation of
9 the commission, including, but not limited to, statutes or regulations regulating
10 bag limits, methods of taking, and seasons for taking of fish for commercial
11 purposes.

12 Any regulation adopted by the director pursuant to this subdivision shall specify
13 the particular statute or regulation of the commission to be inoperative.

14 (b) Adopt regulations governing phases of the taking of fish for commercial
15 purposes that are not presently regulated by statute or regulation of the
16 commission.

17 (c) Adopt regulations governing phases of the taking of fish for commercial
18 purposes that are presently regulated by statute or regulation of the commission,
19 but only if the statutes or regulations are first made inoperative pursuant to
20 subdivision (a) for the effective period of the regulations adopted by the director
21 pursuant to this subdivision.

22 **Comment.** Section 22405 combines and continues former Fish and Game Code Section
23 7652(a)-(c) without substantive change.

24 **§ 22410. Hearing and report to Legislature prerequisite to adoption of regulation**

25 22410. The director shall not adopt any regulation pursuant to this chapter until
26 the director has held one or more hearings, and submitted a report to the
27 Legislature, pursuant to Section 22400.

28 **Comment.** Section 22410 continues the part of former Fish and Game Code Section 7652.3(a)
29 applicable to adoption of regulations under former Fish and Game Code Section 7652.1 without
30 substantive change.

31 **§ 22415. Report to Legislature of need to conform state law**

32 22415. Upon the adoption of any regulation pursuant to Section 22405, the
33 director shall report to the Legislature which statutes or regulations of the
34 commission need to be amended or repealed, and any regulations adopted by the
35 director that need to be enacted as statutes, to conform state law to any fishery
36 management plan, or amendment of a fishery management plan, that has been
37 approved by the secretary, to avoid any substantial and adverse effect on such plan
38 or amendment by that state law.

39 **Comment.** Section 22415 continues former Fish and Game Code Section 7653 without
40 substantive change.

1 Article 3. Repeal or Amendment of Regulations

2 **§ 22450. Amendment or repeal of regulation by director**

3 22450. (a) The director may repeal or amend any regulation adopted pursuant to
4 Section 22405, or any other regulation, to conform the regulation to federal
5 regulations pursuant to the act, if the director finds that this action is necessary to
6 achieve optimum yield in California.

7 (b) Notwithstanding any other section of this title or any other law, the director
8 shall hold a public hearing or hearings in the area of the fishery under
9 consideration before the director repeals or amends any regulation pursuant to this
10 section. The director shall arrange the time and place of the hearing or hearings,
11 shall provide adequate public notice and adequate notice to the appropriate
12 standing policy committee of each house of the Legislature and to the joint
13 committee, and shall convene the hearing or hearings at the time and place
14 arranged.

15 (c) At the hearing or hearings, the director shall take evidence of the effects the
16 proposed repeal or amendment would have on the state's fishery resources, the
17 commercial or recreational fishing industry, and the state's ability to manage
18 fishery resources in waters of the state.

19 (d) After the hearing or hearings, the director shall submit a written report to the
20 Legislature that summarizes the reasons for the proposed repeal or amendment.

21 (e) The report to the Legislature shall be delivered or placed in the United States
22 Postal Service addressed to the Chairperson of the Joint Committee on Fisheries
23 and Aquaculture and to the chairperson of the appropriate policy committee of
24 each house of the Legislature.

25 **Comment.** Subdivisions (a) through (d) of Section 22450 continue former Fish and Game
26 Code Section 7652.2 without substantive change.

27 Subdivision (e) continues the part of former Fish and Game Code Section 7652.3(b) applicable
28 to former Fish and Game Code Section 7652.2 without substantive change.

29 **§ 22455. Hearing and report to Legislature prerequisite to amendment or repeal of**
30 **regulation**

31 22455. The director shall not amend or repeal any regulation pursuant to this
32 chapter until the director has held one or more hearings, and submitted a report to
33 the Legislature, pursuant to Section 22450.

34 **Comment.** Section 22455 continues the part of former Fish and Game Code Section 7652.3(a)
35 applicable to amendment or repeal of regulations under former Fish and Game Code Section
36 7652.2 without substantive change.

37 CHAPTER 2. LIMITED ENTRY FISHERIES

38 **§ 22500. Eligibility**

39 22500. (a) Any commercial fisherman shall be eligible for inclusion during the
40 initial year of a limited entry fishery established by statute that becomes operative

1 after January 1, 1982, or by regulation that becomes operative after January 1,
2 1999, regardless of the prescribed conditions for entry into the fishery, if the
3 commercial fisherman presents to the department satisfactory evidence that he or
4 she has been licensed as a California commercial fisherman for at least 20 years
5 and has participated in the fishery for at least one of those 20 years, with
6 qualifying participation in the fishery to be determined by the commission based
7 on landings or other appropriate criteria.

8 (b) Commercial fishers who have established eligibility to participate in a
9 limited entry fishery under this section are subject to conditions of continuing
10 eligibility established by statute or regulation if those fishers desire to maintain
11 their eligibility.

12 **Comment.** Section 22500 continues former Fish and Game Code Section 8101 without
13 substantive change.

14 **§ 22505. Partnerships**

15 22505. (a) The Legislature finds and declares that, in some limited entry
16 fisheries, two or more partners may be operating with one of the partners holding
17 the permit to participate in the fishery. The Legislature further finds and declares
18 that undocumented, de facto, family partnerships are a longstanding custom in
19 these fisheries. The Legislature further finds and declares that great hardship
20 results when the permittee partner is no longer able to continue working and
21 leaves the other partner without a permit to continue participating in the fishery.

22 (b) In any limited entry fishery in which permits are allocated to participants in
23 the fishery, and where the death, incapacity, or retirement of a permittee from that
24 fishery would deprive a working partner of the permittee of the ability to continue
25 to derive a livelihood from that fishery, a permit shall be issued, upon application,
26 to one remaining partner.

27 (c) A working partner for the purposes of this section shall be a spouse, child
28 (including an adopted child), or sibling of the permittee, whose investment or
29 equity need not be proven by documentation, or a person who can prove an
30 investment or equity in the vessel or gear used in the fishery, and who would
31 otherwise have been eligible for a permit and did not obtain one because he or she
32 was working with or was a partner with the permittee.

33 (d) The working partner shall also provide substantial evidence of an actual
34 physical working participation aboard the vessel supported by the submission of
35 documents filed with the Franchise Tax Board and supported by trip settlement
36 sheets or similar documents that demonstrate earnings from that participation.
37 “Trip settlement sheet” for purposes of this subdivision means a document
38 prepared after a vessel has completed a fishing trip which displays the costs
39 incurred, revenues received, and profits paid out. Investment or equity alone does
40 not establish that the person is a working partner.

41 (e) Those existing working partners other than the family relationships specified
42 in subdivision (c) may, not later than February 1, 1984, declare and prove the

1 working partnership in a manner satisfactory to the department and request that the
2 department state the fact of the working partnership upon the permit. Thereafter, a
3 nonfamily working partnership shall be declared, proved, and noted upon any
4 limited entry permit at the first issuance of the permit.

5 (f) This article does not apply to permits to take herring for roe in California.

6 **Comment.** Section 22505 continues former Fish and Game Code Section 8102 without
7 substantive change.

8 **§ 22510. Accidental death of permittee**

9 22510. (a) The Legislature finds and declares as follows:

10 (1) The accidental death of a limited entry permittee results in great hardships on
11 the permittee's family.

12 (2) Under the law as it existed immediately prior to January 1, 1987, if a
13 member of the permittee's family has not been actively working in the fishery, the
14 limited entry permit could not be transferred to a member of the family, an action
15 which deprives the family of the opportunity to continue to derive a livelihood
16 from the fishery and which imposes greater hardships.

17 (3) When there is an accidental death of a limited entry permittee, a transition
18 period is necessary to allow a family member to join the fishery and to become
19 acclimated, knowledgeable, and experienced in the fishery.

20 (b) Notwithstanding Section 22505, the department shall transfer a permit for a
21 limited entry fishery, upon application, to a parent, spouse, child, or sibling of a
22 permittee whose death was the result of an accident that occurred after January 1,
23 1986.

24 (c) Application for the transfer of a permit pursuant to subdivision (b) shall be
25 made on or before January 1, 1987, or not more than one year after the death of
26 the permittee, whichever is later.

27 (d) The director may authorize another person, when requested by the new
28 permittee, to serve in the place of the new permittee and to engage in fishing
29 activities under the authority of the limited entry permit for not more than two
30 years from the date of the permit transfer.

31 (e) "Accidental death" means death resulting directly and solely from any of the
32 following:

33 (1) An accidental injury visible on the surface of the body or disclosed by an
34 autopsy, sustained solely by external, violent, and accidental means.

35 (2) A disease or infection resulting directly from an accidental injury and
36 beginning within 30 days after the date of the injury.

37 (3) An accidental drowning.

38 **Comment.** Section 22510 continues former Fish and Game Code Section 8103 without
39 substantive change.

1 § 22515. Transfer of permit of deceased permittee

2 22515. (a) Upon the death of a limited entry permittee, the permit shall vest in
3 the permittee's estate or in the surviving community estate, and may be transferred
4 by the executor, administrator, personal representative, or surviving spouse to a
5 qualified pointholder pursuant to Section 40380 or to a partner qualified pursuant
6 to Section 40375.

7 (b) The transfer shall be initiated by notice to the department, in writing, sent by
8 certified mail, within one year of the date of death.

9 (c) If no transfer is initiated within one year of the date of death, the permit shall
10 revert to the department for disposition pursuant to Section 40395 and shall be
11 thereafter treated as a herring permit that has not been renewed.

12 (d) The department may, upon written application, grant an extension of time up
13 to one additional year for the transfer to be initiated.

14 **Comment.** Section 22515 continues former Fish and Game Code Section 8104 without
15 substantive change.

16 **Note.** Existing Fish and Game Code Section 8104 (which would be continued by proposed
17 Section 22510) appears to apply to the permit of *any* deceased limited entry permittee, but
18 provides for a transfer of that permit only to a person qualified to operate in a *herring* fishery.

19 **The Commission invites comment on whether proposed Section 22510 was intended to**
20 **apply upon the death of a herring fishery permittee, and should be revised and relocated in**
21 **the proposed law accordingly.**

22 CHAPTER 3. NEARSHORE FISHERIES MANAGEMENT ACT

23 § 22600. Name

24 22600. This chapter shall be known and may be cited as the Nearshore Fisheries
25 Management Act.

26 **Comment.** Section 22600 continues former Fish and Game Code Section 8585 without
27 substantive change.

28 § 22605. Legislative declaration

29 22605. The Legislature finds and declares that important commercial and
30 recreational fisheries exist on numerous stocks of rockfish (genus *Sebastes*),
31 California sheephead (genus *Semicossyphus*), kelp greenling (genus
32 *Hexagrammos*), cabezon (genus *Scorpaenichthys*), and scorpionfish (genus
33 *Scorpaena*), in the nearshore state waters extending from the shore to one nautical
34 mile offshore the California coast, that there is increasing pressure being placed on
35 these fish from recreational and commercial fisheries, that many of these fish
36 species found in the nearshore waters are slow growing and long lived, and that, if
37 depleted, many of these species may take decades to rebuild. The Legislature
38 further finds and declares that, although extensive research has been conducted on
39 some of these species by state and federal governments, there are many gaps in the
40 information on these species and their habitats and that there is no program
41 currently adequate for the systematic research, conservation, and management of

1 nearshore fish stocks and the sustainable activity of recreational and commercial
2 nearshore fisheries. The Legislature further finds and declares that recreational
3 fishing in California generates funds pursuant to the Federal Aid in Sport Fish
4 Restoration Act (16 U.S.C. Secs. 777 to 777l, inclusive), with revenues used for,
5 among other things, research, conservation, and management of nearshore fish.
6 The Legislature further finds and declares that a program for research and
7 conservation of nearshore fish species and their habitats is needed, and that a
8 management program for the nearshore fisheries is necessary. The Legislature
9 further finds and declares that the commission should be granted additional
10 authority to regulate the commercial and recreational fisheries to assure the
11 sustainable populations of nearshore fish stocks. Lastly, the Legislature finds and
12 declares that, whenever feasible and practicable, it is the policy of the state to
13 assure sustainable commercial and recreational nearshore fisheries, to protect
14 recreational opportunities, and to assure long-term employment in commercial and
15 recreational fisheries.

16 **Comment.** Section 22605 continues former Fish and Game Code Section 8585.5 without
17 substantive change.

18 § 22610. Definitions

19 22610. The following definitions govern the construction of this chapter:

20 (a) “Nearshore fish stocks” means any of the following: rockfish (genus
21 *Sebastes*) for which size limits are established under this article, California
22 sheephead (*Semicossyphus pulcher*), greenlings of the genus *Hexagrammos*,
23 cabezon (*Scorpaenichthys marmoratus*), scorpionfish (*Scorpaena guttata*), and
24 may include other species of finfish found primarily in rocky reef or kelp habitat
25 in nearshore waters.

26 (b) “Nearshore fisheries” means the commercial or recreational take or landing
27 of any species of nearshore finfish stocks.

28 (c) “Nearshore waters” means the ocean waters of the state extending from the
29 shore to one nautical mile from land, including one nautical mile around offshore
30 rocks and islands.

31 **Comment.** Section 22610 continues former Fish and Game Code Section 8586 without
32 substantive change.

33 § 22615. Funding

34 22615. Funding to prepare the plan pursuant to Section 12320, and for any
35 planning and scoping meetings, shall be derived from moneys deposited in the
36 Fish and Game Preservation Fund pursuant to Section 22630 and other funds
37 appropriated for those purposes.

38 **Comment.** Section 22615 continues former Fish and Game Code Section 8589 without
39 substantive change.

1 **§ 22620. Adoption of regulations**

2 22620. (a) The commission may adopt regulations as it determines necessary,
3 based on the advice and recommendations of the department, to regulate nearshore
4 fish stocks and fisheries. Regulations adopted by the commission pursuant to this
5 section may include, but are not limited to, requiring submittal of landing and
6 permit information, including logbooks; establishing a restricted access program;
7 establishing permit fees; and establishing limitations on the fishery based on time,
8 area, type, and amount of gear, and amount of catch, species, and size of fish.

9 (b) Regulations adopted by the commission pursuant to this section may make
10 inoperative any fishery management statute relevant to the nearshore fishery. Any
11 regulation adopted by the commission pursuant to this subdivision shall specify
12 the particular statute to be made inoperative.

13 (c) The circumstances, restrictions, and requirements of Section 1025 do not
14 apply to regulations adopted pursuant to this section.

15 (d) Any regulations adopted pursuant to this section shall be adopted following
16 consultation with fishery participants and other interested persons consistent with
17 Section 12165.

18 **Comment.** Section 22620 continues former Fish and Game Code Section 8587.1 without
19 substantive change.

20 See also Section 5050 (enforcement).

21 **§ 22625. Costs of act**

22 22625. Funding to pay the costs of this chapter shall be made available from the
23 revenues deposited in the Fish and Game Preservation Fund pursuant to Sections
24 5050, 22630, and 22635, and other funds appropriated for these purposes.

25 **Comment.** Section 22625 continues former Fish and Game Code Section 8586.1 without
26 substantive change.

27 **§ 22630. Required permit**

28 22630. (a) Any person taking, possessing aboard a boat, or landing any species
29 of nearshore fish stock for a commercial purpose shall possess a valid nearshore
30 fishery permit issued to that person that has not been suspended or revoked, except
31 that when using a boat to take nearshore fish stocks at least one person aboard the
32 boat shall have a valid nearshore fishery permit.

33 (b) Nearshore fishing permits are revocable.

34 (c) The fee for a nearshore fishing permit is one hundred and twenty five dollars
35 (\$125).

36 **Comment.** Section 22630 continues former Fish and Game Code Section 8587 without
37 substantive change.

38 See also Section 5050 (enforcement).

39 **§ 22635. Use of permit fees**

40 22635. (a) Fees received by the department pursuant to Section 22630 shall be
41 deposited in the Fish and Game Preservation Fund, to be used by the department

1 to prepare, develop, and implement the nearshore fisheries management plan, and
2 for the following purposes:

3 (1) For research and management of nearshore fish stocks and nearshore habitat.
4 For the purposes of this section, “research” includes, but is not limited to,
5 investigation, experimentation, monitoring, and analysis, and “management”
6 means establishing and maintaining a sustainable utilization.

7 (2) For supplementary funding of allocations for the enforcement of statutes and
8 regulations applicable to nearshore fish stocks, including, but not limited to, the
9 acquisition of special equipment and the production and dissemination of printed
10 materials, such as pamphlets, booklets, and posters aimed at compliance with
11 nearshore fishing regulations.

12 (3) For the direction of volunteer groups assisting with nearshore fish stocks and
13 nearshore habitat management, for presentations of related matters at scientific
14 conferences and educational institutions, and for publication of related material.

15 (b) The department shall maintain internal accounts that ensure that the fees
16 received pursuant to Section 22630 are disbursed for the purposes stated in
17 subdivision (a).

18 (c) The commission shall require an annual accounting from the department on
19 the deposits into, and expenditures from, the Fish and Game Preservation Fund, as
20 related to the revenues generated pursuant to Section 22630. Notwithstanding
21 Section 7550.5 of the Government Code, a copy of the accounting shall be
22 provided to the Legislature for review by the Joint Committee on Fisheries and
23 Aquaculture, and if that committee is not in existence at the time, by the
24 appropriate policy committee in each house of the Legislature.

25 (d) Unencumbered fees collected pursuant to Section 22630 during any previous
26 calendar year shall remain in the fund and expended for the purposes of
27 subdivision (a). All interest and other earnings on the fees received pursuant to
28 Section 22630 shall be deposited in the fund and shall be used for the purposes of
29 subdivision (a).

30 **Comment.** Section 22635 continues former Fish and Game Code Section 8589.7 without
31 substantive change.

32 CHAPTER 4. FAR OFFSHORE FISHERY

33 § 22700. “Far offshore fishery”

34 22700. “Far offshore fishery” means a fishery that lies beyond the outer
35 boundary of the outer boundary of the United States 200-mile exclusive economic
36 zone, as that term is defined by paragraph (11) of Section 1802 of Title 16 of the
37 United States Code.

38 **Comment.** Section 22700 continues former Fish and Game Code Section 8111 without
39 substantive change.

1 **§ 22705. Legislative declaration**

2 22705. (a) The Legislature finds and declares that dramatic changes have taken
3 place in the methods and geographic areas of effort by California-based
4 commercial fishers.

5 (b) The Legislature further finds and declares that because the conditions that
6 now exist could not be seen at the time of their inception, some existing
7 regulations are now unreasonably restrictive. In some cases, existing statutes and
8 regulations prohibit California fishers from participating in, or landing in
9 California the primary product or incidental product of, their effort in newly
10 developed far offshore fisheries. This situation is detrimental to the interests of the
11 fishers, fish processors, and consumers of California.

12 **Comment.** Section 22705 continues former Fish and Game Code Section 8110 without
13 substantive change.

14 **§ 22710. Landing of fish taken in far offshore fishery**

15 22710. Notwithstanding any other section of this code, fish taken in a far
16 offshore fishery, which may be lawfully imported, may be landed in this state by
17 persons operating a commercial fishing vessel registered pursuant to Article 1
18 (commencing with Section 14750) of Chapter 2 of Title 2, who took the fish in the
19 far offshore fishery.

20 **Comment.** Section 22710 continues former Fish and Game Code Section 8112 without
21 substantive change.

22 **§ 22715. Declaration of intended landing**

23 22715. (a) Prior to departure from any port in the United States for the purpose
24 of taking fish in a far offshore fishery, the operator of any vessel landing fish in
25 California that will be taken in the far offshore fishery shall file a declaration of
26 that intention with the department, on forms prescribed by the department.

27 (b) The declaration shall be valid when signed by the vessel operator and
28 completed with information prescribed by the department.

29 (c) Upon completion of the trip and within 12 hours of arrival at a port in this
30 state, the operator of the vessel shall complete and submit the return portion of the
31 declaration to the department.

32 (d) This section does not apply to a commercial fisherman who uses or
33 possesses only troll lines, or gear for angling for the taking or possession of
34 albacore only.

35 **Comment.** Section 22715 continues former Fish and Game Code Section without substantive
36 change.

37 ☞ **Note.** Existing Fish and Game Code Section 8113(d) uses the term “troll line,” but does not
38 appear to be governed by the definition of that term provided in Fish and Game Code Section
39 9025.5(b) (proposed Section 18715). **The Commission invites comment on whether that**
40 **definition should apply.**

1 § 22720. Prohibited fishing during declared trip

2 22720. It is unlawful for the operator of a vessel operating under authority of
3 this article to fish in, or land fish from, any waters within the United States 200-
4 mile exclusive economic zone, as that term is defined by paragraph (11) of Section
5 1802 of Title 16 of the United States Code, during any trip for which the operator
6 filed a declaration with the department to fish in a far offshore fishery.

7 **Comment.** Section 22720 continues former Fish and Game Code Section 8114 without
8 substantive change.

9 CHAPTER 5. RESTRICTION OR CLOSURE OF FISHERIES

10 § 22800. Restriction on take based on unsustainable fishing

11 22800. (a) If the director determines, based on the best available scientific
12 information, or other relevant information that the director possesses or receives,
13 and on at least one public hearing in the area of a fishery, that taking of a species
14 in the fishery is being conducted in a manner that is not sustainable, the director
15 may order the closure of any waters or otherwise restrict the taking in waters of
16 the state of that species.

17 (b) The department shall give notice of any hearing to be held pursuant to this
18 section to the commission and its marine resources committee as far in advance of
19 the hearing date as possible.

20 (c) Any closure or restriction order shall be adopted by emergency regulation in
21 accordance with Chapter 3.5 (commencing with Section 11340) of Division 3 of
22 Title 2 of the Government Code.

23 (d) The director shall bring to the attention of the commission within seven
24 working days any regulation adopted pursuant to this section.

25 (e) Any regulation adopted shall be effective for only 30 days, unless the
26 commission extends the closure or restriction under any authority it may have, or
27 unless the director orders another closure or restriction, consistent with the
28 requirements of subdivision (a).

29 (f) Nothing in this section restricts any existing jurisdiction of the department
30 with regard to the regulation of fisheries on the high seas.

31 **Comment.** Subdivisions (a) through (e) of Section 22800 restate former Fish and Game Code
32 Section 7710(a)-(c) without substantive change.

33 Subdivision (f) continues the part of the last paragraph of former Fish and Game Code Section
34 7710 applicable to that section without substantive change.

35 **Notes.** (1) Although existing Fish and Game Code Section 7710 authorizes the director, under
36 specified circumstances, to order the closure of any waters or otherwise restrict the taking “under
37 a fishing license” of certain species, it is unlikely the Legislature intended to limit that authorized
38 restriction solely to *licensed* taking. Proposed Section 22800 (which would continue existing
39 Section 7710) would authorize the director to restrict both licensed and unlicensed taking.

40 (2) Proposed Section 22800(a) is intended to restate the first sentence of existing Fish and
41 Game Code Section 7710(a) to clarify the meaning of that provision, without changing its
42 substantive effect. The existing provision reads as follows:

1 7710. (a) If the director determines, based on the best available scientific information, or other
2 relevant information that the director possesses or receives, and on at least one public hearing in
3 the area of the fishery, that taking in a fishery is being conducted in a manner that is not
4 sustainable, the director may order the closure of any waters or otherwise restrict the taking under
5 a fishing license in state waters of that species.

6 **The Commission invites comment on whether proposed Section 22800(a) accurately**
7 **continues the intended meaning of the first sentence of existing Section 7710(a).**

8 **§ 22805. Removal of restriction**

9 22805. (a) If, during the period that regulations adopted pursuant to Section
10 22800 are effective, the director determines, based on thorough and adequate
11 scientific evidence and at least one public hearing in the area of the fishery, that
12 any species or subspecies whose take was previously restricted has recovered, or
13 additional evidence indicates that the species or subspecies is not in danger of
14 irreparable injury, the director may remove the restriction on taking.

15 (b) Action to remove the restriction shall be by adoption of an emergency
16 regulation in accordance with Chapter 3.5 (commencing with Section 11340) of
17 Part 1 of Division 3 of Title 2 of the Government Code.

18 (c) The director shall bring to the attention of the Legislature, within seven
19 calendar days, any regulation adopted pursuant to this section.

20 (d) Nothing in this section restricts any existing jurisdiction of the department
21 with regard to the regulation of fisheries on the high seas.

22 **Comment.** Subdivisions (a) through (c) of Section 22805 continue former Fish and Game
23 Code Section 7710.5 without substantive change.

24 Subdivision (d) continues the part of the last paragraph of former Fish and Game Code Section
25 7710 applicable to former Fish and Game Code Section 7710.5 without substantive change.

26 **§ 22810. Appeal of closure or restriction**

27 22810. A closure or restriction under Section 22800, or the removal of a closure
28 or restriction under Section 22805, may be appealed to the commission. The
29 commission shall hear and decide the appeal within a time that is meaningful,
30 taking into account the duration of the fishery and the economics of the fishery.

31 **Comment.** Section 22810 continues former Fish and Game Code Section 7710.1 without
32 substantive change.

33 **§ 22815. Development of alternative fisheries or alternative fishing gear**

34 22815. Where a fishery is closed or restricted due to the need to protect a fishery
35 resource, marine mammals, or sea birds, or due to a conflict with other fisheries or
36 uses of the marine environment, it shall be the policy of the department and the
37 commission, consistent with budgetary and personnel considerations, to assist and
38 foster the development of alternative fisheries or alternative fishing gear for those
39 commercial fishers affected by the restriction, closure, or resource loss, including,
40 but not limited to, the issuing of experimental fishing permits pursuant to Chapter
41 5 (commencing with Section 12050) of Title 2 of Part 4.

1 TITLE 16. MISCELLANEOUS PROGRAMS

2 CHAPTER 1. INSURANCE POOLING

3 § 23100. Loss or damage to vessel or machinery

4 23100. (a) Any person engaged in the business of licensed commercial fishing
5 may enter into an arrangement with other authorized persons for the pooling of
6 funds to pay claims or losses arising out of loss or damage to a vessel or
7 machinery used in the business of commercial fishing and owned by a member of
8 the pool. A pool established pursuant to this section is not, and shall not be,
9 subject to the Insurance Code and is not a member of the California Insurance
10 Guarantee Association under Article 14.2 (commencing with Section 1063) of
11 Chapter 1 of Part 2 of Division 1 of the Insurance Code.

12 (b) The pool established pursuant to this section shall have initial pooled
13 resources of not less than two hundred fifty thousand dollars (\$250,000), and shall
14 operate under generally acceptable accounting principles.

15 (c) All participating persons in any pool established pursuant to this section shall
16 agree to pay premiums or make other mandatory financial contributions or
17 commitments necessary to ensure a financially sound risk pool.

18 (d) For the purpose of this section, “person engaged in the business of licensed
19 commercial fishing” and “authorized person” mean any natural person,
20 partnership, corporation, limited liability company, or other person or entity
21 engaged in the business of fishing for commercial purposes for which that person
22 or its agents or employees are required to be licensed.

23 **Comment.** Section 23100 continues former Fish and Game Code Section 7690 without
24 substantive change.

25 CHAPTER 2. EDUCATIONAL AND SCIENTIFIC PROGRAMS

26 § 23150. Take for educational or scientific purposes

27 23150. The commission may establish rules and regulations for the commercial
28 taking of fish for educational and scientific purposes.

29 **Comment.** Section 23150 continues former Fish and Game Code Section 7709 without
30 substantive change.

31 CHAPTER 3. MARKETING

32 § 23200. Collection of an assessment on behalf of marketing council or commission

33 23200. The director may enter into an agreement with the Secretary of Food and
34 Agriculture for the collection of an assessment on behalf of any marketing council
35 or commission for fish or seafood organized under the Food and Agricultural
36 Code. The agreement may authorize the department to collect the assessment in
37 conjunction with the collection of landing fees on those species for which the

1 marketing council or commission is organized. The department shall remit the
2 amount of the assessment collected to the Secretary of Food and Agriculture
3 according to the agreement after making the collection. Before remitting the
4 assessments, the department may deduct an administrative fee in an amount agreed
5 to with the Secretary of Food and Agriculture to pay the costs of collection and
6 remission of the assessments. The administrative fees shall be deposited in the
7 Fish and Game Preservation Fund.

8 **Comment.** Section 23200 continues former Fish and Game Code Section 1069 without
9 substantive change.

10 DIVISION 7. WILDLIFE PROPAGATION, DOMESTICATION,
11 POSSESSION, AND SALE

12 PART 1. AQUACULTURE

13 TITLE 1. GENERAL PROVISIONS

14 **§ 23300. Applicability of part**

15 23300. Nothing in this part applies to authorized species of ornamental marine
16 or freshwater plants or animals that are not utilized for human consumption or bait
17 purposes and that are maintained in closed systems for personal, pet industry, or
18 hobby purposes.

19 **Comment.** Section 23300 continues former Fish and Game Code Section 15006 without
20 substantive change.

21 **§ 23305. Governing provisions**

22 23305. The business of aquaculture is governed by this part, and is exempt from
23 Part 6 (commencing with Section 14200) of Division 6 and any other provision of
24 this code relating to commercial fishing, harvesting, processing, and marketing.

25 **Comment.** Section 23305 continues former Fish and Game Code Section 15000(a) without
26 substantive change.

27 TITLE 2. ADMINISTRATION

28 CHAPTER 1. AGENCY DUTIES AND POWERS

29 **§ 23350. Coordination of agencies**

30 23350. (a) Except as provided in Sections 23355, 23800, 23810, and 23815, the
31 business of aquaculture processing, distribution, and marketing is administered by
32 the Secretary of Food and Agriculture.

33 (b) The director may enter into an agreement with the Secretary of Food and
34 Agriculture for the resolution of any conflict that arises under subdivision (a).

1 (c) Any costs incurred by the department in implementing Sections 23355,
2 23800, 23810, and 23815 shall be recovered pursuant to this part.

3 **Comment.** Section 23350 continues former Fish and Game Code Section 15000(b)-(d) without
4 substantive change.

5 **§ 23355. Commission regulation**

6 23355. (a) When necessary for the protection of native wildlife, the commission
7 may regulate the transportation, purchase, possession, and sale of specific
8 aquaculture products as provided for in this section.

9 (b) The commission may determine that aquaculture products shall be
10 accompanied by a document containing any of the following information:

11 (1) The name, address, and registration number of the aquaculture producer.

12 (2) The species.

13 (3) The weight, volume, or count within the container.

14 (4) The date of the shipment.

15 (5) The name and address of the intended receiver.

16 (c) The commission may require that certain aquaculture products shall be
17 additionally identified as being aquaculture produced, except for the following:

18 (1) Trout.

19 (2) Catfish.

20 (3) Kelp and aquatic plants.

21 (4) Frogs and amphibia.

22 (5) All bivalve mollusks (except little neck clams).

23 (6) All members of the family Centrarchidae.

24 (7) Crayfish.

25 (8) Sea urchins.

26 (9) Shrimp and fresh water prawns.

27 (10) Crab.

28 **Comment.** Section 23355 continues former Fish and Game Code Section 15005 without
29 substantive change.

30 **§ 23360. Preparation of environmental impact reports by department**

31 23360. (a) The department shall, in consultation with the Aquaculture
32 Development Committee, prepare programmatic environmental impact reports for
33 existing and potential commercial aquaculture operations in both coastal and
34 inland areas of the state if both of the following conditions are met:

35 (1) Funds are appropriated to the department for this purpose.

36 (2) Matching funds are provided by the aquaculture industry. For the purpose of
37 this section, “matching funds” include, but are not limited to, any funds expended
38 by the aquaculture industry before January 1, 2006, for the preparation of a
39 programmatic environmental impact report.

40 (b) If the final programmatic environmental impact report is prepared pursuant
41 to subdivision (a) for coastal marine finfish aquaculture projects and approved by

1 the commission under the California Environmental Quality Act set forth in
2 Division 13 (commencing with Section 21000) of the Public Resources Code, the
3 report shall provide a framework for managing marine finfish aquaculture in an
4 environmentally sustainable manner that, at a minimum, adequately considers all
5 of the following factors:

6 (1) Appropriate areas for siting marine finfish aquaculture operations to avoid
7 adverse impacts, and minimize any unavoidable impacts, on user groups, public
8 trust values, and the marine environment.

9 (2) The effects on sensitive ocean and coastal habitats.

10 (3) The effects on marine ecosystems, commercial and recreational fishing, and
11 other important ocean uses.

12 (4) The effects on other plant and animal species, especially species protected or
13 recovering under state and federal law.

14 (5) The effects of the use of chemical and biological products and pollutants and
15 nutrient wastes on human health and the marine environment.

16 (6) The effects of interactions with marine mammals and birds.

17 (7) The cumulative effects of a number of similar finfish aquaculture projects on
18 the ability of the marine environment to support ecologically significant flora and
19 fauna.

20 (8) The effects of feed, fish meal, and fish oil on marine ecosystems.

21 (9) The effects of escaped fish on wild fish stocks and the marine environment.

22 (10) The design of facilities and farming practices so as to avoid adverse
23 environmental impacts, and to minimize any unavoidable impacts.

24 **Comment.** Section 23360 continues former Fish and Game Code Section 15008 without
25 substantive change.

26 **§ 23365. Department aquaculture coordinator**

27 23365. There is within the department an aquaculture coordinator who shall
28 perform all of the following duties as part of the department's aquaculture
29 program:

30 (a) Promote understanding of aquaculture among public agencies and the
31 general public.

32 (b) Propose methods of reducing the negative impact of public regulation at all
33 levels of government on the aquaculture industry.

34 (c) Provide information on all aspects of regulatory compliance to the various
35 sectors of the aquaculture industry.

36 (d) Provide advice to the owner of a registered aquaculture facility on project
37 siting and facility design, as necessary, to comply with regulatory requirements.

38 (e) Coordinate with the Aquaculture Development Committee regarding the
39 duties described in subdivisions (a) to (d), inclusive.

40 **Comment.** Section 23365 continues former Fish and Game Code Section 15100 without
41 substantive change.

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CHAPTER 2. FEES AND COSTS

§ 23500. Costs for requested inspections

23500. Aquaculturists operating under this part shall pay all costs incurred by the department when conducting any inspections of plants, animals, facilities, or culture areas required by this part, or by regulations adopted pursuant to this part, when requested by the aquaculturists.

Comment. Section 23500 continues former Fish and Game Code Section 15004(c) without substantive change.

§ 23505. Evaluation of fees by department

23505. (a) At least once every five years, the department shall analyze the fees and taxes authorized by this part to ensure that the amount of the appropriate fee or tax is sufficient to fully fund the aquaculture program.

(b) The department shall, as appropriate, recommend fee or tax changes to the Legislature or the commission.

Comment. Section 23505 continues former Fish and Game Code Section 15004(a) and (b) without substantive change.

TITLE 3. REGISTRATION

CHAPTER 1. GENERAL PROVISIONS

§ 23600. Registration requirement

23600. It is unlawful to conduct aquaculture operations or to culture approved species of aquatic plants and animals unless registered under this chapter.

Comment. Section 23600 continues the third sentence of former Fish and Game Code Section 15101(b) without substantive change.

Note. The Fish and Game Code contains two versions of Fish and Game Code Section 15101, the first effective until January 1, 2023, the second operative on January 1, 2023. See 2017 Cal. Stat. ch. 521, § 3, 4. However, the provision that would be continued by proposed Section 23600 is the same in both versions. For that reason, only one version of Section 23600 is included in the proposed law.

§ 23605. Required information

23605. (a) The owner of each aquaculture facility shall register all of the following information with the department by March 1 of each year:

- (1) The owner’s name.
 - (2) The species grown.
 - (3) The location or locations of each operation or operations.
- (b) The department may provide registration forms for this purpose.

1 (c) The annual registration of information required by subdivision (a) is not a
2 project for purposes of the California Environmental Quality Act (Division 13
3 (commencing with Section 21000) of the Public Resources Code).

4 **Comment.** Subdivision (a) of Section 23605 continues former Fish and Game Code Section
5 15101(a) without substantive change.

6 Subdivision (b) continues the first part of the first sentence of former Fish and Game Code
7 Section 15101(b) without substantive change.

8 Subdivision (c) continues former Fish and Game Code Section 15101(c) without substantive
9 change.

10 **Note.** The Fish and Game Code contains two versions of Fish and Game Code Section
11 15101, the first operative until January 1, 2023, the second operative on January 1, 2023. See
12 2017 Cal. Stat. ch. 521, § 3, 4. However, the provisions that would be continued by proposed
13 Section 23605 are the same in both versions. For that reason, only one version of Section 23605
14 is included in the proposed law.

15 **§ 23610. Department review of registration**

16 23610. The department may establish a procedure for the review of the
17 information provided pursuant to Section 23605, to ensure that the operation will
18 not be detrimental to native wildlife.

19 **Comment.** Section 23610 continues the second part of the first sentence of former Fish and
20 Game Code Section 15101(b) without substantive change.

21 **Note.** The Fish and Game Code contains two versions of Fish and Game Code Section
22 15101, the first operative until January 1, 2023, the second operative on January 1, 2023. See
23 2017 Cal. Stat. ch. 521, § 3, 4. However, the provision that would be continued by proposed
24 Section 23610 is the same in both versions. For that reason, only one version of Section 23610 is
25 included in the proposed law.

26 **CHAPTER 2. FEES**

27 **§ 23700. Registration fee (effective until January 1, 2023)**

28 23700. (a) The department shall impose a registration fee of eight hundred
29 dollars (\$800) to recover the cost of reviewing new registrations.

30 (b) For renewing registrations, the department shall impose a registration fee of
31 five hundred dollars (\$500).

32 (c) The registration fees specified in this section are applicable to the 2013
33 registration year, and shall be adjusted annually thereafter pursuant to Section
34 3755.

35 (d) This section shall remain in effect only until January 1, 2023, and as of that
36 date is repealed, unless a later enacted statute, that is enacted before January 1,
37 2023, deletes or extends that date.

38 **Comment.** Subdivisions (a) through (c) of Section 23700 continue, without substantive
39 change, a part of the first sentence, the second sentence, and the fourth sentence of former Fish
40 and Game Code Section 15101(b), as amended by Section 3 of Chapter 521 of the Statutes of
41 2017.

42 Subdivision (d) continues former Fish and Game Code Section 15101(d) without substantive
43 change.

1 **Note.** The Fish and Game Code contains two versions of Fish and Game Code Section
2 15101, the first operative until January 1, 2023, the second operative on January 1, 2023. See
3 2017 Cal. Stat. ch. 521, § 3, 4. As the provisions that would be continued by proposed Section
4 23700 are substantively different in the two versions of Section 15101, the proposed law includes
5 two versions of proposed Section 23700.

6 **§ 23700. Registration fee (operative on January 1, 2023)**

7 23700. (a) The department shall impose a registration fee of five hundred forty-
8 nine dollars (\$549) to recover the cost of reviewing new registrations.

9 (b) For renewing registrations, the department shall impose a registration fee of
10 two hundred seventy-five dollars (\$275).

11 (c) The registration fees specified in this section are applicable to the 2004
12 registration year, and shall be adjusted annually thereafter pursuant to Section
13 3755.

14 (d) This section shall become operative on January 1, 2023, at which time the
15 registration fees specified in this section shall be adjusted pursuant to subdivision
16 (c) as if this section had not been inoperative.

17 **Comment.** Subdivisions (a) through (c) of Section 23700 continue, without substantive
18 change, a part of the first sentence, the second sentence, and the fourth sentence of former Fish
19 and Game Code Section 15101(b), as amended by Section 4 of Chapter 521 of the Statutes of
20 2017.

21 Subdivision (d) continues former Fish and Game Code Section 15101(d) without substantive
22 change.

23 **Note.** The Fish and Game Code contains two versions of Fish and Game Code Section
24 15101, the first operative until January 1, 2023, the second operative on January 1, 2023. See
25 2017 Cal. Stat. ch. 521, § 3, 4. As the provisions that would be continued by proposed Section
26 23700 are different in the two versions of Section 15101, the proposed law includes two versions
27 of proposed Section 23700.

28 **§ 23705. Surcharge fee (effective until January 1, 2023)**

29 23705. (a) In addition to the fees specified in Section 23700, a surcharge fee of
30 six hundred (\$600) shall be paid at the time of registration by the owner of an
31 aquaculture facility if the gross annual sales of aquaculture products of the facility
32 during the prior calendar year exceed twenty-five thousand dollars (\$25,000).

33 (b) Any person who fails to pay the surcharge fee required in this section at the
34 time of registration shall be assessed a delinquency penalty pursuant to Section
35 23710.

36 (c) The surcharge imposed pursuant to this section shall be applicable to the
37 2013 registration year and shall be adjusted annually thereafter pursuant to Section
38 3755.

39 (d) This section shall remain in effect only until January 1, 2023, and as of that
40 date is repealed, unless a later enacted statute, that is enacted before January 1,
41 2023, deletes or extends that date.

42 **Comment.** Section 23705 continues, without substantive change, former Fish and Game Code
43 Section 15103(a), (c)-(e), as amended by Section 5 of Chapter 521 of the Statutes of 2017.

1 **Note.** The Fish and Game Code contains two versions of Fish and Game Code Section 15103,
2 one operative until January 1, 2023, the second operative on January 1, 2023. See 2017 Cal. Stat.
3 ch. 521, § 5, 6. As the provisions that would be continued by proposed Section 23705 are
4 substantively different in the two versions of Section 15103, the proposed law includes two
5 versions of proposed Section 23705.

6 **§ 23705. Surcharge fee (operative January 1, 2023)**

7 23705. (a) In addition to the fees specified in Section 23700, a surcharge fee of
8 four hundred twelve dollars (\$412) shall be paid at the time of registration by the
9 owner of an aquaculture facility if the gross annual sales of aquaculture products
10 of the facility during the prior calendar year exceed twenty-five thousand dollars
11 (\$25,000).

12 (b) Any person who fails to pay the surcharge fee required in this section at the
13 time of registration shall be assessed a delinquency penalty pursuant to Section
14 23710.

15 (c) The surcharge imposed pursuant to this section shall be applicable to the
16 2004 registration year and shall be adjusted annually thereafter pursuant to
17 Section 3755.

18 (d) This section shall become operative on January 1, 2023, at which time the
19 surcharge fee specified in this section shall be adjusted pursuant to subdivision (c)
20 as if this section had not been inoperative.

21 **Comment.** Section 23705 continues, without substantive change, former Fish and Game Code
22 Section 15103(a), (c)-(e), as amended by Section 6 of Chapter 521 of the Statutes of 2017.

23 **Note.** The Fish and Game Code contains two versions of Fish and Game Code Section 15103,
24 one operative until January 1, 2023, the second operative on January 1, 2023. See 2017 Cal. Stat.
25 ch. 521, § 5, 6. As the provisions that would be continued by proposed Section 23705 are
26 substantively different in the two versions of Section 15103, the proposed law includes two
27 versions of proposed Section 23705.

28 **§ 23710. Delinquent fee payment (effective until January 1, 2023)**

29 23710. (a) If any person engages in the business of aquaculture, as regulated
30 under this division, without having paid the registration fee or surcharge fee within
31 one calendar month of the commencement of business, or, for renewal of
32 registration, on or before April 1 of the registration year, the fees are delinquent.

33 (b) A penalty shall be paid at the time of registration for any fees that are
34 delinquent in the amount of one hundred fifty dollars (\$150).

35 (c) The penalty imposed pursuant to subdivision (b) shall be applicable to the
36 2013 registration year, and shall be adjusted thereafter pursuant to Section 3755.

37 (d) This section shall remain in effect only until January 1, 2023, and as of that
38 date is repealed, unless a later enacted statute, that is enacted before January 1,
39 2023, deletes or extends that date.

40 **Comment.** Section 23710 continues, without substantive change, former Fish and Game Code
41 Section 15104, as amended by Section 7 of Chapter 521 of the Statutes of 2017.

1 **Note.** The Fish and Game Code contains two versions of Fish and Game Code Section 15104,
2 one operative until January 1, 2023, the second operative on January 1, 2023. See 2017 Cal. Stat.
3 ch. 521, §§ 7, 8. As the provisions that would be continued by proposed Section 23710 are
4 substantively different in the two versions of Section 15104, the proposed law includes two
5 versions of proposed Section 23710.

6 **§ 23710. Delinquent fee payment (operative January 1, 2023)**

7 23710. (a) If any person engages in the business of aquaculture, as regulated
8 under this division, without having paid the registration fee or surcharge fee within
9 one calendar month of the commencement of business, or, for renewal of
10 registration, on or before April 1 of the registration year, the fees are delinquent.

11 (b) A penalty shall be paid at the time of registration for any fees that are
12 delinquent in the amount of fifty dollars (\$50).

13 (c) The penalty imposed pursuant to subdivision (b) shall be applicable to the
14 2005 registration year, and shall be adjusted thereafter pursuant to Section 3755.

15 (d) This section shall become operative on January 1, 2023, at which time the
16 penalty specified in this section shall be adjusted pursuant to subdivision (c) as if
17 this section had not been inoperative.

18 **Comment.** Section 23710 continues, without substantive change, former Fish and Game Code
19 Section 15104, as amended by Section 8 of Chapter 521 of the Statutes of 2017.

20 **Note.** The Fish and Game Code contains two versions of Fish and Game Code Section 15104,
21 one operative until January 1, 2023, the second operative on January 1, 2023. See 2017 Cal. Stat.
22 ch. 521, §§ 7, 8. As the provisions that would be continued by proposed Section 23710 are
23 substantively different in the two versions of Section 15104, the proposed law includes two
24 versions of proposed Section 23710.

25 **§ 23715. Expenditure of collected funds**

26 23715. (a) Notwithstanding Section 3600, 3605, or 3810, all moneys collected
27 by the department pursuant to this part shall be deposited in the Fish and Game
28 Preservation Fund, and shall be expended solely on the department's aquaculture
29 program pursuant to this part.

30 (b) Notwithstanding Section 3800, these moneys are available for appropriation
31 by the Legislature in the annual Budget Act for purposes of this part.

32 (c) The department shall maintain internal accountability necessary to ensure
33 that all restrictions on the expenditure of these funds are met, and shall provide an
34 accounting of the aquaculture program account balance and expenditures upon
35 request of the Aquaculture Development Committee, or the Joint Committee on
36 Fisheries and Aquaculture.

37 (d) Revenues pursuant to this chapter may be used only to pay the costs incurred
38 in the administration and enforcement of the department's aquaculture program.

39 (e) The department shall prepare and submit to the Legislature, on or before
40 February 1, 2022, a report regarding the aquaculture program undertaken using
41 revenues derived pursuant to that program, the benefits derived, and its
42 recommendations for revising the aquaculture program requirement, if any. The

1 report shall be submitted in compliance with Section 9795 of the Government
2 Code.

3 (f) The requirement for submitting a report under subdivision (e) is inoperative
4 on February 1, 2026, pursuant to Section 10231.5 of the Government Code.

5 **Comment.** Section 23715 continues former Fish and Game Code Section 15105 without
6 substantive change.

7 **§ 23720. Sales and production records**

8 23720. Each owner of a registered aquaculture facility shall maintain sales and
9 production records which shall be made available upon request of the department
10 to assist the department in the administration of Section 23365, and this title.

11 **Comment.** Section 23720 continues former Fish and Game Code Section 15103(b) without
12 substantive change.

13  **Note.** The Fish and Game Code contains two versions of Fish and Game Code Section
14 15103, the first operative until January 1, 2023, the second operative on January 1, 2023. See
15 2017 Cal. Stat. ch. 521, § 5, 6. However, the provision that would be continued by proposed
16 Section 23720 is the same in both versions. For that reason, only one version of Section 23720 is
17 included in the proposed law.

18 **TITLE 4. AQUATIC ORGANISMS**

19 **§ 23800. Regulation of placement of organisms**

20 23800. (a) The commission may regulate the placing of aquatic plants and
21 animals in waters of the state.

22 (b) The commission may prohibit the placement of specific species of aquatic
23 plants or animals in designated waters of the state. The prohibition may not
24 include species that are found to be native, or that are stocked by the state in a
25 location where prohibition is contemplated.

26 **Comment.** Subdivision (a) of Section 23800 continues the first sentence of former Fish and
27 Game Code Section 15200 without substantive change.

28 Subdivision (b) continues former Fish and Game Code Section 15202 without substantive
29 change.

30 See also Section 5252 (enforcement).

31 **§ 23805. Operation detrimental to adjacent wildlife**

32 23805. The department may prohibit an aquaculture operation or the culturing of
33 any species at any location where it is determined it would be detrimental to
34 adjacent native wildlife.

35 **Comment.** Section 23805 continues former Fish and Game Code Section 15102 without
36 substantive change.

37 **§ 23810. Permit required to place organisms**

38 23810. (a) A permit is required to place fish on public or private land or water in
39 any watershed above an established public or private fish hatchery.

1 (b) The department shall deny the permit if there is evidence that water quality
2 or potential disease transfer will be adverse to the established hatchery.

3 **Comment.** Section 23810 continues former Fish and Game Code Section 15201 without
4 substantive change.

5 **§ 23815. Movement of fish between registered aquaculturists**

6 23815. Movement of live fish between two registered aquaculturists who are
7 registered for those species does not require a permit.

8 **Comment.** Section 23815 continues the second sentence of former Fish and Game Code
9 Section 15200 without substantive change.

10 **§ 23820. Fee for use of public land and waters**

11 23820. (a) The department may assess a fee on persons growing aquaculture
12 products on public lands and in public waters based on the price per pound of the
13 products sold. The fees, if imposed, shall be set at amounts necessary to defray the
14 costs of the commission and the department in administering this part. However,
15 the fees, if any, may not exceed the rates as provided in Section 20955.

16 (b) The price per pound shall be based on the whole product weight, or its
17 equivalent as taken by the lessee.

18 (c) The fee imposed by this section shall be paid monthly to the department
19 within 30 days after the close of each month. If not paid within 60 days after the
20 close of the month in which it is due, a 10 percent penalty shall be paid.

21 **Comment.** Section 23820 continues former Fish and Game Code Section 15003 without
22 substantive change.

23 **TITLE 5. ACQUISITION OF ORGANISMS**

24 **§ 23900. Sources for brood stock**

25 23900. Aquatic plants or animals may be legally obtained for use as brood stock
26 from any of the following sources:

27 (a) A holder of a commercial fishing license.

28 (b) A registered aquaculturist.

29 (c) The department.

30 (d) Imported sources authorized by Title 8 (commencing with Section 24700).

31 **Comment.** Section 23900 continues former Fish and Game Code Section 15300 without
32 substantive change.

33 **§ 23905. Collection of organisms by registered aquaculturist**

34 23905. Aquatic plants and animals may be collected by a registered
35 aquaculturist only with the written approval of the department. The department
36 may specify the time, place, and manner of collection, and may collect a fee from
37 the aquaculturist in an amount sufficient to cover the cost of processing the
38 approval.

1 (b) Notwithstanding subdivision (a), the fee for collecting sturgeon or striped
2 bass broodstock shall be five hundred dollars (\$500).

3 **Comment.** Subdivision (a) of Section 23905 continues former Fish and Game Code Section
4 15301(b) without substantive change.

5 Subdivision (b) continues former Fish and Game Code Section 15301(c) without substantive
6 change.

7 **§ 23910. Sale of organisms by department**

8 23910. (a) The department may sell wild aquatic plants or animals, except rare,
9 endangered, or fully protected species, for aquaculture use, at a price
10 approximating the administrative cost to the department for the collection or sale
11 of the plants or animals. The commission shall set this price.

12 **Comment.** Section 23910 continues former Fish and Game Code Section 15301(a) without
13 substantive change.

14 **§ 23915. Ownership of progeny**

15 23915. The cultured progeny of wild plants and animals lawfully obtained under
16 Section 23900 are the exclusive property of that person who cultured them, or that
17 person's successor in interest.

18 **Comment.** Section 23915 continues former Fish and Game Code Section 15001 without
19 substantive change.

20 **TITLE 6. LEASING OF STATE WATER BOTTOMS**

21 **CHAPTER 1. GENERAL PROVISIONS**

22 **§ 24000. Authority and procedure**

23 24000. (a) Except as prohibited by Chapter 2 (commencing with Section 24950)
24 of Title 10, the commission may lease state water bottoms, or the water column, to
25 any person for aquaculture, including, but not limited to, marine finfish
26 aquaculture.

27 (b) Upon appropriation of funds for that purpose, or if funds are otherwise
28 available, the commission shall adopt regulations governing the terms of the
29 leases, after consulting with affected stakeholders in a public process.

30 (c) No state leases shall be issued, unless the commission determines that the
31 lease is in the public interest in a public hearing conducted in a fair and transparent
32 manner, with notice and comment, in accordance with commission procedures.

33 (d) Leases issued, and regulations adopted, pursuant to this section, shall not be
34 construed to be fishery management plans.

35 **Comment.** Section 24000 continues former Fish and Game Code Section 15400(a) without
36 substantive change.

1 **§ 24005. Lease required for marine finfish aquaculture**

2 24005. A person shall not engage in marine finfish aquaculture in ocean waters
3 within the jurisdiction of the state without a lease from the commission pursuant to
4 Chapter 2 (commencing with Section 24950) of Title 10.

5 **Comment.** Section 24005 continues the first sentence of former Fish and Game Code Section
6 15400(b) without substantive change.

7 **§ 24010. Standards for leases and regulation**

8 24010. Leases and regulations adopted by the commission for marine finfish
9 aquaculture shall meet, but are not limited to, all of the following standards:

10 (a) The lease site is considered appropriate for marine finfish aquaculture in the
11 programmatic environmental impact report if prepared and approved by the
12 commission pursuant to Section 23360.

13 (b) A lease shall not unreasonably interfere with fishing or other uses or public
14 trust values, unreasonably disrupt wildlife and marine habitats, or unreasonably
15 harm the ability of the marine environment to support ecologically significant
16 flora and fauna.

17 (c) A lease shall not have significant adverse cumulative impacts.

18 (d) To reduce adverse effects on global ocean ecosystems, the use of fish meal
19 and fish oil shall be minimized. Where feasible, alternatives to fish meal and fish
20 oil, or fish meal and fish oil made from seafood harvesting byproducts, shall be
21 utilized, taking into account factors that include, but need not be limited to, the
22 nutritional needs of the fish being raised and the availability of alternative
23 ingredients.

24 (e) Lessees shall establish best management practices, approved by the
25 commission, for each lease site. Approved best management practices shall
26 include a regular monitoring, reporting, and site inspection program that requires
27 at least annual monitoring of lease sites to ensure that the operations are in
28 compliance with best management practices related to fish disease, escapement,
29 and environmental stewardship, and that operations are meeting the requirements
30 of this section.

31 (f) The commission may remove fish stocks, close facilities, or terminate the
32 lease if it finds that the lessee is not in compliance with best management
33 practices, that the lessee's activities have damaged or are damaging the marine
34 environment, or that the lessee is not in compliance with this section. The
35 commission shall take immediate remedial action to avoid or eliminate significant
36 damage, or the threat of significant damage, to the marine environment.

37 (g) Before issuance of the lease, the lessee shall provide baseline benthic habitat
38 and community assessments of the proposed lease site to the applicable regional
39 water quality control board or the State Water Resources Control Board, and shall
40 monitor the benthic habitat and community during the operation of the lease in a
41 manner determined by the regional board or the State Water Resources Control
42 Board.

1 (h) The regional board and the State Water Resources Control Board may
2 establish and impose reasonable permit fees to pay for the costs of administering
3 and conducting the assessment and monitoring program.

4 (i) Finfish numbers and density shall be limited to what can be safely raised
5 while protecting the marine environment, as specified by the terms of the lease,
6 subject to review and amendment by the commission.

7 (j) The use of all drugs, chemicals, and antibiotics, and amounts used and
8 applied, shall be minimized. All drugs, therapeutic substances, and antibiotics
9 shall be used and applied only as approved by the United States Food and Drug
10 Administration for marine finfish aquaculture. The lessee shall report that use and
11 application to the commission on a regular schedule, as determined by the
12 commission, but no less than annually, that shall be included in the terms of the
13 lease. The commission shall review those reports on a regular basis and at least
14 annually.

15 (k) The commission shall require all farmed fish to be marked, tagged, or
16 otherwise identified as belonging to the lessee in a manner determined appropriate
17 by the commission, unless the commission determines that identifying farmed fish
18 is unnecessary for protecting wild fish stocks, the marine environment, or other
19 ocean uses.

20 (l) All facilities and operations shall be designed to prevent the escape of farmed
21 fish into the marine environment and to withstand severe weather conditions and
22 marine accidents. The lessee shall maintain records on all escapes in a manner
23 determined by the commission. In the event of more than de minimis escapement,
24 the number of escaped fish and the circumstances surrounding the incident shall be
25 reported immediately to the commission, and the lessee shall be responsible for
26 damages to the marine environment caused by those escaped fish, as determined
27 by the commission.

28 (m) The lessee shall, at a minimum, meet all applicable requirements imposed
29 by the State Water Resources Control Board and the regional water quality control
30 boards, and shall prevent discharges to the maximum extent possible. Monitoring
31 and testing of water quality shall be required on a regular basis as deemed
32 appropriate by the State Water Resources Control Board or the regional water
33 quality control boards. All inspection and monitoring reports and other records,
34 and all data on the discharge of chemical and biological pollutants shall be kept on
35 file and available for public review.

36 **Comment.** Section 24010 continues the second sentence of former Fish and Game Code
37 Section 15400(b) without substantive change.

38 **§ 24015. Exemption from standards for specified restoration or enhancement plans**

39 24015. If a restoration or enhancement plan is submitted to, and approved by,
40 the commission, and that plan, among other things, provides for monitoring and
41 protecting the benthic habitat, the prevention of pollution, and the prevention of

1 adverse impacts on wild fish stocks from disease, parasites, and genetic
2 alterations, Section 24010 shall not apply to any of the following:

3 (a) Artificial propagation, rearing, and stocking projects for the purpose of
4 recovery, restoration, or enhancement of native fish stocks carried out under either
5 of the following:

6 (1) A scientific collecting or research permit issued by the department.

7 (2) The California Ocean Resources Enhancement and Hatchery Program, as set
8 forth in Title 4 (commencing with Section 25700) of Part 3, and Sections 12910,
9 14620, 21935, and subdivision (c) of Section 38875, for the enhancement of white
10 sea bass.

11 (b) Nonprofit hatcheries and nonprofit artificial propagation projects operated
12 by, or on behalf of, licensed commercial or sport fishers for the purpose of
13 recovery, restoration, or enhancement of California's native marine fish
14 populations, pursuant to Chapter 2 (commencing with Section 11800) of Title 2 of
15 Part 4 of Division 6, and Section 25125.

16 **Comment.** Section 24015 continues former Fish and Game Code Section 15400(c) without
17 substantive change.

18 **§ 24020. Disclaimer of application to other marine finfish aquaculture law or regulation**

19 24020. Nothing in this chapter shall be construed to limit or expand the
20 application of any other state law or regulation pertaining to marine finfish
21 aquaculture conducted within the ocean waters under the jurisdiction of this state.

22 **Comment.** Section 24020 continues former Fish and Game Code Section 15400(d) without
23 substantive change.

24 **CHAPTER 2. LEASE PROCEDURE**

25 **§ 24100. Application for lease**

26 24100. (a) A person wishing to lease a state water bottom shall make a written
27 application to the commission.

28 (b) The application shall contain all of the following information:

29 (1) A map showing the area to be leased, its general vicinity, and all ownership
30 and boundary lines in the vicinity.

31 (2) A description of the organisms to be grown and the culture techniques to be
32 used.

33 (3) An estimate of the acreage to be leased.

34 (4) A nonrefundable filing fee of five hundred dollars (\$500).

35 (c) Areas used by the public for digging clams shall not be leased. The
36 department shall designate those areas.

37 **Comment.** Subdivision (a) of Section 24100 continues the first sentence of former Fish and
38 Game Code Section 15403 without substantive change.

39 Subdivision (b) continues the second sentence of former Fish and Game Code Section 15403
40 without substantive change.

1 Subdivision (c) continues former Fish and Game Code Section 15401 without substantive
2 change.

3 **§ 24105. Public notice of application**

4 24105. (a) If the commission finds that a state water bottom applied for is
5 available for lease, and that the lease would be in the public interest, the
6 commission shall publish a notice that the area is being considered for leasing.

7 (b) The commission shall also publish legal notices in a newspaper of general
8 circulation in each county where the water bottom or any part of the water bottom
9 is located, describing the area to be leased and the type of operation to be
10 conducted.

11 (c) The publication shall comply with Sections 6060 and 6066 of the
12 Government Code.

13 **Comment.** Section 24105 continues former Fish and Game Code Section 15404 without
14 substantive change.

15 **§ 24110. Notification to State Lands Commission**

16 24110. (a) The department shall notify the State Lands Commission of all
17 applications for water bottom leases.

18 (b) The department shall inform the State Lands Commission of all leases
19 executed, renewed, or assigned pursuant to this title, and shall furnish the State
20 Lands Commission with information concerning those leases that the State Lands
21 Commission may require.

22 **Comment.** Section 24110 continues former Fish and Game Code Section 15415 without
23 substantive change.

24 **§ 24115. Lease to new bidders**

25 24115. (a) Except as specified in subdivision (b), the commission shall award
26 state water bottom leases to the highest responsible bidder, if the bid meets or
27 exceeds the minimum annual rent established by the commission, which shall not
28 be less than two dollars (\$2) per acre, for all species cultivated, unless the acreage
29 applied for is 10 acres or less, in which case the minimum acceptable rent shall be
30 ten dollars (\$10) per acre.

31 (b) The commission may reject any or all bids for the lease of state water
32 bottoms if it deems the rejection to be in the public interest.

33 (c) Fees for marine finfish aquaculture leases shall, at a minimum, be sufficient
34 to pay for the costs of administering the marine finfish leasing program, and for
35 monitoring and enforcing the terms of the leases.

36 **Comment.** Subdivision (a) of Section 24115 continues the first sentence of former Fish and
37 Game Code Section 15406.5(a) without substantive change.

38 Subdivision (b) continues the third sentence of former Fish and Game Code Section 15406.5(a)
39 without substantive change.

40 Subdivision (c) continues former Fish and Game Code Section 15406.5(b) without substantive
41 change.

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CHAPTER 3. TERMS OF LEASE

§ 24200. Term of lease

24200. (a) Except as specified in subdivision (b), no initial term of a state water bottom lease shall exceed 25 years.

(b) The initial term of a state water bottom lease for marine finfish aquaculture shall not exceed 10 years.

Comment. Section 24200 continues former Fish and Game Code Section 15405 without substantive change.

§ 24205. Rent increases by Legislature

24205. All state water bottom leases shall be subject to the power of the Legislature to increase or decrease the rents, fees, taxes, and other charges relating to the lease, but no increase in rent shall be applicable to an existing lease until it is renewed.

Comment. Section 24205 continues former Fish and Game Code Section 15410 without substantive change.

§ 24210. Renewal of lease

24210. (a) Each state water bottom lease shall specify a period prior to expiration when renewal of the lease may be requested by the lessee. If during that period the lessee is still actively engaged in aquaculture, as determined by the commission, the lessee shall have a prior right to renew the lease on terms agreed upon between the commission and the lessee. If terms are not agreed upon, the commission shall advertise for bids on the lease. If a request for renewal is not made by the lessee, the commission shall advertise for bids on the lease. The commission shall consider bids only from aquaculturists registered pursuant to Chapter 1 (commencing with Section 23600) of Title 3.

(b) Notwithstanding subdivision (a), with respect to any lease of state water bottoms in effect on January 1, 1983, the lessee shall have a prior right to renew the lease. If the lessee does not renew the lease, the commission shall advertise for bids on the lease. The commission shall consider bids only from aquaculturists registered pursuant to Chapter 1 (commencing with Section 23600) of Title 3.

(c) Except as specified in subdivision (d), a lease may be renewed for additional periods not to exceed 25 years each.

(d) A lease for marine finfish aquaculture may be renewed for additional periods not to exceed five years each.

Comment. Section 24210 continues former Fish and Game Code Section 15406 without substantive change.

§ 24215. Periodic reports to commission

24215. A water bottom lease may require periodic reports that the commission deems necessary for the proper administration of the state's water bottoms.

1 **Comment.** Section 24215 continues former Fish and Game Code Section 15414 without
2 substantive change.

3 **§ 24220. Oyster leases**

4 24220. (a) The annual rent for any lease in effect on January 1, 1983, for the
5 cultivation of oysters, shall be one dollar (\$1) per acre, until the expiration of the
6 lease.

7 (b) In addition to the rent specified in subdivision (a), every person operating
8 under an oyster lease shall pay a privilege fee of four cents (\$0.04) per packed
9 gallon, or fraction of a gallon, of shucked oysters harvested by the lessee.

10 (c) If the oysters are marketed in the shell, the privilege fee shall be based on the
11 equivalent yield of shucked oyster meat. In determining the yield of oysters, it
12 shall be deemed that 100 oysters are equivalent to one packed gallon of shucked
13 oyster meat.

14 (d) The privilege fee imposed by this section is the exclusive privilege fee that
15 shall be imposed on lessees of state water bottoms for oyster cultivation,
16 notwithstanding subdivision (a) of Section 23820.

17 **Comment.** Subdivision (a) of Section 24220 continues the second sentence of former Fish and
18 Game Code Section 15406.5(a) without substantive change.

19 Subdivisions (b) through (d) continue former Fish and Game Code Section 15406.7 without
20 substantive change.

21  **Note.** The reference to a “privilege tax” in existing Section 15406.7 (which would be
22 continued by proposed Section 24220(b)-(d)) has been revised to refer to a “privilege fee.”

23 **The Commission invites comment on whether that revision is appropriate.**

24 **CHAPTER 4. RIGHTS AND RESPONSIBILITIES OF LESSEE**

25 **§ 24300. Payment of rent**

26 24300. (a) The annual rent for a state water bottom lease shall be paid to the
27 department within 30 days of the commencement of the lease and within 30 days
28 of each anniversary of the commencement of the lease.

29 (b) The commission may establish penalty fees for late payment of rent due
30 under a state water bottom lease.

31 (c) The commission may cancel a state water bottom lease if rent is not paid
32 within 90 days of the commencement of the lease and within 90 days of each
33 anniversary of the commencement of the lease.

34 **Comment.** Section 24300 continues former Fish and Game Code Section 15407 without
35 substantive change.

36 **§ 24305. Lessee responsibility for infringement**

37 24305. A lessee of a state water bottom shall assume responsibility for any
38 infringement on privately owned water bottoms, or water bottoms owned by, or
39 under the jurisdiction of any city, county, or district.

1 **Comment.** Section 24305 continues the last sentence of former Fish and Game Code Section
2 15403 without substantive change.

3 **§ 24310. Lessee rights to organisms**

4 24310. A lessee of a state water bottom owns all lawfully cultivated organisms
5 that are described in the application for the lease and produced in the area leased.
6 The lessee has the exclusive right to cultivate and harvest the aquatic organisms in
7 the area leased.

8 **Comment.** Section 24310 continues former Fish and Game Code Section 15402 without
9 substantive change.

10 **§ 24315. Accommodation of public activity in leased area**

11 24315. (a) Lessees under a state water bottom lease may not unreasonably
12 impede public access to waters of the state for purpose of fishing, navigation,
13 commerce, or recreation.

14 (b) Notwithstanding subdivision (a), a lessee of a state water bottom may limit
15 public access to the extent necessary to avoid damage to the leasehold, or to the
16 aquatic life culture in the leasehold.

17 (c) The commission may prohibit any recreational activity in any aquaculture
18 area subject to a state water bottom lease, if it determines that the activity is
19 detrimental to the enhancement of the resource.

20 **Comment.** Section 24315 continues former Fish and Game Code Section 15411 without
21 substantive change.

22 **§ 24320. Termination of lease**

23 24320. (a) The commission shall adopt regulations governing the termination of
24 a state water bottom lease due to failure to pay rent, or improper use of the
25 leasehold.

26 (b) Upon termination of a state water bottom lease for any reason, all structures
27 shall be removed at the lessee's expense from the leasehold, and the area shall be
28 restored to its original condition. If the lessee fails to remove the structures, the
29 state may remove them and the lessee shall pay the removal costs incurred.

30 (c) The commission shall require financial assurances of each marine finfish
31 aquaculture lessee to ensure that restoration is performed to the satisfaction of the
32 commission. Financial assurances may take the form of surety bonds executed by
33 an admitted surety insurer, irrevocable letters of credit, trust funds, or other forms
34 of financial assurances specified by the commission, as it determines are available
35 and adequate to ensure the lease site is restored pursuant to this section.

36 (d) Marine finfish aquaculture lessees shall be responsible for any damages
37 caused by their operations, as determined by the commission, including, but not
38 limited to, reimbursement for any costs for natural resource damage assessment.

39 (e) Nothing in this section limits the state in pursuing additional remedies
40 authorized by law.

1 **Comment.** Section 24505 continues former Fish and Game Code Section 15501 without
2 substantive change.

3 **§ 24510. Aquaculture Disease Committee**

4 24510. (a) The director, in consultation with the Aquaculture Industry Advisory
5 Committee and the Interagency Committee for Aquaculture Development, shall
6 appoint an 11-member Aquaculture Disease Committee consisting of at least six
7 industry producers selected to represent geographic, specie, and other diverse
8 aspects of the industry; two to represent the department; one to represent the
9 Department of Food and Agriculture; an academic scientist who is an expert in
10 aquatic diseases; and one representative of the University of California
11 Cooperative Extension.

12 (b) Members of the committee shall serve without compensation, but shall be
13 paid their necessary expenses.

14 **Comment.** Section 24510 continues former Fish and Game Code Section 15502 without
15 substantive change.

16 **§ 24515. Recommendation of regulations**

17 24515. (a) The Aquaculture Disease Committee may recommend regulations to
18 the commission designed to safeguard wild and cultured organisms from the list of
19 harmful organisms compiled pursuant to Section 24500.

20 (b) Regulations recommended by the committee and adopted by the commission
21 may include all of the following:

22 (1) Routine monitoring procedures.

23 (2) Standardized diagnostic procedures.

24 (3) A requirement for the confirmation of the diagnosis by the state through at
25 least one other independent and qualified laboratory.

26 (4) Criteria for ordering quarantine, condemnation, or destruction.

27 (5) A stated maximum time period between diagnosis and destruction.

28 (6) Methods to be employed in animal destruction and facility cleanup.

29 (7) Procedures for determining fair and rapid compensation.

30 (8) Any other related procedures that the commission may determine are
31 necessary.

32 **Comment.** Subdivision (a) of Section 24515 continues former Fish and Game Code Section
33 15503 without substantive change.

34 Subdivision (b) continues former Fish and Game Code Section 15504 without substantive
35 change.

36 **§ 24520. Authorized action by director**

37 24520. If any disease or parasite listed pursuant to Section 24500 is found to
38 exist that the director, in consultation with the Aquaculture Disease Committee
39 and consistent with the regulations adopted pursuant to Section 24515, deems to
40 be detrimental to the aquaculture industry or to wild stocks of aquatic plants and
41 animals, the director may do any of the following:

1 (a) Establish the area to be quarantined and list the aquatic plants and animals
2 affected by it.

3 (b) Post notices describing, as nearly as possible, the boundaries of an area
4 within which specific disease or parasite infestations are found. Notices posted
5 pursuant to this subdivision shall be published once a week for four successive
6 weeks in a newspaper of general circulation in the county in which the infected
7 area is located. If there is no newspaper of general circulation in that county, then
8 the notice shall be published in a newspaper of general circulation published in an
9 adjoining county.

10 (c) Hold and impound diseased or parasitized plants and animals.

11 (d) Forbid, prevent, or restrict the movement of all plants and animals subject to
12 the disease or parasite from or into the area, or from place to place within it,
13 during the existence of the quarantine.

14 (e) Order the destruction and disposal of diseased or parasitized plants and
15 animals consistent with Section 24515.

16 **Comment.** Section 24520 continues former Fish and Game Code Section 15505 without
17 substantive change.

18 **§ 24525. Quarantine or destruction of other plants or animals infected with nonlisted**
19 **disease**

20 24525. Except for those diseases in the list compiled pursuant to Section 24500,
21 a plant or animal shall not be quarantined or destroyed, unless the director, in
22 consultation with the Aquaculture Disease Committee, finds that an outbreak of
23 aquatic disease among privately cultured plants or animals presents a threat to the
24 aquaculture industry or to fish life or plant life.

25 **Comment.** Section 24525 continues former Fish and Game Code Section 15506 without
26 substantive change.

27 **§ 24530. Coordination of action in government and private facilities**

28 24530. If the director, in consultation with the Aquaculture Disease Committee,
29 finds that a disease is present in a nearby government operated facility or in nearby
30 wild stocks, infected plants or animals in a private aquaculture facility shall not be
31 quarantined or destroyed unless similar action is taken with respect to the
32 government facility and wild stocks.

33 **Comment.** Section 24530 restates former Fish and Game Code Section 15507 without
34 substantive change.

35 **§ 24535. Investigation of reported disease or parasite**

36 24535. Reports of diseases and parasites compiled pursuant to Section 24500
37 shall be immediately forwarded by the director to the Aquaculture Disease
38 Committee, and shall be promptly investigated by the department.

39 **Comment.** Section 24535 continues former Fish and Game Code Section 15508 without
40 substantive change.

1 (b) If the department provides replacement stock to an aquaculturist whose
2 plants or animals are destroyed pursuant to subdivision (e) of Section 24520, the
3 amount to be paid to the aquaculturist pursuant to this section shall be reduced by
4 the value of the replacement stock, as determined by the department.

5 (c) The result of the arbitration or the amount settled between the owner and the
6 department, reduced by the value determined by the department of any
7 replacement stock provided under subdivision (b), may be submitted as a claim by
8 the owner to the Department of General Services pursuant to Section 24605.

9 **Comment.** Section 24600 restates former Fish and Game Code Section 15512 without
10 substantive change.

11 **Note.** The first sentence of proposed Section 24600(a) is intended to restate the first sentence
12 of existing Fish and Game Code Section 15512(a), to clarify the meaning of that provision,
13 without changing its substantive meaning. The existing sentence reads as follows:

14 15512. (a) If aquatic plants or animals are destroyed pursuant to subdivision (e) of Section
15 15505, the owner shall be promptly paid from the General Fund an amount equal to 75 percent of
16 the replacement value of the plants or animals, less the value determined by the department of
17 any replacement stock provided by the department under subdivision (b) if the claim is submitted
18 pursuant to Section 15513.

19 **The Commission invites comment on whether the first sentence of proposed Section**
20 **24600(a) accurately continues the intended meaning of the first sentence of existing Section**
21 **15512(a).**

22 **§ 24605. Claims against the department**

23 24605. Claims against the department arising under this title may be submitted
24 pursuant to Section 905.2 of the Government Code.

25 **Comment.** Section 24605 continues former Fish and Game Code Section 15513 without
26 substantive change.

27 **§ 24610. Disallowing of claim**

28 24610. No claim arising under this title shall be paid where the director, in
29 consultation with the Aquaculture Disease Committee, finds that the claimant's
30 management practices were negligent or in violation of law, and that the
31 negligence or violation was the proximate cause of the disease or infection
32 prompting the order of destruction or finds that the claimant willfully violated any
33 provision of Section 24520.

34 **Comment.** Section 24610 continues former Fish and Game Code Section 15514 without
35 substantive change.

36 **§ 24615. Liability for disease eradication**

37 24615. (a) The owner of an aquaculture product who does not diligently pursue
38 the eradication of a disease from its facility when ordered to do so by the director
39 shall be responsible for paying to the director the full costs of the department for
40 all disease eradication efforts conducted by the department to eradicate the
41 disease.

1 (b) Payment of the costs under this section shall not excuse compliance with the
2 provisions of law, regulations of the commission, or orders of the director, nor be
3 a defense in any criminal or civil proceeding.

4 **Comment.** Section 24615 continues former Fish and Game Code Section 15516 without
5 substantive change.

6 TITLE 8. IMPORTATION OF AQUATIC PLANTS
7 AND ANIMALS

8 **§ 24700. Application of title**

9 24700. (a) Nothing in this title prohibits the importation of Atlantic salmon or
10 the roe of Atlantic salmon, or the continued possession of Atlantic salmon or the
11 roe of Atlantic salmon that were lawfully imported or possessed in the Smith
12 River watershed on or before February 22, 1988, under a written approval of the
13 department issued pursuant to Section 24705 or 24710.

14 (b) Nothing in this title applies to the importation or possession of dead Atlantic
15 salmon or nonviable roe of Atlantic salmon imported for human consumption, if
16 the importer has the appropriate licenses issued by the department.

17 **Comment.** Section 24700 continues former Fish and Game Code Section 15605 without
18 substantive change.

19 **§ 24705. Required approval by department**

20 24705. No live aquatic plant or animal may be imported into this state by a
21 registered aquaculturist without the prior written approval of the department,
22 pursuant to the regulations adopted by the commission.

23 **Comment.** Section 24705 continues former Fish and Game Code Section 15600(a) without
24 substantive change.

25 See also Section 5258 (enforcement).

26 **§ 24710. Prohibited importation**

27 24710. (a) Except as provided in subdivision (b), the department shall not
28 approve a person's importation of, or renew a person's permit to import, any
29 anadromous fish or roe from an anadromous fish listed in Section 26520, or the
30 regulations adopted pursuant to Section 26520, into the Smith River watershed,
31 unless that person had a permit or authorization approved before February 22,
32 1988.

33 (b) The department may issue or renew a permit for the importation of any
34 anadromous fish or roe from an anadromous fish specifically for research purposes
35 conducted at any university, college, governmental research agency, or other bona
36 fide scientific institution, as determined by the department, engaging in scientific
37 or public health research.

38 **Comment.** Section 24710 continues former Fish and Game Code Section 15600(b) without
39 substantive change.

1 § 24715. Application for importation

2 24715. A written application for the importation of a live aquatic plant or animal
3 that is submitted in conformance with the procedural requirements established by
4 the commission is deemed to be approved if it has not been denied within 60 days.

5 **Comment.** Section 24715 restates former Fish and Game Code Section 15601 without
6 substantive change.

7 **Note.** Proposed Section 24715 is intended to restate existing Fish and Game Code Section
8 15601 to clarify the meaning of that provision, without changing its substantive meaning. The
9 existing provision reads as follows:

10 15601. A written application for the importation submitted in conformance with the procedural
11 requirements established by the commission is deemed to be approved where it has not been
12 denied within 60 days.

13 **The Commission invites comment on whether proposed Section 24715 accurately**
14 **continues the intended substantive meaning of existing Section 15601.**

15 § 24720. Application of California Environmental Quality Act

16 24720. No facility constructed for the purpose of spawning, incubating, or
17 raising of anadromous fish listed in Section 26520 in the Smith River watershed is
18 exempt from any provision of the California Environmental Quality Act.

19 **Comment.** Section 24720 continues former Fish and Game Code Section 15604 without
20 substantive change.

21 TITLE 9. AQUACULTURE DEVELOPMENT
22 COMMITTEE

23 § 24800. Composition of committee

24 24800. (a) The director shall appoint an Aquaculture Development Committee,
25 consisting of the following persons:

26 (1) At least 12 members representing all sectors of the fresh and salt water
27 aquaculture industry.

28 (2) One member representing the department, two members from and chosen by
29 the University of California, one with expertise in aquaculture science and one
30 with expertise in outreach to the fisheries community, and one member each from
31 and chosen by the Department of Food and Agriculture, the California Coastal
32 Commission, the State Lands Commission, the State Water Resources Control
33 Board, the State Department of Public Health, and the Joint Legislative Committee
34 on Fisheries and Aquaculture.

35 (b) The member of the committee appointed by the Joint Legislative Committee
36 on Fisheries and Aquaculture shall meet and, except as otherwise provided by the
37 California Constitution, advise the committee, to the extent that this advisory
38 participation is not incompatible with his or her position as a Member of the
39 Legislature.

1 **Comment.** Section 24800 continues former Fish and Game Code Section 15700 without
2 substantive change. See also Health & Safety Code §§ 20, 131052(6) (directing revision of
3 specified references in former Fish and Game Code to State Department of Health Services).

4 ☞ **Note.** The reference in existing Fish and Game Code Section 15700 to the State Department
5 of Health Services would be revised by proposed Section 24800 to instead refer to the State
6 Department of Public Health, pursuant to the directive of Health & Safety Code Sections 20 and
7 131052(6).

8 **The Commission invites comment on whether that revision is appropriate.**

9 **§ 24805. Term of membership**

10 24805. (a) The term of membership for members of the committee other than
11 representatives of public agencies shall be three years.

12 (b) The representatives of public agencies shall serve at the pleasure of the
13 agency that the member represents.

14 **Comment.** Section 24805 continues former Fish and Game Code Section 15701(a) without
15 substantive change.

16 **§ 24810. Compensation**

17 24810. Members of the committee shall serve without compensation.

18 **Comment.** Section 24810 continues former Fish and Game Code Section 15701(b) without
19 substantive change.

20 **§ 24815. Meetings**

21 24815. The committee shall meet on the call of the director, but not less than
22 twice each year.

23 **Comment.** Section 24815 continues former Fish and Game Code Section 15703 without
24 substantive change.

25 **§ 24820. Function of committee**

26 24820. (a) The committee shall be advisory to the director on all matters
27 pertaining to aquaculture and shall coordinate activities among public entities.

28 (b) The committee shall assist the director in developing and implementing a
29 state aquaculture plan, identify the opportunities for regulatory relief, assist in
30 development of research and development priorities, assist in the development of
31 criteria to assure that publicly financed pilot programs are compatible with
32 industry needs, and identify other opportunities for industrial development.

33 **Comment.** Section 24820 continues former Fish and Game Code Section 15702 without
34 substantive change.

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TITLE 10. PROHIBITIONS

CHAPTER 1. GENERAL PROVISIONS

§ 24900. Unlawful taking

24900. Any person who takes an aquaculture product without lawful entitlement is subject to prosecution for theft.

Comment. Section 24900 continues former Fish and Game Code Section 15002 without substantive change.

§ 24905. Prohibited fish cultural operations

24905. Except under permit of the department, it is unlawful to carry on fish cultural operations on any stream above a point where water is diverted for the use and operation of a state fish hatchery.

Comment. Section 24905 continues former Fish and Game Code Section 5511 without substantive change.

CHAPTER 2. EXOTIC OR TRANSGENIC SPECIES

§ 24950. Application of chapter

24950. (a) Nothing in this chapter applies to salmon or steelhead trout reared from native California stocks that are propagated and cultured for either of the following:

(1) Research conducted by, or on behalf of, the department.

(2) Release into ocean waters for the purpose of recovery, restoration, or enhancement of California’s native salmon and steelhead trout populations pursuant to Chapter 2 (commencing with Section 11800) of Title 2 of Part 4 of Division 6, and Section 25125.

(b) Nothing in this chapter authorizes artificial propagation, rearing, or stocking of transgenic freshwater and marine fishes, invertebrates, crustaceans, or mollusks.

Comment. Subdivision (a) of Section 24950 continues the third sentence of former Fish and Game Code Section 15007(a) without substantive change.

Subdivision (b) continues the former Fish and Game Code Section 15007(b) without substantive change.

§ 24955. Definitions

24955. The following definitions govern the provisions of this chapter:

(a) “Exotic species” means a fish that is not native to California waters, and that does not currently exist as a viable population in a wild condition in the state.

(b) “Transgenic” has the meaning specified in Section 1.92 of Title 14 of the California Code of Regulations, as that section read on May 14, 2003.

Comment. Section 24955 continues former Fish and Game Code Section 15007(f) without substantive change.

1 **§ 24960. Prohibitions**

2 24960. (a) In the waters of the Pacific Ocean that are regulated by this state, it is
3 unlawful to spawn, incubate, or cultivate any species of finfish belonging to the
4 family Salmonidae, any transgenic fish species, or any exotic species of finfish.

5 (b) Except as authorized pursuant to Section 24965, it is unlawful to spawn,
6 incubate, or cultivate any transgenic species of finfish belonging to the family
7 Salmonidae in this state.

8 (c) Research or experimentation for the commercial production of transgenic
9 salmonids is prohibited.

10 **Comment.** Subdivision (a) of Section 24960 continues the first sentence of former Fish and
11 Game Code Section 15007(a) without substantive change.

12 Subdivision (b) continues the second sentence of former Fish and Game Code Section
13 15007(a) without substantive change.

14 Subdivision (c) continues former Fish and Game Code Section 15007(c) without substantive
15 change.

16 **§ 24965. Research pursuant to permit**

17 24965. (a) Medical or scientific research conducted on transgenic finfish species
18 by accredited California academic institutions or private entities for research only
19 and not for commercial production may be authorized pursuant to a permit issued
20 by the department pursuant to Section 671 of Title 14 of the California Code of
21 Regulations, as that section read on May 14, 2003.

22 (b) At a minimum, research activities conducted pursuant to this section shall be
23 conducted in a closed system that has eliminated the risk of escape of transgenic
24 finfish species and any potential disease they may transmit.

25 (c) A permit application applied for pursuant to this section shall include a
26 research plan specifying the objectives and goals of the proposed research.

27 (d) Nothing in this section shall be construed to require the disclosure of
28 proprietary information.

29 **Comment.** Section 24965 continues former Fish and Game Code Section 15007(d) without
30 substantive change.

31 **§ 24970. Notification of permit application**

32 24970. The department shall notify the Joint Committee on Fisheries and
33 Aquaculture and the commission upon receipt of a permit application applied for
34 pursuant to Section 24965, at least 30 days prior to the approval or disapproval of
35 the permit.

36 **Comment.** Section 24970 continues former Fish and Game Code Section 15007(e) without
37 substantive change.

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PART 2. FISH HATCHERIES

TITLE 1. FISH HATCHERIES GENERALLY

§ 25100. Fish hatcheries

25100. The commission shall establish fish hatcheries for stocking the waters of the state with fish. The department shall maintain and operate the hatcheries.

Comment. Section 25100 continues former Fish and Game Code Section 1120 without substantive change.

§ 25105. Liability arising from lease of real property

25105. (a) Whenever the state leases real property from any county, city, irrigation district, or other public agency in this state for the purpose of establishing or maintaining a fish hatchery, the state may agree to indemnify and hold the lessor harmless for uses authorized by that lease.

(b) Insurance may be purchased by the Department of General Services to protect the state against loss or expense arising out of an agreement entered into pursuant to subdivision (a).

Comment. Section 25105 continues former Fish and Game Code Section 1121 without substantive change.

§ 25110. Claim for damages

25110. Any claim for damages arising against the state under Section 25105 shall be presented to the Department of General Services in accordance with Section 905.2 of the Government Code, and if not covered by insurance provided pursuant to Section 25105, the claim shall be payable only out of funds appropriated by the Legislature for that purpose. If the state elects to insure its liability under Section 25105, the Department of General Services may automatically deny the claim.

Comment. Section 25110 continues former Fish and Game Code Section 1122 without substantive change.

§ 25115. Bird exclosures

25115. Notwithstanding any other provision of law, department personnel may construct or repair bird exclosures at state owned or operated fish hatcheries. These activities shall not be subject to review by the Public Works Board. Nothing in this section exempts the department from complying with any provision of law governing services performed under contract by noncivil service employees.

Comment. Section 25115 continues former Fish and Game Code Section 1126 without substantive change.

1 **§ 25120. County fish hatcheries**

2 25120. The boards of supervisors of the several counties may establish and
3 maintain fish hatcheries, and may purchase the spawn or ova of fish.

4 **Comment.** Section 25120 continues former Fish and Game Code Section 1150 without
5 substantive change.

6 **§ 25125. Nonprofit hatcheries**

7 25125. (a) The department shall encourage nonprofit hatcheries and nonprofit
8 artificial propagation operations, operated by, or on behalf of, licensed fishermen,
9 for the purpose of rebuilding or enhancing marine fish populations, including, but
10 not limited to, those for Dungeness crab, sea urchin, and California halibut,
11 consistent with the protection of these species in the wild, in order to provide
12 sustainable marine fish populations for harvest by commercial and recreational
13 fishermen.

14 (b) The department shall, to the extent funds and personnel are available,
15 cooperate with these nonprofit hatcheries and nonprofit artificial propagation
16 operations in determining the feasibility, siting, and establishment of those
17 activities and sharing technical information to ensure the protection of the marine
18 environment.

19 **Comment.** Section 25125 continues former Fish and Game Code Section 6903.5 without
20 substantive change.

21 **§ 25130. Mount Whitney Fish Hatchery**

22 25130. (a) Notwithstanding any other provision of law, the Director of General
23 Services, with the consent of the department, may lease to the Friends of the
24 Mount Whitney Fish Hatchery, at no cost, and subject to any other terms and
25 conditions that the director deems appropriate, for a term not to exceed 25 years
26 and with the possibility of renewal, the Mount Whitney Fish Hatchery, or any part
27 of the hatchery.

28 (b) Any part of the hatchery that is leased pursuant to subdivision (a) shall be
29 used for environmental education purposes and other related activities designed to
30 benefit the hatchery and the community.

31 (c) The lease shall require the Friends of the Mount Whitney Fish Hatchery to
32 permit reasonable public access to the hatchery, to obtain and maintain liability
33 insurance for the leased portion of the hatchery, and to maintain the leased portion
34 of the hatchery at all times. The lease shall provide that any work done on the
35 hatchery shall be performed in consultation with the State Office of Historic
36 Preservation. The lease shall also provide that the state, agents of the state, the
37 department, and agents of the department shall be held harmless from, and
38 indemnified against, any liability resulting from any act or omission of the Friends
39 of the Mount Whitney Fish Hatchery arising out of performance of the lease.

40 **Comment.** Section 25130 restates former Fish and Game Code Section 1122.5 without
41 substantive change.

1 **Note.** Proposed Section 25130 is intended to restate the part of existing Fish and Game Code
2 Section 1122.5 to improve its clarity, without changing its substantive effect. The existing
3 provision reads as follows:

4 1122.5. Notwithstanding any other provision of law, the Director of General Services, with the
5 consent of the department, may lease to the Friends of the Mount Whitney Hatchery, at no cost,
6 and subject to any other terms and conditions that the director deems appropriate, for a term not
7 to exceed 25 years, and with the possibility of renewal, the Mount Whitney Fish Hatchery
8 facilities, or any portion thereof, situated in the County of Inyo. The leased portion of the building
9 shall be used for environmental education purposes and other related activities designed to benefit
10 the hatchery and the community. The lease shall require the Friends of the Mount Whitney Fish
11 Hatchery to permit reasonable public access to the facility, to obtain and maintain liability
12 insurance for the leased portion of the facility, and to maintain the leased portion of the facility at
13 all times. The lease shall provide that any work done on the facility shall be performed in
14 consultation with the State Office of Historic Preservation. The lease shall also provide that the
15 state, agents of the state, the department, and agents of the department shall be held harmless
16 from, and indemnified against, any liability resulting from the acts or omissions of the Friends of
17 the Mount Whitney Fish Hatchery performed in the course of the lease agreement.

18 **The Commission invites comment on whether the restatement would cause any**
19 **substantive change in the meaning of the provision.**

20 **§ 25135. Transgenic species of salmonids**

21 25135. (a) The hatchery production and stocking of transgenic species of
22 salmonids is prohibited.

23 (b) As used in this section, “transgenic” has the same meaning as in Section 1.92
24 of Title 14 of the California Code of Regulations, as that section read on May 14,
25 2003.

26 **Comment.** Section 25135 continues former Fish and Game Code Section 1210 without
27 substantive change.

28 **TITLE 2. ANADROMOUS FISH HATCHERIES**

29 **§ 25200. Permit to operate hatchery**

30 25200. The commission may issue a permit, subject to such restrictions and
31 regulations as the commission deems desirable, to a nonprofit organization to
32 construct and operate an anadromous fish hatchery.

33 **Comment.** Section 25200 continues former Fish and Game Code Section 1170 without
34 substantive change.

35 **§ 25205. Financial capability**

36 25205. The commission shall not issue a permit unless it determines the
37 nonprofit organization has the financial capability to successfully construct and
38 operate the hatchery and will diligently and properly conduct the operation
39 authorized under the permit.

40 **Comment.** Section 25205 continues former Fish and Game Code Section 1171 without
41 substantive change.

1 **§ 25210. Restrictions**

2 25210. No permit will be issued which may tend to deplete the natural runs of
3 anadromous fish, result in waste or deterioration of fish, or when the proposed
4 operation is located on a stream or river below a state or federal fish hatchery or
5 egg-taking station.

6 **Comment.** Section 25210 continues former Fish and Game Code Section 1172 without
7 substantive change.

8 **§ 25215. Fish property of state**

9 25215. All fish handled under authority of this chapter during the time they are
10 in the hatchery or in the wild are the property of the state and when in the wild
11 may be taken under the authority of a sport or commercial fishing license as
12 otherwise authorized for wild fish.

13 **Comment.** Section 25215 continues former Fish and Game Code Section 1173 without
14 substantive change.

15 **§ 25220. Conditions of permit**

16 25220. Any permit granted by the commission pursuant to this chapter shall
17 contain all of the following conditions:

18 (a) If after a hearing the commission finds that the operation described in the
19 permit and conducted pursuant to this chapter is not in the best public interest, the
20 commission may alter the conditions of the permit to mitigate the adverse effects,
21 or may cause an orderly termination of the operation under the permit. An orderly
22 termination shall not exceed a three-year period and shall culminate in the
23 revocation of the permit in its entirety.

24 (b) If the commission finds that the operation has caused deterioration of the
25 natural run of anadromous fish in the waters covered by the permit, it may require
26 the permittee to return the fishery to the same condition as was prior to issuance of
27 the permit. If the permittee fails to take appropriate action, the commission may
28 direct the department to take the action, and the permittee shall bear any cost
29 incurred by the department.

30 (c) Prior to release into waters of the state and at any other time deemed
31 necessary by the department, the fish may be examined by the department to
32 determine that they are not diseased or infected with any disease which, in the
33 opinion of the department, may be detrimental to the state fishery resources.

34 **Comment.** Section 25220 continues former Fish and Game Code Section 1174 without
35 substantive change.

36 **§ 25225. Disclaimer of state liability**

37 25225. The state shall assume no responsibility for the operation of a hatchery
38 pursuant to this chapter and shall not be in any manner liable for its operation.

39 **Comment.** Section 25225 continues former Fish and Game Code Section 1175 without
40 substantive change.

1 TITLE 3. COOPERATIVE SALMON AND
2 STEELHEAD REARING FACILITIES

3 § 25300. Department agreement

4 25300. (a) The department is authorized to enter into agreements with counties,
5 nonprofit groups, private persons, individually or in combination, for the
6 management and operation of rearing facilities for salmon and steelhead. All
7 agreements shall be in accordance with the policies of the commission and the
8 criteria of the department that govern the operation of those facilities under those
9 agreements.

10 (b) The purpose for operating the facilities shall be to provide additional fishing
11 resources and to augment natural runs.

12 **Comment.** Section 25300 continues former Fish and Game Code Section 1200 without
13 substantive change.

14 § 25305. Demonstration of financial ability

15 25305. (a) An applicant who wishes to enter into an agreement to operate a
16 rearing facility shall demonstrate, to the satisfaction of the department prior to
17 executing the agreement, the applicant's financial ability to properly operate the
18 rearing facility.

19 (b) The department shall develop and specify the means for an applicant to make
20 such a demonstration.

21 **Comment.** Section 25305 continues former Fish and Game Code Section 1201 without
22 substantive change.

23 § 25310. Property of state

24 25310. All fish handled or released under authority of this title are the property
25 of the state and may be taken only after their release into the wild and under the
26 authority of a sport or commercial fishing license.

27 **Comment.** Section 25310 continues the part of former Fish and Game Code Section 1202
28 without substantive change.

29 § 25315. Release determined by Commission

30 25315. The release of fish reared in facilities pursuant to this title shall be made
31 in accordance with the policy of the commission.

32 **Comment.** Section 25315 continues former Fish and Game Code Section 1203 without
33 substantive change.

34 § 25320. Funding of agreements

35 25320. (a) The department shall fund the agreements provided for in Section
36 25300 only on a matching basis with the persons or entities who enter into those
37 agreements. Funds appropriated for the purposes of this title shall not be used to
38 purchase equipment or for construction.

1 (b) The department shall be reimbursed from funds appropriated for the
2 purposes of this title for administrative costs, legal costs, and supervisorial costs
3 relating to the execution and supervision of agreements provided for in Section
4 25300 by the department.

5 **Comment.** Section 25320 continues former Fish and Game Code Section 1204 without
6 substantive change.

7 **§ 25325. Department to make fish available**

8 25325. The department shall, subject to the limitations of appropriate egg
9 sources and funding, make available fish of appropriate size and species to persons
10 or entities who enter into agreements pursuant to this title.

11 **Comment.** Section 25325 continues former Fish and Game Code Section 1205 without
12 substantive change.

13 **§ 25330. Location of release**

14 25330. Salmon and steelhead raised pursuant to this title shall be released in
15 streams, rivers, or waters north of Point Conception and upon release shall have
16 unimpeded access to the sea.

17 **Comment.** Section 25330 continues former Fish and Game Code Section 1206 without
18 substantive change.

19 **PART 3. FISH PLANTING**

20 **TITLE 1. GENERAL PROVISIONS**

21 **§ 25400. Application of part**

22 25400. This title, Title 3 (commencing with Section 25600), and Title 4
23 (commencing with Section 25700), do not apply to activities governed by Division
24 12 (commencing with Section 23300).

25 **Comment.** Section 25400 continues former Fish and Game Code Section 6403 as it applied to
26 former Fish and Game Code Sections 6400, 6401, 6402, and 6420 through 6424, inclusive,
27 subdivision (b) of Former Fish and Game Code Section 6425, former Fish and Game Code
28 Sections 6590 through 6595, inclusive, and former Fish and Game Code Sections 6597 through
29 6598, inclusive, without substantive change.

30 **§ 25405. Spawn and ova**

31 25405. The department may purchase and import spawn or ova of fish suitable
32 for food, and stock the waters of the state with that spawn or ova.

33 **Comment.** Section 25405 continues former Fish and Game Code Section 1123 without
34 substantive change.

35 **Note.** The continuation of this section in this title would subject it to existing Section 6403
36 (proposed Section 25400), making it inapplicable to aquaculture business activities. That
37 technical change would not seem to have any practical effect, because the public entity activities
38 described in this section do not appear to be aquaculture business activities.

1 **The Commission invites comment on whether the proposed placement of this section in**
2 **this title would cause any problems.**

3 **§ 25410. Permit to stock fish**

4 25410. Any person may, under the terms of a permit first obtained from the
5 department, under regulations the commission may adopt, purchase or receive live
6 fish from any registered aquaculturist, and may stock the fish in a stream or a lake.

7 **Comment.** Section 25410 continues former Fish and Game Code Section 6401 without
8 substantive change.

9 **§ 25415. Planting of fish**

10 25415. It is unlawful to place, plant, or cause to be placed or planted, in any of
11 the waters of the state, any live fish, any fresh or salt water animal, or any aquatic
12 plant, whether taken without or within the state, without first submitting it for
13 inspection to, and securing the written permission of, the department.

14 **Comment.** Section 25415 continues former Fish and Game Code Section 6400 without
15 substantive change.

16 See also Sections 5250, 5260 (enforcement).

17 **§ 25420. Fish cultural operations and scientific investigations**

18 25420. The Secretary of the Interior of the United States and the secretary's duly
19 authorized agents may conduct fish cultural operations and scientific
20 investigations in the waters of the state in a manner and at times as may be jointly
21 considered necessary and proper by the secretary and the secretary's agents, and
22 the commission.

23 **Comment.** Section 25420 continues former Fish and Game Code Section 1125 without
24 substantive change.

25  **Note.** The continuation of this section in this title would subject it to existing Section 6403
26 (proposed Section 25400), making it inapplicable to aquaculture business activities. That
27 technical change would not seem to have any practical effect, because the public entity activities
28 described in this section do not appear to be aquaculture business activities.

29 **The Commission invites comment on whether the proposed placement of this section in**
30 **this title would cause any problems.**

31 **TITLE 2. AQUATIC NUISANCE SPECIES**

32 **§ 25500. Damages**

33 25500. (a) A person who personally or through another violates Section 25415,
34 through the use of an aquatic nuisance species, is liable to the owner of any
35 privately or publicly owned property for any damages to that property caused by
36 the violation. A person who violates Section 25415 through the use of an aquatic
37 nuisance species shall also be liable for all monetary damages directly, indirectly,
38 and proximately caused thereby, including, but not limited to, damages to any
39 commercial fishery, sport fishery, or to the public communities which depend

1 upon those fisheries for a portion of their annual income. The Attorney General
2 may file a civil action on behalf of the fisheries or communities that are damaged
3 as a result of the violation. In addition, a private citizen who suffers damages as a
4 result of the violation may file a civil action against the violator.

5 (b) A person who allows an aquatic nuisance species to escape from his or her
6 property to the property of another, whether privately or publicly owned, is liable
7 to the owner of the intruded upon property for any damages caused by the species.

8 (c) This section shall not apply to the placement of any live fish, any fresh or
9 salt water animal, or any aquatic plant from the discharge or exchange of ballast
10 water from any vessel as defined by Section 21 of the Harbors and Navigation
11 Code.

12 (d) This section does not apply to the placement of an aquatic plant by a person
13 who was unaware that he or she was in possession of the plant. This exception
14 includes circumstances in which a plant becomes unknowingly and temporarily
15 attached or affixed to a boat, boat trailer, or boat motor.

16 **Comment.** Section 25500 continues former Fish and Game Code Section 12023(b)-(e) without
17 substantive change. See also Section 5260 (criminal penalty).

18 **§ 25505. Response costs**

19 25505. (a) In addition to Section 5260, a person who violates Section 25415
20 through the use of an aquatic nuisance species is liable for all public and private
21 response, treatment, and remediation efforts resulting from the violation. The cost
22 of these efforts shall constitute a debt of that person, and shall be collectible by the
23 federal, state, county, public agency, or private individual or individuals, incurring
24 those costs in the same manner as in the case of an obligation under a contract,
25 expressed or implied.

26 (b) Public agencies participating in a response to a violation of Section 25415
27 through the use of an aquatic nuisance species may designate one or more of the
28 participating agencies to bring an action to recover costs incurred by all of the
29 participating agencies.

30 (c) The costs relating to an accounting for a violation of Section 25415 through
31 the use of an aquatic nuisance species and the collection of any funds, including,
32 but not limited to, the administrative, legal, and public relations costs of operating
33 a response and remediation program may also be the subject of an action to
34 recover costs which are charged against the responsible person.

35 **Comment.** Section 25505 continues former Fish and Game Code Section 12024 without
36 substantive change.

37 **§ 25510. Reward**

38 25510. Any person whom the department determines has provided evidence or
39 information leading to the arrest and conviction of a person or persons found
40 guilty of violating Section 25415 through the use of an aquatic nuisance species, is

1 eligible to obtain a reward of up to fifty thousand dollars (\$50,000) pursuant to
2 Section 4300.

3 **Comment.** Section 25510 continues former Fish and Game Code Section 12026 without
4 substantive change.

5 TITLE 3. ARTIFICIAL REEFS

6 § 25600. Legislative findings and declaration

7 25600. The Legislature finds and declares all of the following:

8 (a) Declines in various southern California marine species of fish have adversely
9 affected the sport and commercial fishing industry.

10 (b) Efforts to enhance these species through the placement of artificial reefs
11 need to be investigated.

12 (c) A program of artificial reef research and development, including reef design,
13 placement, and monitoring, is in the public interest and can best be accomplished
14 under the administration of the department with the cooperation and assistance of
15 the University of California, the California State University, other established,
16 appropriate academic institutions, and other organizations with demonstrated
17 expertise in the field.

18 (d) A state artificial reef research and construction program under the
19 administration of the department is necessary to coordinate ongoing studies and
20 construction of artificial reefs in waters of the state.

21 **Comment.** Section 25600 continues former Fish and Game Code Section 6420 without
22 substantive change.

23 § 25605. Definitions

24 25605. For purposes of this title, the following terms have the following
25 meaning:

26 (a) “Artificial reef” means manmade or natural objects intentionally placed in
27 selected areas of the marine environment to duplicate those conditions that induce
28 production of fish and invertebrates on natural reefs and rough bottoms, and that
29 stimulate the growth of kelp or other midwater plant life which creates natural
30 habitat for those species.

31 (b) “Production” means increases in the biomass of a species or number of
32 species.

33 (c) “Program” means the California Artificial Reef Program.

34 **Comment.** Section 25605 continues former Fish and Game Code Section 6421 without
35 substantive change.

36 § 25610. Department administration

37 25610. The department shall administer the California Artificial Reef Program.

38 **Comment.** Section 25610 continues former Fish and Game Code Section 6422 without
39 substantive change.

1 **§ 25615. Elements of program**

2 25615. The program shall include all of the following:

3 (a) The placement of artificial reefs in state waters.

4 (b) A study of existing successful reefs and all new reefs placed by the program
5 to determine the design criteria needed to construct artificial reefs capable of
6 increasing fish and invertebrate production in waters of the state.

7 (c) A determination of the requirements for reef siting and placement.

8 **Comment.** Section 25615 continues former Fish and Game Code Section 6423 without
9 substantive change.

10 **§ 25620. Allocation**

11 25620. (a) The amount allocated for the administration of the program in any
12 fiscal year may not exceed the amount authorized by applicable state and federal
13 policy guidelines.

14 (b) It is the intent of the Legislature that future sources of funding for the
15 program may include, but are not limited to, the Fish and Game Preservation
16 Fund, the California Environmental License Plate Fund, the Wildlife Restoration
17 Fund, recreational bond act funds, federal grants-in-aid, county fish and game
18 propagation funds, and private donations.

19 **Comment.** Subdivision (a) of Section 25620 continues former Fish and Game Code Section
20 6424 without substantive change.

21 Subdivision (b) continues former Fish and Game Code Section 6425(b) without substantive
22 change.

23 **Note.** Existing Fish and Game Code Section 6425(a), referring to the California Artificial
24 Reef program, reads as follows:

25 (a) It is the intent of the Legislature that not more than five hundred thousand dollars
26 (\$500,000) shall be allocated to the program for the 1985–86 fiscal year.

27 **The Commission invites comment on whether this provision is now obsolete, and may be**
28 **discontinued in the proposed law.**

29 **TITLE 4. OCEAN FISHERY RESEARCH**

30 **§ 25700. Legislative findings and declaration**

31 25700. The Legislature finds and declares all of the following:

32 (a) Substantial declines in various species of desirable fish that are caught in
33 southern California ocean waters have adversely affected recreational and
34 commercial fishing and their related industries.

35 (b) Research and development of artificial propagation, rearing, and stocking
36 techniques and equipment have been sufficiently developed. The purpose of this
37 chapter is to determine if hatchery-released fish can artificially enhance certain
38 stocks of various desirable species, through increased hatchery production of fish
39 and increased monitoring of fisheries to assess the contribution of hatchery-
40 released fish to that enhancement.

1 (c) Funding for research pertaining to enhancement and artificial propagation,
2 rearing, and stocking are most appropriately borne by a special fund derived from
3 user fees on recreational and commercial fishermen who stand to directly benefit
4 from the resurgence of depressed marine fisheries.

5 (d) The department has continuing resource management, administrative, and
6 policy review responsibility in marine resources issues.

7 (e) Volunteers from the recreational fishing community have developed and
8 operated grow-out facilities with private funding. These volunteer activities
9 greatly enhance the effectiveness of the program and are fully compatible with the
10 overall program objectives.

11 (f) As white sea bass hatchery production is established, additional grow-out
12 facilities will be required and coordination between these facilities will be
13 necessary. The ocean resources enhancement advisory panel may encourage
14 contracts to carry out coordination activities and recommend to the director that
15 this coordination remain a high priority. Those coordination activities may be
16 funded with fees collected by the department pursuant to this title.

17 (g) The use of federal matching funds, including sportfish restoration account
18 funds, shall be a high priority for use to match state dollars for this program.

19 **Comment.** Section 25700 continues former Fish and Game Code Section 6590 without
20 substantive change.

21 **§ 25705. Definitions**

22 25705. For purposes of this title, “program” means the California Ocean
23 Resources Enhancement and Hatchery Program established by this title.

24 **Comment.** Section 25705 continues former Fish and Game Code Section 6591 without
25 substantive change.

26 **§ 25710. Purpose of program**

27 25710. There is hereby established in state government the California Ocean
28 Resources Enhancement and Hatchery Program, for the purpose of basic and
29 applied research on the artificial propagation, rearing, stocking, and distribution of
30 adversely affected marine fish species that are important to sport or commercial
31 fishing in the ocean waters off the coast of California south of a line extending due
32 west from Point Arguello.

33 **Comment.** Section 25710 continues former Fish and Game Code Section 6592 without
34 substantive change.

35 **§ 25715. Creation of advisory panel**

36 25715. (a) To assist the director in establishing policy and direction for the
37 research and enhancement programs to be supported from the Fish and Game
38 Preservation Fund, there is hereby created in the department an Ocean Resources
39 Enhancement Advisory Panel.

40 (b) The panel shall consist of the following members:

1 (1) One member representing the department.

2 (2) One member from the University of California, appointed by the president.

3 (c) One member from the California State University System, appointed by the
4 chancellor.

5 (4) Two members representing persons working in the southern California
6 commercial fishing industry, of which one shall be appointed by the director from
7 a list of at least three persons submitted by the California Gillnetters Association
8 and one shall be appointed by the director from a list of at least three persons
9 submitted by the California Fisheries and Seafood Institute.

10 (5) One member representing the southern California commercial passenger
11 fishing vessel industry, appointed by the director from a list of at least three
12 persons submitted by the Sportfishing Association of California.

13 (6) Three members representing persons who engage in southern California
14 ocean sport fishing, of which one shall be appointed by the director from a list of
15 at least three persons submitted by the United Anglers of California, one appointed
16 by the director from a list of at least three persons submitted by the National
17 Coalition for Marine Conservation, Pacific Region, and one appointed by the
18 director from a list of at least three persons submitted by California resident
19 members of the American Fishing Tackle Manufacturers Association.

20 (7) One member representing the California Aquaculture Association
21 established pursuant to Section 24800.

22 (c) No person shall serve on the panel if that person is receiving research
23 funding from the program.

24 **Comment.** Subdivision (a) of Section 25715 continues former Fish and Game Code Section
25 6594 without substantive change.

26 Subdivision (b) continues the second sentence of former Fish and Game Code Section 6593
27 without substantive change.

28 **§ 25720. Administration of program**

29 25720. The program is administered by the director, with the advice and
30 assistance of the advisory panel created in Section 25715. The director may
31 appoint, with the advice and consent of the advisory panel, a program manager to
32 assist in administering the program.

33 **Comment.** Section 25720 continues the first and third sentences of former Fish and Game
34 Code Section 6593 without substantive change.

35 **§ 25725. Use of funds**

36 25725. (a) All fees collected by the department pursuant to this title, Section
37 13255, 14620, and any interest earned on those fees, shall be deposited in the Fish
38 and Game Preservation Fund and shall be available, upon appropriation by the
39 Legislature, solely for purposes of the program. The department shall maintain the
40 internal accountability necessary to ensure that expenditures of these funds meet
41 the requirements and restrictions of the purposes of the program.

1 (b) An amount, not to exceed 15 percent of the total annual revenues deposited
2 in the fund pursuant to this title, may be appropriated for the administration of the
3 program, including any reasonable and necessary expenses incurred by members
4 of the Ocean Resources Enhancement Advisory Panel in the discharge of their
5 duties pursuant to this title.

6 (c) No part of the program may be financed pursuant to this title unless it has
7 been approved by both the director and a majority of the members of the Ocean
8 Resources Enhancement Advisory Panel.

9 **Comment.** Section 25725 continues former Fish and Game Code Section 6595 without
10 substantive change.

11 **§ 25730. Contracting with nonprofit organizations**

12 25730. The department may contract with private nonprofit organizations that,
13 prior to January 1, 1984, were conducting research related to the purposes of the
14 program, to conduct research projects pursuant to this title.

15 **Comment.** Section 25730 continues former Fish and Game Code Section 6597 without
16 substantive change.

17 **§ 25735. Participation by other entities**

18 25735. It is in the interest of the state to have broad participation in
19 enhancement programs. Therefore, this program shall be open to participation by
20 qualified academic institutions, as determined by the department, and nonprofit
21 organizations, commercial aquaculturists, and for profit enterprises.

22 **Comment.** Section 25735 continues former Fish and Game Code Section 6597.5 without
23 substantive change.

24 **§ 25740. Name of program location**

25 25740. Any place at which all or a significant part of the program is conducted
26 shall be named the “California Marine Hatchery Institute.”

27 **Comment.** Section 25740 continues former Fish and Game Code Section 6598 without
28 substantive change.

29 **TITLE 5. MISCELLANEOUS PROVISIONS**

30 **§ 25850. Youth camps**

31 25850. The department may plant fish in streams passing through, or in lakes on,
32 land on which is located a youth camp for underprivileged children.

33 **Comment.** Section 25850 continues former Fish and Game Code Section 6402 without
34 substantive change.

35 **Note.** Under existing law, Section 6402 is governed by existing Section 6403, which makes
36 Section 6402 inapplicable to aquaculture business activities. The continuation of Section 6402 in
37 this location would make Section 6403 (proposed Section 25400) inapplicable to Section 6402.
38 Technically, this would make Section 6402 applicable to aquaculture business activities.
39 However, the public entity activity described in Section 6402 does not appear to be an

1 aquaculture business activity. For that reason, the change described in this Note would seem to
2 have no practical effect.

3 **The Commission invites comment on whether this change would be a problem.**

4 **§ 25855. Urban fishing program**

5 25855. Notwithstanding Section 25100 or any other provision of law, all funds
6 allocated for fish purchases for the department’s urban fishing program shall be
7 used to purchase all fish and aquatic organisms by contract, pursuant to the
8 requirements of the Public Contract Code, from private registered aquaculture
9 facilities within the state unless the department determines one of the following
10 conditions exists:

11 (a) After reasonable notice, the private facilities are unable to provide the
12 specified fish or aquatic organism.

13 (b) The fish or aquatic organism is infected or diseased.

14 **Comment.** Section 25855 continues former Fish and Game Code Section 1123.5 without
15 substantive change.

16 **PART 4. DOMESTICATION OF GAME ANIMALS**

17 **TITLE 1. GAME ANIMALS GENERALLY**

18 **§ 26000. License requirement**

19 26000. Any person engaged in raising or importing, or who keeps in captivity, in
20 this state domesticated game birds or domesticated game mammals which
21 normally exist in the wild in this state shall procure a domesticated game breeder’s
22 license if the birds or mammals are kept more than 30 days after acquisition. No
23 license is, however, required of any of the following:

24 (a) Licensed pheasant clubs, except to the extent provided in Section 29365.

25 (b) Licensed domesticated migratory game bird shooting areas as defined in
26 Title 2 (commencing with Section 26200).

27 (c) Keepers of hotels, restaurants, boardinghouses, or clubs serving the meat of
28 those birds or mammals for actual consumption on the premises.

29 (d) Retail meat dealers selling such meat to customers for actual consumption.

30 (e) Public zoological gardens possessing those birds or mammals for exhibition
31 purposes or for the purpose of disposing of the birds or mammals by sale,
32 exchange, or donation to other public zoological gardens.

33 **Comment.** Section 26000 continues former Fish and Game Code Section 3200 without
34 substantive change.

35 **Note.** Existing Fish and Game Code Section 3200(a) exempts from the section’s licensing
36 requirement “[l]icensed pheasant clubs, except to the extent provided in Section 3283.” However,
37 former Fish and Game Code Section 3283 was repealed by 1994 Cal. Stat. ch. 849, the digest of
38 which indicated that the subject matter of Section 3283, and other deleted sections, would be
39 instead governed by regulations adopted by the Fish and Game Commission. The same bill also

1 added Fish and Game Code Section 3270(a) (which would be continued in the proposed law by
2 proposed Section 29365), which provides:

3 3270. (a) In order to provide additional hunting by stocking domestically propagated game
4 birds, and to permit the taking of game birds under conditions that will not conflict with the
5 public interest, any person who owns or controls the hunting rights on a tract of land may apply to
6 the department for a game bird club license authorizing the taking of game birds upon that land in
7 accordance with the regulations of the commission for the administration, including the
8 implementation and enforcement, of this section.

9 To express this legislative change, proposed Section 2600(a) would restate the exemption in
10 that provision as “Licensed pheasant clubs, except to the extent provided in Section 29365.”

11 **The Commission invites comment on the appropriateness of the proposed restatement of**
12 **this provision.**

13 **§ 26005. Sale of carcass**

14 26005. No person shall sell the carcass of any domesticated game bird or
15 domesticated game mammal without first obtaining a domesticated game
16 breeder’s license from the department. The department may issue that license upon
17 terms and conditions as the commission may prescribe, and the commission may
18 at any time revoke the license for sufficient cause.

19 **Comment.** Section 26005 continues former Fish and Game Code Section 3201 without
20 substantive change.

21 **§ 26010. Class 1 and class 2 licenses**

22 26010. There are classes of domesticated game breeder’s licenses, designated
23 “class 1” and “class 2.”

24 (a) A class 1 domesticated game breeder’s license authorizes the licensee to
25 engage in all domesticated game breeding activities except that not more than 175
26 Chinese ringneck or Mongolian ringneck pheasants, or both, or hybrids thereof,
27 may be sold under a class 1 license.

28 (b) A class 2 domesticated game breeder’s license is required in order to sell
29 more than 175 Chinese ringneck or Mongolian ringneck pheasants, or both, or
30 hybrids thereof, and entitles the licensee to all the rights and privileges of a class 1
31 license.

32 **Comment.** Section 26010 continues former Fish and Game Code Section 3202 without
33 substantive change.

34 **§ 26015. License fee**

35 26015. The department shall issue a class 1 domesticated game breeder’s license
36 upon the payment of a base fee of eight dollars (\$8), as adjusted under Section
37 3755, and a class 2 domesticated game breeder’s license upon the payment of a
38 base fee of forty dollars (\$40), as adjusted under Section 3755.

39 **Comment.** Section 26015 continues former Fish and Game Code Section 3203 without
40 substantive change.

1 **§ 26020. Term of license**

2 26020. A license issued under the provisions of this title is valid for a term of
3 one year from January 1, or if issued after the beginning of the term, for the
4 remainder of that term.

5 **Comment.** Section 26020 continues the first paragraph of former Fish and Game Code Section
6 3204 without substantive change.

7 **§ 26025. Display of license**

8 26025. A domesticated game breeder's license shall be conspicuously displayed
9 on the property where the birds or mammals are held in captivity.

10 **Comment.** Section 26025 continues the second paragraph of former Fish and Game Code
11 Section 3204 without substantive change.

12 **§ 26030. Carriers for hire**

13 26030. Carriers for hire may carry within the state live domesticated game birds
14 and live domesticated game mammals upon terms and conditions as the
15 commission may prescribe.

16 **Comment.** Section 26030 continues former Fish and Game Code Section 3205 without
17 substantive change.

18 **§ 26035. Tag requirement**

19 26035. (a) No domesticated game bird or domesticated game mammal shall be
20 transported or sold dead unless each quarter and each loin of the carcass of each
21 large mammal, the carcass of each bird, except as provided in Section 28505 for a
22 bird raised outside this state, and the carcass of each small mammal, is tagged with
23 a domesticated game breeder's tag or seal. The tag or seal shall not be removed
24 until such quarter, loin, or carcass is prepared for consumption.

25 (b) No tag so affixed shall be used again.

26 (c) No tag or seal shall be sold by the department to anyone other than a person
27 who is legally in possession of domesticated game.

28 **Comment.** Section 26035 continues former Fish and Game Code Section 3206 without
29 substantive change.

30 **§ 26040. Fee for tag**

31 26040. The department shall collect three cents (\$0.03) for each tag or seal.

32 **Comment.** Section 26040 continues former Fish and Game Code Section 3207 without
33 substantive change.

34 **§ 26045. Report to Department**

35 26045. (1) On or before January 31 of each year, every person to whom a
36 domesticated game breeder's license has been issued shall report the following to
37 the department on a form provided by the department:

38 (1) The total number of each species of birds and mammals killed, sold, or
39 shipped during the preceding year.

1 (2) The names of the persons to whom the birds or mammals were sold or
2 shipped.

3 (3) The name of the person in whose presence the birds or mammals were
4 tagged.

5 (4) A complete list of the game birds and mammals held in the person's
6 possession at the time the report is made.

7 (b) The report shall be verified by the affidavit of the licensee.

8 **Comment.** Section 26045 continues former Fish and Game Code Section 3208 without
9 substantive change.

10 **§ 26050. Poultry processing plants**

11 26050. (a) In lieu of the tag required by Section 26035, poultry processing plants
12 licensed pursuant to Chapter 4 (commencing with Section 18650) or Chapter 4.1
13 (commencing with Section 18940) of Part 3 of Division 9 of the Food and
14 Agricultural Code, which process domesticated game birds received from persons
15 licensed pursuant to this title, may package each individual carcass in a
16 nonreusable container clearly labeled on the outside with the species of bird and
17 the wording "Product of a Licensed California Domesticated Game Breeder."

18 (b) Each processor receiving domesticated game birds shall keep a complete
19 record of all birds received showing all of the following:

20 (1) The date received.

21 (2) The number and species of birds in each lot or shipment.

22 (3) The complete name, address, and domesticated game breeders' license
23 number of the person from whom the birds were received.

24 (4) The disposition of processed birds, the date of sale or shipment, the quantity
25 and species sold or shipped, and the person to whom the birds were sold or
26 shipped.

27 (c) The records shall be retained by the processor for one year following the date
28 of processing. These records shall be subject to inspection upon demand by any
29 officer of the department during hours the processing plant is in operation or open
30 for business.

31 (d) This section does not affect the requirements of Section 26035 governing
32 tagging domesticated game birds for transportation by those other than licensed
33 poultry processors.

34 **Comment.** Section 26050 continues former Fish and Game Code Section 3209 without
35 substantive change.

36 **§ 26055. Sale of meat by keeper of establishment**

37 26055. The keeper of a hotel, restaurant, boardinghouse, or club may sell
38 portions of a quarter or loin of a large mammal, or the carcass of a bird or mammal
39 raised or imported under a domesticated game breeder's license, to a patron for
40 actual consumption on the premises only, and no license for that purpose shall be
41 required of the keeper or club. All keepers of hotels, restaurants, boardinghouses,

1 or clubs who sell any a domesticated game bird or domesticated game mammal for
2 consumption to a patron shall be required to submit to the inspection of their
3 premises by the department and shall display for inspection any carcass or animal
4 parts held in storage for sale. That game shall be tagged under Section 26035.

5 **Comment.** Section 26055 continues former Fish and Game Code Section 3212 without
6 substantive change.

7 **§ 26060. Sale of meat by retail meat dealer**

8 26060. (a) A retail meat dealer may, without a license, sell portions of a quarter
9 or loin of a large mammal or the carcass of a bird or mammal raised or imported
10 under a domesticated game breeder's license to a customer for actual
11 consumption.

12 (b) Retail dealers shall submit their premises to inspection by the department,
13 and shall display at any authorized inspection any carcass or animal parts held by
14 them in storage. That game shall be tagged under Section 26035.

15 **Comment.** Section 26060 continues former Fish and Game Code Section 3213 without
16 substantive change.

17 **§ 26065. Confinement and escape**

18 26065. (a) Domesticated game breeders or other persons holding domesticated
19 game mammals in captivity shall confine the mammals in escape-proof cages or
20 enclosures.

21 (b) In the event any of the mammals escape from the cages or enclosures, the
22 owner shall immediately make every reasonable effort to recapture them.

23 (c) If the owner fails to recapture the escaped mammals, the department may
24 capture the mammals or remove them from the wild by whatever means may be
25 necessary if, in the opinion of the department, the mammals may conflict with
26 native species of birds or mammals or cause damage to public or private property.

27 (d) The owner shall reimburse the department for all costs incurred in capturing
28 or removing the mammals from the wild. The owner shall be responsible for any
29 damage the mammals may cause to public or private property.

30 (e) Any domesticated big game mammal may be marked with ear tags or other
31 suitable markings or tags, as may be specified by the commission, which shall
32 identify the owner of the mammals.

33 **Comment.** Section 26065 continues former Fish and Game Code Section 3214 without
34 substantive change.

35 **§ 26070. Killing of domesticated game animals**

36 26070. All domesticated game birds and domesticated game mammals,
37 excepting deer, sold under the provisions of this title, shall be killed by means
38 other than by shooting. This section does not apply to licensed pheasant clubs,
39 licensed domesticated migratory game bird shooting areas, or to the training or
40 practice of hunting dogs.

1 **Comment.** Section 26070 continues former Fish and Game Code Section 3216 without
2 substantive change.

3 **§ 26075. Evidence of domesticated status**

4 26075. The carcass of a game bird that shows that it has been killed by shooting
5 shall constitute prima facie evidence that it was not a domesticated game bird. The
6 fact that the bird has been tagged in accordance with Section 26035 of this code
7 shall not alter this presumption.

8 **Comment.** Section 26075 continues former Fish and Game Code Section 3217 without
9 substantive change.

10 **§ 26085. Domesticated reindeer**

11 26085. Domesticated reindeer may be imported into this state and sold only in
12 accordance with regulations that the commission may adopt.

13 **Comment.** Section 26085 continues former Fish and Game Code Section 3219 without
14 substantive change.

15 **TITLE 2. MIGRATORY GAME BIRDS**

16 **§ 26200. Definition**

17 26200. For purposes of this part, a “domesticated migratory game bird” is a
18 migratory game bird held live in captivity at or after six weeks of age.

19 **Comment.** Section 26200 restates the second paragraph of former Fish and Game Code
20 Section 3300 without substantive change.

21 **Notes.** (1) Proposed Section 26200 restates the second paragraph of existing Section 3300
22 to improve its clarity, and make clear that the definition in the provision is meant to apply
23 throughout existing Sections 3300 through 3311, without changing the substantive effect of the
24 provision. The existing provision reads as follows:

25 Any bird of a species included in the definition of migratory game birds, as defined in Section
26 3500, which has been held live in captivity is a “domesticated migratory game bird” for purposes
27 of this section, except such a bird that has been released from captivity and any control before
28 attaining six weeks of age.

29 **The Commission invites comment on whether the proposed restatement would cause any
30 substantive change in the meaning of the provision.**

31 (2) The second paragraph of existing Section 3300 defines a “domesticated migratory game
32 bird” for purposes of “this section.” However, the term “domesticated migratory game bird” is
33 used elsewhere in the existing Fish and Game Code, with no corresponding definition. See
34 existing Sections 3031, 3200, 3216, 3240.5.

35 **Should this definition be made applicable to the code generally, and included with the
36 general definitions in the first division of the proposed law?**

37 **§ 26205. License requirement**

38 26205. It is unlawful to raise and release, or release, domesticated migratory
39 game birds for shooting by a person paying for that privilege, without a revocable
40 nontransferable license issued by the department pursuant to Section 26210.

1 **Comment.** Section 26205 restates the first sentence of the first paragraph of former Fish and
2 Game Code Section 3300 without substantive change.

3 **§ 26210. License to raise and release**

4 26210. (a) A license to raise and release, or release, domesticated migratory
5 game birds for shooting by persons who pay for that privilege may be issued
6 annually by the department, and shall be valid from July 1 through the following
7 June 30, upon payment of a base fee of eighty dollars (\$80), as adjusted under
8 Section 3755.

9 (b) The application for the license shall show the size and location of the area to
10 be licensed.

11 **Comment.** Subdivision (a) of Section 26210 continues the second sentence of the first
12 paragraph of former Fish and Game Code Section 3300 without substantive change.

13 Subdivision (b) continues the first sentence of former Fish and Game Code Section 3301
14 without substantive change.

15 **§ 26215. Posting of area**

16 26215. A person licensed pursuant to Section 26210 shall post the boundaries of
17 the licensed area with signs, at intervals of not more than 500 feet, which shall
18 indicate that the area is licensed for the shooting of domesticated migratory game
19 birds. The dimensions of each sign shall be at least 12 by 18 inches.

20 **Comment.** Section 26215 continues the second and third sentences of former Fish and Game
21 Code Section 3301 without substantive change.

22 **§ 26220. Additional regulatory requirements**

23 26220. The commission may adopt additional regulations deemed necessary for
24 the releasing and shooting of domesticated migratory game birds and shall set the
25 season and areas where domesticated migratory game birds may be taken. If a
26 person licensed pursuant to Section 26210 violates any provision of this title or
27 any regulation adopted pursuant to this title, the commission may cancel or revoke
28 that license after providing the licensee notice and an opportunity to be heard by
29 the commission.

30 **Comment.** Section 26220 continues former Fish and Game Code Section 3302 without
31 substantive change.

32 **§ 26225. Care of birds**

33 26225. When domesticated migratory game birds are raised or held for release
34 by a person licensed pursuant to Section 26210, the licensee shall provide proper
35 and adequate care for the birds and shall raise and hold them only under sanitary
36 conditions. Conditions for proper care and raising shall be prescribed by the
37 commission.

38 **Comment.** Section 26225 continues the first and second sentences of former Fish and Game
39 Code Section 3303 without substantive change.

1 § 26230. Inspection of birds and facilities

2 26230. A person licensed pursuant to Section 26210 shall provide for the
3 inspection of birds and facilities upon the request of the department.

4 **Comment.** Section 26230 continues the third sentence of former Fish and Game Code Section
5 3303 without substantive change.

6 § 26235. Condition of birds

7 26235. A person licensed pursuant to Section 26210 may only release for
8 shooting domesticated migratory game birds that are at least 14 weeks of age,
9 capable of strong and sustained flight, fully feathered, and otherwise in condition
10 to survive in the wild. A licensee shall not release a domesticated migratory game
11 bird that is in any of the following conditions:

12 (a) Altered in any manner that would, in the opinion of the department, render
13 the bird incapable of normal sustained flight.

14 (b) Diseased.

15 (c) Shows evidence of malnutrition or injury.

16 **Comment.** Section 26235 restates former Fish and Game Code Section 3305 without
17 substantive change.

18 **Note.** Proposed Section 26235 is intended to restate existing Section 3305 to improve its
19 clarity, without changing its substantive effect. The existing provision reads as follows:

20 All domesticated migratory game birds at time of release for shooting shall be at least 14 weeks
21 of age, capable of strong and sustained flight, fully feathered, and otherwise in condition to
22 survive in the wild. Birds that are altered in any manner which would, in the opinion of the
23 department, render them incapable of normal sustained flight, or which are diseased, or show
24 evidence of malnutrition or injury, shall not be released.

25 **The Commission invites comment on whether the proposed restatement would cause any**
26 **substantive change in the meaning of the provision.**

27 § 26240. Blinds

28 26240. (a) Shooting in an area licensed pursuant to Section 26210 shall be
29 confined to blinds, except for shooting necessary to recover a downed and injured
30 bird.

31 (b) No more than three shooters shall occupy or use each blind.

32 (c) Blinds shall be constructed to prevent the shooting of domestic migratory
33 game birds over water, and to insure maximum safety to occupants of adjoining
34 blinds.

35 (d) Blinds shall be situated so that the occupants of the blinds cannot see the
36 release site.

37 **Comment.** Section 26240 continues the first and second paragraphs of former Fish and Game
38 Code Section 3306 without substantive change.

1 **§ 26245. Shooting or taking near release point**

2 26245. (a) A person licensed pursuant to Section 26210 shall not permit any
3 shooting within 500 feet of a point where a domesticated migratory bird is
4 released.

5 (b) A domesticated migratory game bird shall not be taken within 500 feet of its
6 point of release.

7 **Comment.** Section 26245 continues the third paragraph of former Fish and Game Code
8 Section 3306 without substantive change.

9 **§ 26250. Birds injured or killed**

10 26250. (a) A person licensed pursuant to Section 26210 shall not permit an
11 injured bird to remain on a pond or feeding area, or knowingly permit an injured
12 bird to be used in any subsequent release.

13 (b) Any bird killed or injured by a shooter shall be retrieved without delay, and
14 any injured bird shall be humanely dispatched.

15 **Comment.** Subdivision (a) of Section 26250 continues the second sentence of the first
16 paragraph of former Fish and Game Code Section 3307 without substantive change.

17 Subdivision (b) continues the first sentence of the first paragraph of former Fish and Game
18 Code Section 3307 without substantive change.

19 **§ 26255. Retrieving dog**

20 26255. In order to prevent the loss of any dead or injured bird, a person licensed
21 pursuant to Section 26210 shall provide the use of a retrieving dog, without cost,
22 to all shooters, except that shooters may provide their own retrieving dogs. A
23 licensee shall not permit the shooting of any bird unless a retrieving dog is
24 immediately available for use by all shooters.

25 **Comment.** Section 26255 continues the second paragraph of former Fish and Game Code
26 Section 3307 without substantive change.

27 **§ 26260. Seal**

28 26260. (a) No dead domesticated migratory game bird shall be removed from an
29 area licensed pursuant to Section 26210 until a seal is securely attached to the
30 carcass.

31 (b). The seal shall remain attached to the carcass until the carcass is finally
32 prepared for consumption.

33 (c) Each seal shall be supplied by the department, at a fee set by the commission
34 that may not exceed five cents (\$0.05).

35 **Comment.** Section 26260 continues former Fish and Game Code Section 3309 without
36 substantive change.

37 **§ 26265. Inspection fee**

38 26265. A person licensed pursuant to Section 26210 shall pay the department an
39 inspection fee not to exceed five cents (\$0.05) for each domesticated migratory

1 game bird raised or used on the area licensed, to insure adherence to these
2 regulations.

3 **Comment.** Section 26265 continues former Fish and Game Code Section 3308 without
4 substantive change.

5 **§ 26270. Shooter required to have hunting license**

6 26270. It is unlawful to shoot a domesticated game bird in an area licensed
7 pursuant to Section 26210 without a valid hunting license as provided by Section
8 10210.

9 **Comment.** Section 26270 continues former Fish and Game Code Section 3310 without
10 substantive change.

11 **§ 26275. Federal requirements**

12 26275. A person releasing or shooting a domesticated migratory game bird shall
13 comply with all applicable federal laws and regulations relating to the releasing or
14 shooting of domesticated migratory game birds.

15 **Comment.** Section 26275 continues former Fish and Game Code Section 3311 without
16 substantive change.

17 **Note.** Existing Section 3311 appears designed as a reminder that federal laws and regulations
18 may also govern the releasing and shooting of domesticated migratory game birds. However, the
19 use of the word “licensee” in the provision is problematic, for two reasons.

20 First, it is not clear whether the “licensee” referred to is (1) a person issued a license to *raise*
21 *and release, or release* domesticated migratory game birds for shooting by others pursuant to
22 existing Section 3300, (2) a person issued the hunting license referred to in existing Section 3310
23 to *shoot* domesticated migratory game birds, or (3) both of the above. The ambiguity is enhanced
24 by a reference in Section 3311 to federal laws and regulations relating to the “releasing *and*
25 shooting” of domesticated migratory game birds.

26 Second, regardless of which “licensee” is contemplated, the implication that this provision is
27 applicable only to those licensees is confusing. Absent an exemption in federal law, all persons
28 releasing or shooting a domesticated migratory game bird, whether licensed or not, would be
29 required to comply with whatever federal laws or regulations were “applicable” to that conduct.

30 To address both of these issues, the Commission has revised the provision so it applies to *any*
31 person who either releases or shoots a domesticated migratory game bird.

32 **The Commission invites comment on whether that revision is appropriate.**

33 **PART 5. PROPAGATION OF FUR-BEARING MAMMALS**

34 **§ 26400. Applicability of other code provisions**

35 26400. The provisions of this code relating to the trapping of fur-bearing
36 mammals, or to fur dealer license requirements, do not apply to, or prohibit the
37 propagation of, fur-bearing mammals that are confined in accordance with
38 regulations of the commission.

39 **Comment.** Section 26400 continues former Fish and Game Code Section 4010 without
40 substantive change.

1 PART 6. IMPORTATION, TRANSPORTATION, AND POSSESSION

2 TITLE 1. GENERAL PROVISIONS

3 § 26500. “Wild animal”

4 26500. As used in this part, “wild animal” means any animal of the class Aves
5 (birds), class Mammalia (mammals), class Amphibia (frogs, toads, salamanders),
6 class Osteichthyes (bony fishes), class Monorhina (lampreys), class Reptilia
7 (reptiles), class Crustacea (crayfish), or class Gastropoda (slugs, snails), which is
8 not normally domesticated in this state as determined by the commission.

9 **Comment.** Section 26500 continues former Fish and Game Code Section 2116 without
10 substantive change.

11 § 26505. “Enforcing officers”

12 26505. (a) As used in this part, “enforcing officers” means the department, the
13 state plant quarantine officers, the local law enforcement agents, the county
14 sheriffs, and the county agricultural commissioners.

15 (b) Enforcing officers are authorized and empowered to enforce the provisions
16 of this part or any regulation implementing this part.

17 **Comment.** Section 26505 continues former Fish and Game Code Section 2117 without
18 substantive change.

19 § 26510. Legislative findings and declarations

20 26510. (a) The Legislature finds and declares that wild animals are being
21 captured for importation and resale in California; that some populations of wild
22 animals are being depleted; that many animals die in captivity or transit; that some
23 keepers of wild animals lack sufficient knowledge or facilities for the proper care
24 of wild animals; that some wild animals are a threat to the native wildlife or
25 agricultural interests of this state; and that some wild animals are a threat to public
26 health and safety.

27 (b) It is the intention of the Legislature that the importation, transportation, and
28 possession of wild animals shall be regulated to protect the health and welfare of
29 wild animals captured, imported, transported, or possessed, to reduce the depletion
30 of wildlife populations, to protect the native wildlife and agricultural interests of
31 this state against damage from the existence at large of certain wild animals, and
32 to protect the public health and safety in this state.

33 **Comment.** Section 26510 continues former Fish and Game Code Section 2116.5 without
34 substantive change.

1 TITLE 2. RESTRICTIONS

2 CHAPTER 1. GENERAL PROVISIONS

3 § 26600. Adoption of regulations relating to importation and possession

4 26600. (a) The commission, in cooperation with the Department of Food and
5 Agriculture, shall adopt regulations governing both of the following:

6 (1) The entry, importation, possession, transportation, keeping, confinement, or
7 release of any and all wild animals that will be or that have been imported into this
8 state pursuant to this title.

9 (2) The possession of all other wild animals.

10 (b) The regulations shall be designed to prevent damage to the native wildlife or
11 agricultural interests of this state resulting from the existence at large of these wild
12 animals, and to provide for the welfare of wild animals and the safety of the
13 public.

14 (c) The regulations shall also include criteria for all of the following:

15 (1) The receiving, processing, and issuing of a permit and conducting
16 inspections.

17 (2) Contracting out inspection activities.

18 (3) Responding to public reports and complaints.

19 (4) The notification of the revocation, termination, or denial of permits, and
20 related appeals.

21 (5) The method by which the department determines that the breeding of wild
22 animals pursuant to a single event breeding permit for exhibitor or a breeding
23 permit is necessary and will not result in unneeded or uncared for animals, and the
24 means by which the criteria will be implemented and enforced.

25 (6) How a responding agency will respond to an escape of a wild animal. This
26 shall include, but not be limited to, the establishment of guidelines for the safe
27 recapture of the wild animal and procedures outlining when lethal force would be
28 used to recapture the wild animal.

29 (d) These regulations shall be developed and adopted by the commission on or
30 before January 1, 2007.

31 **Comment.** Section 26600 continues former Fish and Game Code Section 2120 without
32 substantive change.

33 § 26605. Designated exemption from permit requirement

34 26605. The commission may designate wild animals that may be possessed
35 without a permit.

36 **Comment.** Section 26605 continues former Fish and Game Code Section 2118.5 without
37 substantive change.

1 **§ 26610. Commission to adopt regulations providing guidance to enforcing officers**

2 26610. The commission shall adopt regulations in cooperation with the State
3 Department of Food and Agriculture for the guidance of enforcing officers. The
4 regulations shall include a list of the wild animals for which permits that may be
5 issued under this part will be refused, and the disposition of wild animals illegally
6 imported into this state.

7 **Comment.** Section 26610 continues former Fish and Game Code Section 2122 without
8 substantive change.

9 **§ 26615. Department to publish list of prohibited animals**

10 26615. The department shall publish from time to time as changes arise, a list of
11 animals that may not be imported or transported into this state.

12 **Comment.** Section 26615 continues former Fish and Game Code Section 2119 without
13 substantive change.

14 **§ 26620. Department to furnish descriptive explanatory material**

15 26620. The department in cooperation with the State Department of Food and
16 Agriculture shall furnish descriptive and illustrative material concerning the wild
17 animals enumerated in or designated pursuant to Sections 26700 through 26730, as
18 well as explanatory material setting forth the reasons for designating those animals
19 as undesirable and a menace to native wildlife or to the agricultural interests of
20 this state for the information and guidance of the enforcing officers.

21 **Comment.** Section 26620 continues former Fish and Game Code Section 2123 without
22 substantive change.

23 CHAPTER 2. CLASSES OF RESTRICTED ANIMALS

24 **§ 26700. Restricted birds**

25 26700. It is unlawful to import, transport, possess, or release alive into this state,
26 except under a revocable, nontransferable permit as provided in this part and the
27 regulations pertaining to this part, any wild animal of the following species of the
28 Class Aves (birds):

29 (a) Family Cuculidae (cuckoos): All species.

30 (b) Family Alaudidae (larks): Skylark, *Alauda arvensis*.

31 (c) Family Corvidae (crows, jays, magpies): All species.

32 (d) Family Turdidae (thrushes):

33 (1) European blackbird, *Turdus merula*.

34 (2) Missel (or mistle), thrush, *Turdus viscivorus*.

35 (e) Family Sturnidae (starlings and mynas or mynahs): All species of the family,
36 except hill myna (or hill mynah), and *Gracula religiosa* (sometimes referred to as
37 *Eulabes religiosa*).

38 (f) Family Ploceidae (weavers):

39 (1) Spanish sparrow, *Passer hispaniolensis*.

- 1 (2) Italian sparrow, *Passer italiae*.
- 2 (3) European tree sparrow, *Passer montanus*.
- 3 (4) Cape sparrow, *Passer capensis*.
- 4 (5) Madagascar weaver, *Foudia madagascariensis*.
- 5 (6) Baya weaver, *Ploceus baya*.
- 6 (7) Hawaiian rice bird, *Munia nitoria*.
- 7 (8) Red-billed quelea, *Quelea quelea*.
- 8 (9) Red-headed quelea, *Quelea erythrogastra*.
- 9 (g) Family Fringillidae (sparrows, finches, buntings): Yellowhammer, *Emberiza*
- 10 *citronella*.

11 **Comment.** Section 26700 continues former Fish and Game Code Section 2118(a) without
12 substantive change.

13 **§ 26705. Restricted mammals**

14 26705. (a) It is unlawful to import, transport, possess, or release alive into this
15 state, except under a revocable, nontransferable permit as provided in this part and
16 the regulations pertaining to this part, any wild animal of the following species of
17 the Class Mammalia (mammals):

- 18 (1) Order Primates: All species except those in family Hominidae.
- 19 (2) Order Edentata (sloths, anteaters, armadillos, etc.): All species.
- 20 (3) Order Marsupialia (marsupials or pouched mammals): All species.
- 21 (4) Order Insectivora (shrews, moles, hedgehogs, etc.): All species.
- 22 (5) Order Dermoptera (gliding lemurs): All species.
- 23 (6) Order Chiroptera (bats): All species.
- 24 (7) Order Monotremata (spiny anteaters, platypuses): All species.
- 25 (8) Order Pholidota (pangolins, scaly anteaters): All species.
- 26 (9) Order Lagomorpha (pikas, rabbits, hares): All species, except domesticated
27 races of rabbits.
- 28 (10) Order Rodentia (rodents): All species, except the following species:
 - 29 (A) Domesticated golden hamsters, also known as Syrian hamster, *Mesocricetus*
 - 30 *auratus*.
 - 31 (B) Domesticated races of rats or mice (white or albino; trained, dancing or
 - 32 spinning, laboratory-reared).
 - 33 (C) Domestic strains of guinea pig (*Cavia porcellus*).
- 34 (11) Order Carnivora (carnivores): All species, except domestic dogs (*Canis*
- 35 *familiaris*) and domestic cats (*Felis catus*).
- 36 (12) Order Tubulidentata (aardvarks): All species.
- 37 (13) Order Proboscidea (elephants): All species.
- 38 (14) Order Hyracoidea (hyraxes): All species.
- 39 (15) Order Sirenia (dugongs, manatees): All species.
- 40 (16) Order Perissodactyla (horses, zebras, tapirs, rhinoceroses, etc.): All species
- 41 except those of the family Equidae.

1 (17) Order Artiodactyla (swine, peccaries, camels, deer, elk, except elk (genus
2 Cervus) that are subject to Section 26865, moose, antelopes, cattle, goats, sheep,
3 etc.): All species except the following species:

4 (A) Domestic swine of the family Suidae.

5 (B) American bison.

6 (C) Anomestic cattle.

7 (D) Sheep and goats of the family Bovidae.

8 (E) Races of big-horned sheep (*Ovis canadensis*) now or formerly indigenous to
9 this state.

10 (b) Mammals of the orders Primates, Edentata, Dermoptera, Monotremata,
11 Pholidota, Tubulidentata, Proboscidea, Perissodactyla, Hyracoidea, Sirenia and
12 Carnivora are restricted for the welfare of the animals, except animals of the
13 families Viverridae and Mustelidae in the order Carnivora are restricted because
14 such animals are undesirable and a menace to native wildlife, the agricultural
15 interests of the state, or to the public health or safety.

16 **Comment.** Section 26705 continues former Fish and Game Code Section 2118(b) without
17 substantive change.

18 **§ 26710. Restricted amphibians**

19 26710. It is unlawful to import, transport, possess, or release alive into this state,
20 except under a revocable, nontransferable permit as provided in this part and the
21 regulations pertaining to this part, any wild animal of the following species of the
22 Class Amphibia (frogs, toads, salamanders):

23 (a) Family Bufonidae (toads).

24 (b) Giant toad or marine toad, *Bufo marinus*.

25 **Comment.** Section 26710 continues former Fish and Game Code Section 2118(c) without
26 substantive change.

27 **§ 26715. Restricted fish**

28 26715. It is unlawful to import, transport, possess, or release alive into this state,
29 except under a revocable, nontransferable permit as provided in this part and the
30 regulations pertaining to this part, any wild animal of the following species of fish:

31 (a) Class Monorhina (lampreys): All species.

32 (b) Class Osteichthyes (bony fishes):

33 (1) Family Serranidae (bass): White perch, *Morone* or *Roccus americana*.

34 (2) Family Clupeidae (herring): Gizzard shad, *Dorosoma cepedianum*.

35 (3) Family Sciaenidae (croakers): Freshwater sheepshead, *Aplodinotus*
36 *grunniens*.

37 (4) Family Characidae (characins):

38 (A) Banded tetra, *Astyanax fasciatus*.

39 (B) All species of piranhas.

40 (5) Family Lepisosteidae (gars): All species.

41 (6) Family Amiidae (bowfins): All species.

1 (c) Except as expressly authorized in this code, any live nonindigenous Atlantic
2 salmon or its roe, in the Smith River watershed.

3 **Comment.** Section 26715 continues former Fish and Game Code Section 2118(d)-(e) and (j)
4 without substantive change.

5 **§ 26720. Restricted reptiles**

6 26720. It is unlawful to import, transport, possess, or release alive into this state,
7 except under a revocable, nontransferable permit as provided in this part and the
8 regulations pertaining to this part, any wild animal of the following species of the
9 Class Reptilia (snakes, lizards, turtles, alligators): all species of the Family
10 Crocodylidae.

11 **Comment.** Section 26720 continues former Fish and Game Code Section 2118(f) without
12 substantive change.

13 **§ 26725. Restricted invertebrates**

14 26725. It is unlawful to import, transport, possess, or release alive into this state,
15 except under a revocable, nontransferable permit as provided in this part and the
16 regulations pertaining to this part, any wild animal of the following species of
17 invertebrates:

18 (a) Class Crustacea (crustaceans):

19 (1) Genus *Cambarus* (crayfishes): All species.

20 (2) Genus *Astacus* (crayfishes): All species.

21 (3) Genus *Astacopsis* (crayfishes): All species.

22 (b) Class Gastropoda (slugs, snails, clams):

23 (1) All species of slugs.

24 (2) All species of land snails.

25 **Comment.** Section 26725 continues the part of former Fish and Game Code Section 2118(g)-
26 (h) without substantive change.

27 **§ 26730. Animals restricted by designation**

28 26730. It is unlawful to import, transport, possess, or release alive into this state,
29 except under a revocable, nontransferable permit as provided in this part and the
30 regulations pertaining to this part, any wild animal of any class, order, family,
31 genus, and species that may be designated by the commission in cooperation with
32 the Department of Food and Agriculture, (1) when the class, order, family, genus,
33 or species is proven to be undesirable and a menace to native wildlife or the
34 agricultural interests of the state, or (2) to provide for the welfare of wild animals.

35 **Comment.** Section 26730 continues former Fish and Game Code Section 2118(i) without
36 substantive change.

37 **§ 26735. Addition or deletion of animals from restriction**

38 26735. Classes, families, genera, and species may be added to or deleted from
39 Sections 26555 through 26580, inclusive, from time to time, by commission
40 regulations in cooperation with the Department of Food and Agriculture.

1 (d) No part of any elk horn or antler shall be removed from any live elk for
2 commercial purposes.

3 **Comment.** Subdivisions (a) through (c) of Section 26865 continue former Fish and Game
4 Code Section 2118.2 without substantive change.

5 Subdivision (d) continues former Fish and Game Code Section 2118.3 without substantive
6 change.

7 See also Section 5280 (enforcement).

8 **§ 26870. Elephants**

9 26870. (a) Any person who houses, possesses, manages, or is in direct contact
10 with an elephant shall not do either of the following:

11 (1) Use a bullhook, ankus, baseball bat, axe handle, pitchfork, or other device
12 designed to inflict pain for the purpose of training or controlling the behavior of an
13 elephant.

14 (2) Authorize or allow an employee, agent, or contractor to use a bullhook,
15 ankus, baseball bat, axe handle, pitchfork, or other device designed to inflict pain
16 for the purpose of training or controlling the behavior of an elephant.

17 (b) Use prohibited by subdivision (a) includes brandishing, exhibiting, or
18 displaying the devices in the presence of an elephant.

19 (c) The provisions of this section are in addition to, and not in lieu of, any other
20 laws protecting animal welfare. This section shall not be construed to limit any
21 state law or rules protecting the welfare of animals or to prevent a local governing
22 body from adopting and enforcing its own animal welfare laws and regulations.

23 **Comment.** Section 26870 continues former Fish and Game Code Section 2128(a) & (c)
24 without substantive change.

25 See also Section 5282 (enforcement).

26 **CHAPTER 4. LOCAL ENTITIES**

27 **§ 27020. Eligible local entity**

28 27020. (a) The department may reimburse eligible local entities, pursuant to a
29 memorandum of understanding entered into pursuant to this section, for costs
30 incurred by the eligible local entities in the administration and enforcement of any
31 provision concerning the possession of, handling of, care for, or holding facilities
32 provided for, a wild animal listed in or designated pursuant to Sections 26700
33 through 26730, inclusive.

34 (b) The department may enter into memorandums of understanding with eligible
35 local entities for the administration and enforcement of any provision concerning
36 the possession of, handling of, care for, or holding facilities provided for, a wild
37 animal listed in or designated pursuant to Sections 26700 through 26730,
38 inclusive.

39 (c) The commission shall adopt regulations that establish specific criteria an
40 eligible local entity shall meet in order to qualify as an eligible local entity.

1 (d) For the purposes of this division, “eligible local entity” means a county, local
2 animal control officer, local humane society official, educational institution, or
3 trained private individual that enters into a memorandum of understanding with
4 the department pursuant to this section.

5 **Comment.** Section 27020 continues former Fish and Game Code Section 2127 without
6 substantive change.

7 **Note.** Subdivisions (a) and (b) of existing Fish and Game Code Section 2127 refer to a wild
8 animal “designated pursuant to” existing Fish and Game Code Section 2118. Several other
9 sections in the chapter in which Sections 2118 and 2127 appear refer to wild animals
10 “enumerated in or designated pursuant to” Section 2118. For consistency, the proposed law
11 would revise all of those references, including the two references in proposed Section 27020(a)
12 and (b), to read “listed in or designated pursuant to” the provisions that would continue Section
13 2118.

14 **The Commission invites comment on whether this revision would substantively change**
15 **the intended meaning of existing Section 2127(a) or (b).**

16 TITLE 3. PERMITS

17 § 27200. Issuance of permit

18 27200. (a) The department, in cooperation with the Department of Food and
19 Agriculture, may, upon application, issue a written permit to import into, possess,
20 or transport within this state any wild animal enumerated in, or designated
21 pursuant to, Section 671 of Title 14 of the California Code of Regulations, upon a
22 determination that the animal is not detrimental or that no damage or detriment
23 can be caused to agriculture, native wildlife, the public health or safety, or the
24 welfare of the animal, as a result of the importation, transportation, or possession.

25 (b) A permit may be issued to any person only upon application and payment of
26 a nonrefundable application fee in an amount determined by the department
27 pursuant to subdivision (a) of Section 27215. Application forms shall be provided
28 by the department and shall be designed to ascertain the applicant’s ability to
29 properly care for the wild animal or animals the applicant seeks to import,
30 transport, or possess. Proper care includes providing adequate food, shelter, and
31 veterinary care, and other requirements the commission may designate.

32 **Comment.** Section 27200 continues former Fish and Game Code Section 2150(a) without
33 substantive change.

34 See also Section 5208 (revocation of permit).

35 § 27205. Denial of permit

36 27205. The commission or the department shall deny a permit under Section
37 27200 if it finds that an applicant is unable to meet the requirements for importing,
38 transporting, possessing, or confining any wild animal as established pursuant to
39 Section 26600.

40 **Comment.** Section 27205 continues former Fish and Game Code Section 2150(b), as it related
41 to denial of a permit, without substantive change.

1 **§ 27210. Special entities**

2 27210. (a) A zoo is exempt from any permit requirement pursuant to this title
3 except for animals whose importation, transportation, or possession is determined
4 by the department, in cooperation with the Department of Food and Agriculture, to
5 be detrimental or cause damage to agriculture, native wildlife, or the public health
6 or safety. For purposes of this section, “zoo” means any organization which is
7 accredited as meeting the standards and requirements of the American Zoo and
8 Aquarium Association (AZA). Any California organization which is not
9 accredited by the AZA may apply to the department for a waiver of specified
10 permit requirements of this title. The department may grant or deny the request for
11 a waiver for justified reasons. Foreign zoos outside this state are not subject to the
12 permit requirements of this title beyond those specific permit requirements
13 affecting California zoos or organizations with which they are collaborating. Any
14 organization may appeal the determination of the department to the commission.

15 (b) An exhibitor licensed by the United States Department of Agriculture or a
16 dealer who is so licensed who buys any animal specified in subdivision (a) from a
17 zoo within the state, may sell or transfer it only to a private individual who has a
18 permit issued pursuant to this section prior to the receipt of the animal or to a
19 public or private organization that has a permit issued pursuant to this section prior
20 to the receipt of the animal. The exhibitor or dealer who sells or transfers that
21 animal shall pay a fee pursuant to subdivision (a) of Section 27215 to the
22 department.

23 (c) Any university, college, governmental research agency, or other bona fide
24 scientific institution, as defined in regulations adopted by the commission,
25 engaging in scientific or public health research is exempt from any permit
26 requirement pursuant to this title except for animals whose importation,
27 transportation, or possession is determined by the department, in cooperation with
28 the Department of Food and Agriculture, to be detrimental or cause damage to
29 agriculture, native wildlife, or the public health or safety.

30 (d) Notwithstanding the provisions of this section, every zoo, university, college,
31 governmental research agency, or other bona fide scientific institution shall
32 comply with the requirements of Section 27275 for all animals the zoo, university,
33 college, governmental research agency, or other bona fide scientific institution
34 possesses that are enumerated in, or designated pursuant to, Section 671 of Title
35 14 of the California Code of Regulations.

36 **Comment.** Section 27210 continues former Fish and Game Code Section 2150(c)-(f) without
37 substantive change.

38 **§ 27215. Fees**

39 27215. (a) The department shall establish fees for permits, permit applications,
40 and facility inspections in amounts sufficient to cover the costs of administering,
41 implementing, and enforcing this part.

1 (b) Fees collected pursuant to this part for permits, permit applications, and
2 facility inspections shall be deposited in the Fish and Game Preservation Fund.
3 The department shall annually identify the amount collected for each type of
4 permit, permit application, or inspection for which a fee is collected.

5 **Comment.** Subdivision (a) of Section 27215 continues former Fish and Game Code Section
6 2150.2 without substantive change.

7 Subdivision (b) continues former Fish and Game Code Section 2150.1 without substantive
8 change.

9 **§ 27220. Advisory committee**

10 27220. (a) The director shall appoint a committee to advise the director on the
11 humane care and treatment of wild animals.

12 (b) The committee shall make recommendations to the director for the
13 establishment of standards of performance for administration and enforcement,
14 which shall include, but are not limited to, requiring that the eligible local entity
15 possess a knowledge of humane wild animal training methods.

16 (c) The committee shall make recommendations to the director as to the
17 frequency of inspections necessary for the enforcement and administration of any
18 provision concerning the possession of, handling of, care for, or holding facilities
19 provided for, a wild animal listed in or designated pursuant to Sections 26700
20 through 26730, inclusive.

21 (d) The committee shall advise and assist the director in entering into
22 memorandums of understanding with eligible local entities and in determining
23 whether the memorandums of understanding meet the requirements of this title.

24 **Comment.** Section 27220 continues former Fish and Game Code Section 2150.3 without
25 substantive change.

26 **Note.** Existing Fish and Game Code Section 2150.3(c) (which would be continued by
27 proposed Section 27020(c)) refers to a wild animal “designated pursuant to” existing Fish and
28 Game Code Section 2118. Several other sections in the chapter in which Sections 2118 and
29 2150.3 appear refer to wild animals “enumerated in or designated pursuant to” Section 2118. For
30 consistency, the proposed law would revise all of those references, including the reference in
31 proposed Section 27020(c), to read “listed in or designated pursuant to” the provisions that would
32 continue Section 2118.

33 **The Commission invites comment on whether this revision would substantively change**
34 **the intended meaning of existing Section 2150.3(c).**

35 **§ 27225. Inspection of facilities**

36 27225. (a) The department or an eligible local entity shall inspect the wild
37 animal facilities, as determined by the director’s advisory committee, of each
38 person holding a permit issued pursuant to Section 27200 authorizing the
39 possession of a wild animal.

40 (b) In addition to the inspections specified in subdivision (a), the department or
41 an eligible local entity, pursuant to the regulations of the commission, may inspect
42 the facilities and care provided for the wild animal of any person holding a permit
43 issued pursuant to Section 27200 for the purpose of determining whether the

1 animal is being cared for in accordance with all applicable statutes and
2 regulations. The department shall collect an inspection fee, in an amount
3 determined by the department pursuant to subdivision (a) of Section 27215.

4 (c) No later than January 1, 2009, the department, in cooperation with the
5 committee created pursuant to Section 27220, shall develop, implement, and enter
6 into memorandums of understanding with eligible local entities if the department
7 elects not to inspect every wild animal facility pursuant to subdivisions (a) and (b).
8 Eligible local entities shall meet the criteria established in regulations adopted
9 pursuant to Section 27265.

10 **Comment.** Section 27225 continues former Fish and Game Code Section 2150.4 without
11 substantive change.

12 **§ 27230. Permit for animal acquired prior to 1975**

13 27230. Classes, orders, families, genera, and species which may not be
14 imported, transported, possessed, or released alive in this state solely because of
15 concern for the welfare of the animal may be possessed under permit when the
16 owner can demonstrate that such animal was legally acquired and possessed in
17 California before January 1, 1975. The department may require the owner of an
18 animal which may be possessed under this section to mark or otherwise identify
19 such animal and progeny, so as not to endanger the welfare of that animal, to the
20 satisfaction of the department. The owner shall not transfer such animal or
21 progeny to any other person without prior approval of the department.

22 **Comment.** Section 27230 continues former Fish and Game Code Section 2150.5 without
23 substantive change.

24 **§ 27235. Required content of permit application**

25 27235. A permit shall be issued only upon written application from the person
26 desiring to import or transport the species, enumerating all of the following:

27 (a) The approximate number and true scientific name of each species of wild
28 animal for which a permit is requested.

29 (b) The carrier and probable point of first arrival in this state of each shipment of
30 such species.

31 (c) The purpose for which they are to be imported or transported.

32 (d) The name and address of the consignee.

33 (e) The name and address of the consignor.

34 **Comment.** Section 27235 continues former Fish and Game Code Section 2151 without
35 substantive change.

36 **§ 27240. Content of permit**

37 27240. Each permit issued shall set forth all of the following:

38 (a) The number and true scientific name of the species of wild animal for which
39 the permit is granted.

1 (b) A statement of the manner and conditions under which the entry of such
2 species is permitted.

3 (c) A statement of the conditions under which the species shall be kept after
4 importation or during transportation.

5 **Comment.** Section 27240 continues former Fish and Game Code Section 2152 without
6 substantive change.

7 **§ 27245. Distribution of copies of permit**

8 27245. Whenever any permit is issued under the provisions of this title, one
9 copy shall be sent by the department to the State Department of Food and
10 Agriculture, one copy to the county agricultural commissioner or to the state plant
11 quarantine officer having jurisdiction at the place designated in the application as
12 the probable point of first arrival in the state of such species, and one copy shall
13 accompany each shipment of wild animals involved.

14 **Comment.** Section 27245 continues former Fish and Game Code Section 2153 without
15 substantive change.

16 **§ 27250. Progeny of imported or possessed animals**

17 27250. The provisions of this part and regulations adopted pursuant to this part
18 shall apply to the progeny of any wild animal imported or possessed under those
19 laws and regulations, except that no permit shall be required for the possession of
20 progeny if a permit has already been obtained by the owner for the parent animal,
21 and the progeny are kept at the same site.

22 **Comment.** Section 27250 continues former Fish and Game Code Section 2155 without
23 substantive change.

24 **§ 27255. Local ordinances**

25 27255. Neither the provisions of this part nor the regulations of the commission
26 shall prevent any city or county from enacting ordinances relating to the
27 possession or care of wild animals, provided those ordinances are more restrictive.

28 **Comment.** Section 27255 continues former Fish and Game Code Section 2156 without
29 substantive change.

30 **§ 27260. Required reporting of health and safety risk**

31 27260. Every person holding a permit issued pursuant to Section 27200 shall
32 uniquely identify each wild mammal that poses a risk to the health and safety of
33 the public and report this identification to the department to maintain in a registry.

34 **Comment.** Section 27260 continues former Fish and Game Code Section 2157(a) without
35 substantive change.

36 **§ 27265. Commission regulations relating to identification of health and safety risk**

37 27265. The commission shall adopt regulations that address the following:

1 (a) Identify the mammals that pose a risk to the health and safety of the public
2 and are subject to Section 27260. This identification shall include the following
3 species of mammals:

4 (1) Wild cats.

5 (2) Elephants.

6 (3) Nonhuman primates.

7 (4) Bears.

8 (5) Wolves.

9 (b) Acceptable forms of identification.

10 (c) How and when a permittee must notify the department of the unique
11 identifier required by Section 27260.

12 (d) These regulations shall be developed and adopted by the commission, on or
13 before January 1, 2007.

14 **Comment.** Section 27265 continues former Fish and Game Code Section 2157(b) and (d)
15 without substantive change.

16 **§ 27270. Department to establish registry**

17 27270. The department shall establish a registry listing the permit number, type,
18 expiration date, name and address of the permittee, and an inventory of each
19 mammal covered by the permit and the identification assigned or affixed to that
20 mammal pursuant to Section 27260.

21 **Comment.** Section 27270 continues former Fish and Game Code Section 2157(c) without
22 substantive change.

23 **§ 27275. Required reporting of escape or release**

24 27275. (a) Every person who holds a permit issued pursuant to Section 27200
25 shall immediately report by telephone the intentional or unintentional escape or
26 release of any wild animal covered by the permit, to the department and the
27 nearest enforcing officer of the city or county in which the wild animal was
28 released or escaped.

29 (b) The permitholder shall be liable for all expenses associated with efforts to
30 recapture the wild animal.

31 (c) For the purposes of this section, the exhibition of a wild animal on a movie
32 set, film set, television set, still photography set, or any other professional activity
33 allowable under a permit issued pursuant to Section 27200, does not constitute an
34 intentional or unintentional escape or release of the wild animal unless the person
35 exhibiting the wild animal has lost control of the wild animal.

36 **Comment.** Section 27275 continues former Fish and Game Code Section 2193(a) without
37 substantive change.

1 **§ 27280. Commission regulations relating to taking possession of permitted animal**

2 27280. (a) The commission shall promulgate regulations establishing the criteria
3 for permitholders to notify the department prior to taking possession of or
4 transferring an animal and upon the death of an animal.

5 (b) These regulations shall be developed and adopted by the commission on or
6 before January 1, 2007.

7 **Comment.** Section 27280 continues former Fish and Game Code Section 2193(b)-(c) without
8 substantive change.

9 **TITLE 4. INSPECTION OF ARRIVING ANIMAL**

10 **§ 27400. Special definition of “enforcing officer”**

11 27400. Notwithstanding Section 26505, for the purposes of this title, “enforcing
12 officer” means the enforcement personnel of the department, the state plant
13 quarantine officers, and county agricultural commissioners.

14 **Comment.** Section 27400 continues former Fish and Game Code Sections 2185(b), 2186(b),
15 and 2187(b) without substantive change.

16 **§ 27405. Notification of law enforcement of arriving wild animal**

17 27405. Any person who transports, receives, or imports into the state, or
18 transports within the state, any live wild animal listed in or designated pursuant to
19 Section 26700 through 26730, inclusive, shall hold that animal in confinement for
20 inspection, and immediately notify the nearest enforcing officer of the arrival of
21 that animal. If there is found in any shipment any animal of a species not specified
22 in the permit issued under this part, or more than the number of animals of any
23 species specified, those animals shall be disposed of as provided in subdivision (b)
24 of Section 27505.

25 **Comment.** Section 27405 continues former Fish and Game Code Section 2185(a) without
26 substantive change.

27 **Note.** The second sentence of existing Fish and Game Code Section 2185(a) (which would be
28 continued by proposed Section 27405) provides that if an enforcing officer finds in any shipment
29 of wild animals transported into this state any animal of a species not specified in a permit issued
30 under this part, or more than the number of animals of any species specified, those animals shall
31 be “refused admittance as provided in Section 2188 of this part.” However, former Fish and
32 Game Code Section 2188 was repealed by 1989 Cal. Stat. ch. 431, a bill that also added to
33 existing law Fish and Game Code Section 2189 (which would be continued by proposed Sections
34 27500, 27505, and 27510).

35 Proposed Section 27405 would revise the quoted language above to instead refer to and reflect
36 the language of the section of the proposed law that would continue existing Fish and Game Code
37 Section 2189(c), which refers to the “disposition” of a live nonnative wild animal that is
38 possessed or transported within this state in violation of the chapter of existing law containing
39 Section 2189, and which also contained Section 2188.

40 **The Commission invites comment on the appropriateness of this revision.**

1 **§ 27410. Discovery of disease during inspection**

2 27410. If during inspection upon arrival any wild animal is found to be diseased,
3 or there is reason to suspect the presence of disease, or there is reason to suspect
4 the presence of disease that is or may be detrimental to agriculture, to native
5 wildlife, or to the public health or safety, the diseased animal, and if necessary, the
6 entire shipment shall be destroyed by, or under the supervision of, the enforcing
7 officer, unless no detriment can be caused by its detention in quarantine for a time
8 and under conditions satisfactory to the enforcing officer for disinfection,
9 treatment, or diagnosis, or no detriment can be caused by its return to its point of
10 origin at the option and expense of the owner or possessor.

11 **Comment.** Section 27410 continues former Fish and Game Code Section 2186(a) without
12 substantive change.

13 **§ 27415. Periodic subsequent examination of animal**

14 27415. (a) Whenever any wild animal is brought into this state under permit, as
15 provided in this part, the enforcing officers may, from time to time, examine the
16 conditions under which that species is kept, and report to the department any
17 suspicion or knowledge of any disease or violations of the conditions of the permit
18 or of the regulations promulgated under this part.

19 (b) The enforcing officer may order the transfer of the animal to new owners or
20 the correction of the conditions under which the species is being kept if not in
21 conformance with the terms of the permit, at the expense of the owner or
22 possessor. If neither transfer or improvement of conditions is accomplished, the
23 officer may order destruction of the animal.

24 **Comment.** Section 27415 continues former Fish and Game Code Section 2187(a) without
25 substantive change.

26 **TITLE 5. NONNATIVE WILD ANIMALS**

27 **§ 27500. “Nonnative wild animal”**

28 27500. (a) As used in this title, “nonnative wild animal” means any nonnative
29 animal species, or hybrid thereof, that is not normally domesticated pursuant to
30 this code or regulations adopted pursuant to this code, and that is not designated as
31 a furbearing, game, nongame, threatened, or endangered animal.

32 **Comment.** Section 27500 continues former Fish and Game Code Section 2189(a) without
33 substantive change.

34 **§ 27505. Prohibitions**

35 27505. (a) No person shall import into this state any live nonnative wild animal
36 except pursuant to this part, or regulations adopted pursuant to this part.

37 (b) Any live nonnative wild animal that is possessed or transported within this
38 state in violation of this part or regulations adopted pursuant to this part shall be
39 disposed of in accordance with regulations adopted pursuant to Section 26610, at

1 the expense of the owner or possessor. The owner or possessor shall pay the costs
2 associated with the seizure, care, holding, transfer, and destruction of the animal.

3 **Comment.** Section 27505 continues former Fish and Game Code Section 2189(b)-(c) without
4 substantive change.

5 **§ 27510. Animals found at large**

6 27510. (a) Any live, nonnative wild animal found at large within this state shall
7 be either summarily destroyed or, if captured, shall be confined for not less than
8 72 hours following notification of the local humane society. Any local, state, or
9 federal governmental agency that has public safety responsibilities is authorized to
10 implement this subdivision.

11 (b) If, during the 72-hour holding period, any person claims ownership of the
12 animal, that person shall only be allowed to dispose of the animal pursuant to
13 subdivision (c).

14 (c) After the 72-hour holding period, if the animal is unclaimed, it shall be
15 disposed of in accordance with regulations adopted pursuant to Section 26610,
16 unless the animal is listed as a threatened or endangered species by either state or
17 federal regulation. Notwithstanding subdivision (c), if the animal is listed as a
18 threatened or endangered species in either state or federal regulation, the
19 department shall be notified of the animal's location and the department shall be
20 responsible for proper disposition.

21 **Comment.** Section 27510 continues former Fish and Game Code Section 2189(d)-(f) without
22 substantive change.

23 **TITLE 6. MAMMALS USED FOR HIRE**

24 **§ 27600. "Mammal"**

25 27600. For purposes of this title, "mammal" means any wild animal of the class
26 Mammalia as specified in Section 26705 or as specified in a regulation adopted
27 pursuant to Title 2, which affects commerce.

28 **Comment.** Section 27600 continues former Fish and Game Code Section 2200 without
29 substantive change.

30 **§ 27605. Animal Trust Fund**

31 27605. The Animal Trust Fund is hereby established in the State Treasury. Upon
32 appropriation by the Legislature, the money in the fund is available to the
33 department for the administration of this title and to make grants pursuant to
34 Section 27615. The department may use not more than 5 percent of the money in
35 the fund for the costs of administering this title.

36 **Comment.** Section 27605 continues former Fish and Game Code Section 2201 without
37 substantive change.

1 **§ 27610. Grants and donations**

2 27610. The department may seek grants and accept donations from private and
3 public organizations and agencies for the purposes of this chapter for deposit in
4 the Animal Trust Fund.

5 **Comment.** Section 27610 continues former Fish and Game Code Section 2202 without
6 substantive change.

7 **§ 27615. Regulations relating to grant program**

8 27615. (a) The director, with the advice of the committee established pursuant to
9 Section 27220, shall adopt regulations to establish and administer a grant program,
10 including eligibility criteria, by which persons or governmental agencies who
11 operate facilities to care and shelter mammals may apply for grants for
12 maintenance, operations, and capital improvements. The program shall include
13 provisions for emergency grants with an expedited review process.

14 (b) Each member of the committee who is eligible to receive per diem and
15 mileage shall be allowed per diem and mileage in accordance with the rules of the
16 Department of Human Resources for attending any meeting of the committee
17 involving this title.

18 **Comment.** Section 27615 continues former Fish and Game Code Section 2203 without
19 substantive change.

20 **TITLE 7. MISCELLANEOUS PROVISIONS**

21 **§ 27700. Prohibited release of wild animal**

22 27700. It is unlawful for any person who keeps in confinement, with or without
23 a permit, any wild animal of a species listed in or designated pursuant to Sections
24 26700 through 26730, inclusive, to liberate, ship, or transport the animal except in
25 accordance with the conditions of a permit first obtained from the department.

26 **Comment.** Section 27700 continues former Fish and Game Code Section 2190 without
27 substantive change.

28 **§ 27705. Civil action to recover costs**

29 27705. When a wild animal enumerated in or designated pursuant to Section 671
30 of Title 14 of the California Code of Regulations is properly confiscated by the
31 department, the new custodian with whom the animal is placed by the department
32 may bring a civil action to recover the reasonable costs incurred by the custodian
33 for any necessary relocation of the animal to a new facility, any actual and
34 necessary costs to construct new caging to house the animal, and any actual and
35 necessary costs to return the animal to a healthy state, to the extent that the
36 department or new custodian has not already collected the costs pursuant to
37 Section 27015. The prior owner or possessor from whom the animal was
38 confiscated shall be liable for these costs only if the conditions that led to the

1 animal's confiscation were the result of acts or omissions of the prior owner or
2 possessor.

3 **Comment.** Section 27705 continues former Fish and Game Code Section 2195 without
4 substantive change.

5 **§ 27710. Regulations relating to caging standards**

6 27710. Notwithstanding Part 2.5 (commencing with Section 18900) of Division
7 13 of the Health and Safety Code, Section 11356 of the Government Code, or any
8 other provision of law, regulations of the commission relating to the construction,
9 fixtures, and other minimum caging standards adopted by the commission for the
10 confinement of live wild animals pursuant to this part are not building standards
11 subject to the approval of the State Building Standards Commission.

12 **Comment.** Section 27710 continues former Fish and Game Code Section 2192 without
13 substantive change.

14 **PART 7. IMPORTATION AND TRANSPORTATION OF LIVE PLANTS**
15 **AND ANIMALS**

16 **TITLE 1. BIRDS**

17 **§ 28000. Prohibition against transport of specified live birds**

18 28000. Except as otherwise provided, it is unlawful for any common carrier to
19 transport any live protected nongame bird or any live resident or migratory game
20 bird for which there is no open season.

21 **Comment.** Section 28000 continues former Fish and Game Code Section 2225 without
22 substantive change.

23 **TITLE 2. AQUATIC PLANTS AND ANIMALS**

24 **§ 28100. Potentially diseased plants or animals**

25 28100. It is unlawful for any person to receive, bring, or cause to be brought into
26 this state, for the purpose of propagation, any fish, reptile, amphibian, or aquatic
27 plant from any place wherein any infected, diseased, or parasitized fish, reptile,
28 amphibian, or aquatic plants are known to exist.

29 **Comment.** Section 28100 continues former Fish and Game Code Section 2270 without
30 substantive change.

31 See also Section 5262 (enforcement).

32 **§ 28105. Aquaculture exception**

33 28105. Section 28100 does not apply to the importation of live aquatic plants or
34 animals for aquaculture purposes by a registered aquaculturist if the importation
35 has been approved by the department pursuant to Sections 24705 and 24710.

1 **Comment.** Section 28105 continues former Fish and Game Code Section 2270.5 without
2 substantive change.

3 **§ 28110. Approval from department required for importation**

4 28110. (a) No live aquatic plant or animal may be imported into this state
5 without the prior written approval of the department pursuant to regulations
6 adopted by the commission.

7 (b) A written application for the importation, submitted in conformance with the
8 procedural requirements established by the commission, is deemed approved
9 where it has not been denied within 60 days.

10 (c) This section does not apply to the following plants or animals unless the
11 plants or animals are or may be placed in waters of the state:

12 (1) Mollusks.

13 (2) Crustaceans.

14 (3) Ornamental marine or freshwater plants and animals that are not utilized for
15 human consumption or bait purposes and are maintained in closed systems for
16 personal, pet industry, or hobby purposes.

17 (d) The section does not apply to any live aquatic plant or animal imported by a
18 registered aquaculturist.

19 **Comment.** Section 28110 continues former Fish and Game Code Section 2271 without
20 substantive change.

21 See also Section 5264 (enforcement).

22 **§ 28115. Packaging**

23 28115. Each package containing any live aquatic plant or animal shall bear, in a
24 conspicuous place, a tag on which shall be stated the name and address of the
25 consignor, the name and address of the consignee, and the exact contents of the
26 package.

27 **Comment.** Section 28115 continues former Fish and Game Code Section 2272 without
28 substantive change.

1 reptiles, or amphibians that may legally be taken and possessed by that person
2 during that interval.

3 **Comment.** Subdivision (a) of Section 28405 continues former Fish and Game Code Section
4 2346 without substantive change.

5 Subdivision (b) continues former Fish and Game Code Section 2347 without substantive
6 change.

7 **§ 28410. Marking on packaging containing animal**

8 28410. (a) The outside of a package offered to or received by a common carrier
9 or the carrier's agent for transportation, or transported by a common carrier or
10 agent, that contains a bird, mammal, fish, reptile, or amphibian, shall clearly and
11 conspicuously indicate the following:

12 (1) The name and address of the shipper.

13 (2) The name and address of the consignee.

14 (3) The number and kind of bird, mammal, fish, reptile, and amphibian
15 contained in the package.

16 (b) Licensed commercial fishermen and licensed commercial fish dealers are
17 subject to all of the provisions of this section, except that commercial shipments of
18 fish may be indicated by total net weight of each species instead of by numbers.

19 **Comment.** Section 28410 continues former Fish and Game Code Section 2348 without
20 substantive change.

21 **§ 28415. Parcel post generally prohibited**

22 28415. No bird, mammal, fish, reptile, or amphibian, except smoked, cured, or
23 dried fish other than trout, may be shipped by parcel post.

24 **Comment.** Section 28415 continues former Fish and Game Code Section 2349 without
25 substantive change.

26 **§ 28420. Transport of specified birds**

27 28420. Except as permitted by this code, it is unlawful for any common carrier
28 to transport any protected nongame bird, or to transport any resident or migratory
29 game bird for which there is no open season.

30 **Comment.** Section 28420 continues former Fish and Game Code Section 2352 without
31 substantive change.

32 **§ 28425. Requirements for importation or possession**

33 28425. (a) Birds, mammals, fish, reptiles, or amphibians shall not be imported or
34 possessed in this state unless all of the following requirements are met:

35 (1) The animals were legally taken and legally possessed outside of this state.

36 (2) This code and regulations adopted pursuant thereto do not expressly prohibit
37 their possession in this state.

38 (3) A declaration is submitted to the department or a designated state or federal
39 agency at or immediately before the time of entry, in the form and manner
40 prescribed by the department.

1 (b) Birds, mammals, fish, reptiles, or amphibians legally taken and legally
2 possessed outside of this state may be imported into this state and possessed
3 without a declaration if the shipment is handled by a common carrier under a bill
4 of lading or as supplies carried into this state by common carriers for use as food
5 for the passengers.

6 (c) The commission and the department shall not modify this section by any
7 regulation that would prohibit the importation of lawfully killed migratory game
8 birds taken in any other state or country and transported into this state pursuant to
9 the migratory bird regulations adopted annually by the Secretary of the Interior.

10 **Comment.** Section 28425 continues former Fish and Game Code Section 2353 without
11 substantive change.

12 TITLE 2. DEAD DOMESTICATED BIRDS AND MAMMALS

13 **§ 28500. Transport by common carrier**

14 28500. (a) A common carrier may transport the carcass of a dead domesticated
15 game bird or mammal tagged with a domesticated game breeder's tag as provided
16 in Title 1 (commencing with Section 26000) of Part 4.

17 (b) A tag or label shall be affixed to every package containing a carcass
18 transported pursuant to subdivision (a), which shall state all of the following:

19 (1) The name of the person to whom the game breeder's license was issued.

20 (2) The name of the person who killed the game bird or mammal.

21 (3) The name of the person to whom the game bird or mammal is consigned.

22 (4) The name of the person who tagged the game bird or mammal.

23 (5) The number of carcasses or parts of carcasses contained in the package.

24 (6) That the game birds or mammals were killed and tagged in accordance with
25 the provisions of Title 1 (commencing with Section 26000) of Part 4.

26 **Comment.** Section 28500 continues former Fish and Game Code Section 2400 without
27 substantive change.

28 **§ 28505. Domesticated game birds raised outside state**

29 28505. (a) Notwithstanding the provisions of Section 26035, the carcasses or
30 parts of domesticated game birds that have been raised outside of this state may be
31 imported into this state, and transported, sold, or possessed in this state.

32 (b) A common carrier may receive and transport carcasses or parts of game
33 birds described in subdivision (a) at any time. A label shall be affixed to every
34 package containing those carcasses or parts with the following plainly written or
35 printed on the label:

36 (1) The names and addresses of the consignor and consignee.

37 (2) The number and kinds of carcasses or parts.

38 (3) A statement that the contents are carcasses or parts of domesticated game
39 birds raised outside this State.

1 **Comment.** Section 28505 continues former Fish and Game Code Section 2401 without
2 substantive change.

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

7 PART 10. PROHIBITED SALE AND POSSESSION FOR SALE

8 TITLE 1. POSSESSION IN EATING 9 ESTABLISHMENT

10 **§ 28600. Prohibition**

11 28600. (a) Except as otherwise provided in this section, it is unlawful to possess
12 a bird, mammal, fish, amphibian, or reptile, that may not be legally sold, in a
13 restaurant or other eating establishment.

14 (b) This section does not apply to any of the following:

15 (1) A person who lawfully took or otherwise legally possessed the bird,
16 mammal, fish, or amphibian.

17 (2) A person preparing the bird, mammal, fish, amphibian, or reptile for
18 consumption by the person who lawfully took or possessed it, or by that person
19 and others, if the person who took or possessed it is present on the premises.

20 (3) A bird, mammal, fish, amphibian, or reptile tagged with a signed statement
21 of the person who took the bird, mammal, fish, amphibian, or reptile, stating that
22 person’s name and address, the date taken, and the total number and kind taken.

23 **Comment.** Section 28600 continues former Fish and Game Code Section 2015 without
24 substantive change.

25 TITLE 2. IVORY AND RHINOCEROS HORNS

26 **§ 28650. Definitions**

27 28650. For the purposes of this part, the following terms have the following
28 meanings:

29 (a) “Bona fide educational or scientific institution” means an institution that
30 establishes through documentation either of the following:

31 (1) Educational or scientific tax exemption, from the federal Internal Revenue
32 Service or the institution’s national, state, or local tax authority.

33 (2) Accreditation as an educational or scientific institution, from a qualified
34 national, regional, state, or local authority for the institution’s location.

35 (b) “Ivory” means a tooth or tusk from a species of elephant, hippopotamus,
36 mammoth, mastodon, walrus, warthog, whale, or narwhal, or a piece thereof,
37 whether raw ivory or worked ivory, and includes a product containing, or
38 advertised as containing, ivory.

1 (c) “Rhinoceros horn” means the horn, or a piece thereof, or a derivative such as
2 powder, of a species of rhinoceros, and includes a product containing, or
3 advertised as containing, a rhinoceros horn.

4 (d) “Sale” or “sell” means selling, trading, bartering for monetary or
5 nonmonetary consideration, giving away in conjunction with a commercial
6 transaction, or giving away at a location where a commercial transaction occurred
7 at least once during the same or the previous calendar year.

8 (e) “Total value” means either the fair market value or the actual price paid for
9 ivory or rhinoceros horn, whichever is greater.

10 **Comment.** Section 28650 continues former Fish and Game Code Section 2022(a) without
11 substantive change.

12 **§ 28655. Prohibition**

13 28655. (a) Except as provided in subdivision (b), it is unlawful to purchase, sell,
14 offer for sale, possess with intent to sell, or import with intent to sell ivory or
15 rhinoceros horn.

16 (b) The prohibitions set forth in subdivision (a) do not apply to any of the
17 following:

18 (1) An employee or agent of the federal or state government undertaking a law
19 enforcement activity pursuant to federal or state law, or a mandatory duty required
20 by federal law.

21 (2) An activity that is authorized by an exemption or permit under federal law or
22 that is otherwise expressly authorized under federal law.

23 (3) Ivory or rhinoceros horn that is part of a musical instrument, including, but
24 not limited to, a string or wind instrument or piano, and that is less than 20 percent
25 by volume of the instrument, if the owner or seller provides historical
26 documentation demonstrating provenance and showing the item was manufactured
27 no later than 1975.

28 (4) Ivory or rhinoceros horn that is part of a bona fide antique and that is less
29 than five percent by volume of the antique, if the antique status is established by
30 the owner or seller of the antique with historical documentation demonstrating
31 provenance and showing the antique to be not less than 100 years old.

32 (5) The purchase, sale, offer for sale, possession with intent to sell, or
33 importation with intent to sell ivory or rhinoceros horn for educational or scientific
34 purposes by a bona fide educational or scientific institution if both of the
35 following criteria are satisfied:

36 (A) The purchase, sale, offer for sale, possession with intent to sell, or import
37 with intent to sell the ivory or rhinoceros horn is not prohibited by federal law.

38 (B) The ivory or rhinoceros horn was legally acquired before January 1, 1991,
39 and was not subsequently transferred from one person to another for financial gain
40 or profit after July 1, 2016.

41 **Comment.** Section 28655 continues former Fish and Game Code Section 2022(b) and (c)
42 without substantive change.

1 See also Sections 5300-5308 (enforcement).

2 **§ 28660. Prima facie evidence**

3 28660. Possession of ivory or rhinoceros horn in a retail or wholesale outlet
4 commonly used for the buying or selling of similar items is prima facie evidence
5 of possession with intent to sell. This evidence does not preclude a finding of
6 intent to sell based on any other evidence that may serve to establish that intent
7 independently or in conjunction with this evidence.

8 **Comment.** Section 28660 continues former Fish and Game Code Section 2022(d) without
9 substantive change.

10 TITLE 3. SALE OR PURCHASE OF BIRD OR
11 MAMMAL FOUND IN WILD

12 **§ 28750. Prohibition**

13 28750. (a) Except as otherwise provided in this section, Section 10830, Section
14 34410, another provision of this code, or a regulation adopted pursuant to this
15 code, it is unlawful to sell or purchase a bird or mammal found in the wild in
16 California.

17 (b) Products or handicraft items made from furbearing mammals and nongame
18 mammals lawfully taken under the authority of a trapping license may be
19 purchased or sold at any time.

20 (c) Shed antlers, or antlers taken from domestically reared animals that have
21 been manufactured into products or handicraft items, or that have been cut into
22 blocks or units that are to be handcrafted or manufactured into those articles, may
23 be purchased or sold at any time. However, complete antlers, whole heads with
24 antlers, antlers that are mounted for display, or antlers in velvet, may not be sold
25 or purchased at any time, except as authorized by Section 10830.

26 (d) Notwithstanding Section 28910, inedible parts of domestically raised game
27 birds may be sold or purchased at any time.

28 (e) A person who illegally takes a bird or mammal for profit or for personal gain
29 by engaging in an activity authorized by this section is subject to civil liability
30 pursuant to Section 4482.

31 **Comment.** Section 28750 continues former Fish and Game Code Section 3039 without
32 substantive change.

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DIVISION 8. BIRDS

PART 1. GENERAL PROVISIONS

§ 28900. Governance by other provisions

28900. Animals governed by this division are also governed by other provisions of this code, including but not limited to Divisions 6 (commencing with Section 8000) and 7 (commencing with Section 23300).

Comment. Section 28900 is new. It is added for drafting convenience.

§ 28905. Bird nest or eggs

28905. It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as provided by this code or any regulation adopted pursuant to this code.

Comment. Section 28905 continues former Fish and Game Code Section 3503 without substantive change.

See also Section 5310 (enforcement).

§ 28910. Sale or purchase of game or nongame bird

28910. Subject to the provisions of this code permitting the sale of domestically raised game birds, it is unlawful to sell or purchase a game bird or nongame bird.

Comment. Section 28910 continues former Fish and Game Code Section 3504 without substantive change.

§ 28915. Control of birds unduly preying on other animals

28915. The department may take any individual bird, or birds of any species, that, in its opinion, are unduly preying upon any species of bird, mammal, reptile, amphibian, or fish.

Comment. Section 28915 continues former Fish and Game Code Section 3803 without substantive change.

PART 2. DISEASE CONTROL

TITLE 1. GENERAL PROVISIONS [RESERVED]

TITLE 2. AVIAN INFLUENZA WILDLIFE
SURVEILLANCE ACT

§ 29050. Name of act

29050. This title shall be known, and may be cited, as the Avian Influenza Wildlife Surveillance Act.

1 **Comment.** Section 29050 continues former Fish and Game Code Section 3860 without
2 substantive change.

3 **§ 29055. Findings and declarations**

4 29055. The Legislature finds and declares all of the following:

5 (a) Avian influenza and other emerging diseases of wildlife are a serious threat
6 to the people of California.

7 (b) California is home to large populations of migratory birds and other wildlife
8 species.

9 (c) California is a central part of the Pacific Flyway, and a seasonal home to
10 species of birds that migrate to and from Asia, Central America, South America,
11 and other regions.

12 (d) Surveillance of wild birds and animals across the state is a key element
13 among efforts to prevent avian influenza and other emerging wildlife diseases
14 from harming the people and the natural resources of the state.

15 (e) In the interest of public health, the state shall support a surveillance program
16 for avian influenza in wild bird and animal populations.

17 **Comment.** Section 29055 continues former Fish and Game Code Section 3861 without
18 substantive change.

19 **§ 29060. Consultation among agencies to develop plan**

20 29060. The Natural Resources Agency, in consultation with the department, the
21 Department of Food and Agriculture, the State Department of Public Health, the
22 Office of Emergency Services, and the University of California, shall develop and
23 implement a plan for the surveillance, monitoring, sampling, diagnostic testing,
24 and reporting of avian influenza in wild birds and animals in the state. The Natural
25 Resources Agency shall consult with the United States Fish and Wildlife Service
26 and the United States Department of Food and Agriculture in developing the plan.

27 **Comment.** Section 29060 continues former Fish and Game Code Section 3862 without
28 substantive change.

29 **§ 29065. Avian Influenza Working Group**

30 29065. (a) The Secretary of the Natural Resources Agency shall formally
31 establish the Avian Influenza Working Group to assist in the development of the
32 plan described in Section 29060. The Avian Influenza Working Group shall
33 utilize, as guidance for early detection, the national protocol that has been
34 developed to guide states in developing state-specific plans, known as the Early
35 Detection System for Asian H5N1 Highly Pathogenic Avian Influenza in Wild
36 Migratory Birds. The Avian Influenza Working Group shall also continue,
37 enhance, and facilitate the work already begun by the department, other state
38 departments, and the University of California, to coordinate communication of
39 information and response plans for highly pathogenic avian influenza in wild
40 birds.

1 (b) The Avian Influenza Working Group shall be composed of all of the
2 following members:

3 (1) The Secretary of the Natural Resources Agency, or a designee.

4 (2) The director, or a designee.

5 (3) The Secretary of Food and Agriculture, or a designee.

6 (4) The State Public Health Officer, or a designee.

7 (5) The Director of Emergency Services, or a designee.

8 (6) One representative appointed by the Regents of the University of California.

9 (7) Two representatives from a qualified research organization or other qualified
10 nongovernmental organization appointed by the Secretary of the Natural
11 Resources Agency.

12 (c) The director shall chair the Avian Influenza Working Group.

13 (d) A majority of the Avian Influenza Working Group shall constitute a quorum
14 for the transaction of business.

15 (e) The duties of the Avian Influenza Working Group shall include all of the
16 following:

17 (1) Developing strategies for the detection of, and response to, the avian
18 influenza virus in wild birds in California.

19 (2) Fostering communication among state and federal agencies regarding the
20 avian influenza surveillance program.

21 (3) Developing strategies for public outreach and education.

22 (f) The Avian Influenza Working Group may consult with other public and
23 nonprofit groups potentially affected by avian influenza in wild birds.

24 **Comment.** Section 29065 continues former Fish and Game Code Section 3863 without
25 substantive change.

26 PART 3. CLASSES OF BIRDS

27 TITLE 1. MIGRATORY BIRDS

28 § 29200. Taking

29 29200. Migratory game birds may be taken in conformity with federal laws and
30 regulations and the regulations of the commission adopted pursuant to this title.

31 **Comment.** Section 29200 restates the first paragraph of former Fish and Game Code Section
32 356 without substantive change.

33 **Note.** Proposed Section 29200 is intended to restate the first paragraph of existing Section
34 356, to clarify its meaning without changing its substantive effect. The existing provision reads as
35 follows:

36 Migratory game birds may be taken in conformity with the federal laws and regulations and the
37 regulations of the commission as provided in Section 355.

38 The cross-reference to regulations of the Commission “as provided in Section 355” has been
39 updated to refer to Commission regulations adopted pursuant to the title in which Section 355

1 appears. This would include regulations adopted pursuant to the second paragraph of existing
2 Section 356 (proposed Section 29215), which also governs the take of migratory game birds.

3 **The Commission invites comment on whether this revision is appropriate.**

4 **§ 29205. License to permit feeding**

5 29205. (a) In order to aid in relieving widespread waterfowl depredation of
6 agricultural crops, the department may issue licenses under regulations which the
7 commission may adopt to permit the feeding of migratory game birds.

8 (b) The commission may prescribe an annual fee for the license.

9 **Comment.** Section 29205 continues former Fish and Game Code Section 3806 without
10 substantive change.

11 **§ 29210. Commission regulations relating to Migratory Bird Treaty Act**

12 29210. (a) The commission may annually adopt regulations pertaining to
13 migratory birds to conform with or to further restrict the rules and regulations
14 prescribed pursuant to the Migratory Bird Treaty Act.

15 (b) Regulations adopted pursuant to this section are not subject to Sections
16 11343.4, 11346.1, 11346.4, and 11346.8 of the Government Code.

17 **Comment.** Section 29210 continues the first and second paragraphs of former Fish and Game
18 Code Section 355 without substantive change.

19 **§ 29215. Commission regulation in the absence of federal regulation**

20 29215. In the event no regulations are prescribed by the proper federal agency,
21 the commission may determine and fix the area or areas, the seasons and hours,
22 the species, the bag and possession limits, and the total number that may be taken
23 during any open season for the taking of migratory game birds, under such rules
24 and regulations as the commission may adopt. Such rules and regulations as the
25 Commission may adopt shall have the same effect as if enacted by the Legislature.

26 **Comment.** Section 29215 continues the second paragraph of former Fish and Game Code
27 Section 356 without substantive change.

28 **Notes.** (1) The meaning of “such rules and regulations” in the last sentence of this section is
29 unclear. Does it include only those regulations adopted pursuant to existing Section 356? Or does
30 it also include regulations adopted pursuant to existing Section 355?

31 **The Commission invites comment on the issue.**

32 (2) Once the meaning of “such rules and regulations” is clarified, the reference to “rules” will
33 be deleted as redundant. The Commission sees no authority for it to adopt “rules” that are not
34 “regulations.” See also Gov’t Code § 11340.5 (barring “rules” that are not properly promulgated
35 regulations). The Commission will also delete the word “such” and replace it with suitable
36 alternatives.

37 (3) The intended effect of the last sentence of existing Section 356 is also unclear. Is the
38 provision intended to delegate lawmaking power to the Fish and Game Commission, pursuant to
39 Article 4, Section 20 of the California Constitution? That provision states that “The Legislature
40 may delegate to the commission such powers relating to the protection and propagation of fish
41 and game as the Legislature sees fit.” Given the unusual nature of this provision in Section 356,
42 and its possible validation by the California Constitution, the Commission is reluctant to disturb
43 the statutory language (except perhaps to clarify its scope).

1 **Nonetheless, comment on the meaning and effect of the provision would be helpful.**

2 **§ 29220. Effective date of regulation**

3 29220. Every regulation of the commission adopted pursuant to this title shall
4 become effective upon filing unless otherwise specified in the regulation.

5 **Comment.** Section 29220 continues the third paragraph of former Fish and Game Code
6 Section 355 without substantive change.

7  **Note.** The requirement that every regulation of the Commission adopted pursuant to the
8 article containing existing Section 355 be filed with the Secretary of State is deleted as
9 superfluous. See existing Government Code Section 11343.

10 **§ 29225. President as ex officio member of Migratory Bird Conservation Commission**

11 29225. The president of the commission may be a member ex officio of the
12 Migratory Bird Conservation Commission created by the act of Congress known
13 as the “Migratory Bird Conservation Act.”

14 **Comment.** Section 29225 continues former Fish and Game Code Section 357 without
15 substantive change.

16 **TITLE 2. GAME BIRDS**

17 **CHAPTER 1. GENERAL PROVISIONS**

18 **§ 29350. Use of mammal**

19 29350. It is unlawful to use any mammal (except a dog) or an imitation of a
20 mammal as a blind in approaching or taking a game bird.

21 **Comment.** Section 29350 continues former Fish and Game Code Section 3502 without
22 substantive change.

23  **Note.** The provision above appears to govern the use of an animal (or imitation animal) as a
24 “blind” for taking game birds. The Commission is familiar with hunting blinds that are used to
25 conceal hunters and their dogs from their prey, but has not found information discussing using an
26 animal *as* a blind. Is the meaning of this usage understood in the hunting community, or is the
27 provision worded in a confusing way?

28 **The Commission invites comment on the issue.**

29 **§ 29355. Use of vehicle**

30 29355. It is unlawful to use a powerboat, motor vehicle, or airplane to drive a
31 game bird toward another person, with the intent that the other person take the
32 bird.

33 **Comment.** Section 29355 continues former Fish and Game Code Section 3501 without
34 substantive change.

1 § 29360. Use of dog during closed season

2 29360. It is unlawful to break, train, hold field trials with, or practice dogs on
3 any wild game bird or domesticated game bird during the closed season for that
4 bird, except as authorized by the commission.

5 **Comment.** Section 29360 continues former Fish and Game Code Section 3508 without
6 substantive change.

7 **Note.** The terms “wild game bird” and “domesticated game bird” are not defined in the
8 existing Fish and Game Code.

9 **Do these two terms together comprise the entire universe of game birds, such that the**
10 **language of proposed Section 29360 could be made applicable to any “game bird”?**

11 § 29365. Game bird club license

12 29365. In order to provide additional hunting by stocking domestically
13 propagated game birds, and to permit the taking of game birds under conditions
14 that will not conflict with the public interest, any person who owns or controls the
15 hunting rights on a tract of land may apply to the department for a game bird club
16 license authorizing the taking of game birds upon that land in accordance with the
17 regulations of the commission for the administration, including the
18 implementation and enforcement, of this section.

19 **Comment.** Section 29365 continues former Fish and Game Code Section 3270(a) without
20 substantive change.

21 **Note.** Existing Section 3270(b), identifying the operative date of the section as July 1, 1995,
22 is deleted as obsolete.

23 § 29370. Waste

24 29370. No person shall through carelessness or neglect allow any game bird that
25 is in the person’s possession, or any portion of the flesh of a game bird usually
26 eaten by humans, to go needlessly to waste.

27 **Comment.** Section 29370 restates the part of the first sentence of former Fish and Game Code
28 Section 4304 applicable to game birds without substantive change.

29 See also Section 5450 (enforcement).

30 **Note.** Proposed Section 29370 is intended to restate the part of the first sentence of existing
31 Section 4304 applicable to game birds, to clarify the meaning of that provision without changing
32 its substantive effect. The existing provision reads as follows:

33 [N]or shall any person at any time leave through carelessness or neglect any game mammal or
34 game bird which is in his possession, or any portion of the flesh thereof usually eaten by humans,
35 to go needlessly to waste.

36 **The Commission invites comment on whether the proposed restatement would cause any**
37 **substantive change in the meaning of these provisions.**

38 § 29375. Transport out of state

39 29375. It is unlawful to transport or carry a game bird out of this state, except by
40 the holder of a nonresident hunting license or under a written permit issued by the
41 department.

1 (d) Funds deposited in the Upland Game Bird Account shall be available for
2 expenditure upon appropriation by the Legislature to the department.

3 (e) The department shall post budget information and a brief description on its
4 Internet Web site for all projects funded from the Upland Game Bird Account.

5 **Comment.** Subdivision (a) of Section 29515 continues former Fish and Game Code Section
6 3684(a) without substantive change.

7 Subdivision (b) continues former Fish and Game Code Section 3684(b) without substantive
8 change.

9 Subdivision (c) continues former Fish and Game Code Section 3684(g) without substantive
10 change.

11 Subdivision (d) continues the first sentence of former Fish and Game Code Section 3684(c)
12 without substantive change.

13 Subdivision (e) continues the second sentence of former Fish and Game Code Section 3684(e)
14 without substantive change.

15 **§ 29520. Use of funds**

16 29520. (a) Funds deposited in the Upland Game Bird Account shall be expended
17 solely for the purpose of acquiring land, completing projects and implementing
18 programs to benefit upland game bird species, and expanding public hunting
19 opportunities and related public outreach, including, but not limited to, enhancing
20 upland game bird habitat.

21 (b) Notwithstanding subdivision (a), the department may also use funds from the
22 Upland Game Bird Account to pay for administrative and enforcement costs of the
23 programs and activities described in this section. The amount allocated from the
24 account for administrative costs shall be limited to the reasonable costs associated
25 with administration of the programs and activities described in this section.

26 (c) Projects authorized pursuant to this section are governed by Section 54555.

27 **Comment.** Subdivision (a) of Section 29520 continues the second sentence of former Fish and
28 Game Code Section 3684(c) without substantive change.

29 Subdivision (b) continues the fourth and fifth sentences of former Fish and Game Code Section
30 3684(c) without substantive change.

31 Subdivision (c) continues the first sentence of former Fish and Game Code Section 3686
32 without substantive change.

33 **§ 29525. Acquired land**

34 29525. Any land acquired with funds from the Upland Game Bird Account shall
35 be acquired in fee title or protected with a conservation easement and, to the extent
36 possible, be open or provide access to the public for upland game bird hunting.

37 **Comment.** Section 29525 continues the third sentence of former Fish and Game Code Section
38 3684(c) without substantive change.

39 **§ 29530. Involvement with nonprofit organization**

40 29530. (a) The department may make a grant to, reimburse, or enter into a
41 contract or other agreement as defined in subdivision (a) of Section 56205 with, a
42 nonprofit organization for the use of the funds from the Upland Game Bird

1 Account to carry out the purposes of Section 29515, 29520, 29525, 29535, or
2 29540, including related habitat conservation projects.

3 (b) With the approval of the entity in control of property affected by a project,
4 the department may make a grant to, or enter into a contract with, a nonprofit
5 organization for the accomplishment of the project.

6 **Comment.** Subdivision (a) of Section 29530 continues former Fish and Game Code Section
7 3684(d) without substantive change.

8 Subdivision (b) continues the first portion of the second sentence of former Fish and Game
9 Code Section 3686 without substantive change.

10 **§ 29535. Reimbursement**

11 29535. If a project affects property, the department may reimburse the entity in
12 control of the property for its costs of accomplishing the project.

13 **Comment.** Section 29535 restates the last clause of the second sentence of former Fish and
14 Game Code Section 3686 without substantive change.

15 **Note.** Proposed Section 29535 is intended to restate the last clause of the second sentence of
16 existing Section 3686 without changing its substantive effect. The part of the sentence that is
17 restated is italicized below, and reads as follows:

18 With the approval of the entity in control of property affected by a project, the department may
19 make grants to, or enter into contracts with, nonprofit organizations for the accomplishment of
20 those projects, *or the department may reimburse the controlling entity for its costs of*
21 *accomplishing the project.*

22 **The Commission invites comment on whether the restatement substantively changes the**
23 **italicized provision.**

24 **§ 29540. Review by advisory committee**

25 29540. An advisory committee, as determined by the department, that includes
26 interested nonprofit organizations that have goals and objectives directly related to
27 the management and conservation of game bird species and primarily represent the
28 interests of persons licensed pursuant to Section 10210 shall review and provide
29 comments to the department on all proposed projects funded from the Upland
30 Game Bird Account to help ensure that the requirements of this section have been
31 met.

32 **Comment.** Section 29540 continues the first sentence of former Fish and Game Code Section
33 3684(e) without substantive change.

34 **§ 29545. Non-applicability of other statutory requirements**

35 29545. Upland game bird projects authorized pursuant to Section 29520 or
36 29530 are not subject to Part 2 (commencing with Section 10100) of Division 2 of
37 the Public Contract Code or Article 6 (commencing with Section 999) of Chapter
38 6 of Division 4 of the Military and Veterans Code.

39 **Comment.** Section 29545 continues former Fish and Game Code Section 3684(f) without
40 substantive change.

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CHAPTER 3. RESIDENT GAME BIRDS

§ 29650. Regulations

29650. The commission may adopt regulations it deems necessary to govern the inspection of resident game birds imported into this state.

Comment. Section 29650 continues the second paragraph of former Fish and Game Code Section 3516 without substantive change.

CHAPTER 4. EXOTIC NONRESIDENT GAME BIRDS

§ 29700. Regulations

29700. The commission may adopt regulations it deems necessary to govern the release, taking, and possession of exotic nonresident game birds.

Comment. Section 29700 continues the first paragraph of former Fish and Game Code Section 3516 without substantive change.

§ 29705. Release

29705. An exotic nonresident game bird may be released in this state only on prior approval of the commission.

Comment. Section 29705 continues former Fish and Game Code Section 3515 without substantive change.

TITLE 3. NONGAME BIRDS

CHAPTER 1. GENERAL PROVISIONS *[RESERVED]*

CHAPTER 2. TAKING AND POSSESSION

§ 29850. Taking nongame bird

29850. It is unlawful to take any nongame bird except as provided in this code or in accordance with regulations of the commission or, when relating to mining operations, a mitigation plan approved by the department pursuant to Title 2 (commencing with Section 71500) of Part 5 of Division 17.

Comment. Section 29850 continues the second sentence of former Fish and Game Code Section 3800(a) without substantive change.

See also Section 5340 (enforcement).

 **Note.** The law governing mining mitigation plans has been relocated. A cross-reference to that law has been added to proposed Section 29850.

§ 29855. Taking or possession of migratory nongame bird

29855. It is unlawful to take or possess any migratory nongame bird as designated in the Migratory Bird Treaty Act, except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of that act.

1 **§ 30010. Salvaging of nongame birds**

2 30010. A Native American satisfying the criteria that would constitute an
3 affirmative defense under Section 30005 may salvage a dead nongame bird, if all
4 of the following conditions are satisfied:

5 (a) The person does not possess, nor is in the company of any person who
6 possesses, a firearm, BB device as defined in Section 16250 of the Penal Code,
7 trap, snare, net archery equipment, device capable of discharging a projectile, or
8 any apparatus designed to take a bird.

9 (b) The person was not involved in nor present at the take of the nongame bird
10 to be salvaged, and had not received related information originating from any
11 person present at the time of the take of the nongame bird.

12 (c) The nongame bird salvaged had not been struck with any thrown or
13 discharged projectile, or trapped, netted, caught, or snared.

14 **Comment.** Subdivision (a) of Section 30010 restates the second, third, and fourth sentences of
15 former Fish and Game Code Section 3801.6(b)(2) without substantive change.

16 **Note.** Proposed Section 30010(a) is intended to restate the second, third, and fourth sentences
17 of existing Section 3801.6(b)(2) to improve their clarity, without changing their substantive
18 effect. The existing sentences read as follows:

19 Native Americans meeting the affirmative defense requirements may salvage dead nongame
20 birds so long as the person salvaging these birds does not possess, nor is in the company of any
21 person who possesses, a firearm, BB device as defined in Section 16250 of the Penal Code, trap,
22 snare, net archery equipment, device capable of discharging a projectile, or any apparatus
23 designed to take birds. Salvaging shall not take place by any person involved in the take of the
24 nongame bird to be salvaged, any person present at the time of the take, or by any person who
25 received related information originating from any person present at the time of the take of the
26 nongame bird. Salvaging pursuant to this subdivision shall not take place if a bird has been struck
27 with any thrown or discharged projectile, trapped, netted, caught, or snared.

28 **The Commission invites comment on whether the proposed restatement would cause any**
29 **substantive change in the meaning of these sentences.**

30 **§ 30015. Sale of parts of nongame bird**

31 30015. Nothing in this chapter allows any person to sell the feathers, carcass,
32 skin, or other part of a nongame bird.

33 **Comment.** Section 30015 continues the first sentence of former Fish and Game Code Section
34 3801.6(b)(2) without substantive change.

35 **TITLE 4. BIRDS OF PREY**

36 **§ 30100. Falconry registration and licensing**

37 30100. (a) The commission may adopt regulations for the possession or training,
38 and the capture, importation, exportation, or intrastate transfer, of any bird in the
39 orders Falconiformes and Strigiformes (birds-of-prey) used in the practice of
40 falconry and may authorize the issuance and provide for the revocation of licenses
41 and permits to persons for the practice of falconry.

1 (b) It is unlawful to capture, possess, or train any bird in the orders
2 Falconiformes and Strigiformes (birds-of-prey) in the practice of falconry without
3 procuring a falconry license.

4 **Comment.** Section 30100 continues former Fish and Game Code Section 395 without
5 substantive change.

6 **§ 30105. Falconry license**

7 30105. (a) The falconry license shall be valid for a license year beginning on
8 July 1, and ending on the last day of June of the next succeeding calendar year. If
9 issued after July 1 of any year, a falconry license is valid for the remainder of that
10 license year.

11 (b) For the license years beginning on or after March 1, 1987, the fee for a
12 falconry license is a base fee of thirty dollars (\$30) as adjusted under Section
13 3755.

14 (c) The base year for determining the inflationary index applied to the fee
15 established by subdivision (b) shall be the 1984–85 fiscal year.

16 **Comment.** Subdivisions (a) and (b) of Section 30105 continue former Fish and Game Code
17 Section 396 without substantive change.

18 Subdivision (c) continues the first clause of former Fish and Game Code Section 398 without
19 substantive change. The second clause of former Fish and Game Code Section 398, which applied
20 to a code section repealed in 2007, is obsolete and is not continued.

21 **§ 30110. Taking or possession**

22 30110. It is unlawful to take, possess, or destroy a bird in the order
23 Falconiformes or Strigiformes (birds-of-prey), or to take, possess, or destroy a nest
24 or egg of a bird in either of those orders, except as provided by this code or any
25 regulation adopted pursuant to this code.

26 **Comment.** Section 30110 continues former Fish and Game Code Section 3503.5 without
27 substantive change.

28 See also Section 5350 (enforcement).

29 **§ 30115. Cooperative contracts with the United States Fish and Wildlife Service**

30 30115. The department may enter into cooperative contracts with the United
31 States Fish and Wildlife Service in the Department of the Interior for the purpose
32 of controlling or eradicating any predatory bird, and may expend any money made
33 available to the department for that purpose.

34 **Comment.** Section 30115 restates former Fish and Game Code Section 3802 without
35 substantive change.

36 **Note.** Proposed Section 30115 is intended to restate existing Fish and Game Code Section
37 3802 to improve its clarity, without changing its substantive effect. The existing provision reads
38 as follows:

39 3802. The department may enter into cooperative contracts with the United States Fish and
40 Wildlife Service in the Department of the Interior in relation to the control or eradication of
41 predatory birds, and for that purpose may expend any money made available to the department
42 for expenditure for the control or eradication of predatory birds.

1 **The Commission invites comment on whether the proposed restatement would cause any**
2 **substantive change in the meaning of the provisions.**

3 TITLE 5. FULLY PROTECTED BIRDS

4 **§ 30200. Take or possession prohibited**

5 30200. Except as provided in Article 1 (commencing with Section 63300) of
6 Chapter 4 of Title 3 of Part 1 of Division 17, Section 64605, or this title:

7 (a) A fully protected bird may not be taken or possessed at any time.

8 (b) No provision of this code or any other law shall be construed to authorize the
9 issuance of a permit or license to take a fully protected bird, and no issued permit
10 or license shall be construed to authorize the taking of a fully protected bird.

11 **Comment.** Section 30200 continues the first two sentences of former Fish and Game Code
12 Section 3511(a)(1) without substantive change.

13 See also Section 5320 (enforcement).

14 **§ 30205. Department research**

15 30205. (a) The department may authorize the taking of a fully protected bird for
16 necessary scientific research, including efforts to recover fully protected,
17 threatened, or endangered species, and may authorize the live capture and
18 relocation of a fully protected bird pursuant to a permit for the protection of
19 livestock.

20 (b) Before authorizing the take of a fully protected bird, the department shall
21 make an effort to notify all affected and interested parties to solicit information
22 and comments on the proposed authorization.

23 (c) The notice shall be published in the California Regulatory Notice Register
24 and shall be delivered to each person who has given the department written notice
25 of that person's interest in fully protected species and provided the department
26 either an e-mail or postal address.

27 (d) Affected and interested parties shall have 30 days after the notice is
28 published in the California Regulatory Notice Register to provide any relevant
29 information and comments on the proposed authorization.

30 (e) As used in this subdivision, "scientific research" does not include an action
31 taken as part of specified mitigation for a project, as defined in Section 21065 of
32 the Public Resources Code.

33 **Comment.** Section 30205 continues the third through the sixth sentences of former Fish and
34 Game Code Section 3511(a)(1), and former Fish and Game Code Section 3511(a)(2), without
35 substantive change.

36 **Note.** The term "project" is defined, for purposes of the entire Fish and Game Code, by
37 existing Section 711.2(a), as having "the same meaning as defined in Section 21065 of the Public
38 Resources Code." In the proposed law, that definitional provision will be added to the list of
39 generally applicable definitional provisions in Division 1 (but has not as yet been assigned a
40 section number).

1 **The Commission invites comment on whether or not that generally applicable definitional**
2 **provision should be cross-referenced in proposed Section 30205.**

3 **§ 30210. Possession of legally imported fully protected birds**

4 30210. A legally imported fully protected bird may be possessed under a permit
5 issued by the department.

6 **Comment.** Section 30210 continues former Fish and Game Code Section 3511(a)(3) without
7 substantive change.

8 **PART 4. SPECIFIC TYPES OF BIRDS**

9 **TITLE 1. BIRD OF PARADISE**

10 **§ 30300. Prohibited take, sale, or purchase**

11 30300. It is unlawful to take, sell, or purchase a bird of paradise.

12 **Comment.** Section 30300 continues the part of former Fish and Game Code Section 3505
13 applicable to birds of paradise without substantive change.

14 **TITLE 2. CONDORS**

15 **CHAPTER 1. GENERAL PROVISIONS**

16 **§ 30350. Fully protected bird**

17 30350. For the purposes of this code, a California condor is a fully protected
18 bird.

19 **Comment.** Section 30350 continues former Fish and Game Code Section 3511(b)(5) without
20 substantive change.

21 **§ 30355. Provisions not exclusive**

22 30355. The provisions of this title are not intended to be exclusive. Other
23 provisions that govern condor include, but are not limited to, the following
24 provisions:

25 (a) Section 10000.

26 (b) Section 10005.

27 (c) Section 10010.

28 (d) Section 10015.

29 (e) Section 10020.

30 (f) Section 10025.

31 (g) Section 10030.

32 (h) Section 55725.

33 **Comment.** Section 30355 is new. It is added for drafting convenience.

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CHAPTER 2. CONSERVATION

Article 1. California Condor Preservation Project

§ 30360. California condor preservation project

30360. The department may carry out a California condor preservation project which has the following objectives:

- (a) Habitat protection, consistent with the department’s existing legal authority.
- (b) Field research, including mortality studies.
- (c) Captive breeding program.
- (d) Condor release program.

Comment. Section 30360 continues former Fish and Game Code Section 3850 without substantive change.

§ 30365. Joint planning with federal authorities

30365. The department, jointly with the federal-state condor recovery team established pursuant to the federal Endangered Species Act shall develop a plan to respond to the objectives in Section 30360. Based on the plan, the department shall develop specific activities, studies, and programs to be administered by the department in the areas of habitat protection and field research. The department may contract for all or some of these activities, studies, and programs.

Comment. Section 30365 continues former Fish and Game Code Section 3851 without substantive change.

§ 30370. Breeding program

30370. The department shall provide funds to the Zoological Society of San Diego and to the Los Angeles Zoo for a condor breeding program on the grounds of each zoo.

Comment. Section 30370 continues former Fish and Game Code Section 3852 without substantive change.

§ 30375. Release program

30375. In addition to the programs in Section 30370, a condor release program administered by the department and the United States Fish and Wildlife Service may be contracted to the Zoological Society of San Diego and the Los Angeles Zoo.

Comment. Section 30375 continues former Fish and Game Code Section 3853 without substantive change.

§ 30380. Use of funds for administrative costs

30380. Not more than 10 percent of the funds provided to the zoos under this article may be used for administrative costs of the program.

1 **Comment.** Section 30380 continues former Fish and Game Code Section 3854 without
2 substantive change.

3 **§ 30385. Monitoring of programs**

4 30385. Both the breeding program and the release program, if authorized by the
5 department, shall meet criteria established by the department and shall be
6 monitored by the department. The zoos shall submit biannual reports to the
7 department that describe progress made in the breeding program and the release
8 program.

9 **Comment.** Section 30385 continues former Fish and Game Code Section 3855 without
10 substantive change.

11 **§ 30390. Report to Legislature**

12 30390. The department shall include copies of the biannual reports from the
13 zoos in the annual report to the Legislature on the status of listed species required
14 in Section 62525.

15 **Comment.** Section 30390 continues former Fish and Game Code Section 3856 without
16 substantive change.

17 **§ 30395. Department to seek funding**

18 30395. To the extent possible, the department shall seek private sector funding
19 and any federal funds that may be available to augment state funds for the
20 purposes of this article.

21 **Comment.** Section 30395 continues former Fish and Game Code Section 3857 without
22 substantive change.

23 Article 2. Northern California Condor Restoration Program

24 **30425. Take**

25 30425. (a) For purposes of this section, the term “Northern California Condor
26 Restoration Program” means the California condor restoration program in northern
27 California associated with the California Condor Recovery Plan published by the
28 United States Fish and Wildlife Service in April 1996, or a subsequent revision of
29 that plan.

30 (b) Notwithstanding Title 5 (commencing with Section 30200) of Part 3, if the
31 take of California condors under the Northern California Condor Restoration
32 Program is exempt from further authorization or approval under Part 1
33 (commencing with Section 62000) of Division 17 pursuant to Section 63550 or
34 63555, and the director finds the enhancement of survival permit described in
35 subdivision (a) of Section 63550 or federal regulations described in paragraph (1)
36 of subdivision (b) of Section 63555, as applicable, to be consistent with the
37 objectives and plans developed pursuant to this chapter, the take or possession of
38 California condors under the Northern California Condor Restoration Program

1 shall also be exempt from the prohibitions in Title 5 (commencing with Section
2 30200) of Part 3.

3 **Comment.** Section 30425 continues former Fish and Game Code Section 3858 without
4 substantive change.

5 **Note.** Proposed Section 30425 would continue Section 3858, which was amended by 2018
6 Cal. Stat. ch. 586. Although that bill will not take effect until 2019, it is included here in
7 anticipation of its effect.

8 TITLE 3. DUCK AND GOOSE

9 § 30500. Classification

10 30500. For the purposes of this code, a duck and a goose are both migratory
11 birds and game birds.

12 **Comment.** Section 30500 continues former Fish and Game Code Section 3500(b)(1) without
13 substantive change.

14 § 30505. Required validation

15 30505. It is unlawful for any person, except a person licensed pursuant to
16 paragraph (2) of subdivision (a) of Section 10210, to take a duck or goose without
17 obtaining and possessing at the time of taking a state duck hunting validation as
18 provided in Section 30515.

19 **Comment.** Section 30505 continues former Fish and Game Code Section 3700.1(a) without
20 substantive change.

21 See also Sections 4704, 5464 (enforcement).

22 **Note.** Existing Section 3700.1 applies to the taking of “any migratory game bird, except
23 jacksnipe, coots, gallinules, western mourning doves, white-winged doves, and band-tailed
24 pigeons.” Existing Section 3500(b) identifies the birds that constitute “migratory game birds,”
25 and excepting the birds listed in Section 3700.1, the only remaining migratory game birds are
26 ducks and geese. Based on this authority, the application of proposed Section 30505 has been
27 simplified to apply only to the taking of ducks and geese.

28 **The Commission invites comment on whether this simplification is appropriate.**

29 § 30510. Taking in District 2580 or 2585

30 30510. (a) In Districts 2580 and 2585, it is unlawful to take a duck or a goose
31 below the incoming or outgoing tidewater’s edge, or from any blind, boat, floating
32 device, island, islet, or exposed tidal flat, except as provided in subdivision (b).

33 (b) Subdivision (a) does not apply to either of the following:

34 (1) The taking of a duck or goose on a Saturday, Sunday, Wednesday, holiday,
35 or the opening or closing days of the prescribed open season.

36 (2) The retrieving of a crippled or dead duck or goose by use of a boat.

37 **Comment.** Section 30510 restates former Fish and Game Code Section 3681 without
38 substantive change.

39 **Note.** Proposed Section 30510 is intended to restate existing Section 3681 to improve its
40 clarity, without changing its substantive effect. The existing section reads as follows:

1 3681. In Districts 8 and 9, it is unlawful to take ducks or geese in any manner below the
2 incoming or outgoing tidewater's edge or from any blind, boat, floating device, island, islet, or
3 exposed tidal flat except on Saturdays, Sundays, Wednesdays, holidays and the opening and
4 closing days during the prescribed open season except that the use of boats is permitted to retrieve
5 crippled or dead birds.

6 **The Commission invites comment on whether the proposed restatement would cause any**
7 **substantive change in the meaning of the provision.**

8 **§ 30515. State duck hunting validation**

9 30515. A state duck hunting validation shall be sold for a fee of ten dollars (\$10)
10 by the department and by license agents, who are authorized by the department
11 pursuant to Section 3200, in the same manner as hunting licenses.

12 **Comment.** Section 30515 continues former Fish and Game Code Section 3700.1(b) without
13 substantive change.

14 **§ 30520. Collectible state duck stamp**

15 30520. (a) Upon full implementation of the Automated License Data System,
16 the department shall continue to prepare, or have prepared, state duck stamps
17 depicting migratory waterfowl.

18 (b) Any person who obtains a duck hunting validation pursuant to Section 30515
19 is entitled, upon request, to receive a state duck stamp, open edition, at no
20 additional charge.

21 (c) Any person may purchase a state duck stamp, open edition, for a fee of ten
22 dollars (\$10).

23 (d) A state duck stamp, Governor's edition, may be printed and sold on a bid
24 basis, beginning at a minimum bid, as determined by the department or its
25 representative.

26 (e) The commission shall determine the form of the state duck stamp.

27 (f) Possession of a state duck stamp obtained pursuant to this section does not
28 entitle the holder to take a duck or goose.

29 **Comment.** Section 30520 continues former Fish and Game Code Section 3700.2(a)-(f) without
30 substantive change.

31 **§ 30525. Promotional material**

32 30525. (a) The department may prepare and sell artwork, posters, and other
33 promotional materials related to the sale of duck stamps or waterfowl hunting and
34 conservation.

35 (b) The department may permit individual artists to sell a limited number of
36 prints of duck stamp related artwork or posters.

37 **Comment.** Subdivision (a) of Section 30525 continues former Fish and Game Code Section
38 3700.2(g) without substantive change.

39 Subdivision (b) continues the first sentence of former Fish and Game Code Section 3702.5
40 without substantive change.

1 **Note.** The second sentence of existing Section 3702.5, identifying the operative date of that
2 section as July 1, 1993, is deleted as obsolete.

3 **§ 30530. State Duck Stamp Account**

4 30530. All funds derived from the sale of state duck hunting validations, state
5 duck stamps, and related items authorized by subdivision (a) of Section 30525
6 shall be deposited in the State Duck Stamp Account in the Fish and Game
7 Preservation Fund to permit separate accountability for the receipt and expenditure
8 of these funds.

9 **Comment.** Section 30530 continues the first sentence of former Fish and Game Code Section
10 3701 without substantive change.

11 **§ 30535. Allocation of funds in State Duck Stamp Account**

12 30535. Funds deposited in the State Duck Stamp Account shall be allocated as
13 follows:

14 (a) An amount not to exceed 6 percent of the amount annually deposited in the
15 account may be used for administrative overhead related to the use of those funds
16 and for implementation of the federal Migratory Bird Harvest Program.

17 (b) Two dollars and twenty-five cents (\$2.25) of the amount collected by the
18 department for each state duck stamp or state duck validation sold shall be
19 allocated by the commission for the purposes of the North American Waterfowl
20 Management Plan, in those areas of Canada from which substantial numbers of
21 waterfowl migrate to or through California. These funds shall be matched with
22 federal or private funds available for that purpose.

23 (c) The available balance of the funds shall be used for any project authorized
24 pursuant to Section 30540, 30550, or 30555 in California.

25 **Comment.** Subdivision (a) of Section 30535 continues the second sentence of former Fish and
26 Game Code Section 3701 without substantive change.

27 Subdivision (b) continues the first and second sentences of the first paragraph of former Fish
28 and Game Code Section 3704 without substantive change, except the provision is made
29 applicable to the sale of state duck validations as well as the sale of state duck stamps.

30 Subdivision (c) continues the third sentence of the first paragraph of former Fish and Game
31 Code Section 3704 without substantive change.

32 **Notes.** (1) When existing Section 3704 was enacted in 1992, authority to hunt ducks and
33 geese was provided solely through the issuance of duck stamps. However, beginning in 2001 this
34 authority also became available through the sale of electronic duck “validations,” and it is the
35 Commission’s understanding that these validations have largely or entirely replaced the use of
36 stamps. In order to reflect that administrative change, the reference to revenue from duck stamp
37 sales was generalized, in proposed Section 30535(b), to include revenue from validation sales.

38 **The Commission invites comment on whether this would cause any problems.**

39 (2) Existing Section 3704 includes a sentence restricting the use of “the available balance of
40 the funds” to specified projects in California. Because that sentence is in a section that discusses
41 the funds from duck stamp sales specifically, it is not entirely clear that the reference includes *all*
42 funds in the Duck Stamp Account (which includes revenue from art sales and the sale of
43 validations). Proposed Section 30535 is drafted so as to eliminate that ambiguity (i.e., the
44 provision would govern all funds in the account).

The Commission invites comment on whether this would cause any problems.

(3) The second paragraph of existing Section 3704, identifying the operative date of that section as July 1, 1993, is deleted as obsolete.

§ 30540. Use of funds

30540. Funds deposited in the State Duck Stamp Account shall be used for projects or endowments approved by the commission for the purpose of protecting, preserving, restoring, enhancing, and developing migratory waterfowl breeding and wintering habitat, evaluating habitat projects, and conducting waterfowl resource assessments and other waterfowl related research.

Comment. Section 30540 continues the first sentence of former Fish and Game Code Section 3702 without substantive change.

§ 30545. Acquired lands

30545. Any land acquired in California with funds deposited in the State Duck Stamp Account shall be open to waterfowl hunting as a public shooting ground or wildlife management area.

Comment. Section 30545 continues the fourth sentence of the first paragraph of former Fish and Game Code Section 3704 without substantive change.

§ 30550. Grant to or contract with nonprofit organization

30550. The department may make a grant to or enter into a contract with a nonprofit organization for the use of funds deposited in the State Duck Stamp Account, if both of the following conditions are satisfied:

(a) The department finds that the grant or contract is necessary for carrying out the purposes of this chapter.

(b) The entity in control of any property affected by a project approves the grant or contract.

Comment. Section 30550 combines and restates the third sentence of former Fish and Game Code Section 3702, and a portion of the second sentence of former Fish and Game Code Section 3704.5, without substantive change.

Note. Proposed Section 30550 is intended to combine and restate the third sentence of existing Section 3702, and a portion of the second sentence of existing Section 3704.5, both of which authorize the Department to make specified uses of funds in the State Duck Stamp Account, without changing their substantive effect.

The restated sentences, in their existing sections, are shown in italics below:

3702. Funds deposited in the State Duck Stamp Account shall be used for projects or endowments approved by the commission for the purpose of protecting, preserving, restoring, enhancing, and developing migratory waterfowl breeding and wintering habitat, evaluating habitat projects, and conducting waterfowl resource assessments and other waterfowl related research. *These funds may be used to reimburse nonprofit organizations for completed habitat projects. Subject to Section 3704, the department may make grants or enter into contracts with nonprofit organizations for the use of these funds when it finds that the contracts are necessary for carrying out the purposes of this article.*

1 3704.5. Waterfowl projects authorized pursuant to Sections 3702 and 3460 are not subject to
2 Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code or Article 6
3 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.
4 *With the approval of the entity in control of property affected by a project, the department may*
5 *make grants to, or enter into contracts with, nonprofit organizations for the accomplishment of*
6 *those projects, or the department may reimburse the controlling entity for its costs of*
7 *accomplishing the project.*

8 Although the phrase “Subject to Section 3704” appears in Section 3702, the Commission did
9 not include a comparable phrase in proposed Section 30550(a). The rules stated in Section 3704
10 (to be recodified in proposed Sections 30535(b)-(c) and 30545) appear to be self-implementing
11 and thus there does not seem to be any need to refer to them in proposed Section 30550(a).

12 **The Commission invites comment on whether the restatement substantively changes**
13 **either of the italicized provisions.**

14 **§ 30555. Reimbursement**

15 30555. The department may use funds deposited in the State Duck Stamp
16 Account for reimbursement in either of the following circumstances:

17 (a) To reimburse a nonprofit organization for a completed habitat project.

18 (b) To reimburse the entity in control of property affected by a project, for its
19 costs of accomplishing the project.

20 **Comment.** Section 30555 combines and restates the second sentence of former Fish and Game
21 Code Section 3702, and a portion of the second sentence of former Fish and Game Code Section
22 3704.5, without substantive change.

23 **Note.** Proposed Section 30555 is intended to combine and restate the third sentence of
24 existing Section 3702, and the second sentence of existing Section 3704.5, both of which
25 authorize the Department to make specified uses of funds in the State Duck Stamp Account,
26 without changing their substantive effect.

27 The sentences in the existing sections are italicized below, and read as follows:

28 3702. Funds deposited in the State Duck Stamp Account shall be used for projects or
29 endowments approved by the commission for the purpose of protecting, preserving, restoring,
30 enhancing, and developing migratory waterfowl breeding and wintering habitat, evaluating
31 habitat projects, and conducting waterfowl resource assessments and other waterfowl related
32 research. *These funds may be used to reimburse nonprofit organizations for completed habitat*
33 *projects.*

34 3704.5. Waterfowl projects authorized pursuant to Sections 3702 and 3460 are not subject to
35 Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code or Article 6
36 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.
37 *With the approval of the entity in control of property affected by a project, the department may*
38 *make grants to, or enter into contracts with, nonprofit organizations for the accomplishment of*
39 *those projects, or the department may reimburse the controlling entity for its costs of*
40 *accomplishing the project.*

41 **The Commission invites comment on whether the restatement substantively changes any**
42 **aspect of either of the italicized provisions.**

43 **§ 30560. Project prerequisites**

44 30560. (a) Before the commission may consider any project that proposes the
45 use of funds from the State Duck Stamp Account, the department shall analyze the

1 project and provide the commission with recommendations as to the project's
2 feasibility and need.

3 (b) Before allocating funds to any project to be undertaken outside the state, or
4 outside the United States, the commission shall secure evidence that the project is
5 acceptable to the government agency having jurisdiction over the lands and waters
6 affected by the project.

7 **Comment.** Subdivision (a) of Section 30560 continues former Fish and Game Code Section
8 3703 without substantive change.

9 Subdivision (b) continues former Fish and Game Code Section 3705 without substantive
10 change.

11 **§ 30565. Advisory committee**

12 30565. An advisory committee, as determined by the department, that includes
13 interested nonprofit organizations that have goals and objectives directly related to
14 the management and conservation of waterfowl species and primarily represent the
15 interests of persons licensed pursuant to Section 10210 shall review and provide
16 comments to the department on all proposed projects funded from the State Duck
17 Stamp Account to help ensure that the requirements of subdivisions (b) and (c) of
18 Section 30535, Sections 30540, 30545, 30550, and 30555, and subdivision (a) of
19 30560 have been met.

20 **Comment.** Section 30565 continues former Fish and Game Code Section 3702.1 without
21 substantive change.

22 **§ 30570. Inapplicability of other statutory requirements**

23 30570. Waterfowl projects authorized pursuant to Section 30540, 30550 or
24 56700 are not subject to Part 2 (commencing with Section 10100) of Division 2 of
25 the Public Contract Code or Article 6 (commencing with Section 999) of Chapter
26 6 of Division 4 of the Military and Veterans Code.

27 **Comment.** Section 30570 continues the first sentence of the first paragraph of former Fish and
28 Game Code Section 3704.5 without substantive change.

29 **Note.** The second paragraph of existing Section 3704.5, identifying the operative date of the
30 section as July 1, 1993, is deleted as obsolete.

31 **TITLE 4. EGRET**

32 **§ 30700. Prohibited take, sale, or purchase**

33 30700. It is unlawful to take, sell, or purchase an egret or egret.

34 **Comment.** Section 30700 continues the part of former Fish and Game Code Section 3505
35 applicable to egrets without substantive change.

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TITLE 5. GOURA

§ 30750. Prohibited take, sale, or purchase

30750. It is unlawful to take, sell, or purchase a goura.

Comment. Section 30750 continues the part of former Fish and Game Code Section 3505 applicable to gouras without substantive change.

TITLE 6. NUMIDI

§ 30800. Prohibited take, sale, or purchase

30800. It is unlawful to take, sell, or purchase a numidi.

Comment. Section 30800 continues the part of former Fish and Game Code Section 3505 applicable to numidi without substantive change.

TITLE 6. OSPREY

§ 30850. Prohibited take, sale, or purchase

30850. It is unlawful to take, sell, or purchase an osprey.

Comment. Section 30850 continues the part of former Fish and Game Code Section 3505 applicable to ospreys without substantive change.

TITLE 7. PHEASANT

§ 30900. Classification

30900. For the purposes of this code, a ring-necked pheasant, and varieties thereof, are both resident game birds and upland game birds.

Comment. Section 30900 combines and continues former Fish and Game Code Sections 3500(a)(10) and 3683(a)(11) without substantive change.

§ 30905. Provisions not exclusive

30905. The provisions of this title are not intended to be exclusive. Other provisions that govern pheasants include, but are not limited to, the following provisions:

- (a) Section 325.
- (b) Section 545.
- (c) Section 10210.
- (d) Section 26000.
- (e) Section 26010.
- (f) Section 26070.

Comment. Section 30905 is new. It is added for drafting convenience.

1 **Notes:** (1) Proposed Section 31050 is intended to restate existing Section 3801 to improve its
2 clarity, without changing its substantive effect. The existing section reads as follows:

3 3801. Notwithstanding Section 3007 or any other provision of this code or regulations made
4 pursuant thereto requiring the possession of a hunting license, a landowner or lessee or agent of
5 either in immediate possession of written authority from the landowner or lessee, shall not be
6 required to obtain a hunting license or a depredation permit to take the following nongame birds
7 on land owned or leased by the landowner or lessee. Hunters otherwise taking the following
8 nongame birds shall be licensed pursuant to Section 3007. The following nongame birds taken in
9 compliance with this section may be taken and possessed by any person at any time, except as
10 provided in Section 3000:

- 11 (a) English sparrows (*Passer domesticus*).
12 (b) Starlings (*Sturnus vulgaris*).

13 **The Commission invites comment on whether the proposed restatement would cause any**
14 **substantive change in the meaning of the provision.**

15 (2) Existing Section 3801 was amended in 2007 to add most of the above language relating to
16 licensure. 2007 Cal. Stat. ch. 285. Previously, the section had read:

17 3801. Unless otherwise provided by the regulations of the commission the following nongame
18 birds may be taken and possessed by any person at any time, except as provided in Section 3000:

- 19 (a) English sparrows (*Passer domesticus*).
20 (b) Starlings (*Sturnus vulgaris*).

21 The 2007 amendment to the section deleted the language authorizing the Commission to
22 regulate the taking of sparrows and starlings. That deletion may have had an inadvertent effect,
23 by removing statutory authority for existing Commission regulations that govern the *manner* in
24 which sparrows and starlings may be taken. See 14 CFR 472(a); 14 CFR 475.

25 **The Commission invites comment on whether the introductory clause of proposed Section**
26 **31050(a) should be revised to read: “Except as provided in Section 9590 and this section, the**
27 **following nongame birds may be taken or possessed at any time, subject to any regulation**
28 **adopted by the Commission that governs the manner of that taking:”**

29 TITLE 10. WILD TURKEY

30 § 31100. Classification

31 31100. For the purposes of this code, a wild turkey of the order Galliformes is
32 both a resident game bird and an upland game bird.

33 **Comment.** Section 31100 continues former Fish and Game Code Sections 3500(a)(11) and
34 3683(a)(12) without substantive change.

35 § 31110. Depredation permit for wild turkeys

36 31110. (a) An owner or tenant of land or property that is being damaged or
37 destroyed, or is in danger of being damaged or destroyed, by wild turkey, may
38 apply to the department for a permit to kill the wild turkey causing or threatening
39 the damage or destruction.

40 (b) The department, upon satisfactory evidence of actual or immediately
41 threatened damage or destruction of land or property, shall issue a revocable
42 permit for the taking and disposition of the responsible wild turkey, under

1 regulations adopted by the commission. The permit shall include a statement of
2 the penalties that may be imposed for a violation of the permit conditions.

3 (c) Wild turkey taken under a permit issued pursuant to subdivision (b) shall not
4 be sold or shipped from the premises on which they are taken, except pursuant to
5 instructions from the department.

6 (d) No poison of any type may be used to take any wild turkey pursuant to this
7 section.

8 (e) It is unlawful for any person to violate the terms of any permit issued
9 pursuant to this section.

10 **Comment.** Section 31110 restates the part of former Fish and Game Code Section 4181(a)
11 applicable to wild turkeys without substantive change.

12 **Note.** Proposed Section 31110 is intended to restate the part of existing Fish and Game Code
13 Section 4181 applicable to wild turkeys to clarify the meaning of that language, without changing
14 its substantive effect. Existing Section 4181 reads as follows:

15 4181. (a) Except as provided in Section 4181.1, any owner or tenant of land or property that is
16 being damaged or destroyed or is in danger of being damaged or destroyed by elk, bear, beaver,
17 wild pig, wild turkeys, or gray squirrels, may apply to the department for a permit to kill the
18 animals. Subject to the limitations in subdivisions (b) and (d), the department, upon satisfactory
19 evidence of the damage or destruction, actual or immediately threatened, shall issue a revocable
20 permit for the taking and disposition of the animals under regulations adopted by the commission.
21 The permit shall include a statement of the penalties that may be imposed for a violation of the
22 permit conditions. Animals so taken shall not be sold or shipped from the premises on which they
23 are taken except under instructions from the department. No iron-jawed or steel-jawed or any
24 type of metal-jawed trap shall be used to take any bear pursuant to this section. No poison of any
25 type may be used to take any gray squirrel or wild turkey pursuant to this section. The department
26 shall designate the type of trap to be used to ensure the most humane method is used to trap gray
27 squirrels. The department may require trapped squirrels to be released in parks or other
28 nonagricultural areas. It is unlawful for any person to violate the terms of any permit issued under
29 this section.

30 (b)....

31 The references in existing Section 4181 to existing Section 4181.1 and to subdivisions (b) and (d)
32 of Section 4181 have not been continued in proposed Section 31110, as those provisions do not
33 apply to turkeys.

34 **The Commission invites comment on whether the restatement would cause any**
35 **substantive change in the meaning of the provision.**

36 **§ 31115. Access by licensed hunters for depredator control of wild turkeys**

37 31115. (a) If a landowner or tenant applies for a permit under Section 31110 to
38 take wild turkey, the department shall inform the applicant about available options
39 for allowing access by licensed hunters, including, but not limited to, access
40 authorized pursuant to Title 7 (commencing with Section 56200) of Part 2 of
41 Division 15 to control wild turkey.

42 (b) The commission, in lieu of a permit described in Section 31110, and with the
43 consent of, or upon the request of, the landowner or tenant, may pursuant to
44 appropriate regulation authorize the issuance of permits to persons holding valid
45 hunting licenses to take wild turkey in sufficient numbers to stop the damage or

1 threatened damage. Before issuing permits to licensed hunters, the department
2 shall investigate and determine the number of permits necessary, the territory
3 involved, the dates of the proposed hunt, the manner of issuing the permits, and
4 the fee for the permit.

5 **Comment.** Section 31115 restates the part of former Fish and Game Code Section 4188
6 applicable to wild turkey without substantive change.

7 **Note.** Proposed Section 31015 is intended to restate the part of existing Fish and Game Code
8 Section 4188 applicable to wild turkeys to improve its clarity, without changing its substantive
9 effect. The existing provision reads as follows:

10 4188. (a) If a landowner or tenant applies for a permit under Section 4181 for wild pigs or wild
11 turkeys, or under Section 4181.5 for deer, the department shall notify the landowner or tenant
12 about available options for allowing access by licensed hunters, including, but not limited to,
13 access authorized pursuant to Article 3 (commencing with Section 1570) of Chapter 5 of Division
14 2 to control wild pigs, wild turkeys, and deer.

15 (b) The commission, in lieu of a permit as described in subdivision (a), and with the consent of,
16 or upon the request of, the landowner or tenant, under appropriate regulations, may authorize the
17 issuance of permits to persons holding valid hunting licenses to take wild pigs, wild turkeys, or
18 deer in sufficient numbers to stop the damage or threatened damage. Before issuing permits to
19 licensed hunters, the department shall investigate and determine the number of permits necessary,
20 the territory involved, the dates of the proposed hunt, the manner of issuing the permits, and the
21 fee for the permit.

22 **The Commission invites comment on whether the restatement would cause any**
23 **substantive change in the meaning of the provision.**

24 DIVISION 9. MAMMALS

25 PART 1. GENERAL PROVISIONS

26 TITLE 1. APPLICATION OF OTHER PROVISIONS

27 § 31400. Governance by other provisions

28 31400. Animals governed by this division are also governed by other provisions
29 of this code, including but not limited to Divisions 6 (commencing with Section
30 8000) and 7 (commencing with Section 23300).

31 **Comment.** Section 31400 is new. It is added for drafting convenience.

32 TITLE 2. DOGS PURSUING OR INJURING MAMMALS

33 CHAPTER 1. GENERAL PROVISIONS

34 § 31500. Definitions

35 31500. For the purposes of this title:

36 (a) “Pursue” means pursue, run, or chase.

1 (b) “Bear” means any black bear (*Ursus americanus*) found in the wild in this
2 state.

3 **Comment.** Section 31500 merges and restates former Fish and Game Code Sections
4 3032(a)(1), 3960(a), 3960.2(a) (as applied to bear), 3960.4(a), and 3960.6(a) without substantive
5 change.

6 **Notes.** (1) Proposed Section 31500 is intended to merge and restate existing Fish and Game
7 Code Sections 3032(a)(1), 3960(a), 3960.2(a), 3960.4(a), and 3960.6(a) to clarify the meaning of
8 those provisions, without changing their substantive effect. The existing provisions read as
9 follows:

10 3032. (a) As used in this section:

11 (1) “Bear” and “pursue” have the same meanings as defined in Section 3960.

12 (2) “Bear” means any black bear (*Ursus americanus*) found in the wild in this state.

13 ...

14 3960. (a) As used in this section:

15 (1) “Pursue” means pursue, run, or chase.

16 (2) “Bear” means any black bear (*Ursus americanus*) found in the wild in this state.

17 3960.2. (a) As used in this section, the terms “bear” and “pursue” have the same meanings as
18 defined in Section 3960.

19 3960.4. (a) As used in this section, the terms “bear” and “pursue” have the same meanings as
20 defined in Section 3960.

21 3960.6. (a) As used in this section, the terms “bear” and “pursue” have the same meanings as
22 defined in Section 3960.

23 **The Commission invites comment on whether the proposed merger and restatement
24 would cause any substantive change in the meaning of any of the provisions.**

25 (2) In the existing Fish and Game Code, the two definitions in proposed Section 31500 are
26 limited in their applicability to the sections in this proposed title. Nevertheless, that limitation
27 may either have been unintentional, or has been overlooked in the enactment of other provisions
28 making use of either of the two terms.

29 **The Commission invites comment on whether either of the definitions in proposed Section
30 31400 should be generalized to apply to the entire code, and relocated in the proposed law
31 among other code-wide definitions.**

32 **§ 31505. Hound tag program**

33 31505. (a) As used in this section, “hound” means a dog used to pursue
34 mammals.

35 (b) The commission may establish a hound tag program.

36 (c) If a hound tag program is established, the commission may require all of the
37 following:

38 (1) That each hound be issued a license tag bearing a unique identifying number
39 that is to be worn at all times by the hound while pursuing mammals.

40 (2) That all relevant local and state laws pertaining to dogs are being followed
41 while the hound is being used to pursue mammals.

42 (3) That each hound be microchipped with an implanted transponder that has a
43 unique identification code.

1 (4) That the owner maintain documentation showing that the hound is current on
2 all required vaccinations and treatments for the prevention of rabies and any other
3 disease specified by the department.

4 (5) That the owner report, within 24 hours of its last sighting, any hound that is
5 lost during hunting, pursuing, or tracking activities.

6 (6) That the hound's tag identification number be recorded on the hunting tag of
7 any animal taken using the services of the hound.

8 (d) If a hound tag program is established, the commission may adjust the amount
9 of the fees for the hound tag as necessary, to fully recover, but not exceed, all
10 reasonable administrative and implementation costs of the department and the
11 commission relating to the program.

12 **Comment.** Section 31505 continues former Fish and Game Code Section 3032(a)(2)-(d)
13 without substantive change.

14 **§ 31510. Use of dog to pursue specified mammals**

15 31510. (a) It is unlawful to permit or allow any dog to pursue any of the
16 following mammals, under the specified conditions:

17 (1) A big game mammal, during the closed season for that mammal.

18 (2) A fully protected, rare, or endangered mammal, at any time.

19 (3) A bear or bobcat, at any time.

20 (4) A mammal in a game refuge or ecological reserve, if hunting within that
21 refuge or ecological reserve is unlawful.

22 (b) This section does not apply to the use of dogs to pursue bears or bobcats by
23 federal, state, or local law enforcement officers, or their agents or employees,
24 while carrying out official duties as required by law.

25 **Comment.** Subdivision (a) of Section 31510 continues former Fish and Game Code Section
26 3960(b) without substantive change.

27 Subdivision (b) continues former Fish and Game Code Section 3960(c)(3) without substantive
28 change.

29 **Notes.** (1) Existing Fish and Game Code Section 3960(b) declares it unlawful to either
30 "permit" or "allow" a dog to engage in the conduct described in the provision.

31 **The Commission invites comment on whether one of these two terms, which in this**
32 **context appear to be synonymous, can be deleted without substantively changing the**
33 **meaning of the provision.**

34 (2) The existing Fish and Game Code contains no definition of the term "big game mammal,"
35 which appears in Section 3960(b) as well as several other sections of the code. See existing
36 Sections 3004.5(j)(2), 3214, 3960.

37 The term "big game" is also used in several sections of the existing code, without definition.
38 See existing Sections 3953, 12013.3, and 12013.5. However, one code section, Section
39 3004.5(a)(1), refers to the term "as defined in the department's mammal hunting regulations."

40 Those regulations provide that "'Big game' means the following: deer (genus *Odocoileus*), elk
41 (genus *Cervus*), pronghorn antelope (genus *Antilocarpa*), wild pig (feral pigs, European wild pigs
42 and their hybrids (genus *Sus*), black bear (genus *Ursus*), and Nelson bighorn sheep (subspecies
43 *Ovis canadensis nelsoni*) in the areas described in subsection 4902(b) of the Fish and Game
44 Code." 14 CCR § 350.

45 **The Commission invites comment on whether a definition of the term "big game**
46 **mammal" should be added to the proposed law. Such a definition could either reiterate the**

1 existing regulation's substantive content or could instead incorporate the regulation by
2 reference (which would preserve the possibility of the department revising the content if
3 necessary).

4 CHAPTER 2. UNCONTROLLED DOGS

5 § 31550. Capture or dispatch by department

6 31550. (a) The department may take any of the following actions:

7 (1) Capture any dog not under the reasonable control of its owner or handler,
8 when that uncontrolled dog is pursuing, in violation of Section 31510, any of the
9 following mammals:

10 (A) A big game mammal.

11 (B) A bear or bobcat.

12 (C) A fully protected, rare, or endangered mammal.

13 (2) Capture or dispatch any dog inflicting injury or immediately threatening to
14 inflict injury to any of the following mammals, under the specified conditions:

15 (A) A big game mammal, during the closed season on that mammal.

16 (B) A bear or bobcat, at any time.

17 (C) A fully protected, rare, or endangered mammal, at any time.

18 (D) A mammal in a game refuge or ecological reserve, if hunting within that
19 refuge or ecological reserve is unlawful.

20 (b) No criminal or civil liability shall accrue to any department employee as a
21 result of enforcement of this section.

22 (c) If a dog captured or dispatched pursuant to this section has identification, its
23 owner shall be notified by the department within 72 hours after the capture or
24 dispatch.

25 **Comment.** Section 31550 continues former Fish and Game Code Section 3960(c)(1), (2), and
26 (4) without substantive change.

27 **Notes.** (1) Proposed Section 31550 is intended to restate existing Fish and Game Code
28 Section 3960(c)(1), (2), and (4) to clarify the meaning of those provisions, without changing their
29 substantive effect. The existing provisions read as follows:

30 (c)(1) The department may take any of the following actions:

31 (A) Capture any dog not under the reasonable control of its owner or handler, when that
32 uncontrolled dog is pursuing, in violation of this section, any big game mammal, any bear or
33 bobcat, or any fully protected, rare, or endangered mammal.

34 (B) Capture or dispatch any dog inflicting injury or immediately threatening to inflict injury to
35 any big game mammal during the closed season on that mammal, and the department may capture
36 or dispatch any dog inflicting injury or immediately threatening to inflict injury on any bear or
37 bobcat at any time, or any fully protected, rare, or endangered mammal at any time.

38 (C) Capture or dispatch any dog inflicting injury or immediately threatening to inflict injury to
39 any mammal in a game refuge or ecological reserve if hunting within that refuge or ecological
40 reserve is unlawful.

41 (2) No criminal or civil liability shall accrue to any department employee as a result of
42 enforcement of this section.

43

1 (4) Owners of dogs with identification, that have been captured or dispatched, shall be notified
2 within 72 hours after capture or dispatch.

3 **The Commission invites comment on whether the restatement would cause any**
4 **substantive change in the meaning of the provision.**

5 (2) Existing Fish and Game Section 3960(b) (which would be continued by proposed Section
6 31510(a)) prohibits permitting or allowing a dog to pursue four described categories of mammals
7 under specified conditions:

8 (a) A big game mammal, during the closed season for that mammal,

9 (b) A fully protected, rare, or endangered mammal, at any time,

10 (c) A bear or bobcat, at any time, or

11 (d) A mammal in a game refuge or ecological reserve, if hunting within that refuge or
12 ecological reserve is unlawful.

13 Existing Section 3960(c)(1)(A) (which would be continued by proposed Section 31550(a)(1))
14 authorizes the Department of Fish and Wildlife to capture any uncontrolled dog that is *pursuing* a
15 mammal listed in the first three categories above, but not the fourth (mammals in game refuges
16 and ecological preserves where hunting is not permitted).

17 **Should the fourth category be included?**

18 **§ 31555. Seizure or dispatch generally**

19 31555. (a) Whenever an employee of the department is not present to carry out
20 the provisions of Section 31550 with respect to any dog inflicting injury or
21 immediately threatening to inflict injury to any deer, elk, or prong-horned antelope
22 during the closed season for those mammals, any property owner, lessee, person
23 holding a permit for the purpose of grazing livestock, or that person's employee,
24 may seize or dispatch the dog, if the dog is found on that person's land or premises
25 without the permission of the person who is in immediate possession of the land.

26 (b) Notwithstanding subdivision (a), if a dog described in subdivision (a) bears
27 any readily visible identification tag or license tag required by Section 30951 of
28 the Food and Agricultural Code, the dog may be dispatched under this section only
29 if the dog has, and its owner has been notified that the dog has, previously
30 threatened any of these species.

31 (c) No action, civil or criminal, shall be maintained based on a dog lawfully
32 seized or dispatched pursuant to this section.

33 (d) If a dog seized or dispatched under this section bears the identification tag or
34 license tag required by Section 30951 of the Food and Agricultural Code, its
35 owner shall be notified within 72 hours of the seizure or dispatch.

36 **Comment.** Section 31555 restates former Fish and Game Code Section 3961 without
37 substantive change.

38 **Notes.** (1) Proposed Section 31555 is intended to restate existing Fish and Game Code
39 Section 3961 to improve its clarity, without changing its substantive effect. The existing section
40 read as follows:

41 3961. Whenever an employee of the department is not present to carry out the provisions of
42 Section 3960 with respect to any dog inflicting injury or immediately threatening to inflict injury
43 to any deer, elk, or prong-horned antelope during the closed season for these mammals, any
44 property owner, lessee, person holding a permit for the purpose of grazing livestock, or his or her
45 employee, may seize or dispatch the dog if it is found on his or her land or premises without the

1 permission of the person who is in immediate possession of the land. If the dog has on it any
2 readily visible identification tag or license tag as prescribed by Section 30951 of the Food and
3 Agricultural Code, and the dog is found in the act of immediately threatening to injure deer, elk,
4 or prong-horned antelope, the dog may only be dispatched under this section if the dog has, and
5 the owner has been notified that the dog has, previously threatened any of these species.

6 No action, civil or criminal, shall be maintained for a dog lawfully seized or dispatched
7 pursuant to this article.

8 The owner of a dog shall be notified within 72 hours of the seizure or dispatching of that dog
9 under this section if it had the identification tag or license tag which is required pursuant to
10 Section 30951 of the Food and Agricultural Code.

11 **The Commission invites comment on whether the restatement would cause any**
12 **substantive change in the meaning of the provision.**

13 (2) The second paragraph of existing Fish and Game Section 3961 provides:

14 No action, civil or criminal, shall be maintained for a dog lawfully seized or dispatched
15 pursuant to this article.

16 However, the reference to “article” in this provision is erroneous. Section 3961 is not and never
17 has been contained in an article. In proposed Section 31555, the cross-reference is revised to refer
18 to “this section.” This would parallel language in a related provision, existing Section 3960.

19 **The Commission invites comment on whether that revision is appropriate.**

20 TITLE 3. DEPREDATOR CONTROL

21 § 31600. Department take of depredator

22 31600. The department may take any mammal that it determines is unduly
23 preying on any bird, mammal, or fish.

24 **Comment.** Section 31600 continues the second paragraph of former Fish and Game Code
25 Section 4153 without substantive change.

26 § 31605. Immature mammals in den

27 31605. (a) It is unlawful to do either of the following to an immature depredator
28 mammal while it is in its den:

29 (1) Use a snare, hook, or barbed wire to remove the mammal.

30 (2) Use fire to kill the mammal.

31 (b) Nothing in this section shall prohibit the use of fire-ignited gas cartridges or
32 other products registered or permitted under the Federal Insecticide, Rodenticide,
33 and Fungicide Act (7 U.S.C. 136 et seq.).

34 **Comment.** Subdivision (a) of Section 31605 restates the first paragraph of former Fish and
35 Game Code Section 4180.1 without substantive change.

36 Subdivision (b) continues the second paragraph of former Fish and Game Code Section 4180.1
37 without substantive change.

38 **Notes.** (1) Proposed Section 31605 is intended to restate the first paragraph of existing Fish
39 and Game Code Section 4180.1 to clarify the meaning of that sentence, without changing its
40 substantive effect. The existing sentence reads as follows:

41 It is unlawful to use snares, hooks, or barbed wire to remove from the den, or fire to kill in the
42 den, any immature depredator mammal.

1 **The Commission invites comment on whether the restatement would cause any**
2 **substantive change in the meaning of the provision.**

3 (2) **The Commission invites comment on the meaning of the term “depredator mammal”**
4 **as used in Section 4180.1.**

5 **§ 31610. Identification of depredator**

6 31610. The department shall tag, brand, or otherwise identify in a persistent and
7 distinctive manner any large depredatory mammal relocated by, or relocated with
8 the approval of, the department for game management purposes.

9 **Comment.** Section 31610 continues former Fish and Game Code Section 4190 without
10 substantive change.

11  **Notes.** (1) Existing Fish and Game Code Section 4190 refers to a “large” depredatory
12 mammal.

13 **The Commission invites comment on whether more precise or descriptive language might**
14 **be substituted for the word “large” to provide better notice of the scope of the section’s**
15 **prohibition.**

16 (2) **The Commission invites comment on the meaning of the term “depredatory mammal”**
17 **as used in Section 4190.**

18 **PART 2. DISEASE CONTROL**

19 **§ 31700. Disease outbreak**

20 31700. (a) Fur-bearing mammals, game mammals, and nongame mammals,
21 when involved in dangerous disease outbreaks, may be taken by duly constituted
22 officials of any of the following:

23 (1) The United States Department of Agriculture.

24 (2) The United States Department of the Interior.

25 (3) The United States Department of Health and Human Services.

26 (4) The California Department of Food and Agriculture.

27 (5) The California Department of Public Health.

28 (6) The department.

29 (b) A county official may take fur-bearing mammals, game mammals, and
30 nongame mammals pursuant to this section with the prior approval of and in a
31 manner approved by the director or the director’s designee.

32 **Comment.** Section 31700 continues former Fish and Game Code Section 4011 without
33 substantive change.

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PART 3. CLASSES OF MAMMALS

TITLE 1. GAME MAMMALS

CHAPTER 1. GENERAL PROVISIONS

§ 31800. Waste of game mammal

31800. (a) Except as provided in subdivision (b), no person shall through carelessness or neglect allow any game mammal that is in that person's possession, or any portion of the game mammal's flesh that is usually eaten by humans, to be needlessly wasted.

(b) The prohibition in subdivision (a) does not apply to game mammals taken pursuant to Section 35215, 35610, 35710, or 36010.

Comment. Section 31800 restates the part of the first sentence of former Fish and Game Code Section 4304 applicable to game mammals, and the second sentence of Section 4304, without substantive change.

Notes. (1) Proposed Section 31800 restates part of the first sentence of existing Fish and Game Code Section 4304 applicable to game mammals, and the second sentence of that section, to clarify the meaning of those provisions, without changing their substantive effect. The existing provisions read as follows:

4304. [N]or shall any person at any time leave through carelessness or neglect any game mammal ... which is in his possession, or any portion of the flesh thereof usually eaten by humans, to go needlessly to waste. The provisions of this section shall not apply to game mammals taken under the authority of Sections 4152 and 4183 of this code.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

(2) Existing Section 4183, which is cross-referenced in existing Section 4304, was repealed in 1984. 1984 Cal. Stat. ch. 1365. The repealed section related to taking bears that kill livestock.

The Commission invites comment on whether a reference to a different code section should be substituted for the reference to Section 4183.

§ 31805. Report on reduced-price tags

31805. (a) The department shall prepare a report to the Legislature no later than July 1, 2024, on the effects of the reduced-price tags issued pursuant to Sections 32950, 33300, 34850, and 35900 on rates of participation by junior hunters, the Big Game Management Account, and the Fish and Game Preservation Fund. The department shall collect relevant, sufficient, and appropriate data to evaluate the reduced-price tag program in the report, and make recommendations on improving the cost-effectiveness of those tags.

(b) The report required to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(c) Pursuant to Section 10231.5 of the Government Code, this section is repealed on July 1, 2028.

1 **Comment.** Section 31805 continues former Fish and Game Code Section 3034 without
2 substantive change.

3 **Note.** Proposed Section 31805 incorporates Section 3034, which was added by 2018 Cal.
4 Stat. ch. 295, § 7. Although that bill will not take effect until 2019, it is included here in
5 anticipation of its effect.

6 **CHAPTER 2. BIG GAME MANAGEMENT ACCOUNT**

7 **§ 31900. Account established**

8 31900. The Big Game Management Account is hereby established within the
9 Fish and Game Preservation Fund.

10 **Comment.** Section 31900 continues former Fish and Game Code Section 3953(a) without
11 substantive change.

12 **§ 31905. Use of funds**

13 31905. (a) Funds deposited in the Big Game Management Account shall be
14 available for expenditure upon appropriation by the Legislature to the department.
15 These funds shall be expended solely for the purposes set forth in this chapter,
16 Sections 34955, 34960, 35810, and 35815, subdivisions (b) and (c) of Section
17 35825, Sections 35900, 35915, and 37300, and Chapter 6 (commencing with
18 Section 34500) of Title 6 of Part 4 of Division 9, including acquiring land,
19 completing projects, and implementing programs to benefit antelope, elk, deer,
20 wild pigs, bear, and sheep, and expanding public hunting opportunities and related
21 public outreach.

22 (b) Any land acquired with funds from the Big Game Management Account
23 shall be acquired in fee title or protected with a conservation easement and, to the
24 extent possible, be open or provide access to the public for antelope, elk, deer,
25 wild pig, bear, or sheep hunting.

26 (c) The department may also use funds from the Big Game Management
27 Account to pay for administrative and enforcement costs of the programs and
28 activities described in this section. The amount allocated from the account for
29 administrative costs shall be limited to the reasonable costs associated with
30 administration of the programs and activities described in this section.

31 **Comment.** Section 31905 continues former Fish and Game Code Section 3953(c) without
32 substantive change.

33 **§ 31910. Non-profit organizations**

34 31910. The department may make grants to, reimburse, or enter into contracts or
35 other agreements, as defined in subdivision (a) of Section 56205, with nonprofit
36 organizations for the use of the funds from the Big Game Management Account to
37 carry out the purposes of this section, including related habitat conservation
38 projects.

39 **Comment.** Section 31910 continues former Fish and Game Code Section 3953(d) without
40 substantive change.

1 **§ 31915. Advisory committee**

2 31915. An advisory committee, as determined by the department, that includes
3 interested nonprofit organizations that have goals and objectives directly related to
4 the management and conservation of big game species and primarily represent the
5 interests of persons licensed pursuant to Section 10210, shall review and provide
6 comments to the department on all proposed projects funded from the Big Game
7 Management Account, to help ensure that the requirements of this chapter have
8 been met.

9 **Comment.** Section 31915 continues the first sentence of former Fish and Game Code Section
10 3953(e) without substantive change.

11 **§ 31920. Online information**

12 31920. The department shall post, on an Internet website, budget information
13 and a brief description for all projects funded from the Big Game Management
14 Account.

15 **Comment.** Section 31920 continues the second sentence of former Fish and Game Code
16 Section 3953(e) without substantive change.

17 **§ 31925. Exemptions**

18 31925. Big game projects authorized pursuant to this section are not subject to
19 Part 2 (commencing with Section 10100) of Division 2 of the Public Contract
20 Code or Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of
21 the Military and Veterans Code.

22 **Comment.** Section 31925 continues former Fish and Game Code Section 3953(f) without
23 substantive change.

24 **§ 31930. Accountability**

25 31930. The department shall maintain the internal accountability necessary to
26 ensure compliance with the collection, deposit, and expenditure of funds specified
27 in this section.

28 **Comment.** Section 31930 continues former Fish and Game Code Section 3953(g) without
29 substantive change.

30 **§ 31935. Transfer of funds from other accounts**

31 31935. The Augmented Deer Tags Account, Bighorn Sheep Permit Account,
32 and Wild Pig Account, within the Fish and Game Preservation Fund, shall be
33 consolidated and any remaining funds in these accounts transferred to the Big
34 Game Management Account, consistent with Sections 32950, 33305, 34240,
35 34865, 35825, and 37220. The department, after consultation with the Department
36 of Finance and the Legislative Analyst's Office, shall provide recommendations to
37 the Legislature for consolidation of additional dedicated accounts within the Fish
38 and Game Preservation Fund if, in the determination of the department,
39 consolidation would serve to reduce administrative costs to the department and

1 enhance its ability to meet current needs, while still preserving the generally stated
2 purpose of the dedicated accounts.

3 **Comment.** Section 31935 continues former Fish and Game Code Section 13205 without
4 substantive change.

5 TITLE 2. FUR-BEARING MAMMALS

6 § 32150. Allowed methods of taking

7 32150. (a) A fur-bearing mammal may be taken only with a trap, firearm, bow
8 and arrow, dog, or poison.

9 (b) It is unlawful to use poison to take fur-bearing mammals without a permit
10 from the department. The department may issue the permit upon a written
11 application indicating the kind of poison desired to be used and the time and place
12 of use.

13 **Comment.** Subdivision (a) of Section 32150 continues former Fish and Game Code Section
14 4002 without substantive change.

15 Subdivision (b) continues former Fish and Game Code Section 4003 without substantive
16 change.

17 See also Section 4806 (enforcement).

18 § 32155. Take and possession

19 32155. (a) Except as provided by Section 11200, fur-bearing mammals that are
20 injuring property may be taken at any time and in any manner not prohibited by
21 this code or regulations adopted pursuant to this code.

22 (b) Raw fur removed from a fur-bearing mammal that is taken pursuant to
23 subdivision (a) shall not be sold.

24 (c) A trap used to take a fur-bearing mammal pursuant to subdivision (a) shall be
25 inspected, and any animal found in a trap shall be removed, at least once daily.
26 The inspection and removal shall be done by the person who sets the trap, the
27 owner of the land where the trap is set, or an agent of either.

28 **Comment.** Section 32155 continues former Fish and Game Code Section 4180 without
29 substantive change.

30 TITLE 3. NONGAME MAMMALS

31 CHAPTER 1. GENERAL PROVISIONS

32 § 32300. Take or possession

33 32300. A nongame mammal may not be taken or possessed except as provided
34 in this code or in accordance with regulations adopted by the commission.

35 **Comment.** Section 32300 continues the second sentence of former Fish and Game Code
36 Section 4150 without substantive change.

37 See also Section 4806 (enforcement).

1 § 32305. Protection of property

2 32305. (a) Except as provided in paragraph (6) of subdivision (b) of Section
3 11200, a nongame mammal that is found to be injuring growing crops or other
4 property may be taken by the following persons at any time or in any manner not
5 prohibited by this code or regulations adopted pursuant to this code:

6 (1) The owner or tenant of the premises.

7 (2) An employee or agent of the owner or tenant of the premises, who is in
8 immediate possession of written permission from the owner or tenant to take a
9 nongame mammal described in this subdivision.

10 (3) An officer or employee of the Department of Food and Agriculture.

11 (4) A federal, county, or city officer or employee acting in official capacity
12 pursuant to provisions of the Food and Agricultural Code pertaining to pests, or
13 pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of
14 Division 4 of the Food and Agricultural Code.

15 (b) A person that takes a nongame mammal pursuant to this section is exempt
16 from Section 9500, except when providing trapping services for a fee.

17 (c) Raw fur from a nongame mammal taken pursuant to this section shall not be
18 sold.

19 **Comment.** Section 32305 restates the part of former Fish and Game Code Section 4152
20 applicable to nongame mammals without substantive change.

21 See also Section 11000 (inspection and removal of animals from traps).

22 **Notes.** (1) Proposed Section 32305 is intended to restate the part of existing Fish and Game
23 Code Section 4152 applicable to nongame mammals to clarify the meaning of that language,
24 without changing its substantive effect. Existing Section 4152 reads as follows:

25 4152. (a) Except as provided in Section 4005, nongame mammals and black-tailed jackrabbits,
26 muskrats, subspecies of red fox that are not the native Sierra Nevada red fox (*Vulpes vulpes*
27 *necator*), and red fox squirrels that are found to be injuring growing crops or other property may
28 be taken at any time or in any manner in accordance with this code and regulations adopted
29 pursuant to this code by the owner or tenant of the premises or employees and agents in
30 immediate possession of written permission from the owner or tenant thereof. They may also be
31 taken by officers or employees of the Department of Food and Agriculture or by federal, county,
32 or city officers or employees when acting in their official capacities pursuant to the Food and
33 Agricultural Code pertaining to pests, or pursuant to Article 6 (commencing with Section 6021)
34 of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code. Persons taking mammals
35 in accordance with this section are exempt from Section 3007, except when providing trapping
36 services for a fee. Raw furs, as defined in Section 4005, that are taken under this section, shall not
37 be sold.

38 (b) Traps used pursuant to this section shall be inspected and all animals in the traps shall be
39 removed at least once daily. The inspection and removal shall be done by the person who sets the
40 trap or the owner of the land where the trap is set or an agent of either.

41 **The Commission invites comment on whether the restatement would cause any**
42 **substantive change in the meaning of the provision.**

43 (2) Existing Section 4152 refers to employees and agents in “immediate possession” of written
44 permission from the owner or tenant of premises where depredators are injuring property.

45 **The Commission invites comment on whether or how the term “immediate possession”**
46 **differs from “possession,” and whether the more familiar term “possession” could be**
47 **substituted without substantively changing the meaning of the provision.**

1 TITLE 4. FULLY PROTECTED MAMMALS

2 § 32700. Take generally prohibited

3 32700. (a) Except as provided in this part, Article 1 (commencing with Section
4 63300) of Chapter 4 of Title 3 of Part 1 of Division 17 or Section 64605, a fully
5 protected mammal may not be taken or possessed at any time.

6 (b) No provision of this code or any other law shall be construed to authorize the
7 issuance of a permit or license to take any fully protected mammal, and no issued
8 permit or license shall have any force or effect for that purpose.

9 **Comment.** Subdivisions (a) and (b) of Section 32700 continue the first two sentences of
10 former Fish and Game Code Section 4700(a)(1) without substantive change.

11 See also Section 5400 (enforcement).

12 **Note.** Existing Fish and Game Code Section 4700(a)(1) provides that “Except as provided in
13 Section 2081.7 or 2835, fully protected mammals or parts thereof may not be taken or possessed
14 at any time.” However, Section 4700 itself (which would be continued by the provisions in this
15 proposed title) provides exceptions to that prohibition.

16 In addition, existing Section 4902 (which would be continued by proposed Sections 35900)
17 provides for limited sport hunting of a category of bighorn sheep (mature Nelson bighorn rams),
18 which are generally classified by existing Section 4700(b)(2) as fully protected mammals.

19 Proposed Section 32700 would therefore restate the list of provisions containing exceptions to
20 the prohibition against the take or possession of fully protected mammals to include the
21 provisions of this part.

22 **The Commission invites comment on whether that restatement would substantively**
23 **change the meaning of existing Section 4700(a)(1).**

24 § 32705. Take for scientific purposes

25 32705. (a) The department may authorize the taking of a fully protected
26 mammal for necessary scientific research, including efforts to recover fully
27 protected, threatened, or endangered species, subject to the following:

28 (1) Before authorizing the take of a fully protected mammal, the department
29 shall make an effort to notify all affected and interested parties to solicit
30 information and comments on the proposed authorization.

31 (2) The notification shall be published in the California Regulatory Notice
32 Register, and be made available to each person who has notified the department, in
33 writing, of that person’s interest in fully protected species and has provided an
34 email address, if available, or postal address to the department.

35 (3) Affected and interested parties shall have 30 days after notification is
36 published in the California Regulatory Notice Register to provide relevant
37 information and comments on the proposed authorization.

38 (b) As used in this section, “scientific research” does not include an action taken
39 as part of specified mitigation for a project, as defined in Section 21065 of the
40 Public Resources Code.

41 **Comment.** Section 32705 continues the third through sixth sentences of former Fish and Game
42 Code Section 4700(a)(1), and Section 4700(a)(2), without substantive change.

1 Game Management Account established in Section 31900 and, upon appropriation
2 by the Legislature, shall be expended, in addition to moneys budgeted for salaries
3 of persons in the department as set forth in Section 31900.

4 (c) The commission shall direct the department to annually authorize not less
5 than one pronghorn antelope tag or more than 1 percent of the total number of tags
6 available for the purpose of raising funds for programs and projects to benefit
7 pronghorn antelope. These tags may be sold at auction to residents or nonresidents
8 of the state or by another method and are not subject to the fee limitation
9 prescribed in subdivision (b). All revenues from sales pursuant to this subdivision
10 shall be deposited in the Big Game Management Account established in Section
11 31900 and, upon appropriation by the Legislature, shall be expended as set forth in
12 that section.

13 (d) The commission shall direct the department to annually authorize one
14 pronghorn antelope tag of the total number of tags available for issuance to
15 nonresidents of the state.

16 (e) This section shall become inoperative on July 1, 2025, and, as of January 1,
17 2026, is repealed.

18 **Comment.** Section 32950 continues former Fish and Game Code Section 331, as amended by
19 2018 Cal. Stat. ch. 295, § 1, without substantive change.

20 **Note.** This version of proposed Section 32950 would continue Section 331, as amended by
21 2018 Cal. Stat. ch. 295, § 1. Although that bill will not take effect until 2019, it is included here in
22 anticipation of its effect.

23 **§ 32950. Issuance of tags (operative July 1, 2025)**

24 32950. (a) The commission may determine and fix the area or areas, the seasons
25 and hours, the bag and possession limit, and the sex and total number of pronghorn
26 antelope (*Antilocapra americana*) that may be taken under regulations that the
27 commission may adopt from time to time. Only a person possessing a valid
28 hunting license, who has not received a pronghorn antelope tag under these
29 provisions during a period of time specified by the commission, may obtain a tag
30 for the taking of pronghorn antelope.

31 (b) The department may issue a pronghorn antelope tag upon payment of a fee.
32 The fee for a pronghorn antelope tag shall be fifty-five dollars (\$55) for a resident
33 of the state, as adjusted under Section 3755. On or before July 1, 2007, the
34 commission shall, by regulation, fix the fee for a nonresident of the state at not
35 less than a fee of three hundred fifty dollars (\$350), as adjusted under Section
36 3755. The fees shall be deposited in the Big Game Management Account
37 established in Section 3953 and, upon appropriation by the Legislature, shall be
38 expended, in addition to moneys budgeted for salaries of persons in the
39 department as set forth in Section 3953.

40 (c) The commission shall direct the department to annually authorize not less
41 than one pronghorn antelope tag or more than 1 percent of the total number of tags
42 available for the purpose of raising funds for programs and projects to benefit

1 pronghorn antelope. These tags may be sold at auction to residents or nonresidents
2 of the state or by another method and are not subject to the fee limitation
3 prescribed in subdivision (b). All revenues from sales pursuant to this subdivision
4 shall be deposited in the Big Game Management Account established in Section
5 3953 and, upon appropriation by the Legislature, shall be expended as set forth in
6 that section.

7 (d) The commission shall direct the department to annually authorize one
8 pronghorn antelope tag of the total number of tags available for issuance to
9 nonresidents of the state.

10 (e) This section shall become operative on July 1, 2025.

11 **Comment.** Section 32950 continues former Fish and Game Code Section 331, as added by
12 2018 Cal. Stat. ch. 295, § 2, without substantive change.

13  **Note.** This version of proposed Section 32950 would continue Section 331, as added by 2018
14 Cal. Stat. ch. 295, § 2. Although that bill will not take effect until 2019, it is included here in
15 anticipation of its effect.

16 **§ 32960. Deposit of fees**

17 32960. Except as provided in Section 32965, all revenues from the sale of
18 antelope tags, including any fundraising tags, shall be deposited in the Big Game
19 Management Account established in Section 31900 to permit separate
20 accountability for the receipt and expenditure of these funds.

21 **Comment.** Section 32960 continues the part of the first sentence of former Fish and Game
22 Code Section 3953(b) applicable to antelope without substantive change.

23 **§ 32965. Sale of tag by nonprofit organization**

24 32965. (a) A nonprofit organization designated by the department to assist in the
25 sale of antelope fundraising tags that are sold on behalf of the department for the
26 purpose of raising funds for specified programs and projects pursuant to
27 subdivision (a) of Section 32950 is authorized to retain 5 percent of the amount of
28 the sale price of the tag as a reasonable vendor fee.

29 (b) Within 30 days of the date of the sale, the selling nonprofit organization shall
30 send the department 95 percent of the total auction sale price of the tag, with an
31 itemized receipt showing the sale price and the 5-percent reduction retained by the
32 nonprofit organization as a vendor's fee.

33 **Comment.** Subdivision (a) of Section 32965 continues the part of former Fish and Game Code
34 Section 709 applicable to antelope without substantive change.

35 Subdivision (b) continues the part of the second sentence of former Fish and Game Code
36 Section 3953(b) applicable to antelope without substantive change.

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TITLE 2. BEAR

CHAPTER 1. GENERAL PROVISIONS

§ 33100. Classification

33100. For the purposes of this code, a black bear, brown bear, and cinnamon bear (genus *Euarctos*) are game mammals.

Comment. Section 33100 continues the part of former Fish and Game Code Section 3950(a) applicable to black, brown, and cinnamon bears, without substantive change.

§ 33105. Provisions not exclusive

33105. The provisions of this title are not intended to be exclusive. Other provisions that govern bear include, but are not limited to, Section 26765.

Comment. Section 33105 is new. It is added for drafting convenience.

§ 33110. Bear taken out of state

33110. The provisions of this title relating to the possession of bear also apply to bear taken outside this state and transported into this state.

Comment. Section 33110 continues former Fish and Game Code Section 4760 without substantive change.

CHAPTER 2. TAKE GENERALLY

§ 33200. Metal-jawed trap prohibited

33200. No person, including an employee of the state, federal or a county government, shall take a bear using an iron-jawed, steel-jawed or other type of metal-jawed trap, and no provision of this code or any other law shall be construed to authorize, or to permit the authorizing of, the use of an iron-jawed, steel-jawed or other type of metal-jawed trap, to take a bear.

Comment. Section 33200 continues former Fish and Game Code Section 3011 without substantive change.

§ 33205. Tag required

33205. It is unlawful to take any bear with a firearm, trap, or bow and arrow, without first procuring a tag authorizing the taking of that bear in accordance with this chapter, but no iron or steel-jawed or any type of metal-jawed trap shall be used to take any bear.

Comment. Section 33205 continues former Fish and Game Code Section 4750 without substantive change.

See also Sections 4704, 4860, 5464 (enforcement).

§ 33210. Use of tag

33210. (a) The person to whom a bear tag has been issued shall carry the tag while hunting bear. Upon the killing of any bear, that person shall immediately fill

1 out the tag completely, legibly, and permanently, and cut out or punch out and
2 completely remove notches or punch holes for the month and the date of the kill.
3 One part of the tag shall be immediately attached to the ear of the bear and kept
4 attached during the open season and for 15 days thereafter. The holder of the bear
5 tag shall immediately, upon harvesting a bear, notify the department in a manner
6 specified by the commission.

7 (b) Except as otherwise provided by this code or regulations adopted pursuant to
8 this code, it is unlawful to possess any untagged bear.

9 **Comment.** Section 33210 continues former Fish and Game Code Section 4753 without
10 substantive change.

11 **Note.** The Commission invites comment on whether a more common term could be
12 substituted for the word “harvesting” as used in existing Fish and Game Code Section 4753.

13 § 33215. Countersigning

14 33215. Any person legally killing a bear in this state shall have the tag for that
15 bear countersigned by a commissioner, a person employed by the department, a
16 person designated for that purpose by the commission, a notary public, a
17 postmaster, a peace officer, or an officer authorized to administer oaths, before
18 transporting the bear, except to transport the bear to the nearest person authorized
19 by this section to countersign the tag on the route from where the bear is taken to
20 that person.

21 **Comment.** Section 33215 restates former Fish and Game Code Section 4755 without
22 substantive change.

23 **Note.** Proposed Section 33215 is intended to restate existing Fish and Game Code Section
24 4755 to improve its clarity, without changing its substantive effect. The existing provisions read
25 as follows:

26 4755. Any person legally killing a bear in this state shall have the tag countersigned by a fish
27 and game commissioner, a person employed in the department, a person designated for this
28 purpose by the commission, or by a notary public, postmaster, postmistress, peace officer or by
29 an officer authorized to administer oaths, before transporting that bear except for the purpose of
30 taking it to the nearest officer authorized to countersign the tag, on the route being followed from
31 the point where the bear is taken.

32 **The Commission invites comment on whether the restatement would cause any**
33 **substantive change in the meaning of the provision.**

34 § 33220. Retention of skin and head

35 33220. Any person taking a bear must retain possession of the skin of the bear,
36 and the portion of the bear’s head that includes both ears, during the open season
37 for that bear and for 15 days thereafter, and must produce the skin and that portion
38 of the head upon the demand of any officer authorized to enforce the provisions of
39 this code.

40 **Comment.** Section 33220 restates former Fish and Game Code Section 4757 without
41 substantive change.

1 **Note.** Proposed Section 33220 is intended to restate existing Fish and Game Code Section
2 4757 to improve its clarity, without changing its substantive effect. The existing provisions read
3 as follows:

4 4757. Any person taking any bear must retain in his possession during the open season thereon,
5 and for 15 days thereafter, the skin and portion of the head bearing the ears, and must produce the
6 skin and portion of the head upon the demand of any officer authorized to enforce the provisions
7 of this code.

8 **The Commission invites comment on whether the restatement would cause any**
9 **substantive change in the meaning of the provision.**

10 **§ 33225. Killing bear held in captivity**

11 33225. Except as authorized under a domesticated game breeder's license, a
12 bear kept in captivity may be killed only with the approval of the department, and
13 pursuant to any regulation that the commission may adopt. The carcass of a bear
14 kept in captivity may not be sold, and shall be disposed of as directed by the
15 department.

16 **Comment.** Section 33225 continues the part of former Fish and Game Code Section 3006
17 applicable to bears without substantive change.

18 CHAPTER 3. TAGS

19 **§ 33300. Issuance of tag (operative until July 1, 2025)**

20 33300. (a) Any resident of this state, 18 years of age or older, who possesses a
21 valid hunting license, may procure the number of bear tags corresponding to the
22 number of bear that may legally be taken by one person during the current license
23 year, upon payment of a base fee of fifteen dollars (\$15), as adjusted under Section
24 3755, for each bear tag.

25 (b) Any resident of this state, who possesses a valid junior hunting license and is
26 at least 12 years of age, may procure the number of bear tags corresponding to the
27 number of bear that may legally be taken by one person during the current license
28 year, upon payment of a base fee of twenty dollars (\$20), as adjusted under
29 Section 3755, for each bear tag.

30 (c) Any nonresident of this state, 12 years of age or older, who possesses a valid
31 California hunting license, may procure the number of bear tags corresponding to
32 the number of bear that may be legally taken by one person during the current
33 license year upon payment of the base fee of one hundred five dollars (\$105), as
34 adjusted under Section 3755, for each bear tag.

35 (d) Fee revenues collected pursuant to this section shall be deposited in the Big
36 Game Management Account established in Section 31900 and, upon appropriation
37 by the Legislature, shall be expended as set forth in that section.

38 (e) This section shall become inoperative on July 1, 2025, and, as of January 1,
39 2026, is repealed.

40 **Comment.** Section 33300 continues former Fish and Game Code Section 4751, as amended by
41 2018 Cal. Stat. ch. 295, § 8, without substantive change.

1 **Note.** This version of proposed Section 33300 would continue Section 4751, as amended by
2 2018 Cal. Stat. ch. 295, § 8. Although that bill will not take effect until 2019, it is included here in
3 anticipation of its effect.

4 **§ 33300. Issuance of tag (operative on July 1, 2025)**

5 33300. (a) Any resident of this state, 12 years of age or older, who possesses a
6 valid hunting license, may procure the number of bear tags corresponding to the
7 number of bear that may legally be taken by one person during the current license
8 year, upon payment of a base fee of fifteen dollars (\$15), as adjusted under Section
9 3755, for each bear tag. Fee revenues collected pursuant to this subdivision shall
10 be deposited in the Big Game Management Account established in Section 31900
11 and, upon appropriation by the Legislature, shall be expended as set forth in that
12 section.

13 (b) Any nonresident of this state, 12 years of age or older, who possesses a valid
14 California hunting license, may procure the number of bear tags corresponding to
15 the number of bear that may be legally taken by one person during the current
16 license year upon payment of the base fee of one hundred five dollars (\$105), as
17 adjusted under Section 31900, for each bear tag. Fee revenues collected pursuant
18 to this subdivision shall be deposited in the Big Game Management Account
19 established in Section 31900 and, upon appropriation by the Legislature, shall be
20 expended as set forth in that section.

21 (c) This section shall become operative on July 1, 2025.

22 **Comment.** Section 33300 continues former Fish and Game Code Section 4751, as added by
23 2018 Cal. Stat. ch. 295, § 9, without substantive change.

24 **Note.** This version of proposed Section 33300 would continue Section 4751, as added by
25 2018 Cal. Stat. ch. 295, § 9. Although that bill will not take effect until 2019, it is included here in
26 anticipation of its effect.

27 **§ 33305. Deposit of fees**

28 33305. All revenues from the sale of bear tags, including any fundraising tags,
29 shall be deposited in the Big Game Management Account established in Section
30 31900 to permit separate accountability for the receipt and expenditure of these
31 funds.

32 **Comment.** Section 33305 continues the part of the first sentence of former Fish and Game
33 Code Section 3953(b) applicable to bears without substantive change.

34 **§ 33310. Time period when tags are valid**

35 33310. Bear tags are valid only during that portion of the current hunting license
36 year in which a bear may be taken or possessed in any district.

37 **Comment.** Section 33310 continues former Fish and Game Code Section 4752 without
38 substantive change.

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CHAPTER 4. POPULATION MANAGEMENT

§ 33400. Seasons

33400. (a) When adopting regulations pursuant to any authority otherwise vested in the commission by this code, the commission shall annually determine whether to continue, repeal, or amend regulations establishing hunting seasons for black bears. The determination shall include a review of factors that impact the health and viability of the black bear population.

(b) Prior to adopting a regulation authorizing a special hunting season for black bears for the purpose of curtailing property damage in any specified area, the commission shall comply with Title 4 (commencing with Section 10500) of Part 2 of Division 6.

Comment. Subdivision (a) of Section 33400 continues former Fish and Game Code Section 302 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 303 without substantive change.

CHAPTER 5. USE OF PARTS

§ 33450. Personal use of bear parts

33450. (a) The skin, hide, teeth, claws, or other parts of any bear lawfully taken and possessed for the period provided in Section 33220 may be tanned or otherwise used for personal use only.

(b) Notwithstanding the provisions of Section 33220, the skin, hide, teeth, claws, or other parts of any bear lawfully taken may be donated at any time to a veterans' organization or veterans' service committee for use by veterans for rehabilitation purposes. If the donation occurs during the retention period specified in Section 33220, the donor shall obtain a receipt and retain it for the donation for the duration of that period.

Comment. Subdivision (a) of Section 33450 continues the first sentence of former Fish and Game Code Section 4759 without substantive change.

Subdivision (b) restates the second and third sentences of former Fish and Game Code Section 4759 without substantive change.

Note. Subdivision (b) of proposed Section 33450 is intended to restate the second and third sentences of existing Fish and Game Code Section 4759 to improve its clarity, without changing its substantive effect. The existing provisions read as follows:

Notwithstanding the provisions of Section 4757, the skin, hide, teeth, claws, or other parts of any bear lawfully taken may be donated any time to veterans' organizations or veterans' service committees for use by veterans for rehabilitation purposes. The donor shall obtain a receipt which shall be retained during the period stipulated by Section 4757.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of those sentences.

1 (1) The taking shall be reported to the department no later than the next working
2 day.

3 (2) The carcass of any bear taken is made available to the department.

4 (b) The department shall make a record of each report made pursuant to
5 subdivision (a), and may have an employee of the department investigate the
6 taking, or cause the taking to be investigated. Upon completion of an
7 investigation, the investigator may, upon a finding that the requirements of this
8 section have been met with respect to a bear taken under subdivision (a), issue a
9 written statement to the person taking the bear, confirming that the requirements
10 of this section have been met.

11 (c) Notwithstanding Section 33500, any part of a bear lawfully possessed
12 pursuant to this section is subject to Section 33455.

13 (d) Nothing in this section prohibits a federal, state, or county trapper from
14 killing or trapping a bear that is killing or molesting livestock.

15 **Comment.** Subdivision (a) of Section 33510 continues former Fish and Game Code Section
16 4181.1(a) without substantive change.

17 Subdivision (b) continues the part of former Fish and Game Code Section 4181.1(c) applicable
18 to bear without substantive change.

19 Subdivision (c) continues former Fish and Game Code Section 4181.1(d) without substantive
20 change.

21 Subdivision (d) continues former Fish and Game Code Section 4181.1(e) without substantive
22 change.

23 **§ 33515. Use of dogs**

24 33515. (a) As used in this section, the terms “bear” and “pursue” have the same
25 meanings as defined in Section 31500.

26 (b) Notwithstanding Section 31510, not more than three dogs may be used to
27 pursue a bear pursuant to a depredation permit issued by the department, if all of
28 the following conditions are met:

29 (1) The applicant demonstrates, in writing, that nonlethal and avoidance
30 measures were undertaken prior to requesting the depredation permit.

31 (2) The applicant demonstrates, in writing, the specific need for the use of dogs
32 in carrying out the depredation permit.

33 (3) The depredation permit authorizing the use of dogs is valid for the take of
34 one bear.

35 (4) The depredation permit authorizing the use of dogs is valid for a period not
36 to exceed 20 consecutive days.

37 (5) The depredation permit specifies the name and address of any dog handler
38 who will be utilized in the pursuit or taking.

39 (6) The dog handler has the depredation permit in his or her possession at all
40 times during the pursuit or taking.

41 (7) The dog handler does not pursue a bear more than one mile off the property
42 on which the depredation activity occurred.

1 (c) After any taking of a bear, the applicant is required to submit the skull to the
2 department as described in the department’s Black Bear Management Plan. No
3 part of any bear taken pursuant to a depredation permit may be sold, purchased, or
4 possessed for sale, as described in Section 33455.

5 (d) No holder of a depredation permit may solicit or receive compensation from
6 any person in exchange for carrying out the terms of the permit. For the purpose of
7 this subdivision, “compensation” means remuneration paid in money, property, or
8 anything else of value.

9 (e) The holder of a depredation permit, within 30 days of its issuance, shall
10 report to the department detailing the use of the permit and the results of any
11 pursuits, including information about bear pursued and whether the bear was or
12 was not harmed, but not killed.

13 **Comment.** Section 33515 continues the part of former Fish and Game Code Section 3960.2
14 applicable to bears without substantive change.

15 **Note.** Existing Fish and Game Code Section 3960.2 and a number of other existing code
16 sections refer to the issuance by the department of a “depredation permit.” However, there appear
17 to be no sections in the existing code that either authorize the Department to issue such permits,
18 or specify any process relating to the issuance of such permit.

19 **The Commission invites comment on whether a provision should be added to the**
20 **proposed law providing general authorization for the issuance of such permits.**

21 **§ 33520. Depredation permit**

22 33520. (a) Except as provided in Section 33510, an owner or tenant of land or
23 property that is being damaged or destroyed, or is in danger of being damaged or
24 destroyed, by bear, may apply to the department for a permit to kill the bear
25 causing or threatening the damage or destruction.

26 (b) Subject to the limitations in subdivision (e), the department, upon
27 satisfactory evidence of actual or immediately threatened damage or destruction of
28 land or property, shall issue a revocable permit for the taking and disposition of
29 the responsible bear, under regulations adopted by the commission. The permit
30 shall include a statement of the penalties that may be imposed for a violation of
31 the permit conditions.

32 (c) Bear taken under a permit issued pursuant to subdivision (b) shall not be sold
33 or shipped from the premises on which they are taken, except pursuant to
34 instructions from the department.

35 (d) No iron-jawed, steel-jawed, or any other type of metal-jawed trap shall be
36 used to take any bear pursuant to this section.

37 (e) The permit issued for taking bear pursuant to subdivision (a) shall contain
38 the following facts:

39 (1) Why the issuance of the permit was necessary.

40 (2) What efforts were made to prevent the actual or immediately threatened
41 damage or destruction without killing the bear or bears.

42 (3) What corrective actions should be implemented to prevent reoccurrence of
43 the damage or destruction.

1 (f) It is unlawful for any person to violate the terms of any permit issued
2 pursuant to this section.

3 **Comment.** Subdivisions (a) through (d) and (f) of Section 33520 restate the part of former Fish
4 and Game Code Section 4181(a) applicable to bear without substantive change.

5 Subdivision (e) continues former Fish and Game Code Section 4181(b) without substantive
6 change.

7 **Note.** Proposed Section 33520(a)-(d) and (f) are intended to restate the part of existing Fish
8 and Game Code Section 4181(a) applicable to bear to clarify the meaning of that language,
9 without changing its substantive effect. Existing Section 4181 reads as follows:

10 4181. (a) Except as provided in Section 4181.1, any owner or tenant of land or property that is
11 being damaged or destroyed or is in danger of being damaged or destroyed by elk, bear, beaver,
12 wild pig, wild turkeys, or gray squirrels, may apply to the department for a permit to kill the
13 animals. Subject to the limitations in subdivisions (b) and (d), the department, upon satisfactory
14 evidence of the damage or destruction, actual or immediately threatened, shall issue a revocable
15 permit for the taking and disposition of the animals under regulations adopted by the commission.
16 The permit shall include a statement of the penalties that may be imposed for a violation of the
17 permit conditions. Animals so taken shall not be sold or shipped from the premises on which they
18 are taken except under instructions from the department. No iron-jawed or steel-jawed or any
19 type of metal-jawed trap shall be used to take any bear pursuant to this section. No poison of any
20 type may be used to take any gray squirrel or wild turkey pursuant to this section. The department
21 shall designate the type of trap to be used to ensure the most humane method is used to trap gray
22 squirrels. The department may require trapped squirrels to be released in parks or other
23 nonagricultural areas. It is unlawful for any person to violate the terms of any permit issued under
24 this section.

25 (b) The permit issued for taking bears pursuant to subdivision (a) shall contain the following
26 facts:

- 27 (1) Why the issuance of the permit was necessary.
28 (2) What efforts were made to solve the problem without killing the bears.
29 (3) What corrective actions should be implemented to prevent reoccurrence.
30 (c) ...
31 (d) ...

32 The reference in existing Section 4181 to subdivision (d) of Section 4181 has not been continued
33 in proposed Section 33520, as that provision does not apply to bears.

34 **The Commission invites comment on whether the restatement would cause any**
35 **substantive change in the meaning of the provision.**

36 **CHAPTER 7. TAKE FOR SCIENTIFIC PURPOSES**

37 **§ 33600. Scientific research**

38 33600. (a) As used in this section, the terms “bear” and “pursue” have the same
39 meanings as defined in Section 31500.

40 (b) Notwithstanding Section 31510, the department may authorize qualified
41 individuals, educational institutions, governmental agencies, or nongovernmental
42 organizations to use dogs to pursue bears for the purpose of scientific research,
43 provided that the research project is designed to do all of the following:

- 44 (1) Contribute to knowledge of natural wildlife ecosystems.

1 (2) Follow best practices and minimize disruptions in the lives and movements
2 of bears and other wildlife, as well as impacts to the habitat while maintaining the
3 applicant's objectives.

4 (3) Directly or indirectly support the sustainability and survival of bear
5 populations and healthy ecosystems.

6 (4) Exclude the intentional injury or killing of any bear.

7 (5) Exclude the intentional relocation of any bear other than to areas suitable to
8 them in the state. Any relocation shall comply with the requirements of Section
9 31610.

10 (c) Any research project authorized pursuant to subdivision (b) shall be
11 undertaken pursuant to a memorandum of understanding between the department
12 and the authorized research entity that addresses all of the following:

13 (1) Trapping and anesthetizing of the animals pursued, collection of diagnostic
14 samples, attaching or surgically implanting monitoring or recognition devices or
15 markings, and providing veterinary care or euthanasia, as required, for the health,
16 safety, and humane treatment of the animals.

17 (2) Qualifications of onsite field supervisors necessary for carrying out
18 authorized research procedures.

19 (3) Immediate reporting of any incidental mortality or injury to a bear as a result
20 of authorized research activities. Reports of any incidental mortality or injury to a
21 bear shall be made available to the public upon request.

22 (4) Filing of annual and final progress reports of research involving pursuit by
23 dogs. Annual and final progress reports shall be made available to the public upon
24 request.

25 (d) The department shall provide notice to the public of any bear research
26 project authorized pursuant to subdivision (b) at least 30 days prior to its initiation,
27 and, upon request, shall make available to the public copies of the memorandum
28 of understanding between the department and the authorized research entity
29 required pursuant to subdivision (c).

30 **Comment.** Section 33600 continues the part of former Fish and Game Code Section 3960.4
31 applicable to bears without substantive change.

32 **Note.** Existing Fish and Game Code Section 3960.4 authorizes the Department to use dogs to
33 pursue bears *or* bobcats for scientific research, provided the research project meets certain
34 conditions. Among those conditions are safeguards that generally protect against harm to any
35 "bear *or* bobcat." See Section 3960.4(b)(3), (4), (5) (which would be continued by proposed
36 Section 33600(b)(3), (4), (5)).

37 Proposed Section 33600 would continue the provisions of Section 3960.4 that relate only to the
38 pursuit and protection of bears, and all references to bobcats have therefore been deleted from the
39 proposed section. (The provisions of Section 3960.4 that relate to the pursuit and protection of
40 bobcats are continued elsewhere.)

41 **The Commission invites comment on whether any of the deletions of the references to**
42 **bobcats in this section would cause any substantive change in the meaning of any provision**
43 **in Section 3960.4.**

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CHAPTER 8. MISCELLANEOUS PROVISIONS

§ 33650. Bears within San Bernardino and Riverside counties

33650. In any district or part of a district located within either San Bernardino or Riverside counties, a bear may be taken at any time with traps, if all of the following conditions are satisfied:

(a) The traps are set inside a good and substantial fence, as defined by Section 17121 of the Food and Agricultural Code.

(b) The fence surrounds one or more beehives.

(c) No part of the fence is at a distance greater than 50 yards from a beehive.

(d) A conspicuous sign is posted and maintained at each entrance to the enclosed premises, warning of the presence of the traps.

(e) No iron-jawed, steel-jawed, or any other type of metal-jawed trap is used.

Comment. Section 33650 continues former Fish and Game Code Section 4185 without substantive change.

TITLE 3. BEAVER

§ 33700. Fur-bearing mammal

33700. For the purposes of this code, a beaver is a fur-bearing mammal.

Comment. Section 33700 continues the part of former Fish and Game Code Section 4000 applicable to beavers without substantive change.

§ 33705. Provisions not exclusive

33705. The provisions of this title are not intended to be exclusive. Other provisions that govern beaver include, but are not limited to, Section 11010.

Comment. Section 33705 is new. It is added for drafting convenience.

§ 33710. Depredation permit

33710. (a) An owner or tenant of land or property that is being damaged or destroyed, or is in danger of being damaged or destroyed, by beaver, may apply to the department for a permit to kill the beaver causing or threatening the damage or destruction.

(b) The department, upon satisfactory evidence of actual or immediately threatened damage or destruction of land or property, shall issue a revocable permit for the taking and disposition of the responsible beaver, under regulations adopted by the commission. The permit shall include a statement of the penalties that may be imposed for a violation of the permit conditions.

(c) Beaver taken under a permit issued pursuant to subdivision (b) shall not be sold or shipped from the premises on which they are taken, except pursuant to instructions from the department.

(d) It is unlawful for any person to violate the terms of any permit issued pursuant to this section.

1 **Comment.** Section 33710 restates the part of former Fish and Game Code Section 4181(a)
2 applicable to beaver without substantive change.

3 **Note.** Proposed Section 33710 is intended to restate the part of existing Fish and Game Code
4 Section 4181(a) applicable to beaver to clarify the meaning of that language, without changing its
5 substantive effect. Existing Section 4181 reads as follows:

6 4181. (a) Except as provided in Section 4181.1, any owner or tenant of land or property that is
7 being damaged or destroyed or is in danger of being damaged or destroyed by elk, bear, beaver,
8 wild pig, wild turkeys, or gray squirrels, may apply to the department for a permit to kill the
9 animals. Subject to the limitations in subdivisions (b) and (d), the department, upon satisfactory
10 evidence of the damage or destruction, actual or immediately threatened, shall issue a revocable
11 permit for the taking and disposition of the animals under regulations adopted by the commission.
12 The permit shall include a statement of the penalties that may be imposed for a violation of the
13 permit conditions. Animals so taken shall not be sold or shipped from the premises on which they
14 are taken except under instructions from the department. No iron-jawed or steel-jawed or any
15 type of metal-jawed trap shall be used to take any bear pursuant to this section. No poison of any
16 type may be used to take any gray squirrel or wild turkey pursuant to this section. The department
17 shall designate the type of trap to be used to ensure the most humane method is used to trap gray
18 squirrels. The department may require trapped squirrels to be released in parks or other
19 nonagricultural areas. It is unlawful for any person to violate the terms of any permit issued under
20 this section.

21 The references in existing Section 4181 to existing Section 4181.1 and to subdivisions (b) and (d)
22 of Section 4181 have not been continued in proposed Section 31110, as those provisions do not
23 apply to beavers.

24 **The Commission invites comment on whether the restatement would cause any**
25 **substantive change in the meaning of the provision.**

26 TITLE 4. BOBCAT

27 CHAPTER 1. GENERAL PROVISIONS

28 § 33750. Provisions not exclusive

29 33750. The provisions of this title are not intended to be exclusive. Other
30 provisions that govern bobcats include, but are not limited to, the following
31 provisions:

32 (a) Section 31510.

33 (b) Section 31550.

34 **Comment.** Section 33750 is new. It is added for drafting convenience.

35 § 33755. Definition of “pursue”

36 33755. As used in this title, the term “pursue” has the same meaning as defined
37 in Section 31500.

38 **Comment.** Section 33755 continues the parts of former Fish and Game Code Sections 3960.2,
39 3960.4, and 3960.6 applicable to the word “pursue” without substantive change.

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CHAPTER 2. TAKE GENERALLY

§ 33800. Trapping on private land

33800. (a) Notwithstanding Section 9580 or any other provision of this code, on and after January 1, 2014, it shall be unlawful to trap a bobcat, or attempt to do so, on private land not belonging to the trapper without the express written consent of the owner of that property.

(b) The placing or possession of a trap or the possession of a bobcat on land is prima facie evidence of a violation of this section.

Comment. Section 33800 continues former Fish and Game Code Section 4155(d) without substantive change.

§ 33805. Joshua Tree National Park

33805. Commencing January 1, 2014, it shall be unlawful to trap a bobcat, or attempt to do so, or to sell or export a bobcat taken in the area surrounding Joshua Tree National Park, defined as follows: East and South of State Highway 62 from the intersection of Interstate 10 to the intersection of State Highway 177; West of State Highway 177 from the intersection of State Highway 62 to the intersection with Interstate 10; North of Interstate 10 from State Highway 177 to State Highway 62.

Comment. Section 33805 continues former Fish and Game Code Section 4155(a) without substantive change.

§ 33810. Parks, preserves, and conservancies

33810. (a) Through the commission’s next regularly scheduled mammal hunting and trapping rulemaking process occurring after January 1, 2014, the commission shall amend its regulations to prohibit the trapping of bobcats adjacent to the boundaries of each national or state park and national monument or wildlife refuge in which bobcat trapping is prohibited.

(b) Commencing January 1, 2016, the commission shall consider whether to prohibit bobcat trapping within, and adjacent to, preserves, state conservancies, and any additional public or private conservation areas identified to the commission by the public as warranting protection. The commission, as necessary, shall amend its regulations through its next subsequently scheduled mammal hunting and trapping rulemaking process to prohibit bobcat trapping in any area determined by the commission to warrant protection.

(c) The commission shall delineate the boundaries of an area in which bobcat trapping is prohibited pursuant to subdivisions (a) or (b) using readily identifiable features, such as highways or other major roads, such as those delineated for Joshua Tree National Park in Section 33805.

(d) The prohibition on the trapping of bobcats in the areas designated pursuant to Section 33805 and this section shall not apply to any of the following:

1 (1) The taking of a bobcat by an employee of the department acting in an official
2 capacity.

3 (2) The taking of a bobcat in accordance with the conditions of a scientific,
4 educational, or propagation permit pursuant to Section 9200 by the holder of that
5 permit.

6 (3) The lawful taking of a bobcat found to be injuring crops or other property,
7 pursuant to Section 32305, another provision of this code, or a regulation adopted
8 pursuant to this code.

9 **Comment.** Section 33810 continues former Fish and Game Code Section 4155(b)-(c) without
10 substantive change.

11 **§ 33815. Trapping fees**

12 33815. Consistent with the requirements of subdivision (b) of Section 11215,
13 the commission shall set trapping license fees and associated fees, including, but
14 not limited to, shipping tags required pursuant to Section 479 of Chapter 6 of
15 Subdivision 2 of Division 1 of Title 14 of the California Code of Regulations, for
16 the 2014–15 season, and any subsequent seasons in which bobcat trapping is
17 allowed, at the levels necessary to fully recover all reasonable administrative and
18 implementation costs of the department and the commission associated with the
19 trapping of bobcats in the state, including, but not limited to, enforcement costs.

20 **Comment.** Section 33815 continues former Fish and Game Code Section 4155(e) without
21 substantive change.

22 **§ 33820. Effect of chapter**

23 33820. This chapter does not limit the ability of the department or the
24 commission to impose additional requirements, restrictions, or prohibitions related
25 to the taking of bobcats, including a complete prohibition on the trapping of
26 bobcats pursuant to this code.

27 **Comment.** Section 33820 continues former Fish and Game Code Section 4155(f) without
28 substantive change.

29 **CHAPTER 3. PURSUIT TO PROTECT PROPERTY**

30 **§ 33900. Pursuit to protect livestock or crops**

31 33900. Notwithstanding Section 31510, dogs that are guarding or protecting
32 livestock or crops on property owned, leased, or rented by the owner of the dogs
33 may be used to pursue a bobcat, if the dogs are maintained with, and remain in
34 reasonable proximity to, the livestock or crops being guarded or protected.

35 **Comment.** Section 33900 continues the part of former Fish and Game Code Section 3960.6(b)
36 applicable to bobcats without substantive change.

1 **§ 33905. Depredation permit**

2 33905. (a) Notwithstanding Section 31510, three or fewer dogs may be used to
3 pursue a bobcat pursuant to a depredation permit issued by the department, if all of
4 the following conditions are met:

5 (1) The applicant demonstrates, in writing, that nonlethal and avoidance
6 measures were undertaken prior to requesting the depredation permit.

7 (2) The applicant demonstrates, in writing, the specific need for the use of dogs
8 in carrying out the depredation permit.

9 (3) The depredation permit authorizing the use of dogs is valid for the take of
10 one bobcat.

11 (4) The depredation permit authorizing the use of dogs is valid for a period not
12 to exceed 20 consecutive days.

13 (5) The depredation permit specifies the name and address of any dog handler
14 who will be utilized in the pursuit or taking.

15 (6) The dog handler has the depredation permit in his or her possession at all
16 times during the pursuit or taking.

17 (7) The dog handler does not pursue a bobcat more than one mile off the
18 property on which the depredation activity occurred.

19 (b) No holder of a depredation permit may solicit or receive compensation from
20 any person in exchange for carrying out the terms of the permit. For the purpose of
21 this subdivision, “compensation” means remuneration paid in money, property, or
22 anything else of value.

23 (c) The holder of a depredation permit, within 30 days of its issuance, shall
24 report to the department detailing the use of the permit and the results of any
25 pursuits, including information about bobcat pursued and whether the bobcat was
26 or was not harmed, but not killed.

27 **Comment.** Section 33905 continues the part of former Fish and Game Code Section 3960.2
28 applicable to bobcats without substantive change.

29 CHAPTER 4. PURSUIT FOR SCIENTIFIC PURPOSES

30 **§ 33950. Pursuit in furtherance of scientific research**

31 33950. (a) Notwithstanding Section 31510, the department may authorize
32 qualified individuals, educational institutions, governmental agencies, or
33 nongovernmental organizations to use dogs to pursue bobcats for the purpose of
34 scientific research, provided that the research project is designed to do all of the
35 following:

36 (1) Contribute to knowledge of natural wildlife ecosystems.

37 (2) Follow best practices and minimize disruptions in the lives and movements
38 of bobcats and other wildlife, as well as impacts to the habitat while maintaining
39 the applicant’s objectives.

40 (3) Directly or indirectly support the sustainability and survival of bobcat
41 populations and healthy ecosystems.

1 (4) Exclude the intentional injury or killing of any bobcat.

2 (5) Exclude the intentional relocation of any bobcat other than to areas suitable
3 to them in the state. Any relocation shall comply with the requirements of Section
4 31610.

5 (b) Any research project authorized pursuant to subdivision (a) shall be
6 undertaken pursuant to a memorandum of understanding between the department
7 and the authorized research entity that addresses all of the following:

8 (1) Trapping and anesthetizing of the animals pursued, collection of diagnostic
9 samples, attaching or surgically implanting monitoring or recognition devices or
10 markings, and providing veterinary care or euthanasia, as required, for the health,
11 safety, and humane treatment of the animals.

12 (2) Qualifications of onsite field supervisors necessary for carrying out
13 authorized research procedures.

14 (3) Immediate reporting of any incidental mortality or injury to a bobcat as a
15 result of authorized research activities. Reports of any incidental mortality or
16 injury to a bobcat shall be made available to the public upon request.

17 (4) Filing of annual and final progress reports of research involving pursuit by
18 dogs. Annual and final progress reports shall be made available to the public upon
19 request.

20 (c) The department shall provide notice to the public of any bobcat research
21 project authorized pursuant to subdivision (a) at least 30 days prior to its initiation,
22 and, upon request, shall make available to the public copies of the memorandum
23 of understanding between the department and the authorized research entity
24 required pursuant to subdivision (b).

25 **Comment.** Section 33950 continues the part of former Fish and Game Code Section
26 3960.4(b)-(d) applicable to bobcats without substantive change.

27 **Note.** Existing Fish and Game Code Section 3960.4 authorizes the Department to use dogs to
28 pursue bears *or* bobcats for scientific research, provided the research project meets certain
29 conditions. Among those conditions are safeguards that generally protect against harm to any
30 “bear *or* bobcat.” See Section 3960.4(b)(3), (4), (5) (which would be continued by proposed
31 Section 33950(a)(3), (4), and (5)).

32 Proposed Section 33950 would continue the provisions of Section 3960.4 that relate only to the
33 pursuit and protection of bobcats, and all references to bears have therefore been deleted from the
34 proposed section. (The provisions of Section 3960.4 that relate to the pursuit and protection of
35 bears are continued elsewhere.)

36 **The Commission invites comment on whether any of the deletions of the references to**
37 **bears in this section would cause any substantive change in the meaning of any provision in**
38 **Section 3960.4.**

1 TITLE 5. BURRO

2 § 34050. Provisions not exclusive

3 34050. The provisions of this title are not intended to be exclusive. Other
4 provisions that govern burros include, but are not limited to, the following
5 provisions:

6 (a) Section 400.

7 (b) Section 35815.

8 **Comment.** Section 34050 is new. It is added for drafting convenience.

9 § 34055. Prohibitions

10 34055. (a) It is unlawful to kill, wound, capture, or have in possession any
11 undomesticated burro, except as provided in Section 53074.5 of the Government
12 Code.

13 (b) As used in this section, “undomesticated burro” means a wild burro or a
14 burro that has not been tamed or domesticated for a period of three years after its
15 capture. The fact that a burro was killed, wounded, or captured on publicly owned
16 land, or on land owned by a person other than the person who killed, wounded, or
17 captured the burro is prima facie evidence that the burro was an undomesticated
18 burro at the time it was killed, wounded, or captured.

19 (c) Neither the commission nor any other department or agency has any power
20 to modify the provisions of this section by any order, rule, or regulation.

21 **Comment.** Section 34055 continues former Fish and Game Code Section 4600 without
22 substantive change.

23 See also Section 5540 (enforcement).

24 § 34060. Burro sanctuary

25 34060. The following is a burro sanctuary: All that area within the following
26 boundaries:

27 Beginning at the point at which the northern boundary line of Death Valley
28 National Monument intersects with the easterly boundary line of the State of
29 California;

30 Thence westerly along the northern boundary line of Death Valley National
31 Monument to the point of intersection with the line common to R. 40 and 41 E.,
32 Mount Diablo Meridian, being the NE. corner of Sec. 24, T. 10 S., R. 40 E., M. D.
33 B. & M.;

34 Thence northerly along the line common to R. 40 and 41 E., M. D. M., to the
35 point of intersection with the line common to T. 9 and 10 S., Mount Diablo Base,
36 being the NE. corner of Sec. 1, T. 10 S., R. 40 E., M. D. B. & M.;

37 Thence westerly along the line common to T. 9 and 10 S., M.D.B., and the
38 prolongation thereof, to the point of intersection with the most easterly boundary
39 line of the Inyo National Forest, as such boundary exists on the effective date of
40 this act, being the NW. corner of Sec. 6, T. 10 S., R. 37 E., M. D. B. & M.;

1 Thence southerly and easterly along the most easterly boundary line of the Inyo
2 National Forest to the most easterly southeast corner of said national forest;

3 Thence in a direct line in a generally southeasterly direction to the point at
4 which the center line of State Highway Route 127 (No. 190) intersects with the
5 line common to R. 41 and 42 E., M. D. M.;

6 Thence southerly along the line common to R. 41 and 42 E., M. D. M., to the
7 point of intersection with the line common to T. 20 and 21 S., M. D. B., being the
8 SW. corner of Sec. 31, T. 20 S., R. 42 E., M. D. B. & M.;

9 Thence westerly one-half mile, more or less, along the line common to T. 20 and
10 21 S., M. D. B., to the point of intersection with the line common to R. 41 and 42
11 E., M. D. M., being the NW. corner of Sec. 6, T. 21 S., R. 42 E., M. D. B. & M.;

12 Thence southerly along the line common to R. 41 and 42 E., M. D. M., to the
13 point of intersection with the boundary line between Inyo and San Bernardino
14 Counties;

15 Thence easterly along said county boundary line to the point of intersection with
16 the easterly boundary line of the State of California;

17 Thence northwesterly along said easterly boundary line of the State to the point
18 of beginning.

19 **Comment.** Section 34060 continues former Fish and Game Code Section 10930 without
20 substantive change.

21 **§ 34065. Prohibited conduct in burro sanctuary**

22 34065. (a) Except as otherwise provided in Chapter 5 (commencing with Section
23 4600) of Part 3, Division 4 of this code it is unlawful to take, possess, harm,
24 molest, harass, or in any manner interfere with any burro that is in a burro
25 sanctuary described in Section 34060.

26 (b) The provisions of this section, other than those relating to the taking and
27 possession of burros, do not apply to persons while lawfully on lands included
28 within the sanctuary and engaged in the business of raising cattle.

29 **Comment.** Section 34065 continues the first sentence of subdivision (a) and subdivision (b) of
30 former Fish and Game Code Section 10931 without substantive change.

31 See also Section 5542 (enforcement).

32 **TITLE 6. DEER**

33 **CHAPTER 1. GENERAL PROVISIONS**

34 **§ 34100. Game mammal**

35 34100. For the purposes of this code, a deer (genus *Odocoileus*) is a game
36 mammal.

37 **Comment.** Section 34100 continues the part of former Fish and Game Code Section 3950(a)
38 applicable to deer without substantive change.

1 **§ 34105. Provisions not exclusive**

2 34105. The provisions of this title are not intended to be exclusive. Other
3 provisions that govern deer include, but are not limited to, the following
4 provisions:

5 (a) Section 1000.

6 (b) Section 4570.

7 (c) Section 10500.

8 (d) Section 10700.

9 (e) Section 26550.

10 (f) Section 26070.

11 (g) Section 31555.

12 (h) Section 34535.

13 (i) Section 55725.

14 (j) Section 56585.

15 (k) Section 56590.

16 (l) Section 56595.

17 **Comment.** Section 34105 is new. It is added for drafting convenience.

18 **§ 34110. Retention of deer head**

19 34110. Any person taking a deer must retain possession of that portion of the
20 deer's head that in adult males normally bears the antlers, during the open season
21 for that deer and for 15 days thereafter, and must produce that portion of the head
22 upon the demand of any officer authorized to enforce the provisions of this code.

23 **Comment.** Section 34110 restates former Fish and Game Code Section 4302 without
24 substantive change.

25 **Note.** Proposed Section 34110 is intended to restate existing Fish and Game Code Section
26 4302 to clarify the meaning of that provision, without changing its substantive effect. The
27 existing provision reads as follows:

28 Any person taking any deer shall retain in his possession during the open season thereon, and
29 for 15 days thereafter, that portion of the head which in adult males normally bears the antlers,
30 and shall produce the designated portion of the head upon the demand of any officer authorized to
31 enforce the provisions of this code.

32 **The Commission invites comment on whether the restatement would cause any**
33 **substantive change in the meaning of either section.**

34 **§ 34115. Killing deer held in captivity**

35 34115. Except as authorized under a domesticated game breeder's license, a
36 deer kept in captivity may be killed only with the approval of the department, and
37 pursuant to any regulation that the commission may adopt. The carcass of a deer
38 kept in captivity may not be sold, and shall be disposed of as directed by the
39 department.

40 **Comment.** Section 34115 continues the part of former Fish and Game Code Section 3006
41 applicable to deer without substantive change.

1 for that purpose by the commission, a notary public, a postmaster, a peace officer,
2 or an officer authorized to administer oaths, before transporting the deer, except to
3 transport the deer to the nearest person authorized to countersign the tag, on the
4 route from where the deer is taken to that person.

5 **Comment.** Section 34210 restates former Fish and Game Code Section 4341 without
6 substantive change.

7 **Note.** Proposed Section 34210 is intended to restate existing Fish and Game Code Section
8 4341 to improve its clarity, without changing its substantive effect. The existing provisions read
9 as follows:

10 4341. Any person legally killing a deer in this state shall have the tag countersigned by a
11 person employed in the department, a person designated for this purpose by the commission, or
12 by a notary public, postmaster, postmistress, peace officer, or an officer authorized to administer
13 oaths, before transporting such deer, except for the purpose of taking it to the nearest person
14 authorized to countersign the tag, on the route being followed from the point where the deer is
15 taken.

16 **The Commission invites comment on whether the restatement would cause any**
17 **substantive change in the meaning of the provision.**

18 **§ 34215. Issuance of tags**

19 34215. (a) The commission shall annually direct the department to authorize,
20 pursuant to Section 2945, the sale of not more than 10 deer tags for the purpose of
21 raising funds for programs and projects as set forth in Sections 31905 and 31910.
22 All revenue from the sale of tags pursuant to this section shall be deposited in the
23 Big Game Management Account established in Section 31900.

24 (b) Tags issued pursuant to subdivision (a) may be sold to residents or
25 nonresidents of the state at auction or by any other method, and are not limited to
26 the fees prescribed by Section 33225.

27 (c) Funds received pursuant to this section shall augment, not supplant, any
28 other funds appropriated to the department for the preservation, restoration,
29 utilization, and management of deer. All revenue derived from the sale of tags
30 issued pursuant to subdivision (a) shall be remitted to the department by the seller.

31 **Comment.** Section 34215 continues former Fish and Game Code Section 4334 without
32 substantive change.

33 **§ 34220. Design and makeup of tag**

34 34220. The commission may determine the design and makeup of the deer tag
35 and prescribe the procedures for issuance and use.

36 **Comment.** Section 34220 continues former Fish and Game Code Section 4331 without
37 substantive change.

38 **§ 34225. Fee**

39 34225. (a) Any person 12 years of age or over, who possesses a valid hunting
40 license, may obtain one tag for the taking of one deer by one person during the
41 current license year, upon payment of a fee as follows:

1 (1) For a resident of this state, a base fee of ten dollars (\$10) for the license year
2 beginning July 1, 1986, adjusted under Section 3755 for subsequent license years.

3 (2) For a nonresident of this state, a base fee of one hundred dollars (\$100) for
4 the license year beginning July 1, 1986, adjusted under Section 3755 for
5 subsequent license years.

6 (b) If provided in regulations adopted by the commission under Section 1000,
7 any person 12 years of age or over who possesses a deer tag for the current license
8 season may procure one additional deer tag for the taking of one additional deer
9 during the current license season, upon payment of a fee as follows:

10 (1) For a resident of this state, a base fee of twelve dollars and fifty cents
11 (\$12.50) for the license year beginning July 1, 1986, adjusted under Section 3755
12 for subsequent license years.

13 (2) For a nonresident of this state, a base fee of one hundred dollars (\$100) for
14 the license year beginning July 1, 1986, adjusted under Section 3755 for
15 subsequent license years.

16 **Comment.** Section 34225 restates former Fish and Game Code Section 4332(a)-(d) without
17 substantive change.

18 **Note.** Proposed Section 34225 is intended to restate existing Fish and Game Code Section
19 4332(a)-(d) to clarify the meaning of that language, without changing its substantive effect. The
20 existing provisions read as follows:

21 4332. (a) Any resident of this state, 12 years of age or over, who possesses a valid hunting
22 license, may procure one tag for the taking of one deer by one person during the current license
23 year, upon payment of the base fee of ten dollars (\$10) for the license year beginning July 1,
24 1986, and the base fee as adjusted under Section 713 for subsequent license years.

25 (b) Any nonresident of this state, 12 years of age or over, who possesses a valid hunting
26 license, may procure one tag for the taking of one deer by one person during the current license
27 year, upon payment of the base fee of one hundred dollars (\$100) for the license year beginning
28 July 1, 1986, and the base fee as adjusted under Section 713 for subsequent license years.

29 (c) If provided in regulations adopted by the commission under Section 200, any resident of
30 this state, 12 years of age or over, who possesses a deer tag may procure one additional deer tag
31 for the taking of one additional deer during the current license season, upon payment of the base
32 fee of twelve dollars and fifty cents (\$12.50) for the license years beginning July 1, 1986, and the
33 base fee as adjusted under Section 713 for subsequent license years.

34 (d) If provided in regulations adopted by the commission under Section 200, any nonresident
35 of this state, 12 years of age or over, who possesses a deer tag may procure one additional deer
36 tag for the taking of one additional deer during the current license season, upon payment of the
37 base fee of one hundred dollars (\$100) for the license year beginning July 1, 1986, and the base
38 fee as adjusted under Section 713 for subsequent license years.

39 **The Commission invites comment on whether the restatement would cause any**
40 **substantive change in the meaning of the provision.**

41 **§ 34230. Duration of tag**

42 34230. A deer tag is valid only during that portion of the current hunting license
43 year in which deer may be taken or possessed in any area.

44 **Comment.** Section 34230 continues former Fish and Game Code Section 4333 without
45 substantive change.

1 (c) A peace officer listed in Chapter 4.5 (commencing with Section 830) of Title
2 3 of Part 2 of the Penal Code, whether active or honorably retired, may carry a
3 firearm capable of being concealed on the person while engaged in the taking of
4 deer with bow and arrow in accordance with subdivision (a), but shall not take or
5 attempt to take deer with the firearm.

6 **Comment.** Section 34350 continues former Fish and Game Code Section 4370 without
7 substantive change.

8 **§ 34355. Taking with bow and arrow**

9 34355. The provisions of this code relating to deer shall be applicable to the
10 taking of deer with a bow and arrow.

11 **Comment.** Section 34355 continues former Fish and Game Code Section 4371 without
12 substantive change.

13 **CHAPTER 4. USE OF PARTS**

14 **§ 34400. Commercial use of deer meat**

15 34400. (a) As used in this section, “deer” includes any animal of the family
16 Cervidae.

17 (b) Except as otherwise provided in this section, it is unlawful to sell, purchase,
18 or transport for the purpose of sale any deer meat in this state, whether fresh,
19 smoked, canned, or preserved by any means.

20 (c) The prohibition in subdivision (a) does not apply to the following:

21 (1) Conduct authorized by provisions of this code permitting the sale of
22 domestically raised game mammals.

23 (2) Fallow deer meat processed by a slaughterer in accordance with Chapter 4
24 (commencing with Section 18650) of, and Chapter 4.1 (commencing with Section
25 18940) of, Part 3 of Division 9 of the Food and Agricultural Code.

26 (3) Deer meat imported into this state from a foreign country for the purpose of
27 preparing and selling for human consumption a product commonly known and
28 properly labeled as venison jerky, deer jerky, venison salami, or deer salami.

29 **Comment.** Subdivision (a) of Section 34400 continues former Fish and Game Code Section
30 4301(b) without substantive change.

31 Subdivisions (b) and (c) restate the first sentence of former Fish and Game Code Section
32 4301(a) without substantive change.

33 **Notes.** (1) Subdivisions (b)-(c) of proposed Section 34400 are intended to restate the first
34 sentence of existing Fish and Game Code Sections 4301(a) to clarify the meaning of that
35 sentence, without changing its substantive effect. The existing sentence reads as follows:

36 Subject to the provisions of this code permitting the sale of domestically raised game
37 mammals, it is unlawful to sell or purchase, or transport for the purpose of sale, any deer meat in
38 this state whether fresh, smoked, canned, or preserved by any means, except fallow deer meat
39 processed by a slaughterer in accordance with Chapter 4 (commencing with Section 18650) of,
40 and Chapter 4.1 (commencing with Section 18940) of, Part 3 of Division 9 of the Food and
41 Agricultural Code, and except that deer meat may be imported into this state from a foreign
42 country for the purpose of processing (manufacturing) and selling a product commonly known as

1 venison or deer jerky or venison or deer salami, properly labeled as such, for human
2 consumption.

3 **The Commission invites comment on whether the restatement would cause any**
4 **substantive change in the meaning of either section.**

5 (2) Existing Fish and Game Code Section 4301(b) (which would be continued by proposed
6 Section 34400(a)) provides a definition of the term “deer” as used in existing Section 4301.
7 However, the term “deer” appears in many other sections of the existing Fish and Game Code,
8 with no corresponding definition. See, e.g., existing Sections 450-460, 4302-4304. The inclusion
9 of a definition of the term applicable only to one section of the code creates an inference that the
10 term is intended to have some slightly different meaning in all other sections.

11 **The Commission invites comment on whether the definition of “deer” in Section 4301**
12 **should be made applicable to the code generally, and included with the general definitions**
13 **in the first division of the proposed law.**

14 **§ 34405. Importation of deer meat**

15 34405. (a) As used in this section, “deer” includes any animal of the family
16 Cervidae.

17 (b) All deer meat imported into this state shall meet all of the sanitary and
18 inspection requirements for wholesomeness, except an antemortem inspection, but
19 including a postmortem inspection, as required for other meat imported for human
20 consumption.

21 (c) Imported deer meat shall be in an identifiable condition and accompanied by
22 a bill of lading, showing the name of the consignor, the consignee, and the weight
23 of the deer meat shipped. A copy of the bill of lading shall be delivered to the
24 nearest office of the department either prior to, or not later than, two days from the
25 date of receipt of the deer meat.

26 (d) No deer meat imported into this state may leave the premises of the original
27 consignee unless one of the following occurs:

28 (1) Written permission to take the meat from the premises is received from the
29 department.

30 (2) The meat is processed into the form of the product commonly known as
31 jerky or salami.

32 **Comment.** Subdivision (a) of Section 34405 continues former Fish and Game Code Section
33 4301(b) without substantive change.

34 Subdivisions (b)-(d) continue the second through fifth sentences of former Fish and Game
35 Code Section 4301(a) without substantive change.

36 **§ 34410. Use of skin or hide of deer**

37 34410. (a) The skin or hide of any deer lawfully taken may be sold, purchased,
38 tanned, or manufactured into articles for sale.

39 (b) Skins or hides of deer lawfully taken may be donated at any time to veterans’
40 organizations or veterans’ service committees for use by veterans for rehabilitation
41 purposes.

42 **Comment.** Section 34410 continues former Fish and Game Code Section 4303 without
43 substantive change.

1 § 34415. Needless waste of deer

2 34415. (a) Except as provided in subdivision (b), no person shall do any of the
3 following:

4 (1) Take a deer and separate from its carcass only the head, hide, antlers, or
5 horns.

6 (2) Allow a deer in that person's possession, or any portion of the deer's flesh
7 that is usually eaten by humans, to be needlessly wasted through carelessness or
8 neglect.

9 (b) The prohibitions in subdivision (a) do not apply to a deer taken pursuant to
10 Section 32305.

11 **Comment.** Section 34415 restates the part of former Fish and Game Code Section 4304
12 applicable to deer without substantive change.

13 **Notes.** (1) Proposed Section 34415 is intended to restate the part of existing Fish and Game
14 Code Section 4304 applicable to deer to improve its clarity, without changing its substantive
15 effect. The existing section reads as follows:

16 4304. No person shall at any time capture or destroy any deer and detach or remove from the
17 carcass only the head, hide, antlers, or horns; nor shall any person at any time leave through
18 carelessness or neglect any game mammal or game bird which is in his possession, or any portion
19 of the flesh thereof usually eaten by humans, to go needlessly to waste. The provisions of this
20 section shall not apply to game mammals taken under the authority of Sections 4152 and 4183 of
21 this code.

22 **The Commission invites comment on whether the restatement would cause any**
23 **substantive change in the meaning of the provision.**

24 (2) Existing Fish and Game Code Section 4183, which is cross-referenced in existing Section
25 4304, was repealed in 1984. 1984 Cal. Stat. ch. 1365. The repealed section related to taking bears
26 that kill livestock.

27 (3) The first clause of existing Section 4304 (which would be continued by proposed Section
28 34415(a)(1)) appears inconsistent with existing Sections 4302 (which would be continued by
29 proposed Section 34110) and 4303 (which would be continued by proposed Section 34410), as
30 the two latter sections both clearly contemplate separating parts of a deer from its body.

31 **The Commission invites comment on this issue.**

32 CHAPTER 5. GAME REFUGES

33 § 34450. Opening of game refuge for taking of deer

34 34450. Before the commission opens any game refuge for the taking of deer, a
35 public hearing shall be held at which at least one member of the commission shall
36 be in attendance and such officers and employees of the department as are deemed
37 necessary or are requested by interested parties, notice of which has been
38 published at least once and at least 30 days prior to the hearing in a newspaper of
39 general circulation which is printed and published in the county, or one of the
40 counties, in which the area lies. If there is no newspaper of general circulation in
41 any such county, the notice shall be published in such newspaper of general
42 circulation as the commission determines will be most likely to give notice to the

1 inhabitants of the area and such determination by the commission shall be final
2 and conclusive.

3 **Comment.** Section 34450 continues former Fish and Game Code Section 10501 without
4 substantive change.

5 CHAPTER 6. POPULATION MANAGEMENT

6 **§ 34500. Declaration of legislative policy**

7 34500. It is hereby declared to be the policy of the Legislature to encourage the
8 conservation, restoration, maintenance, and utilization of California's wild deer
9 populations. Such conservation shall be in accordance with the principles of
10 conservation of wildlife resources set forth in Section 54505 and in accordance
11 with the objectives and elements stated in "A Plan for California Deer," State of
12 California, Department of Fish and Game (1976)."

13 **Comment.** Section 34500 continues former Fish and Game Code Section 450 without
14 substantive change.

15 **§ 34505. Deer herd management units**

16 34505. The department shall designate deer herd management units and
17 designate a manager for each unit. A unit may encompass a single deer herd or a
18 group of deer herds having similar management and habitat requirements and
19 characteristics. The boundaries of units need not follow county boundary lines,
20 unless it is appropriate that they do so.

21 **Comment.** Section 34505 continues former Fish and Game Code Section 452 without
22 substantive change.

23 **§ 34510. Management unit plans**

24 34510. (a) The department shall develop plans for deer herd management units.
25 The objectives of the plans shall be the restoration and maintenance of healthy
26 deer herds in the wild, and the provision of high quality and diversified use of deer
27 in California.

28 (b) The management plans shall contain the following program elements:

29 (1) Document existing information on deer herd management units and
30 programs, to obtain information that may be needed.

31 (2) Develop programs to maintain and increase the quality of deer habitat
32 statewide that emphasize cooperative action between the department and the
33 appropriate land management entities, both public and private. Emphasis shall be
34 directed towards identifying critical deer habitat areas and the maintenance and
35 management of such areas.

36 (3) Develop programs to reduce natural mortalities where reduction may be
37 critical to meeting deer herd plan objectives.

38 (4) Develop programs to decrease the illegal taking of deer through modern law
39 enforcement methods, supported by public and private cooperative efforts.

1 (5) Develop diversified recreational use programs, including both hunting and
2 non-hunting uses, consistent with basic individual deer herd management unit
3 capabilities.

4 (c) Deer herd management unit plans shall be reviewed annually and shall be the
5 basis for department recommendations to the commission pursuant to Sections
6 34515, 34520, and 34530.

7 **Comment.** Subdivision (a) of Section 34510 continues former Fish and Game Code Section
8 453 without substantive change.

9 Subdivision (b) continues former Fish and Game Code Section 454 without substantive
10 change.

11 Subdivision (c) continues former Fish and Game Code Section 455 without substantive change.

12 **§ 34515. Biennial report to Legislature and Commission**

13 34515. (a) The department shall biennially report to the Legislature and to the
14 commission on the progress being made toward restoration and maintenance of
15 California's deer herds.

16 (b) The report shall include all of the following:

17 (1) A description of ongoing program activities relating to deer habitat,
18 particularly those addressing problems identifying and preserving critical deer
19 habitat areas.

20 (2) A statement of the amount of revenue derived from the sale of deer tags
21 during the two previous fiscal years.

22 (3) A list of expenditures during the two previous fiscal years.

23 (4) A list of proposed expenditures in the current fiscal year.

24 (5) A report of general benefits that have accrued to deer resources as a result of
25 programs developed pursuant to Section 34510.

26 **Comment.** Subdivision (a) of Section 34515 continues the first sentence of former Fish and
27 Game Code Section 456 without substantive change. The second sentence of the section is
28 discontinued as obsolete.

29 Subdivision (b) restates the third sentence of former Fish and Game Code Section 456 without
30 substantive change.

31 **Notes.** (1) The Department of Fish and Wildlife has suggested that the report required by this
32 section should be repealed as obsolete. The Commission invites comment on that suggestion.

33 (2) Subdivision (b) of proposed Section 34515 is intended to restate the third sentence of
34 Section 456 to improve its clarity, without changing its substantive effect. The existing provision
35 reads as follows:

36 The report shall include program activities regarding deer habitat, particularly addressing
37 problems dealing with identification and preservation of critical deer habitat areas; the amount of
38 revenue derived from the sale of deer tags during the two previous fiscal years; a list of
39 expenditures during the two previous fiscal years and proposed expenditures during the current
40 fiscal year; and a report of general benefits accrued to the deer resources as a result of the
41 program.

42 **The Commission invites comment on whether the restatement would cause any**
43 **substantive change in the meaning of that provision.**

1 **§ 34520. Annual recommendations by department**

2 34520. (a) Not later than December 15 of each year, the department shall
3 determine its proposed recommendations to the commission relating to the
4 management of deer, including its recommendations as to whether any antlerless
5 deer hunts should be ordered.

6 (b) The recommendations shall include all of the following:

7 (1) The number, if any, of antlerless deer that should be taken in particular deer
8 management units.

9 (2) Proposed dates for any recommended taking.

10 (3) The number of permits proposed for each management unit.

11 (4) Whether the permits should be either-sex permits.

12 **Comment.** Section 34520 restates former Fish and Game Code Section 457 without
13 substantive change.

14  **Note.** Proposed Section 34520 is intended to restate existing Fish and Game Code Section
15 457 to improve its clarity, without changing its substantive effect. The existing provision reads as
16 follows:

17 The department shall determine prior to December 15 of each year its proposed
18 recommendations to the commission, including its recommendations as to whether any antlerless
19 deer hunts should be ordered. The recommendations of the department shall include the number,
20 if any, of antlerless deer that should be taken in units, whether the permits should be either-sex
21 permits, the proposed dates for each such taking, and the number of permits proposed for each
22 unit.

23 **The Commission invites comment on whether the restatement would cause any**
24 **substantive change in the meaning of that provision.**

25 **§ 34525. Affected counties**

26 34525. (a) Not later than December 15 of each year, the department shall
27 provide notice of its proposed recommendations under Section 34520 to the board
28 of supervisors of each county affected by a recommendation, by certified mail.

29 (b) Not later than the February 1 next following the department's notice, the
30 board of supervisors of any affected county may elect to hold a public hearing on
31 the department's proposed recommendations. The director or the director's
32 representative shall attend all hearings held pursuant to this subdivision.

33 (c) Not later than the February 1 next following the department's notice, the
34 board of supervisors of any affected county that has held a public hearing pursuant
35 to subdivision (b) may by resolution object to the proposed recommendations of
36 the department, or may by resolution determine that the proposed
37 recommendations should be modified and state the necessary modifications. A
38 resolution objecting to or stating necessary modifications of the proposed
39 recommendations shall be based on testimony and information presented at a
40 hearing conducted pursuant to subdivision (b), or presented to the board of
41 supervisors at its meeting to consider the resolution.

42 (d) The board of supervisors of any affected county may, by resolution, elect not
43 to exercise the rights conferred by this section.

1 (e) The department shall not recommend to the commission, and the commission
2 shall not authorize, the taking of antlerless deer in an affected county, if the board
3 of supervisors of that county submits a resolution pursuant to subdivision (c)
4 objecting to that taking.

5 (f) If a board of supervisors of an affected county submits a resolution
6 determining that a department's proposed recommendation relating to the taking
7 of antlerless deer should be modified for that county, the department and the
8 commission shall do one of the following:

9 (1) The department shall modify its recommendations and the commission shall
10 modify its orders to incorporate the modifications determined to be necessary by
11 the county board of supervisors.

12 (2) The department shall not recommend, and the commission shall not
13 authorize, the taking of antlerless deer in that county.

14 (f) This section applies only to the counties of, and to those districts or parts of
15 districts in, Siskiyou, Modoc, Trinity, Shasta, Lassen, Plumas, Sierra, Alpine,
16 Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt,
17 Imperial, Inyo, Lake, Madera, Mariposa, Mendocino, Merced, Mono, Monterey,
18 Napa, Nevada, Orange, Placer, Riverside, San Luis Obispo, Santa Barbara, Santa
19 Clara, Tehama, Tuolumne, Yolo, and Yuba Counties.

20 **Comment.** Section 34525 combines and restates former Fish and Game Code Sections 458 and
21 459 without substantive change.

22 **Note.** Proposed Section 10030 is intended to combine and restate existing Fish and Game
23 Code Sections 458 and 459 to clarify the meaning of those sections, without changing their
24 substantive effect. The existing sections read as follows:

25 458. The department not later than December 15 shall notify, by certified mail, the board of
26 supervisors of each county affected of the details of its recommendations under Section 457.

27 The board of supervisors of any affected county may elect to hold a public hearing on the
28 proposed recommendations of the department. Any such hearing shall be held prior to February 1.
29 The director or his or her representative shall attend the hearing.

30 The board of supervisors of any county to which this section is applicable may, by resolution,
31 elect not to exercise the rights conferred by this section.

32 This section applies only to the counties of, and to those districts or parts of districts in,
33 Siskiyou, Modoc, Trinity, Shasta, Lassen, Plumas, Sierra, Alpine, Amador, Butte, Calaveras,
34 Colusa, Del Norte, El Dorado, Glenn, Humboldt, Imperial, Inyo, Lake, Madera, Mariposa,
35 Mendocino, Merced, Mono, Monterey, Napa, Nevada, Orange, Placer, Riverside, San Luis
36 Obispo, Santa Barbara, Santa Clara, Tehama, Tuolumne, Yolo, and Yuba Counties.

37 459. The board of supervisors of any county specified in Section 458 which has held a public
38 hearing pursuant to Section 458 may, not later than February 1, by resolution, object to the
39 proposed recommendations of the department or may, by resolution, determine that the proposed
40 recommendation should be modified, setting forth the necessary modifications.

41 A resolution objecting to, or setting forth modifications of, the proposed recommendations
42 shall be based upon the testimony and information presented at the hearing or presented to the
43 board of supervisors at its meeting to consider the resolution.

44 The department shall not recommend to the commission, and the commission shall not
45 authorize, the taking of antlerless deer in a county specified in Section 458 if it has received from
46 the board of supervisors of that county a resolution objecting to that taking. If a board of
47 supervisors of a county has submitted a resolution determining that the department's proposed

1 recommendations on the taking of antlerless deer should be modified for that county, the
2 department shall either so modify its recommendations and the commission shall so modify its
3 orders or the department shall not recommend, and the commission shall not authorize, the taking
4 of antlerless deer in that county.

5 **The Commission invites comment on whether the restatement would cause any**
6 **substantive change in the meaning of either section.**

7 (2) Existing Fish and Game Code Section 459 does not address the manner, timing, or recipient
8 of a resolution described in the section that must be “submitted” by a county’s board of
9 supervisors, or “received” by an undesignated entity.

10 **The Commission invites comment on whether these matters should be clarified in the**
11 **proposed law.**

12 **§ 34530. Department recommendations relating to deer hunting**

13 34530. (a) Prior to each meeting of the commission at which the commission
14 considers the regulation of deer and takes action pursuant to paragraph (1) of
15 subdivision (a) of Section 1105, the department shall recommend to the
16 commission the deer herd management units to be placed under a general deer
17 hunting season.

18 (b) At the same time, the department shall do all of the following:

19 (1) Recommend, subject to the provisions of Section 34525, whether any
20 antlerless deer should be taken, and if so in which deer herd management units.

21 (2) If in the judgment of the department there are deer herd management units in
22 which hunting pressure would adversely affect the deer herd, impair the hunting
23 experience, or endanger the public safety, recommend those deer herd
24 management units where hunter numbers should be restricted, and those which
25 should be removed from the general deer hunting season designation.

26 (3) Inform the commission of the condition of each deer herd management unit.

27 (4) Submit its recommendations determined in accordance with the provisions of
28 Section 34525.

29 (5) Recommend the establishment of any hunter-restricted quota units, if
30 needed, and the number of the quota and manner in which the quota permits
31 should be issued.

32 (d) Upon receipt of the recommendations and information required by this
33 section, the commission shall make that material and its determinations regarding
34 proposed regulations known to the public.

35 (e) As used in this section, “general deer hunting season” means the annual
36 season for the area in question as is set by the commission under its general
37 regulatory powers, or set by statute, for the taking of male deer.

38 **Comment.** Subdivisions (a) through (d) of Section 34530 restate former Fish and Game Code
39 Section 460 without substantive change.

40 Subdivision (e) continues former Fish and Game Code Section 451 without substantive change.

41 **Notes.** (1) Proposed Section 34530(a)-(d) is intended to restate existing Fish and Game Code
42 Section 460 to improve its clarity, without changing its substantive effect. The existing section
43 reads as follows:

1 460. Prior to each meeting of the commission at which the commission considers the regulation
2 of deer and takes action pursuant to paragraph (1) of subdivision (a) of Section 255, the
3 department shall recommend to the commission those deer herd units to be placed under a general
4 deer hunting season. At the same time, the department shall recommend to the commission,
5 subject to the provisions of Sections 458 and 459, whether any antlerless deer should be taken
6 and in what deer herd units antlerless deer are to be taken. If in the judgment of the department
7 there are deer herd units in which hunting pressure would adversely affect the deer herd, impair
8 the hunting experience, or endanger the public safety, the department shall also recommend to the
9 commission those deer herd units where hunter numbers should be restricted and which should be
10 removed from the general deer hunting season designation. The department shall inform the
11 commission of the condition of each deer herd unit. Upon receipt of the recommendations and
12 information required in this section, the commission shall make that material known to the public
13 and its determinations regarding proposed regulations. The recommendations of the department
14 shall, in accordance with the provisions of Sections 458 and 459, include the number, if any, of
15 antlerless deer that should be taken in deer herd units, whether the permits should be either-sex
16 permits, the proposed dates for the taking, and the number of permits proposed for each deer herd
17 unit. At the same time, the department shall recommend the establishment of any hunter-
18 restricted quota units, if needed, and the number of the quota and manner in which the quota
19 permits should be issued.

20 **The Commission invites comment on whether the restatement would cause any**
21 **substantive change in the meaning of existing Section 460.**

22 (2) Although existing Section 451 (which would be continued by proposed Section 34530(e)
23 defines the term “general deer hunting season” as used in the chapter in which Section 451
24 appears, the term is only used in one section of that chapter, existing Section 460 (which would
25 be continued by proposed Section 10035(a)-(d). In proposed Section 34530(e), the reference to
26 “chapter” is therefore revised to refer to this “section.”

27 **The Commission invites comment on whether the restatement would cause any**
28 **substantive change in the meaning of existing Section 451.**

29 **§ 34535. Feeding of deer**

30 34535. (a) The department shall provide for the feeding of deer wherever the
31 director finds that natural forage is unavailable therefor due to excessive snow.
32 The times, extent, and manner of such feeding shall be prescribed by the director.
33 In carrying out the provisions of this section neither the department nor the
34 director shall be bound by any policy determination or regulation of the
35 commission, it being the purpose of this section to commit to the independent
36 discretion of the director all matters within the purview of this section.

37 (b) No deer shall be fed pursuant to this section upon any privately owned land
38 without the consent of the owner or person in lawful possession of such land.

39 **Comment.** Section 34535 continues former Fish and Game Code Section 1503 without
40 substantive change.

41 **CHAPTER 7. TAKE TO PROTECT PROPERTY**

42 **§ 34600. Permit to take deer**

43 34600. (a) Any owner or tenant of land or property that is being damaged or
44 destroyed or is in immediate danger of being damaged or destroyed by deer may
45 apply to the department for a permit to kill those deer. The department, upon

1 satisfactory evidence of actual or immediately threatened damage or destruction
2 shall, pursuant to regulations adopted by the commission, issue a revocable permit
3 for the taking and disposition of the responsible deer, for a designated period not
4 to exceed 60 days.

5 (b) The regulations of the commission shall provide for the types of weapons
6 that may be used to kill deer pursuant to subdivision (a), and shall also provide for
7 the following:

8 (1) The weapons provided for shall be those that will ensure humane killing.

9 (2) The regulations shall provide for the use of a sufficient variety of weapons to
10 permit the designation of particular types to be used in any particular locality
11 commensurate with the need to protect persons and property.

12 (3) Firearms using .22-caliber rimfire cartridges may be used only when
13 authorized by the director or his designee.

14 (4) No pistols shall be used.

15 (5) Rifle ammunition used shall have expanding bullets.

16 (6) Shotgun ammunition shall have only single slugs, or, if authorized by the
17 department, 0 or 00 buckshot.

18 (c) The caliber and type of weapon to be used by each permittee shall be
19 specified in each permit by the officer issuing the permit, who shall take into
20 consideration the location of the area, the necessity for clean kills, the safety
21 factor, local firearms ordinances, and other factors that apply.

22 (d) At the time a permit is issued pursuant to subdivision (a), the department
23 shall issue tags similar to those provided for in Section 34220. The permittee shall
24 carry the tags while hunting the deer for which the permit was issued, and upon
25 killing any deer, shall immediately do all of the following:

26 (1) Fill out both parts of the tag, and clearly punch out the date of the kill.

27 (2) Immediately attach one part of the completed tag to the antlers of antlered
28 deer, or to the ear of any other deer, and keep that part of the tag attached to the
29 deer until 10 days after the permit has expired.

30 (3) Obtain a countersignature on the other part of the tag pursuant to Section
31 34210.

32 (4) Send the countersigned part of the tag to the department.

33 (e) A permit issued pursuant to this section may be renewed only after a finding
34 by the department that further damage has occurred or will occur, unless that
35 permit is renewed. A person seeking renewal of a permit pursuant to this
36 subdivision shall do all of the following:

37 (1) Account for all tags previously issued with all prior permits.

38 (2) If any previously issued tags are unused, show either of the following:

39 (A) That any deer previously killed pursuant to a previously issued permit could
40 not reasonably have been tagged.

41 (B) Why the offending deer were not killed within the time allotted for that
42 killing, and why the killing would be accomplished under a new time period.

1 **Comment.** Section 34600 restates former Fish and Game Code Section 4181.5 without
2 substantive change.

3 **Note.** Proposed Section 34600 is intended to restate existing Fish and Game Code Section
4 4181.5 to clarify the meaning of that section, without changing its substantive effect. The existing
5 section reads as follows:

6 4181.5. (a) Any owner or tenant of land or property that is being damaged or destroyed or is in
7 immediate danger of being damaged or destroyed by deer may apply to the department for a
8 permit to kill those deer. The department, upon satisfactory evidence of that damage or
9 destruction, actual or immediately threatened, shall issue a revocable permit for the taking and
10 disposition of those deer for a designated period not to exceed 60 days under regulations
11 promulgated by the commission.

12 (b) The regulations of the commission shall include provisions concerning the type of weapons
13 to be used to kill the deer. The weapons shall be those as will ensure humane killing, but the
14 regulations of the commission shall provide for the use of a sufficient variety of weapons to
15 permit the designation of particular types to be used in any particular locality commensurate with
16 the need to protect persons and property. Firearms using .22-caliber rimfire cartridges may be
17 used only when authorized by the director or his designee. No pistols shall be used. The caliber
18 and type of weapon to be used by each permittee shall be specified in each permit by the issuing
19 officer who shall take into consideration the location of the area, the necessity for clean kills, the
20 safety factor, local firearms ordinances, and other factors that apply. Rifle ammunition used shall
21 have expanding bullets; shotgun ammunition shall have only single slugs, or, if authorized by the
22 department, 0 or 00 buckshot.

23 (c) The department shall issue tags similar to those provided for in Section 4331 at the same
24 time the permit is issued. A permittee under this section shall carry the tags while hunting deer,
25 and upon the killing of any deer, shall immediately fill out both parts of the tag and punch out
26 clearly the date of the kill. One part of the tag shall be immediately attached to the antlers of
27 antlered deer or to the ear of any other deer and kept attached until 10 days after the permit has
28 expired. The other part of the tag shall be immediately sent to the department after it has been
29 countersigned by any person authorized by Section 4341.

30 (d) A permit issued pursuant to this section may be renewed only after a finding by the
31 department that further damage has occurred or will occur unless that permit is renewed. A
32 person seeking renewal of the permit shall account for all prior tags issued at the time he or she
33 received any prior permits, and if any tags are unused, he or she shall show either that any deer
34 killed could not reasonably be tagged or why the killing was not accomplished within the allotted
35 time and why that killing would be accomplished under a new time period.

36 **The Commission invites comment on whether the restatement would cause any**
37 **substantive change in the meaning of either section.**

38 **§ 34605. Access by licensed hunters for depredator control**

39 34605. (a) If a landowner or tenant applies for a permit under Section 34600 to
40 take deer, the department shall inform the applicant about available options for
41 allowing access by licensed hunters, including, but not limited to, access
42 authorized pursuant to Title 7 (commencing with Section 56200) of Part 2 of
43 Division 15 to control deer.

44 (b) The commission, in lieu of a permit described in Section 34600, and with the
45 consent of, or upon the request of, the landowner or tenant, may pursuant to
46 appropriate regulation authorize the issuance of permits to persons holding valid
47 hunting licenses to take deer in sufficient numbers to stop the damage or
48 threatened damage. Before issuing permits to licensed hunters, the department

1 shall investigate and determine the number of permits necessary, the territory
2 involved, the dates of the proposed hunt, the manner of issuing the permits, and
3 the fee for the permit.

4 **Comment.** Section 34605 restates the part of former Fish and Game Code Section 4188
5 applicable to deer without substantive change.

6 **Note.** Proposed Section 34605 is intended to restate the part of existing Fish and Game Code
7 Section 4188 applicable to deer to improve its clarity, without changing its substantive effect. The
8 existing provision reads as follows:

9 4188. (a) If a landowner or tenant applies for a permit under Section 4181 for wild pigs or wild
10 turkeys, or under Section 4181.5 for deer, the department shall notify the landowner or tenant
11 about available options for allowing access by licensed hunters, including, but not limited to,
12 access authorized pursuant to Article 3 (commencing with Section 1570) of Chapter 5 of Division
13 2 to control wild pigs, wild turkeys, and deer.

14 (b) The commission, in lieu of a permit as described in subdivision (a), and with the consent of,
15 or upon the request of, the landowner or tenant, under appropriate regulations, may authorize the
16 issuance of permits to persons holding valid hunting licenses to take wild pigs, wild turkeys, or
17 deer in sufficient numbers to stop the damage or threatened damage. Before issuing permits to
18 licensed hunters, the department shall investigate and determine the number of permits necessary,
19 the territory involved, the dates of the proposed hunt, the manner of issuing the permits, and the
20 fee for the permit.

21 **The Commission invites comment on whether the restatement would cause any**
22 **substantive change in the meaning of the provision.**

23 TITLE 7. ELK

24 CHAPTER 1. GENERAL PROVISIONS

25 § 34800. Game mammal

26 34800. For the purposes of this code, an elk (genus *Cervus*) is a game mammal.

27 **Comment.** Section 34800 continues the part of former Fish and Game Code Section 3950(a)
28 applicable to elk without substantive change.

29 § 34805. Provisions not exclusive

30 34805. The provisions of this title are not intended to be exclusive. Other
31 provisions that govern elk include, but are not limited to, the following provisions:

32 (a) Section 4570.

33 (b) Section 10700.

34 (c) Section 31555.

35 **Comment.** Section 34805 is new. It is added for drafting convenience.

36 § 34810. Killing elk held in captivity

37 34810. Except as authorized under a domesticated game breeder's license, an
38 elk kept in captivity may be killed only with the approval of the department, and
39 pursuant to any regulation that the commission may adopt. The carcass of an elk

1 kept in captivity may not be sold, and shall be disposed of as directed by the
2 department.

3 **Comment.** Section 34810 continues the part of former Fish and Game Code Section 3006
4 applicable to elk without substantive change.

5 CHAPTER 2. TAGS

6 § 34850. Issuance of tags (operative until 7/1/2025)

7 34850. (a) The commission may determine and fix the area or areas, the seasons
8 and hours, the bag and possession limit, and the number of elk that may be taken
9 under rules and regulations that the commission may adopt from time to time. The
10 commission may authorize the taking of tule elk if the average of the department's
11 statewide tule elk population estimates exceeds 2,000 animals, or the Legislature
12 determines, pursuant to the reports required by Section 34960, that suitable areas
13 cannot be found in the state to accommodate that population in a healthy
14 condition.

15 (b) Only a person possessing a valid hunting license may obtain a tag for the
16 taking of elk.

17 (c) The department may issue an elk tag upon payment of a fee. The fee for an
18 elk tag for a resident of the state, except for an elk tag issued to a resident junior
19 hunter, shall be one hundred sixty-five dollars (\$165), as adjusted under Section
20 3755. The fee for an elk tag for a resident junior hunter shall be twenty dollars
21 (\$20), as adjusted under Section 3755. On or before July 1, 2007, the commission
22 shall, by regulation, fix the fee for a nonresident of the state at not less than one
23 thousand fifty dollars (\$1,050), as adjusted under Section 3755. The fees shall be
24 deposited in the Big Game Management Account established in Section 31900
25 and, upon appropriation by the Legislature, shall be expended, in addition to
26 moneys budgeted for salaries of the department as set forth in Section 31900.

27 (d) The commission shall annually direct the department to authorize not more
28 than three elk tags for the purpose of raising funds for programs and projects to
29 benefit elk. These tags may be sold at auction to residents or nonresidents of the
30 state or by another method and are not subject to the fee limitation prescribed in
31 subdivision (c). All revenues from sales pursuant to this subdivision shall be
32 deposited in the Big Game Management Account established in Section 31900
33 and, upon appropriation by the Legislature, shall be expended as set forth in that
34 section.

35 (e) The commission shall direct the department to annually authorize one elk tag
36 of the total number of tags available for issuance to nonresidents of the state.

37 (f) This section shall become inoperative on July 1, 2025, and, as of January 1,
38 2026, is repealed.

39 **Comment.** Section 34850 continues former Fish and Game Code Section 332, as amended by
40 2018 Cal. Stat. ch. 295, § 3, without substantive change.

1 **Note.** This version of proposed Section 34850 would continue Section 332, as amended by
2 2018 Cal. Stat. ch. 295, § 3. Although that bill will not take effect until 2019, it is included here in
3 anticipation of its effect.

4 **§ 34850. Issuance of tags (operative on 7/1/2025)**

5 (a) The commission may determine and fix the area or areas, the seasons and
6 hours, the bag and possession limit, and the number of elk that may be taken under
7 rules and regulations that the commission may adopt from time to time. The
8 commission may authorize the taking of tule elk if the average of the department's
9 statewide tule elk population estimates exceeds 2,000 animals, or the Legislature
10 determines, pursuant to the reports required by Section 34960, that suitable areas
11 cannot be found in the state to accommodate that population in a healthy
12 condition.

13 (b) Only a person possessing a valid hunting license may obtain a tag for the
14 taking of elk.

15 (c) The department may issue an elk tag upon payment of a fee. The fee for an
16 elk tag shall be one hundred sixty-five dollars (\$165) for a resident of the state, as
17 adjusted under Section 3755. On or before July 1, 2007, the commission shall, by
18 regulation, fix the fee for a nonresident of the state at not less than one thousand
19 fifty dollars (\$1,050), as adjusted under Section 3755. The fees shall be deposited
20 in the Big Game Management Account established in Section 31900 and, upon
21 appropriation by the Legislature, shall be expended, in addition to moneys
22 budgeted for salaries of the department as set forth in Section 31900.

23 (d) The commission shall annually direct the department to authorize not more
24 than three elk tags for the purpose of raising funds for programs and projects to
25 benefit elk. These tags may be sold at auction to residents or nonresidents of the
26 state or by another method and are not subject to the fee limitation prescribed in
27 subdivision (c). All revenues from sales pursuant to this subdivision shall be
28 deposited in the Big Game Management Account established in Section 31900
29 and, upon appropriation by the Legislature, shall be expended as set forth in that
30 section.

31 (e) The commission shall direct the department to annually authorize one elk tag
32 of the total number of tags available for issuance to nonresidents of the state.

33 (f) This section shall become operative on July 1, 2025.

34 **Comment.** Section 34850 continues former Fish and Game Code Section 332, as added by
35 2018 Cal. Stat. ch. 295, § 4, without substantive change.

36 **Note.** This version of proposed Section 34850 would continue Section 332, as added by 2018
37 Cal. Stat. ch. 295, § 4. Although that bill will not take effect until 2019, it is included here in
38 anticipation of its effect.

39 **34865. Deposit of fees**

40 34865. Except as provided in Section 34870, all revenues from the sale of elk
41 tags, including any fundraising tags, shall be deposited in the Big Game

1 Management Account established in Section 31900 to permit separate
2 accountability for the receipt and expenditure of these funds.

3 **Comment.** Section 34865 continues the part of the first sentence of former Fish and Game
4 Code Section 3953(b) applicable to elk without substantive change.

5 **Note.** The Commission invites comment on whether Section 3953(b) can be deleted as
6 **redundant.** Compare proposed Section 34850(c) and (d).

7 **§ 34870. Sale of tag by nonprofit organization**

8 34870. (a) A nonprofit organization designated by the department to assist in the
9 sale of elk fundraising tags that are sold on behalf of the department for the
10 purpose of raising funds for specified programs and projects, pursuant to
11 subdivision (d) of Section 34850 is authorized to retain 5 percent of the amount of
12 the sale price of the tag as a reasonable vendor fee.

13 (b) Within 30 days of the date of the sale, the selling nonprofit organization shall
14 send the department 95 percent of the total auction sale price of the tag, with an
15 itemized receipt showing the sale price and the 5-percent reduction retained by the
16 nonprofit organization as a vendor's fee.

17 **Comment.** Subdivision (a) of Section 34870 continues the part of former Fish and Game Code
18 Section 709 applicable to elk without substantive change.

19 Subdivision (b) continues the part of the second sentence of former Fish and Game Code
20 Section 3953(b) applicable to elk without substantive change.

21 CHAPTER 3. POPULATION MANAGEMENT

22 **§ 34955. Tule elk management plan**

23 34955. The department shall develop a statewide elk management plan,
24 consistent with the state's wildlife policy as set forth in Section 54505. The
25 statewide elk management plan shall emphasize maintaining sufficient elk
26 populations in perpetuity, while considering all of the following:

27 (a) Characteristics and geographic range of each elk subspecies within the state,
28 including Roosevelt elk, Rocky Mountain elk, and tule elk.

29 (b) Habitat conditions and trends within the state.

30 (c) Major factors affecting elk within the state, including, but not limited to,
31 conflicts with other land uses.

32 (d) Management activities necessary to achieve the goals of the plan and to
33 alleviate property damage.

34 (e) Identification of high priority areas for elk management.

35 (f) Methods for determining population viability and the minimum population
36 level needed to sustain local herds.

37 (g) Description of the necessary contents for individual herd management plans
38 prepared for high priority areas.

39 **Comment.** Section 34955 continues former Fish and Game Code Section 3952 without
40 substantive change.

1 (e) After completing the statewide elk management plan pursuant to Section
2 34955, the department shall use the information and methods contained in the plan
3 to meet the requirements of paragraphs (3), (4), and (5) of subdivision (d).

4 (f) It is unlawful for any person to violate the terms of any permit issued
5 pursuant to this section.

6 **Comment.** Subdivisions (a) through (c) and (f) of Section 35000 restate the part of former Fish
7 and Game Code Section 4181(a) applicable to elk without substantive change.

8 Subdivisions (d) and (e) continue former Fish and Game Code Section 4181(d) without
9 substantive change.

10 **Note.** Proposed Section 35000(a)-(c) and (f) are intended to restate the part of existing Fish
11 and Game Code Section 4181(a) applicable to elk to clarify the meaning of that language, without
12 changing its substantive effect. Existing Section 4181 reads as follows:

13 4181. (a) Except as provided in Section 4181.1, any owner or tenant of land or property that is
14 being damaged or destroyed or is in danger of being damaged or destroyed by elk, bear, beaver,
15 wild pig, wild turkeys, or gray squirrels, may apply to the department for a permit to kill the
16 animals. Subject to the limitations in subdivisions (b) and (d), the department, upon satisfactory
17 evidence of the damage or destruction, actual or immediately threatened, shall issue a revocable
18 permit for the taking and disposition of the animals under regulations adopted by the commission.
19 The permit shall include a statement of the penalties that may be imposed for a violation of the
20 permit conditions. Animals so taken shall not be sold or shipped from the premises on which they
21 are taken except under instructions from the department. No iron-jawed or steel-jawed or any
22 type of metal-jawed trap shall be used to take any bear pursuant to this section. No poison of any
23 type may be used to take any gray squirrel or wild turkey pursuant to this section. The department
24 shall designate the type of trap to be used to ensure the most humane method is used to trap gray
25 squirrels. The department may require trapped squirrels to be released in parks or other
26 nonagricultural areas. It is unlawful for any person to violate the terms of any permit issued under
27 this section.

28 (b) ...

29 (c)...

30 (d) With respect to elk, the following procedures shall apply:

31 (1) Prior to issuing a depredation permit pursuant to subdivision (a), the department shall do all
32 of the following:

33 (A) Verify the actual or immediately threatened damage or destruction.

34 (B) Provide a written summary of corrective measures necessary to immediately alleviate the
35 problem.

36 (C) Determine the viability of the local herd, and determine the minimum population level
37 needed to maintain the herd.

38 (D) Ensure the permit will not reduce the local herd below the minimum.

39 (E) Work with affected landowners to develop measures to achieve long-term resolution, while
40 maintaining viability of the herd.

41 (2) After completing the statewide elk management plan pursuant to Section 3952, the
42 department shall use the information and methods contained in the plan to meet the requirements
43 of subparagraphs (C), (D), and (E) of paragraph (1).

44 The references in existing Section 4181 to existing Section 4181.1 and to subdivision (b) of
45 Section 4181 have not been continued in proposed Section 35000, as those provisions do not
46 apply to elk.

47 **The Commission invites comment on whether the restatement would cause any**
48 **substantive change in the meaning of the provision.**

1 TITLE 8. FOXES

2 § 35200. Classification

3 35200. For the purposes of this code, a gray fox, red fox, and kit fox are fur-
4 bearing mammals.

5 **Comment.** Section 35200 continues the part of former Fish and Game Code Section 4000
6 applicable to gray foxes, red foxes, and kit foxes, without substantive change.

7 § 35205. Provisions not exclusive

8 35205. The provisions of this title are not intended to be exclusive. Other
9 provisions that govern foxes include, but are not limited to, Section 55725.

10 **Comment.** Section 35205 is new. It is added for drafting convenience.

11 § 35210. Take for profit

12 35210. It is unlawful to take a red fox for a profitmaking purpose.

13 **Comment.** Section 35210 continues former Fish and Game Code Section 4012 without
14 substantive change.

15 See also Section 4806 (enforcement).

16 § 35215. Protection of property

17 35215. (a) Except as provided in Section 11200, a subspecies of red fox that is
18 not the native Sierra Nevada red fox (*Vulpes vulpes necator*) and that is found to
19 be injuring growing crops or other property may be taken by the following persons
20 at any time or in any manner not prohibited by this code or regulations adopted
21 pursuant to this code:

22 (1) The owner or tenant of the premises.

23 (2) An employee or agent of the owner or tenant of the premises, who is in
24 immediate possession of written permission from the owner or tenant to take a fox
25 described in this subdivision.

26 (3) An officer or employee of the Department of Food and Agriculture.

27 (4) A federal, county, or city officer or employee acting in official capacity
28 pursuant to provisions of the Food and Agricultural Code pertaining to pests, or
29 pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of
30 Division 4 of the Food and Agricultural Code.

31 (b) A person that takes a red fox pursuant to this section is exempt from Section
32 9500, except when providing trapping services for a fee.

33 (c) Raw fur from a red fox taken pursuant to this section shall not be sold.

34 **Comment.** Section 35215 restates the part of former Fish and Game Code Section 4152
35 applicable to certain subspecies of red foxes without substantive change.

36 See also Section 11000 (inspection and removal of animals from traps).

37 **Notes.** (1) Proposed Section 35215 is intended to restate the part of existing Fish and Game
38 Code Section 4152 applicable to certain subspecies of red foxes to clarify the meaning of that
39 language, without changing its substantive effect. Existing Section 4152 reads as follows:

1 4152. (a) Except as provided in Section 4005, nongame mammals and black-tailed jackrabbits,
2 muskrats, subspecies of red fox that are not the native Sierra Nevada red fox (*Vulpes vulpes*
3 *necator*), and red fox squirrels that are found to be injuring growing crops or other property may
4 be taken at any time or in any manner in accordance with this code and regulations adopted
5 pursuant to this code by the owner or tenant of the premises or employees and agents in
6 immediate possession of written permission from the owner or tenant thereof. They may also be
7 taken by officers or employees of the Department of Food and Agriculture or by federal, county,
8 or city officers or employees when acting in their official capacities pursuant to the Food and
9 Agricultural Code pertaining to pests, or pursuant to Article 6 (commencing with Section 6021)
10 of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code. Persons taking mammals
11 in accordance with this section are exempt from Section 3007, except when providing trapping
12 services for a fee. Raw furs, as defined in Section 4005, that are taken under this section, shall not
13 be sold.

14 (b) Traps used pursuant to this section shall be inspected and all animals in the traps shall be
15 removed at least once daily. The inspection and removal shall be done by the person who sets the
16 trap or the owner of the land where the trap is set or an agent of either.

17 **The Commission invites comment on whether the restatement would cause any**
18 **substantive change in the meaning of the provision.**

19 (2) Existing Section 4152 refers to employees and agents in “immediate possession” of written
20 permission from the owner or tenant of premises where depredators are injuring property.

21 **The Commission invites comment on whether or how the term “immediate possession”**
22 **differs from “possession,” and whether the more familiar term “possession” could be**
23 **substituted without substantively changing the meaning of the provision.**

24 TITLE 9. MOUNTAIN LION

25  **Note.** Existing Fish and Game Code Sections 3950.1, 4800-4801, and 4802-4809 (which
26 would be continued in this title) and in proposed Section 5402, were added in 1990 pursuant to an
27 initiative statute, Proposition 117. The Commission believes that the nonsubstantive continuation
28 of those provision in the proposed law would not be an impermissible amendment. See discussion
29 of initiative statutes *supra* at notes 20-22 and associated text.

30 CHAPTER 1. GENERAL PROVISIONS

31 § 35300. Classification

32 35300. (a) For the purposes of this code, a mountain lion (genus *Felis*) is a game
33 mammal.

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

37 **Comment.** Subdivision (a) of Section 35300 continues the part of former Fish and Game Code
38 Section 3950(a) applicable to mountain lions without substantive change.

39 Subdivision (b) continues former Fish and Game Code Section 3950.1(a) without substantive
40 change.

1 (3) This title does not prohibit the possession of a mountain lion carcass or a
2 product of a mountain lion carcass, if all of the following requirements are met:

3 (A) The carcass or carcass product is prepared or being prepared for display,
4 exhibition, or storage, for a bona fide scientific or educational purpose, at a
5 nonprofit museum or government-owned facility generally open to the public or at
6 an educational institution, including a public or private postsecondary institution.

7 (B) The mountain lion was taken in California consistent with the requirements
8 of this title and any other applicable law.

9 (C) The department has authorized the possession of the carcass or carcass
10 product for the purposes of this paragraph.

11 **Comment.** Section 35350 continues former Fish and Game Code Section 4800(a)-(b) without
12 substantive change.

13 See also Section 5402 (enforcement).

14 CHAPTER 3. PUBLIC SAFETY AND PROTECTION OF PROPERTY

15 § 35400. Removal by department

16 35400. The department may remove or take any mountain lion, or authorize an
17 appropriate local agency with public safety responsibility to remove or take any
18 mountain lion, that is perceived to be an imminent threat to public health or safety
19 or that is perceived by the department to be an imminent threat to the survival of
20 any threatened, endangered, candidate, or fully protected sheep species.

21 **Comment.** Section 35400 continues former Fish and Game Code Section 4801 without
22 substantive change.

23 § 35405. Permit to protect property

24 35405. Any person, or the employee or agent of a person, whose livestock or
25 other property is being or has been injured, damaged, or destroyed by a mountain
26 lion may report that fact to the department and request a permit to take the
27 mountain lion.

28 **Comment.** Section 35405 continues former Fish and Game Code Section 4802 without
29 substantive change.

30 § 35410. Confirmation of depredation

31 35410. Upon receipt of a report pursuant to Section 35405, the department, or
32 any animal damage control officer specifically authorized by the department to
33 carry out this responsibility, shall immediately take the action necessary to
34 confirm that there has been depredation by a mountain lion as reported. The
35 confirmation process shall be completed as quickly as possible, but in no event
36 more than 48 hours after receiving the report. If satisfied that there has been
37 depredation by a mountain lion as reported, the department shall promptly issue a
38 permit to take the depredating mountain lion.

39 **Comment.** Section 35410 continues former Fish and Game Code Section 4803 without
40 substantive change.

1 **§ 35415. Permit conditions**

2 35415. In order to ensure that only the depredating mountain lion will be taken,
3 the department shall issue the permit pursuant to Section 35410 with the following
4 conditions attached:

5 (a) The permit shall expire 10 days after issuance.

6 (b) The permit shall authorize the holder to begin pursuit not more than one mile
7 from the depredation site.

8 (c) The permit shall limit the pursuit of the depredating mountain lion to within
9 a 10-mile radius from the location of the reported damage or destruction.

10 **Comment.** Section 35415 continues former Fish and Game Code Section 4804 without
11 substantive change.

12 **§ 35420. Expedited permit**

13 35420. Whenever immediate authorization will materially assist in the pursuit of
14 the particular mountain lion believed to be responsible for the depredation
15 reported pursuant to Section 35405, the department or the animal damage control
16 officer may orally authorize the pursuit and taking of the depredating mountain
17 lion, and the department shall issue a written permit for the period previously
18 authorized as soon as practicable after the oral authorization.

19 **Comment.** Section 35420 continues former Fish and Game Code Section 4805 without
20 substantive change.

21 **§ 35425. Report to department**

22 35425. (a) Any person issued a permit pursuant to Section 35410 or 35420 shall
23 report the capturing, injuring, or killing of any mountain lion to an office of the
24 department by telephone within 24 hours, or, if telephoning is not practicable,
25 shall submit a report in writing within five days after the capturing, injuring, or
26 killing of the mountain lion.

27 (b) At the time of making the report of the capturing, injuring, or killing, the
28 holder of the permit shall make arrangements to turn over the mountain lion or the
29 entire carcass of the mountain lion that has been recovered to a representative of
30 the department, and shall do so in a timely manner.

31 **Comment.** Section 35425 continues former Fish and Game Code Section 4806 without
32 substantive change.

33 **§ 35430. Immediate taking of encountered depredator**

34 35430. (a) Any mountain lion that is encountered while in the act of pursuing,
35 inflicting injury to, or killing livestock, or domestic animals, may be taken
36 immediately by the owner of the property or the owner's employee or agent. The
37 taking shall be reported within 72 hours to the department. The department shall
38 investigate the depredation, and, if the mountain lion was captured, injured, or
39 killed, the mountain lion or the entire carcass of the mountain lion that has been
40 recovered shall be turned over to the department.

1 (b) Upon satisfactorily completing the investigation and receiving the mountain
2 lion or the carcass, if recovered, the department shall issue a permit confirming
3 that the requirements of this section have been met with respect to the particular
4 mountain lion taken under these circumstances.

5 (c) The department shall undertake a complete necropsy on any returned
6 mountain lion carcass and report the findings to the commission. The commission
7 shall compile the reported findings and prepare an annual written report that shall
8 be submitted to the Legislature not later than the January 15 next following the
9 year in which the mountain lion was taken.

10 **Comment.** Section 35430 continues former Fish and Game Code Section 4807 without
11 substantive change.

12 **§ 35435. Method of taking**

13 35435. A mountain lion authorized to be taken pursuant to this title shall be
14 taken by the most effective means available to take the mountain lion causing the
15 damage or destruction, except that no mountain lion shall be taken by means of
16 poison, leg-hold or metal-jawed traps, and snares.

17 **Comment.** Section 35435 continues former Fish and Game Code Section 4809 without
18 substantive change.

19 **§ 35440. Use of nonlethal procedures**

20 35440. (a) Unless authorized in this title, nonlethal procedures shall be used
21 when removing or taking any mountain lion that has not been designated as an
22 imminent threat to public health or safety.

23 (b) For purposes of this title, “imminent threat to public health or safety” means
24 a situation where a mountain lion exhibits one or more aggressive behaviors
25 directed toward a person that is not reasonably believed to be due to the presence
26 of responders.

27 (c) For purposes of this title, “nonlethal procedures” means procedures that may
28 include, but are not limited to, capturing, pursuing, anesthetizing, temporarily
29 possessing, temporarily injuring, marking, attaching to or surgically implanting
30 monitoring or recognition devices, providing veterinary care, transporting, hazing,
31 rehabilitating, releasing, or taking no action.

32 (d) The department may, as the department determines is necessary to protect
33 mountain lions or the public, authorize qualified individuals, educational
34 institutions, governmental agencies, or nongovernmental organizations to
35 implement nonlethal procedures on a mountain lion in accordance with
36 subdivision (a).

37 **Comment.** Section 35440 continues former Fish and Game Code Section 4801.5 without
38 substantive change.”

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CHAPTER 4. TAKE FOR SCIENTIFIC PURPOSES

§ 35500. Research

35500. (a) As used in this section:

(1) “Authorized research project” means a research project involving mountain lions subject to a Scientific Collecting Permit issued in accordance with this section.

(2) “Permitholder” means a person to whom the department has issued a Scientific Collecting Permit in accordance with this section.

(3) “Scientific Collecting Permit” or “permit” means a permit issued pursuant to Section 9200 for a research project involving mountain lions in accordance with this section.

(b) The department may authorize qualified individuals, educational institutions, governmental agencies, or nongovernmental organizations to conduct scientific research involving mountain lions pursuant to a Scientific Collecting Permit as provided in Section 9200.

(c) The department may authorize a permitholder to pursue, capture, temporarily possess, temporarily injure, mark, surgically implant a monitoring or recognition devices in or attach such a device to, provide veterinary care to, and transport, a mountain lion or a product of a mountain lion.

(d) In addition to the requirements in Section 9200, an authorized research project shall be designed to do the following:

(1) Contribute to the knowledge of natural wildlife ecosystems.

(2) Minimize disruptions in the lives and movements of mountain lions and other wildlife, as well as impacts to mountain lion or other wildlife habitat, while maintaining the permitholder’s research objectives.

(3) Directly or indirectly support the sustainability and survival of mountain lion populations and healthy ecosystems.

(4) Prevent the permanent injury or killing of a mountain lion.

(e) An authorized research project shall be governed by the Scientific Collecting Permit. The permit shall include, at a minimum, proposed research methods and recordkeeping procedures that address the following:

(1) The capture of, anesthetization of, collection of diagnostic samples from, and transport of, mountain lions or product of a mountain lion or a product of a mountain lion.

(2) Attaching monitoring or recognition devices to, surgically implanting those devices in, or marking, animals affect by the research project.

(3) Providing veterinary care as required for the health, safety, and humane treatment of animals affected by the research project.

(4) The recording of the adverse effects of authorized research procedures on mountain lions and other wildlife.

(5) The qualifications of onsite personnel necessary for carrying out authorized research procedures. A permit applicant shall submit verifiable documentation

1 demonstrating that at least one onsite staff person has at least one year of
2 experience in proposed research methods that involve activities described in
3 subdivision (c).

4 (6) Annual and final reports to the department.

5 (f) The department shall notify the public at least 30 days prior to the issuance of
6 a permit, and, upon request, shall make available to the public copies of the permit
7 and annual and final reports.

8 (g) The department shall handle mortality or permanent injury to a mountain
9 lion as a result of research authorized pursuant to this section in a manner
10 consistent with the reporting and processing requirements imposed in Section
11 35430.

12 **Comment.** Section 35500 continues former Fish and Game Code Section 4810 without
13 substantive change.

14 TITLE 10. MUSKRAT

15 § 35600. Fur-bearing mammal

16 35600. For the purposes of this code, a muskrat is a fur-bearing mammal.

17 **Comment.** Section 35600 continues the part of former Fish and Game Code Section 4000
18 applicable to muskrats without substantive change.

19 § 35605. Provisions not exclusive

20 35605. The provisions of this title are not intended to be exclusive. Other
21 provisions that govern muskrat include, but are not limited to, the following
22 provisions:

23 (a) Section 11010.

24 (b) Section 37460.

25 **Comment.** Section 35605 is new. It is added for drafting convenience.

26 § 35610. Protection of property

27 35610. (a) Except as provided in Section 11200, a muskrat that is found to be
28 injuring growing crops or other property may be taken by the following persons at
29 any time or in any manner not prohibited by this code or regulations adopted
30 pursuant to this code:

31 (1) The owner or tenant of the premises.

32 (2) An employee or agent of the owner or tenant of the premises, who is in
33 immediate possession of written permission from the owner or tenant to take
34 muskrat described in this subdivision.

35 (3) An officer or employee of the Department of Food and Agriculture.

36 (4) A federal, county, or city officer or employee acting in official capacity
37 pursuant to provisions of the Food and Agricultural Code pertaining to pests, or
38 pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of
39 Division 4 of the Food and Agricultural Code.

1 (b) A person that takes a muskrat pursuant to this section is exempt from Section
2 9500, except when providing trapping services for a fee.

3 (c) Raw fur from a muskrat taken pursuant to this section shall not be sold.

4 **Comment.** Section 35610 restates the part of former Fish and Game Code Section 4152
5 applicable to muskrats without substantive change.

6 See also Section 11000 (inspection and removal of animals from traps).

7 **Notes.** (1) Proposed Section 35610 is intended to restate the part of existing Fish and Game
8 Code Section 4152 applicable to muskrats to clarify the meaning of that language, without
9 changing its substantive effect. Existing Section 4152 reads as follows:

10 4152. (a) Except as provided in Section 4005, nongame mammals and black-tailed jackrabbits,
11 muskrats, subspecies of red fox that are not the native Sierra Nevada red fox (*Vulpes vulpes*
12 *necator*), and red fox squirrels that are found to be injuring growing crops or other property may
13 be taken at any time or in any manner in accordance with this code and regulations adopted
14 pursuant to this code by the owner or tenant of the premises or employees and agents in
15 immediate possession of written permission from the owner or tenant thereof. They may also be
16 taken by officers or employees of the Department of Food and Agriculture or by federal, county,
17 or city officers or employees when acting in their official capacities pursuant to the Food and
18 Agricultural Code pertaining to pests, or pursuant to Article 6 (commencing with Section 6021)
19 of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code. Persons taking mammals
20 in accordance with this section are exempt from Section 3007, except when providing trapping
21 services for a fee. Raw furs, as defined in Section 4005, that are taken under this section, shall not
22 be sold.

23 (b) Traps used pursuant to this section shall be inspected and all animals in the traps shall be
24 removed at least once daily. The inspection and removal shall be done by the person who sets the
25 trap or the owner of the land where the trap is set or an agent of either.

26 **The Commission invites comment on whether the restatement would cause any**
27 **substantive change in the meaning of the provision.**

28 (2) Existing Section 4152 refers to employees and agents in “immediate possession” of written
29 permission from the owner or tenant of premises where depredators are injuring property.

30 **The Commission invites comment on whether or how the term “immediate possession”**
31 **differs from “possession,” and whether the more familiar term “possession” could be**
32 **substituted without substantively changing the meaning of the provision.**

33 **§ 35615. Importation or transportation of live muskrat**

34 35615. (a) It is unlawful to import or transport any live muskrat (genus *Ondatra*)
35 into, or possess any live muskrat in, California except under permit issued by the
36 department pursuant to Section 26520, or as otherwise provided by law.

37 (b) A county agricultural commissioner, fish and game deputy, or state plant
38 quarantine officer may enter upon lands or waters west of the crest of the Cascade-
39 Sierra Nevada mountain system, and west and south of the Tehachapi, Liebre, San
40 Gabriel, San Bernardino, San Jacinto, Cuyamaca, and connected mountains south
41 to the international boundary, or in any watershed tributary to, or draining into, the
42 Pacific Ocean to remove or destroy the muskrats.

43 **Comment.** Section 35615 continues former Fish and Game Code Section 2250 without
44 substantive change.

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TITLE 11. RABBIT AND HARE

§ 35700. Classification

35700. For the purposes of this code, a jackrabbit and varying hares (genus *Lepus*), a cottontail, brush rabbit, and a pigmy rabbit (genus *Sylvilagus*), are game mammals.

Comment. Section 35700 continues the part of former Fish and Game Code Section 3950(a) applicable to jackrabbits and varying hares, cottontails, brush rabbits, and pigmy rabbits, without substantive change.

§ 35705. Protection of crops

35705. (a) Notwithstanding any provision of this code to the contrary, an owner or tenant of land, or any person authorized in writing by that owner or tenant, may take cottontail or brush rabbits during any time of the year when damage to crops or forage is being experienced on that land.

(b) Any person transporting a rabbit taken pursuant to subdivision (a) from the land where the rabbit was taken, other than the owner or tenant of that land, shall have in possession written authority from the owner or tenant of the land.

(c) Rabbits taken pursuant to this section shall not be sold.

Comment. Section 35705 continues former Fish and Game Code Section 4186 without substantive change.

§ 35710. Taking of jackrabbit injuring property

35710. (a) Except as provided in Section 11200, a black-tailed jackrabbit that is found to be injuring growing crops or other property may be taken by the following persons at any time or in any manner not prohibited by this code or regulations adopted pursuant to this code:

(1) The owner or tenant of the premises.

(2) An employee or agent of the owner or tenant of the premises, who is in immediate possession of written permission from the owner or tenant to take a black-tailed jackrabbit described in this subdivision.

(3) An officer or employee of the Department of Food and Agriculture.

(4) A federal, county, or city officer or employee acting in official capacity pursuant to provisions of the Food and Agricultural Code pertaining to pests, or pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code.

(b) A person that takes a black-tailed jackrabbit pursuant to this section is exempt from Section 9500, except when providing trapping services for a fee.

(c) Raw fur from a black-tailed jackrabbit taken pursuant to this section shall not be sold.

Comment. Section 35710 restates the part of former Fish and Game Code Section 4152 applicable to black-tailed jackrabbits without substantive change.

See also Section 11000 (inspection and removal of animals from traps).

1 **Notes.** (1) Proposed Section 35710 is intended to restate the part of existing Fish and Game
2 Code Section 4152 applicable to black-tailed jackrabbits to clarify the meaning of that language,
3 without changing its substantive effect. Existing Section 4152 reads as follows:

4 4152. (a) Except as provided in Section 4005, nongame mammals and black-tailed jackrabbits,
5 muskrats, subspecies of red fox that are not the native Sierra Nevada red fox (*Vulpes vulpes*
6 *necator*), and red fox squirrels that are found to be injuring growing crops or other property may
7 be taken at any time or in any manner in accordance with this code and regulations adopted
8 pursuant to this code by the owner or tenant of the premises or employees and agents in
9 immediate possession of written permission from the owner or tenant thereof. They may also be
10 taken by officers or employees of the Department of Food and Agriculture or by federal, county,
11 or city officers or employees when acting in their official capacities pursuant to the Food and
12 Agricultural Code pertaining to pests, or pursuant to Article 6 (commencing with Section 6021)
13 of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code. Persons taking mammals
14 in accordance with this section are exempt from Section 3007, except when providing trapping
15 services for a fee. Raw furs, as defined in Section 4005, that are taken under this section, shall not
16 be sold.

17 (b) Traps used pursuant to this section shall be inspected and all animals in the traps shall be
18 removed at least once daily. The inspection and removal shall be done by the person who sets the
19 trap or the owner of the land where the trap is set or an agent of either.

20 **The Commission invites comment on whether the restatement would cause any**
21 **substantive change in the meaning of the provision.**

22 (2) Existing Section 4152 refers to employees and agents in “immediate possession” of written
23 permission from the owner or tenant of premises where depredators are injuring property.

24 **The Commission invites comment on whether or how the term “immediate possession”**
25 **differs from “possession,” and whether the more familiar term “possession” could be**
26 **substituted without substantively changing the meaning of the provision.**

27 TITLE 12. SEA OTTER

28 § 35750. Classification

29 35750. For the purposes of this code:

30 (a) A sea otter is a marine mammal.

31 (b) A Southern sea otter (*Enhydra lutris nereis*) is a fully protected mammal.

32 **Comment.** Subdivision (a) of Section 35750 continues the part of former Fish and Game Code
33 Section 4500(c) applicable to sea otters without substantive change.

34 Subdivision (b) continues former Fish and Game Code Section 4700(b)(8) without substantive
35 change.

36 § 35755. Regulation of cat litter

37 35755. (a) The Legislature finds and declares that several types of nonpoint
38 source pollution are harmful to sea otters, and that scientific studies point to links
39 between cat feces, the pathogen *T-gondii*, and sea otter mortality. The Legislature
40 further finds and declares that efforts to reduce the flushing of cat litter and cat
41 feces are steps toward better water quality in the sea otters’ natural habitat.

42 (b) Any cat litter offered for sale in this state shall contain one of the following
43 statements:

1 (1) “Encouraging your cat to use an indoor litter box, or properly disposing of
2 outdoor cat feces, is beneficial to overall water quality. Please do not flush cat
3 litter in toilets or dispose of it outdoors in gutters or storm drains.”

4 (2) A general statement that encourages the disposal of cat feces in trash and
5 discourages flushing cat feces in toilets or disposing of them in drains.

6 **Comment.** Section 35755 continues former Fish and Game Code Section 4501 without
7 substantive change.

8 TITLE 13. SHEEP

9 CHAPTER 1. GENERAL PROVISIONS

10 § 35800. Classification

11 35800. For the purposes of this code, except as provided by subdivision (b) of
12 Section 35900, a Bighorn sheep (*Ovis canadensis*) is a fully protected mammal.

13 **Comment.** Section 35800 continues former Fish and Game Code Section 4700(b)(2) without
14 substantive change.

15 § 35805. Provisions not exclusive

16 35805. The provisions of this title are not intended to be exclusive. Other
17 provisions that govern sheep include, but are not limited to, the following
18 provisions:

19 (a) Paragraph (5) of subdivision (a) of Section 460.

20 (b) Section 35400.

21 (c) Section 55725.

22 (d) Section 60855.

23 **Comment.** Section 35805 is new. It is added for drafting convenience.

24 § 35810. Legislative declaration of policy

25 35810. The Legislature declares that bighorn sheep are an important wildlife
26 resource of the state to be managed and maintained at sound biological levels.
27 Therefore, it is hereby declared to be the policy of the state to encourage the
28 preservation, restoration, utilization, and management of California’s bighorn
29 sheep population. The management shall be in accordance with the policy set forth
30 in Section 54505.

31 **Comment.** Section 35810 continues former Fish and Game Code Section 4900 without
32 substantive change.

33 § 35815. Development of plans for population management

34 35815. The department shall determine the status and the trend of bighorn sheep
35 populations by management units. A plan shall be developed for each of the
36 management units. The plan for each management unit shall include all of the
37 following:

1 (a) Data on the numbers, age, sex ratios, and distribution of bighorn sheep
2 within the management unit.

3 (b) A survey of range conditions and a report on the competition that may exist
4 as a result of human, livestock, wild burro, or any other mammal encroachment.

5 (c) An assessment of the need to relocate or reestablish bighorn populations.

6 (d) A statement on the prevalence of disease or parasites within the population.

7 (e) Recommendations for achieving the policy objective of Section 35810.

8 **Comment.** Section 35815 continues former Fish and Game Code Section 4901 without
9 substantive change.

10 **§ 35820. Sale of tag by nonprofit organization**

11 35820. (a) A nonprofit organization designated by the department to assist in the
12 sale of bighorn sheep fundraising tags that are sold on behalf of the department for
13 the purpose of raising funds for specified programs and projects, pursuant to
14 subdivision (d) of Section 35900, is authorized to retain 5 percent of the amount of
15 the sale price of the tag as a reasonable vendor fee.

16 (b) Within 30 days of the date of the sale, the selling nonprofit organization shall
17 send the department 95 percent of the total auction sale price of the tag, with an
18 itemized receipt showing the sale price and the 5-percent reduction retained by the
19 nonprofit organization as a vendor's fee.

20 **Comment.** Subdivision (a) of Section 35820 continues the part of former Fish and Game Code
21 Section 709 applicable to bighorn sheep without substantive change.

22 Subdivision (b) continues the part of the second sentence of former Fish and Game Code
23 Section 3953(b) applicable to sheep without substantive change.

24 **§ 35825. Deposit of fees**

25 35825. Except as provided in subdivision (a) of Section 35820, all revenues
26 from the sale of sheep tags, including any fundraising tags, shall be deposited in
27 the Big Game Management Account established in Section 31900 to permit
28 separate accountability for the receipt and expenditure of these funds.

29 **Comment.** Section 35825 continues the part of the first sentence of former Fish and Game
30 Code Section 3953(b) applicable to sheep without substantive change.

31 **CHAPTER 2. NELSON BIGHORN SHEEP**

32 **§ 35900. Issuance of tags (operative until 7/1/25)**

33 35900. (a) The commission may adopt all regulations necessary to provide for
34 biologically sound management of Nelson bighorn sheep (subspecies *Ovis*
35 *canadensis nelsoni*).

36 (b) (1) After the plans developed by the department pursuant to Section 35815
37 for the management units have been submitted, the commission may authorize
38 sport hunting of mature Nelson bighorn rams. Before authorizing the sport
39 hunting, the commission shall take into account the Nelson bighorn sheep

1 population statewide, including the population in the management units designated
2 for hunting.

3 (2) Notwithstanding Section 1025, the commission shall not, however, adopt
4 regulations authorizing the sport hunting in a single year of more than 15 percent
5 of the mature Nelson bighorn rams in a single management unit, based on the
6 department's annual estimate of the population in each management unit.

7 (c) The fee for a bighorn ram tag for a resident of the state, except for a bighorn
8 ram tag issued to a resident junior hunter, to take a Nelson bighorn ram shall be
9 four hundred dollars (\$400), as adjusted pursuant to Section 3755. The fee for a
10 bighorn ram tag for a resident junior hunter to take a Nelson bighorn ram shall be
11 twenty dollars (\$20), as adjusted under Section 3755. On or before July 1, 2015,
12 the commission shall, by regulation, fix the fee for a nonresident of the state at not
13 less than one thousand five hundred dollars (\$1,500), which shall be adjusted
14 annually pursuant to Section 3755. Fee revenues shall be deposited in the Big
15 Game Management Account established in Section 31900 and, upon appropriation
16 by the Legislature, shall be expended as set forth in that section.

17 (d) The commission shall annually direct the department to authorize not more
18 than three of the tags available for issuance that year to take Nelson bighorn rams
19 for the purpose of raising funds for programs and projects to benefit Nelson
20 bighorn sheep. These tags may be sold to residents or nonresidents of the State of
21 California at auction or by another method and shall not be subject to the fee
22 limitation prescribed in subdivision (c). Commencing with tags sold for the 1993
23 hunting season, if more than one tag is authorized, the department shall designate
24 a nonprofit organization organized pursuant to the laws of this state, or the
25 California chapter of a nonprofit organization organized pursuant to the laws of
26 another state, as the seller of not less than one of these tags. The number of tags
27 authorized for the purpose of raising funds pursuant to this subdivision, if more
28 than one, shall not exceed 15 percent of the total number of tags authorized
29 pursuant to subdivision (b). All revenue from the sale of tags pursuant to this
30 subdivision shall be deposited in the Big Game Management Account established
31 in Section 31900 and, upon appropriation by the Legislature, shall be expended as
32 set forth in that section.

33 (e) No tag issued pursuant to this section shall be valid unless and until the
34 licensee has successfully completed a prehunt hunter familiarization and
35 orientation and has demonstrated to the department that he or she is familiar with
36 the requisite equipment for participating in the hunting of Nelson bighorn rams, as
37 determined by the commission. The orientation shall be conducted by the
38 department at convenient locations and times preceding each season, as
39 determined by the commission.

40 (f) This section shall become inoperative on July 1, 2025, and, as of January 1,
41 2026, is repealed.

42 **Comment.** Section 35900 continues former Fish and Game Code Section 4902, as amended by
43 2018 Cal. Stat. ch. 295, § 10, without substantive change.

1 **Note.** This version of proposed Section 35900 would continue Section 4902, as amended by
2 2018 Cal. Stat. ch. 295, § 10. Although that bill will not take effect until 2019, it is included here
3 in anticipation of its effect.

4 **§ 35900. Issuance of tags (operative on 7/1/25)**

5 35900. (a) The commission may adopt all regulations necessary to provide for
6 biologically sound management of Nelson bighorn sheep (subspecies *Ovis*
7 *canadensis nelsoni*).

8 (b) (1) After the plans developed by the department pursuant to Section 4901 for
9 the management units have been submitted, the commission may authorize sport
10 hunting of mature Nelson bighorn rams. Before authorizing the sport hunting, the
11 commission shall take into account the Nelson bighorn sheep population
12 statewide, including the population in the management units designated for
13 hunting.

14 (2) Notwithstanding Section 219, the commission shall not, however, adopt
15 regulations authorizing the sport hunting in a single year of more than 15 percent
16 of the mature Nelson bighorn rams in a single management unit, based on the
17 department's annual estimate of the population in each management unit.

18 (c) The fee for a bighorn ram tag to take a Nelson bighorn ram shall be four
19 hundred dollars (\$400) for a resident of the state, which shall be adjusted annually
20 pursuant to Section 713. On or before July 1, 2015, the commission shall, by
21 regulation, fix the fee for a nonresident of the state at not less than one thousand
22 five hundred dollars (\$1,500), which shall be adjusted annually pursuant to
23 Section 713. Fee revenues shall be deposited in the Big Game Management
24 Account established in Section 3953 and, upon appropriation by the Legislature,
25 shall be expended as set forth in that section.

26 (d) The commission shall annually direct the department to authorize not more
27 than three of the tags available for issuance that year to take Nelson bighorn rams
28 for the purpose of raising funds for programs and projects to benefit Nelson
29 bighorn sheep. These tags may be sold to residents or nonresidents of the State of
30 California at auction or by another method and shall not be subject to the fee
31 limitation prescribed in subdivision (c). Commencing with tags sold for the 1993
32 hunting season, if more than one tag is authorized, the department shall designate
33 a nonprofit organization organized pursuant to the laws of this state, or the
34 California chapter of a nonprofit organization organized pursuant to the laws of
35 another state, as the seller of not less than one of these tags. The number of tags
36 authorized for the purpose of raising funds pursuant to this subdivision, if more
37 than one, shall not exceed 15 percent of the total number of tags authorized
38 pursuant to subdivision (b). All revenue from the sale of tags pursuant to this
39 subdivision shall be deposited in the Big Game Management Account established
40 in Section 3953 and, upon appropriation by the Legislature, shall be expended as
41 set forth in that section.

1 (e) No tag issued pursuant to this section shall be valid unless and until the
2 licensee has successfully completed a prehunt hunter familiarization and
3 orientation and has demonstrated to the department that he or she is familiar with
4 the requisite equipment for participating in the hunting of Nelson bighorn rams, as
5 determined by the commission. The orientation shall be conducted by the
6 department at convenient locations and times preceding each season, as
7 determined by the commission.

8 (f) This section shall become operative on July 1, 2025.

9 **Comment.** Section 35900 continues former Fish and Game Code Section 4902, as added by
10 2018 Cal. Stat. ch. 295, § 11, without substantive change.

11 **Note.** This version of proposed Section 35900 would continue Section 4902, as added by
12 2018 Cal. Stat. ch. 295, § 11. Although that bill will not take effect until 2019, it is included here
13 in anticipation of its effect.

14 **§ 35915. Use of revenue**

15 35915. (a) Revenue from the fees authorized by this chapter shall be deposited
16 in the Big Game Management Account established in Section 31900 and, upon
17 appropriation by the Legislature, shall be expended as set forth in that section.

18 (b) Administrative overhead shall be limited to the reasonable costs associated
19 with the direct administration of the program.

20 (c) These funds shall be used to augment, and not to replace, moneys
21 appropriated from existing funds available to the department for the preservation,
22 restoration, utilization, and management of bighorn sheep. The department shall
23 maintain internal accountability necessary to ensure that all restrictions on the
24 expenditure of these funds are met.

25 **Comment.** Section 35915 continues former Fish and Game Code Section 4903 without
26 substantive change.

27 **TITLE 14. SQUIRREL**

28 **§ 36000. Classification**

29 36000. For the purposes of this code, a tree squirrel (genus *Sciurus* and
30 *Tamiasciurus*) is a game mammal.

31 **Comment.** Section 36000 continues the part of former Fish and Game Code Section 3950(a)
32 applicable to tree squirrels without substantive change.

33 **§ 36005. Provisions not exclusive**

34 36005. The provisions of this part are not intended to be exclusive. Other
35 provisions that govern squirrels include, but are not limited to, Section 37460.

36 **Comment.** Section 36005 is new. It is added for drafting convenience.

1 § 36010. Protection of property

2 36010. (a) Except as provided in Section 11200, a red fox squirrel that is found
3 to be injuring growing crops or other property may be taken by the following
4 persons at any time or in any manner not prohibited by this code or regulations
5 adopted pursuant to this code:

6 (1) The owner or tenant of the premises.

7 (2) An employee or agent of the owner or tenant of the premises, who is in
8 immediate possession of written permission from the owner or tenant to take a
9 squirrel described in this subdivision.

10 (3) An officer or employee of the Department of Food and Agriculture.

11 (4) A federal, county, or city officer or employee acting in official capacity
12 pursuant to provisions of the Food and Agricultural Code pertaining to pests, or
13 pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of
14 Division 4 of the Food and Agricultural Code.

15 (b) A person that takes a red fox squirrel pursuant to this section is exempt from
16 Section 9500, except when providing trapping services for a fee.

17 (c) Raw fur from a red fox squirrel taken pursuant to this section shall not be
18 sold.

19 **Comment.** Section 36010 restates the part of former Fish and Game Code Section 4152
20 applicable to red fox squirrels without substantive change.

21 See also Section 11000 (inspection and removal of animals from traps).

22 **Notes.** (1) Proposed Section 36010 is intended to restate the part of existing Fish and Game
23 Code Section 4152 applicable to red fox squirrels to clarify the meaning of that language, without
24 changing its substantive effect. Existing Section 4152 reads as follows:

25 4152. (a) Except as provided in Section 4005, nongame mammals and black-tailed jackrabbits,
26 muskrats, subspecies of red fox that are not the native Sierra Nevada red fox (*Vulpes vulpes*
27 *necator*), and red fox squirrels that are found to be injuring growing crops or other property may
28 be taken at any time or in any manner in accordance with this code and regulations adopted
29 pursuant to this code by the owner or tenant of the premises or employees and agents in
30 immediate possession of written permission from the owner or tenant thereof. They may also be
31 taken by officers or employees of the Department of Food and Agriculture or by federal, county,
32 or city officers or employees when acting in their official capacities pursuant to the Food and
33 Agricultural Code pertaining to pests, or pursuant to Article 6 (commencing with Section 6021)
34 of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code. Persons taking mammals
35 in accordance with this section are exempt from Section 3007, except when providing trapping
36 services for a fee. Raw furs, as defined in Section 4005, that are taken under this section, shall not
37 be sold.

38 (b) Traps used pursuant to this section shall be inspected and all animals in the traps shall be
39 removed at least once daily. The inspection and removal shall be done by the person who sets the
40 trap or the owner of the land where the trap is set or an agent of either.

41 **The Commission invites comment on whether the restatement would cause any**
42 **substantive change in the meaning of the provision.**

43 (2) Existing Section 4152 refers to employees and agents in “immediate possession” of written
44 permission from the owner or tenant of premises where depredators are injuring property.

45 **The Commission invites comment on whether or how the term “immediate possession”**
46 **differs from “possession,” and whether the more familiar term “possession” could be**
47 **substituted without substantively changing the meaning of the provision.**

1 § 36015. Depredation permit

2 36015. (a) An owner or tenant of land or property that is being damaged or
3 destroyed, or is in danger of being damaged or destroyed, by gray squirrels, may
4 apply to the department for a permit to kill the squirrels causing or threatening the
5 damage or destruction.

6 (b) The department, upon satisfactory evidence of actual or immediately
7 threatened damage or destruction of land or property, shall issue a revocable
8 permit for the taking and disposition of the responsible squirrels, under regulations
9 adopted by the commission. The permit shall include a statement of the penalties
10 that may be imposed for a violation of the permit conditions.

11 (c) Gray squirrels taken under a permit issued pursuant to subdivision (b) shall
12 not be sold or shipped from the premises on which they are taken, except pursuant
13 to instructions from the department.

14 (d) No poison of any type may be used to take any gray squirrel pursuant to this
15 section.

16 (e) The department shall designate the type of trap to be used to trap gray
17 squirrels, ensuring that the designated trap is the most humane method available.
18 The department may require trapped squirrels to be released in parks or other
19 nonagricultural areas.

20 (f) It is unlawful for any person to violate the terms of any permit issued
21 pursuant to this section.

22 **Comment.** Section 36015 restates the part of former Fish and Game Code Section 4181(a)
23 applicable to gray squirrels without substantive change.

24 **Note.** Proposed Section 36015 is intended to restate the part of existing Fish and Game Code
25 Section 4181(a) applicable to gray squirrels to clarify the meaning of that language, without
26 changing its substantive effect. Existing Section 4181 reads as follows:

27 4181. (a) Except as provided in Section 4181.1, any owner or tenant of land or property that is
28 being damaged or destroyed or is in danger of being damaged or destroyed by elk, bear, beaver,
29 wild pig, wild turkeys, or gray squirrels, may apply to the department for a permit to kill the
30 animals. Subject to the limitations in subdivisions (b) and (d), the department, upon satisfactory
31 evidence of the damage or destruction, actual or immediately threatened, shall issue a revocable
32 permit for the taking and disposition of the animals under regulations adopted by the commission.
33 The permit shall include a statement of the penalties that may be imposed for a violation of the
34 permit conditions. Animals so taken shall not be sold or shipped from the premises on which they
35 are taken except under instructions from the department. No iron-jawed or steel-jawed or any
36 type of metal-jawed trap shall be used to take any bear pursuant to this section. No poison of any
37 type may be used to take any gray squirrel or wild turkey pursuant to this section. The department
38 shall designate the type of trap to be used to ensure the most humane method is used to trap gray
39 squirrels. The department may require trapped squirrels to be released in parks or other
40 nonagricultural areas. It is unlawful for any person to violate the terms of any permit issued under
41 this section.

42 (b)

43 The references in existing Section 4181 to existing Section 4181.1 and to subdivisions (b) and (d)
44 of Section 4181 have not been continued in proposed Section 36015, as those provisions do not
45 apply to squirrels.

1 **The Commission invites comment on whether the restatement would cause any**
2 **substantive change in the meaning of the provision.**

3 TITLE 15. WHALE

4 TITLE 1. WHALES GENERALLY

5 Chapter 1. Preliminary Provisions

6 **§ 37000. Classification**

7 37000. For the purposes of this code:

8 (a) A whale is a marine mammal.

9 (b) A Pacific right whale (*Eubalaena sieboldi*) is a fully protected mammal.

10 **Comment.** Subdivision (a) of Section 37000 continues the part of former Fish and Game Code
11 Section 4500(c) applicable to whales without substantive change.

12 Subdivision (b) continues former Fish and Game Code Section 4700(b)(6) without substantive
13 change.

14 **§ 37005. Provisions not exclusive**

15 37005. The provisions of this part are not intended to be exclusive. Other
16 provisions that govern whales include, but are not limited to, the following
17 provisions:

18 (a) Section 430.

19 (b) Section 16905.

20 (c) Section 28650.

21 (d) Section 32500.

22 **Comment.** Section 37005 is new. It is added for drafting convenience.

23 Chapter 2. Orca

24 **§ 37050. California Orca Protection Act**

25 37050. This section shall be known, and may be cited, as the California Orca
26 Protection Act.

27 (a) It is unlawful for any person to do any of the following:

28 (1) (A) Except as provided in subparagraph (B) and subdivision (c), hold in
29 captivity an orca, whether wild-caught or captive-bred, for any purpose, including,
30 but not limited to, display, performance, or entertainment purposes.

31 (B) An orca located in the state on January 1, 2017, may continue to be held in
32 captivity for its current purpose and after June 1, 2017, may continue to be used
33 for educational presentations.

34 (2) Breed or impregnate any orca held in captivity in the state.

35 (3) Export, collect, or import the semen, other gametes, or embryos of an orca
36 held in captivity for the purpose of artificial insemination.

1 (4) Export, transport, move, or sell an orca located in the state to another state or
2 country unless otherwise authorized by federal law or if the transfer is to another
3 facility within North America that meets standards comparable to those provided
4 under the Animal Welfare Act (7 U.S.C. Sec. 2131 and following).

5 (b) This section does not apply to an orca that is held by a bona fide educational
6 or scientific institution for rehabilitation after a rescue or stranding or for research
7 purposes. However, the department shall be notified immediately upon the rescue
8 or acquisition of any orca, and an orca that is held for rehabilitation or research
9 purposes shall be returned to the wild whenever possible. If return to the wild is
10 not possible, the orca may be used for educational presentations, but shall not be
11 used for breeding, performance, or entertainment purposes.

12 (c) As used in this section, the following terms are defined as follows:

13 (1) “Educational presentation” means a live, scheduled orca display in the
14 presence of spectators that includes natural behaviors, enrichment, exercise
15 activities, and a live narration and video content that provides science-based
16 education to the public about orcas.

17 (2) “Orca” means a killer whale (*Orcinus orca*).

18 (3) “Bona fide educational or scientific institution” means an institution that
19 establishes through documentation any of the following:

20 (A) Educational or scientific tax exemption from the Internal Revenue Service
21 or the institution’s national, state, or local tax authority.

22 (B) Accreditation as an educational or scientific institution from a qualified
23 national, regional, state, or local authority for the institution’s location.

24 (C) Accreditation by a nationally or internationally recognized zoological or
25 aquarium accreditation organization.

26 (d) The provisions of this section and Section 5522 are severable. If any
27 provision of this section or its application is held invalid, that invalidity shall not
28 affect other provisions or applications that can be given effect without the invalid
29 provision or application.

30 **Comment.** Section 37050 continues former Fish and Game Code Section 4502.5(a), (c)-(e)
31 without substantive change.

32 See also Section 5522 (enforcement).

33 TITLE 16. WILD PIG

34 CHAPTER 1. GENERAL PROVISIONS

35 § 37100. Game mammal

36 37100. For the purposes of this code, a wild pig, including a feral pig and a
37 European wild boar (genus *Sus*), is a game mammal.

38 **Comment.** Section 37100 continues the part of former Fish and Game Code Section 3950(a)
39 applicable to wild pigs without substantive change.

1 § 37105. “Wild pigs”

2 37105. For purposes of this title, “wild pig” means free-roaming pigs not
3 distinguished by branding, ear marking, or other permanent identification
4 methods.

5 **Comment.** Section 37105 continues former Fish and Game Code Section 4650 without
6 substantive change, except that the definition is made applicable to the provisions that continue
7 former Fish and Game Code Sections 4181, 4181.1, 4181.2, and 4188.

8 **Note.** Existing Section 4650 provides a definition of the term “wild pigs,” but limits the
9 application of the definition to the provisions in the chapter of the existing code in which Section
10 4650 appears. (Those provisions are continued in Chapters 1 through 4 of this title.)

11 However, the term “wild pig” is used in several other provisions of the existing code, without
12 definition. Among those provisions are existing Sections 4181, 4181.1, 4181.2, and 4188 (which
13 would be continued by the proposed provisions in Chapter 5 of this title), all relating to the taking
14 of wild pigs that are damaging or injuring property. The Commission believes it would be minor
15 substantive improvement to extend the application of the definition of the term “wild pig” to
16 those provisions, and has therefore proposed a revision of this provision to achieve that objective.

17 **The Commission invites comment on this revision. The Commission also invites comment**
18 **on whether the definition of “wild pig” in this provision should be generalized to apply**
19 **throughout the proposed law, and relocated with the other generally applicable definitional**
20 **provisions in the proposed law.**

21 § 37110. Provisions not exclusive

22 37110. The provisions of this part are not intended to be exclusive. Other
23 provisions that govern wild pigs include, but are not limited to, the following
24 provisions:

25 (a) Section 4570.

26 (b) Section 59315

27 **Comment.** Section 37110 is new. It is added for drafting convenience.

28 CHAPTER 2. TAKE GENERALLY

29 § 37150. Tag requirement

30 37150. It is unlawful to take any wild pig, except as provided in Section 37355
31 or 37360, without first obtaining a tag authorizing the taking of that wild pig in
32 accordance with this title.

33 **Comment.** Section 37150 combines and continues the first clause of former Fish and Game
34 Code Section 4181(a) (as applicable to wild pigs), and former Fish and Game Code Section 4652,
35 without substantive change.

36 § 37155. Tagging of wild pig

37 37155. (a) The holder of a wild pig tag shall keep the tag in his or her possession
38 while hunting wild pig.

39 (b) Before the taking of any wild pig, the holder of a wild pig tag, except for
40 wild pig tags issued through the Automated License Data System, shall legibly
41 write or otherwise affix the holder’s hunting license number to the wild pig tag.

1 (c) Upon the killing of any wild pig, the date of the kill shall be clearly marked
2 by the holder of the tag on both parts of the tag. Before transporting the pig, a tag
3 shall be attached to the carcass by the holder of the tag. The holder of the wild pig
4 tag shall immediately, upon harvesting a pig, notify the department in a manner
5 specified by the commission.

6 **Comment.** Section 37155 continues former Fish and Game Code Section 4657 without
7 substantive change.

8 **Note.** The Commission invites comment on whether a more common term (e.g.,
9 “taking”) could be substituted for the word “harvesting” as used in existing Fish and Game
10 Code Section 4657.

11 CHAPTER 3. TAGS

12 § 37200. Design and issuance of wild pig tag

13 37200. The department may determine the design and type of information to be
14 included on the wild pig tag and prescribe the procedures for the issuance and use
15 of the tag.

16 **Comment.** Section 37200 continues former Fish and Game Code Section 4653 without
17 substantive change.

18 § 37205. Obtaining tag

19 37205. (a) To obtain a wild pig tag, a person must be 12 years of age or older,
20 and possess either a valid hunting license, or if a nonresident, a valid California
21 nonresident hunting license.

22 (b) A person authorized to obtain a wild pig tag may obtain the number of wild
23 pig tags corresponding to the number of wild pigs that may legally be taken by one
24 person during the license year, upon payment of the fee required by Section
25 37215.

26 **Comment.** Section 37205 restates the part of former Fish and Game Code Section 4654 that
27 relates to prerequisites for obtaining a wild pig tag, without substantive change.

28 **Note.** Proposed Section 37205 is intended to restate the part of existing Fish and Game Code
29 Section 4654 that relates to prerequisites for obtaining a wild pig tag, to clarify the meaning of
30 that language, without changing its substantive effect. The remainder of Section 4654, relating to
31 fees for wild pig tags, would be continued by proposed Section 37215.

32 Section 4654 reads as follows:

33 4654. (a) Any resident of this state, 12 years of age or older, who possesses a valid hunting
34 license, may procure the number of wild pig tags corresponding to the number of wild pigs that
35 may legally be taken by one person during the license year upon payment of a base fee of fifteen
36 dollars (\$15), for each wild pig tag.

37 (b) Any nonresident, 12 years of age or older, who possesses a valid California nonresident
38 hunting license, may procure the number of wild pig tags corresponding to the number of wild
39 pigs that may legally be taken by one person during the license year upon payment of a base fee
40 of fifty dollars (\$50), for each wild pig tag.

41 (c) The base fees specified in this section are applicable to the 2004 license year, and shall be
42 adjusted annually thereafter pursuant to Section 713.

1 **The Commission invites comment on whether the restatement of the part of Section 4654**
2 **continued in proposed Section 37205 would cause any substantive change in the meaning of**
3 **the provision.**

4 **§ 37210. Period of validity of tag**

5 37210. Wild pig tags are valid only during that portion of the current hunting
6 license year in which wild pigs may be taken or possessed in any area of the state.

7 **Comment.** Section 37210 continues former Fish and Game Code Section 4655 without
8 substantive change.

9 **§ 37215. Fees for wild pig tag**

10 37215. The fee for a wild pig tag shall be as follows:

11 (a) For a resident of the state, a base fee of fifteen dollars (\$15) per tag, adjusted
12 under Section 3755.

13 (b) For a nonresident, a base fee of fifty dollars (\$50) per tag, adjusted under
14 Section 3755.

15 **Comment.** Section 37215 restates the part of former Fish and Game Code Section 4654 that
16 relates to prerequisites for obtaining a wild pig tag, without substantive change.

17 **Note.** Subdivision (a) of proposed Section 37215 is intended to restate the part of existing
18 Fish and Game Code Section 4654 that relates to fees for wild pig tags, to clarify the meaning of
19 that language, without changing its substantive effect. The remainder of Section 4654, relating to
20 prerequisites for obtaining a wild pig tag, would be continued by proposed Section 37205.

21 Section 4654 reads as follows:

22 4654. (a) Any resident of this state, 12 years of age or older, who possesses a valid hunting
23 license, may procure the number of wild pig tags corresponding to the number of wild pigs that
24 may legally be taken by one person during the license year upon payment of a base fee of fifteen
25 dollars (\$15), for each wild pig tag.

26 (b) Any nonresident, 12 years of age or older, who possesses a valid California nonresident
27 hunting license, may procure the number of wild pig tags corresponding to the number of wild
28 pigs that may legally be taken by one person during the license year upon payment of a base fee
29 of fifty dollars (\$50), for each wild pig tag.

30 (c) The base fees specified in this section are applicable to the 2004 license year, and shall be
31 adjusted annually thereafter pursuant to Section 713.

32 **The Commission invites comment on whether the restatement of the part of Section 4654**
33 **continued in subdivision (a) of proposed Section 37215 would cause any substantive change**
34 **in the meaning of the provision.**

35 **§ 37220. Deposit of fees**

36 37220. All revenues from the sale of wild pig tags, including any fundraising
37 tags, shall be deposited in the Big Game Management Account established in
38 Section 31900 to permit separate accountability for the receipt and expenditure of
39 these funds.

40 **Comment.** Section 37220 continues the part of the first sentence of former Fish and Game
41 Code Section 3953(b) applicable to wild pigs without substantive change.

1 **Note.** This proposed section together with proposed Sections 31905 and 31930 appear to
2 render the existing Section 4656 superfluous, and that section would not be continued in the
3 proposed law. Existing Section 4656 reads as follows:

4 4656. Revenues received pursuant to this chapter shall be deposited in the Big Game
5 Management Account established in Section 3953. These funds shall be available for expenditure
6 by the department as set forth in Section 3953. The department shall maintain all internal
7 accounting measures necessary to ensure that all restrictions on these funds are met.

8 **The Commission invites comment on whether the discontinuation of existing Section 4656**
9 **in the proposed law is appropriate.**

10 CHAPTER 4. POPULATION MANAGEMENT

11 **§ 37300. Management plan**

12 37300. (a) The department shall prepare a plan for the management of wild pigs.
13 Under the plan, the status and trend of wild pig populations shall be determined
14 and management units shall be designated within the state. The plan may establish
15 pig management zones to address regional needs and opportunities. In preparing
16 the plan, the department shall consider available, existing information and
17 literature relative to wild pigs.

18 (b) The plan may include all of the following:

19 (1) The distribution and abundance of wild pigs, including feral pigs and
20 European wild boars (genus *Sus*).

21 (2) A survey of range conditions.

22 (3) Recommendations for investigations and utilization of wild pigs.

23 (4) Encouraging mitigation of depredation by sport hunting pursuant to this title.

24 (5) Live trapping and relocation of wild pigs to areas suitable and accessible to
25 mitigation of depredation, with the consent of the landowner and after prior
26 consultation with adjacent landowners who, in the department's opinion may be
27 impacted, pursuant to this title.

28 **Comment.** Section 37300 continues former Fish and Game Code Section 4651 without
29 substantive change.

30 **Note.** The intended meaning of the words "pursuant to this chapter" at the end of existing
31 Fish and Game Code Section 4651(a)(5) (which would be continued by the words "pursuant to
32 this title" at the end of proposed Section 37300(b)(5)) is unclear, as there are no provisions in that
33 referenced chapter of the existing code that relate to the trapping or relocation of wild pigs.

34 **The Commission invites comment on this issue.**

35 CHAPTER 5. TAKE TO PROTECT PROPERTY

36 **§ 37350. "Damage"**

37 37350. (a) For the purposes of this chapter, "damage" caused by a wild pig
38 means loss or harm resulting from injury to person or property.

1 (b) The department shall develop statewide guidelines to aid in determining the
2 damage caused by wild pigs. The guidelines shall consider various uses of the land
3 impacted by pigs.

4 **Comment.** Section 37350 continues former Fish and Game Code Section 4181.2 without
5 substantive change.

6 **§ 37355. Protection of property**

7 37355. (a) Notwithstanding Section 37150, a wild pig encountered in the act of
8 inflicting injury to, molesting, pursuing, worrying, or killing livestock, or
9 damaging or destroying, or threatening to immediately damage or destroy, land or
10 other property, including, but not limited to, rare, threatened, or endangered native
11 plants, wildlife, or aquatic species, may be taken immediately by any of the
12 following persons:

13 (1) The owner of the livestock, land, or property.

14 (2) The owner's agent or employee.

15 (3) An agent or employee of any federal, state, county, or city entity when acting
16 in official capacity.

17 (b) The person taking the wild pig shall report the taking no later than the next
18 working day to the department and shall make the carcass available to the
19 department.

20 (c) Unless otherwise directed by the department and notwithstanding Section
21 37155, a person taking a wild pig pursuant to this section, or to whom the carcass
22 of a wild pig taken pursuant to this section is transferred pursuant to subdivision
23 (e), may possess the carcass of the wild pig, or may transfer the carcass to another
24 person or entity, if the transfer is made for no compensation. A person who
25 arranges a transfer pursuant to this subdivision shall be deemed to be in
26 compliance with Section 31800.

27 (d) A violation of this section is punishable pursuant to subdivision (b) of
28 Section 4400. It is the intent of the Legislature that nothing in this section shall be
29 interpreted to authorize a person to take wild pig pursuant to this section in
30 violation of a state statute or regulation, or a local zoning or other ordinance that is
31 adopted pursuant to other provisions of law and that restricts the discharge of a
32 firearm.

33 (e) The department shall make a record of each report made pursuant to
34 subdivision (b), and may have an employee of the department investigate the
35 taking or cause the taking to be investigated. The person taking a wild pig shall
36 provide information as deemed necessary by the department. Upon completion of
37 an investigation, the investigator may, upon a finding that the requirements of this
38 section have been met with respect to a wild pig taken under subdivision (a), issue
39 a written statement to the person taking the wild pig, confirming that the
40 requirements of this section have been met.

41 (f) The department shall provide a person who reports taking wild pigs pursuant
42 to subdivision (b) with written information that sets forth available options for

1 wild pig control, including, but not limited to, depredation permits, allowing
2 periodic access to licensed hunters, and holding special hunts authorized pursuant
3 to Section 37365. The department may maintain and make available to these
4 persons lists of licensed hunters interested in wild pig hunting, and lists of
5 nonprofit organizations available to take possession of the carcasses of
6 depredating wild pigs.

7 **Comment.** Subdivisions (a) through (d) of Section 37355 continue former Fish and Game
8 Code Section 4181.1(b) without substantive change.

9 Subdivision (e) continues the part of former Fish and Game Code Section 4181.1(c) applicable
10 to wild pigs without substantive change.

11 Subdivision (f) continues the part of former Fish and Game Code Section 4181(c) applicable to
12 former Fish and Game Code Section 4181.1(b) without substantive change.

13  **Note.** A sentence within existing Fish and Game Code Section 4181.1(b) (which would be
14 continued by the first sentence of proposed Section 37355(d)) indicates that a violation of Section
15 4181.1(b) “is punishable pursuant to Section 12000.” However, existing Section 12000 does not
16 specify any punishment that would otherwise apply to a violation of Section 4181.1, nor does it
17 specify a default punishment for a violation of the code.

18 The Commission believes it likely the section intended to be referenced was existing Section
19 12002, which in subdivision (a) does provide a default punishment for an unspecified code
20 violation. Proposed Section 37355(d) would revise the reference to refer to the provision of the
21 proposed law that would continue existing Section 12002(a).

22 **The Commission invites comment on this revision.**

23 **§ 37360. Depredation permit**

24 37360. (a) Except as provided in Section 37355, an owner or tenant of land or
25 property that is being damaged or destroyed, or is in danger of being damaged or
26 destroyed, by wild pig, may apply to the department for a permit to kill the wild
27 pig causing or threatening the damage or destruction.

28 (b) The department, upon satisfactory evidence of actual or immediately
29 threatened damage or destruction of land or property, shall issue a revocable
30 permit for the taking and disposition of the responsible wild pig, under regulations
31 adopted by the commission. The permit shall include a statement of the penalties
32 that may be imposed for a violation of the permit conditions.

33 (c) Wild pig taken under a permit issued pursuant to subdivision (b) shall not be
34 sold or shipped from the premises on which they are taken, except pursuant to
35 instructions from the department.

36 (d) The department shall provide an applicant for a depredation permit with
37 written information that sets forth available options for wild pig control, including,
38 but not limited to, depredation permits, allowing periodic access to licensed
39 hunters, and holding special hunts authorized pursuant to Section 37365. The
40 department may maintain and make available to these persons lists of licensed
41 hunters interested in wild pig hunting, and lists of nonprofit organizations
42 available to take possession of the carcasses of depredating wild pigs.

43 (e) It is unlawful for any person to violate the terms of any permit issued
44 pursuant to this section.

1 **Comment.** Subdivisions (a) through (c) and (e) of Section 37360 restate the part of former Fish
2 and Game Code Section 4181(a) applicable to wild pigs without substantive change.

3 Subdivision (d) continues the part of former Fish and Game Code Section 4181(c) applicable to
4 former Fish and Game Code Section 4181(a) without substantive change.

5 **Note.** Proposed Section 37360(a)-(c) and (e) are intended to restate the part of existing Fish
6 and Game Code Section 4181(a) applicable to wild pig to clarify the meaning of that language,
7 without changing its substantive effect. Existing Section 4181 reads as follows:

8 4181. (a) Except as provided in Section 4181.1, any owner or tenant of land or property that is
9 being damaged or destroyed or is in danger of being damaged or destroyed by elk, bear, beaver,
10 wild pig, wild turkeys, or gray squirrels, may apply to the department for a permit to kill the
11 animals. Subject to the limitations in subdivisions (b) and (d), the department, upon satisfactory
12 evidence of the damage or destruction, actual or immediately threatened, shall issue a revocable
13 permit for the taking and disposition of the animals under regulations adopted by the commission.
14 The permit shall include a statement of the penalties that may be imposed for a violation of the
15 permit conditions. Animals so taken shall not be sold or shipped from the premises on which they
16 are taken except under instructions from the department. No iron-jawed or steel-jawed or any
17 type of metal-jawed trap shall be used to take any bear pursuant to this section. No poison of any
18 type may be used to take any gray squirrel or wild turkey pursuant to this section. The department
19 shall designate the type of trap to be used to ensure the most humane method is used to trap gray
20 squirrels. The department may require trapped squirrels to be released in parks or other
21 nonagricultural areas. It is unlawful for any person to violate the terms of any permit issued under
22 this section.

23 (b)....

24 The references in existing Section 4181 to subdivisions (b) and (d) of Section 4181 have not been
25 continued in proposed Section 37360, as those provisions do not apply to wild pigs.

26 **The Commission invites comment on whether the restatement would cause any**
27 **substantive change in the meaning of the provision.**

28 **§ 37365. Access by licensed hunters**

29 37365. (a) If a landowner or tenant applies for a permit under Section 37360 to
30 take wild pigs, the department shall inform the applicant about available options
31 for allowing access by licensed hunters, including, but not limited to, access
32 authorized pursuant to Title 7 (commencing with Section 56200) of Part 2 of
33 Division 15 to control wild pigs.

34 (b) The commission, in lieu of a permit described in subdivision (a), and with
35 the consent of, or upon the request of, the landowner or tenant, may pursuant to
36 appropriate regulation authorize the issuance of permits to persons holding valid
37 hunting licenses to take wild pigs in sufficient numbers to stop the damage or
38 threatened damage. Before issuing permits to licensed hunters, the department
39 shall investigate and determine the number of permits necessary, the territory
40 involved, the dates of the proposed hunt, the manner of issuing the permits, and
41 the fee for the permit.

42 **Comment.** Section 37365 restates the part of former Fish and Game Code Section 4188
43 applicable to wild pigs without substantive change.

44 **Note.** Proposed Section 37365 is intended to restate the part of existing Fish and Game Code
45 Section 4188 applicable to wild pigs to improve its clarity, without changing its substantive
46 effect. The existing provision reads as follows:

1 4188. (a) If a landowner or tenant applies for a permit under Section 4181 for wild pigs or wild
2 turkeys, or under Section 4181.5 for deer, the department shall notify the landowner or tenant
3 about available options for allowing access by licensed hunters, including, but not limited to,
4 access authorized pursuant to Article 3 (commencing with Section 1570) of Chapter 5 of Division
5 2 to control wild pigs, wild turkeys, and deer.

6 (b) The commission, in lieu of a permit as described in subdivision (a), and with the consent of,
7 or upon the request of, the landowner or tenant, under appropriate regulations, may authorize the
8 issuance of permits to persons holding valid hunting licenses to take wild pigs, wild turkeys, or
9 deer in sufficient numbers to stop the damage or threatened damage. Before issuing permits to
10 licensed hunters, the department shall investigate and determine the number of permits necessary,
11 the territory involved, the dates of the proposed hunt, the manner of issuing the permits, and the
12 fee for the permit.

13 **The Commission invites comment on whether the restatement would cause any**
14 **substantive change in the meaning of the provision.**

15 TITLE 17. WILD RODENT

16 § 37450. Classification

17 37450. For the purposes of this code:

18 (a) A tree squirrel (genus *Sciurus* and *Tamiasciurus*) is a game mammal.

19 (b) A Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*) is a fully
20 protected mammal.

21 (c) A salt-marsh harvest mouse (*Reithrodontomys raviventris*) is a fully
22 protected mammal.

23 **Comment.** Subdivision (a) of Section 37450 continues the part of former Fish and Game Code
24 Section 3950(a) applicable to tree squirrels without substantive change.

25 Subdivision (b) continues former Fish and Game Code Section 4700(b)(1) without substantive
26 change.

27 Subdivision (c) continues former Fish and Game Code Section 4700(b)(7) without substantive
28 change.

29 § 37455. Prohibitions

30 37455. (a) It is unlawful to knowingly capture for sale, transport for sale or sell a
31 wild rodent, except as provided in Section 1700, 1705, 1710, 1745, 9200, or 9210.

32 (b) As used in this section, “wild rodent” means a wild ground squirrel,
33 chipmunk, rat, mouse, or any other member of the order Rodentia native to
34 California, except muskrat or beaver.

35 **Comment.** Subdivision (a) of Section 37455 continues former Fish and Game Code Section
36 2576 without substantive change.

37 Subdivision (b) continues former Fish and Game Code Section 2575 without substantive
38 change.

39 **Note.** Existing Fish and Game Code Section 2576 (which would be continued by proposed
40 Section 37455) reads as follows:

41 2576. It is unlawful to knowingly capture for sale, transport for sale or sell wild rodents,
42 except as provided in Article 1.5 (commencing with Section 1000) of Chapter 3 of Division 2.

1 There is no longer any “Article 1.5” in Chapter 3 of Division 2 of the existing code. At the time
2 Section 2576 was enacted in 1971, there did exist an Article 1.5 in the indicated chapter and
3 division, which contained many of the sections that are now in Article 1 (commencing with
4 Section 1000) of Chapter 3 of Division 2 of the existing code. However, since 1971, new sections
5 have been added to that article, and some of the sections that were in that article in 1971 have
6 since been amended.

7 Proposed Section 37455 would replace the cross-reference to the now non-existent “Article
8 1.5” with the sections contained in that former article that appear to have any relevance to the
9 substance of existing Section 2576.

10 **The Commission invites comment on whether the cross-reference in proposed Section**
11 **37455 specifying the exceptions to the proposed section should be revised in any way.**

12 **§ 37460. Trapping**

13 37460. Except for fully protected mammals or species that are listed pursuant to
14 Part 1 (commencing with Section 62000) of Division 17, nothing in this code or a
15 regulation adopted pursuant to this code shall prevent or prohibit a person from
16 trapping any of the following animals:

17 (a) Gopher.

18 (b) House mouse.

19 (c) Mole.

20 (d) Rat.

21 (e) Vole.

22 **Comment.** Section 37460 continues former Fish and Game Code Section 4005(f) without
23 substantive change.

24 **DIVISION 10. FISH**

25 **PART 1. GENERAL PROVISIONS**

26 **§ 37800. Governance by other provisions**

27 37800. Animals governed by this division are also governed by other provisions
28 of this code, including but not limited to Divisions 6 (commencing with Section
29 8000) and 7 (commencing with Section 23300).

30 **Comment.** Section 37800 is new. It is added for drafting convenience.

31 **§ 37805. Scope of commercial provisions**

32 37805. The provisions of this division that are expressly identified as
33 commercial provisions apply to the taking and possession of fish for any
34 commercial purpose. Those commercial provisions do not apply to activities
35 governed by Part 1 (commencing with Section 23300) of Division 7.

36 **Comment.** Section 37805 continues the part of former Fish and Game Code Section 7600
37 applicable to the provisions of this division without substantive change.

1 department, unless the owner or person in charge of the fish ships them out of the
2 state within a period of time to be specified by the department.

3 **Comment.** Section 37965 continues the part of former Fish and Game Code Section 6303
4 applicable to fish without substantive change.

5 **§ 37970. Posting of notices**

6 37970. (a) If the department finds any infected, diseased, or parasitized fish
7 within this state, the department shall post notices describing, as nearly as
8 possible, the boundaries of the area within which the fish are found, and shall state
9 the period during which the taking, carrying, and transportation of the fish from
10 the area shall be unlawful.

11 (b) The fact of posting the notices shall be published once a week for four
12 successive weeks in some newspaper of general circulation in the county in which
13 the infected area is situated, and, if there is no newspaper of general circulation in
14 that county, then in a newspaper of general circulation published in an adjoining
15 county.

16 **Comment.** Section 37970 continues the part of former Fish and Game Code Section 6304
17 applicable to fish without substantive change.

18 **§ 37975. Prohibited transportation within state**

19 37975. It is unlawful to carry or cause to be carried from one point in this state
20 which has been posted according to the provisions of this article, to any other
21 point in this state, any infected, diseased, or parasitized fish.

22 **Comment.** Section 37975 continues the part of former Fish and Game Code Section 6305
23 applicable to fish without substantive change.

24 **§ 37980. Expense of examination**

25 37980. (a) Except as provided in subdivision (b), the expense of any
26 examination of any fish made necessary by the provisions of this code shall be
27 borne by the owner of the fish, or the person or persons importing the fish into this
28 state.

29 (b) The department may assume that expense in the case of fish imported to
30 provide fishing under the authority of a sport fishing license in the public waters of
31 this state.

32 **Comment.** Section 37980 continues the part of former Fish and Game Code Section 6306
33 applicable to fish without substantive change.

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PART 3. CLASSES OF FISH

TITLE 1. FULLY PROTECTED FISH

§ 38200. Prohibition on take and possession

38200. (a) Except as provided in this section or Section 63300, 63450, 63475, 63955, or 64605, a fully protected fish shall not be taken or possessed at any time.

(b) No provision of this code or any other law shall be construed to authorize the issuance of a permit or license to take a fully protected fish, and no permit or license previously issued shall have force or effect for that purpose. However, the department may authorize the taking of a fully protected fish for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species.

(c) Before authorizing the take of a fully protected fish, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of his or her interest in fully protected species and who has provided an email address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide relevant information and comments on the proposed authorization.

(d) A legally imported fully protected fish may be possessed under a permit issued by the department.

(e) As used in this section, “scientific research” does not include an action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

Comment. Section 38200 continues former Fish and Game Code Section 5515(a) without substantive change.

See also Sections 4570, 5600 (enforcement).

<p>Note. Proposed Section 38200 would continue Section 5515(a), which was amended by 2018 Cal. Stat. ch. 586. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.</p>

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TITLE 2. GROUND FISH

CHAPTER 1. GENERAL PROVISIONS [*RESERVED*]

CHAPTER 2. COMMERCIAL PROVISIONS

§ 38350. Application of title

38350. For purposes of Section 37805, the provisions in this title are commercial provisions.

Comment. Section 38350 is new. It is added for drafting convenience.

§ 38355. Federal groundfish regulations

38355. It is unlawful for any person possessing or operating any type of net, trap, or line that is subject to federal groundfish regulations adopted pursuant to the Magnuson Fishery Conservation and Management Act (16 U.S.C., Sec. 1801 et seq.) to possess or land any load of fish in violation of those federal groundfish regulations.

Comment. Section 38355 continues former Fish and Game Code Section 8607 without substantive change.

§ 38360. Marine species of finfish

38360. To the extent not in conflict with Section 38355, marine species of finfish that are classified as groundfish may be taken under the regulations of the commission.

Comment. Section 38360 continues former Fish and Game Code Section 8403(a) without substantive change.

§ 38365. Retention of landing receipt

38365. In addition to the requirements of Sections 21015, 21100, 21110, and 21150, any person landing groundfish subject to federal groundfish regulations adopted pursuant to the Magnuson Fishery Conservation and Management Act (16 U.S.C. Sec. 1801 et seq.) shall keep a copy of the landing receipt on board the fishing vessel throughout, and for 15 days following, each period for which cumulative landings by individual vessels are limited.

Comment. Section 38365 continues former Fish and Game Code Section 8046.1 without substantive change.

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PART 4. ANCHOVIES

TITLE 1. ANCHOVIES GENERALLY

§ 38450. Provisions not exclusive

38450. The provisions of this part are not intended to be exclusive. Other provisions that may govern anchovies include, but are not limited to, the following provisions:

- (a) Section 15915.
- (b) Section 16475.
- (c) Section 20710.
- (d) Section 21015.
- (e) Section 21810.

Comment. Section 38450 is new. It is added for drafting convenience.

TITLE 2. COMMERCIAL PROVISIONS

CHAPTER 1. PRELIMINARY PROVISIONS

§ 38500. Application of title

38500. For purposes of Section 37805, the provisions in this title are commercial provisions.

Comment. Section 38500 is new. It is added for drafting convenience.

CHAPTER 2. MANAGEMENT OF RESOURCE

§ 38550. Policy declaration

38550. (a) It is the policy of the State of California that the anchovy resource shall be managed in a manner that insures the continued abundance of the species. To that end, the department shall conduct, or have others conduct, annual anchovy egg-larvae surveys or any other annual surveys, research, and analyses necessary to insure that an accurate biomass estimate is made.

(b) This section shall become operative, and activities shall be carried out pursuant to this section, only in the event and to the extent that funding is made available for those activities by the federal government.

Comment. Section 38550 continues former Fish and Game Code Section 8190 without substantive change.

§ 38555. Area south of Point Mugu

38555. (a) In any district or part of a district lying south of a line drawn east and west through Point Mugu, anchovies may be taken in any quantity for bait or for

1 human consumption in a fresh state, or, by contract with the department, for
2 hatchery food, not to exceed 500 tons per year.

3 (b) Anchovies taken south of the line described in subdivision (a), in waters not
4 less than three nautical miles from the nearest point of land on the mainland shore,
5 and anchovies taken north of that line in any waters, may be possessed,
6 transported, sold, or otherwise dealt with in any district or part of a district south
7 of that.

8 (c) The operator of any boat engaged in taking anchovies in waters south of the
9 line described in subdivision (a) shall at all times while operating the boat identify
10 it by displaying on an exposed part of the superstructure, amidships on each side
11 and on top of the house visible from the air, the Department of Fish and Wildlife
12 registration number of the boat, in 14-inch black numerals on white background.

13 **Comment.** Subdivision (a) of Section 38555 continues former Fish and Game Code Section
14 8180 without substantive change.

15 Subdivision (b) continues former Fish and Game Code Section 8181 without substantive
16 change.

17 Subdivision (c) continues former Fish and Game Code Section 8182 without substantive
18 change.

19 See also Section 5650 (enforcement).

20 **§ 38560. Humboldt Bay**

21 38560. (a) No anchovies may be taken for any purpose in Humboldt Bay, except
22 under the following conditions:

23 (1) Anchovies may be taken between May 1 and December 1.

24 (2) Not more than 60 tons of anchovies may be taken between May 1 and
25 December 1 of each year.

26 (3) Only bait nets, as defined in Section 15900, shall be used to take anchovy.

27 (4) Any game fish caught incidentally in bait nets shall be released by use of a
28 hand scoop net or by dipping the cork line.

29 (b) An accurate record of all fishing operations shall be kept and is subject to
30 inspection by the department.

31 (c) The commission may adopt regulations it determines are necessary to protect
32 anchovy in Humboldt Bay, including, if applicable and based on credible science,
33 a regulation that changes the permitted take amount established pursuant to
34 paragraph (2) of subdivision (a).

35 **Comment.** Section 38560 continues former Fish and Game Code Section 8183 without
36 substantive change.

37 See also Section 5650 (enforcement).

38 **Note.** Proposed Section 38560 would continue Section 8183, which was amended by 2018
39 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in
40 anticipation of its effect.

41 **PART 5. BARRACUDA**

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TITLE 1. BARRACUDA GENERALLY

§ 38700. Provisions not exclusive

38700. The provisions of this part are not intended to be exclusive. Other provisions that may govern barracuda include, but are not limited to, the following provisions:

(a) Section 21950.

(b) Title 6 (commencing with Section 59600) of Part 1 of Division 16.

Comment. Section 38700 is new. It is added for drafting convenience.

§ 38705. Delivery of barracuda taken from waters off coast of Mexico

38705. (a) Barracuda taken in waters lying south of the maritime boundary line between the United States and Mexico, with that maritime boundary line including, but not limited to, the federal Exclusive Economic Zone boundary, may be delivered to California ports aboard boats, including boats carrying purse seine or round haul nets, in accordance with those regulations as the commission may make governing the inspection and marking of those fish imported into this state. The cost of that inspection and marking shall be paid by the importer.

(b) Barracuda taken in Mexico shall not be imported, unless legally taken and legally possessed, and a declaration is submitted to the department pursuant to Section 28425.

Comment. Section 38705 continues the part of former Fish and Game Code Section 2362 applicable to barracuda without substantive change.

TITLE 2. COMMERCIAL PROVISIONS

§ 38750. Application of title

38750. For purposes of Section 37805, the provisions in this title are commercial provisions.

Comment. Section 38750 is new. It is added for drafting convenience.

§ 38755. Size restrictions

38755. (a) Barracuda shall be measured from the tip of the lower jaw to the end of the longer lobe of the tail.

(b) Barracuda measuring equal to or greater than 28 inches in length may be taken with hook and line at any time.

(c) Barracuda measuring less than 28 inches in length may not be sold or purchased, except that not more than five barracuda per day of any length may be possessed by a commercial fisherman for noncommercial use, if taken incidentally while engaged in commercial fishing.

Comment. Subdivision (a) of Section 38755 continues the part of former Fish and Game Code Section 8386 applicable to barracuda without substantive change.

1 Subdivision (b) continues the part of former Fish and Game Code Section 8382 applicable to
2 barracuda without substantive change.

3 Subdivision (c) continues the part of former Fish and Game Code Section 8384 applicable to
4 barracuda without substantive change.

5 **§ 38760. Use of purse seines or round haul nets**

6 38760. (a) It is unlawful to use any purse seine or round haul net to take a
7 barracuda.

8 (b) It is unlawful to possess a barracuda, except those taken south of the
9 international boundary between the United States and Mexico, and imported into
10 the state under regulations of the commission as provided in Section 38705, on
11 any boat carrying or using any purse seine or round haul net, including, but not
12 limited to, a bait net as described in Section 15900.

13 (c) Notwithstanding subdivision (b), the department may issue permits to hook
14 and line commercial fishermen to possess a bona fide bait net on their vessels for
15 the purpose of taking bait for their own use only.

16 **Comment.** Section 38760 continues the parts of former Fish and Game Code Section 8623(a),
17 (b), and (e) applicable to barracuda without substantive change.

18 **Note.** The portion of existing Fish and Game Code Section 8623(a) and (b) that applies to
19 barracuda would be continued by proposed Section 38760(a) and (b).

20 Existing Section 8623 also includes a disclaimer in subdivision (e) that, by its terms, applies to
21 all provisions of that section (“Notwithstanding the provisions of this section...”)

22 However, despite the broad wording of this disclaimer, the Commission’s analysis suggests
23 that the substantive portion of subdivision (e) logically applies only to subdivision (b). Proposed
24 Section 38760(c) would state that specific application expressly.

25 **The Commission invites comment on whether that expressly stated application would**
26 **cause any problems.**

27 **PART 6. BASS**

28 **TITLE 1. BASS GENERALLY**

29 **CHAPTER 1. PRELIMINARY PROVISIONS**

30 **§ 38800. Provisions not exclusive**

31 38800. The provisions of this part are not intended to be exclusive. Other
32 provisions that may govern bass include, but are not limited to, the following
33 provisions:

- 34 (a) Section 12105.
- 35 (b) Section 12165.
- 36 (c) Section 12305.
- 37 (d) Section 12310.
- 38 (e) Section 13900.
- 39 (f) Section 14875.

- 1 (g) Section 15540.
- 2 (h) Section 18040.
- 3 (i) Section 18045.
- 4 (j) Section 18050.
- 5 (k) Section 18365.
- 6 (l) Section 18815.
- 7 (m) Section 18820.
- 8 (n) Section 18825.
- 9 (o) Section 21950.
- 10 (p) Section 20105.
- 11 (q) Section 23905
- 12 (r) Section 24000
- 13 (s) Section 25700.
- 14 (t) Title 6 (commencing with Section 59600) of Part 1 of Division 16.
- 15 **Comment.** Section 38800 is new. It is added for drafting convenience.

16 CHAPTER 2. SPECIFIC TYPES OF BASS

17 § 38850. Black bass

18 38850. Black bass lawfully taken may be carried or transported into and
19 possessed in an area where the season is closed.

20 **Comment.** Section 38850 continues the part of former Fish and Game Code Section 2360
21 applicable to black bass without substantive change.

22 § 38855. Giant seabass

23 38855. Giant seabass (*Stereolepis gigas*) may not be taken under a sport fishing
24 license except by hook and line when engaged in the taking of other fish. This
25 section, and any regulation adopted by the commission relating to this section,
26 shall supersede Section 28425.

27 **Comment.** Section 38855 continues former Fish and Game Code Section 7350 without
28 substantive change.

29 § 38860. Spotted bass

30 38860. Spotted bass lawfully taken may be carried or transported into and
31 possessed in an area where the season is closed.

32 **Comment.** Section 38860 continues the part of former Fish and Game Code Section 2360
33 applicable to spotted bass without substantive change.

34 § 38865. Striped bass

35 38865. (a) Except as provided in subdivision (b), striped bass may be
36 transported or carried out of or into this state only as follows:

1 (1) A resident of California, or the holder of a valid nonresident California sport
2 fishing license, lawfully taking striped bass from the Colorado River or from the
3 Arizona shore of that river, may transport or carry the fish taken into California.

4 (2) A resident of Arizona, or the holder of a valid nonresident Arizona sport
5 fishing license, lawfully taking striped bass from the Colorado River or from the
6 California shore of that river, may transport or carry the fish taken into Arizona.

7 (b) Striped bass legally taken in another state that permits the sale of that fish
8 may be imported into this state under regulations of the commission. Before the
9 commission adopts any regulation pursuant to this section, a public hearing shall
10 be held in the San Francisco or Sacramento area.

11 **Comment.** Subdivision (a) of Section 38865 restates former Fish and Game Code Section
12 2359 without substantive change.

13 Subdivision (b) continues the part of former Fish and Game Code Section 2363 applicable to
14 striped bass without substantive change.

15 **Note.** Proposed Section 38865(a) is intended to restate existing Fish and Game Code Section
16 2359 to clarify the meaning of that provision, without changing its substantive effect. The
17 existing provision reads as follows:

18 Except as provided in Section 2363, no striped bass may be transported or carried out of or into
19 this state, except striped bass taken from the Colorado River by sportfishing licensees to the
20 extent and in the manner following:

21 (a) A resident of California, or the holder of a valid nonresident California sportfishing license,
22 lawfully taking such fish on the waters or from the Arizona shore of the river may transport or
23 carry such fish into California.

24 (b) A resident of Arizona, or the holder of a valid nonresident Arizona sportfishing license,
25 lawfully taking such fish on the waters or from the California shore of the river may transport or
26 carry such fish into Arizona.

27 **The Commission invites comment on whether the restatement would cause any**
28 **substantive change in the meaning of existing Section 2359.**

29 **§ 38870. White bass**

30 38870. In addition to Section 25415, it is unlawful to transport or possess any
31 live white bass (*Marone chrysops*), whether taken within or without the state,
32 unless it is first submitted for inspection to, and written permission is obtained
33 from, the department.

34 (b) This section does not apply to activities governed by Part 1 (commencing
35 with Section 23300) of Division 7.

36 **Comment.** Subdivision (a) of Section 38870 continues former Fish and Game Code Section
37 6400.5 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 6403 as it applied to former
Fish and Game Code Section 6400.5 without substantive change.

38 **§ 38875. White sea bass**

39 38875. (a) White sea bass taken in waters lying south of the maritime boundary
40 line between the United States and Mexico, with that maritime boundary line
41 including, but not limited to, the federal Exclusive Economic Zone boundary, may

1 be delivered to California ports aboard boats, including boats carrying purse seine
2 or round haul nets, in accordance with those regulations as the commission may
3 make governing the inspection and marking of those fish imported into this state.
4 The cost of that inspection and marking shall be paid by the importer.

5 (b) White sea bass taken in Mexico shall not be imported unless legally taken
6 and legally possessed, and a declaration is submitted to the department pursuant to
7 Section 28425.

8 (c) Any person who takes, possesses aboard a boat, or lands any white sea bass
9 for a commercial purpose, in ocean waters south of a line extending due west from
10 Point Arguello, shall have a valid commercial fishing ocean enhancement
11 validation issued to that person that has not been suspended or revoked.

12 **Comment.** Subdivisions (a) and (b) of Section 38875 continues the part of former Fish and
13 Game Code Section 2362 applicable to white sea bass without substantive change.

14 Subdivision (c) continues former Fish and Game Code Section 6596.1(c) without substantive
15 change.

16 **Note.** Under existing law, Section 6596.1(c) (proposed Section 38875(c)) is governed by
17 existing Section 6403, which makes Section 6596.1(c) inapplicable to aquaculture business
18 activities. The continuation of Section 6596.1(c) in this location would make Section 6403
19 (proposed Section 25400) inapplicable to Section 6596.1(c). Technically, this would make
20 Section 6596.1(c) applicable to aquaculture business activities. However, Section 6596.1(c)
21 appears to have no application to such activities. For that reason, the change described in this
22 Note would seem to have no practical effect.

23 **The Commission invites comment on whether this change would be a problem.**

24 CHAPTER 3. BLACK BASS CONSERVATION AND MANAGEMENT ACT OF 1980

25 § 38900. Name of act

26 38900. This chapter shall be known as the Black Bass Conservation and
27 Management Act of 1980.

28 **Comment.** Section 38900 continues former Fish and Game Code Section 1740 without
29 substantive change.

30 § 38905. Declaration of preservation

31 38905. The Legislature hereby finds and declares that it is the policy of the state
32 to preserve and enhance black bass resources and to manage black bass
33 populations to provide satisfactory recreational opportunities to the public.

34 **Comment.** Section 38905 continues former Fish and Game Code Section 1741 without
35 substantive change.

36 § 38910. Declaration relating to funding

37 38910. The Legislature further finds and declares that the black bass
38 management program components specified in this chapter are a continuation of
39 the department's existing warmwater fisheries program, and, as such, shall be
40 funded from existing department budgetary resources.

1 **Comment.** Section 38910 continues former Fish and Game Code Section 1742 without
2 substantive change.

3 **§ 38915. Components of management program**

4 38915. (a) The department’s black bass management program shall include, but
5 not be limited to, the following components:

6 (1) The department shall determine the angler harvest of black bass populations
7 and shall recommend to the commission the changes in angling regulations for
8 black bass that would be necessary to prevent or correct overharvest.

9 (2) The department shall consider recommending to the commission catch and
10 release regulations for black bass, including minimum or maximum size
11 restrictions and management for trophy-sized black bass in some waters.

12 (3) The department shall consider the suitability of the many different species,
13 subspecies, and strains of black bass when management programs are formulated.

14 (4) The department shall improve shoreline habitat for black bass in waters
15 where insufficient habitat exists and shall encourage reservoir operating agencies
16 to carry out shoreline habitat improvement projects.

17 (b) For the purposes of this section, “black bass” means fishes of the
18 Centrarchidae family.

19 **Comment.** Section 38915 continues former Fish and Game Code Section 1743 without
20 substantive change.

21 **TITLE 2. COMMERCIAL PROVISIONS**

22 **CHAPTER 1. PRELIMINARY PROVISIONS**

23 **§ 38950. Application of title**

24 38950. For purposes of Section 37805, the provisions in this title are commercial
25 provisions.

26 **Comment.** Section 38950 is new. It is added for drafting convenience.

27 **CHAPTER 2. STRIPED BASS**

28 **§ 39000. Take with purse or round haul net**

29 39000. Striped bass may not be taken with a purse or round haul net.

30 **Comment.** Section 39000 continues the part of former Fish and Game Code Section 8756
31 applicable to striped bass without substantive change.

32 **§ 39005. Required return to water**

33 39005. (a) Any striped bass that is taken in any type of net shall, regardless of its
34 condition, be immediately freed and removed from the net by the fisherman, and
35 immediately returned to the water without further harm.

1 (b) A commercial fisherman shall not have any striped bass, whether dead or
2 alive, in his or her possession, at any time when conducting netting operations or
3 when going to or from those operations, except when releasing a striped bass from
4 a net.

5 (c) The return of striped bass to the water pursuant to this section is not
6 deterioration, waste, or spoilage of fish for purposes of Section 14310.

7 **Comment.** Section 39005 continues the part of former Fish and Game Code Section 8370
8 applicable to striped bass without substantive change.

9 **§ 39010. Possession, offer for sale, sale, or purchase**

10 39010. Striped bass may be possessed, offered for sale, sold, or purchased, only
11 under the following conditions:

12 (a) If the striped bass is taken or possessed by, and is the cultured progeny of, an
13 aquaculturist registered under Section 23605, the striped bass may be possessed,
14 offered for sale, sold, or purchased subject to regulations of the commission.

15 (b) If the striped bass is taken legally in another state that permits its sale, and
16 lawfully imported under Section 38865, the striped bass may be possessed, offered
17 for sale, sold, or purchased.

18 **Comment.** Section 39010 continues former Fish and Game Code Section 8371(a) and (b)
19 without substantive change.

20 **CHAPTER 3. WHITE SEA BASS**

21 **§ 39050. Undersized white sea bass**

22 39050. It is unlawful to take, possess, sell, or purchase any white sea bass less
23 than 28 inches in length, measured from the tip of the lower jaw to the end of the
24 longer lobe of the tail.

25 **Comment.** Section 39050 continues former Fish and Game Code Section 8383.5 without
26 substantive change.

27 **§ 39055. Use of purse seines or round haul nets**

28 39055. (a) It is unlawful to use any purse seine or round haul net to take a white
29 sea bass.

30 (b) It is unlawful to possess a white sea bass, except those taken south of the
31 international boundary between the United States and Mexico, and imported into
32 the state under regulations of the commission as provided in Section 38875, on
33 any boat carrying or using any purse seine or round haul net, including, but not
34 limited to, a bait net as described in Section 15900.

35 (c) Notwithstanding subdivision (b), the department may issue permits to hook
36 and line commercial fishermen to possess a bona fide bait net on their vessels for
37 the purpose of taking bait for their own use only.

38 **Comment.** Section 39055 continues the parts of former Fish and Game Code Section 8623(a),
39 (b), and (e) applicable to white sea bass without substantive change.

1 **Note.** The portion of existing Fish and Game Code Section 8623(a) and (b) that applies to
2 white sea bass would be continued by proposed Section 39060(a) and (b).

3 Existing Section 8623 also includes a disclaimer in subdivision (e) that, by its terms, applies to
4 all provisions of that section (“Notwithstanding the provisions of this section...”)

5 However, despite the broad wording of this disclaimer, the Commission’s analysis suggests
6 that the substantive portion of subdivision (e) logically applies only to subdivision (b). Proposed
7 Section 39055(c) would state that specific application expressly.

8 **The Commission invites comment on whether that expressly stated application would**
9 **cause any problems.**

10 CHAPTER 4. OTHER BASS

11 **§ 39100. Giant seabass**

12 39100. (a) Giant seabass (*Stereolepis gigas*) may not be taken for any purpose,
13 except that not more than one fish per vessel may be possessed or sold if taken
14 incidentally in commercial fishing operations by gill or trammel net. Any fish so
15 taken shall not be transferred to any other vessel.

16 (b) The restrictions specified in this section shall not apply to 1,000 pounds of
17 giant seabass per trip taken in waters lying south of the International Boundary
18 Line between the United States and Mexico extended westerly into the Pacific
19 Ocean. Fish taken under this provision, however, shall be limited to a maximum
20 aggregate of 3,000 pounds per vessel in any calendar year. A current fishing
21 permit issued by the Mexican government constitutes valid evidence that the giant
22 seabass were taken south of the international boundary.

23 **Comment.** Section 39100 continues former Fish and Game Code Section 8380 without
24 substantive change.

25 **§ 39105. Kelp bass, sand bass, or spotted bass**

26 39105. (a) Kelp bass, sand bass, and spotted bass, all of the genus *Paralabrax*,
27 shall not be sold or purchased, or possessed in any place where fish are purchased,
28 possessed for sale, or sold, or where food is offered or processed for sale, or in any
29 truck, vessel, or other conveyance operated by or for a place so selling or
30 possessing fish, except that those fish may be imported into this state pursuant to
31 Section 38850, 38860, 38865, or 38875, or Part 9 (commencing with Section
32 28400) of Division 7, and may be sold under regulations as the commission may
33 adopt.

34 (b) It is unlawful to take, possess, or sell any fish specified in this section that is
35 less than 10 1/2 inches in length.

36 **Comment.** Section 39105 continues former Fish and Game Code Section 8372 without
37 substantive change.

38 See also Section 5102 (enforcement).

1 department shall define management as handling, controlling, destroying, or
2 moving species. The Legislature does not intend for this section to provide a right
3 for the use of triploid grass carp if the department finds that use of the species
4 poses an unacceptable risk to the state's existing ecosystem.

5 **Comment.** Section 39205 continues former Fish and Game Code Section 6440 without
6 substantive change.

7 **§ 39210. Department regulations**

8 39210. The department shall adopt regulations that provide for the control of
9 aquatic plant pests using artificially introduced triploid grass carp under a permit
10 issued by the department. The regulations shall do all of the following:

11 (a) Restrict triploid grass carp introductions to those triploid grass carp that have
12 been rendered sterile immediately after the eggs have been fertilized.

13 (b) Require individual fish to be checked to ensure that a third, triploid, set of
14 chromosomes has been retained, preventing further reproduction by that individual
15 fish.

16 (c) Limit aquatic plant pest control programs using triploid grass carp to the use
17 of sterile triploid grass carp with documented certification of triploidy to ensure
18 sterility.

19 (d) Require the identification by tagging of individual fish as the property of
20 each owner.

21 (e) Require the posting of notices at stocked bodies of water declaring the
22 penalties for removing triploid grass carp.

23 (f) Limit the permits for the use of triploid grass carp in waters on golf courses
24 located in residential areas to those waters that are determined by the department
25 to be secure from the removal of triploid grass carp to unauthorized waters.

26 (g) Provide for management of the triploid grass carp populations in a manner
27 consistent with the provisions of this code where the department finds that such
28 actions will benefit the long-term health of the state's biodiversity as a whole.

29 (h) Until January 1, 1999, the regulations shall not authorize the issuance of
30 permits for the use of triploid grass carp in waters located within condominium
31 areas of any residential area for which a permit may not be issued pursuant to
32 subdivision (f), except at three locations within the area authorized pursuant to this
33 subdivision. The three locations shall be selected by the department in consultation
34 with the Imperial Irrigation District. The limitation to three locations is necessary
35 to enable monitoring of human-induced movement of triploid grass carp to
36 unauthorized waters, and to permit the evaluation of the impact of the experiment.

37 **Comment.** Section 39210 continues former Fish and Game Code Section 6450 without
38 substantive change.

1 **§ 39215. Certification by providers**

2 39215. All providers of triploid grass carp for use under this chapter shall
3 provide certification acceptable to the department of triploidy and disease-free
4 conditions for all fish introduced.

5 **Comment.** Section 39215 continues former Fish and Game Code Section 6451 without
6 substantive change.

7 **§ 39220. Information required for permit**

8 39220. Prior to receiving a permit from the department to use triploid grass carp,
9 the potential user shall provide to the department all information required by the
10 department, including, but not limited to, information relating to the following
11 matters:

12 (a) The type of waterway to be stocked.

13 (b) The absence of a connection between the site and adjacent fresh water
14 systems.

15 (c) All aquatic plant management problems, including, but not limited to,
16 problems relating to the following matters:

17 (1) The acres of aquatic plants, by species, at the peak of growing season.

18 (2) The desired vegetation quantity or coverage.

19 (3) The number and size of triploid grass carp recommended.

20 (4) All sensitive plant or animal species within the waterway to be stocked.

21 (5) Connected waterways.

22 **Comment.** Section 39220 continues former Fish and Game Code Section 6452 without
23 substantive change.

24 **§ 39225. Permit conditions**

25 39225. The department shall impose conditions in the permit to use triploid
26 grass carp under this chapter that it finds necessary to prevent escape of the
27 triploid grass carp from the targeted area. The conditions shall include, but are not
28 limited to, the following:

29 (a) No permit shall be issued for the use of triploid grass carp in waters with an
30 open fresh water connection to other waters of the state.

31 (b) Any waters in which triploid grass carp are used under this chapter shall be
32 under the control of the permittee. In addition, barriers to fish movement
33 acceptable to the department shall be in place before introduction of triploid grass
34 carp under this chapter. Movement of triploid grass carp to areas outside the
35 control of the permittee is prohibited.

36 (c) Any waters in which triploid grass carp are used under this chapter shall have
37 sufficient dissolved oxygen and suitable vegetation for consumption to sustain the
38 introduced triploid grass carp, as determined by the department.

39 (d) Except within closed basins, including the Salton Sea, no permit shall be
40 issued for the use of triploid grass carp within the 100-year flood plain.

1 (e) It is unlawful to introduce triploid grass carp into any area, or to transfer
2 triploid grass carp from one site to another, without a permit from the department.

3 **Comment.** Section 39225 continues former Fish and Game Code Section 6455(a)-(d) and part
4 of (e), without substantive change.

5 See also Section 5670 (enforcement).

6 **§ 39230. Permit and inspection fees**

7 39230. The department shall establish permit and inspection fees sufficient to
8 recover, but not exceed, the initial and ongoing costs of the program under this
9 chapter.

10 **Comment.** Section 39230 continues former Fish and Game Code Section 6454 without
11 substantive change.

12 **§ 39235. Report by permittee**

13 39235. (a) On or before March 1 of each year following the first year after
14 triploid grass carp introduction, the permittee shall provide to the department all of
15 the information required by the department, including, but not limited to, the
16 following:

17 (1) The number and size of triploid grass carp recommended for the waterway
18 stocked.

19 (2) The number and size of triploid grass carp stocked in the waterway.

20 (3) The acres of aquatic plants, by species, at the peak of the growing season in
21 the year prior to introduction of triploid grass carp in the waterway stocked.

22 (4) The acres of aquatic plants, by species, at the peak of the current year
23 growing season.

24 (b) The annual report shall be submitted until five years after the use of triploid
25 grass carp to control aquatic plant pests is terminated, unless evidence acceptable
26 to the department is provided that all triploid grass carp have been removed from
27 the waterway.

28 **Comment.** Section 39235 continues former Fish and Game Code Section 6453 without
29 substantive change.

30 **§ 39240. Consultation with Department of Food and Agriculture**

31 39240. Because of its experience and continuing involvement with hydrilla
32 control programs, the implementation of Sections 25910 and 25930 shall be
33 carried out in consultation with the Department of Food and Agriculture.

34 **Comment.** Section 39240 continues former Fish and Game Code Section 6457 without
35 substantive change.

36 **§ 39245. Suspension of permit issuance process**

37 39245. (a) The department may suspend the permit issuance process authorized
38 by this chapter, if it obtains documented and verifiable evidence of escapements of
39 triploid grass carp permitted under this chapter into unauthorized waters, the

1 unauthorized use of grass carp, or threats to fish and wildlife and their habitats as
2 the result of this program, and the director makes a written finding to that effect.

3 (b) If the situation is local, the suspension may be limited to the area whose
4 waters, habitat, and fish and wildlife resources are threatened.

5 (c) The suspension shall last until the director makes a written finding that the
6 threat has been abated.

7 **Comment.** Section 39245 continues former Fish and Game Code Section 6460 without
8 substantive change.

9 TITLE 2. COMMERCIAL PROVISIONS

10 § 39300. Application of title

11 39300. For purposes of Section 37805, the provisions in this title are commercial
12 provisions.

13 **Comment.** Section 39300 is new. It is added for drafting convenience.

14 § 39305. Use of traps

15 39305. Traps may be used throughout the year to take carp in any district,
16 subject to the following restrictions:

17 (a) Traps shall not exceed six feet in greatest dimension.

18 (b) Traps shall be made of cotton or nylon twine.

19 (c) Meshes shall not be less than three and one-half inches in length, except that
20 fyke and bait bags may be any size mesh.

21 (d) Traps shall have only a single vertical fyke opening at the top of the trap.

22 (e) Traps shall be baited only with grain or grain products.

23 (f) Fish other than carp taken in traps pursuant to this section shall be
24 immediately returned to the water.

25 **Comment.** Section 39305 continues former Fish and Game Code Section 9023 without
26 substantive change.

27 See also Section 4900 (enforcement).

28 PART 8. CATFISH

29 TITLE 1. CATFISH GENERALLY [RESERVED]

30 TITLE 2. COMMERCIAL PROVISIONS

31 § 39400. Application of title

32 39400. For purposes of Section 37805, the provisions in this title are commercial
33 provisions.

34 **Comment.** Section 39400 is new. It is added for drafting convenience.

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PART 10. GRUNION

TITLE 1. GRUNION GENERALLY

§ 39600. Provisions not exclusive

39600. The provisions of this part are not intended to be exclusive. Other provisions that govern grunion include, but are not limited to Section 20710.

Comment. Section 39600 is new. It is added for drafting convenience.

TITLE 2. COMMERCIAL PROVISIONS

§ 39650. Application of title

39650. For purposes of Section 37805, the provisions in this title are commercial provisions.

Comment. Section 39650 is new. It is added for drafting convenience.

§ 39655. Season

39655. It is unlawful to take grunion (*Leuresthes tenuis*) between March 31 and June 1.

Comment. Section 39655 continues former Fish and Game Code Section 8381 without substantive change.

See also Section 4900 (enforcement).

PART 11. HAGFISH

TITLE 1. HAGFISH GENERALLY

§ 39700. Provisions not exclusive

39700. The provisions of this part are not intended to be exclusive. Other provisions that govern hagfish include, but are not limited to the following provisions:

(a) Section 19230.

(b) Section 19500.

Comment. Section 39700 is new. It is added for drafting convenience.

TITLE 2. COMMERCIAL PROVISIONS

§ 39750. Application of title

39750. For purposes of Section 37805, the provisions in this title are commercial provisions.

Comment. Section 39750 is new. It is added for drafting convenience.

1 § 39755. Definitions

2 39755. For the purposes of this title, the following terms have the following
3 meanings:

4 (a) “Bucket trap” means a plastic bucket of five gallons or less in capacity.

5 (b) “General trap permit” means a valid permit to take fish for a commercial
6 purpose issued pursuant to Section 19205 that has not been suspended or revoked.

7 (c) “Korean trap” means a molded plastic cylinder that does not exceed 6 inches
8 in diameter and does not exceed 24 inches in length.

9 (d) “Popup” means a mechanism capable of releasing a submerged buoy at a
10 predetermined time.

11 **Comment.** Section 39755 continues former Fish and Game Code Section 9000.5(a), (c), (d),
12 and (f) without substantive change.

13 § 39760. Take

14 39760. Hagfish may be taken under a general trap permit, if all of the following
15 criteria are met:

16 (a) Korean traps and bucket traps may be used to take only hagfish under this
17 article.

18 (b) No more than a total of 500 Korean traps or a total of 200 bucket traps may
19 be possessed aboard a vessel or in the water or combination thereof.

20 (c) No permittee may possess both Korean traps or bucket traps and other types
21 of traps aboard a vessel at the same time. When Korean traps or bucket traps are
22 being used or possessed aboard a vessel, no species of finfish other than hagfish
23 shall be taken, possessed aboard, or sold for commercial purposes.

24 (d) Popups shall not be used on buoy lines attached to Korean traps or bucket
25 traps, and shall not be possessed by a commercial fisherman aboard a vessel when
26 taking hagfish.

27 **Comment.** Section 39760 continues former Fish and Game Code Section 9001.6 without
28 substantive change.

29 See also Section 4900 (enforcement).

30 PART 12. HALIBUT

31 TITLE 1. HALIBUT GENERALLY

32 § 39800. Provisions not exclusive

33 39800. The provisions of this part are not intended to be exclusive. Other
34 provisions that govern halibut include, but are not limited to the following
35 provisions:

36 (a) Section 13900.

37 (b) Section 16805.

38 (c) Section 16110.

39 (d) Section 18505.

- 1 (e) Section 18510.
- 2 (f) Section 18800.
- 3 (g) Section 18805.
- 4 (h) Section 18810.
- 5 (i) Section 18815.
- 6 (j) Section 18820.
- 7 (k) Section 18825.
- 8 (l) Section 21950.
- 9 (m) Section 25125.
- 10 (n) Section 50520.
- 11 (o) Title 6 (commencing with Section 59600) of Part 1 of Division 16.
- 12 **Comment.** Section 39800 is new. It is added for drafting convenience.

13 **§ 39805. Conformity with other law**

14 39805. The commission may prohibit the taking or possessing of Pacific halibut
15 (Hippoglossus) in the same manner as the taking or possessing of Pacific halibut is
16 prohibited by federal law or by rules or regulations adopted by the International
17 Pacific Halibut Commission, notwithstanding any other provision of this code.

18 **Comment.** Section 39805 continues former Fish and Game Code Section 316 without
19 substantive change.

20 **TITLE 2. COMMERCIAL PROVISIONS**

21 **CHAPTER 1. PRELIMINARY PROVISIONS**

22 **§ 39850. Application of title**

23 39850. For purposes of Section 37805, the provisions in this title are commercial
24 provisions.

25 **Comment.** Section 39850 is new. It is added for drafting convenience.

26 **CHAPTER 2. TAKE, POSSESSION, OR SALE**

27 **Article 1. General Provisions**

28 **§ 39900. Season**

29 39900. California halibut (*Paralichthys californicus*) may be taken at any time.

30 **Comment.** Section 39900 continues former Fish and Game Code Section 8391 without
31 substantive change.

32 **§ 39905. Size restrictions**

33 39905. (a) No California halibut may be taken, possessed, or sold that measures
34 less than 22 inches in total length.

1 (b) For purposes of subdivision (a), total length means the shortest distance
2 between the tip of the jaw or snout, whichever extends farthest while the mouth is
3 closed, and the tip of the longest lobe of the tail, measured while the halibut is
4 lying flat in natural repose, without resort to any force other than the swinging or
5 fanning of the tail.

6 **Comment.** Section 39905 continues former Fish and Game Code Section 8392 without
7 substantive change.

8 See also Section 5680 (enforcement).

9 Article 2. Halibut Bottom Trawl Permit

10 § 39950. Permit requirement

11 39950. Any vessel using bottom trawl gear in state-managed halibut fisheries, as
12 described in subdivision (a) of Section 16110, shall possess a valid California
13 halibut bottom trawl vessel permit that has not been suspended or revoked and that
14 is issued by the department authorizing the use of trawl gear by that vessel for the
15 take of California halibut.

16 **Comment.** Section 39950 continues former Fish and Game Code Section 8494(a) without
17 substantive change.

18 See also Section 5680 (enforcement).

19 **Note.** Proposed Section 39950 would continue Section 8494(a), which was amended by 2018
20 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in
21 anticipation of its effect.

22 § 39955. Issuance

23 39955. A California halibut bottom trawl vessel permit shall be issued annually,
24 commencing with the 2006 permit year and an applicant shall have been issued a
25 California halibut bottom trawl vessel permit in the immediately preceding permit
26 year.

27 **Comment.** Section 39955 continues former Fish and Game Code Section 8494(b) without
28 substantive change.

29 See also Section 5680 (enforcement).

30 **Notes.** (1) Proposed Section 39955 would continue Section 8494(b), which was amended by
31 2018 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in
32 anticipation of its effect.

33 (2) The meaning of “and an applicant shall have been issued a California halibut bottom trawl
34 vessel permit in the immediately preceding permit year” is not clear. Is the intention to limit the
35 issuance of permits to persons who held a permit in the preceding year? **The Commission invites
36 comment on the meaning of the provision.**

37 § 39960. Transfers generally

38 39960. Permits issued pursuant to this article may be transferred only if at least
39 one of the following occur:

1 (a) The commission adopts a restricted access program for the fishery that is
2 consistent with the commission's policies regarding restricted access to
3 commercial fisheries.

4 (b) The transfer is approved pursuant to Section 39965.

5 **Comment.** Section 39960 continues former Fish and Game Code Section 8494(c)(1) and part
6 of (c)(2) without substantive change.

7 See also Section 5680 (enforcement).

8 **Note.** Proposed Section 39960 would continue Section 8494(c)(1) and part of (c)(2), which
9 were amended by 2018 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is
10 included here in anticipation of its effect.

11 **§ 39965. Permitted transfers**

12 39965. (a) Prior to the implementation of a halibut trawl restricted access
13 program, the department may consider requests from a vessel permitholder or his
14 or her conservator or estate representative, as applicable, to transfer a vessel
15 permit to a vessel consistent with the requirements of subdivision (b) or (c). The
16 department may request information that it determines is reasonably necessary
17 from the permitholder or his or her conservator or heirs or estate for the purpose of
18 verifying statements in the request prior to authorizing the transfer of the permit.

19 (b) The department may approve the transfer of a California halibut bottom
20 trawl vessel permit to a replacement vessel if all of the following requirements are
21 met:

22 (1) In the form of a notarized application, the permitholder submits to the
23 department a request for the transfer of a California halibut bottom trawl vessel
24 permit to another vessel owned by the permitholder.

25 (2) The permitholder provides a current United States Coast Guard certificate of
26 documentation or vessel marine survey to the department for the permitted vessel
27 and replacement vessel.

28 (3) Based on the information provided pursuant to paragraph (2), the department
29 determines that the replacement vessel is equal to or less than the capacity of the
30 permitted vessel.

31 (4) The department determines the California halibut bottom trawl vessel permit
32 for the permitted vessel is valid and has not been suspended or revoked.

33 (5) If applicable, the department receives written confirmation from the
34 replacement vessel's owner or authorized agent, or mortgager, of the vessel's
35 participation in the transfer of the California halibut bottom trawl vessel permit.

36 (6) The replacement vessel is registered with the department pursuant to Section
37 14755 at the time the application is submitted pursuant to paragraph (1).

38 (c) The department may approve the transfer of a California halibut bottom trawl
39 vessel permit to another person if all of the following requirements are met:

40 (1) In the form of a notarized application, the permitholder or his or her
41 conservator or estate submits to the department a request to transfer a California
42 halibut bottom trawl vessel permit to another person.

1 (2) If the permit holder's estate submits a request pursuant to paragraph (1), the
2 estate submits the notarized application to the department within one year of the
3 death of the permit holder as listed on the death certificate.

4 (3) A current United States Coast Guard certificate of documentation or vessel
5 marine survey is provided to the department for the permitted vessel and vessel to
6 be used by the proposed transferee.

7 (4) Based on the information provided pursuant to paragraph (3), the department
8 determines that the vessel to be used by the proposed transferee is equal to or less
9 than the capacity of the permitted vessel.

10 (5) The proposed transferee meets both of the following requirements:

11 (A) The person has a valid commercial fishing license issued pursuant to Section
12 14500 that has not been suspended or revoked.

13 (B) The person is the owner of a commercial fishing vessel that is registered
14 with the department pursuant to Section 14755 and that registration has not been
15 suspended or revoked.

16 (6) The permit for the permitted vessel is current, and the permit holder or his or
17 her conservator or estate submitting the application is responsible for any renewal
18 of the permit that becomes due during the application processing period.

19 (7) Under penalty of perjury, the permit holder or his or her conservator or estate
20 signs the application for transfer and certifies that the information included is true
21 to the best of his or her information and belief.

22 (d) Any applicant who is denied transfer pursuant to this section may appeal the
23 denial in writing describing the basis for the appeal to the commission within 60
24 days from the date of the department's decision.

25 **Comment.** Section 39965 continues part of former Fish and Game Code Section 8494(c)(2)
26 without substantive change.

27 **Note.** Proposed Section 39965 would continue part of Section 8494(c)(2), which was
28 amended by 2018 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is
29 included here in anticipation of its effect.

30 **§ 39970. Permit fees**

31 39970. The commission shall establish California halibut bottom trawl vessel
32 permit fees based on the recommendations of the department and utilizing the
33 guidelines outlined in subdivision (b) of Section 3465 to cover the costs of
34 administering this section. Prior to the adoption of a restricted access program
35 pursuant to Section 39960, fees may not exceed one thousand dollars (\$1,000) per
36 permit.

37 **Comment.** Section 39970 continues former Fish and Game Code Section 8494(d) without
38 substantive change.

39 **Note.** Proposed Section 39970 would continue Section 8494(d), which was amended by 2018
40 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in
41 anticipation of its effect.

1 **§ 39975. Application of federal permit**

2 39975 Individuals holding a federal groundfish trawl permit may retain and land
3 up to 150 pounds of California halibut per trip without a California halibut trawl
4 permit in accordance with federal and state regulations, including, but not limited
5 to, regulations developed under a halibut fishery management plan.

6 **Comment.** Section 39975 continues former Fish and Game Code Section 8494(e) without
7 substantive change.

8 **Note.** Proposed Section 39975 would continue Section 8494(e), which was amended by 2018
9 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in
10 anticipation of its effect.

11 **§ 39980. Commission regulation**

12 39980. The commission may adopt regulations to implement this article.

13 **Comment.** Section 39980 continues former Fish and Game Code Section 8494(g) without
14 substantive change.

15 **§ 39985. Inoperative date of article**

16 39985. This article shall become inoperative upon the adoption by the
17 commission of a halibut fishery management plan in accordance with the
18 requirements of Title 3 (commencing with Section 12100) of Part 4 of Division 6.

19 **Comment.** Section 39985 continues former Fish and Game Code Section 8494(f) without
20 substantive change.

21 **Article 3. Halibut Trawl Grounds**

22 **§ 40100. California halibut trawl grounds**

23 40100. (a) The following areas are designated as the California halibut trawl
24 grounds:

25 (1) The ocean waters lying between one and three nautical miles from the
26 mainland shore lying south and east of a line running due west (270° true) from
27 Point Arguello and north and west of a line running due south (180° true) from
28 Point Mugu.

29 (2) The ocean waters of Monterey Bay delineated by straight lines connecting
30 the following points in the following order and excluding federal waters as defined
31 by the order entered by the United States Supreme Court in the case of United
32 States of America v. State of California, 135 S.Ct. 563 (2014):

Latitude	Longitude
36° 54.146' N	122° 4.244' W
36° 52.910' N	122° 4.225' W
36° 52.024' N	122° 2.117' W
36° 51.680' N	121° 59.321' W
36° 52.230' N	121° 57.810' W
36° 48.974' N	121° 52.474' W

1	36° 49.835' N	121° 51.840' W
2	36° 54.250' N	121° 54.883' W
3	36° 54.287' N	121° 58.062' W
4	36° 53.956' N	122° 2.117' W

5 (3) The ocean waters offshore of Port San Luis lying between one and three
6 nautical miles from the mainland shore, as described by an area circumscribed by
7 a line connecting the following points in clockwise order, with the line connecting
8 the last two points approximately parallel to the lines connecting the preceding
9 points:

10	Latitude	Longitude
11	35° 08' N	120° 46' W
12	35° 08' N	120° 40.1' W
13	35° 06.6' N	120° 39.2' W
14	35° 02.2' N	120° 39.3' W
15	34° 57' N	120° 40.7' W
16	34° 57' N	120° 43.5' W
17	35° 06.4' N	120° 46' W

18 (b) Notwithstanding subdivision (a), the use of trawl gear for the take of fish is
19 prohibited in the following areas of the California halibut trawl grounds:

20 (1) Around Point Arguello. The area from a line extending from Point Arguello
21 true west (270°) and out three miles, to a line extending from Rocky Point true
22 south (180°) and out three miles.

23 (2) Around Point Conception. From a point on land approximately one-half mile
24 north of Point Conception at latitude 34° 27.5' extending seaward true west (270°)
25 from one to three miles, to a point on land approximately one-half mile east of
26 Point Conception at longitude 120° 27.5' extending seaward true south (180°)
27 from one to three miles.

28 (3) In the Hueneme Canyon in that portion demarked by the IMO Vessel Traffic
29 safety zone on NOAA/NOS Chart 18725 and from one mile to the three mile limit
30 of state waters.

31 (4) In Mugu Canyon, from Laguna Point, a line extending true south (180°) and
32 out three miles, to Point Mugu, a line extending true south (180°) and from one to
33 three miles.

34 (c) (1) Notwithstanding subdivision (a), commencing April 1, 2008, the
35 following areas in the California halibut trawl grounds shall be closed to trawling,
36 unless the commission finds that a bottom trawl fishery for halibut minimizes
37 bycatch, is likely not damaging sea floor habitat, is not adversely affecting
38 ecosystem health, and is not impeding reasonable restoration of kelp, coral, or
39 other biogenic habitats:

40 (A) The ocean waters lying between one and three nautical miles from the
41 mainland shore from a point east of a line extending seaward true south (180°)

1 from a point on land approximately one-half mile east of Point Conception at
2 longitude 120° 27.5' to a line extending due south from Gaviota.

3 (B) The ocean waters lying between one and two nautical miles from the
4 mainland shore lying east of a line extending due south from Santa Barbara Point
5 (180°) and west of a line extending due south from Pitas Point (180°).

6 (C) Except as provided in subdivision (b), the ocean waters lying between one
7 and three nautical miles from the mainland shore lying south and east of a line
8 running due west (270° true) from Point Arguello to a line extending seaward true
9 south (180°) from a point on land approximately 1/2 mile east of Point Conception
10 at longitude 120° 27.5', and from the western border of the IMO Vessel Traffic
11 safety zone on NOAA/NOS Chart 18725 in Hueneme Canyon running south and
12 east to a line running due south (180° true) from Point Mugu.

13 (2) In making the finding described in paragraph (1), the commission shall pay
14 special attention to areas where kelp and other biogenic habitats existed and where
15 restoring those habitats is reasonably feasible, and to hard bottom areas and other
16 substrate that may be particularly sensitive to bottom trawl impacts.

17 (d) Notwithstanding subdivision (a), the areas of the halibut trawl grounds
18 identified in paragraphs (2) and (3) of subdivision (a) shall remain closed to
19 trawling until the commission determines that trawling in those areas is consistent
20 with the provisions of this section. At the commission's discretion, a
21 determination pursuant to this subdivision may be made through the review
22 required pursuant to subdivision (e).

23 (e) Commencing January 1, 2008, the commission shall review information
24 every three years from the federal groundfish observer program and other
25 available research and monitoring information it determines relevant, and shall
26 close any areas in the California halibut trawl grounds where it finds that the use
27 of trawl gear does not minimize bycatch, is likely damaging sea floor habitat, is
28 adversely affecting ecosystem health, or impedes reasonable restoration of kelp,
29 coral, or other biogenic habitats. The commission shall pay special attention to
30 areas where kelp and other biogenic habitats existed and where restoring those
31 habitats is reasonably feasible, and to hard bottom areas and other substrate that
32 may be particularly sensitive to bottom trawl impacts in making that finding.

33 (f) Notwithstanding any other law, the commission shall determine the size,
34 weight, and configuration of all parts of the trawl gear, including, but not limited
35 to, net, mesh, doors, appurtenances, and towing equipment as it determines is
36 necessary to ensure trawl gear is used in a sustainable manner within the
37 California halibut trawl grounds.

38 **Comment.** Section 40100 continues former Fish and Game Code Section 8495 without
39 substantive change.

40  **Note.** Proposed Section 40100 would continue Section 8495, which was amended by 2018
41 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in
42 anticipation of its effect.

1 § 40115. Other requirements

2 40115. (a) Unless otherwise specified by the commission pursuant to
3 subdivision (b), within the California halibut trawl grounds the following
4 requirements shall apply to the use of trawl nets:

5 (1) Open season and hours of operation shall be as follows:

6 (A) Open season shall be June 16 to March 14, inclusive.

7 (B) In the designated halibut trawl grounds within Monterey Bay and offshore of
8 Port San Luis, trawl fishing gear may only be deployed to capture fish between
9 sunrise and sunset.

10 (2) California halibut shall only be taken pursuant to Section 39905.

11 (3) Not more than 500 pounds of fish other than California halibut may be
12 possessed, except that any amount of sea cucumbers may be possessed by a person
13 who holds a valid sea cucumber permit and who meets any conditions adopted by
14 the commission pursuant to Section 50520, and any amount of sharks, skates, or
15 rays for which the take or possession of that species is not otherwise prohibited by
16 this code may be taken or possessed.

17 (4) It is unlawful to operate a trawl net in a way that damages or destroys other
18 types of fishing gear that is buoyed or otherwise visibly marked.

19 (5) Sections 16250, 16270, 16275, 16280, 16285, 16290, 16295, 16300, 16305
20 and 16310 do not apply to trawl nets when used or possessed on California halibut
21 trawl grounds.

22 (6) Trawl nets described in Section 16355 shall only be used within the halibut
23 trawl grounds.

24 (7) Single bags and cod-ends or double bags and cod-ends may be used within
25 the halibut trawl grounds and may be possessed while a vessel is in transit directly
26 to the halibut trawl grounds or returning directly to port. Double bags shall be
27 hung and tied to each rib line so that the knots of each layer coincide, knot for
28 knot, for the full length of the double layers. The double mesh section shall not
29 measure over 25 meshes or 12 feet in length, whichever is greater. The individual
30 meshes in the double section shall measure not less than seven and one-half inches
31 in length.

32 (8) No net, whose cod-end meshes are less than prescribed in this section, may
33 be possessed on any vessel that is operating under the authority of this section.

34 (b) The commission may reduce the length of the open season or hours of
35 operation, or either of those, specified in paragraph (1) of subdivision (a). The
36 commission may also modify any of the requirements of paragraphs (2) to (8),
37 inclusive, of subdivision (a) to make those requirements more restrictive.

38 **Comment.** Section 40115 continues former Fish and Game Code Section 8496 without
39 substantive change.

40 See also Section 5680 (enforcement).

41 **Note.** Proposed Section 40115 would continue Section 8496, which was amended by 2018
42 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in
43 anticipation of its effect.

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TITLE 2. COMMERCIAL PROVISIONS

CHAPTER 1. PRELIMINARY PROVISIONS

§ 40300. Application of title

40300. For purposes of Section 37805, the provisions in this title are commercial provisions.

Comment. Section 40300 is new. It is added for drafting convenience.

CHAPTER 2. PERMIT

§ 40350. Permit required for take

40350. (a) Herring may be taken for a commercial purpose only under a permit, subject to regulations adopted by the commission.

(b) It is unlawful to take herring for roe on a vessel unless the operator holds a herring permit issued by the department pursuant to commission regulations.

Comment. Subdivision (a) of Section 40350 continues the first sentence of former Fish and Game Code Section 8550 without substantive change.

Subdivision (b) continues the first sentence of former Fish and Game Code Section 8552(a) without substantive change.

See also Section 5690 (enforcement).

§ 40355. Limit on number of permits issued

40355. The commission may, whenever necessary to prevent overutilization, to ensure efficient and economic operation of the fishery, or to otherwise carry out this chapter, limit the total number of permits that are issued and the amount of herring that may be taken under the permits. In limiting the total number of permits, the commission shall take into consideration any restriction of the fishing area and the safety of others who, for purposes other than fishing, use the waters from which herring are taken.

Comment. Section 40355 continues the second and third sentences of former Fish and Game Code Section 8550 without substantive change.

§ 40360. Fee for permit

40360. (a) A herring net permit granting the privilege to take herring with nets for commercial purposes shall be issued to licensed commercial fishermen, subject to regulations adopted pursuant to Sections 40350 and 40355, as follows:

(1) To any resident of this state to use gill nets, upon payment of a fee of two hundred sixty-five dollars (\$265).

(2) To any nonresident to use gill nets, upon payment of a fee of one thousand dollars (\$1,000).

(b) The commission shall not require a permit for a person to be a crewmember on a vessel taking herring pursuant to this chapter.

1 **Comment.** Section 40360 continues former Fish and Game Code Section 8550.5 without
2 substantive change.

3 **§ 40365. Permit requirements**

4 40365. (a) No person may be issued more than one herring permit, and the
5 department shall not issue a herring permit to more than one person except as
6 provided in Section 40375.

7 (b) Herring permits shall only be issued to and shall be held only by a natural
8 person.

9 (c) Herring permits shall not be used as any form of security for any purpose,
10 including, but not limited to, financial or performance obligations.

11 (d) The permittee shall be on board the vessel at all times during herring fishing
12 operations, subject only to exceptions provided for in this code and regulations
13 adopted pursuant to this code.

14 **Comment.** Section 40365 continues former Fish and Game Code Section 8552(b)-(e) without
15 substantive change.

16 **§ 40370. Herring fishery experience points**

17 40370. (a) For purposes of this chapter, the experience points for a person
18 engaged in the herring roe fishery shall be based on the number of years holding a
19 commercial fishing license and the number of years having served as a
20 crewmember in the herring roe fishery, and determined by the sum of both of the
21 following:

22 (1) One point for each year in the previous 12 years (prior to the current license
23 year) that the person has held a commercial fishing license issued pursuant to
24 Section 14550, not to exceed a maximum of 10 points.

25 (2) Five points for one year of service as a paid crewmember in the herring roe
26 fishery, as determined pursuant to Section 40440, three points for a second year of
27 service as a paid crewmember, and two points for a third year as a paid
28 crewmember, beginning with the 1978–79 herring fishing season, not to exceed a
29 maximum of 10 points.

30 (b) The department shall maintain a list of all individuals possessing 20
31 experience points, and additional lists of all those persons holding two points or
32 more, grouped by number of points. The list shall be maintained annually and
33 shall be available from the department to all pointholders and to all herring
34 permittees. All pointholders are responsible for providing the department with
35 their current address and for verifying points credited to them by the department.

36 (c) A herring permittee may use the department’s list and rely upon that list in
37 making offers for transfer of his or her permit until the date of the annual
38 distribution of the new list. On and after the date of the annual revision of the list,
39 the permittee shall use the new list.

40 (d) The point provisions in this section are for purposes of sale of a permit, or
41 transfer to a partner of a co-owned permit.

1 **Comment.** Section 40370 continues former Fish and Game Code Section 8552.8 without
2 substantive change.

3 **§ 40375. Issuance of single permit to two individuals**

4 40375. (a) Notwithstanding Section 40365, a herring permit may be issued to
5 two individuals if one of the following criteria is met:

6 (1) The individuals are married to each other, or are registered domestic
7 partners, and file with the department a certified copy of their certificate of
8 marriage or registered domestic partner certificate, and a declaration under penalty
9 of perjury, or a court order, stating that the permit is community property.

10 (2) The individuals meet both of the following requirements:

11 (A) They are both engaged in the herring roe fishery, either by fishing aboard
12 the vessel, or by personally participating in the management, administration, and
13 operation of the partnership's herring fishing business.

14 (B) The individuals are partners in a partnership, in which each holds 50 percent
15 ownership in a herring fishery operation, including a vessel or equipment, and that
16 partnership is demonstrated by any two of the following:

17 (i) A copy of a federal partnership tax return.

18 (ii) A written partnership agreement.

19 (iii) Joint ownership of a fishing vessel used in the herring fishery as
20 demonstrated on federal vessel license documents.

21 (b) For purposes of this section, a herring permit does not constitute a herring
22 fishing operation.

23 (c) A herring permit may be transferred to one of the partners, to be held
24 thereafter in that partner's name, only if that partner has not less than 10 herring
25 fishery experience points computed pursuant to paragraph (2) of subdivision (a) of
26 Section 40370 and there has been a death or retirement of the other partner, a
27 dissolution of partnership, or the partnership is dissolved by a dissolution of
28 marriage or registered domestic partnership, or a decree of legal separation.

29 (d) A transfer under this section shall be authorized only if proof that the
30 partnership has existed for three or more consecutive years is furnished to the
31 department, or a certified copy of a certificate of marriage or registered domestic
32 partnership is on file with the department, and the permit is community property as
33 provided in subdivision (a).

34 (e) The transferor of a permit shall not, by reason of the transfer, become
35 ineligible to participate further in the herring fishery or to purchase another permit.

36 (f) Notwithstanding subdivision (b), in the event of the death of one of the
37 partners holding a herring permit pursuant to this section, where the partnership
38 existed for longer than six months but less than three years, and the surviving
39 partner does not have the minimum points pursuant to subdivision (c) to qualify
40 for a permit transfer, the permit may be transferred on an interim basis for a period
41 of not more than 10 years to the surviving partner, if an application is submitted to
42 the department within one year of the deceased partner's death and the surviving

1 partner participates in the fishery for the purpose of achieving the minimum
2 number of herring fishery experience points to be eligible for a permit transfer
3 pursuant to Section 40380. The interim permit shall enable the surviving partner to
4 participate in the herring fishery. At the end of the interim permit period, the
5 surviving partner, upon application to the department, may be issued the permit if
6 he or she has participated in the fishery and gained the minimum number of
7 herring fishery experience points for a permit.

8 **Comment.** Section 40375 combines and continues the second sentence of former Fish and
9 Game Code Section 8552(a), and former Fish and Game Code Section 8552.6, without
10 substantive change. See Family Code Section 297.5(a) (registered domestic partners have same
11 rights, protections, and benefits under law as are granted to spouses).

12 **§ 40380. Transfer of permit generally**

13 40380. Notwithstanding Section 3050, a herring permit may be transferred from
14 a herring permittee to a nonpermittee who has 20 or more herring fishery
15 experience points, if the following conditions are satisfied:

16 (a) The permittee shall mail, by certified or registered mail, to the department
17 and to every individual listed on the department’s list of herring fishery
18 participants with maximum 20 or more herring fishery experience points, a notice
19 of intention to transfer the permittee’s herring permit, which shall provide all of
20 the following information:

21 (1) The gear type to be used under the herring permit.

22 (2) The name, address, and telephone number of the permittee and proposed
23 transferee.

24 (3) The amount of consideration, if any, sought by the transferor.

25 (b) Sixty days after mailing the notice, the transferor may transfer the permit to
26 any person having 20 or more herring fishery experience points without any
27 further notice, if the transfer occurs within six months of the date the original
28 notice was given. Transfers after that six-month period shall require another 60-
29 day notice of intention to be given.

30 (c) A true copy of the notice of intention to transfer a permit shall be filed with
31 the department by the transferor under penalty of perjury and shall be available for
32 public review.

33 (d) No person may hold more than one herring permit.

34 **Comment.** Section 40380 combines and continues the second sentence of former Fish and
35 Game Code Section 8552(a), and former Fish and Game Code Section 8552.2, without
36 substantive change.

37 **Note.** Existing Fish and Game Code Section 8552.8 (which would be continued by proposed
38 Section 40370) appears to indicate that the maximum number of herring fishery experience points
39 that may be awarded is 20. However, existing Section 8552.2 (which would be continued by
40 proposed Section 40380) refers several times to persons having 20 “or more” experience points.

41 **The Commission invites comment that would clarify this issue.**

1 **§ 40385. Regulations relating to transfer of permits**

2 40385. The commission may, in consultation with representatives of the
3 commercial herring roe fishery, and after holding at least one public hearing, adopt
4 regulations intended to facilitate the transfer of herring permits, including, but not
5 limited to, regulations that would do the following:

6 (a) Allow an individual to own a single permit for each of the different herring
7 gillnet platoons in San Francisco Bay.

8 (b) Eliminate the herring fishery experience point system for qualifying for a
9 herring permit.

10 (c) Allow a herring permit to be passed from a parent to child, or between
11 spouses.

12 **Comment.** Section 40385 continues former Fish and Game Code Section 8552.3 without
13 substantive change.

14 **§ 40390. Transfer fee**

15 40390. (a) The department shall reissue a herring permit which has been
16 transferred pursuant to Section 40375 or 40380 upon payment of a transfer fee of
17 five thousand dollars (\$5,000) by the transferee of the permit.

18 (b) Transfer fees shall be deposited in the Fish and Game Preservation Fund,
19 and shall be expended for research and management activities to maintain and
20 enhance herring resources pursuant to subdivision (a) of Section 21360.

21 **Comment.** Section 40390 continues former Fish and Game Code Section 8552.7 without
22 substantive change.

23 **§ 40395. Drawing for expired permits**

24 40395. Herring permits that are revoked or not renewed may be offered by the
25 department to persons having 20 or more herring fishery experience points, in a
26 drawing held on the first Friday of August of each year.

27 **Comment.** Section 40395 continues former Fish and Game Code Section 8552.4 without
28 substantive change.

29 **Note.** Existing Fish and Game Code Section 8552.8 (which would be continued by proposed
30 Section 40370) appears to indicate that the maximum number of herring fishery experience points
31 that may be awarded is 20. However, existing Sections 8552.4 (which would be continued by
32 proposed Section 40395) refers to persons having “20 or more” experience points.

33 **The Commission invites comment that would clarify this issue.**

34 **§ 40400. Adjustment of fees**

35 40400. The commission, in consultation with the department and representatives
36 of the commercial roe herring fishery, and after holding at least one public
37 hearing, may adjust any fee related to a herring permit, including the fee for the
38 issuance of or transfer of a herring permit, to a level that will not discourage the
39 transfer of permits or limit entry into the fishery, and that will ensure sufficient
40 funds to cover reasonable department costs associated with the management of the
41 fishery, including research and enforcement costs.

1 **Comment.** Section 40400 continues former Fish and Game Code Section 8552.1 without
2 substantive change.

3 **§ 40405. Temporary substitution of crewmember**

4 40405. The commission, in adopting regulations for the commercial herring
5 fishery, shall adopt one or more regulations providing that if a permittee is ill or
6 injured, a crewmember aboard the vessel operated by the permittee may be
7 temporarily substituted as the permittee. The commission may require that proof
8 of the illness or injury be substantiated to the satisfaction of the department.

9 **Comment.** Section 40405 continues former Fish and Game Code Section 8554 without
10 substantive change.

11 **§ 40410. Periodic review of regulations and policies**

12 40410. The director shall periodically meet and confer with representatives of
13 the commercial herring roe fishery to review regulations and policies of the
14 commission and the department concerning that fishery, and to receive
15 recommendations on the regulation and management of that fishery. In particular,
16 those representatives and their legal counsel may recommend to the department,
17 for recommendation to the commission for adoption by the commission as
18 regulations, requirements for the payment of civil damages that may be imposed in
19 lieu of revoking or suspending a permit issued pursuant to this chapter, or for
20 violations of regulations adopted by the commission pertaining to the herring roe
21 fishery.

22 **Comment.** Section 40410 continues former Fish and Game Code Section 8555 without
23 substantive change.

24 **§ 40415. Regulation relating to use of gill nets**

25 40415. Notwithstanding any other provision of law, the commission shall
26 determine, by regulation, if drift or set gill nets may be used to take herring for a
27 commercial purpose. The commission may also determine, by regulation, the size
28 of the meshes of the material used to make those gill nets.

29 **Comment.** Section 40415 continues former Fish and Game Code Section 8556 without
30 substantive change.

31 **§ 40420. Determination relating to use of round haul nets in Districts 2600 and 2605**

32 40420. Notwithstanding any other provision of law, the commission shall
33 determine, by regulation, if round haul nets may be used to take herring in
34 Districts 2600 and 2605, and the conditions under which those nets may be used.

35 **Comment.** Section 40420 continues former Fish and Game Code Section 8557 without
36 substantive change.

37 **Note.** Existing Fish and Game Code Section 8557 (which would be continued by proposed
38 Section 40420), in contrast with preceding Section 8556 (which would be continued by proposed
39 Section 26915), requires the Fish and Game Commission to “determine” whether round haul nets
40 may be used to take herring in specified districts, but does not require that determination to be

1 made “by regulation.” The Commission believes the omission from Section 8557 was
2 inadvertent, and proposed Section 40420 would conform the language of the two sections by
3 expressing referencing a determination “by regulation.”

4 **The Commission invites comment on that revision.**

5 **§ 40425. Herring research and management account**

6 40425. (a) There is established within the Fish and Game Preservation Fund a
7 herring research and management account.

8 (b) The funds in the account shall be expended for the purpose of supporting, in
9 consultation with the herring industry pursuant to Section 40410, department
10 evaluations of and research on herring populations in San Francisco Bay,
11 evaluations and research that may be required for Tomales Bay, Humboldt Bay,
12 and Crescent City, and for assisting in enforcement of herring regulations.

13 (c) The evaluations and research shall be for the following purposes:

14 (1) Determining the annual herring spawning biomass.

15 (2) Determining the condition of the herring resource, which may include its
16 habitat.

17 (3) Assisting the commission and the department in the adoption of regulations
18 to ensure a sustainable herring roe fishery.

19 (d) An amount, not to exceed 15 percent of the total funds in the account, may
20 be used for educational purposes regarding herring, herring habitat, and the
21 herring roe fishery.

22 (e) The funds in the account shall consist of the funds deposited pursuant to
23 Section 40435, and the funds derived from herring landing fees allocated pursuant
24 to subdivision (a) of Section 21360.

25 (f) The department shall maintain internal accountability necessary to ensure
26 that all restrictions on the expenditure of the funds in the account are met.

27 **Comment.** Section 40425 continues former Fish and Game Code Section 8558 without
28 substantive change.

29 **§ 40430. San Francisco Bay herring stamp**

30 40430. (a) No person shall purchase or renew any permit to take herring for a
31 commercial purpose in San Francisco Bay, without first obtaining an annual
32 herring stamp from the department.

33 (b) The fee for the annual herring stamp shall be one hundred dollars (\$100).

34 **Comment.** Section 40430 continues the first two sentences of former Fish and Game Code
35 Section 8558.1(a) without substantive change.

36 **§ 40435. Funds to be deposited in herring research and management account**

37 40435. The following funds shall be deposited into the herring research and
38 management account established pursuant to Section 40425:

39 (a) The amount of the difference between fees for nonresident and resident
40 herring net permits, collected pursuant to Section 40360.

1 (b) Fees for San Francisco Bay herring permit transfers, collected pursuant to
2 Section 40390.

3 (c) Fees for San Francisco Bay herring stamps, collected pursuant to Section
4 40425.

5 (d) One-half of all royalties collected by the department from the roe-on-kelp
6 fishery, pursuant to paragraph (2) of subdivision (f) of Section 164 of Title 14 of
7 the California Code of Regulations.

8 **Comment.** Subdivisions (a) and (b) of Section 40435 continue former Fish and Game Code
9 Section 8558.2 without substantive change.

10 Subdivision (c) continues the third sentence of former Fish and Game Code Section 8558.1(a)
11 without substantive change.

12 Subdivision (d) continues former Fish and Game Code Section 8558.3 without substantive
13 change.

14 **§ 40440. Proof of crewmember experience**

15 40440. The commission, in determining experience requirements for new
16 entrants into the herring fishery after January 1, 1987, shall require that any person
17 seeking a permit to operate a vessel to take herring and claiming crew experience
18 demonstrate, to the satisfaction of the department, proof of payment as a
19 crewmember in the herring fishery, based on tax records, or copies of canceled
20 checks offered and accepted as payment for service on a crew in the California
21 herring roe fishery.

22 **Comment.** Section 40440 continues former Fish and Game Code Section 8559 without
23 substantive change.

24 **§ 40455. Commission regulation**

25 40455. The commission may make and enforce regulations necessary or
26 convenient for carrying out any power, authority, or jurisdiction conferred under
27 this chapter.

28 **Comment.** Section 40455 continues former Fish and Game Code Section 8553 without
29 substantive change.

30 See also Section 5690 (enforcement).

31 **CHAPTER 3. TAKE OF HERRING EGGS**

32 **§ 40500. Permit to take herring eggs**

33 40500. Herring eggs may only be taken for a commercial purpose under a
34 revocable, nontransferable permit subject to regulations that the commission shall
35 adopt.

36 **Comment.** Section 40500 continues the first sentence of former Fish and Game Code Section
37 8389(a) without substantive change.

1 **§ 40505. Payment of royalty**

2 40505. In addition to the license fees provided for in this code, every person
3 taking herring eggs shall pay a royalty, as the commission may prescribe, of not
4 less than fifty dollars (\$50) per ton of herring eggs taken.

5 **Comment.** Section 40505 continues the second sentence of former Fish and Game Code
6 Section 8389(a) without substantive change.

7 **§ 40510. Permit limitations**

8 40510. (a) Whenever necessary to prevent overutilization, to ensure efficient and
9 economic operation of the fishery, or to otherwise carry out this chapter, the
10 commission may limit the number of permits that are issued, and the amount of
11 herring eggs taken under those permits.

12 (b) In limiting the number of permits, the commission shall take into
13 consideration any restriction of the fishing area, and the safety of others who, for
14 purposes other than fishing, use the waters from which herring eggs are taken.

15 **Comment.** Subdivision (a) of Section 40510 continues former Fish and Game Code Section
16 8389(b) without substantive change.

17 Subdivision (b) continues former Fish and Game Code Section 8389(c) without substantive
18 change.

19 **Note.** Existing Fish and Game Code Section 8389(b) (which would be continued by proposed
20 Section 40510(a)) provides that the Fish and Game Commission may place limits on herring egg
21 permits, among other reasons, in order to “carry out this article.” However, the article in which
22 Section 8389 appears, Article 9 (commencing with Section 8370) of Chapter 2 of Part 3 of
23 Division 6 of the existing code, contains provisions governing the take of many different
24 saltwater and anadromous fish, and Section 8389 is the only provision in that article relating to
25 herring eggs.

26 Proposed Section 40510(a), in continuing Section 8389(b), would replace the reference to “this
27 article” with a reference to only the provisions in the proposed law that continue existing Section
28 8389. Because Section 8389 would be divided into the four sections in a chapter of the proposed
29 law continuing Section 8389(b), the reference has been changed to “this chapter.”

30 **The Commission invites comment on the appropriateness of that revision.**

31 **§ 40515. Exception for incidental take of aquatic plants**

32 40515. Every person operating under a permit issued pursuant to Section 40500
33 is excepted from the provisions of Title 1 (commencing with Section 54000) of
34 Part 4 of Division 14, for aquatic plants taken incidental to the harvest of herring
35 eggs.

36 **Comment.** Section 40515 continues former Fish and Game Code Section 8389(d) without
37 substantive change.

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PART 14. MACKEREL

TITLE 1. MACKEREL GENERALLY

§ 40550. Provisions not exclusive

40550. The provisions of this part are not intended to be exclusive. Other provisions that govern mackerel include, but are not limited to, the following provisions:

- (a) Section 15915.
- (b) Section 20710.
- (c) Section 21015.
- (d) Section 21810.
- (e) Title 6 (commencing with Section 59600) of Part 1 of Division 16.

Comment. Section 40550 is new. It is added for drafting convenience.

TITLE 2. COMMERCIAL PROVISIONS

§ 40600. Application of title

40600. For purposes of Section 37805, the provisions in this title are commercial provisions.

Comment. Section 40600 is new. It is added for drafting convenience.

§ 40605. Authorized take

40605. Pacific mackerel may be taken under a revocable nontransferable permit issued by the department to boat owners or operators under conditions prescribed by the department.

Comment. Section 40605 continues former Fish and Game Code Section 8412 without substantive change.

§ 40610. Federal fishery regulations

40610. The department shall manage the Pacific mackerel resource in conformance with the federal fishery regulations as recommended by the Pacific Fishery Management Council and as adopted by the Secretary of Commerce.

Comment. Section 40610 continues former Fish and Game Code Section 8411 without substantive change.

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PART 15. MARLIN

TITLE 1. MARLIN GENERALLY

§ 40700. Provisions not exclusive

40700. The provisions of this part are not intended to be exclusive. Other provisions that govern marlin include, but are not limited to, the following provisions:

- (a) Section 14875.
- (b) Section 18030.
- (c) Section 18395.
- (d) Section 18800.
- (e) Section 18805.
- (f) Section 18810.
- (g) Section 18815.
- (h) Section 18820.
- (i) Section 18825.
- (j) Section 21950.

Comment. Section 40700 is new. It is added for drafting convenience.

§ 40705. Transport of marlin meat out of state

40705. Marlin meat may not be transported out of this state.

Comment. Section 40705 continues former Fish and Game Code Section 2354 without substantive change.

§ 40710. Department monitoring of take

40710. (a) The department shall develop a voluntary participation program for the use of departmental observers on board vessels to monitor the taking of marlin by persons engaged in sport fishing.

(b) The department shall, in accordance with Section 2205, procure insurance against the liability of the owners or operators of vessels boarded by observers in the event of injury to or death of any observer in the course and scope of employment as an observer.

Comment. Section 40710 continues former Fish and Game Code Section 7123 without substantive change.

TITLE 2. COMMERCIAL PROVISIONS

§ 40750. Application of title

40750. For purposes of Section 37805, the provisions in this title are commercial provisions.

Comment. Section 40750 is new. It is added for drafting convenience.

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TITLE 2. COMMERCIAL PROVISIONS

§ 40900. Application of title

40900. For purposes of Section 37805, the provisions in this title are commercial provisions.

Comment. Section 40900 is new. It is added for drafting convenience.

§ 40905. Required permit

40905. Sablefish may be taken under a general trap permit issued pursuant to Section 19205 in ocean waters between a line extending due west true from Point Arguello in Santa Barbara County and the United States-Mexico international boundary line, if all of the following criteria are also met:

(a) The trap shall be six feet or less in its greatest dimension.

(b) The mesh of any trap used for sablefish pursuant to this section shall measure not less than two inches by two inches.

(c) The traps may be used only in waters 200 fathoms or deeper.

(d) No permittee may possess a sablefish trap and any other commercial fishing gear aboard a vessel at the same time, except that spot prawn traps may be possessed during spot prawn trap open fishing periods as established by the commission, if the permittee has a valid spot prawn trap vessel permit that has not been suspended or revoked.

Comment. Section 40905 continues former Fish and Game Code Section 9001.8 without substantive change. A reference to Section 19205 was added to continue the application of the definition of “general trap permit” that applied to former Fish and Game Code Section 9001.8. See former Fish and Game Code Section 9000.5(c).

PART 17. SALMON

TITLE 1. SALMON GENERALLY

CHAPTER 1. PRELIMINARY PROVISIONS

§ 40950. Provisions not exclusive

40950. The provisions of this part are not intended to be exclusive. Other provisions that govern salmon include, but are not limited to, the following provisions:

(a) Section 1725.

(b) Section 9105.

(c) Section 11905.

(d) Section 13105.

(e) Section 13900.

(f) Section 14875.

- 1 (g) Section 15540.
- 2 (h) Section 18040.
- 3 (i) Section 18045.
- 4 (j) Section 18050.
- 5 (k) Section 18085.
- 6 (l) Section 18095.
- 7 (m) Section 18210.
- 8 (n) Section 18805.
- 9 (o) Section 21455.
- 10 (p) Section 22305.
- 11 (q) Section 22310.
- 12 (r) Section 24700.
- 13 (s) Section 24950.
- 14 (t) Section 7650.
- 15 (u) Section 63360.
- 16 (v) Section 66350.
- 17 (w) Section 66355.
- 18 (x) Section 69500.

19 **Comment.** Section 40950 is new. It is added for drafting convenience.

20 **§ 40955. Legislative determination**

21 40955. (a) The Legislature finds and declares all of the following:

22 (1) The commercial fishing industry of the North Coast has been greatly affected
23 by decisions made by federal and state agencies concerning the health of the
24 salmon resource and the consequent shortening or closing of the season, further
25 impacting the already economically depressed region.

26 (2) Sportfishing on the North Coast, a staple of the tourism industry of the
27 region, could be substantially affected by the limitations of the salmon seasons.

28 (3) The method of determining salmon escapement counts on only the Klamath
29 River is inadequate for determining the overall health of the salmon resource in
30 northern California waters and consequent decisions regarding the commercial,
31 sport, and Indian salmon fisheries in those waters because it does not take into
32 consideration the escapement figures on the Eel River and the Smith River.

33 (b) The department shall use present assessment methods to assess the salmon
34 escapement count on the Eel River and the Smith River, as well as the Klamath
35 River, systems, employing out-of-work fishermen, where possible, to do the
36 counts with department personnel in supervisory capacities. Those figures shall be
37 used by the commission and the department in all reports, recommendations, and
38 decisions concerning the establishment of the commercial and sportfishing seasons
39 in the waters of the state and in all recommendations to the Pacific Fishery
40 Management Council or other regulatory agencies. This program shall be a
41 priority for funding under the Fisheries Restoration Act of 1985 (Chapter 3
42 (commencing with Section 11900) of Title 2 of Part 4 of Division 6).

1 (c) The department shall install sonar fish counting devices on the Klamath
2 River system as a three-year test program to determine the accuracy of the devices,
3 and shall make recommendations to the Legislature by January 1, 1990, as to their
4 accuracy and whether they should be installed on other river systems. Present
5 assessment methods shall continue on the Klamath River system during the test
6 period as a control mechanism.

7 **Comment.** Section 40955 continues former Fish and Game Code Section 1000.6 without
8 substantive change.

9 CHAPTER 2. TAKE OR POSSESSION

10 **§ 41000. Salmon spawning areas**

11 41000. The commission may designate salmon spawning areas. It is unlawful to
12 take salmon in any such spawning area, or within 250 feet of any salmon
13 spawning station.

14 **Comment.** Section 41000 continues former Fish and Game Code Section 310 without
15 substantive change.

16 **§ 41005. Hook other than in mouth**

17 41005. (a) It is unlawful, in inland waters, to kill or retain in possession any
18 chinook, coho, or kokanee salmon that has not taken the bait or lure in its mouth.

19 (b) Any chinook, coho, or kokanee salmon hooked in inland waters other than in
20 its mouth shall be released unharmed.

21 **Comment.** Section 41005 restates the part of former Fish and Game Code Section 5514
22 applicable to salmon without substantive change.

23 **Note.** Proposed Section 41005 is intended to restate the part of existing Fish and Game Code
24 Section 5514 applicable to salmon to clarify the meaning of that provision, without changing its
25 substantive effect. The existing provision reads as follows:

26 5514. (a) It is unlawful to kill or retain in possession any chinook, coho, or kokanee salmon or
27 any steelhead that has not taken the bait or lure in its mouth, in inland waters.

28 (b) Any chinook, coho, or kokanee salmon or any steelhead hooked other than in its mouth in
29 inland waters shall be released unharmed.

30 In the existing section, the placement of the phrase “in inland waters” creates possible
31 ambiguity as to whether the section is meant to apply generally to persons fishing in inland
32 waters, or to specified salmon that were not hooked in their mouths while in inland waters. The
33 Commission believes the former interpretation was intended, and proposed Section 41005 would
34 make that interpretation express.

35 **The Commission invites comment on whether the restatement of Section 5514 would**
36 **cause any substantive change in its meaning.**

37 **§ 41010. Conformity with federal law**

38 41010. The commission may prohibit the taking or possessing of salmon in the
39 same manner as the taking or possessing of salmon is prohibited by federal law or
40 by rules or regulations adopted by the United States Secretary of Commerce,
41 notwithstanding any other provision of this code.

1 along the active channel and on streambanks for the purposes of bank
2 stabilization, bank development, and live wood complexity.

3 (3) Wood placement that benefits naturally reproducing fish stocks by creating
4 or enhancing fish habitat, increasing stream complexity, or both.

5 (c) “Coho salmon recovery plans” means the department’s Recovery Strategy
6 for California Coho Salmon, the National Marine Fisheries Service’s Recovery
7 Plan for the Evolutionary Significant Unit of Central Coast Coho Salmon, the
8 National Marine Fisheries Service’s Recovery Plan for the Southern
9 Oregon/Northern California Coast Evolutionary Significant Unit of Coho Salmon,
10 or subsequently adopted coho salmon recovery plans.

11 (d) “Fish passage guidelines” means the department’s Coho Salmon Stream
12 Restoration Manual, the National Marine Fisheries Service, Southwest Region,
13 Guidelines for Salmonid Passage at Stream Crossings, either of those documents
14 as they may be subsequently amended or updated, or salmonid fish passage project
15 guidelines subsequently adopted by the department, the National Marine Fisheries
16 Service, or both.

17 (e) “Project proponent” means a person, public agency, or nonprofit
18 organization seeking to implement a coho salmon habitat enhancement project.

19 **Comment.** Section 41105 continues former Fish and Game Code Section 6952 without
20 substantive change.

21 **§ 41110. Required elements of project**

22 41110. (a) Notwithstanding any other provision of law, the director shall
23 approve a coho salmon habitat enhancement project if the project will maintain
24 existing levels of human health and safety protection, including, but not limited to,
25 flood protection, and meets all of the following requirements:

26 (1) The project is consistent with fish passage guidelines and coho salmon
27 recovery plans.

28 (2) The primary project purpose is for voluntary restoration.

29 (3) The project is no larger than five acres or 500 linear feet in size, measured by
30 calculating the direct area of impact.

31 (4) Completion of all phases of the coho salmon habitat enhancement project
32 will not exceed five years.

33 (5) The project will not result in cumulative negative environmental impacts that
34 are significant when viewed in connection with the effects of past, current, or
35 probable future projects.

36 (b) The director’s approval of a coho salmon habitat enhancement project
37 pursuant to subdivision (a) shall be in lieu of any other permit, license, or other
38 approval issued by the department, including, but not limited to, those issued
39 pursuant to Title 1 (commencing with Section 53800) of Part 3 of Division 14, and
40 Part 1 (commencing with Section 62000) of, and Title 3 (commencing with
41 Section 69700) of Part 4 of Division 17.

1 (c) The director's approval of a coho salmon habitat enhancement project
2 pursuant to subdivision (a) shall constitute an action taken by a regulatory agency,
3 as authorized by state law, to ensure the maintenance, restoration, or enhancement
4 of a natural resource where the regulatory process involves procedures for
5 protection of the environment.

6 (d) Within 60 days after the director receives a written request to approve a coho
7 salmon habitat enhancement project containing the information required pursuant
8 to subdivision (e), the director shall determine whether substantial evidence exists
9 that the coho salmon habitat enhancement project is consistent with subdivision
10 (a).

11 (e) A written request to approve a coho salmon habitat enhancement project
12 shall contain all of the following:

13 (1) The name, address, title, organization, telephone number, and electronic mail
14 address of the natural person or persons who will be the main point of contact for
15 the project proponent.

16 (2) A full description of the coho salmon habitat enhancement project that
17 includes the design criteria used for the project, restoration or enhancement
18 methods, an estimate of temporary restoration or enhancement-related disturbance,
19 project schedule, and how the project will result in a net benefit to coho salmon
20 and other affected species.

21 (3) A map clearly identifying the project location and photographs of the project
22 site.

23 (4) An assessment of the project area that provides a description of existing flora
24 and fauna and the potential presence of sensitive species or habitat.

25 (5) A description of environmental protection measures incorporated into the
26 project design, including, but not limited to, measures to avoid and minimize
27 impacts to water quality and potentially present species protected by state law, so
28 that no potentially significant negative environmental impacts will result from the
29 project.

30 (6) Substantial evidence to support a conclusion that the project meets the
31 criteria set forth in this section. Substantial evidence shall cite relevant design
32 criteria and environmental protection measures that are set forth in the fish passage
33 guidelines and coho salmon recovery plans.

34 (f) If the director determines at any time that the project is no longer consistent
35 with subdivision (a), due to a material change between the project as submitted
36 and the project being implemented or a change in environmental circumstances in
37 the area of implementation, the director shall notify the project proponent in
38 writing and project implementation shall be suspended or approval pursuant to this
39 chapter revoked. Written notice from the director shall be delivered in person or
40 by certified mail to the project proponent and shall specify the reasons why
41 ministerial approval of the project was suspended or revoked. The approval for a
42 project shall not be revoked pursuant to this subdivision unless it has first been
43 suspended pursuant to this subdivision.

1 (g) Within 30 days of receipt of a notice of suspension, the project proponent
2 may file an objection with the director. Any objection shall be in writing and state
3 the reasons why the project proponent objects to the suspension. The director shall
4 revoke approval or lift the suspension of project implementation within 30 days
5 after the end of the objection.

6 **Comment.** Section 41110 continues former Fish and Game Code Section 6953 without
7 substantive change.

8 **§ 41115. Coho Salmon Recovery Account**

9 41115. (a) The Coho Salmon Recovery Account is hereby created in the Fish
10 and Game Preservation Fund.

11 (b) The department may enter into an agreement to accept funds from any public
12 agency, person, business entity, or organization to achieve the purposes of this
13 chapter. The department shall deposit any funds so received in the account. The
14 funds received shall supplement existing resources for projects and programs that
15 enhance the recovery of coho salmon.

16 (c) The department may impose a schedule of fees for projects, based on the cost
17 of a project, sufficient to recover all reasonable administrative and implementation
18 costs of the department relating to the project, but not to exceed fees adopted by
19 the department pursuant to Title 3 (commencing with Section 69700) of Part 4 of
20 Division 17 for standard lake or streambed alteration agreements for projects of
21 comparable cost. The department shall deposit fee revenues in the account.

22 (d) Moneys in the account shall be available to the department, upon
23 appropriation by the Legislature, for the purposes of administering and
24 implementing this chapter.

25 **Comment.** Section 41115 continues former Fish and Game Code Section 6954 without
26 substantive change.

27 **§ 41120. Emergency regulations**

28 41120. (a) The department may adopt emergency regulations for the
29 implementation of this chapter.

30 (b) A regulation adopted pursuant to this section or thereafter amended, and any
31 subsequent adjustment to that adoption or amendment, shall be adopted by the
32 department in accordance with Chapter 3.5 (commencing with Section 11340) of
33 Part 1 of Division 3 of Title 2 of the Government Code.

34 (c) The adoption of a regulation pursuant to this section is an emergency, and
35 shall be considered by the Office of Administrative Law as necessary for the
36 immediate preservation of the public peace, health, safety, and general welfare.

37 (d) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of
38 Division 3 of Title 2 of the Government Code, any emergency regulation adopted
39 by the department pursuant to this section shall remain in effect until revised by
40 the department.

1 (j) “Transfer” means the issuance of a permit for use of a replacement vessel.

2 **Comment.** Section 41305 generalizes former Fish and Game Code Section 8231 without
3 substantive change.

4 **Note.** Existing Fish and Game Code Section 8231 provides the definitions set forth in
5 proposed Section 41305, but only for purposes of the article in which Section 8231 appears
6 (Article 4.5 (commencing with Section 8230) of Chapter 2 of Part 3 of Division 6). Proposed
7 Section 41305 would generalize the definitions in existing Section 8231 so that they apply to all
8 commercial salmon fishing provisions in this proposed title.

9 **The Commission invites comment on whether that generalization would be problematic.**

10 CHAPTER 2. COMMERCIAL SALMON TROLLERS ENHANCEMENT AND
11 RESTORATION PROGRAM

12 **§ 41350. Declaration of legislative intent**

13 41350. (a) It is the intent of the Legislature that the department use the moneys
14 from the sale of commercial fishing salmon stamps allocated pursuant to
15 subdivision (b) of Section 41360, and the matching share contributed by the
16 department, to raise approximately two million chinook salmon annually to
17 yearling size, to contribute to the replenishing of California’s salmon resource. In
18 no case shall moneys from the General Fund be used to match the salmon stamp
19 revenues expended for this program.

20 (b) It is the further intent of the Legislature that the salmon stamp fee authorized
21 in subdivision (b) of Section 41360 shall generate revenues equal to one-half the
22 amount necessary to raise this number of salmon to yearling size.

23 **Comment.** Section 41350 continues former Fish and Game Code Section 7861.3 without
24 substantive change.

25 **§ 41355. Commercial fishing salmon stamp requirement**

26 41355. (a) Except as provided in subdivision (f) or (g), no person who is 18
27 years of age or more and less than 70 years of age, on or before April 1 of the
28 current license year, shall take salmon for a commercial purpose or be on board a
29 vessel on which salmon are taken for a commercial purpose while salmon are
30 being taken or transported, unless that person has a commercial fishing salmon
31 stamp issued pursuant to this section affixed to his or her commercial fishing
32 license.

33 (b) Except as provided in subdivision (f) or (g), the operator of a vessel on
34 which salmon are taken for a commercial purpose shall not permit a person on
35 board that vessel while salmon are being taken or transported, unless that person
36 was less than 18 years of age or 70 years of age or more on April 1 of the current
37 license year or that person has a commercial fishing salmon stamp affixed to the
38 person’s commercial fishing license.

39 (c) Except as provided in this subdivision, the department shall issue a
40 commercial fishing salmon stamp, upon application and payment of the fee of
41 eighty-five dollars (\$85). For any commercial salmon season preceded by a

1 commercial salmon season in which the commercial troll salmon landings in this
2 state equal or exceed 3,000,000 pounds dressed weight, as determined by the
3 department, the fee shall be increased by twelve dollars and fifty cents (\$12.50)
4 for every 250,000 pounds over 3,000,000 pounds of dressed weight landings,
5 except that the total fees as adjusted shall not exceed two hundred sixty dollars
6 (\$260).

7 (d) A commercial fishing salmon stamp is valid during the commercial salmon
8 season of the year in which it was issued.

9 (e) Upon application and payment of an additional fee equal to that prescribed in
10 subdivision (c), the department may issue an additional commercial fishing
11 salmon stamp for a crewmember to the owner or operator of a vessel who holds a
12 commercial fishing salmon stamp.

13 (f) Notwithstanding subdivision (a), one crewmember of a vessel for which a
14 commercial fishing salmon stamp is issued pursuant to subdivision (e) may be
15 aboard that vessel and take salmon for a commercial purpose as a crewmember on
16 that vessel without obtaining a commercial fishing salmon stamp, under the
17 following conditions:

18 (1) The crewmember is designated by name and commercial fishing license
19 number on a form furnished by the department before salmon are taken on the
20 vessel when that crewmember is aboard.

21 (2) The crewmember has a valid commercial fishing license issued under
22 Section 14500.

23 (3) The commercial fishing salmon stamp for the crewmember is affixed to the
24 form prescribed in paragraph (1) on which the vessel registration number of the
25 vessel is entered, and on which the crewmember who is exempted by this
26 subdivision is designated by the last entered name and commercial fishing license
27 number.

28 (g) Persons who are exempt from the license requirements, or who are not
29 required to be licensed, pursuant to Section 14500, are exempt from the
30 requirements of this section.

31 **Comment.** Section 41355 continues former Fish and Game Code Section 7860 without
32 substantive change.

33 **§ 41360. Use of fees from commercial fishing salmon stamps**

34 41360. (a) After deducting the administrative costs for issuing commercial
35 fishing salmon stamps, the department shall deposit the fees received pursuant to
36 Section 41355 in the Commercial Salmon Stamp Dedicated Subaccount, which is
37 hereby established in the Fish and Game Preservation Fund. The money in the
38 subaccount shall be available to the department, upon appropriation by the
39 Legislature, for new or expanded salmon restoration and enhancement programs in
40 the state that will serve to increase ocean salmon landings. No money in this
41 subaccount shall be used in lieu of other funds appropriated for salmon restoration
42 and enhancement programs authorized by law on or before January 1, 1988.

1 (b) Thirty dollars (\$30) of the fees collected for each commercial fishing salmon
2 stamp issued shall be allocated by the department to be used for raising chinook
3 salmon to a yearling size, at which size they shall be released into state waters.
4 The amount of salmon stamp revenues expended for this purpose in any fiscal year
5 shall not exceed the amount expended by the department for the same purpose
6 during the same period from other funds. The calculation of the amount expended
7 by the department for this purpose shall not include expenditures made by the
8 department for which reimbursements are received from state or federal agencies,
9 public utilities, or private entities for raising chinook salmon to yearling size as
10 part of a fish mitigation program instituted to compensate for the adverse effect of
11 a dam on natural salmon production. If the department expends no funds other
12 than moneys collected from the sale of commercial fishing salmon stamps or
13 moneys for which reimbursements are received as part of an anadromous fish
14 mitigation program for the raising of chinook salmon to yearling size within the
15 period of a fiscal year, the fees prescribed in Section 41355 shall be reduced by an
16 amount equivalent to that portion of the commercial fishing salmon stamp
17 program, as specified in this subdivision.

18 (c) If the salmon stamps issued pursuant to Section 41355 raise more money for
19 the purpose of subdivision (b) than is necessary to match the funds expended by
20 the department during any fiscal year from other funds, then the excess salmon
21 stamp revenue allocated pursuant to subdivision (b) shall be carried over into the
22 following fiscal year.

23 (d) The department shall post on its Internet Web site an accounting of the
24 projects undertaken with funds from the Commercial Salmon Stamp Dedicated
25 Subaccount, and the costs incurred to administer the program. At a minimum, the
26 Internet Web site shall list the project title, the applicant, a brief description of the
27 project, the amount approved, and the status of the project.

28 (e) Any moneys that were in the Commercial Salmon Stamp Account as of
29 March 14, 2013, and that were retained in the Fish and Game Preservation Fund,
30 shall be transferred to the Commercial Salmon Stamp Dedicated Subaccount.

31 (f) Not more than 15 percent of the funds expended pursuant to this section may
32 be used to pay the costs incurred in the administration of the program.

33 **Comment.** Subdivisions (a) through (e) of Section 41360 continue former Fish and Game
34 Code Section 7861 without substantive change.

35 Subdivision (f) continues former Fish and Game Code Section 7861.1 without substantive
36 change.

37 **§ 41365. Source of other funds for program**

38 41365. (a) Notwithstanding any other law, the department may receive on behalf
39 of the Commercial Salmon Trollers Enhancement and Restoration Program, for
40 deposit in the Commercial Salmon Stamp Dedicated Subaccount in the Fish and
41 Game Preservation Fund established pursuant to Section 41360, funds from
42 sources in addition to funds derived from the sale of commercial fishing salmon

1 stamps, including, but not limited to, grants from the federal government, grants
2 from private foundations, money disbursed from court settlements, and donations
3 and bequeaths from individuals.

4 (b) The additional nonfederal funds shall not be deposited in the Commercial
5 Salmon Stamp Dedicated Subaccount unless the person or entity providing the
6 funds specifically designates in writing, prior to or at the time of transmittal of the
7 funds to the department, that the funds are intended solely for deposit to that
8 subaccount.

9 (c) Funds received by the department that are not designated at the time of
10 receipt as being intended solely for deposit to the Commercial Salmon Stamp
11 Dedicated Subaccount shall be deposited in the Fish and Game Preservation Fund.

12 **Comment.** Section 41365 continues former Fish and Game Code Section 7861.2 without
13 substantive change.

14 **§ 41370. Allocation of funds**

15 41370. In consultation with the Commercial Salmon Trollers Advisory
16 Committee, the department may allocate funds from the Commercial Salmon
17 Stamp Dedicated Subaccount in the Fish and Game Preservation Fund for the
18 following purposes:

19 (a) For restoration projects to assist in the recovery of salmon stocks listed as
20 threatened or endangered under Part 1 (commencing with Section 62000) of
21 Division 17, or the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.).

22 (b) As matching funds for federal salmon restoration moneys.

23 **Comment.** Section 41370 continues former Fish and Game Code Section 7861.5 without
24 substantive change.

25 **§ 41375. Funding priority**

26 41375. A priority for funding shall be given to programs and projects restoring,
27 enhancing, and protecting salmon streams with funds appropriated pursuant to
28 subparagraph (A) of paragraph (1) of subdivision (e) of Section 5907 of the Public
29 Resources Code, which employ fishermen who are unemployed or underemployed
30 as a result of commercial fishing restrictions within and immediately adjacent to
31 the Klamath Management Zone imposed by federal laws or regulations.

32 **Comment.** Section 41375 continues former Fish and Game Code Section 7861.4 without
33 substantive change.

34 **§ 41380. Advisory Committee**

35 41380. (a) A Commercial Salmon Trollers Advisory Committee shall be
36 established consisting of six members selected by the director, as follows:

37 (1) One member shall be chosen from the personnel of the department.

38 (2) Four persons shall be selected, with alternates, from a list submitted by a
39 fishermen's organization deemed to represent the commercial salmon fishermen of
40 California.

1 (3) One member shall be selected, with an alternate, from lists submitted by
2 individual commercial passenger fishing boat operators or by organizations
3 deemed to represent the commercial passenger fishing boat operators of
4 California.

5 (b) The term of appointment to the committee shall be for two years.

6 (c) Necessary and proper expenses, if any, and per diem shall be paid committee
7 members from the special account created pursuant to subdivision (a) of Section
8 41360. The rate of per diem shall be the same as the rate established pursuant to
9 Section 8902 of the Government Code.

10 (d) The committee shall recommend programs and a budget from the special
11 account to the department.

12 **Comment.** Section 41380 continues former Fish and Game Code Section 7862 without
13 substantive change.

14 **§ 41385. Creation of artwork or related material for sale**

15 41385. (a) The Commercial Salmon Trollers Advisory Committee may also
16 recommend to the director that a nonprofit organization or the California Salmon
17 Council be authorized to create or contract to create salmon or salmon fishing
18 artwork and other materials based on that artwork, including, but not limited to, a
19 stamp, and offer those items for sale to the public during 2003 and thereafter, for
20 the purpose of augmenting funding for the Commercial Salmon Trollers
21 Enhancement and Restoration Program established under this chapter.

22 (b) The committee may not recommend a nonprofit organization or the
23 California Salmon Council as authorized under subdivision (a), unless all of the
24 following conditions are met:

25 (1) The proposed creation and sale of the artwork is pursuant to a written
26 business plan presented to the committee.

27 (2) The committee determines that a reasonable share of the sales of any stamp
28 will be remitted to the department for deposit into the Commercial Salmon Stamp
29 Dedicated Subaccount established in the Fish and Game Preservation Fund under
30 Section 41360.

31 (3) The committee determines that the creation and sale of the artwork will act
32 to increase public awareness and support for the salmon stamp program and the
33 restoration of salmon and their habitats in the state.

34 (4) Any other conditions deemed necessary by the committee for determining
35 whether to recommend approval to the director have been met.

36 (c) The director, upon receiving the recommendation of the committee, and
37 upon finding that there will be no new costs to the department, may authorize the
38 recommended entity to create or contract to create salmon or salmon fishing
39 artwork and other materials based on that artwork, including, but not limited to, a
40 stamp, and offer those items for sale to the public, for the purpose described in
41 subdivision (a).

1 (d) No person or entity, including, but not limited to, any nonprofit organization,
2 may use the name of the Commercial Salmon Stamp, the Commercial Salmon
3 Trollers Advisory Committee, or the Commercial Salmon Trollers Enhancement
4 and Restoration Program for the sale of artwork and other materials, unless that
5 person or entity has been approved by the director under this section for that
6 purpose. The approval of the director under this section shall be for one year, after
7 which the approval may be renewed for an additional year, upon recommendation
8 of the committee.

9 (e) No artwork sold in the form of a stamp under this section conveys to the
10 purchaser any entitlement to engage in the commercial salmon fishery.

11 (f) Proceeds from the sales of artwork and other materials sold under this
12 section, after deduction of all reasonable costs borne by the nonprofit organization
13 or California Salmon Council for creation of the artwork and conducting the sales,
14 shall be deposited in the Commercial Salmon Stamp Dedicated Subaccount.

15 **Comment.** Section 41385 continues former Fish and Game Code Section 7862.5 without
16 substantive change.

17 **§ 41390. Inoperative date of chapter**

18 41390. This chapter shall remain in effect only until January 1, 2029, and as of
19 that date is repealed, unless a later enacted statute that is enacted before January 1,
20 2029, deletes or extends that date.

21 **Comment.** Section 41390 continues former Fish and Game Code Section 7863 without
22 substantive change.

23 **Note.** Proposed Section 41390 would continue Section 7863, which was amended by 2018
24 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in
25 anticipation of its effect.

26 **CHAPTER 3. PERMISSIONS AND PROHIBITIONS**

27 **§ 41450. Authorized take**

28 41450. (a) Except as modified by the director pursuant to Section 22405, salmon
29 may be taken under authority of a commercial fishing license and a commercial
30 fishing salmon stamp only in Districts 2570, 2575, 2590, 2595, 2610, 2615, 2620,
31 and 2625.

32 (b) All species of salmon, except silver salmon, may be taken only between
33 April 15 and September 30. Silver salmon may be taken only between May 15 and
34 September 30.

35 (c) No king salmon may be possessed that is less than 26 inches in length and no
36 silver salmon may be possessed that is less than 22 inches. The length of salmon is
37 to be measured from the tip of the snout to the extreme tip of the tail without
38 resorting to any force other than swinging or fanning the tail.

39 (d) Salmon may be taken for commercial purposes only by hook and line, and
40 there is no bag limit.

1 **Comment.** Section 41450 continues former Fish and Game Code Section 8210.2 without
2 substantive change.

3 See also Section 5710 (enforcement).

4 **§ 41455. Possession, sale, offer for sale, or purchase**

5 41455. Salmon may be possessed, sold, offered for sale, or purchased only under
6 one of the following conditions:

7 (a) If taken legally in another state that permits the sale of salmon, and lawfully
8 imported consistent with Section 41050.

9 (b) If taken in compliance with this chapter.

10 **Comment.** Section 41455 combines and restates former Fish and Game Code Section 8217,
11 and the part of Section 8371(c)-(d) applicable to salmon, without substantive change.

12 See also Section 5710 (enforcement).

13 **Note.** Proposed Section 41455 is intended to combine and restate existing Fish and Game
14 Code Section 8217, and the part of Section 8371(c)-(d) applicable to salmon, to clarify the
15 meaning of those provisions without changing their substantive effect. The existing provisions
16 read as follows:

17 8217. Salmon may be sold subject to the exceptions and restrictions contained in this article.

18 8371. Striped bass and salmon may be sold or offered for sale only under the following
19 conditions:

20 (a) If the striped bass is taken or possessed by, and is the cultured progeny of, an aquaculturist
21 who is registered under Section 15101, that striped bass may be sold or purchased subject to
22 regulations of the commission.

23 (b) If the striped bass is taken legally in another state that permits the sale of that fish and if the
24 fish is lawfully imported under Section 2363, the striped bass may be possessed, sold, or
25 purchased.

26 (c) If the salmon is taken legally in another state that permits the sale of salmon, and is lawfully
27 imported consistent with Section 2361, the salmon may be possessed, sold, or purchased.

28 (d) If the salmon is taken in accordance with Article 4 (commencing with Section 8210.2), the
29 salmon may be possessed, sold, or purchased.

30 **The Commission invites comment on whether the proposed combining and restatement**
31 **would cause any substantive change in the meaning of the provisions.**

32 **§ 41460. Sale during period when take unlawful**

33 41460. During the period when salmon may not be taken for commercial
34 purposes in a district, salmon may be sold in that district only under the
35 regulations of the commission.

36 **Comment.** Section 41460 continues former Fish and Game Code Section 8213 without
37 substantive change.

38 See also Section 5710 (enforcement).

39 **§ 41465. Take at mouth of Humboldt Bay**

40 41465. It is unlawful to take salmon for commercial purposes at the mouth of
41 Humboldt Bay in those portions of Districts 2570 and 2575 within three nautical
42 miles north and south of a line drawn due west for three nautical miles from the
43 center of the mouth of that bay.

1 **Comment.** Section 41465 continues former Fish and Game Code Section 8214 without
2 substantive change.

3 See also Section 5710 (enforcement).

4 **§ 41470. Sale, possession, or transport of silver salmon in specified districts**

5 41470. Silver salmon may not be sold or possessed in, or transported through,
6 District 2570, 2575, 2590, 2595, 2610, 2615, or 2620, during the time when the
7 taking of silver salmon for commercial purposes is unlawful in those districts.

8 **Comment.** Section 41470 continues former Fish and Game Code Section 8215 without
9 substantive change.

10 See also Section 5710 (enforcement).

11 **§ 41475. Undersized salmon**

12 41475. It is unlawful to gaff, club, otherwise injure, or possess any king or silver
13 salmon under the legal size.

14 **Comment.** Section 41475 continues former Fish and Game Code Section 8218 without
15 substantive change.

16 See also Section 5710 (enforcement).

17 **§ 41480. Take for commercial purpose in District 2570 or 2575**

18 41480. Salmon may not be taken for commercial purposes in District 2570 at the
19 mouths of the Smith and Klamath Rivers within three nautical miles north and
20 south of a line drawn due west for three nautical miles from the center of the
21 mouth of each of those streams, or during the months of August and September in
22 District 2575 at the mouth of the Eel River within two nautical miles north and
23 south of a line drawn due west for two nautical miles from the center of the mouth
24 of that stream.

25 **Comment.** Section 41480 continues former Fish and Game Code Section 8219 without
26 substantive change.

27 See also Section 5710 (enforcement).

28 **§ 41485. Take with purse or round haul net**

29 41485. Salmon may not be taken with a purse or round haul net.

30 **Comment.** Section 41485 continues the part of former Fish and Game Code Section 8756
31 applicable to salmon without substantive change.

32 See also Section 5710 (enforcement).

33 **§ 41490. Use of trawl net**

34 41490. (a) Except as provided in subdivision (b), it is unlawful for any person to
35 possess salmon on board, or to land salmon from, a vessel on which exists any
36 type of trawl net.

37 (b) Salmon taken incidentally with other species with a trawl net may be
38 possessed and landed if authorized to be taken incidentally pursuant to Section
39 663.10 of Part 663 of Title 50 of the Code of Federal Regulations, pursuant to a

1 permit issued by the department under Chapter 5 (commencing with Section
2 12050) of Title 2 of Part 4 of Division 6, or pursuant to both.

3 **Comment.** Section 41490 continues former Fish and Game Code Section 8834.1 without
4 substantive change.

5 See also Section 5710 (enforcement).

6 **Note.** Proposed Section 41490 would continue Section 8834.1, which was amended by 2018
7 Cal. Stat. ch. 477. Although that bill will not take effect until 2019, it is included here in
8 anticipation of its effect.

9 **§ 41495. Required return to water if caught in net**

10 41495. (a) Any salmon that is taken in any type of net shall, regardless of its
11 condition, be immediately freed and removed from the net by the fisherman, and
12 immediately returned to the water without further harm.

13 (b) A commercial fisherman shall not have any salmon, whether dead or alive,
14 in his or her possession, at any time when conducting netting operations or when
15 going to or from those operations, except when releasing a salmon from a net.

16 (c) The return of salmon to the water pursuant to this section is not deterioration,
17 waste, or spoilage of fish for purposes of Section 14310.

18 **Comment.** Section 41495 continues the part of former Fish and Game Code Section 8370
19 applicable to salmon without substantive change.

20 **CHAPTER 4. HIGH SEAS INTERCEPTION OF SALMON**

21 **§ 41600. Definitions**

22 41600. The definitions in this section govern the construction of this chapter:

23 (a) “Environmental purpose” means the intent to prevent or minimize adverse
24 ecological effects to water quality.

25 (b) “High seas interception” means the unauthorized taking of salmon for
26 commercial purposes outside the United States 200-mile fishery conservation
27 zone.

28 (c) “Humanitarian purpose” means the intent to provide medical services for a
29 sick or injured person, or to prevent the loss of human life.

30 (d) “Process” means affecting the condition or location of salmon, including
31 preparation, packaging, storage, refrigeration, or transportation.

32 (e) “Unauthorized” means contrary to a statute or regulation of the United States
33 or this state or to a treaty or international fishery agreement, or in violation of a
34 foreign law.

35 (f) “Written instrument” means hand written or printed matter, including
36 vessels’ logs and papers, bills of lading and sale, documents relating to processing,
37 shipping, and customs, and information stamped on or affixed to cans, crates,
38 containers, freight, or other means of storage or packaging.

39 **Comment.** Section 41600 continues former Fish and Game Code Section 8120 without
40 substantive change.

1 **§ 41605. Prohibited acts generally**

2 41605. It is unlawful for any person to do any of the following:

3 (a) Buy, sell, trade, process, or possess salmon, or attempt to buy, sell, trade,
4 process, or possess salmon, with the knowledge that the salmon has been, or will
5 be, obtained by high seas interception.

6 (b) Knowingly provide financing, premises, equipment, supplies, services,
7 power, or fuel used to buy, sell, trade, process, or possess salmon that has been, or
8 will be, obtained by high seas interception.

9 (c) Act as a broker or middleman, or otherwise act on behalf of another person,
10 to arrange for or negotiate, or attempt to arrange for or negotiate, the purchase,
11 sale, trade, processing, or possession of salmon, with the knowledge that the
12 salmon has been, or will be, obtained by high seas interception.

13 (d) Create, circulate, or possess any written instrument related to salmon with
14 the knowledge that the written instrument conveys misleading or untrue
15 information about the ownership, possession, processing, origin, destination, route
16 of shipping, type, or condition of salmon, or the time, place, and manner of the
17 taking of the salmon.

18 **Comment.** Subdivisions (a) through (c) of Section 41605 continue former Fish and Game
19 Code Section 8121 without substantive change.

20 Subdivision (d) continues former Fish and Game Code Section 8122 without substantive
21 change.

22 **§ 41610. Prohibited acts on vessel known to contain unlawfully obtained salmon**

23 41610. (a) It is unlawful for a person who knows that a vessel contains salmon
24 obtained by high seas interception, or that the owner or operator of the vessel
25 intends to engage in the high seas interception of salmon, to do any of the
26 following:

27 (1) Move persons, cargo, or other property to or from the vessel.

28 (2) Service or repair the vessel or its equipment.

29 (3) Provide the vessel with power, supplies, equipment, or fuel.

30 (4) Provide the vessel with information, other than weather reports, capable of
31 aiding the high seas interception of salmon or frustrating or avoiding detection,
32 including communicating the movements, intentions, or activities of state or
33 federal law enforcement officials or other fishing vessels.

34 (5) Permit the vessel to dock or anchor, or to remain docked or anchored, if that
35 person is responsible for the operation of the facility, harbor, or anchorage.

36 (b) This section does not prohibit any person from performing any act or acts set
37 forth in subdivision (a) if that person reasonably believes that the act or acts were
38 necessary for humanitarian or environmental purposes or to prevent a significant
39 loss of property, if that person provides immediate notice, by the quickest
40 available means, to the United States Coast Guard, the department, or any law
41 enforcement agency, as to the type of assistance provided and the circumstances
42 involved.

1 permits should be issued until the time that the fleet size falls below 2,500
2 permitted vessels. Adequate provision for entry of new persons or vessels to the
3 commercial salmon fishery is afforded by transfers of vessels for which permits
4 have been issued and renewed and by transfers of those existing permits to vessels
5 of the same or less salmon fishing potential.

6 **Comment.** Section 41650 continues former Fish and Game Code Section 8230 without
7 substantive change.

8 **§ 41655. Severability of provisions**

9 41655. If any provision of this chapter, or the application of those provisions, to
10 any person or circumstance, is held invalid, that invalidity shall not affect other
11 provisions or applications of the chapter that can be given effect without the
12 invalid provision or application, and to this end the provisions of those chapters
13 are severable.

14 **Comment.** Section 41655 continues former Fish and Game Code Section 8248 without
15 substantive change.

16 **§ 41660. Regulation and administrative procedures**

17 41660. (a) The commission and the department may make and enforce
18 regulations that may be necessary or convenient for carrying out any power,
19 authority, or jurisdiction delegated to it under this chapter.

20 (b) The department, in cooperation with the commercial salmon fishing review
21 board, shall establish and implement administrative procedures for the
22 administration of this chapter.

23 **Comment.** Subdivision (a) of Section 41660 continues former Fish and Game Code Section
24 8246.8 without substantive change.

25 Subdivision (b) continues former Fish and Game Code Section 8239.2 without substantive
26 change.

27 **§ 41665. Commercial take or possession on vessel**

28 41665. It is unlawful to take or possess salmon for a commercial purpose on a
29 vessel unless all of the following conditions are met:

30 (a) The vessel is registered with the department pursuant to Section 14755, and
31 the owner of the vessel has a valid commercial salmon vessel permit for the use of
32 that vessel.

33 (b) The permit for the use of the vessel is affixed to the vessel adjacent to the
34 department registration number unless otherwise authorized by the department.

35 (c) The permit affixed to the vessel is visible at all times.

36 **Comment.** Section 41665 continues former Fish and Game Code Section 8232 without
37 substantive change.

38 **§ 41670. Take for sport purposes**

39 41670. (a) Except as provided in this section, it is unlawful to take salmon for
40 sport purposes on a permitted vessel.

1 (b) Subdivision (a) does not prohibit taking salmon for sport purposes under a
2 sportfishing or a sport ocean fishing license, which is issued pursuant to Title 2
3 (commencing with Section 12850) of Part 5 of Division 6, on a vessel licensed as
4 a commercial passenger fishing boat pursuant to Section 21905 and engaged in
5 that business on any day when salmon are not being taken for commercial
6 purposes on that vessel.

7 (c) Subdivision (a) does not prohibit taking salmon for sport purposes under a
8 sportfishing or a sport ocean fishing license, which is issued pursuant to Title 2
9 (commencing with Section 12850) of Part 5 of Division 6, on a permitted vessel in
10 the Klamath Management Zone, as designated by the federal Pacific Fisheries
11 Management Council, when the commercial salmon season is closed and more
12 than 24 hours after the time when salmon taken during the commercial salmon
13 season are required to be landed.

14 (d) The use of a vessel pursuant to subdivision (c) shall be considered as being
15 engaged or employed exclusively in the taking and possession of fish or other
16 living resource of the sea for commercial purposes for purposes of subdivision (a)
17 of Section 227 of the Revenue and Taxation Code.

18 **Comment.** Section 41670 continues former Fish and Game Code Section 8232.5 without
19 substantive change.

20 **§ 41675. Conditions for issuance of any permit**

21 41675. The department shall not issue a permit under this chapter unless one of
22 the following first occurs:

23 (a) The applicant presents to the department a commercial fishing salmon stamp
24 issued to the owner or an agent of the owner. No commercial fishing salmon
25 stamp shall be presented or accepted by the department to authorize issuance of a
26 permit under this section for more than one vessel.

27 (b) The applicant obtains a commercial fishing salmon stamp and pays the fees
28 for the stamp.

29 (c) On or before April 1 of the current license year, the owner is 70 years of age.

30 **Comment.** Section 41675 continues former Fish and Game Code Section 8234(a) without
31 substantive change.

32 **§ 41680. Inapplicability of limited fishery eligibility provision**

33 41680. Section 22500 does not apply to this chapter.

34 **Comment.** Section 41680 continues former Fish and Game Code Section 8233.9 without
35 substantive change.

36 **§ 41685. Allowable number of permitted vessels**

37 41685. (a) If the department determines that the number of permitted vessels is
38 less than 2,500, the department shall determine, after consultation with the review
39 board, the number and vessel classification for which any new, original permits

1 may be issued to bring the total number of permitted vessels to no more than
2 2,500.

3 (b) New, original permits to be issued shall be authorized by vessel
4 classifications established under subdivision (a) of Section 41745.

5 *Comment.* Section 41685 continues former Fish and Game Code Section 8243 without
6 substantive change.

7 **§ 41690. New entry permit**

8 41690. A person seeking to gain entry into the commercial salmon fishery may
9 obtain a permit under either of the following conditions:

10 (a) By legally obtaining the ownership of a permitted vessel and notifying the
11 department of the change of ownership of the permitted vessel.

12 (b) By applying to obtain a new, original permit issued by the department
13 pursuant to Sections 41695 and 41700.

14 *Comment.* Section 41690 continues former Fish and Game Code Section 8242 without
15 substantive change.

16 **§ 41695. Application for new entry permit**

17 41695. (a) An applicant may apply for a new, original permit as an individual, a
18 joint venture, or a corporation. The applicant may submit only one application
19 annually. The application shall be made on a form provided by the department.

20 (b) An applicant for a new, original permit under this section shall submit a
21 completed application as directed by the department. The completed application,
22 and the application fees prescribed in subdivision (c), shall be delivered or
23 postmarked on or before February 1 in order to be considered for permits for the
24 subsequent permit year.

25 (c) The applicant shall submit with the application a nonrefundable application
26 fee determined by the department in an amount sufficient to pay the costs of
27 administering the issuance of new, original permits by the department, which shall
28 be not less than thirty-five dollars (\$35).

29 (d) The department, after consultation with the review board, shall determine the
30 fishing potential of the vessel for use of which the new, original permit is to be
31 issued and otherwise determine if the applicant is eligible to be issued a permit
32 under this chapter.

33 *Comment.* Section 41695 continues former Fish and Game Code Section 8244 without
34 substantive change.

35 **§ 41700. Drawing for new entry permits**

36 41700. (a) The department shall conduct a drawing from the applicants
37 determined to be eligible for new, original permits pursuant to Section 41695 on
38 the first Friday in March of each year that new, original permits are authorized to
39 be issued pursuant to Section 41685.

1 (b) The department shall issue a permit to each of those applicants who are
2 drawn upon payment of the fees prescribed in subdivision (c) for the permit and,
3 except as provided in subdivision (e), submittal of sufficient information to
4 establish that the applicant is the owner of a vessel within the vessel classification
5 designated in the application.

6 (c) The amount of the fees for a permit issued under this section are the same as
7 the amount of the fees for renewal of a permit for the subsequent license year
8 beginning on April 1 which are established pursuant to subdivision (b) of Section
9 41725. A successful applicant shall pay the fees for the permit on or before March
10 31. The department shall deposit the fees to the fund pursuant to Section 3600.

11 (d) Except as provided in subdivision (e), a successful applicant shall submit
12 proof of ownership of the vessel to be used under the permit within 90 days of the
13 drawing.

14 (e) A successful applicant may request one extension of no more than 90 days to
15 obtain a vessel as designated in the application. The department, after consultation
16 with the review board, may grant that extension.

17 (f) If any successful applicant does not establish that he or she is the owner of a
18 vessel as designated in the application and affix the new permit on that vessel or
19 on another vessel with the same or less fishing potential, as determined by the
20 department after consultation with the board, within 90 days or by the end of a 90
21 day extension granted by the department, the new permit is null and void.

22 (g) The department or the review board is not liable for any risk of failure by the
23 applicant to obtain a vessel which is designated in an application or to complete
24 the process for determination of the fishing potential of another vessel, or for
25 failure by the applicant to obtain that other vessel, in the time prescribed in this
26 section.

27 **Comment.** Section 41700 continues former Fish and Game Code Section 8245 without
28 substantive change.

29 **§ 41705. Review of new entry provisions**

30 41705. The review board shall review the effectiveness of new entry provisions
31 every three years beginning three years following the first permit drawing and
32 make recommendations to the department for any changes it finds to be needed in
33 the new entry system.

34 **Comment.** Section 41705 continues former Fish and Game Code Section 8245.5 without
35 substantive change.

36 **§ 41710. Issuance of new entry permit**

37 41710. Except as otherwise provided in this chapter, the department shall issue a
38 permit to the owner of a commercial salmon fishing vessel that is registered with
39 the department pursuant to Section 14755 for the new entry of that vessel into the
40 commercial salmon fishery, if that owner is authorized to be issued a permit for
41 the use of that new entry vessel pursuant to subdivision (b) of Section 41700.

1 **Comment.** Section 41710 continues former Fish and Game Code Section 8233.8 without
2 substantive change.

3 **§ 41715. Renewal required prior to expiration**

4 41715. Except as otherwise provided in this chapter, a permit shall be renewed
5 prior to expiration.

6 **Comment.** Section 41715 continues the first sentence of former Fish and Game Code Section
7 8233 without substantive change.

8 **§ 41720. Department to send renewal notice and application**

9 41720. (a) The department shall send a written notice of renewal and a permit
10 renewal application to the owner of each currently permitted vessel at the most
11 recent address of that owner in the records of the department. The notice shall be
12 sent by first-class mail before March 1. The department shall mail a copy of the
13 notice for renewal to all associations and groups known to the department to be
14 representing commercial salmon fishermen. The department shall also provide
15 blank permit renewal applications at appropriate offices of the department.

16 (b) The notice shall include all of the following:

17 (1) Instructions on how to apply for renewal of a permit.

18 (2) Information on the provisions of subdivisions (c) and (e) of Section 41725.

19 (c) Failure to receive the notice under this section does not exempt or excuse the
20 owner from the requirement of annual renewal of the permit on or before the
21 permit expiration date.

22 **Comment.** Section 41720 continues former Fish and Game Code Section 8236 without
23 substantive change.

24 **§ 41725. Renewal of permit**

25 41725. (a) The owner of a permitted vessel, or that owner's agent, may apply for
26 renewal of the permit annually on or before April 30, upon payment of the fees
27 established under subdivision (b), without penalty. Upon receipt of the application
28 and fees, the department shall issue the permit for use of the permitted vessel in
29 the subsequent permit year only to the owner of the permitted vessel.

30 (b) The department shall fix the annual fee for the renewal of the permit in an
31 amount it determines to be necessary to pay the reasonable costs of implementing
32 and administering this chapter.

33 (c) If an owner to whom a permit has been issued, or that owner's agent, applies
34 for renewal of the permit, the application for renewal shall be received or, if
35 mailed, postmarked, on or before April 30. An application received or, if mailed,
36 postmarked, after April 30 shall be assessed a late fee subject to Section 14605.
37 The department shall issue the permit for use of the permitted vessel in the
38 subsequent permit year.

39 (d) The department shall suspend a late fee otherwise due under subdivision (c)
40 and shall issue a permit for use of the permitted vessel in the subsequent permit

1 year if the department is unable to accept applications for renewal of permits by
2 March 1.

3 (e) Except as provided in subdivision (c), the department shall not renew a
4 permit for which the application for renewal is not received, or, if mailed, is
5 received or postmarked after expiration of the permit.

6 **Comment.** Section 41725 continues former Fish and Game Code Section 8235 without
7 substantive change.

8 **§ 41730. Issuance of permit after renewal**

9 41730. Except as otherwise provided in this chapter, the department shall issue a
10 permit, upon application and payment of the renewal fees pursuant to Section
11 41725, that is valid for the subsequent permit year, to the owner of a permitted
12 vessel that is registered with the department pursuant to Section 14755.

13 **Comment.** Section 41730 continues former Fish and Game Code Section 8233.3 without
14 substantive change.

15 **§ 41735. Change of ownership of vessel**

16 41735. (a) Except as otherwise provided in this chapter, the department shall
17 change the designation of the holder of a permit to the new owner of a permitted
18 vessel upon receipt of a notice of change of ownership of the permitted vessel,
19 whether the change of ownership is by contract, by operation of law, or otherwise.

20 (b) The permit shall not be transferred to any other vessel, except by the
21 issuance of a permit for use of the replacement vessel pursuant to subdivision (c)
22 subdivision (b) of Section 41660, and Sections 41740, 41750, 41755, and 41765.

23 (c) The owner of the permitted vessel may seek to retire the permitted vessel
24 from the commercial salmon fishery and apply for transfer of the permit, to be
25 issued pursuant to subdivision (j) of Section 41740, for use of a replacement
26 vessel.

27 (d) A permit changed pursuant to this section is valid for the permit year during
28 which it is issued.

29 (e) Upon change of the designation of the holder of the permit, all rights,
30 privileges, and obligations of a permit holder, including rights of renewal, are
31 transferred to the new owner of the permitted vessel.

32 **Comment.** Section 41735 combines and restates former Fish and Game Code Sections 8233.5
33 and 8237 without substantive change.

34  **Note.** Proposed Section 41735 is intended to combine and restate existing Fish and Game
35 Code Sections 8233.5 and 8237 to improve their clarity, without changing their substantive effect.
36 The existing provisions read as follows:

37 8233.5. Except as otherwise provided in this article, the department shall change the
38 designation of the holder of a permit, and with it shall go all rights, privileges, and obligations of
39 a permit holder, including rights of renewal, upon receipt of a notice of change of ownership to a
40 new owner of a permitted vessel upon change of ownership in the permitted vessel. A permit
41 changed pursuant to this section is valid for the permit year during which it is issued.

1 8237. (a) The department shall change the designation of the holder of a permit to the new
2 owner of a permitted vessel upon change of ownership of the permitted vessel, whether the
3 change of ownership is by contract, by operation of law, or otherwise.

4 (b) The permit shall not be transferred to any other vessel, except by the issuance of a permit
5 for use of the replacement vessel pursuant to subdivision (c) and Sections 8239 to 8241,
6 inclusive.

7 (c) The owner of the permitted vessel may seek to retire the permitted vessel from the
8 commercial salmon fishery and apply for transfer of the permit, to be issued pursuant to Section
9 8241, for use of a replacement vessel.

10 **The Commission invites comment on whether the proposed combining and restatement**
11 **would cause any substantive change in the meaning of the provisions.**

12 **§ 41740. Replacement vessel permit**

13 41740. A transfer may be approved and a permit issued for use of a replacement
14 vessel pursuant to subdivision (j) of Section 41740 under all of the following
15 conditions:

16 (a) The vessel owner submits a written request for the transfer to the department
17 on a form provided by the department and pays a nonrefundable transfer fee of
18 two hundred dollars (\$200).

19 (b) The permit for the permitted vessel is current, and the owner of the permitted
20 vessel makes assurances in the application that any renewal of the permit which
21 becomes due during the application processing period will be made.

22 (c) The owner of the permitted vessel submits evidence with the application
23 sufficient to establish that he or she is the owner of the permitted vessel at the time
24 of the application for the transfer.

25 (d) The vessel owner submits evidence with the application sufficient, in the
26 judgment of the review board and the department, to establish that the replacement
27 vessel has the same fishing potential as, or less fishing potential than, the
28 permitted vessel.

29 (e) Under penalty of perjury, the vessel owner signs the application for transfer
30 and certifies that the included information is true to the best of his or her
31 information and belief.

32 (f) The same transfer has not been requested within the previous 12 months or
33 the same transfer has not previously been denied and that denial is final, unless the
34 application or supporting information are different than that contained in the
35 previous application, as determined by the department and after consultation with
36 the review board.

37 (g) The permittee has 50 percent or greater ownership interest in the permitted
38 vessel and in the replacement vessel. For purposes of this subdivision and
39 subdivision (h), “permittee” means an individual designated as the owner of the
40 permitted vessel.

41 (h) Except as provided in subdivisions (a) through (c) of Section 41755, or
42 paragraph (5) of subdivision (a) of Section 41780, the permittee has maintained a
43 50 percent or greater ownership interest in the permitted vessel for not less than 18

1 months prior to the date of the transfer and the permit for use of the permitted
2 vessel has been maintained for that vessel and has not been previously transferred
3 less than 18 months prior to the date of the transfer.

4 (i) The permittee has written authority from the legal owner, if other than the
5 permittee or mortgager, if any, to transfer the vessel permit from the permitted
6 vessel.

7 (j) The department determines, after consultation with the review board, the
8 following:

9 (1) The replacement vessel has the same fishing potential as, or less fishing
10 potential than, the permitted vessel. The review board and the department shall
11 consider the type of fishery the vessel was previously used in and the vessel's
12 highest and best use by a prudent operator, and the review board shall make
13 written findings on those facts.

14 (2) The replacement vessel's fishing potential will not substantially increase
15 fishing capacity over that which resulted from the operation of the permitted
16 vessel.

17 (3) The applicant owns the replacement vessel.

18 (4) The conditions in this chapter are satisfied.

19 **Comment.** Subdivisions (a) through (i) of Section 41740 continue former Fish and Game Code
20 Section 8239 without substantive change.

21 Subdivision (j) continues former Fish and Game Code Section 8241 without substantive
22 change.

23 **§ 41745. Fishing potential classification system for replacement vessels**

24 41745. (a) The department, in consultation with the review board, shall establish
25 and adopt, in the manner prescribed in former Fish and Game Code Section
26 8238.3, a vessel classification system to determine the fishing potential of
27 replacement vessels for applications for transferred permits to be issued pursuant
28 to subdivision (j) of Section 41740, including consideration of how the vessel
29 from which the permit is sought to be transferred was used, the vessel's highest
30 and best use by a prudent operator, and the fishing potential of prospective vessels
31 for applications for new, original permits.

32 (b) The vessel classification system shall be used by the department in
33 consultation with the review board for issuance of new original vessel permits
34 pursuant to Section 41685 and as a guideline for the review board in making its
35 recommendations to the department on vessel permit transfers.

36 **Comment.** Subdivision (a) of Section 41745 continues former Fish and Game Code Section
37 8238 without substantive change.

38 Subdivision (b) continues former Fish and Game Code Section 8238.1 without substantive
39 change.

40  **Note.** Existing Fish and Game Code Section 8238 requires the Department of Fish and
41 Wildlife, on or before January 1, 1991, to establish and adopt a specified vessel classification
42 system "in the manner prescribed in Section 8238.3." However, Section 8238.3 was repealed by
43 its own terms in 1988, operative January 1, 1992. See 1988 Cal. Stat. ch. 1164

1 **The Commission invites comment on how this part of Section 8238 should be continued in**
2 **proposed Section 41745.**

3 **§ 41750. Request for review of vessel before submission of transfer application**

4 41750. Notwithstanding subdivisions (a) through (i) of Section 41740,
5 subdivisions (a) through (c) of Section 41755, or subdivision (b) of Section 41660,
6 any person may request the review board to determine the fishing potential of any
7 permitted vessel or any replacement vessel before a transfer application for a
8 permit for use of a replacement vessel is submitted to the department. The person
9 making a request under this subdivision is not required to be the owner of either
10 vessel. A determination under this subdivision is not binding on the review board
11 or the department and is only advisory.

12 **Comment.** Section 41750 continues former Fish and Game Code Section 8239.9 without
13 substantive change.

14 **§ 41755. Transfer application based on lost, stolen, or destroyed vessel**

15 41755. (a) Unless otherwise prohibited, the department shall accept a transfer
16 application within one year after the date that a permitted vessel was lost, stolen,
17 or destroyed, notwithstanding any inability to physically examine the permitted
18 vessel to determine its salmon fishing potential. Only the permittee at the time of
19 the loss, theft, or destruction of the vessel may apply for the transfer of the vessel
20 permit. Proof that a vessel is lost, stolen, or destroyed shall be in the form of a
21 copy of the report filed with the United States Coast Guard or any other law
22 enforcement agency or fire department investigating the loss.

23 (b) The owner, or the owner's agent, may request an extension of the time to
24 complete a transfer under subdivision (a) if the application for extension is
25 submitted before the end of the time to submit an application under subdivision
26 (a), or before the end of any previous extensions granted under this subdivision,
27 whichever date is later.

28 (c) The department, after consultation with the review board and for good cause
29 shown, including, but not limited to, inability to find a replacement vessel or
30 pending litigation, may grant an extension of the time to complete a transfer under
31 subdivision (a) for a period of six months. The department may grant further
32 extensions under this subdivision, not to exceed a total time period of five years
33 after the date the permitted vessel was lost, stolen, or destroyed if the permit fees
34 are paid annually as required in paragraph (2) of subdivision (b) of former Fish
35 and Game Code Section 8239, as amended by Chapter 1703 of the Statutes of
36 1990, and paragraph (3) of subdivision (d) of Section 41755.

37 (d) Notwithstanding any other provision of this section, the department shall not
38 issue a permit for use of a replacement vessel if any of the following
39 circumstances exist:

40 (1) The permitted vessel was reported as lost, stolen, or destroyed by fraudulent
41 means, or for fraudulent purposes.

1 (2) The permit application contains or is accompanied with fraudulent or
2 willfully misleading information.

3 (3) The permit for the permitted vessel expires and is not renewed. Except as
4 provided in Section 41725, an owner of a permitted vessel shall renew the permit
5 before the expiration date even if that owner has a transfer application pending.

6 (e) The department may refuse to issue a permit for use of a replacement vessel,
7 or issue a permit to a new owner of a permitted vessel, on any grounds for which a
8 permit may be suspended or revoked.

9 **Comment.** Subdivisions (a) through (c) of Section 41755 continue former Fish and Game
10 Code Section 8239.1 without substantive change.

11 Subdivisions (d) and (e) continue former Fish and Game Code Section 8240 without
12 substantive change.

13  **Note.** Existing Fish and Game Code Section 8239.1(b)(2) (which would be continued by
14 proposed Section 41755(c)) refers to permit fees being paid annually “as required in paragraph
15 (2) of subdivision (b) of Section 8239.” However, that paragraph was in a version of Section 8239
16 that was repealed by its own terms, operative January 1, 1992, in 1990. See 1990 Cal. Stat. ch.
17 1703.

18 **The Commission invites comment on how this part of Section 8239.1 should be continued**
19 **in proposed Section 41755.**

20 **§ 41760. Issuance of replacement vessel permit**

21 41760. Except as otherwise provided in this chapter, the department shall issue a
22 permit, upon payment of the transfer fees pursuant to subdivision (a) of Section
23 41740 and surrender to the department of the permit for the use of the permitted
24 vessel, to the owner of a replacement vessel that is registered with the department
25 pursuant to Section 14755, if the transfer has been approved pursuant to
26 subdivision (j) of Section 41740.

27 **Comment.** Section 41760 continues former Fish and Game Code Section 8233.4 without
28 substantive change.

29 **§ 41765. Term of permit for replacement vehicle**

30 41765. A permit issued for the use of a replacement vessel under subdivision (j)
31 of Section 41740 is valid for the balance of the permit year for which the permit
32 for the use of the permitted vessel was originally issued or last renewed, and the
33 permit issued under this section authorizes the use of the replacement vessel only
34 for that period.

35 **Comment.** Section 41765 continues former Fish and Game Code Section 8239.6 without
36 substantive change.

37 **§ 41775. Appeal of denial or permit transfer**

38 41775. A person who has been denied a permit transfer may appeal the denial to
39 the commission by submitting the appeal in writing to the commission within 60
40 days of the decision.

41 **Comment.** Section 41775 continues former Fish and Game Code Section 8246.6, as it
42 pertained to transfer, without substantive change.

1 **§ 41780. Reversal of denial of permit renewal or transfer**

2 41780. (a) The commission shall order a permit renewed or order the approval
3 of a permit transfer only if it finds one of the following grounds:

4 (1) The permittee failed to submit an application and pay the fees for renewal on
5 or before April 30 pursuant to Section 41725 and the failure to renew a permit
6 until after the expiration date was due to death, physical illness, mental incapacity,
7 or being called to active military duty, and the person was not reasonably able to
8 have an agent renew the permit.

9 (2) A lienholder of a permitted vessel, if the vessel is the property of the
10 lienholder as a result of foreclosure, surrender, or litigation, can show loss due to
11 the nonrenewal of a permit by the permittee, and the nonrenewal occurred without
12 the knowledge of the lienholder.

13 (3) The denial of the permit transfer was arbitrary or capricious.

14 (4) The denial of the permit transfer was pursuant to subdivision (g) or (h) of
15 Section 41740 and the applicant can show that the 18-month requirement cannot
16 be met due to death, physical illness, mental incapacity, or being called to active
17 military duty.

18 (b) Each appeal shall be heard and considered separately on its own merits.

19 **Comment.** Section 41780 continues former Fish and Game Code Section 8246.7, as it
20 pertained to renewal or transfer, without substantive change.

21 **§ 41795. Display of permit expiration date**

22 41795. Each permit issued by the department shall display the expiration date on
23 the face of the permit.

24 **Comment.** Section 41795 continues the second sentence of former Fish and Game Code
25 Section 8233 without substantive change.

26 **§ 41800. Commercial fishing salmon stamp**

27 41800. The first commercial fishing salmon stamp issued to an owner, or to that
28 owner's agent, shall be affixed to the commercial fishing license of that owner or
29 agent. Any additional commercial fishing salmon stamps issued to the owner or
30 the owner's agent pursuant to subdivision (a) of Section 41675 for purposes of
31 obtaining permits for use of additional commercial salmon fishing vessels shall be
32 affixed to each additional vessel's registration issued pursuant to Section 14755.

33 **Comment.** Section 41800 continues former Fish and Game Code Section 8234(b) without
34 substantive change.

35 Article 2. Commercial Salmon Fishing Review Board

36 **§ 41900. Creation of board**

37 41900. There is in the department a commercial salmon fishing review board,
38 which consists of five voting members appointed by the director.

1 **Comment.** Section 41900 continues the first sentence of former Fish and Game Code Section
2 8247 without substantive change.

3 ☞ **Note.** Existing Section 8247.3, a transitional provision, is deleted as obsolete. **The**
4 **Commission invites public comment on whether that deletion would be problematic.**

5 **§ 41905. Legislative declaration**

6 41905. The Legislature declares that individuals appointed as members of the
7 review board shall be chosen from the commercial salmon fishing industry in
8 order to represent and further the interest of the industry and commercial salmon
9 fishing vessel owners, and this representation serves the general public interest.

10 **Comment.** Section 41905 continues former Fish and Game Code Section 8247.5(a) without
11 substantive change.

12 **§ 41910. Adoption of regulations by director**

13 41910. The director may adopt standards and criteria by regulation that shall be
14 applied by the review board in carrying out its activities under this chapter.

15 **Comment.** Section 41910 continues former Fish and Game Code Section 8247.7 without
16 substantive change.

17 **§ 41915. Composition of board**

18 41915. (a) Three of the voting members of the review board shall be owners of
19 permitted vessels appointed by the director from lists submitted by associations or
20 groups representing commercial salmon fishing vessel owners.

21 (b) Two of the voting members of the review board shall be owners of permitted
22 vessels appointed by the director from lists submitted by individual commercial
23 salmon fishing vessel owners.

24 (c) Any voting member of the review board may appoint an alternate member to
25 represent him or her at any meeting of the review board. The director may, within
26 60 days of the appointment, refuse an alternate member. The alternate shall serve
27 at the pleasure of the member who appointed him or her and shall have all the
28 powers and duties of a member of the commercial salmon fishing review board,
29 except that the alternate shall only participate and vote in meetings in the absence
30 of the member who appointed him or her.

31 **Comment.** Section 41915 continues former Fish and Game Code Section 8247.1 without
32 substantive change.

33 **§ 41920. Exemption of board members**

34 41920. Each member of the review board is exempt from Section 87100 of the
35 Government Code, unless the result of his or her actions taken as board members
36 has a material financial effect on him or her distinguishable from its effect on
37 other members of the commercial salmon fishing industry generally.

38 **Comment.** Section 41920 former Fish and Game Code Section 8247.5(b) without substantive
39 change.

1 **§ 41925. Member terms**

2 41925. The terms of the members of the review board shall be for staggered four
3 year terms.

4 **Comment.** Section 41925 continues the first sentence of former Fish and Game Code Section
5 8247.2 without substantive change.

6 **§ 41930. Removal of board member**

7 41930. The director may remove a member of the review board for cause.

8 **Comment.** Section 41930 continues the third sentence of former Fish and Game Code Section
9 8247 without substantive change.

10 **§ 41935. Member compensation**

11 41935. (a) Necessary and proper expenses shall be paid to review board
12 members.

13 (b) Each member, or any alternate member participating on behalf of a regular
14 member in that member's absence, shall receive one hundred dollars (\$100) per
15 day, for each day of attendance and participation in meetings of the review board.

16 **Comment.** Section 41935 continues the second and third sentences of former Fish and Game
17 Code Section 8247.2 without substantive change.

18 **§ 41940. Meeting attendance by director or designee**

19 41940. The director or a designee of the director shall attend meetings of the
20 review board as a nonvoting member.

21 **Comment.** Section 41940 continues the second sentence of former Fish and Game Code
22 Section 8247 without substantive change.

23 **§ 41945. Function of board**

24 41945. (a) The review board shall function as an advisory body to the
25 department regarding implementation of the provisions of this chapter.

26 (b) The review board shall act by a majority vote of the members present and
27 voting. The review board shall not act unless there is a quorum of the voting
28 members, including alternate members in the absence of their appointing
29 members, and the director or his or her designee if present.

30 **Comment.** Section 41945 continues former Fish and Game Code Section 8247.4 without
31 substantive change.

32 **§ 41950. Duties of review board**

33 41950. The review board shall do all of the following:

34 (a) Consider and make recommendations to the department on requests for
35 permit transfers.

36 (b) Recommend to the department, the number and classification of new vessel
37 permits to be issued annually, if any, pursuant to Section 41685.

38 (c) Consult with and advise the commission as required by Sections 4910, 4916,
39 and 41790.

1 (d) Consult with the department and advise on the establishment of the vessel
2 classification system pursuant to subdivision (a) of Section 41745.

3 **Comment.** Section 41950 continues former Fish and Game Code Section 8247.8 without
4 substantive change.

5 **§ 41955. Obligation of board members**

6 41955. Members and alternate members of the review board shall act in the best
7 interest of the state, the department, and the commercial salmon fishing industry.
8 As members of the review board, no member or alternate member shall take any
9 action, because of his or her position, that results in a direct material effect on any
10 of them, distinguishable from its effect on other members of the commercial
11 salmon fishing industry.

12 **Comment.** Section 41955 continues former Fish and Game Code Section 8247.6 without
13 substantive change.

14 CHAPTER 6. SALMON MANAGEMENT

15 **§ 42050. Department consultation**

16 42050. (a) The department shall consult with the advisory committee and
17 representatives of every user group known to the department on the progress being
18 made in the development of the annual and long-term salmon management plans.

19 (b) For purposes of this section, “advisory committee” means the Advisory
20 Committee on Salmon and Steelhead Trout, established pursuant to Resolution
21 Chapter 141 of the Statutes of 1983, except that there shall be two additional
22 members appointed by the Joint Committee on Fisheries and Aquaculture after
23 consultation with the Director of Fish and Game and the Fish and Game
24 Commission.

25 **Comment.** Subdivision (a) of Section 42050 continues former Fish and Game Code Section
26 7662 without substantive change.

27 Subdivision (b) continues former Fish and Game Code Section 7660 without substantive
28 change.

29 CHAPTER 7. MISCELLANEOUS PROVISIONS

30 **§ 42100. Take from commercial passenger fishing boat**

31 42100. (a) If a commercial passenger fishing boat is used to take salmon or has
32 salmon aboard, in ocean waters north of Point Arguello, there shall be on board
33 that vessel a total number of commercial fishing salmon stamps sufficient to have
34 at least one for the operator and one for each crewmember required by United
35 States Coast Guard regulations, excepting an operator or a crewmember who is
36 exempt from the commercial fishing salmon stamp requirement of subdivision (b)
37 of Section 41355. The commercial fishing salmon stamps shall be affixed to either
38 the commercial fishing licenses of the operator and the crewmembers or, pursuant
39 to subdivision (b), to the commercial passenger fishing license. No person shall

1 operate, or cause to be operated, a commercial passenger fishing boat in violation
2 of this subdivision. Vessels permitted as commercial salmon fishing vessels
3 pursuant to Section 41675 are exempt from the requirements of this subdivision.

4 (b) Notwithstanding Section 2930, the department may issue to the owner or
5 operator of a vessel licensed pursuant to this chapter, upon application and
6 payment of the fees prescribed in subdivision (c) of Section 41355, one
7 commercial fishing salmon stamp for the operator and not more than one
8 additional commercial salmon stamp for each crewmember required by the United
9 States Coast Guard regulations. The commercial fishing salmon stamps issued
10 under this subdivision shall be affixed to the vessel's commercial passenger
11 fishing boat license issued pursuant to this chapter.

12 **Comment.** Section 42100 continues former Fish and Game Code Section 7925 without
13 substantive change.

14 **Notes.** (1) Existing Fish and Game Code Section 7925(a) (which would be continued by
15 proposed Section 42100(a)) requires there to be on board a described vessel commercial fishing
16 salmon stamps sufficient for the operator and each crewmember, excepting an operator or a
17 crewmember who is exempt from the similar requirement stated in "subdivision (b) of Section
18 7860." However, the reference to "subdivision (b) of Section 7860" is ambiguous, as that
19 subdivision cross-references other subdivisions in Section 7860 that also contain exemptions
20 from the commercial fishing salmon stamp requirement:

21 (b) Except as provided in subdivision (f) or (g), the operator of a vessel on which salmon are
22 taken for commercial purposes shall not permit a person on board that vessel while salmon are
23 being taken or transported unless that person was less than 18 years of age or 70 years of age or
24 more on April 1 of the current license year or that person has a commercial fishing salmon stamp
25 affixed to the person's commercial fishing license.

26

27 (f) Notwithstanding subdivision (a), one crewmember of a vessel for which a commercial
28 fishing salmon stamp is issued pursuant to subdivision (e) may be aboard that vessel and take
29 salmon for commercial purposes as a crewmember on that vessel without obtaining a commercial
30 fishing salmon stamp under the following conditions:

31 (1) The crewmember is designated by name and commercial fishing license number on a form
32 furnished by the department before salmon are taken on the vessel when that crewmember is
33 aboard.

34 (2) The crewmember has a valid commercial fishing license issued under Section 7850.

35 (3) The commercial fishing salmon stamp for the crewmember is affixed to the form prescribed
36 in paragraph (1) on which the vessel registration number of the vessel is entered and on which the
37 crewmember who is exempted by this subdivision is designated by the last entered name and
38 commercial fishing license number.

39 (g) Persons who are exempt from the license requirements, or who are not required to be
40 licensed, pursuant to Section 7850, are exempt from the requirements of this section.

41 The Commission reads the exemption in existing Section 7925(a) as intended to apply to all
42 persons exempted from the stamp requirement under any subdivision of Section 7860, and
43 proposed Section 42100(a) would therefore revise the exemption in existing Section 7925(a) to
44 refer to operators and crewmembers exempted from the commercial fishing salmon stamp
45 requirement of "Section 7860."

46 **The Commission invites comment on whether this revision changes the intended meaning
47 of existing Section 7925.**

48 (2) Existing Section 7149.05(a)(4) cross-refers to existing Section 1053 of the existing code, a
49 section that was repealed by 2015 Cal. Stat. ch. 683. Section 1053 generally prohibited obtaining

1 more than one paper hunting license – a form of license that is now obsolete – for the same
2 license year, except under specified conditions. As a substantially similar prohibition applicable
3 to electronic hunting licenses appears in existing Section 1053.1, proposed Section 42100 cross-
4 refers to the section of the proposed law that continues existing Section 1053.1.

5 **The Commission seeks comment on whether that revision is appropriate.**

6 **§ 42110. Missing adipose fin**

7 42110. (a) Notwithstanding any measurement requirements under this code, and
8 to implement the department’s salmon tagging program, any person in possession
9 of a salmon with a missing adipose fin, the small, fleshy fin on the back of the fish
10 between the back fin and the tail, upon request by an authorized agent or employee
11 of the department, shall immediately relinquish the head of the salmon to the state,
12 at no charge, for recovery of any coded-wire tag. The head may be removed by the
13 fish owner or, if removed by the official department representative, the head shall
14 be removed in a manner to minimize loss of salmon flesh and the salmon shall
15 immediately be returned to the rightful owner.

16 (b) It is unlawful to intentionally conceal, cull, or release into the waters, a
17 salmon with a missing adipose fin that is otherwise legal to possess.

18 **Comment.** Section 42110 continues former Fish and Game Code Section 8226 without
19 substantive change.

20 **PART 18. SARDINES**

21 **TITLE 1. SARDINES GENERALLY**

22 **§ 42200. Provisions not exclusive**

23 42200. The provisions of this part are not intended to be exclusive. Other
24 provisions that govern sardines include, but are not limited to, the following
25 provisions:

26 (a) Section 15915.

27 (b) Section 16475.

28 (c) Section 20710.

29 (d) Section 21015.

30 (e) Section 21615.

31 (f) Section 21810.

32 (g) Section 58630.

33 **Comment.** Section 42200 is new. It is added for drafting convenience.

1 TITLE 2. COMMERCIAL PROVISIONS

2 CHAPTER 1. GENERAL PROVISIONS

3 § 42250. Application of title

4 42250. For purposes of Section 37805, the provisions in this title are commercial
5 provisions.

6 **Comment.** Section 42250 is new. It is added for drafting convenience.

7 § 42255. Declaration of legislative intent

8 42255. It is the intent of the Legislature that the sardine resource be managed
9 with the objective of maximizing the sustained harvest.

10 **Comment.** Section 42255 continues the first sentence of former Fish and Game Code Section
11 8150.7 without substantive change.

12 § 42260. Conformity with federal fishery regulations

13 42260. The department shall manage the sardine resource in conformance with
14 the federal fishery regulations as recommended by the Pacific Fishery
15 Management Council and as adopted by the Secretary of Commerce.

16 **Comment.** Section 42260 continues the second sentence of former Fish and Game Code
17 Section 8150.7 without substantive change.

18 § 42265. Take or possession

19 42265. (a) Sardines may not be taken or possessed on any boat, barge, or vessel
20 except pursuant to Sections 42255 and 42560.

21 (b) This section does not prohibit the possession or use of sardines imported into
22 this state under a bill of lading identifying the country of origin.

23 (c) Imported sardines may be used for dead bait under regulations adopted by
24 the commission.

25 **Comment.** Section 42265 continues former Fish and Game Code Section 8150.5 without
26 substantive change.

27 See also Section 5720 (enforcement).

28 CHAPTER 2. MISCELLANEOUS PROVISIONS

29 § 42350. Compliance with use stated on landing receipt

30 42350. No person shall receive, possess, or sell sardines for any purpose except
31 for that purpose specified on the fish receipt completed at the time of landing of
32 those sardines pursuant to Section 21005.

33 **Comment.** Section 42350 continues former Fish and Game Code Section 8154 without
34 substantive change.

35 See also Section 4900 (enforcement).

1 PART 19. SHAD

2 TITLE 1. SHAD GENERALLY

3 § 42450. Provisions not exclusive

4 42450. The provisions of this part are not intended to be exclusive. Other
5 provisions that govern shad include, but are not limited to, the following
6 provisions:

7 (a) Section 13900.

8 (b) Section 20100.

9 (c) Section 15540.

10 **Comment.** Section 42450 is new. It is added for drafting convenience.

11 § 42455. Importation of shad

12 42455. (a) Shad legally taken in another state that permits the sale of that fish
13 may be imported into this state under regulations of the commission.

14 (b) Before the commission adopts any regulation pursuant to this section, a
15 public hearing shall be held in the San Francisco or Sacramento area.

16 **Comment.** Section 42455 continues the part of former Fish and Game Code Section 2363
17 applicable to shad without substantive change.

18 TITLE 2. COMMERCIAL PROVISIONS

19 § 42500. Application of title

20 42500. For purposes of Section 37805, the provisions in this title are commercial
21 provisions.

22 **Comment.** Section 42500 is new. It is added for drafting convenience.

23 § 42505. Take with purse or round haul net

24 42505. Shad may not be taken with a purse or round haul net.

25 **Comment.** Section 42505 continues the part of former Fish and Game Code Section 8756
26 applicable to shad without substantive change.

27 PART 20. SHARKS

28 TITLE 1. SHARKS GENERALLY

29 § 42600. Provisions not exclusive

30 42600. The provisions of this part are not intended to be exclusive. Other
31 provisions that govern sharks include, but are not limited to, the following
32 provisions:

33 (a) Section 12165.

- 1 (b) Section 17005.
- 2 (c) Section 18815.
- 3 (d) Section 18820.
- 4 (e) Section 18825.
- 5 (f) Chapter 6 (commencing with Section 18300) of Title 4 of Part 6 of Division
- 6 6.
- 7 (g) Section 19810.
- 8 (h) Section 20710.
- 9 (i) Section 20720.
- 10 (j) Section 21360.
- 11 (k) Section 40115.
- 12 (l) Section 43655.
- 13 **Comment.** Section 42600 is new. It is added for drafting convenience.

14 **§ 42605. Take generally**

15 42605. It is unlawful to take any white shark (*Carcharodon carcharias*), except
16 under permits issued pursuant to Section 9200 for scientific or educational
17 purposes.

18 **Comment.** Section 42605 continues former Fish and Game Code Section 5517 without
19 substantive change.

20 **§ 42610. Shark fins**

21 42610. (a) As used in this section, “shark fin” means the raw, dried, or otherwise
22 processed detached fin, or the raw, dried, or otherwise processed detached tail, of
23 an elasmobranch.

24 (b) Except as otherwise provided in this section, it shall be unlawful for any
25 person to possess, sell, offer for sale, trade, or distribute a shark fin.

26 (c) Any person who holds a license or permit pursuant to Section 9200 may
27 possess a shark fin or fins consistent with that license or permit.

28 (d) Any person who holds a license or permit issued by the department to take or
29 land sharks for recreational or commercial purposes may possess a shark fin or
30 fins consistent with that license or permit.

31 (e) Any person who holds a license or permit issued by the department to take or
32 land sharks for recreational or commercial purposes may possess, including for
33 purposes of consumption or taxidermy, or may donate to a person licensed or
34 permitted pursuant to Section 9200, a shark fin or fins consistent with that license
35 or permit.

36 (f) Nothing in this section prohibits the sale or possession of a shark carcass,
37 skin, or fin for taxidermy purposes pursuant to Section 10830.

38 **Comment.** Subdivisions (a) through (d) of Section 42610 continue former Fish and Game
39 Code Section 2021 without substantive change. Subdivision (e) of former Fish and Game Code
40 Section 2021 is obsolete and is not continued.

1 Subdivisions (e) and (f) continue former Fish and Game Code Section 2021.5(a) without
2 substantive change. Subdivision (a)(2) of former Fish and Game Code Section 2021.5 is obsolete
3 and is not continued.

4 **§ 42615. Report by Ocean Protection Council**

5 42615. (a) The Ocean Protection Council shall submit an annual report to the
6 Legislature that lists any shark species that have been independently certified to
7 meet internationally accepted standards for sustainable seafood, as defined in
8 Section 35550 of the Public Resources Code, and adopted by the Ocean Protection
9 Council pursuant to Section 35617 of the Public Resources Code, including chain
10 of custody standards.

11 (b) The report required by subdivision (a) shall be submitted in compliance with
12 Section 9795 of the Government Code.

13 **Comment.** Section 42615 continues former Fish and Game Code Section 2021.5(b) without
14 substantive change.

15 **TITLE 2. COMMERCIAL PROVISIONS**

16 **CHAPTER 1. PRELIMINARY PROVISIONS**

17 **§ 42700. Application of title**

18 42700. For purposes of Section 37805, the provisions in this title are commercial
19 provisions.

20 **Comment.** Section 42700 is new. It is added for drafting convenience.

21 **CHAPTER 2. SHARK PARTS**

22 **§ 42750. Shark fin or tail**

23 42750. (a) Except as permitted by this code or by regulation of the commission,
24 it is unlawful to sell, purchase, deliver for a commercial purpose, or possess on a
25 commercial fishing vessel registered pursuant to Section 14755, a shark fin or tail
26 or part of a shark fin or tail that has been removed from the carcass.

27 (b) A thresher shark fin or tail that has been removed from the carcass and
28 whose original shape remains unaltered may be possessed on a registered
29 commercial fishing vessel, if the carcass corresponding to the fin or tail is also
30 possessed.

31 **Comment.** Section 42750 continues former Fish and Game Code Section 7704(c) without
32 substantive change.

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CHAPTER 3. ANGEL SHARKS

§ 42800. Measurement

42800. (a) Angel shark total length shall be measured from the anterior end of the head to the tip of the tail while the fish is lying in a position of natural repose.

(b) Angel shark alternate length shall be measured from the point where the leading edge of the first dorsal fin meets the back to the tip of the tail.

(c) When measuring total length or alternate length, the tip of the tail may be laid flat against the surface of the measuring device.

(d) Angel sharks may be constrained from lateral movement during measurement by restraining devices approved by the department.

Comment. Section 42800 continues former Fish and Game Code Section 8388(b) without substantive change.

§ 42805. Size restrictions

42805. (a) No female angel shark measuring less than 42 inches in total length or 15 1/4 inches in alternate length, and no male angel shark measuring less than 40 inches in total length or 14 1/2 inches in alternate length, may be possessed, sold, or purchased.

(b) Notwithstanding subdivision (a), ten percent of the angel sharks in any load may measure not more than 1/2 inch less than the minimum sizes specified in this section.

Comment. Section 42805 continues former Fish and Game Code Section 8388(a) without substantive change.

§ 42810. Take in gill or trammel net

42810. (a) An angel shark taken in a gill or trammel net shall be landed (brought ashore) with at least one intact pelvic fin and the tail fin attached.

(b) An angel shark taken in a gill or trammel net shall not be transferred to or from another vessel, except that an angel shark may be transferred to or from a vessel with a department observer on board. An observer shall observe and make a written record of that transfer.

Comment. Subdivision (a) of Section 42810 continues former Fish and Game Code Section 8388(c) without substantive change.

Subdivision (b) continues former Fish and Game Code Section 8388(d) without substantive change.

CHAPTER 4. BASKING SHARKS

§ 42850. Regulation

42850. (a) The commission may adopt regulations to manage basking sharks.

(b) A basking shark may not be taken commercially, unless the commission adopts regulations for that activity and the taking is in accordance with those regulations.

1 **Comment.** Section 42850 continues former Fish and Game Code Section 8599.4 without
2 substantive change.

3 CHAPTER 5. LEOPARD SHARKS

4 **§ 42900. Groundfish**

5 42900. For the purposes of this code, a leopard shark is a groundfish.

6 **Comment.** Section 42900 is new. It is added for drafting convenience.

7  **Note.** Based on Commission research, it appears that a sablefish is a groundfish. See 14
8 C.C.R. § 1.91(a)(5).

9 **The Commission invites comment on whether that classification is correct.**

10 **§ 42905. Take**

11 42905. (a) A person shall not take, possess, sell, or purchase, for a commercial
12 purpose, any leopard shark less than 36 inches in total length.

13 (b) Notwithstanding subdivision (a), a leopard shark less than 36 inches in total
14 length possessed by a person for aquarium display on or before January 1, 1994,
15 may be retained by that person, if a letter declaring that the shark was legally
16 obtained prior to January 1, 1994, is provided to the Sacramento office of the
17 department, on or before January 1, 1995.

18 **Comment.** Section 42905 continues former Fish and Game Code Section 8388.5 without
19 substantive change.

20 See also Section 4900 (enforcement).

21 CHAPTER 6. WHITE SHARKS

22 **§ 42950. Take for commercial purpose**

23 42950. (a) It is unlawful to take any white shark (*Carcharodon carcharias*) for a
24 commercial purpose, except under a permit issued pursuant to Section 9200 for
25 scientific or educational purposes, or pursuant to subdivision (b) for scientific or
26 live display purposes.

27 (b) Notwithstanding subdivision (a), a white shark may be taken incidentally in
28 a commercial fishing operation using set gill nets, drift gill nets, or roundhaul nets.
29 White shark taken pursuant to this subdivision shall not have the pelvic fin severed
30 from the carcass, until after the white shark is brought ashore. White shark taken
31 pursuant to this subdivision, if landed alive, may be sold for scientific or live
32 display purposes.

33 (c) Any white shark killed or injured by any person in self-defense may not be
34 landed.

35 **Comment.** Section 42950 continues former Fish and Game Code Section 8599 without
36 substantive change.

1 **Comment.** Section 43150 continues former Fish and Game Code Section 7370 without
2 substantive change.

3 See also Sections 4570, 5102, 5730 (enforcement).

4 CHAPTER 3. IMPORTATION

5 **§ 43200. Importation of sturgeon**

6 43200. (a) Sturgeon legally taken in another state that permits the sale of that
7 fish may be imported into this state under regulations of the commission.

8 (b) Before the commission adopts any regulation pursuant to this section, a
9 public hearing shall be held in the San Francisco or Sacramento area.

10 **Comment.** Section 43200 continues the part of former Fish and Game Code Section 2363
11 applicable to sturgeon without substantive change.

12 CHAPTER 4. STURGEON EGG PROCESSING

13 **§ 43250. Required license**

14 43250. (a) Every person engaged in the business of canning, curing, preserving,
15 packing, or otherwise processing, or dealing at wholesale in, the eggs of sturgeon
16 for human consumption, shall obtain a sturgeon egg processing license from the
17 department for that purpose. The license required by this title is in addition to any
18 other license, permit, or other authorization required by this code or by any other
19 provision of law.

20 (b) Possession of a sturgeon egg processing license issued pursuant to this title
21 authorizes the licensee to can, cure, preserve, pack, or otherwise process, or deal at
22 wholesale in, the eggs of sturgeon if, and only if, the eggs are lawfully taken or
23 lawfully possessed pursuant to Section 13700 or 43150.

24 **Comment.** Section 43250 continues former Fish and Game Code Section 10000 without
25 substantive change.

26 See also Section 5732 (enforcement).

27  **Note.** Existing Fish and Game Code Section 10000(b) (which would be continued by
28 proposed Section 43250(b)) authorizes specified conduct relating to sturgeon eggs “if, and only
29 if, the eggs are lawfully taken or lawfully possessed pursuant to Section 7230 or 8371.” However,
30 in 2007 language in existing Fish and Game Code Section 8371 relating to the taking or
31 possession of “sturgeon, or parts thereof,” was deleted from that section, and added to existing
32 Fish and Game Code Section 7370. See 2007 Cal. Stat. ch. 328. Proposed Section 43250 would
33 therefore revise the cross-reference in existing Section 10000 to “Section 8371” to refer to the
34 section in the proposed law that would continue existing Section 7370.

35 **The Commission invites comment on how proposed Section 43250 should continue the**
36 **reference to existing Fish and Game Code Section 8371 in existing Section 10000.**

37 **§ 43255. License fee**

38 43255. A sturgeon egg processing license shall be issued and delivered upon
39 application and the payment to the department of a base fee of one hundred dollars

1 (\$100), adjusted under Section 3755. The license shall be valid for a period of 12
2 months from the date of issuance.

3 **Comment.** Section 43255 continues the first sentence of former Fish and Game Code Section
4 10001 without substantive change.

5 **§ 43260. License term**

6 43260. A sturgeon egg processing license shall be issued and delivered upon
7 application and the payment to the department of a base fee of one hundred dollars
8 (\$100), as adjusted under Section 3755. The license shall be valid for a period of
9 12 months from the date of issuance.

10 **Comment.** Section 43260 continues the second sentence of former Fish and Game Code
11 Section 10001 without substantive change.

12 **§ 43265. Required documentation**

13 43265. Every person licensed pursuant to this chapter shall make a true and
14 legible record of each transaction involving the eggs of sturgeon. This
15 documentation shall show all of the following:

16 (a) The weight of the eggs received.

17 (b) The name and address of the person from whom the eggs were received.

18 (c) If the eggs were obtained from a sturgeon that was artificially propagated by
19 a person other than the licensee, the name and address of that person.

20 (d) If the eggs were obtained from a sturgeon that was not taken by the licensee,
21 the name and address of the person from whom the licensee obtained the sturgeon
22 from which the eggs were obtained.

23 (e) The date of receipt.

24 (f) If imported into this state, the place where the sturgeon were taken.

25 (g) Whether the eggs are to be processed by the recipient or sold by him or her
26 to another for processing, and, if the eggs are to be sold for processing by another,
27 the name and address of that person.

28 (h) Any other information that the department may require and specify on any
29 form provided.

30 **Comment.** Section 43265 restates former Fish and Game Code Section 10002 without
31 substantive change.

1 **Note.** Proposed Section 43265(b)-(d) is intended to restate existing Fish and Game Code
2 Section 10002(b) to clarify the meaning of that provision, without changing its substantive effect.
3 The existing provision reads as follows:

4 10002. Every person licensed pursuant to this division shall make a true and legible record of
5 each transaction involving the eggs of sturgeon. This documentation shall show all of the
6 following:

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8 (b) The name and address of the person from whom the eggs were received, and, if different,
9 the name and address of the person who artificially propagated the sturgeon from which the eggs
10 were obtained or the name and address of the person from whom the sturgeon were received from
11 which the eggs were obtained.

12 **The Commission invites comment on whether the restatement would cause any**
13 **substantive change in the meaning of the provision.**

14 **§ 43270. Retention and inspection of documentation**

15 43270. (a) The documentation required by Section 43265 shall be kept by the
16 person or business holding the sturgeon egg processing license for a period of two
17 years from the date of receipt of eggs, and shall be available for inspection during
18 normal business hours by the department.

19 (b) Any information received or requested by the department shall be
20 confidential, and the records shall not be public records, except that the
21 information contained in the records may be compiled and published as summaries
22 in a manner that will not disclose the individual record or business of any person.

23 Comment. Subdivision (a) of Section 43270 continues former Fish and Game Code Section
24 10003 without substantive change.

25 Subdivision (b) continues former Fish and Game Code Section 10004 without substantive
26 change.

27 **TITLE 2. COMMERCIAL PROVISIONS**

28 **§ 43350. Application of title**

29 43350. For purposes of Section 37805, the provisions in this title are commercial
30 provisions.

31 **Comment.** Section 43350 is new. It is added for drafting convenience.

32 **§ 43355. Required return to water if caught in net**

33 43355. (a) Any sturgeon that is taken in any type of net shall, regardless of its
34 condition, be immediately freed and removed from the net by the fisherman, and
35 immediately returned to the water without further harm.

36 (b) A commercial fisherman shall not have any sturgeon, whether dead or alive,
37 in his or her possession, at any time when conducting netting operations or when
38 going to or from those operations, except when releasing a sturgeon from a net.

39 (c) The return of sturgeon to the water pursuant to this section is not
40 deterioration, waste, or spoilage of fish for purposes of Section 14310.

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PART 23. SWORDFISH

TITLE 1. SWORDFISH GENERALLY

§ 43600. Provisions not exclusive

43600. The provisions of this part are not intended to be exclusive. Other provisions that govern swordfish include, but are not limited to, the following provisions:

- (a) Section 18030.
- (b) Chapter 6 (commencing with Section 18300) of Title 4 of Part 6 of Division 6.
- (c) Chapter 2 (commencing with Section 18800) of Title 5 of Part 6 of Division 6.
- (d) Section 21950.

Comment. Section 43600 is new. It is added for drafting convenience.

TITLE 2. COMMERCIAL PROVISIONS

§ 43650. Application of title

43650. For purposes of Section 37805, the provisions in this title are commercial provisions.

Comment. Section 43650 is new. It is added for drafting convenience.

§ 43655. Permit requirement

43655. (a) A swordfish shall not be taken, possessed aboard a boat, or landed by a person, for commercial purposes, except under a valid swordfish permit. If more than one person is aboard the boat, at least one person shall have a swordfish permit issued to that person that has not been revoked or suspended, subject to regulations adopted by the commission.

(b) The fee for a permit issued pursuant to subdivision (a) is three hundred thirty dollars (\$330). This permit fee does not apply to the holder of a valid drift gill net shark and swordfish permit required under Chapter 6 (commencing with Section 18300) of Title 4 of Part 6 of Division 6 or to any person who participates in the permit transition program established by the department pursuant to Section 18400.

Comment. Subdivision (a) Section 43655 continues former Fish and Game Code Section 8394 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 8394.5 without substantive change.

See also Sections 4900, 5104 (enforcement).

Notes. (1) In existing Section 8394, the meaning of “subject to regulations adopted by the commission” is not entirely clear. **The Commission invites comment on the meaning of that language.**

1 (2) Proposed Section 43655(b) would continue Section 8394.5, which was amended by 2018
2 Cal. Stat. ch. 844. Although that bill will not take effect until 2019, it is included here in
3 anticipation of its effect.

4 PART 24. TROUT

5 TITLE 1. TROUT GENERALLY

6 CHAPTER 1. PRELIMINARY PROVISIONS

7 **§ 43800. Provisions not exclusive**

8 43800. The provisions of this part are not intended to be exclusive. Other
9 provisions that govern trout include, but are not limited to, the following
10 provisions:

- 11 (a) Section 420.
- 12 (b) Section 7650.
- 13 (c) Section 13010.
- 14 (d) Section 21950.
- 15 (e) Section 23355.
- 16 (f) Section 28415.
- 17 (g) Section 43805.
- 18 (h) Section 55725.
- 19 (i) Section 55830.

20 **Comment.** Section 43800 is new. It is added for drafting convenience.

21 **§ 43805. Legislative declaration**

22 43805. (a) The Legislature finds and declares all of the following:

23 (1) California has the greatest biodiversity of native trout species of any state in
24 the nation. Trout can be found in more than 18,000 miles of California's cooler
25 streams. California's trout are the principal sport fish in 3,581 cold-water lakes
26 and reservoirs.

27 (2) Self-sustaining native trout populations in "Heritage Trout Waters" that
28 retain and promote genetic trout diversity and overall sustainable watershed and
29 ecosystem environmental health are state policy.

30 (b) Funding for "Heritage Trout Waters" is a priority for the Hatchery and
31 Inland Fisheries Fund.

32 (c) The commission may designate "Heritage Trout Waters" to recognize the
33 beauty, diversity, historical significance, and special values of California's native
34 trout. The commission's designation shall meet both of the following criteria:

35 (1) Only waters supporting populations that best exemplify indigenous strains of
36 native trout within their historic drainages may qualify for designation.

1 (2) Only waters providing anglers with an opportunity to catch native trout
2 consistent with the conservation of the native trout may qualify for designation.

3 (3) Any stocking of heritage trout waters shall meet the criteria established by
4 Chapter 1 (commencing with Section 11700) of Title 2 of Part 4 of Division 6.

5 **Comment.** Section 43805 continues former Fish and Game Code Section 7260 without
6 substantive change.

7 CHAPTER 2. SHIPMENT OF TROUT

8 **§ 43850. Transport of trout**

9 43850. (a) It is unlawful at any time to offer for shipment, ship, or receive for
10 shipment, or transport from this state any trout taken in the waters of this state,
11 except as provided in subdivision (b).

12 (b) The following persons may personally transport from this state not more than
13 one daily bag limit of trout:

14 (1) The holder of a nonresident sport fishing license.

15 (2) A person on active military duty with the armed forces of the United States
16 who possesses a valid angling license.

17 (3) A person on active military duty with an auxiliary branch of the armed forces
18 of the United States who possesses a valid angling license.

19 **Comment.** Section 43850 restates former Fish and Game Code Section 2356 without
20 substantive change.

21 **Note.** Proposed Section 43850 is intended to restate existing Fish and Game Code Section
22 2356 to clarify the meaning of that provision, without changing its substantive effect. The
23 existing provision reads as follows:

24 2356. It is unlawful at any time to offer for shipment, ship, or receive for shipment, or transport
25 from this state any trout taken in the waters of this state, except that the holder of a nonresident
26 angling license, or any person on active military duty with the armed forces of the United States
27 or on active military duty with an auxiliary branch thereof who possesses a valid angling license,
28 may personally transport from this state not more than one daily bag limit of trout.

29 **The Commission invites comment on whether the restatement would cause any**
30 **substantive change in the meaning of the provision.**

31 **§ 43855. Shipment of trout into area where season closed**

32 43855. It is unlawful to ship trout into an area where the season is closed, unless
33 the shipment is accompanied by a written statement containing the name and
34 address of, and signed by, the person taking the trout, and countersigned, for the
35 purpose of identification, by the agent of the carrier to whom the trout are offered
36 for shipment.

37 **Comment.** Section 43855 continues former Fish and Game Code Section 2358 without
38 substantive change.

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CHAPTER 3. STEELHEAD TROUT

Article 1. General Provisions

§ 43900. Provisions not exclusive

43900. This chapter includes some but not all provisions of this code that govern steelhead trout. Other provisions that govern steelhead trout include, but are not limited to, the following provisions:

(a) Section 9105.

(b) Chapter 3 (commencing with Section 11900) of Title 2 of Part 4 of Division 6.

(c) Section 13105.

(d) Section 13900.

(e) Section 15440.

(f) Section 24950.

Comment. Section 43900 is new. It is added for drafting convenience.

Article 2. Take

§ 43950. Hook other than in mouth

43950. (a) It is unlawful, in inland waters, to kill or retain in possession any steelhead that has not taken the bait or lure in its mouth.

(b) Any steelhead hooked in inland waters other than in its mouth shall be released unharmed.

Comment. Section 43950 continues the part of former Fish and Game Code Section 5514 applicable to steelhead trout without substantive change.

<p> Note. See discussion of the proposed revision of this section following proposed Section 41005.</p>

Article 3. Report-Restoration Card

§ 44000. Required trout fishing report-restoration card

44000. (a) In addition to a valid California sport fishing license and any applicable sport license issued pursuant to this code, a person taking steelhead trout in inland waters shall have in his or her possession a valid nontransferable steelhead trout fishing report-restoration card issued by the department. The cardholder shall record certain fishing information on the card as designated by the department. The month, day, and location fished shall be recorded before the cardholder begins fishing for the day and when the cardholder moves to another location listed on the back of the report-restoration card. The cardholder shall immediately record catch information upon keeping a steelhead trout and immediately record catch information regarding released steelhead trout whenever

1 the cardholder finishes fishing for the day, or moves to another location listed on
2 the back of the report-restoration card. The cardholder shall return the card to the
3 department on a schedule or date established by the department.

4 (b) The base fee for the card shall be five dollars (\$5) for the 2004 license year,
5 which may be adjusted annually thereafter pursuant to Section 3755. The funds
6 received by the department from the sale of the card shall be deposited in the Fish
7 and Game Preservation Fund, and shall be available for expenditure upon
8 appropriation by the Legislature. The department shall maintain the internal
9 accountability necessary to ensure that all restrictions and requirements pertaining
10 to the expenditure of these funds are met.

11 (c) The commission shall adopt regulations necessary to implement this section.
12 These regulations shall include, but not be limited to, procedures necessary to
13 obtain appropriate steelhead trout resources management information, a
14 requirement that the card contain a statement explaining potential uses of the funds
15 received as authorized by Section 44005, and a requirement that the cards be
16 returned to the department.

17 **Comment.** Section 44000 continues former Fish and Game Code Section 7380 without
18 substantive change.

19 **§ 44005. Use of revenue**

20 44005. (a) Revenue received pursuant to Section 44000 may be expended, upon
21 appropriation by the Legislature, only to monitor, restore, or enhance steelhead
22 trout resources consistent with Sections 11810 and 11815, and to administer the
23 fishing report-restoration card program. The department shall submit all proposed
24 expenditures, including proposed expenditures for administrative purposes, to the
25 Advisory Committee on Salmon and Steelhead Trout for review and comment
26 before submitting a request for inclusion of the appropriation in the annual Budget
27 Bill. The committee may recommend revisions in any proposed expenditure to the
28 Legislature and the commission.

29 (b) The department shall report to the Legislature on or before July 1, 2021,
30 regarding the steelhead trout fishing report-restoration card program's projects
31 undertaken using revenues derived pursuant to that program, the benefits derived,
32 and its recommendations for revising the fishing report-restoration card
33 requirement, if any. The report submitted pursuant to this subdivision shall be
34 submitted in compliance with Section 9795 of the Government Code.

35 **Comment.** Section 44005 continues former Fish and Game Code Section 7381 without
36 substantive change.

37 **§ 44010. Inoperative date of article**

38 44010. This article shall become inoperative on July 1, 2022, and, as of January
39 1, 2023, is repealed, unless a later enacted statute that is enacted before January 1,
40 2023, deletes or extends the dates on which it becomes inoperative and is repealed.

1 **Comment.** Section 44010 continues former Fish and Game Code Section 7382 without
2 substantive change.

3 **TITLE 2. COMMERCIAL PROVISIONS**

4 **CHAPTER 1. TROUT GENERALLY**

5 **§ 44100. Application of title**

6 44100. For purposes of Section 37805, the provisions in this title are commercial
7 provisions.

8 **Comment.** Section 44100 is new. It is added for drafting convenience.

9 **§ 44105. Sale or purchase**

10 44105. (a) Except as otherwise provided in this title, it is unlawful to sell or
11 purchase any species of trout.

12 (b) Subdivision (a) does not apply to trout grown pursuant to Part 1
13 (commencing with Section 23300) of Division 7.

14 **Comment.** Subdivision (a) of Section 44105 continues former Fish and Game Code Section
15 8430 without substantive change.

16 Subdivision (b) continues former Fish and Game Code Section 8433 without substantive
17 change.

18 **CHAPTER 2. STEELHEAD AND DOLLY VARDEN TROUT**

19 **§ 44200. Taken from out of state**

20 44200. (a) Dolly Varden or steelhead trout taken outside the state may be
21 possessed and sold within the state after inspection and tagging in accordance with
22 regulations adopted by the commission.

23 (b) The inspection and tagging shall be paid for by the person submitting the
24 trout for inspection and tagging.

25 (c) Notwithstanding subdivision (a), steelhead trout taken outside the state may
26 not be sold or possessed in District 2515 in excess of the daily bag limit on
27 steelhead trout for that district.

28 (d) This section does not apply to trout grown pursuant to Part 1 (commencing
29 with Section 23300) of Division 7.

30 **Comment.** Subdivisions (a) and (b) of Section 44200 continues former Fish and Game Code
31 Section 8431 without substantive change.

32 Subdivision (c) continues former Fish and Game Code Section 8432 without substantive
33 change.

34 Subdivision (d) continues former Fish and Game Code Section 8433 without substantive
35 change.

36 **§ 44205. Take with purse or round haul net**

37 44205. Steelhead may not be taken with a purse or round haul net.

1 **Comment.** Section 44450 continues former Fish and Game Code Section 8376 without
2 substantive change.

3 **§ 44455. Bluefin tuna**

4 44455. (a) Bluefin tuna may be taken at any time.

5 (b) No bluefin tuna weighing less than 7 1/2 pounds may be sold, purchased, or
6 processed.

7 **Comment.** Subdivision (a) of Section 44455 continues the part of former Fish and Game Code
8 Section 8374 applicable to bluefin tuna without substantive change.

9 Subdivision (b) continues former Fish and Game Code Section 8375 without substantive
10 change.

11 **§ 44460. Pacific bonito**

12 44460. (a) Pacific bonito shall be measured from the tip of the lower jaw to the
13 center of the fork of the tail fin.

14 (b) Pacific bonito less than 24 inches fork length or five pounds in weight shall
15 not be taken or possessed on any vessel at any time for any commercial purpose,
16 except as follows:

17 (1) A load of bonito taken on a vessel by the use of round haul nets may contain
18 18 percent or less by number of bonito smaller than the minimum size.

19 (2) A load of fish taken on a vessel by the use of gill nets or trammel nets may
20 contain 1,000 pounds or less of bonito smaller than the minimum size per trip.

21 (3) Pacific bonito smaller than the minimum size that are incidentally taken may
22 be used for any purpose.

23 **Comment.** Subdivision (a) of Section 44460 continues former Fish and Game Code Section
24 8377.5 without substantive change.

25 Subdivision (b) continues former Fish and Game Code Section 8377 without substantive
26 change.

27 **§ 44465. Skipjack**

28 44465. Skipjack may be taken at any time.

29 **Comment.** Section 44465 continues former Fish and Game Code Section 8378 without
30 substantive change.

31 **§ 44470. Yellowfin tuna**

32 44470. Yellowfin tuna may be taken at any time.

33 **Comment.** Section 44470 continues the part of former Fish and Game Code Section 8374
34 applicable to yellowfin tuna without substantive change.

1 (c) Yellowtail measuring less than 28 inches in length may not be sold or
2 purchased, except that not more than five yellowtail per day of any length may be
3 possessed by the holder of a commercial fishing license for noncommercial use, if
4 taken incidentally in commercial fishing.

5 **Comment.** Subdivision (a) of Section 44755 continues the part of former Fish and Game Code
6 Section 8386 applicable to yellowtail without substantive change.

7 Subdivision (b) continues the part of former Fish and Game Code Section 8382 applicable to
8 yellowtail without substantive change.

9 Subdivision (c) continues the part of former Fish and Game Code Section 8384 applicable to
10 yellowtail without substantive change.

11 **§ 44760. Possession restrictions**

12 44760. From May 1 to August 31, inclusive, all of the following are unlawful:

13 (a) Possession by one person on a boat, barge, or other vessel of more than 500
14 pounds of yellowtail.

15 (b) Possession by two or more persons on a boat, barge, or other vessel a
16 combined weight of more than 500 pounds of yellowtail per person.

17 (c) Possession by five or more persons on a boat, barge, or other vessel a
18 combined weight of more than 2,500 pounds of yellowtail.

19 **Comment.** Section 44760 continues former Fish and Game Code Section 8387 without
20 substantive change.

21 **§ 44765. Use of purse seines or round haul nets**

22 44765. (a) It is unlawful to use any purse seine or round haul net to take a
23 yellowtail.

24 (b) It is unlawful to possess a yellowtail, except those taken south of the
25 international boundary between the United States and Mexico, and imported into
26 the state under regulations of the commission as provided in Section 44650, on
27 any boat carrying or using any purse seine or round haul net, including, but not
28 limited to, a bait net as described in Section 15900.

29 (c) Notwithstanding subdivision (b), the department may issue permits to hook
30 and line commercial fishermen to possess a bona fide bait net on their vessels for
31 the purpose of taking bait for their own use only.

32 **Comment.** Section 44765 continues the parts of former Fish and Game Code Section 8623(a),
33 (b), and (e) applicable to yellowtail without substantive change.

34 **Note.** The portion of existing Fish and Game Code Section 8623(a) and (b) that applies to
35 yellowtail would be continued by proposed Section 44765(a) and (b).

36 Existing Section 8623 also includes a disclaimer in subdivision (e) that, by its terms, applies to
37 all provisions of that section (“Notwithstanding the provisions of this section...”)

38 However, despite the broad wording of this disclaimer, the Commission’s analysis suggests
39 that the substantive portion of subdivision (e) logically applies only to subdivision (b). Proposed
40 Section 30465(c) would state that specific application expressly.

41 **The Commission invites comment on whether that expressly stated application would**
42 **cause any problems.**

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DIVISION 11. INVERTEBRATES

PART 1. GENERAL PROVISIONS

§ 45000. Governance by other provisions

45000. Animals governed by this division are also governed by other provisions of this code, including but not limited to Divisions 6 (commencing with Section 8000) and 7 (commencing with Section 23300).

Comment. Section 45000 is new. It is added for drafting convenience. It makes clear that this division does not contain the only provisions of the code governing invertebrates, and that invertebrates governed by this division may also be governed by other law. For example, as the definition of “fish” includes invertebrates, invertebrates may also be governed by other provisions of the code that apply by their terms to “fish.” See Sections 200, 335.

§ 45005. Scope of commercial provisions

45005. The provisions of this division that are expressly identified as commercial provisions apply to the taking and possession of invertebrates for any commercial purpose. Those commercial provisions do not apply to activities governed by Part 1 (commencing with Section 23300) of Division 7.

Comment. Section 45005 continues the part of former Fish and Game Code Section 7600 applicable to the provisions of this division without substantive change.

§ 45010. Take or possession in tidal area

45010. (a) Except as otherwise expressly permitted in this code, an invertebrate may not be taken, possessed aboard a boat, or landed for a commercial purpose by any person in any tide pool or tidal area, including tide flats or other areas between the high tidemark and 1,000 feet beyond the low tidemark, unless a valid tidal invertebrate permit has been issued to that person that has not been suspended or revoked.

(b) The taking, possessing, or landing of an invertebrate pursuant to this section shall be subject to regulations adopted by the commission.

Comment. Section 45010 continues former Fish and Game Code Section 8500 without substantive change.

1 PART 2. DISEASE CONTROL [RESERVED]

2 PART 3. CLASSES OF INVERTEBRATES

3 TITLE 1. CRUSTACEANS

4 CHAPTER 1. PRELIMINARY PROVISIONS

5 § 45250. Use as bait

6 45250. A crustacean may be used for bait, or released in the same waters from
7 which it was taken.

8 **Comment.** Section 45250 continues the part of former Fish and Game Code Section 5505
9 applicable to crustaceans without substantive change.

10 CHAPTER 2. COMMERCIAL PROVISIONS

11 § 45300. Application of title

12 45300. For purposes of Section 45005, the provisions in this chapter are
13 commercial provisions.

14 **Comment.** Section 45300 is new. It is added for drafting convenience.

15 § 45305. Take with powered equipment

16 45305. (a) Powered equipment of such design as may be prescribed by the
17 commission may be used to take crustaceans under a revocable permit issued by
18 the department and under regulations adopted by the commission.

19 (b) Taking of crabs or lobster under this section is subject to Title 2
20 (commencing with Section 46800) of Part 6, and Title 2 (commencing with
21 Section 49450) of Part 9.

22 **Comment.** Section 45305 continues the part of former Fish and Game Code Section 9053
23 applicable to crustaceans without substantive change.

24 **Notes.** (1) Existing Fish and Game Code Section 9053(b) (which would be continued by
25 proposed Section 45305(b)) provides in part that taking of lobster or crabs under that section is
26 “subject to Article 5 (commencing with Section 8250)....” In the proposed law, all the provisions
27 contained in that article have been continued in Title 2 (commencing with Section 49450) of Part
28 9. However, that proposed title contains two provisions relevant to the subject matter of Section
29 9053(b) that are *not* in the “Article 5” referenced in existing Section 9053(b) – existing Section
30 9001.7(k), and existing Section 9010(c)-(e).

31 **The Commission invites comment on whether the additional inclusion of those two**
32 **provisions in the cross-reference in proposed Section 45305(b) would cause any problems.**

33 (2) Existing Section 9053(b) also provides that the taking authorized under that section is
34 “subject to Article 6 (commencing with Section 8275).” In the proposed law, all provisions
35 contained in that article have been continued in Title 2 (commencing with Section 46800) of Part
36 6. However, that proposed title contains several additional provisions relevant to the subject

1 matter of Section 9053(b) that are *not* in the “Article 6” referenced in existing Section 9053(b):
2 Sections 8834, 8834.5, 9011, and 9012.

3 **The Commission invites comment on whether the additional inclusion of these provisions**
4 **in the cross-reference in proposed Section 45305(b) would cause any problems.**

5 TITLE 2. MOLLUSKS

6 CHAPTER 1. PRELIMINARY PROVISIONS

7 § 45400. Use as bait

8 45400. A mollusk may be used for bait, or released in the same waters from
9 which it was taken.

10 **Comment.** Section 45400 continues the part of former Fish and Game Code Section 5505
11 applicable to mollusks without substantive change.

12 § 45405. Take with powered equipment

13 45405. Powered equipment of such design as may be prescribed by the
14 commission may be used to take mollusks under a revocable permit issued by the
15 department and under regulations adopted by the commission.

16 **Comment.** Section 45405 continues the part of former Fish and Game Code Section 9053
17 applicable to mollusks without substantive change.

18 CHAPTER 2. MOLLUSK PURIFICATION

19 § 45450. Specified districts

20 45450. Notwithstanding Sections 19805, 45505, 45510, and 46410, native and
21 nonnative mollusks may be taken in Districts 2600 and 2605 and moved to other
22 areas to be purified for human consumption under rules and regulations that may
23 be established by the commission. The regulations may include, but are not limited
24 to, bag limits, methods of harvest, and provisions for public use. Mollusks taken
25 under this section shall not be used for human consumption unless such use is
26 approved by the State Department of Public Health.

27 **Comment.** Section 45450 continues former Fish and Game Code Section 5700 without
28 substantive change. See also Health & Safety Code §§ 20, 131052(6) (directing revision of
29 specified references in former Fish and Game Code to State Department of Health Services).

30 **Note.** The reference in existing Fish and Game Code Section 5700 to the State Department of
31 Health Services would be revised by proposed Section 45450 to instead refer to the State
32 Department of Public Health, pursuant to the directive of Health & Safety Code Sections 20 and
33 131052(6).

34 **The Commission invites comment on whether that revision is appropriate.**

35 § 45455. Sanitary surveys

36 45455. The State Department of Public Health may make sanitary surveys of
37 mollusk-growing areas or may use sanitary surveys of mollusk-growing areas

1 made by qualified state or county agencies, and based on such information may
2 classify such areas for purposes of harvesting and moving mollusks that are to be
3 purified for human consumption in accordance with Section 45450. The State
4 Department of Public Health shall adopt rules and regulations as are necessary to
5 implement this section.

6 **Comment.** Section 45455 continues former Fish and Game Code Section 5701 without
7 substantive change. See also Health & Safety Code §§ 20, 131052(6) (directing revision of
8 specified references in former Fish and Game Code to State Department of Health Services).

9 **Note.** The reference in existing Fish and Game Code Section 5701 to the State Department of
10 Health Services would be revised by proposed Section 45455 to instead refer to the State
11 Department of Public Health, pursuant to the directive of Health & Safety Code Sections 20 and
12 131052(6).

13 **The Commission invites comment on whether that revision is appropriate.**

14 **§ 45460. Certification of water quality**

15 45460. If examinations are conducted by the State Department of Public Health
16 pursuant to this chapter for purposes of certifying the quality of shellfish-growing
17 waters, certification of water quality shall be commenced within 30 days and
18 completed within six months of the filing of an application by an aquaculturist.

19 **Comment.** Section 45460 continues former Fish and Game Code Section 5701.5 without
20 substantive change. See also Health & Safety Code §§ 20, 131052(6) (directing revision of
21 specified references in former Fish and Game Code to State Department of Health Services).

22 **Note.** The reference in existing Fish and Game Code Section 5701.5 to the State Department
23 of Health Services would be revised by proposed Section 45460 to instead refer to the State
24 Department of Public Health, pursuant to the directive of Health & Safety Code Sections 20 and
25 131052(6).

26 **The Commission invites comment on whether that revision is appropriate.**

27 **§ 45465. Royalty**

28 45465. Any person who moves any native mollusks taken under regulations of
29 the commission from Districts 2600 and 2605, for purposes of purification for
30 human consumption, shall pay a royalty, as the commission may prescribe, of not
31 less than two cents (\$0.02) per pound of mollusks so taken.

32 **Comment.** Section 45465 continues former Fish and Game Code Section 5702 without
33 substantive change.

34 **CHAPTER 3. SHELLFISH**

35 **§ 45500. Authority of State Department of Public Health**

36 45500. (a) The State Department of Public Health may do any of the following:

37 (1) Examine any area from which shellfish may be taken.

38 (2) Determine whether the area is subject to sewage contamination.

39 (3) Determine whether the taking of shellfish from the area does or may
40 constitute a menace to the lives or health of human beings.

1 (b) If an examination is conducted pursuant to this chapter for purposes of
2 certifying the quality of shellfish-growing waters, certification of water quality
3 shall be commenced within 30 days, and completed within three months of the
4 filing of an application by an aquaculturist.

5 **Comment.** Subdivision (a) of Section 45500 combines and continues former Fish and Game
6 Code Sections 5669 and 5671 without substantive change. See also Health & Safety Code §§ 20,
7 131052(6) (directing revision of specified references in former Fish and Game Code to State
8 Department of Health Services).

9 Subdivision (b) continues former Fish and Game Code Section 5675 without substantive
10 change.

11 **Notes.** (1) The reference in existing Fish and Game Code Section 5671 to the State
12 Department of Health Services would be revised by proposed Section 45500 to instead refer to
13 the State Department of Public Health, pursuant to the directive of Health & Safety Code
14 Sections 20 and 131052(6).

15 **The Commission invites comment on whether that revision is appropriate.**

16 (2) Existing Fish and Game Code Section 5675 (which would be continued by proposed Section
17 45500(b)) requires a specified examination to be completed “within three months of the filing of
18 an application by an aquaculturist.” However, neither the section nor the article in which it
19 appears provides any detail about this application.

20 **The Commission invites comment on the intended meaning of this reference in existing**
21 **Section 5675.**

22 **§ 45505. Prohibited take**

23 45505. It is unlawful to take shellfish used or intended to be used for human
24 consumption from any area from which it has been determined, as provided in this
25 chapter, that the taking of shellfish does or may constitute a menace to the lives or
26 health of human beings.

27 **Comment.** Section 45505 combines and continues former Fish and Game Code Section 5670
28 and the second paragraph of former Fish and Game Code Section 5672 without substantive
29 change.

30 **§ 45510. Notice of contamination**

31 45510. (a) If the State Department of Public Health determines that an area from
32 which any shellfish may be taken is or may be subject to sewage contamination,
33 and that the taking of shellfish from that area does or may constitute a menace to
34 the lives or health of human beings, that agency shall ascertain as accurately as it
35 can the bounds of the contamination, and shall post notices on or in the area
36 describing its bounds and prohibiting the taking of shellfish from the area.

37 (b) The taking of shellfish from the area is unlawful after the completion of the
38 publication of the notices as prescribed in this article.

39 (c) The fact of posting the notices shall be published once a week for four
40 successive weeks in a newspaper of general circulation published in the county in
41 which the contaminated area is located. If no newspaper of general circulation is
42 published in the county, the fact of the posting shall be published once a week for
43 four successive weeks in a newspaper of general circulation published in an
44 adjoining county.

1 **Comment.** Subdivision (a) of Section 45510 continues the first paragraph of former Fish and
2 Game Code Section 5672 without substantive change.

3 Subdivision (b) continues former Fish and Game Code Section 5673 without substantive
4 change.

5 **§ 45515. Enforcement**

6 45515. The State Department of Public Health shall enforce the provisions of
7 this chapter, and for that purpose the inspectors and employees of that agency may
8 at any time enter public or private property where shellfish may be located.

9 **Comment.** Section 45515 continues former Fish and Game Code Section 5674 without
10 substantive change. See also Health & Safety Code §§ 20, 131052(6) (directing revision of
11 specified references in former Fish and Game Code to State Department of Health Services).

12  **Note.** The reference in existing Fish and Game Code Section 5674 to the State Department of
13 Health Services would be revised by proposed Section 45515 to instead refer to the State
14 Department of Public Health, pursuant to the directive of Health & Safety Code Sections 20 and
15 131052(6).

16 **The Commission invites comment on whether that revision is appropriate.**

17 CHAPTER 2. COMMERCIAL PROVISIONS [RESERVED]

18 PART 4. ABALONE

19 TITLE 1. ABALONE GENERALLY

20 CHAPTER 1. PRELIMINARY PROVISIONS

21 **§ 45650. Mollusk**

22 45650. For the purposes of Title 2 (commencing with Section 45400) of Part 3,
23 an abalone is a mollusk.

24 **Comment.** Section 45650 is new. It is added for drafting convenience.

25 **§ 45655. Provisions not exclusive**

26 45655. The provisions of this part are not intended to be exclusive. Other
27 provisions that govern abalone include, but are not limited to, the following
28 provisions:

29 (a) Section 14875.

30 (b) Title 6 (commencing with Section 59600) of Part 1 of Division 16.

31 **Comment.** Section 45655 is new. It is added for drafting convenience.

32 CHAPTER 2. TAKE

33 **§ 45700. Take from ocean waters**

34 45700. (a) A person shall not take abalone from ocean waters unless he or she
35 first obtains, in addition to a valid California sport fishing license and any

1 applicable license validation or issued pursuant to this code, an abalone report
2 card, and maintains that report card in his or her possession while taking abalone.

3 (b) The department or an authorized license agent shall issue an abalone report
4 card upon payment of a fee of fifteen dollars (\$15) in the 2004 license year, which
5 shall be adjusted annually thereafter pursuant to Section 3755.

6 (c) The commission shall adjust the amount of the fees specified in subdivision
7 (b) as necessary, to fully recover, but not exceed, all reasonable administrative and
8 implementation costs of the department and the commission relating to those
9 licenses.

10 **Comment.** Section 45700 continues former Fish and Game Code Section 7149.8 without
11 substantive change.

12 See also Section 5800 (enforcement).

13 CHAPTER 3. IMPORTATION

14 § 45750. Requirements

15 45750. (a) Abalone or abalone meat legally taken outside this state may be
16 imported into this state when accompanied by a United States customhouse entry
17 certificate showing the place of origin, and a certificate or clearance from the
18 responsible governmental agency to the effect that the shipment was made in
19 compliance with the laws and regulations of the place or country of origin.

20 (b) Abalone and abalone meat described in subdivision (a) may be possessed in
21 this state, and shipped or transported out of the state, but all containers of that
22 abalone or abalone meat shall be marked with the abalone's place or country of
23 origin.

24 **Comment.** Section 45750 continues former Fish and Game Code Section 2371 without
25 substantive change.

26 CHAPTER 4. GEOGRAPHIC RESTRICTIONS

27 § 45800. Moratorium on take, possession, or landing

28 45800. (a) A moratorium is imposed on the taking, possessing, or landing of
29 abalone (genus *Haliotis*) for commercial or recreational purposes in ocean waters
30 of the state south of a line drawn due west magnetic from the center of the mouth
31 of the San Francisco Bay, including all islands offshore the mainland of
32 California, including, but not limited to, the Farallon Islands and the Southern
33 California Channel Islands.

34 (b) It is unlawful to take, possess, or land abalone for commercial or recreational
35 purposes in those ocean waters while the moratorium described in subdivision (a)
36 is in effect.

37 **Comment.** Section 45800 continues former Fish and Game Code Section 5521 without
38 substantive change.

39 See also Sections 4900, 5802, 5804 (enforcement).

1 **§ 45805. Commercial restriction on take**

2 45805. (a) In addition to the moratorium imposed by Section 45800, and
3 notwithstanding any other provision of law, it is unlawful to take abalone for
4 commercial purposes in District 2570, District 2575, District 2590 north of Point
5 Lobos, District 2610, District 2615, District 2630, or District 2640 between
6 Southeast Rock and the extreme westerly end of Santa Catalina Island.

7 (b) For a person who is required to obtain a license pursuant to Section 12900,
8 the possession of more than 12 individual abalone or abalone in excess of the
9 annual bag limit is prima facie evidence that the person possesses the abalone for
10 commercial purposes.

11 **Comment.** Section 45805 continues former Fish and Game Code Section 5521.5 without
12 substantive change.

13 See also Sections 4900, 5802, 5804 (enforcement).

14 **§ 45810. Collection as broodstock by aquaculturist**

15 45810. Notwithstanding Sections 45800 and 45805, a registered aquaculturist
16 may collect abalone for broodstock, in accordance with subdivision (a) of Section
17 23905.

18 **Comment.** Section 45810 continues former Fish and Game Code Section 5521.6 without
19 substantive change.

20 CHAPTER 5. RECREATIONAL ABALONE MANAGEMENT PROGRAM

21 **§ 45950. “Program”**

22 45950. For the purposes of this chapter, the following terms have the following
23 meanings:

24 (a) “Program” means the Recreational Abalone Management Program.

25 (b) “Research” includes, but is not limited to, investigation, experimentation,
26 monitoring, and analysis.

27 (c) “Management” means establishing and maintaining an optimal sustainable
28 utilization.

29 **Comment.** Subdivision (a) of Section 45950 continues the third sentence of former Fish and
30 Game Code Section 7149.9(a) without substantive change.

31 Subdivisions (b) and (c) continue the second sentence of former Fish and Game Code Section
32 7149.9(a)(1) without substantive change.

33 **§ 45955. Use of fees**

34 45955. (a) Fees received by the department pursuant to Section 45700 shall be
35 deposited in the Abalone Restoration and Preservation Account within the Fish
36 and Game Preservation Fund, which is hereby created. Notwithstanding Section
37 13340 of the Government Code, the moneys in the account are continuously
38 appropriated, without regard to fiscal year, to the department to be used only for
39 the Recreational Abalone Management Program.

1 (b) At least 15 percent of the funds deposited in the account shall be used for
2 program activities south of San Francisco. To the extent possible, participants in
3 the management activities of the program in that area shall be former commercial
4 abalone divers.

5 (c) The department shall maintain internal accounts that ensure that the fees
6 received pursuant to Section 45700 are disbursed for the purposes of subdivision
7 (a). Not more than 20 percent of the fees received pursuant to Section 45700 shall
8 be used for administration by the department.

9 (d) Unencumbered fees collected pursuant to Section 45700 during any previous
10 calendar year may be expended for the purposes of subdivisions (a) and (b). All
11 interest and other earnings on the fees received pursuant to Section 45700 shall be
12 deposited in the account and shall be used for the purposes of subdivisions (a) and
13 (b).

14 **Comment.** Subdivision (a) of Section 45955 continues the first two sentences of former Fish
15 and Game Code Section 7149.9(a) without substantive change.

16 Subdivisions (b) through (d) continue former Fish and Game Code Section 7149.9(b)-(d)
17 without substantive change.

18 **§ 45960. Program elements**

19 45960. The program shall include the following elements:

20 (a) Research and management of abalone and abalone habitat.

21 (b) Supplementary funding of allocations for the enforcement of statutes and
22 regulations applicable to abalone, including, but not limited to, the acquisition of
23 special equipment and the production and dissemination of printed materials, such
24 as pamphlets, booklets, and posters, aimed at compliance with recreational
25 abalone regulations.

26 (c) Direction for volunteer groups relating to abalone and abalone habitat
27 management, presentations of abalone related matters at scientific conferences and
28 educational institutions, and publication of abalone related material.

29 **Comment.** Section 45960 continues the first sentence of former Fish and Game Code Section
30 7149.9(a)(1), and former Fish and Game Code Section 7149.9(a)(2) and (3), without substantive
31 change.

32 **CHAPTER 6. ABALONE RECOVERY AND MANAGEMENT PLAN**

33 **§ 46000. Declaration of legislative intent**

34 46000. It is the intent of the Legislature that the commission undertake
35 management of abalone in a manner consistent with the abalone recovery and
36 management plan submitted pursuant to Section 46005.

37 **Comment.** Section 46000 continues former Fish and Game Code Section 5520 without
38 substantive change.

1 **§ 46005. Elements of plan**

2 46005. (a) On or before January 1, 2003, the department shall submit to the
3 commission a comprehensive abalone recovery and management plan. The plan
4 shall contain all of the following:

5 (1) An explanation of the scientific knowledge regarding the biology, habitat
6 requirements, and threats to abalone.

7 (2) A summary of the interim and long-term recovery goals, including a range of
8 alternative interim and long-term conservation and management goals and
9 activities. The department shall report why it prefers the recommended activities.

10 (3) Alternatives for allocating harvest between sport and commercial divers if
11 the allocation of the abalone harvest is warranted.

12 (4) An estimate of the time and costs required to meet the interim and long-term
13 recovery goals for the species, including available or anticipated funding sources,
14 and an initial projection of the time and costs associated with meeting the final
15 recovery goals. An implementation schedule shall also be included.

16 (5) An estimate of the time necessary to meet the interim recovery goals and
17 triggers for review and amendment of strategy.

18 (6) A description of objective measurable criteria by which to determine
19 whether the goals and objectives of the recovery strategy are being met and
20 procedures for recognition of successful recovery. These criteria and procedures
21 shall include, but not be limited to, the following:

22 (A) Specified abundance and size frequency distribution criteria for former
23 abalone beds within suitable habitat not dominated by sea otters.

24 (B) Size frequency distributions exhibiting multiple size classes as necessary to
25 ensure continued recruitment into fishable stock.

26 (C) The reproductive importance to the entire ecosystem of those areas proposed
27 for reopening to harvest and the potential impact of each reopening on the
28 recovery of abalone population in adjacent areas.

29 (b) Where appropriate, the recovery and management plan may include the
30 following:

31 (1) A network of no-take abalone reserves.

32 (2) A total allowable catch, reflecting the long-term yield each species is capable
33 of sustaining, using the best available science and bearing in mind the ecological
34 importance of the species and the variability of marine ecosystems.

35 (3) A permanent reduction in harvest.

36 **Comment.** Section 46005 continues former Fish and Game Code Section 5522(a) and (b)
37 without substantive change.

38 **§ 46010. Funding of plan**

39 46010. Funding to prepare the recovery and management plan described in
40 Section 46005 and any planning and scoping meetings shall be derived from the
41 fees collected for the abalone report card.

1 **Comment.** Section 46010 continues former Fish and Game Code Section 5522(c) without
2 substantive change.

3 **Note.** Existing Fish and Game Code Section 5522(c) (which would be continued by
4 proposed Section 46010) refers to an “abalone stamp.” Proposed Section 46010 would instead
5 refer to an “abalone report card,” as it is the Commission’s understanding that the commercial
6 take of abalone now requires a report card, rather than a stamp.

7 **The Commission invites comment on whether proposed Section 46010 should be so**
8 **revised, or should be revised to refer to an “abalone stamp or report card.”**

9 **§ 46015. Action following adoption of plan**

10 46015. (a) On or before January 1, 2008, and following the adoption of the
11 recovery and management plan by the commission, the department may apply to
12 the commission to reopen sport or commercial fishing in all or any portion of the
13 waters described in Section 45800.

14 (b) If the commission makes a finding that the resource can support additional
15 harvest activities and that these activities are consistent with the abalone recovery
16 plan, all or a portion of the waters described in Section 45800 may be reopened
17 and management measures prescribed and implemented, as appropriate.

18 (c) The commission may close or, where appropriate, may establish no-take
19 marine refuges in any area opened pursuant to this section if it makes a finding
20 that this action is necessary to comply with the abalone management plan.

21 **Comment.** Section 46015 continues former Fish and Game Code Section 5522(d) without
22 substantive change.

23 **§ 46020. Priority for previous commercial permittees**

24 46020. If the commission determines that commercial fishing is an appropriate
25 management measure, priority for participation in the fishery shall be given to
26 those persons who held a commercial abalone permit during the 1996–97 permit
27 year.

28 **Comment.** Section 46020 continues former Fish and Game Code Section 5522(e) without
29 substantive change.

30 **CHAPTER 7. RECREATIONAL ABALONE ADVISORY COMMITTEE**

31 **§ 46050. Committee requirements**

32 46050. (a) The director shall appoint a Recreational Abalone Advisory
33 Committee, consisting of nine members who shall serve without compensation.
34 The members of the committee shall be selected as follows:

35 (1) Six members who are not officers or employees of the department. The six
36 members shall be residents of California, and meet the following requirements:

37 (A) Two members shall reside north of the southern boundary line of Marin
38 County and a line extending due east from the easternmost point of Marin County
39 located in San Pablo Bay. The two members shall be selected from nominations
40 submitted by the Northern California Shellfish Assessment Program or by

1 individuals or organizations that actively participate in the recreational abalone
2 fishery, except that not more than one of the members selected shall be an active
3 or former commercial abalone diver or involved in commercial seafood processing
4 or marketing.

5 (B) Two members shall reside south of the southern boundary line of Marin
6 County and a line extending due east from the easternmost point of Marin County
7 located in San Pablo Bay, and north of the boundary between Santa Barbara and
8 San Luis Obispo Counties and a line extending due east from the easternmost
9 point in that boundary line. The two members shall be selected from nominations
10 submitted by the Central California Council of Divers, the Southern California
11 Shellfish Assessment Program, the Northern California Shellfish Assessment
12 Program, or by individuals or organizations that actively participate in the
13 recreational abalone fishery, except that not more than one of the members
14 selected shall be an active or former commercial abalone diver or involved in
15 commercial seafood processing or marketing.

16 (C) Two members shall reside south of the boundary between Santa Barbara and
17 San Luis Obispo Counties and a line extending due east from the easternmost
18 point in that boundary line. The two members shall be selected from nominations
19 submitted by the Greater Los Angeles Council of Divers, the San Diego Council
20 of Divers, the Channel Islands Council of Divers, the Southern California
21 Shellfish Assessment Program, or by individuals or organizations that actively
22 participate in the recreational abalone fishery, except that not more than one of the
23 members selected shall be an active or former commercial abalone diver or
24 involved in commercial seafood processing or marketing.

25 (2) One member shall represent the department in enforcement activities and
26 shall be selected from personnel in the Wildlife Protection Division.

27 (3) Two members shall be marine scientists who are or have been involved in
28 abalone research at universities, state universities, or in state or federal programs.
29 Not more than one of the persons shall be an officer or employee of the
30 department.

31 (b) No member shall be involved in or profit from the culture for sale
32 (commercial aquaculture) of abalone.

33 (c) The advisory committee shall meet at least once each calendar year to review
34 proposals, and recommend projects and budgets to the director for the expenditure
35 of fees received pursuant to Section 45700. The committee may review progress
36 reports and the results of projects funded under this section, and make
37 recommendations to the director regarding abalone resource management.

38 **Comment.** Section 46050 continues former Fish and Game Code Section 7400 without
39 substantive change.

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TITLE 2. COMMERCIAL PROVISIONS

CHAPTER 1. PRELIMINARY PROVISIONS

§ 46100. Application of title

46100. For purposes of Section 45005, the provisions in this title are commercial provisions.

Comment. Section 46100 is new. It is added for drafting convenience.

CHAPTER 2. ABALONE RESOURCES RESTORATION AND
ENHANCEMENT PROGRAM

§ 46150. Funding of program

46150. (a) Any landing fee collected pursuant to former Fish and Game Code Section 8051.3 shall be deposited in the Fish and Game Preservation Fund, and shall be used only for the Abalone Resources Restoration and Enhancement Program.

(b) The department shall maintain internal accounts necessary to ensure that the funds are disbursed for the purposes in this section.

(c) The department may use for administration no more of the landing fee collected pursuant to former Fish and Game Code Section 8051.3 than an amount equal to the regularly approved department indirect overhead rate.

(d) Any interest on the revenues from the landing fee collected pursuant to former Fish and Game Code Section 8051.3 shall be deposited in the fund, and used for the purposes in this subdivision.

Comment. Section 46150 continues former Fish and Game Code Section 8051.4(a) without substantive change.

PART 5. CLAMS

TITLE 1. CLAMS GENERALLY

CHAPTER 1. PRELIMINARY PROVISIONS

§ 46200. Mollusk

46200. For the purposes of Title 2 (commencing with Section 45400) of Part 3, a clam is a mollusk.

Comment. Section 46200 is new. It is added for drafting convenience.

1 of this state, except tools and implements used in the work of cleaning, repairing,
2 or maintaining a beach, when possessed by a person authorized by appropriate
3 authority to perform that work.

4 **Comment.** Section 46300 continues former Fish and Game Code Section 7332 without
5 substantive change.

6 TITLE 2. COMMERCIAL PROVISIONS

7 CHAPTER 1. PRELIMINARY PROVISIONS

8 § 46350. Application of title

9 46350. For purposes of Section 45005, the provisions in this title are commercial
10 provisions.

11 **Comment.** Section 46350 is new. It is added for drafting convenience.

12 CHAPTER 2. TAKE

13 § 46400. When take permitted

14 46400. Except as otherwise provided in this chapter, in Districts 2580, 2585, and
15 2615, clams may be taken between September 1 and April 30, and in other
16 districts clams may be taken at any time.

17 **Comment.** Section 46400 continues former Fish and Game Code Section 8340 without
18 substantive change.

19 § 46405. Commission regulation of take of freshwater claims for commercial purpose

20 46405. Notwithstanding paragraph (2) of subdivision (b) of Section 1000, the
21 commission shall regulate the taking of freshwater clams for commercial
22 purposes.

23 **Comment.** Section 46405 continues former Fish and Game Code Section 8475 without
24 substantive change.

25 **Note.** Existing Fish and Game Code Section 8475 (which would be continued by proposed
26 Section 46405), is located in an article of the existing code entitled “Fresh-water Fish for Bait.”

27 **The Commission invites comment on whether this section is intended to apply only to**
28 **taking of freshwater clams for use as bait.**

29 § 46410. Littlenecks, chiones and hard-shell cockles

30 46410. (a) All species of clams commonly known as littlenecks, chiones and
31 hard-shell cockles, including thin-shelled littleneck, common littleneck, Japanese
32 littleneck, rough-sided littleneck, smooth chione, wavy chione, and banded chione,
33 may be taken at any time, except in the waters of Marin County, where they may
34 be taken only between September 1 and March 31.

1 (b) Notwithstanding subdivision (a), a clam listed in subdivision (a) that
2 measures less than one and one-half inches in greatest diameter may not be taken,
3 possessed, transported, or sold at any time.

4 (c) The bag limit on clams listed in subdivision (a) is 50 per day, in the
5 aggregate. Not more than one daily bag limit of clams listed in subdivision (a)
6 may be possessed by any person during one day.

7 (d) Notwithstanding any other provision of this section, a clam listed in
8 subdivision (a), when legally taken outside the state and brought within the state
9 pursuant to this code, may be possessed, transported, and sold without restrictions,
10 except that any shipment of clams listed in subdivision (a) into this state shall be
11 accompanied by a bill of lading, or invoice, showing the species, total number or
12 weight, and the origin of the clams.

13 **Comment.** Section 46410 continues former Fish and Game Code Section 8341 without
14 substantive change.

15 **§ 46415. Northern razor clams**

16 46415. Northern razor clams (*Siliqua patula*) may not be sold, except that
17 Northern razor clams taken outside the state and brought within the state may be
18 possessed, transported, and sold, without restriction.

19 **Comment.** Section 46415 continues former Fish and Game Code Section 8343 without
20 substantive change.

21 **§ 46420. Pismo clams**

22 46420. It is unlawful for any person to sell or purchase a pismo clam taken in
23 this state.

24 **Comment.** Section 46420 continues former Fish and Game Code Section 8346 without
25 substantive change.

26 **§ 46425. Washington clams and gappers**

27 46425. (a) In Districts 2515, 2580, and 2585, the bag limit on Washington clams
28 and gappers, sometimes known as bigneck clams, is 25 in the aggregate. In all other
29 districts the bag limit is 10 Washington clams and 10 gappers.

30 (b) No more than the daily bag limit may be possessed by any person during one
31 day, except that a market or restaurant, where clams are sold to the public, may
32 possess any number of Washington clams and gappers legally taken.

33 (c) In Districts 2580 and 2585, the holder of a commercial fishing license who
34 has in his possession a current daily written order for clams issued by a fish dealer
35 or restaurant may possess any number of Washington clams and gappers legally
36 taken, up to but not exceeding the number specified in the order.

37 **Comment.** Section 46425 continues former Fish and Game Code Section 8342 without
38 substantive change.

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PART 6. CRAB

TITLE 1. CRAB GENERALLY

CHAPTER 1. PRELIMINARY PROVISIONS

§ 46500. Crustacean

46500. For the purposes of Title 2 (commencing with Section 45400) of Part 3, a crab is a crustacean.

Comment. Section 46500 is new. It is added for drafting convenience.

§ 46505. Provisions not exclusive

46505. The provisions of this part are not intended to be exclusive. Other provisions that govern crab include, but are not limited to, the following provisions:

- (a) Section 16555.
- (b) Section 19205.
- (c) Section 19500.
- (d) Section 19805.
- (e) Section 20710.
- (f) Section 20720.
- (g) Section 47005.
- (h) Section 47450.

Comment. Section 46505 is new. It is added for drafting convenience.

CHAPTER 2. IMPORTATION

§ 46550. Importation of crab meat

46550. Crab meat from outside the state may be imported into the state under regulations of the commission.

Comment. Section 46550 continues former Fish and Game Code Section 2364 without substantive change.

TITLE 2. COMMERCIAL PROVISIONS

CHAPTER 1. PRELIMINARY PROVISIONS

§ 46800. Application of title

46800. For purposes of Section 45005, the provisions in this title are commercial provisions.

Comment. Section 46800 is new. It is added for drafting convenience.

1 (b) This section shall become inoperative on April 1, 2029, and, as of January 1,
2 2030, is repealed, unless a later enacted statute that becomes operative on or
3 before January 1, 2030, deletes or extends the date on which this section becomes
4 inoperative or is repealed.

5 **Comment.** Subdivision (a) of Section 47010 continues former Fish and Game Code Section
6 8276.4(i) without substantive change.

7 Subdivision (b) continues the part of former Fish and Game Code Section 8276.4(j) as it
8 applied to former Fish and Game Code Section 8276.4(i) without substantive change.

9  **Note.** Proposed Section 47060(b) would continue Section 8276(j) (as it applied to 8276.4(i)),
10 which was amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

11 **§ 47015. Crab meat and frozen crab**

12 47015. Crab meat and frozen crab taken during the open season may be
13 possessed, transported, and sold at any time, subject to the regulations of the
14 commission. The cost of inspection and marking, under the regulations of the
15 commission, shall be paid by the owner or seller of the crab or crab meat.

16 **Comment.** Section 47015 continues former Fish and Game Code Section 8281 without
17 substantive change.

18 CHAPTER 3. DUNGENESS CRAB

19 Article 1. General Provisions

20 **§ 47050. Provisions not exclusive**

21 47050. The provisions of this part are not intended to be exclusive. Other
22 provisions that govern Dungeness crab include, but are not limited to, the
23 following provisions:

- 24 (a) Section 19205.
- 25 (b) Section 19230.
- 26 (c) Section 25125.
- 27 (d) Section 20720.
- 28 (e) Section 47450.

29 **Comment.** Section 47050 is new. It is added for drafting convenience.

30 **§ 47055. Prohibited sale of take from specified waters**

31 47055. It is unlawful to sell any Dungeness crab taken in any of the following
32 waters:

- 33 (a) The Eel River and its tributaries, between the Pacific Ocean and the west line
34 of Sec. 35, T. 3 N., R. 1 W., H. B. & M.
- 35 (b) The Pacific Ocean, within a radius of one mile from the mouth of the Eel
36 River.
- 37 (c) Humboldt Bay, including the entrance of that bay, and the Pacific Ocean
38 within a radius of one mile from the extreme western point of the north jetty at the

1 entrance of the bay, and for a radius of one mile from the extreme western point of
2 the south jetty at the entrance of the bay.

3 (d) Trinidad Bay, the body of water within the area enclosed by a line running
4 southeasterly from the westernmost point of Trinidad Head to the mouth of
5 Luftenholtz Creek.

6 (e) Bodega Lagoon.

7 **Comment.** Section 47055 continues former Fish and Game Code Section 8279 without
8 substantive change.

9 **§ 47060. Take in Crescent City Harbor area**

10 47060. Except as provided in Section 47305 or Article 4 (commencing with
11 Section 47350), Dungeness crab may not be taken for commercial purposes in any
12 district, or part of a district, lying within the portions of Crescent City Harbor
13 between the south sand barrier and the breakwater.

14 **Comment.** Section 47060 continues former Fish and Game Code Section 8276(c) without
15 substantive change.

16 **Note.** Proposed Section 47060 would continue Section 8276(c), which was amended by 2018
17 Cal. Stat. ch. 663 as an urgency measure.

18 **§ 47065. Use of trawl or drag net south of Point Reyes**

19 47065. It is unlawful for any person on a vessel on which any type of trawl or
20 drag net is carried or operated to take or possess Dungeness crab, or to transfer
21 Dungeness crab to another vessel, south of a line extending due west, true, from
22 Point Reyes.

23 **Comment.** Section 47065 continues former Fish and Game Code Section 8834.5 without
24 substantive change.

25 **§ 47070. Size and sex restrictions**

26 47070. (a) Except as otherwise provided, it is unlawful to take, possess, buy, or
27 sell a male Dungeness crab of less than six and one-quarter (6 1/4) inches in
28 breadth, or a female Dungeness crab of any breadth.

29 (b) In any load or lot of Dungeness crabs, one percent or less in number may be
30 less than six and one-quarter (6 1/4) inches and equal to or greater than five and
31 three-quarters (5 3/4) inches in breadth.

32 (c) The breadth of a Dungeness crab shall be measured by the shortest distance
33 through the body from edge of shell to edge of shell directly from front of points
34 (lateral spines).

35 **Comment.** Section 47070 continues former Fish and Game Code Section 8278 without
36 substantive change.

37 **Note.** Existing Fish and Game Code Section 8278 (which would be continued by proposed
38 Section 47070) generally prohibits the take, possession, purchase, or sale, of undersized male
39 Dungeness crabs, or female Dungeness crabs of any size, “except that not more than 1 percent in
40 number of any load or lot of Dungeness crabs may be less than six and one-quarter (6 1/4) inches
41 in breadth but not less than five and three-quarters (5 3/4) inches in breadth.”

1 **Is this exception intended to include female Dungeness crabs of the specified breadth?**

2 Article 2. Geographic Restrictions

3 **§ 47150. Delayed opening season in District 2570, 2575, 2580, or 2585**

4 47150. (a) If there is any delay ordered by the director pursuant to Article 4
5 (commencing with Section 47350) in the opening of the Dungeness crab fishery in
6 District 2570, 2575, 2580, or 2585, a vessel shall not take or land crab within
7 District 2570, 2575, 2580, and 2585 during any closure.

8 (b) If there is any delay in the opening of the Dungeness crab season pursuant to
9 Article 4 (commencing with Section 47350), the opening date in District 2570,
10 2575, 2580, and 2585 shall be preceded by a 64-hour gear setting period, as
11 ordered by the director.

12 (c) This section shall become inoperative on April 1, 2029, and, as of January 1,
13 2030, is repealed, unless a later enacted statute, that becomes operative on or
14 before January 1, 2030, deletes or extends the dates on which it becomes
15 inoperative and is repealed.

16 **Comment.** Section 47150 continues former Fish and Game Code Section 8276.3 without
17 substantive change.

18 **Notes.** (1) Read literally, Section 8276.3 prohibits the take of crab in *all* of the listed districts
19 if *any* of those districts is closed. **The Commission invites comment on whether that is the**
20 **intended meaning.**

21 (2) Proposed Section 47150 would continue Section 8276.3, which was amended by 2018 Cal.
22 Stat. ch. 663 as an urgency measure.

23 **§ 47155. Ocean waters**

24 47155. (a) A person shall not take, possess onboard, or land Dungeness crab for
25 commercial purposes from a vessel in ocean waters for 30 days after the opening
26 of those waters for the commercial Dungeness crab fishing season, if both of the
27 following events have occurred:

28 (1) The opening of the season has been delayed in those waters.

29 (2) The same vessel was used to take, possess onboard, or land Dungeness crab
30 for commercial purposes, from ocean waters outside of the delayed waters, before
31 the opening of the delayed waters for the season.

32 (b) For purposes of this section, a delay in the opening of ocean waters for the
33 commercial Dungeness crab fishing season has occurred in either of the following
34 circumstances:

35 (1) The opening of those waters for the season has been delayed pursuant to
36 Section 11500 or Article 4 (commencing with Section 47350).

37 (2) The opening of those waters for the season has been delayed in Oregon or
38 Washington due to the tri-state quality testing program or by a closure to prevent a
39 risk to human health.

1 (c) This section shall become inoperative on April 1, 2029, and, as of January 1,
2 2030, is repealed, unless a later enacted statute, that becomes operative on or
3 before January 1, 2030, deletes or extends the dates on which it becomes
4 inoperative and is repealed.

5 **Comment.** Subdivisions (a) and (b) of Section 47155 continue former Fish and Game Code
6 Section 8279.1(a)-(b) without substantive change.

7 Subdivision (c) continues former Fish and Game Code Section 8279.1(d) without substantive
8 change.

9 See also Section 5834 (enforcement).

10 **Note.** Proposed Section 47155 would continue Section 8279.1(a), (b), and (d), which were
11 amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

12 Article 3. Seasons Generally

13 § 47300. Seasons

14 47300. Except as provided in Section 47305 or Article 4 (commencing with
15 Section 47350):

16 (a) Dungeness crab may be taken for commercial purposes in District 2570,
17 2575, 2580, or 2585 only between December 1 and July 15.

18 (b) Dungeness crab may be taken for commercial purposes in all other districts
19 only between November 15 and June 30.

20 (c) All Dungeness crab traps shall be removed from state waters by 11:59 p.m.
21 on the last day of the applicable Dungeness crab season.

22 **Comment.** Section 47300 continues former Fish and Game Code Section 8276(a), (b) and (d)
23 without substantive change.

24 **Note.** Proposed Section 47300 would continue Section 8276(a), (b), and (d), which were
25 amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

26 § 47305. Extension of season

27 47305. (a) The director may extend the Dungeness crab season in any district or
28 part of a district, as provided in this section.

29 (b) Before extending a Dungeness crab season, the director shall consider
30 written findings of the department regarding the state of the Dungeness crab
31 resource in the district, or part of a district, which consider, but are not limited to,
32 population and maturity. The director may extend the season only if the written
33 findings do not conclude that the extension will damage the Dungeness crab
34 resource.

35 (c) The director shall not extend the Dungeness crab season past August 31 in a
36 district, or part thereof, north of the southern boundary of Mendocino County or
37 past July 31 in a district, or part of a district, south of Mendocino County. The
38 director shall order closure of the season at any time during the extension period if
39 the director determines that further fishing will damage the Dungeness crab
40 resource.

1 (b) The director shall order the opening of the Dungeness crab season in
2 Districts 6, 7, 8, and 9 on December 1 if the quality tests authorized in Section
3 47355 indicate the Dungeness crabs are not soft-shelled or low quality.

4 (c) If the tests are conducted on or about November 1 and result in a finding that
5 Dungeness crabs are soft-shelled or low quality, the director shall authorize a
6 second test to be conducted on or about November 15 pursuant to the approved
7 testing program.

8 (d) If the second test results in a finding that Dungeness crabs are soft-shelled or
9 low quality, the director may order the season opening delayed for a period of 15
10 days and may authorize a third test to be conducted on or about December 1.

11 (e) If the third test results in a finding that Dungeness crabs remain soft-shelled
12 or of low quality, the director may order the season opening delayed for a period
13 of an additional 15 days and authorize a fourth test to be conducted.

14 (4) This procedure may continue to be followed, except that tests shall not be
15 conducted after January 15 for that season, and the season opening shall not be
16 delayed by the director later than January 15.

17 **Comment.** Section 47365 continues former Fish and Game Code Section 8276.2(c), without
18 substantive change.

19  **Note.** Proposed Section 47365 would continue Section 8276.2(c), which was amended by
20 2018 Cal. Stat. ch. 663 as an urgency measure.

21 **§ 47370. Sale of crab meat extracted for testing**

22 47370. (a) The meat extracted from Dungeness crab tested pursuant to Section
23 47355 may be sold by the entity approved by the department to conduct the
24 testing, and revenues from that sale may be used for purposes of managing the
25 testing program.

26 (b) Revenues shall be deposited in an account managed and overseen by the
27 Pacific States Marine Fisheries Commission.

28 **Comment.** Section 47370 continues former Fish and Game Code Section 8276.2(b)(2)(A)
29 without substantive change.

30 **§ 47375. Inoperative date of article**

31 47375. This article shall become inoperative on April 1, 2029, and, as of January
32 1, 2030, is repealed, unless a later enacted statute that becomes operative on or
33 before January 1, 2030, deletes or extends the date on which this article becomes
34 inoperative or is repealed.

35 **Comment.** Section 47375 continues former Fish and Game Code Section 8276.2(d) without
36 substantive change.

37  **Note.** Proposed Section 47375 would continue Section 8276.2(d), which was amended by
38 2018 Cal. Stat. ch. 663 as an urgency measure.

Article 5. Use of Traps Generally

§ 47450. Use of traps

47450. (a) Subject to Title 6 (commencing with Section 19200) of Part 6 of Division 6, and the provisions of this title, Dungeness crab may be taken with Dungeness crab traps.

(b) A Dungeness crab trap may have any number of openings of any size. However, every Dungeness crab trap shall have at least two rigid circular openings of not less than 4 1/4 inches, inside diameter, on the top or side of the trap. If both of the openings are located on the side of the trap, at least one of the openings shall be located so that at least one-half of the opening is in the upper half of the trap.

(c) In District 2570, 2575, 2580, or 2585, no trap shall be used to take Dungeness crab if that trap is attached to another trap or other traps by a common line.

Comment. Subdivision (a) of Section 47450 combines and continues the first sentence of former Fish and Game Code Section 8284(a) and former Fish and Game Code Section 9011(a)(1) without substantive change.

Subdivision (b) continues former Fish and Game Code Section 9011(a)(2) without substantive change.

Subdivision (c) continues former Fish and Game Code Section 9012(b) without substantive change.

Note. The first sentence of existing Fish and Game Code Section 8284(a) (which would be continued by proposed Section 47450(a)) provides that crab traps may be used to take Dungeness crab for commercial purposes, “[s]ubject to” the article in the existing law in which Section 8284 appears. In the proposed law, all provisions contained in that article have been continued in the title containing proposed Section 47450(a). However, that proposed title contains several additional provisions relevant to the subject matter of Section 8284 that are *not* in the “Article 6” referenced in that section: Sections 8834, 8834.5, 9011, and 9012.

The Commission invites comment on whether the additional inclusion of these provisions in the cross-reference in proposed Section 47450(a) would cause any problems.

§ 47455. Setting and baiting of traps

47455. (a) Except as provided in subdivision (b), crab traps may be set and baited 18 hours in advance of the opening date of the Dungeness crab season, if no other attempt is made to take or possess Dungeness crab.

(b) Crab traps may be set and baited 64 hours prior to the opening date of the Dungeness crab season in District 2570, 2575, 2580, or 2585. Crab traps may be set and baited in advance of that opening date in those districts, if no other attempt is made to take or possess Dungeness crab in those districts.

Comment. Section 47455 continues former Fish and Game Code Section 8283 without substantive change.

1 § 47460. **Incidental take**

2 47460. (a) Unless otherwise provided, any fish may be taken incidentally in crab
3 traps being used to take Dungeness crab.

4 (b) Subject to the provisions of this title, rock crab may be taken incidentally
5 with a Dungeness crab trap used pursuant to Section 47450 to take Dungeness
6 crab, provided that the incidental taking occurs only during the season when it is
7 lawful to take both species. A rock crab taken incidentally with a Dungeness crab
8 trap in non-compliance with this subdivision shall be immediately returned to the
9 waters from which it was taken.

10 **Comment.** Subdivision (a) of Section 47460 continues the second sentence of former Fish and
11 Game Code Section 8284(a) without substantive change.

12 Subdivision (b) continues former Fish and Game Code Section 9011(a)(3) without substantive
13 change.

14 **Note.** Existing Fish and Game Code Section 9011(a)(3) (which would be continued by
15 proposed Section 47460(b)) provides that rock crab may be taken incidentally with a Dungeness
16 crab trap under specified circumstances, “[s]ubject to Article 6 (commencing with Section 8275)
17 of Chapter 2.” In the proposed law, all provisions contained in that article have been continued in
18 the title containing proposed Section 47460. However, that proposed title contains several
19 additional provisions relevant to the subject matter of Section 9011(a)(3) that are *not* in the
20 “Article 6” referenced in that section: Sections 8834 and 8834.5, the other provisions in Section
21 9011, and Section 9012.

22 **The Commission invites comment on whether the additional inclusion of these provisions**
23 **in the cross-reference in proposed Section 47460(b) would cause any problems.**

24 § 47465. **Report to Legislature**

25 47465. On or before January 1, 2013, the department shall report to the
26 appropriate policy and fiscal committees of the Legislature the impacts, if any, of
27 the changes made to former Fish and Game Code Section 911 by Chapter 478 of
28 the Statutes of 2009. The report shall include information about citations issued
29 pursuant to that section relating to both rock crab and Dungeness crab for the years
30 2010 to 2012, inclusive.

31 **Comment.** Section 47465 continues former Fish and Game Code Section 9011(c) without
32 substantive change.

33 **Note.** **The Commission invites comment on whether existing Fish and Game Code**
34 **Section 9011(c) (which would be continued by proposed Section 47465) is obsolete, and need**
35 **not be continued in the proposed law.**

36 Article 6. Trap Limit Program

37 § 47600. **“Council”**

38 47600. For purposes of this article, “council” means the Ocean Protection
39 Council established pursuant to Section 35600 of the Public Resources Code.

40 **Comment.** Section 47600 continues former Fish and Game Code Section 8276.5(h) without
41 substantive change.

1 **§ 47605. Legislative declaration**

2 47605. (a) It is the intent of the Legislature that the department, the council, and
3 the Dungeness crab task force work with the Pacific States Marine Fisheries
4 Commission and the Tri-State Dungeness Crab Commission to resolve any issues
5 pertaining to moving the fair start line south to the border of California and
6 Mexico.

7 (b) For purposes of this section, the resolution of issues pertaining to the fair
8 start line shall be limited to assessing the positive and negative implications of
9 including District 2590 in the tri-state agreement, including working with the Tri-
10 State Dungeness Crab Commission to amend Oregon and Washington laws to
11 include District 2590 in the regular season fair start clause, and discussion of
12 providing different rules for District 2590 with regard to preseason quality testing.

13 **Comment.** Section 47605 continues former Fish and Game Code Section 8276.5(g) without
14 substantive change.

15 **§ 47610. Adoption of program**

16 47610. In consultation with the Dungeness crab task force, or its appointed
17 representatives, the director shall adopt a program, by March 31, 2013, for
18 Dungeness crab trap limits for all California permits.

19 **Comment.** Section 47610 continues the first sentence of former Fish and Game Code Section
20 8276.5(a) without substantive change.

21 See also Section 5836 (enforcement).

22 **§ 47615. Program requirements**

23 47615. Unless the director finds that there is consensus in the Dungeness crab
24 industry that modifications to the following requirements are more desirable, with
25 evidence of consensus, including, but not limited to, the record of the Dungeness
26 crab task force, the program shall include all of the requirements of this article.

27 **Comment.** Section 47615 continues the second sentence of former Fish and Game Code
28 Section 8276.5(a) without substantive change.

29 **§ 47620. Tier requirements**

30 47620. (a) The program shall contain seven tiers of Dungeness crab trap limits
31 based on California landings receipts under California permits between November
32 15, 2003, and July 15, 2008, as follows:

33 (a) The 55 California permits with the highest California landings shall receive a
34 maximum allocation of 500 trap tags.

35 (2) The 55 California permits with the next highest California landings to those
36 in paragraph (1) shall receive a maximum allocation of 450 trap tags.

37 (3) The 55 California permits with the next highest California landings to those
38 in paragraph (2) shall receive a maximum allocation of 400 trap tags.

39 (4) The 55 California permits with the next highest California landings to those
40 in paragraph (3) shall receive a maximum allocation of 350 trap tags.

1 (5) The 55 California permits with the next highest California landings to those
2 in paragraph (4) shall receive a maximum allocation of 300 trap tags.

3 (6) The remaining California permits with the next highest California landings
4 to those in paragraph (5), which are not described in paragraph (1) or (2) of
5 subdivision (a) of Section 47010 shall receive a maximum allocation of 250 trap
6 tags.

7 (7) The California permits described in paragraph (1) or (2) of subdivision (a) of
8 Section 47010 shall receive a maximum allocation of 175 tags. The tags in this tier
9 shall not be transferable for the first two years of the program.

10 (b) Notwithstanding subdivision (a), the director shall not remove a
11 permit holder from a tier described in that subdivision if, after an allocation is
12 made pursuant to that subdivision, an appeal pursuant to Section 47650 places a
13 permit holder in a tier different than the original allocation.

14 **Comment.** Section 47620 continues former Fish and Game Code Section 8276.5(a)(1)-(2)
15 without substantive change.

16 **Notes.** (1) The Commission invites comment on whether the second sentence of proposed
17 Section 47620(a)(7) should be repealed as obsolete.

18 (2) Proposed Section 47620 would continue Section 8276.5(a)(1), which was amended by 2018
19 Cal. Stat. ch. 663 as an urgency measure.

20 **§ 47625. Program participant requirements**

21 47625. Participants in the program shall meet all of the following requirements:

22 (a) Unless a participant receives a waiver pursuant to Section 47630, pay a
23 biennial fee for each trap tag issued pursuant to this article to pay the pro rata
24 share of costs of the program, including, but not limited to, informing
25 permit holders of the program, collecting fees, acquiring and sending trap tags to
26 permit holders, paying for a portion of enforcement costs, and monitoring the
27 results of the program. The fee shall not exceed five dollars (\$5) per trap, per two-
28 year period. All of the trap tags allocated to each permit pursuant to this article
29 shall be purchased by the permit holder or the permit shall be void.

30 (b) Purchase a biennial crab trap limit permit of not more than one thousand
31 dollars (\$1,000) per two-year period to pay for the department's reasonable
32 regulatory costs.

33 (c) Not lease a crab trap tag.

34 (d) Transfer a tag only as part of a transaction to purchase a California permitted
35 crab vessel.

36 (e) A Dungeness crab trap that is fished shall contain a trap tag that is fastened
37 to the main buoy, and an additional tag provided by the permit holder attached to
38 the trap. The department shall mandate the information that is required to appear
39 on both buoy and trap tags.

40 **Comment.** Section 47625 continues former Fish and Game Code Section 8276.5(a)(3) without
41 substantive change.

1 **§ 47630. Fee waiver for military service**

2 47630. (a) The department shall issue a participant a waiver from the biennial
3 fee for each trap tag described in subdivision (a) of Section 47625 if the
4 participant is unable to fish due to mandatory military service and the participant
5 submits a request for a waiver to the department at the same time that the
6 participant renews the permit issued pursuant to subdivision (b) of Section 47625.

7 (b) A participant who receives a waiver pursuant to this section shall not apply
8 to the department to fish for Dungeness crab during the first year of the waiver,
9 but may apply to fish for Dungeness crab during the second year of the waiver if
10 the participant pays the full cost of the biennial fee for each trap tag.

11 (c) The department shall not limit the number of times a participant may request
12 a waiver.

13 **Comment.** Section 47630 continues former Fish and Game Code Section 8276.5(a)(4) without
14 substantive change.

15 **§ 47635. Transit with valid out-of-state tags**

16 47635. Notwithstanding subdivision (e) of Section 47625, a vessel may transit
17 state waters with Dungeness crab traps that are not tagged pursuant to subdivision
18 (e) of Section 47625 if the traps contain either a valid Oregon or Washington trap
19 tag, no crab species are onboard the vessel, and the traps are not deployed in state
20 waters.

21 **Comment.** Section 47635 continues former Fish and Game Code Section 8276.5(a)(5) without
22 substantive change.

23 **§ 47640. Department accounting**

24 47640. The department shall annually provide an accounting of all costs
25 associated with the crab trap limit program. The department shall use excess funds
26 collected to reduce the cost of the crab trap limit permit fee or tag fee in
27 subsequent years of the program.

28 **Comment.** Section 47640 continues former Fish and Game Code Section 8276.5(a)(6) without
29 substantive change.

30 **§ 47645. Lost tags**

31 47645. Permitholders may replace lost tags by application to the department,
32 and payment of a fee not to exceed the reasonable costs incurred by the
33 department, which may be waived or reduced by the department in the case of
34 catastrophic loss of tags.

35 **Comment.** Section 47645 continues former Fish and Game Code Section 8276.5(a)(7) without
36 substantive change.

37 **§ 47650. Appeal of trap tag allocation**

38 47650. Any Dungeness crab permitholder may submit to the director an appeal
39 of a trap tag allocation received pursuant to this section, by March 31, 2014, on a
40 permit-by-permit basis for the purpose of revising upward or downward any trap

1 tag allocation. Any appeal to revise upward a trap tag allocation shall be based on
2 evidence that a permit's California landings during the period between November
3 15, 2003, and July 15, 2008, inclusive, were reduced as a result of unusual
4 circumstances and that these circumstances constitute an unfair hardship, taking
5 into account the overall California landings history as indicated by landing
6 receipts associated with the permit. The director shall initiate the appeal process
7 within 12 months of receiving an appeal request. The appeal shall be heard and
8 decided by an administrative law judge of the Office of Administrative Hearings,
9 whose decision shall constitute the final administrative decision. Any Dungeness
10 crab permit holder requesting an appeal to revise upward the permit holder's trap
11 tag allocation shall pay all expenses, including a nonrefundable filing fee, as
12 determined by the department, to pay for the department's reasonable costs
13 associated with the appeal process described in this section.

14 **Comment.** Section 47650 continues former Fish and Game Code Section 8276.5(a)(8) without
15 substantive change. An obsolete reference to "subparagraph (B)" was not continued.

16 **Notes.** (1) Existing Fish and Game Code Section 8276.5(a)(8) provides for an appeal of an
17 allocation made by March 31, 2014. **The Commission invites Comment on whether that**
18 **provision can be repealed as obsolete. If so, should proposed Section 47620(b) also be**
19 **deleted?**

20 (2) Proposed Section 47650 would continue Section 8276.5(a)(8), which was amended by 2018
21 Cal. Stat. ch. 663 as an urgency measure.

22 **§ 47655. Submission of proposed program to task force**

23 47655. (a) For the purposes of this article, a proposed recommendation that
24 receives an affirmative vote of at least 15 of the non-ex officio members of the
25 Dungeness crab task force may be transmitted to the director or the Legislature as
26 a recommendation, shall be considered to be the consensus of the task force, and
27 shall be considered to be evidence of consensus in the Dungeness crab industry.
28 Any proposed recommendation that does not receive a vote sufficient to authorize
29 transmittal to the director or Legislature as a recommendation shall be evidence of
30 a lack of consensus by the Dungeness crab task force, and shall be considered to
31 be evidence of a lack of consensus in the crab industry.

32 (b) The director may modify the program adopted pursuant to Section 47610, if
33 consistent with the requirements of this article, after consultation with the
34 Dungeness crab task force or its representatives and after the task force has had 60
35 days or more to review the proposed modifications and recommend any proposed
36 changes. The director may implement the modifications earlier than 60 days after
37 it is sent to the Dungeness crab task force for review, if recommended by the task
38 force.

39 **Comment.** Section 47655 continues former Fish and Game Code Section 8276.5(c)-(d)
40 without substantive change.

41 **Note.** Proposed Section 47665 would continue Section 8276.5(d), which was amended by
42 2018 Cal. Stat. ch. 663 as an urgency measure.

1 (1) Two nonvoting members representing the department, appointed by the
2 department.

3 (2) One nonvoting representative of University of California Sea Grant,
4 appointed by University of California Sea Grant.

5 (3) Seven members appointed by the Chair of the Ocean Protection Council
6 following a public solicitation for nominations, as follows:

7 (A) One voting and one nonvoting member representing sport fishing interests.

8 (B) Two voting members representing crab processing interests.

9 (C) One voting member representing commercial passenger fishing vessel
10 interests.

11 (D) Two nonvoting members representing nongovernmental organization
12 interests.

13 (4) Seventeen voting members representing commercial fishery interests, elected
14 by licensed persons possessing valid Dungeness crab permits in their respective
15 ports and production levels, as follows:

16 (A) Three members from Crescent City.

17 (B) One member from Trinidad.

18 (C) Two members from Eureka.

19 (D) Two members from Fort Bragg.

20 (E) Two members from Bodega Bay.

21 (F) Two members from San Francisco.

22 (G) Two members from Half Moon Bay.

23 (H) Two members from ports south of Half Moon Bay.

24 (I) One member who has a valid California nonresident crab permit.

25 **Comment.** Section 47800 continues former Fish and Game Code Section 8276.4(a) without
26 substantive change.

27  **Note.** Proposed Section 47800 would continue Section 8276.4(a), which was amended by
28 2018 Cal. Stat. ch. 663 as an urgency measure.

29 **§ 47805. Election of representatives**

30 47805. (a) (1) Elected members in each port shall represent the following
31 production levels:

32 (A) For ports with one elected member, the member shall represent both the
33 upper and lower production levels.

34 (B) For ports with two elected members, one member shall represent the upper
35 production level and one member shall represent the lower production level.

36 (C) For ports with three elected members, one member shall represent the upper
37 production level, one member shall represent the lower production level, and one
38 member shall represent both the upper and lower production levels.

39 (2) Upper and lower production levels shall be determined in relation to the
40 average landing, during the five-year period before the beginning of an election
41 cycle, of valid crab permitholders who landed a minimum of 25,000 pounds of
42 crab during that period.

1 (b) Elections shall be held every three years in each port, on a staggered basis
2 across ports, in coordination with the department or the Ocean Protection Council
3 and with support from an administrative team of the Dungeness crab task force. In
4 an election year, all elected members in a port shall be subject to reelection. There
5 shall be no limit on the number of terms that may be served by any person.

6 **Comment.** Section 47805 continues former Fish and Game Code Section 8276.4(b)-(c)
7 without substantive change.

8 **Note.** Proposed Section 47805 would continue Section 8276.4(b) and (c), which were
9 amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

10 **§ 47810. Alternates**

11 47810. (a) Each member appointed pursuant to paragraph (1), (2), or (3) of
12 subdivision (b) of Section 47800 shall select an alternate to serve and, if
13 applicable, vote in the member's place in case of the member's absence from, or
14 disqualification from participating in, a meeting of the task force. If the position of
15 a member appointed pursuant to one of those paragraphs becomes vacant, the
16 alternate member shall serve until the position is filled as required pursuant to that
17 paragraph.

18 (b) Each elected member shall select an alternate in the same port and
19 production level to serve and vote in the member's place in case of the member's
20 absence from, or disqualification from participating in, a meeting of the task force.
21 If the position of the member becomes vacant, the alternate shall serve and vote in
22 the member's place until the next election is held in the port pursuant to
23 subdivision (b) of Section 47805.

24 **Comment.** Section 47810 continues former Fish and Game Code Section 8276.4(d) without
25 substantive change.

26 **Note.** Proposed Section 47810 would continue Section 8276.4(d), which was amended by
27 2018 Cal. Stat. ch. 663 as an urgency measure.

28 **§ 47815. Responsibilities of task force**

29 47815. The Dungeness crab task force shall do all of the following:

30 (a) Review and evaluate the commercial Dungeness crab management measures
31 described in Article 6 (commencing with Section 47600), and make
32 recommendations to the Joint Committee on Fisheries and Aquaculture, the
33 department, and the commission, no later than January 15, 2022, and by January
34 15 of every third year thereafter through 2028.

35 (b) Make recommendations by the dates specified in subdivision (a) on all of the
36 following: the need for a permanent Dungeness crab advisory committee, the
37 economic impact of the program described in Article 6 (commencing with Section
38 47600) on permitholders of different tiers and the economies of different ports, the
39 cost of the program to the department, including enforcement costs, the viability of
40 a buyout program for the permitholders described in paragraph (7) of subdivision

1 (a) of Section 47620, refining commercial Dungeness crab management, and the
2 need for statutory changes to accomplish task force objectives.

3 (c) In considering commercial Dungeness crab management options, prioritize
4 the review of pot limit restriction options, current and future commercial fishery
5 effort, season modifications, essential fishery information needs, and short- and
6 long-term objectives for improved management.

7 **Comment.** Section 47815 continues former Fish and Game Code Section 8276.4(e) without
8 substantive change.

9  **Note.** Proposed Section 47815 would continue Section 8276.4(e), which was amended by
10 2018 Cal. Stat. ch. 663 as an urgency measure.

11 **§ 47820. Subcommittees**

12 47820. (a) The task force may establish subcommittees of specific user groups
13 from the task force membership to focus on issues specific to commercial harvest
14 or crab processing.

15 (b) The subcommittees shall report their recommendations, if any, to the task
16 force.

17 **Comment.** Section 47820 continues former Fish and Game Code Section 8276.4(f) without
18 substantive change.

19  **Note.** Proposed Section 47820 would continue Section 8276.4(f), which was amended by
20 2018 Cal. Stat. ch. 663 as an urgency measure.

21 **§ 47825. Grant**

22 47825. The Ocean Protection Council may include in a grant funding to cover
23 department staffing costs, as well as travel costs for task force participants
24 specified in paragraph (1) of subdivision (b) of Section 47800.

25 **Comment.** Section 47825 continues former Fish and Game Code Section 8276.4(g) without
26 substantive change.

27  **Note.** Proposed Section 47825 would continue Section 8276.4(g), which was amended by
28 2018 Cal. Stat. ch. 663 as an urgency measure.

29 **§ 47830. Task force recommendations**

30 47830. Except as otherwise provided in Article 6 (commencing with Section
31 47600), a recommendation shall be forwarded to the Joint Committee on Fisheries
32 and Aquaculture, the department, and the commission upon an affirmative vote of
33 at least two-thirds of the task force members.

34 **Comment.** Section 47830 continues former Fish and Game Code Section 8276.4(h) without
35 substantive change.

36 **§ 47835. Inoperative date of article**

37 47835. This article shall become inoperative on April 1, 2029, and, as of January
38 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or

1 before January 1, 2030, deletes or extends the dates on which it becomes
2 inoperative and is repealed.

3 **Comment.** Section 47835 continues former Fish and Game Code Section 8276.4(j) without
4 substantive change.

5 **Note.** Proposed Section 47835 would continue Section 8276.4(j), which was amended by
6 2018 Cal. Stat. ch. 663 as an urgency measure.

7 Article 8. Entanglement Risk Assessment and Mitigation

8 **§ 47850. Definitions**

9 47850. For purposes of this article, the following definitions shall apply:

10 (a) “California Dungeness Crab Fishing Gear Working Group” means the
11 California Dungeness Crab Fishing Gear Working Group established by the
12 department, in partnership with the Ocean Protection Council and the National
13 Marine Fisheries Service, on September 21, 2015, and as defined by its most
14 recent charter as it may be amended from time to time.

15 (b) “Risk assessment and mitigation program” means the program developed by
16 the California Dungeness Crab Fishing Gear Working Group, as that program may
17 be amended from time to time until the regulations are adopted pursuant to
18 subdivision (b), to identify and assess elevated levels of entanglement risk and
19 determine the need for management options to reduce the risk of entanglement.

20 **Comment.** Section 47850 continues former Fish and Game Code Section 8276.1(a) without
21 substantive change.

22 **Note.** Proposed Section 47850 would continue Section 8276.1(a), which was added by 2018
23 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in
24 anticipation of its effect.

25 **§ 47855. Regulations**

26 47855. (a) On or before November 1, 2020, the department, in consultation with
27 the California Dungeness Crab Fishing Gear Working Group and other
28 stakeholders, shall adopt regulations establishing criteria and protocols to evaluate
29 and respond to the potential risk of marine life entanglement. The regulations shall
30 include, but are not limited to, the risk assessment and mitigation program. Upon
31 the effective date of the regulations, the director may restrict the take of
32 Dungeness crab pursuant to the protocols and criteria.

33 (b) If the department has not developed the regulations pursuant to subdivision
34 (a) by November 1, 2020, the power of the director to exercise the authority
35 described in Section 47860 shall become inoperative on November 1, 2020.

36 **Comment.** Subdivision (a) of Section 47855 continues former Fish and Game Code Section
37 8276.1(b) without substantive change.

38 Subdivision (b) continues former Fish and Game Code Section 8276.1(e) without substantive
39 change.

Note. Proposed Section 47855 would continue Section 8276.1(b) and (e), which were added by 2018 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 47860. Mitigation

47860. (a) Until the regulations adopted pursuant to Section 47860 become effective or until November 1, 2020, whichever is sooner, if the director, in consultation with the California Dungeness Crab Fishing Gear Working Group, determines that the California Dungeness crab fishery is being conducted in a manner that poses a significant risk of marine life entanglement, the director may restrict the take of Dungeness crab in those areas where that risk has been determined to exist, including through time or area closures, or both.

(b) The authority of the director provided pursuant to subdivision (a) shall be temporary and shall expire upon the effective date of the regulations described in subdivision (a) of Section 47855 or upon the expiration of that authority pursuant to subdivision (b) of Section 47855, whichever is soonest.

(c) The director shall evaluate the following factors to determine if there is a significant risk of marine life entanglement and the appropriate management response:

(1) The conditions inherent to the fishery, such as safety of life at sea, weather, vessel operations, and other related issues.

(2) The duration of any delays in the normal start of the fishery.

(3) Indications of anomalous ocean or forage conditions, or both, in the current season.

(4) The known location of marine life of concern.

(5) The known location and intensity of fishing effort.

(6) The number of confirmed marine life entanglements documented in advance of or during the current fishing season.

(7) The existence and prevalence of factors that may result in significant risk of marine life entanglement.

(8) The likelihood of exceeding the potential biological removal level of a marine life species.

(9) The socioeconomic impacts of any management response to fishery stakeholders.

(d) (1) After making a preliminary determination pursuant to subdivision (a) that a significant risk of entanglement exists, the director shall provide 48 hours' notice to the California Dungeness Crab Fishing Gear Working Group and other stakeholders before taking any action to close the fishery or otherwise restrict the take of Dungeness crab.

(2) The notice shall provide the information supporting the director's determination of a significant risk of entanglement as well as the anticipated management response.

1 (3) The director shall consider any recommendations or new information
2 provided by the California Dungeness Crab Fishing Gear Working Group or any
3 member of the public within the 48-hour notice period in advance of enacting any
4 management measures pursuant to this subdivision.

5 (e) Any time or area closures, or both, implemented pursuant to this section
6 shall, while providing for adequate reduction of risk to marine life, be minimized
7 in duration and extent.

8 (f) The director shall expeditiously lift any restriction in waters pursuant to this
9 section if the director determines, in consultation with the California Dungeness
10 Crab Fishing Gear Working Group, that the significant risk of entanglement in
11 those waters has abated.

12 (g) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
13 Title 2 of the Government Code does not apply to actions taken pursuant to this
14 section.

15 **Comment.** Section 47860 continues former Fish and Game Code Section 8276.1(c) without
16 substantive change.

17 **Note.** Proposed Section 47850 would continue Section 8276.1(c), which was added by 2018
18 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in
19 anticipation of its effect.

20 **§ 47865. Prohibition**

21 47865. It shall be unlawful to take or possess Dungeness crab from any waters
22 closed, or otherwise violate any restriction on take imposed, pursuant to this
23 article.

24 **Comment.** Section 47865 continues former Fish and Game Code Section 8276.1(d) without
25 substantive change.

26 **Note.** Proposed Section 47865 would continue Section 8276.1(d), which was added by 2018
27 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in
28 anticipation of its effect.

29 **§ 47870. Sunset**

30 47870. This article shall remain in effect only until January 1, 2024, and as of
31 that date is repealed.

32 **Comment.** Section 47870 continues former Fish and Game Code Section 8276.1(f) without
33 substantive change.

34 **Note.** Proposed Section 47870 would continue Section 8276.1(f), which was added by 2018
35 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in
36 anticipation of its effect.

1 CHAPTER 4. DUNGENESS CRAB VESSEL PERMITS

2 Article 1. General Provisions

3 § 47900. Permit requirement

4 47900. A person shall not use a vessel to take, possess, or land Dungeness crab
5 for commercial purposes using Dungeness crab traps authorized pursuant to
6 Section 47450, unless the owner of that vessel has a Dungeness crab vessel permit
7 for that vessel that has not been suspended or revoked.

8 **Comment.** Subdivision (a) of Section 47900 continues former Fish and Game Code Section
9 8280.1(a) without substantive change.

10 See also Sections 5820, 5832 (enforcement).

11  **Note.** Proposed Section 47900 would continue Section 8280.1(a), which was amended by
12 2018 Cal. Stat. ch. 663 as an urgency measure.

13 § 47905. Fees for permit

14 47905. The department shall charge a fee for each Dungeness crab vessel permit
15 of two hundred dollars (\$200) for a resident of California, and four hundred
16 dollars (\$400) for a nonresident of California, for the reasonable regulatory costs
17 of the department.

18 **Comment.** Section 47905 continues former Fish and Game Code Section 8280.6(a) without
19 substantive change.

20 § 47910. Inoperative date of article

21 47910. This article shall become inoperative on April 1, 2029, and, as of January
22 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or
23 before January 1, 2030, deletes or extends the dates on which it becomes
24 inoperative and is repealed.

25 **Comment.** Section 47910 combines and continues former Fish and Game Code Sections
26 8280.1(e) and 8280.6(d), without substantive change.

27  **Note.** Proposed Section 47910 would continue Sections 8280.1(e) and 8280.6(d), which were
28 amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

29 Article 2. Issuance

30 § 48100. No new permits

31 48100. A person shall not be issued a new, original Dungeness crab vessel
32 permit. A Dungeness crab vessel permit may be issued only pursuant to a renewal
33 or transfer of an existing permit as provided in Section 48110 or Article 4
34 (commencing with Section 48310).

35 **Comment.** Section 48100 continues former Fish and Game Code Sections 8280.1(b) without
36 substantive change.

1 **Note.** Proposed Section 48100 would continue Section 8280.1(b), which was amended by
2 2018 Cal. Stat. ch. 663 as an urgency measure.

3 **§ 48105. Death of permittee**

4 48105. A permit issued pursuant to paragraph (3) of subdivision (b) of former
5 Fish and Game Code Section 8280.1, as that section read on August 1, 2018, or
6 any prior version of that paragraph, shall become immediately null and void upon
7 the death of the permittee.

8 **Comment.** Section 48105 continues former Fish and Game Code Sections 8280.1(c) without
9 substantive change.

10 **Note.** Proposed Section 48105 would continue Section 8280.1(c), which was amended by
11 2018 Cal. Stat. ch. 663 as an urgency measure.

12 **§ 48110. Eligibility**

13 48110. (a) The owner of a Dungeness crab vessel, for purposes of this section,
14 may include a person with a bona fide contract for the purchase of a vessel who
15 otherwise meets all other qualifications for a Dungeness crab vessel permit. If a
16 contract is found to be fraudulent or written or entered into for the purposes of
17 circumventing qualification criteria for the issuance of a permit, the applicant shall
18 be permanently ineligible for a Dungeness crab vessel permit.

19 (b) A Dungeness crab vessel permit shall be issued only to the person owning
20 the vessel at the time of application for that permit. A person shall not be issued
21 more than one permit for each vessel owned by that person and qualifying for a
22 permit pursuant to this title.

23 (c) A Dungeness crab vessel permit shall be issued only to the owner of a vessel
24 taking crab by traps. A permit shall not be issued to the owner of a vessel using
25 trawl or other nets unless the owner of that vessel qualifies for a permit pursuant to
26 paragraph (1) of subdivision (b) of former Fish and Game Code Section 8280.1, as
27 that section read on August 1, 2018, or any prior version of that paragraph. A trawl
28 or other net vessel authorized under this code to take Dungeness crab incidental to
29 the taking of fish in trawl or other nets shall not be required to possess a
30 Dungeness crab vessel permit.

31 (d) Dungeness crab vessel permits shall not be combined or otherwise
32 aggregated for the purpose of replacing smaller vessels in the fishery with a larger
33 vessel, and a permit shall not be divided or otherwise separated for the purpose of
34 replacing a vessel in the fishery with two or more smaller vessels.

35 (e) Applications for renewal of all Dungeness crab vessel permits shall be
36 received by the department, or, if mailed, postmarked, by April 30 of each year. In
37 order for a vessel to retain eligibility, a permit shall be obtained each year
38 subsequent to the initial permit year and the vessel shall be registered pursuant to
39 Section 14755. The vessel owner shall have a valid commercial fishing license
40 issued to that person pursuant to Section 14500 that has not been suspended or

1 revoked. Minimum landings of Dungeness crab shall not be required annually to
2 be eligible for a Dungeness crab vessel permit.

3 **Comment.** Section 48110 continues former Fish and Game Code Section 8280.2(a)-(e)
4 without substantive change.

5 **Note.** Proposed Section 48110 would continue Section 8280.2(a)-(e), which were amended
6 by 2018 Cal. Stat. ch. 663 as an urgency measure.

7 **§ 48115. Inoperative date of article**

8 48115. This article shall become inoperative on April 1, 2029, and, as of January
9 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or
10 before January 1, 2030, deletes or extends the dates on which it becomes
11 inoperative and is repealed.

12 **Comment.** Section 48115 continues former Fish and Game Code Sections 8280.1(e) and
13 8280.2(f) without substantive change.

14 **Note.** Proposed Section 48110 would continue Sections 8280.1(e) and 8280.2(f), which were
15 amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

16 **Article 3. Transfer Generally**

17 **§ 48300. Application for transfer**

18 48300. A vessel owner shall sign an application for transfer, and certify that the
19 information included in the application is true to the best of his or her information
20 and belief.

21 **Comment.** Section 48300 continues former Fish and Game Code Section 8280.6(c) without
22 substantive change.

23 **§ 48305. Fees for transfer**

24 48305. The department shall charge a nonrefundable fee of two hundred dollars
25 (\$200) for each transfer of a permit authorized pursuant to this chapter, for the
26 reasonable regulatory costs of the department.

27 **Comment.** Section 48305 continues former Fish and Game Code Section 8280.6(b) without
28 substantive change.

29 **Article 4. Specific Rules Governing Transfer**

30 **§ 48310. Restriction on transfer**

31 48310. Notwithstanding Chapter 2 (commencing with Section 22500) of Title
32 15 of Part 6 of Division 6, and except as provided in this article, a Dungeness crab
33 vessel permit shall not be transferred.

34 **Comment.** Section 48310 continues former Fish and Game Code Section 8280.3(b) without
35 substantive change.

1 **§ 48315. Transfer to purchaser of vessel**

2 48315. The owner of a vessel to whom a Dungeness crab vessel permit has been
3 issued shall transfer the permit for the use of that vessel upon the sale of the vessel
4 by the permitholder to the person purchasing the vessel, except that the permit
5 shall not be transferred if the vessel is more than five feet longer in length overall,
6 as determined by a licensed marine surveyor, than the baseline length on the
7 permit. Thereafter, upon notice to the department, the person purchasing the vessel
8 may use the vessel for the taking and landing of Dungeness crab for any and all of
9 the unexpired portion of the permit year, and that person is eligible for a permit
10 pursuant to this title for the use of that vessel in subsequent years. The person
11 purchasing the vessel shall not transfer the permit for use of that vessel in the
12 Dungeness crab fishery to another replacement vessel during the same permit year.

13 **Comment.** Section 48315 continues former Fish and Game Code Section 8280.3(c) without
14 substantive change.

15 **Note.** Proposed Section 48315 would continue Sections 8280.3(c), which was amended by
16 2018 Cal. Stat. ch. 663 as an urgency measure.

17 **§ 48320. Transfer to replacement vessel**

18 48320. The owner of a vessel to whom the Dungeness crab vessel permit has
19 been issued may transfer the permit to a replacement vessel of equivalent capacity,
20 except as specified in this title. Thereafter, upon notice to the department and
21 payment of the transfer fee specified in Section 48305, the replacement vessel may
22 be used for the taking and landing of Dungeness crab for any and all of the
23 unexpired portion of the permit year and that person is eligible for a permit
24 pursuant to this title for the use of that replacement vessel in subsequent years.

25 **Comment.** Section 48320 continues former Fish and Game Code Section 8280.3(d) without
26 substantive change.

27 **Note.** Proposed Section 48320 would continue Sections 8280.3(d), which was amended by
28 2018 Cal. Stat. ch. 663 as an urgency measure.

29 **§ 48325. Transfer to replacement vessel in specified circumstances**

30 48325. The department may authorize the owner of a permitted vessel to transfer
31 the permit to a replacement vessel that was owned by that person on or before
32 April 1, 1996, that does not fish with trawl nets that is greater than five feet longer
33 in length overall than the baseline length on the permit, if all of the following
34 conditions are satisfied:

35 (a) A vessel of a larger size is essential to the owner for participation in another
36 fishery other than a trawl net fishery.

37 (b) The owner held a permit on or before January 1, 1995, for the fishery for
38 which a larger vessel is needed and has participated in that fishery.

39 (c) The permit for the vessel from which the permit is to be transferred qualified
40 pursuant to paragraph (1) of subdivision (b) of former Fish and Game Code

1 Section 8280.1, as that section read on August 1, 2018, or any prior version of that
2 paragraph.

3 (d) The vessel to which the permit is to be transferred does not exceed 20 feet
4 longer in length overall than the baseline length on the permit and the vessel to
5 which the permit is to be transferred does not exceed 60 feet in length overall.

6 **Comment.** Section 48325 continues former Fish and Game Code Section 8280.3(f) without
7 substantive change.

8 **Note.** Proposed Section 48325 would continue Sections 8280.3(f), which was amended by
9 2018 Cal. Stat. ch. 663 as an urgency measure.

10 **§ 48330. Transfer to vessel of greater capacity owned by permit holder**

11 48330 The owner of a permitted vessel may transfer the permit to a vessel of
12 greater capacity that was owned by that person on or before November 15, 1995,
13 not to exceed 10 feet longer in length overall than the baseline length on the
14 permit or to a vessel of greater capacity purchased after November 15, 1995, not to
15 exceed five feet longer in length overall than the baseline length on the permit.

16 **Comment.** Section 48330 continues former Fish and Game Code Section 8280.3(e) without
17 substantive change.

18 **Note.** Proposed Section 48315 would continue Sections 8280.3(e), which was amended by
19 2018 Cal. Stat. ch. 663 as an urgency measure.

20 **§ 48335. Restriction on transfer to larger vessel**

21 48335. A transfer of a permit to a larger vessel shall not be allowed more than
22 one time. If a permit is transferred to a larger vessel, any Dungeness crab vessel
23 permit for that permit year or any subsequent permit years for that larger vessel
24 shall not be transferred to another larger vessel. The department shall not
25 thereafter issue a Dungeness crab vessel permit for the use of the original vessel
26 from which the permit was transferred, except that the original vessel may be used
27 to take or land Dungeness crab after that transfer if its use is authorized pursuant
28 to another Dungeness crab vessel permit subsequently transferred to that vessel
29 pursuant to Section 48320, 48325, or 48330.

30 **Comment.** Section 48335 continues former Fish and Game Code Section 8280.3(g) without
31 substantive change.

32 **Note.** Proposed Section 48315 would continue Sections 8280.3(g), which was amended by
33 2018 Cal. Stat. ch. 663 as an urgency measure.

34 **§ 48340. Transfer where permitted vessel damaged, lost, or destroyed**

35 48340. (a) Upon the written approval of the department, the owner of a vessel to
36 whom the Dungeness crab vessel permit has been issued, which has California
37 Dungeness crab landings made with trap gear documented on department landing
38 receipts and which has had California Dungeness crab landings amounting to not
39 less than 5,000 pounds cumulative for the past two Dungeness crab seasons, may
40 temporarily transfer the permit to a replacement vessel for which use in the

1 Dungeness crab fishery is not permitted pursuant to this title that is of equivalent
2 size and capacity of the originally permitted vessel, no greater than 10 feet longer
3 in length overall than the vessel from which the permit is transferred, for a period
4 of not more than six months during the current permit year if the vessel for which
5 the permit was issued is seriously damaged, suffers major mechanical breakdown,
6 or is lost or destroyed, as determined by the department, upon approval of the
7 director. The owner of the vessel shall submit proof that the department may
8 reasonably require to establish the existence of the conditions of this subdivision.
9 Only the permittee at the time of the loss, theft, damage, breakdown, or
10 destruction of the vessel may apply for the transfer of the vessel permit. Proof of
11 loss or destruction shall be documented by submission of a copy of the report filed
12 with the United States Coast Guard or any other law enforcement or fire agency
13 that investigated the loss. In the case of mechanical breakdown, the request shall
14 include an estimate of the costs to repair the vessel from a marine surveyor or boat
15 repair yard. The department shall not issue a permit for a replacement vessel
16 pursuant to this subdivision if the permitted vessel was reported lost, stolen,
17 mechanically broken down, destroyed, or damaged for fraudulent purposes. Upon
18 approval by the director, the owner of a vessel granted a six-month temporary
19 transfer under this section may be granted an additional six-month extension of the
20 temporary transfer.

21 (b) Notwithstanding subdivision (e) of Section 48110, in the event of loss or
22 destruction of a vessel for which a Dungeness crab vessel permit was issued, or
23 serious damage that renders the vessel inoperable, and upon written approval of
24 the department, the owner of the vessel to whom the permit was issued may retain
25 the permit and may transfer the permit to another vessel of equivalent size and
26 capacity of the vessel that was lost or damaged during the period of two years after
27 the loss or damage of the vessel for which the permit was originally issued. The
28 owner of the lost or damaged vessel shall submit proof that the department may
29 reasonably require to establish the loss or damage of the vessel. Only the permittee
30 at the time of the loss, theft, damage, or destruction of the vessel may apply for the
31 transfer of the vessel permit. Proof of loss or destruction shall be documented by
32 submission of a copy of the report filed with the United States Coast Guard or any
33 other law enforcement or fire agency that investigated the loss. In the case of
34 mechanical breakdown, the request shall include an estimate of the costs to repair
35 the vessel from a marine surveyor or boat repair yard. The department shall not
36 issue a permit for a replacement vessel pursuant to this subdivision if the lost or
37 damaged vessel was reported lost, stolen, destroyed, mechanically broken down,
38 or damaged for fraudulent purposes. The department shall only transfer a permit
39 pursuant to this subdivision if the lost or damaged vessel has a current permit and
40 the owner of the lost or damaged vessel makes assurances in the application that
41 any renewal of the permit that becomes due during the application processing
42 period will be made. If the permit is not permanently transferred to another vessel

1 owned by the person to whom the vessel permit was originally issued within two
2 years of the loss or damage, the permit shall become void by operation of law.

3 **Comment.** Section 48340 continues former Fish and Game Code Section 8280.3(h) without
4 substantive change.

5  **Note.** Proposed Section 48315 would continue Sections 8280.3(h), which was amended by
6 2018 Cal. Stat. ch. 663 as an urgency measure.

7 **§ 48345. Transfer to new vessel**

8 48345. Upon written approval of the department, the owner of a vessel to whom
9 the Dungeness crab vessel permit has been issued may retain that permit upon the
10 sale of that permitted vessel for the purpose of transferring the permit to another
11 vessel to be purchased by that individual within one year of the time of sale of the
12 vessel for which the permit was originally issued if the requirements of this
13 section are satisfied, including the payment of transfer fees. If the permit is not
14 transferred to a new vessel owned by the person to whom the vessel permit was
15 originally issued within one year of the sale of the vessel for which it was
16 originally issued, or if the person does not retain ownership of the new vessel to
17 which the permit is transferred for a period of not less than one year, the permit
18 shall become void by operation of law.

19 **Comment.** Section 48345 continues former Fish and Game Code Section 8280.3(i) without
20 substantive change.

21 **§ 48350. Transfer on death of permitholder**

22 48350. In the event of the death or incapacity of a permitholder, the permit shall
23 be transferred, upon application, to the heirs or assigns, or to the working partner,
24 of the permitholder, together with the transfer of the vessel for which the permit
25 was issued, and the new owner may continue to operate the vessel under the
26 permit, renew the permit, or transfer the permit upon sale of the vessel pursuant to
27 subdivision (b). The estate of the holder of a transferable Dungeness crab vessel
28 permit may renew that permit as provided for in statute if needed to keep it valid.
29 The estate of the decedent may transfer that permit pursuant to these regulations
30 no later than two years from the date of death of the permitholder as listed on the
31 death certificate.

32 **Comment.** Section 48350 continues former Fish and Game Code Section 8280.3(j) without
33 substantive change.

34 **§ 48355. Length of vessel**

35 48355. (a) For purposes of this article, the term “length overall” means the
36 horizontal distance between the forward-most and after-most points on the hull of
37 a vessel. The length overall of a vessel does not include attachments fixed to the
38 stern and bow.

39 (b) For purposes of this article, the baseline length on a Dungeness crab vessel
40 permit shall be equal to the length overall of the vessel for which the permit was

1 originally issued, as originally documented on the permit, unless updated pursuant
2 to subdivisions (c) and (d).

3 (c) If, on or before March 31, 2020, the owner of a vessel to whom a Dungeness
4 crab vessel permit has been issued submits to the department a survey reflecting a
5 current length overall of the vessel that is greater than the length overall described
6 in subdivision (b), the baseline length on the permit shall be equal to that current
7 length overall.

8 (d) A survey submitted pursuant to subdivision (c) shall be conducted by a
9 licensed marine surveyor.

10 **Comment.** Section 48355 continues former Fish and Game Code Section 8280.3(a), (k)
11 without substantive change.

12 **Note.** Proposed Section 48315 would continue Section 8280.3(a) and (k), which were
13 amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

14 **§ 48360. Inoperative date**

15 48360. This article shall become inoperative on April 1, 2029, and, as of January
16 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or
17 before January 1, 2030, deletes or extends the dates on which it becomes
18 inoperative and is repealed.

19 **Comment.** Section 48360 continues former Fish and Game Code Sections 8280.3(l) and
20 8280.6(d) without substantive change.

21 **Note.** Proposed Section 48315 would continue Sections 8280.3(l), which was amended by
22 2018 Cal. Stat. ch. 663 as an urgency measure.

23 **Article 5. Miscellaneous Provisions**

24 **§ 48500. Legislative declaration**

25 48500. (a) The Legislature finds and declares that the Dungeness crab fishery is
26 important to the state because it provides a valuable food product, employment for
27 those persons engaged in the fishery, and economic benefits to the coastal
28 communities of the state.

29 (b) The Legislature further finds that, in order to protect the Dungeness crab
30 fishery, it is necessary to limit the number of vessels participating in that fishery to
31 take Dungeness crab and it may be necessary to limit the quantity and capacity of
32 the fishing gear used on each vessel to take Dungeness crab.

33 (c) The Legislature further finds and declares that to limit the number of vessels
34 in the Dungeness crab fishery, it is necessary to require that the owner of each
35 vessel participating in the fishery obtain and possess a permit for that vessel and
36 that the initial issuance of permits shall be limited to those persons owning vessels
37 qualifying under former Fish and Game Code Section 8280.1, as that section read
38 on August 1, 2018, or any prior version of that section.

39 **Comment.** Section 48500 continues former Fish and Game Code Section 8280 without
40 substantive change.

1 **Note.** Proposed Section 48500 would continue Section 8280, which was amended by 2018
2 Cal. Stat. ch. 663 as an urgency measure.

3 **§ 48505. Location where permits valid**

4 48505. Dungeness crab vessel permits are valid only in waters of the state and in
5 the Pacific Ocean in federal waters south of the border with Oregon.

6 **Comment.** Section 48505 continues former Fish and Game Code Section 8280.9 without
7 substantive change.

8 **§ 48510. Assistance of unpermitted vessel**

9 48510. (a) Notwithstanding Section 47900, the owner of a vessel, who has a
10 Dungeness crab vessel permit for that vessel that has not been suspended or
11 revoked, may contract for the use of a vessel that is registered pursuant to Section
12 14755 and for which a Dungeness crab vessel permit has not been issued, for the
13 purpose of assisting the crew of the permitted vessel in the deployment of
14 Dungeness crab traps.

15 (b) An unpermitted vessel used for the purpose of assisting in the deployment of
16 Dungeness crab traps pursuant to this section shall not have on board any
17 Dungeness crab, or equipment for the retrieval of Dungeness crab traps.

18 **Comment.** Section 48510 continues former Fish and Game Code Section 8280.7 without
19 substantive change.

20 **CHAPTER 5. ROCK CRAB**

21 **§ 48650. Rock crab season**

22 48650. (a) Subject to Title 6 (commencing with Section 19200) of Part 6 of
23 Division 6, Sections 47005 and 47460, this chapter, and subject to the regulation
24 of the commission authorized under subdivision (c), rock crab may be taken in
25 traps in any waters of the state at any time, except in Districts 2585, 2630, 2635,
26 and 2650 and those portions of District 2640 lying on the north and east sides of
27 Santa Catalina Island north of Southeast Rock. Rock crab (*Cancer antennarius*),
28 red crab (*Cancer productus*), or yellow crab (*Cancer anthonyi*), which is less than
29 4 1/4 inches, measured in a straight line through the body, from edge of shell to
30 edge of shell at the widest part, shall not be taken, possessed, bought, or sold.

31 (b) Any person taking rock crab shall carry a measuring device and shall
32 measure any rock crab immediately upon removal from the trap. If the person
33 determines that the rock crab is undersize, the person shall return it to the water
34 immediately.

35 (c) Upon the recommendation of the director regarding rock crab fishery
36 management measures, and following a public hearing on the matter, the
37 commission may adopt regulations to manage the rock crab resource consistent
38 with Title 3 (commencing with Section 12100) of Part 4 of Division 6.

39 **Comment.** Section 48650 continues former Fish and Game Code Section 8282 without
40 substantive change.

1 § 48655. Take of rock crab

2 48655. (a) Subject to the provisions of this title, rock crab, as defined in Section
3 46855, may be taken with rock crab traps.

4 (b) A rock crab trap may have any number of openings of any size. However, a
5 rock crab trap constructed of wire mesh with an inside mesh measurement of not
6 less than 1 7/8 inches by 3 7/8 inches, with the 3 7/8 inch measurement parallel to
7 the floor, shall have at least one rigid circular opening of not less than 3 1/4
8 inches, inside diameter, located on any outside wall of the rearmost chamber of the
9 crab trap and shall be located so that at least one-half of the opening is in the upper
10 half of the trap. Rock crab traps constructed of other material shall have at least
11 two rigid circular openings of not less than 3 1/4 inches, inside diameter, on the
12 top or side of the rearmost chamber of the trap. If both of the openings are located
13 on the side of the trap, at least one of the openings shall be located so that at least
14 one-half of the opening is in the upper half of the trap. No rigid circular opening,
15 as required, shall extend more than 1/2 inch beyond the plane of the wall side or
16 top of the trap in which it is located, and it shall be clearly accessible to any crab
17 which may be in the trap.

18 (c) Subject to the provisions of this title, Dungeness crab may be taken
19 incidentally with a rock crab trap used pursuant to this subdivision to take rock
20 crab, provided that the incidental taking occurs only during the season when it is
21 lawful to take both species. A Dungeness crab, taken incidentally with a rock crab
22 trap, which does not comply with the provisions of this title shall be immediately
23 returned to the waters from which it was taken.

24 (d) A person shall not possess any lobster aboard a vessel while the vessel is
25 being used pursuant to this subdivision to take rock crab.

26 **Comment.** Section 48655 continues former Fish and Game Code Section 9011(b) without
27 substantive change.

28 **Note.** Existing Fish and Game Code Section 9011(b) (which would be continued by proposed
29 Section 48655) contains several cross-references to “Article 6 (commencing with Section 8275)
30 of Chapter 2.” In the proposed law, all provisions contained in that article have been continued in
31 the title containing proposed Section 48655. However, that proposed title contains several
32 additional provisions relevant to the subject matter of Section 9011(b) that are *not* in the “Article
33 6” referenced in that section: Sections 8834, 9011(a), and 9012.

34 **The Commission invites comment on whether the additional inclusion of these provisions**
35 **in the cross-reference in proposed Section 48655 would cause any problems.**

36 § 48660. Incidental take

37 48660. (a) Except as provided in Section 47450, 48655, or subdivision (b), any
38 species other than rock crab taken incidentally in a crab trap being used to take
39 rock crab shall be immediately released back to the water.

40 (b) The following species may be taken incidentally in crab traps being used to
41 take rock crab, under a permit issued pursuant to Section 19205, in District 2625
42 or 2685:

43 (1) Kelleet’s whelk.

1 (2) Octopus.

2 (3) Crabs other than of the genus *Cancer*, except as provided in Section 47450 or
3 48655.

4 **Comment.** Section 48660 continues former Fish and Game Code Section 8284(b) and (c)
5 without substantive change.

6 **PART 7. CRAYFISH**

7 **TITLE 1. CRAYFISH GENERALLY**

8 **§ 48950. Crustacean**

9 48950. For the purposes of Title 2 (commencing with Section 45400) of Part 3, a
10 crayfish is a crustacean.

11 **Comment.** Section 48950 is new. It is added for drafting convenience.

12 **§ 48955. Provisions not exclusive**

13 48955. The provisions of this part are not intended to be exclusive. Other
14 provisions that govern crayfish include, but are not limited to, the following
15 provisions:

16 (a) Section 23355.

17 (b) Section 26500.

18 **Comment.** Section 48955 is new. It is added for drafting convenience.

19 **TITLE 2. COMMERCIAL PROVISIONS**

20 **§ 49000. Application of title**

21 49000. For purposes of Section 45005, the provisions in this title are commercial
22 provisions.

23 **Comment.** Section 49000 is new. It is added for drafting convenience.

24 **§ 49005. Take**

25 49005. The taking of crayfish shall be subject to regulations adopted by the
26 commission.

27 **Comment.** Section 49005 continues former Fish and Game Code Section 8490 without
28 substantive change.

29 **§ 49010. Use of traps**

30 49010. (a) Crayfish traps may be used at any time, in any district, to take
31 crayfish only.

32 (b) Traps shall not exceed three feet in greatest dimension.

33 (c) Any other species taken with crayfish traps shall be returned to the water
34 immediately.

1 (d) The commission may prohibit the use of crayfish traps that will injure fish,
2 or that will entrap unnecessarily large numbers of fish other than crayfish.

3 **Comment.** Section 49010 continues former Fish and Game Code Section 9024 without
4 substantive change.

5 See also Section 4900 (enforcement).

6 **§ 49015. Take in Lake Tahoe**

7 49015. (a) Any allowance for the commercial taking of crayfish in Lake Tahoe
8 or in the Lake Tahoe Basin shall be for the primary purpose of population
9 reduction and control of the signal crayfish, an invasive species. The commercial
10 taking of crayfish may be allowed only to the extent that it is consistent with state
11 goals for management of invasive species and other environmental standards,
12 including an environmental analysis conducted by the Tahoe Regional Planning
13 Agency or another appropriate lead agency for each proposed individual harvest
14 operation.

15 (b) The commission shall ensure that, with respect to the taking of crayfish for
16 commercial purposes in Lake Tahoe or in the Lake Tahoe Basin, the commission's
17 regulations are consistent with the Lake Tahoe Region Aquatic Invasive Species
18 Management Plan, as amended.

19 **Comment.** Section 49015 continues former Fish and Game Code Section 8491 without
20 substantive change.

21 **§ 49020. Overfishing in Sacramento-San Joaquin Delta**

22 49020. The department shall take the steps it determines are necessary to
23 prevent overfishing of crayfish in the Sacramento-San Joaquin Delta. Those steps
24 may include, but are not limited to, submitting to the Legislature proposed
25 legislation to place limitations on the commercial crayfishing in that area.

26 **Comment.** Section 49020 continues former Fish and Game Code Section 8492 without
27 substantive change.

28 **PART 8. KRILL**

29 **TITLE 1. KRILL GENERALLY**

30 **§ 49150. Crustacean**

31 49150. For the purposes of Title 2 (commencing with Section 45400) of Part 3,
32 krill are crustaceans.

33 **Comment.** Section 49150 is new. It is added for drafting convenience.

34  **Note.** Based on Commission research, it appears that krill are crustaceans. **The Commission**
35 **invites comment on whether that is correct.**

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TITLE 2. COMMERCIAL PROVISIONS

§ 49200. Application of title

49200. For purposes of Section 45005, the provisions in this title are commercial provisions.

Comment. Section 49200 is new. It is added for drafting convenience.

§ 49205. Take

49205. (a) It is unlawful to take or land krill of any species of euphausiid for any purpose, except scientific research pursuant to regulations adopted by the commission.

(b) This section applies to krill taken in the waters of the state and up to 200 miles offshore, as long as federal law does not regulate the taking of krill.

Comment. Section 49205 continues former Fish and Game Code Section 8510 without substantive change.

PART 9. LOBSTER

TITLE 1. LOBSTER GENERALLY

§ 49300. Crustacean

49300. For the purposes of Title 2 (commencing with Section 45400) of Part 3, a lobster is a crustacean.

Comment. Section 49300 is new. It is added for drafting convenience.

§ 49305. Provisions not exclusive

49305. The provisions of this part are not intended to be exclusive. Other provisions that govern lobster include, but are not limited to, the following provisions:

- (a) Section 14875.
- (b) Section 15510.
- (c) Section 19205.
- (d) Section 19500.
- (e) Section 19230.
- (f) Title 6 (commencing with Section 59600) of Part 1 of Division 16.

Comment. Section 49305 is new. It is added for drafting convenience.

§ 49310. Take of spiny lobster

49310. Spiny lobster may not be taken under a sport fishing license, except by use of a hoop net or by hand.

Comment. Section 49310 continues former Fish and Game Code Section 7256 without substantive change.

1 **§ 49315. Importing of spiny lobster**

2 49315. (a) Spiny lobsters may be imported into California until the twenty-sixth
3 day after the close of the California season.

4 (b) Lobsters imported into California and lobsters legally taken in California
5 during the open season prescribed in this code may be possessed and sold during
6 the closed season, subject to the regulations of the commission.

7 (c) The cost of inspection and marking, under the regulations of the commission,
8 shall be paid by the importer or owner of the lobsters.

9 **Comment.** Section 49315 continues former Fish and Game Code Section 2365 without
10 substantive change.

11 **TITLE 2. COMMERCIAL PROVISIONS**

12 **CHAPTER 1. PRELIMINARY PROVISIONS**

13 **§ 49450. Application of title**

14 49450. For purposes of Section 45005, the provisions in this title are commercial
15 provisions.

16 **Comment.** Section 49450 is new. It is added for drafting convenience.

17 **CHAPTER 2. PERMIT**

18 **§ 49500. Required permit**

19 49500. (a) Lobsters shall not be taken for a commercial purpose except under a
20 valid lobster permit issued to that person that has not been suspended or revoked,
21 and subject to regulations adopted by the commission.

22 (b) Every person who takes, assists in taking, possesses, or transports a lobster
23 for a commercial purpose while on any boat, barge, or vessel, or who uses or
24 operates or assists in using or operating any boat, net, trap, line, or other appliance
25 to take a lobster for a commercial purpose, shall have a valid lobster permit.

26 (c) The permit fee for a lobster permit is two hundred sixty-five dollars (\$265).

27 (d) The fee for a lobster crewmember permit is one hundred twenty-five dollars
28 (\$125).

29 (e) For the purposes of this section, possession of more than three times the
30 sport bag limit of lobster is prima facie evidence that the lobster in possession was
31 taken for a commercial purpose.

32 **Comment.** Section 49500 continues former Fish and Game Code Section 8254 without
33 substantive change.

34 See also Sections 4570, 5850 (enforcement).

1 Section 19200) of Part 6 of Division 6, and Title 2 (commencing with Section
2 49450) of Part 9, and the regulations adopted pursuant to any of those provisions.

3 **Comment.** Section 49610 continues former Fish and Game Code Section 9001.7(k) without
4 substantive change.

5 **Note.** Existing Fish and Game Code Section 9001.7(k) (which would be continued by
6 proposed Section 49610), authorizes the possession of lobster aboard or landed from any vessel
7 on which finfish are also present, in part if every person aboard the vessel complies with “Article
8 5 of Chapter 2 of the Fish and Game Code.”

9 **Although there is more than one “Article 5” within a “Chapter 2” in the existing code, the
10 Commission assumes the reference was intended to be to Article 5 (commencing with
11 Section 8250) of Chapter 2 of Part 3 of Division 6 (governing lobster), and the cross-
12 reference in proposed Section 49610 has been revised accordingly.**

13 **§ 49615. Filing of criminal complaint**

14 49615. No complaint shall be filed in a court charging a commercial lobster
15 permitholder with a violation of Section 49600 or 49605 unless evidence
16 supporting the charge has been reviewed by the appropriate county or city
17 prosecuting agency, and a criminal complaint has been issued by that agency.

18 **Comment.** Section 49615 continues the seventh sentence of former Fish and Game Code
19 Section 8254.7 without substantive change.

20 CHAPTER 4. LOBSTER TRAPS

21 **§ 49700. Use of trap**

22 49700. Subject to Title 6 (commencing with Section 19200) of Part 6 of
23 Division 6, and Title 2 (commencing with Section 49450) of Part 9, a lobster trap,
24 as described in Section 49705, may be used to take lobster under a lobster permit
25 issued pursuant to Section 49500.

26 **Comment.** Section 49700 combines and restates former Fish and Game Code Sections
27 8250.5(a) and 9010(a) without substantive change.

28 **Note.** Proposed Section 49700 is intended to combine and restate existing Fish and Game
29 Code Sections 8250.5(a) and 9010(a) to clarify the meaning of those provisions, without
30 changing their substantive effect. The existing provisions read as follows:

31 8250.5. (a) Subject to this article and Article 1 (commencing with Section 9000) of Chapter 4,
32 a lobster trap, as described in Section 9010, may be used to take lobster for commercial purposes
33 under a lobster permit issued pursuant to Section 8254.

34 9010. (a) Subject to Article 5 (commencing with Section 8250) of Chapter 2, spiny lobster may
35 be taken with lobster traps under a lobster permit issued pursuant to Section 8254.

36 **The Commission invites comment on whether the combining and restatement of these two
37 provisions would cause any substantive change in the meaning of either.**

38 **§ 49705. Construction of trap**

39 49705. (a) A wire lobster trap shall be built of rectangular wire mesh, with
40 inside mesh measurement not less than 1 1/2 inches by 3 1/2 inches, the 3 1/2-inch
41 measurement to be parallel to the floor of the trap. A wire lobster trap shall be

1 fitted with at least one rigid rectangular escape gap with an inside vertical
2 measurement not less than 2 3/8 inches at all points, and an inside horizontal
3 measurement of not less than 11 1/2 inches at all points. The horizontal sides of
4 the escape gap shall be located parallel to, and the escape gap shall be located
5 within 2 3/8 inches of, the floor on any outside wall of the rearmost chamber of
6 the lobster trap. The escape gap shall be clearly accessible to the lobsters.

7 (b) Notwithstanding subdivision (a), wire may be used to hold the escape gap in
8 place that reduces the inside vertical or horizontal measurement of the escape gap
9 specified in subdivision (a), but only if all of the following requirements are met:

10 (1) The overall diameter of the wire, including any coating on the wire, shall
11 measure less than 0.176 inches in diameter (the diameter of 7 SWG gauge wire
12 using the Standard Wire Gauge (SWG) standard of measurement).

13 (2) A maximum of one wire wrap shall be located on each vertical side of the
14 escape gap.

15 (3) A maximum of two wire wraps shall be located on the bottom horizontal side
16 of the escape gap.

17 (4) Wire shall not be used on the top horizontal side of the escape gap.

18 (5) Each wire shall be tightly wrapped against the inside surface of the escape
19 gap and shall not pass over the inside surface more than once. As used in this
20 paragraph, “tightly wrapped” means no space exists at any point between the wire
21 and the inside surface of the escape gap.

22 (c) A lobster trap constructed of lath or other material shall have an opening to
23 allow a means of escape along the full length of one side of the rearmost chamber.
24 The escape opening shall be of a spacing of not less than 2 3/8 inches, and the
25 spacing shall be located parallel to, and within 2 3/8 inches of, the floor of the
26 lobster trap.

27 **Comment.** Section 49705 continues former Fish and Game Code Section 9010(c)-(e) without
28 substantive change.

29 **§ 49710. Locations where traps may be used**

30 49710. (a) Lobster traps may be used to take spiny lobster in Districts 2620,
31 2625, 2645, and those portions of District 2640 lying on the southerly side of
32 Santa Catalina Island between Southeast Rock and China Point.

33 (b) Notwithstanding subdivision (a), or Sections 15500 and 15510, lobster traps
34 may not be used within 75 feet of any private pier, wharf, jetty, breakwater, or
35 dock.

36 **Comment.** Subdivision (a) of Section 49710 continues former Fish and Game Code Section
37 8258 without substantive change.

38 Subdivision (b) continues former Fish and Game Code Section 9010(b) without substantive
39 change.

40 **Note.** Existing Fish and Game Code Section 9010(b) (which would be continued by proposed
41 Section 49710(b)), although not expressly referencing existing Fish and Game Code Section 8258
42 (which would be continued by proposed Section 49710(a)), appears to specify a blanket
43 restriction on where lobster traps may otherwise be used to take lobster. Proposed Section

1 49710(b) would therefore make express that the authorization to use lobster traps provided by
2 existing Section 9010(b) is subject to the restriction in existing Section 8258.

3 **The Commission invites comment on whether proposed Section 49710 accurately**
4 **reconciles the intended interrelationship between existing Sections 8258 and 9010(b).**

5 **§ 49715. Incidental take of other species**

6 49715. The following species may be taken incidentally in lobster traps being
7 fished under the authority of a lobster permit issued pursuant to Section 49500,
8 and any other species taken incidentally shall be immediately released back to the
9 water:

10 (a) Crab, other than Dungeness crab.

11 (b) Kelleys' whelk.

12 (c) Octopus.

13 **Comment.** Section 49715 continues former Fish and Game Code Section 8250.5(b) without
14 substantive change.

15 CHAPTER 5. OTHER PROHIBITIONS

16 **§ 49750. Prohibition on sale of lobsters taken while skin diving**

17 49750. Spiny lobsters taken by a person engaged in the activity commonly
18 known as skin diving, or by a person using self-contained underwater breathing
19 apparatus, shall not be sold.

20 **Comment.** Section 49750 continues former Fish and Game Code Section 8250.5(c) without
21 substantive change.

22 **§ 49755. Preserving**

23 49755. (a) It is unlawful to pickle, can, or otherwise preserve a spiny lobster.

24 (b) Notwithstanding subdivision (a), a spiny lobster may be preserved by
25 freezing.

26 (c) A spiny lobster may be cooked for consumption in the fresh state.

27 **Comment.** Section 49755 continues former Fish and Game Code Section 8253 without
28 substantive change.

29 PART 10. MONARCH BUTTERFLIES

30 TITLE 1. MONARCH BUTTERFLIES
31 GENERALLY

32 **§ 49825. Provisions not exclusive**

33 49825. The provisions of this part are not intended to be exclusive. Other
34 provisions that govern Monarch Butterflies include, but are not limited to, the
35 following provisions:

1 (a) Chapter 4 (commencing with Section 55000) of Title 1 of Part 2 of Division
2 15.

3 **Comment.** Section 49825 is new.

4 TITLE 2. CONSERVATION

5 **§ 49850. Conservation Authority**

6 49850. (a) The department may take feasible actions to conserve monarch
7 butterflies and the unique habitats they depend upon for successful migration.
8 These actions may include, but are not limited to, habitat restoration on
9 department lands, education programs, and voluntary agreements with private
10 landowners.

11 (b) The department may partner with federal agencies, nonprofit organizations,
12 academic programs, private landowners, and other entities that undertake actions
13 to conserve monarch butterflies and aid their successful migration, including the
14 Monarch Joint Venture.

15 (c) When undertaking actions to conserve monarch butterflies and their habitats
16 pursuant to this section, the department shall use the best available science and
17 consider, as appropriate and feasible, all of the following:

18 (1) Restoring or revegetating monarch caterpillar habitat using regionally or
19 locally appropriate native milkweed species.

20 (2) Restoring or revegetating adult monarch butterfly habitat using regionally or
21 locally appropriate native nectar plant species.

22 (3) Controlling nonnative weed species that threaten native milkweed species,
23 and controlling pests and disease, using current best management practices
24 consistent with integrated pest management principles that pose low risk to
25 monarch butterflies and their habitat.

26 (4) Incorporating diverse tree species, structures, and arrangements when
27 restoring or establishing winter habitat sites to match monarch butterfly
28 preferences for temperature, light, moisture, wind, and other microclimate
29 characteristics.

30 (5) Increasing the number of partnerships and making the most of partnerships
31 to use residential and institutional landscaped areas, agricultural noncropped lands,
32 transportation corridors, and conservation easements to create, restore, or enhance
33 monarch butterfly habitat.

34 (d) The fact that a project applicant or landowner does not enter into a voluntary
35 agreement to protect monarch butterflies shall not be grounds for denying a permit
36 or agreement or requiring additional mitigation beyond what would be required to
37 mitigate project impacts under other applicable laws, including, but not limited to,
38 the California Environmental Quality Act (Division 13 (commencing with Section
39 21000) of the Public Resources Code).

40 **Comment.** Section 49850 continues former Fish and Game Code Section 1021 without
41 substantive change.

1 salt or hot water to decontaminate a conveyance or a facility is subject to Division
2 13 (commencing with Section 21000) of the Public Resources Code.

3 (d) Impound or quarantine conveyances in locations designated by the
4 department for up to five days or the period of time necessary to ensure that
5 dreissenid mussels can no longer live on or in the conveyance.

6 (e) Conduct inspections of waters of the state and facilities located within waters
7 of the state that may contain dreissenid mussels. If dreissenid mussels are detected
8 or may be present, the director or his or her designee may order the affected waters
9 or facilities closed to conveyances or otherwise restrict access to the affected
10 waters or facilities, and shall order that conveyances removed from, or introduced
11 to, the affected waters or facilities be inspected, quarantined, or disinfected in a
12 manner and for a duration necessary to detect and prevent the spread of dreissenid
13 mussels within the state.

14 **Comment.** Section 49960 combines and continues former Fish and Game Code Section
15 2301(a)(2)(A) through (D)(i), and (c)(2), without substantive change.

16 **§ 49965. Restricted access to designated areas**

17 49965. (a) For the purpose of implementing subdivision (e) of Section 49660,
18 the director or his or her designee shall order the closure or quarantine of, or
19 restrict access to, these waters, areas, or facilities in a manner and duration
20 necessary to detect and prevent the spread of dreissenid mussels within the state.

21 (b) No closure, quarantine, or restriction shall be authorized by the director or
22 his or her designee without the concurrence of the Secretary of the Natural
23 Resources Agency.

24 (c) If a closure lasts longer than seven days, the department shall update the
25 operator of the affected facility every 10 days on efforts to address the dreissenid
26 infestation. The department shall provide these updates in writing and also post
27 these updates on the department's Internet Web site in an easily accessible
28 manner.

29 (d) The department shall develop procedures to ensure proper notification of
30 affected local and federal agencies, and, as appropriate, the Department of Water
31 Resources, the Department of Parks and Recreation, and the State Lands
32 Commission in the event of a decision to close, quarantine, or restrict a facility
33 pursuant to this paragraph. These procedures shall include the reasons for the
34 closure, quarantine, or restriction, and methods for providing updated information
35 to those affected. These procedures shall also include protocols for the posting of
36 the notifications on the department's Internet Web site required by subdivision (c).

37 (e) When deciding the scope, duration, level, and type of restrictions, and
38 specific location of a closure or quarantine, the director shall consult with the
39 agency, entity, owner, or operator with jurisdiction, control, or management
40 responsibility over the marina, boat launch facility, or other facility, in order to
41 focus the closure or quarantine to specific areas and facilities so as to avoid or
42 minimize disruption of economic or recreational activity in the vicinity.

1 **Comment.** Section 49965 continues former Fish and Game Code Section 2301(a)(2)(D)(ii)-
2 (iv) without substantive change.

3 **§ 49970. Involvement of other agencies**

4 49970. (a) Upon a determination by the director that it would further the
5 purposes of this section, other state agencies, including, but not limited to, the
6 Department of Parks and Recreation, the Department of Water Resources, the
7 Department of Food and Agriculture, and the State Lands Commission, may
8 exercise the authority granted to the department in Sections 49660 and 49665.

9 (b) A determination made pursuant to paragraph (1) shall be in writing and shall
10 remain in effect until withdrawn, in writing, by the director.

11 **Comment.** Section 49970 continues former Fish and Game Code Section 2301(b) without
12 substantive change.

13 **§ 49975. Inapplicability of division of Public Resources Code**

14 49975. Except as provided in subdivision (c) of Section 49660, Division 13
15 (commencing with Section 21000) of the Public Resources Code does not apply to
16 the implementation of this section.

17 **Comment.** Section 49975 continues former Fish and Game Code Section 2301(c)(1) without
18 substantive change.

19 **§ 49980. Water supply agency cooperation**

20 49980. (a) A public or private agency that operates a water supply system shall
21 cooperate with the department to implement measures to avoid infestation by
22 dreissenid mussels, and to control or eradicate any infestation that may occur in a
23 water supply system.

24 (b) If dreissenid mussels are detected, the operator of the water supply system,
25 in cooperation with the department, shall prepare and implement a plan to control
26 or eradicate dreissenid mussels within the system. The approved plan shall contain
27 the following minimum elements:

28 (1) Methods for delineation of infestation, including both adult mussels and
29 veligers.

30 (2) Methods for control or eradication of adult mussels and decontamination of
31 water containing larval mussels.

32 (3) A systematic monitoring program to determine any changes in conditions.

33 (4) A requirement that the operator of the water supply system permit
34 inspections by the department, as well as cooperate with the department, to update
35 or revise control or eradication measures in the approved plan to address scientific
36 advances in the methods of controlling or eradicating mussels and veligers.

37 (c) If the operator of water delivery and storage facilities for public water supply
38 purposes has prepared, initiated, and is in compliance with all the elements of an
39 approved plan to control or eradicate dreissenid mussels in accordance with
40 subdivision (b), the requirements of Sections 49660 and 49665 do not apply to the
41 operation of those water delivery and storage facilities, and the operator is not

1 subject to any civil or criminal liability for the introduction of dreissenid mussel
2 species as a result of those operations.

3 (d) The department may require the operator of a facility to update its plan, and
4 if the plan is not updated or revised as described in paragraph (4) of subdivision
5 (b), Sections 49660 and 49665 shall apply to the operation of the water delivery
6 and storage facilities covered by the plan until the operator updates or revises the
7 plan and initiates and complies with all of the elements of the updated or revised
8 plan.

9 **Comment.** Section 49980 continues former Fish and Game Code Section 2301(d) without
10 substantive change.

11 **§ 49985. Department authority to adopt regulations**

12 49985. The department may adopt regulations to carry out this chapter and
13 Section 5860.

14 **Comment.** Section 49985 continues former Fish and Game Code Section 2301(g) without
15 substantive change.

16 **§ 49990. Immunity from liability**

17 49990. Pursuant to Section 818.4 of the Government Code, the department and
18 any other state agency exercising authority under this section shall not be liable
19 with regard to any determination or authorization made pursuant to this chapter.

20 **Comment.** Section 49990 continues former Fish and Game Code Section 2301(h) without
21 substantive change.

22 **§ 50000. Inoperative date**

23 50000. This chapter shall remain in effect only until January 1, 2020, and as of
24 that date is repealed, unless a later enacted statute, that is enacted before January
25 1, 2020, deletes or extends that date.

26 **Comment.** Section 50000 continues former Fish and Game Code Section 2301(i) without
27 substantive change.

28 **CHAPTER 2. RESERVOIR OWNERS OR MANAGERS**

29 **§ 50100. Inapplicability of chapter**

30 50100. This chapter does not apply to a reservoir in which nonnative dreissenid
31 mussels have been detected.

32 **Comment.** Section 50100 continues former Fish and Game Code Section 2302(g) without
33 substantive change.

34 **§ 50105. Duties where water activities are permitted**

35 50105. Any person, or federal, state, or local agency, district, or authority that
36 owns or manages a reservoir, as defined in Section 6004.5 of the Water Code,
37 where recreational, boating, or fishing activities are permitted, except a privately
38 owned reservoir that is not open to the public, shall do both of the following:

1 (a) Assess the vulnerability of the reservoir for the introduction of nonnative
2 dreissenid mussel species.

3 (b) Develop and implement a program designed to prevent the introduction of
4 nonnative dreissenid mussel species, which shall include, at a minimum, all of the
5 following:

6 (1) Public education.

7 (2) Monitoring.

8 (3) Management of those recreational, boating, or fishing activities that are
9 permitted.

10 **Comment.** Section 50105 continues former Fish and Game Code Section 2302(a)-(b) without
11 substantive change.

12 **§ 50110. Duties where water activities are not permitted**

13 50110. Any person, or federal, state, or local agency, district, or authority, that
14 owns or manages a reservoir as defined in Section 6004.5 of the Water Code
15 where recreational, boating, or fishing activities of any kind are not permitted,
16 except a privately owned reservoir that is not open to the public, shall, based on its
17 available resources and staffing, include visual monitoring for the presence of
18 mussels as part of its routine field activities.

19 **Comment.** Section 50110 continues former Fish and Game Code Section 2302(c) without
20 substantive change.

21 **§ 50115. Duties where reservoir not open to public**

22 50115. Any entity that owns or manages a reservoir as defined in Section 6004.5
23 of the Water Code, except a privately owned reservoir, that is not open to the
24 public for recreational, boating, or fishing activities, may refuse the planting of
25 fish in that reservoir by the department, unless the department can demonstrate
26 that the fish are not known to be infected with nonnative dreissenid mussels.

27 **Comment.** Section 50115 continues former Fish and Game Code Section 2302(d) without
28 substantive change.

29 **§ 50120. Applicability of chapter to governmental entities**

30 50120. Except as specifically set forth in this chapter, this chapter applies both
31 to reservoirs that are owned or managed by governmental entities, and reservoirs
32 that are owned or managed by private persons or entities.

33 **Comment.** Section 50120 continues former Fish and Game Code Section 2302(e) without
34 substantive change.

35 **§ 50125. Adoption of regulations by department**

36 50125. To the extent that sufficient funds and personnel are available to do so,
37 the department may adopt regulations establishing procedures to implement this
38 section and Section 5862, and to enforce this chapter.

39 **Comment.** Section 50125 continues the third sentence of former Fish and Game Code Section
40 2302(f) without substantive change.

1 See also Section 5862 (enforcement).

2 TITLE 3. COMMERCIAL PROVISIONS

3 § 50250. Application of title

4 50250. For purposes of Section 45005, the provisions in this title are commercial
5 provisions.

6 **Comment.** Section 50250 is new. It is added for drafting convenience.

7 § 50255. Take

8 50255. Mussels (*Mytilus californianus*) may be taken only in accordance with
9 regulations that the commission may adopt.

10 **Comment.** Section 50255 continues former Fish and Game Code Section 8344 without
11 substantive change.

12 PART 12. SCALLOPS

13 TITLE 1. SCALLOPS GENERALLY

14 § 50350. Mollusk

15 50350. For the purposes of Title 2 (commencing with Section 45400) of Part 3, a
16 scallop is a mollusk.

17 **Comment.** Section 50350 is new. It is added for drafting convenience.

18 TITLE 2. COMMERCIAL PROVISIONS

19 § 50400. Application of title

20 50400. For purposes of Section 45005, the provisions in this title are commercial
21 provisions.

22 **Comment.** Section 50400 is new. It is added for drafting convenience.

23 § 50405. Sale or purchase

24 50405. It is unlawful for a person to sell or purchase rock scallops (*Hinnites*
25 *multirugosus*) or scallops (*Pecten circularis*), except that scallops cultivated
26 pursuant to Part 1 (commencing with Section 23300) of Division 7 may be sold or
27 purchased subject to regulations of the commission.

28 **Comment.** Section 50405 continues former Fish and Game Code Section 8345 without
29 substantive change.

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PART 13. SEA CUCUMBERS

TITLE 1. SEA CUCUMBERS GENERALLY

§ 50450. Provisions not exclusive

50450. The provisions of this part are not intended to be exclusive. Other provisions that govern sea cucumbers include, but are not limited to, the following provisions:

- (a) Section 16110.
- (b) Section 40115.

Comment. Section 50450 is new. It is added for drafting convenience.

TITLE 2. COMMERCIAL PROVISIONS

§ 50500. Application of title

50500. For purposes of Section 45005, the provisions in this title are commercial provisions.

Comment. Section 50500 is new. It is added for drafting convenience.

§ 50505. Take, possession, or landing

50505. (a) A sea cucumber shall not be taken, possessed aboard a boat, or landed by a person, for a commercial purpose, except under a valid sea cucumber permit issued to that person that has not been suspended or revoked.

(b) When taking a sea cucumber by diving, every diver shall have a sea cucumber diving permit issued to that person that has not been suspended or revoked.

(c) When a sea cucumber is taken by means other than diving, at least one person aboard the boat shall have a valid sea cucumber trawl permit issued to that person that has not been suspended or revoked.

Comment. Section 50505 continues former Fish and Game Code Section 8405 without substantive change.

§ 50510. Permit

50510. (a) An applicant for a sea cucumber permit shall specify by gear type, either trawl or dive, the method by which the applicant intends to take sea cucumbers. The gear type of a sea cucumber permit, either trawl or dive, shall not be transferable.

(b) The fee for a sea cucumber permit shall be two hundred fifty dollars (\$250).

(c) Each permittee shall complete and submit an accurate record of all sea cucumber fishing activities on forms provided by the department.

(d) In order to renew a sea cucumber permit for any permit year, an applicant shall have been issued a sea cucumber permit in the immediately preceding permit

1 year. Applications for renewal of a sea cucumber permit shall be received by the
2 department or, postmarked if mailed, by April 30 of the permit year.

3 **Comment.** Section 50510 continues former Fish and Game Code Section 8405.1 without
4 substantive change.

5 **§ 50515. Transfer of permit**

6 50515. (a) A valid sea cucumber permit may be transferred by the permittee if
7 the permittee has previously held a valid sea cucumber permit for any four permit
8 years and landed at least 100 pounds of sea cucumbers in each of those permit
9 years, as documented by landing receipts with the name of the permittee shown on
10 the receipts.

11 (b) A valid sea cucumber permit that has not been suspended or revoked may be
12 transferred only to a person who has a valid commercial fishing license issued
13 pursuant to Section 14550 that has not been suspended or revoked. A sea
14 cucumber permit shall not be transferred to a person who has had a sea cucumber
15 permit suspended or revoked, while the suspension or revocation is in effect.

16 (c) An application for transfer of a permit shall be in the form of a notarized
17 letter, and shall be submitted to the department, with reasonable proof that the
18 department may require to establish the qualifications of the permitholder and the
19 transferee, accompanied by payment to the department of a nonrefundable transfer
20 fee of two hundred dollars (\$200).

21 (d) The transfer shall take effect on the date notice of approval of the application
22 is given to the transferee by the department.

23 (e) The transferred sea cucumber permit shall be valid for the remainder of the
24 permit year, and may be renewed in subsequent years.

25 (f) A sea cucumber trawl permit may be transferred to a qualified person as
26 provided in subdivisions (b) and (c) to take sea cucumbers by diving or by use of
27 trawl nets. A sea cucumber dive permit may be transferred to a qualified person as
28 provided in subdivisions (b) and (c) only to take sea cucumbers by diving. The
29 transferee shall specify the gear type, either trawl or dive, that the transferee
30 intends to use to take sea cucumbers. The gear type of the sea cucumber permit,
31 either trawl or dive, shall not be transferable.

32 (g) Upon the death of a sea cucumber permitholder, the deceased person's sea
33 cucumber dive or trawl permit may be transferred by his or her heirs, assignees, or
34 estate to a qualified person as provided in subdivision (b), upon payment of the fee
35 described in subdivision (c), and in accordance with subdivisions (a) and (f). The
36 estate of the decedent may transfer the permit pursuant to this title no later than
37 two years from the date of death of the permitholder, as listed on the death
38 certificate.

39 (h) For purposes of a transfer under subdivision (g), the heirs, assignees, or
40 estate shall renew the permit as specified in Section 50510 to keep the permit valid
41 until transferred.

1 **§ 50655. Department grant**

2 50655. (a) Commencing November 1, 1991, the director shall make a grant in
3 installments to a nonprofit organization of sea urchin divers in an amount not to
4 exceed four hundred thousand dollars (\$400,000), for the organization to
5 accomplish the following purposes:

6 (1) To establish a communications network among sea urchin divers, through a
7 newsletter and such other means as are deemed necessary and appropriate by the
8 organization, providing divers with information on policies, procedures, statutes,
9 and regulations affecting the sea urchin fishery, meeting announcements, and for
10 other information the department reasonably requests to be transmitted to sea
11 urchin divers.

12 (2) To establish an education program on the conservation and utilization of sea
13 urchins.

14 (3) To convene statewide conferences for members of the industry to meet for
15 purposes of strengthening the industry and benefiting industry goals.

16 (b) The grant shall be paid, upon submission and approval of an annual budget,
17 in quarterly installments, in amounts deemed appropriate by the department, upon
18 the submission to the department of progress reports which demonstrate the
19 continued achievements of the organization toward the intended goals.

20 (c) Prior to making the grant, the director shall verify from the nonprofit
21 organization's bylaws that it is established for, among other purposes, the
22 protection, conservation, enhancement, and promotion of the sea urchin fishery,
23 and that its membership, including its board of directors, is composed solely of
24 licensed commercial sea urchin divers.

25 (d) The grant shall be funded from revenues received pursuant to former
26 subdivision (b) of Section 8051.1, as that subdivision read on December 31, 1995.
27 If the department determines that the revenue received from former subdivision
28 (b) of Section 8051.1, as that subdivision read on December 31, 1995, is not
29 sufficient to fund the amount of the grant, including departmental overhead
30 charges which shall be recovered from the revenues received pursuant to that
31 former subdivision (b) of Section 8051.1, the department shall reduce the amount
32 of the grant accordingly. The revenue received pursuant to that former subdivision
33 (b) of Section 8051.1 shall remain available for funding of the grant program
34 pursuant to this subdivision until that revenue is fully encumbered, or the
35 authorized amount of the grant program is expended, whichever event is later.

36 (e) The revenue received pursuant to former subdivision (b) of Section 8051.1 as
37 it read on December 31, 1995, shall first be used to reimburse the department for
38 departmental overhead charges incurred in administering the grant.

39 **Comment.** Section 50655 continues former Fish and Game Code Section 1068 without
40 substantive change.

41  **Note.** Existing Section 1068 (which would be continued by proposed Section 50655) requires
42 the director of the Department of Fish and Wildlife to make a specified grant, with the grant

1 funded from revenue received pursuant to former Fish and Game Code Section 8051.1(b). Former
2 Section 8051.1 became inoperative in 2001, and was repealed in 2002.

3 **The Commission invites comment on whether, based on the elimination of the specified**
4 **funding provision in 2001, Section 1068 is now obsolete and need not be continued in the**
5 **proposed law.**

6 TITLE 2. COMMERCIAL PROVISIONS

7 **§ 50700. Application of title**

8 50700. For purposes of Section 45005, the provisions in this title are commercial
9 provisions.

10 **Comment.** Section 50700 is new. It is added for drafting convenience.

11 **§ 50705. Permit required**

12 50705. (a) Sea urchins shall not be taken for a commercial purpose except under
13 a valid sea urchin diving permit issued to that person that has not been suspended
14 or revoked, subject to regulations adopted by the commission.

15 (b) The fee for a sea urchin diving permit is three hundred thirty dollars (\$330).

16 (c) The commission may, whenever necessary to prevent overutilization, or to
17 ensure efficient and economic operation of the fishery, limit the number of permits
18 that may be issued.

19 (d) The commission, as it determines appropriate to protect the resource, may
20 limit the number of permits, either on a statewide basis or within selected
21 geographical areas.

22 **Comment.** Subdivision (a) of Section 50705 continues the first sentence of former Fish and
23 Game Code Section 9054 without substantive change.

24 Subdivision (b) continues former Fish and Game Code Section 9055 without substantive
25 change.

26 Subdivision (c) continues the third sentence of former Fish and Game Code Section 9054
27 without substantive change.

28 Subdivision (d) continues the fourth sentence of former Fish and Game Code Section 9054
29 without substantive change.

30 **§ 50710. Allowed appliances**

31 50710. Rakes, airlifts, or other handheld appliances may be used to take sea
32 urchins.

33 **Comment.** Section 50710 continues the second sentence of former Fish and Game Code
34 Section 9054 without substantive change.

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PART 15. SHRIMP AND PRAWNS

TITLE 1. SHRIMP AND PRAWNS GENERALLY

§ 50850. Crustacean

50850. For the purposes of Title 2 (commencing with Section 45400) of Part 3, shrimp and prawns are crustaceans.

Comment. Section 50850 is new. It is added for drafting convenience.

§ 50855. Provisions not exclusive

50855. The provisions of this part are not intended to be exclusive. Other provisions that govern shrimp or prawns include, but are not limited to, the following provisions:

- (a) Section 12165.
- (b) Section 16110.
- (c) Section 19805.
- (d) Section 20710.
- (e) Section 23355.

Comment. Section 50855 is new. It is added for drafting convenience.

TITLE 2. COMMERCIAL PROVISIONS

CHAPTER 1. PRELIMINARY PROVISIONS

§ 50950. Application of title

50950. For purposes of Section 45005, the provisions in this title are commercial provisions.

Comment. Section 50950 is new. It is added for drafting convenience.

§ 50955. “Shrimp” or “prawns”

50955. For the purposes of this title, “shrimp” or “prawns,” or both, include all of the following species:

- (1) Spot prawn (*Pandalus platyceros*).
- (2) Ridgeback prawn (*Sicyonia ingentis*).
- (3) Coonstrip prawn (*Pandalus danae*).
- (4) Pacific ocean shrimp (*Pandalus jordani*).
- (5) Bay shrimp (*Crangon franciscorum* and *Crango sp.*).
- (6) Red rock shrimp (*Lysmata californica*).

Comment. Section 50955 continues former Fish and Game Code Section 8590 without substantive change.

1 CHAPTER 2. TAKE

2 Article 1. General Provisions

3 § 51000. Take generally allowed

4 51000. Except as provided in this chapter, prawns or shrimp may be taken in any
5 waters of the state.

6 **Comment.** Section 51000 continues former Fish and Game Code Section 8593 without
7 substantive change.

8 § 51005. Take for commercial purpose

9 51005. Prawns or shrimp may be taken for a commercial purpose under the
10 regulations of the commission.

11 **Comment.** Section 51005 continues former Fish and Game Code Section 8591 without
12 substantive change.

13 § 51010. Required bycatch reduction device

14 51010. (a) Commencing April 1, 2006, it is unlawful to fish commercially for
15 prawns or pink shrimp, unless an approved bycatch reduction device is used with
16 each net.

17 (b) On or before April 1, 2006, the commission shall approve one or more
18 bycatch reduction devices for use in the bottom trawl fishery. For purposes of this
19 subdivision, a rigid grate fish excluder device is the approved type of bycatch
20 reduction device unless the commission, the Pacific Marine Fishery Management
21 Council, or the National Marine Fisheries Service determines that a different type
22 of fish excluder device has an equal or greater effectiveness at reducing bycatch. If
23 the commission does not approve a bycatch reduction device prior to April 1,
24 2006, then a device that is approved by the Pacific Marine Fishery Management
25 Council or the National Marine Fisheries Service shall be deemed approved by the
26 commission.

27 (c) This section does not apply to the use of trawl nets pursuant to a scientific
28 research permit.

29 **Comment.** Subdivisions (a) and (b) of Section 51010 continue former Fish and Game Code
30 Section 8841(g) without substantive change.

31 In combination with Sections 16110(g), 16160(b), 16165(b), and 16170(b), subdivision (c) of
32 Section 51010 continues former Fish and Game Code Section 8841(i) without substantive
33 change.

34 See also Section 4900 (enforcement).

35 § 51015. Use of traps

36 51015. (a) Except as otherwise provided in this chapter, prawns or shrimp may
37 be taken with a prawn trap or shrimp trap under a general trap permit issued
38 pursuant to Section 19205.

1 (b) Prawns or shrimp may be taken for a commercial purpose in either a prawn
2 trap or a shrimp trap, subject to Title 6 (commencing with Section 19200) of Part 4
3 of Division 6.

4 (c) A prawn trap or a shrimp trap shall be six feet or less in its greatest
5 dimension. Every opening from the exterior to the interior of a prawn trap or a
6 shrimp trap shall be five inches or less in any dimension.

7 (d) No other species shall be taken in a prawn trap or a shrimp trap. Any other
8 species taken incidentally with a prawn trap or a shrimp trap shall be immediately
9 released.

10 **Comment.** Subdivision (a) of Section 51015 continues former Fish and Game Code Section
11 9015(a) without substantive change.

12 Subdivision (b) continues the second part of former Fish and Game Code Section 8595(a)
13 without substantive change.

14 Subdivision (c) continues former Fish and Game Code Section 9015(b) without substantive
15 change.

16 Subdivision (d) continues former Fish and Game Code Section 8595(b) without substantive
17 change.

18 See also Section 4900 (enforcement).

19 Article 2. Geographic Restrictions

20 § 51050. Take south of Point Concepcion

21 51050. From Point Concepcion south to the Mexican border, shrimp may be
22 taken with prawn or shrimp traps only in waters 50 fathoms or greater in depth.

23 **Comment.** Section 51050 continues former Fish and Game Code Section 8594 without
24 substantive change.

25 Article 3. Use of Trawl Nets

26 § 51100. Permit

27 51100. Subject to Chapter 8 (commencing with Section 16100) of Title 3 of Part
28 6 of Division 6, and Section 51010, prawns or shrimp may be taken for a
29 commercial purpose with a trawl net of a design prescribed by the commission,
30 pursuant to a permit issued by the department and under regulations adopted by
31 the commission.

32 (b) Section 16150, and Article 3 (commencing with Section 16250) of Chapter 8
33 of Title 3 of Part 6 of Division 6 do not apply to trawl nets used or possessed
34 under a permit issued pursuant to this section.

35 **Comment.** Subdivision (a) of Section 51100 combines and restates the first part of former Fish
36 and Game Code Section 8595(a) and the first paragraph of former Fish and Game Code Section
37 8842(a) without substantive change.

38 Subdivision (b) continues the second paragraph of former Fish and Game Code Section
39 8842(a) without substantive change.

40 **Note.** Proposed Section 51100(a) is intended to combine and restate the first part of former
41 Fish and Game Code Section 8595(a) and the first paragraph of former Fish and Game Code

1 Section 8842(a) to clarify the meaning of those provisions, without changing their substantive
2 effect. The existing provisions read as follows:

3 8595. (a) Prawns or shrimp may be taken for commercial purposes with a trawl net, subject to
4 Article 10 (commencing with Section 8830) of Chapter 3,....

5 8842. (a) Trawl nets of a design prescribed by the commission may be used or possessed to
6 take shrimps or prawns under a permit issued by the department under regulations adopted by the
7 commission.

8 **The Commission invites comment on whether the combining and restatement of these two**
9 **provisions would cause any substantive change in the meaning of either.**

10 **§ 51105. Geographic restrictions**

11 51105. (a) Trawling for prawns or shrimp shall be authorized only in those
12 waters of Districts 2570, 2575, 2590, 2615, 2620, and 2625 that lie not less than
13 three nautical miles from the nearest point of land on the mainland shore, and all
14 offshore islands and the boundary line of District 2630.

15 (b) The commission shall permit the taking of pink shrimp not less than two
16 nautical miles from shore in waters that lie between a line extending due west
17 from False Cape and a line extending due west from Point Reyes from the nearest
18 point of land on the mainland shore, if the commission finds that, upon review of
19 information from the federal groundfish observer program and other available
20 research and monitoring information that it determines relevant, the use of trawl
21 gear minimizes bycatch, will not damage seafloor habitat, will not adversely affect
22 ecosystem health, and will not impede reasonable restoration of kelp, coral, or
23 other biogenic habitats. The commission shall pay special attention to areas where
24 kelp and other biogenic habitats existed and where restoring those habitats is
25 feasible, and to hard bottom areas and other substrate that may be particularly
26 sensitive to bottom trawl impacts in making that finding.

27 **Comment.** Subdivision (a) of Section 51105 continues former Fish and Game Code Section
28 8842(b) without substantive change. A stated exception to the provision, expressly expiring on
29 January 1, 2008, is discontinued.

30 Subdivision (b) continues former Fish and Game Code Section 8842(d) without substantive
31 change.

32 **§ 51110. Incidental take while fishing for pink shrimp**

33 51110. When fishing for pink shrimp (*Pandalus jordani*) under a permit issued
34 pursuant to Section 51100, it is unlawful to possess in excess of 1,500 pounds of
35 incidentally taken fish per calendar day of a fishing trip, except Pacific whiting,
36 shortbelly rockfish, and arrowtooth flounder, which may be taken in any amount
37 not in excess of federal regulations.

38 **Comment.** Section 51110 continues the first sentence of former Fish and Game Code Section
39 8842(c) without substantive change.

1 **Comment.** Section 51400 continues former Fish and Game Code Section 8399 without
2 substantive change.

3 **§ 51405. Unlawful activities in District 2590**

4 51405. (a) In District 2590, it is unlawful to engage in the following activities:

5 (1) Attract squid by a light displayed from any vessel, except a vessel deploying
6 nets for the take, possession, and landing of squid or from the seine skiff of the
7 vessel deploying nets for the take, possession, and landing of squid.

8 (2) Attract squid by a light displayed from any vessel whose primary purpose is
9 not the deployment, or assisting in the deployment, of nets for the take,
10 possession, and landing of squid.

11 (3) To encircle any vessel, other than by the seine skiff of a vessel deploying
12 nets for the take, possession, and landing of squid, while that vessel is engaged in
13 the taking of squid.

14 (b) For purposes of this section, “seine skiff” means a vessel that meets all of the
15 following requirements:

16 (1) It is not licensed by the federal government or registered by the Department
17 of Motor Vehicles.

18 (2) It is used to assist a larger federally-licensed or state-registered fishing vessel
19 by assisting in the deployment and retrieval of nets and the landing of fish.

20 (3) It travels with that larger fishing vessel at all times.

21 (4) It is used solely at the direction of the operator of the larger fishing vessel.

22 (5) It is owned by the owner of the larger fishing vessel.

23 **Comment.** Section 51405 continues former Fish and Game Code Section 8399.1 without
24 substantive change.

25 **Note.** The Commission notes the following ambiguities in the language of existing Section
26 8399.1(a):

27 (1) Under Section 8399.1(a)(1), may light be displayed to attract squid from the *seine skiff* of a
28 vessel deploying squid nets? If so, does the seine skiff have to itself be concurrently deploying
29 nets?

30 (2) In Section 8399.1(a)(3), which “vessel” is the object of the reference “while that vessel is
31 engaged in the taking of squid” at the end of the provision – the vessel deploying squid nets with
32 a seine skiff, or the vessel that is being encircled?

33 **The Commission invites comment on these questions.**

34 **CHAPTER 3. MARKET SQUID**

35 **§ 51450. Legislative declaration**

36 51450. (a) The Legislature finds and declares that the fishery for market squid
37 (*Loligo opalescens*) is the state’s largest fishery by volume, generating millions of
38 dollars of income to the state annually from domestic and foreign sales. In addition
39 to supporting an important commercial fishery, the market squid resource is
40 important to the recreational fishery and is forage for other fish taken for
41 commercial and recreational purposes, as well as for marine mammals, birds, and

1 other marine life. The growing international market for squid and declining squid
2 production from other parts of the world has resulted in an increased demand for
3 California market squid, which, in turn, has led to newer, larger, and more
4 efficient vessels entering the fishery and increased processing capacity.

5 (b) The Legislature finds that the lack of research on market squid and the lack
6 of annual at-sea surveys to determine the status of the resource, combined with the
7 increased demand for, and fishing effort on, market squid could result in
8 overfishing of the resource, damaging the resource, and financially harming those
9 persons engaged in the taking, landing, processing, and sale of market squid.

10 (c) The Legislature further finds that some individuals, vessels, and processing
11 plants engaged in the market squid fishery have no other viable alternative
12 fisheries available to them and that a decline or a loss of the market squid resource
13 would cause economic devastation to the individuals or corporations engaged in
14 the market squid fishery.

15 (d) The Legislature declares that to prevent excessive fishing effort in the market
16 squid fishery and to develop a plan for the sustainable harvest of market squid, it is
17 necessary to adopt and implement a fishery management plan for the California
18 market squid fishery that sustains both the squid population and the marine life
19 that depends on squid.

20 (e) The Legislature finds that a sustainable California market squid fishery can
21 best be ensured through ongoing oversight and management of the fishery by the
22 commission. With regard to the market squid fishery, the Legislature urges that
23 any limited entry component of a fishery management plan, if necessary, should
24 be adopted for the primary purpose of protecting the resource and not simply for
25 the purpose of diminishing or advancing the economic interests of any particular
26 individual or group.

27 **Comment.** Section 51450 continues former Fish and Game Code Section 8420 without
28 substantive change.

29 **§ 51455. Purchase of squid from vessel**

30 51455. (a) No person shall purchase squid from a vessel or vessels unless that
31 person holds a license issued pursuant to subdivision (a) of Section 20205 or
32 pursuant to Section 20450, employs a certified weighmaster, and the facilities
33 operated by the person are located on a permanent, fixed location.

34 (b) Notwithstanding any other provision of law, this section shall not apply to
35 the transfer at sea of squid for live bait in an amount less than 200 pounds in a
36 calendar day.

37 **Comment.** Section 51455 continues former Fish and Game Code Section 8424 without
38 substantive change.

39 **§ 51460. Adoption of fishery management plan and regulations**

40 51460. The commission, after consideration of the report and recommendations
41 prepared by the department pursuant to subdivision (c) of former Section 8426,

1 and, after public hearings, shall adopt a market squid fishery management plan and
2 regulations to protect the squid resource and manage the squid fishery at a level
3 that sustains healthy squid populations, taking into account the level of fishing
4 effort and ecological factors, including, but not limited to, the species' role in the
5 marine ecosystem and oceanic conditions. The management plan shall be
6 consistent with the requirements of Title 3 (commencing with Section 12100) of
7 Part 4 of Division 6. Development of the plan shall be coordinated with the federal
8 Coastal Pelagic Species Fishery Management Plan.

9 **Comment.** Section 51460 continues former Fish and Game Code Section 8425(a) without
10 substantive change.

11 **§ 51465. Management of fishery**

12 51465. The commission shall manage the squid fishery in accordance with the
13 requirements of Title 3 (commencing with Section 12100) of Part 4 of Division 6.

14 **Comment.** Section 51465 continues former Fish and Game Code Section 8425(b) without
15 substantive change.

16 **§ 51470. Permit fee**

17 51470. (a) The fee for a commercial market squid vessel permit and for a
18 commercial squid light boat owner's permit shall be established annually by the
19 commission.

20 (b) The total amount of fees collected pursuant to this section, including any
21 revenue derived from any other appropriate source, as determined and allocated by
22 the commission, shall not exceed the department's and the commission's costs for
23 managing the market squid fishery pursuant to Sections 51460 and 51465.

24 (c) The fees collected pursuant to this chapter shall be used only for the
25 management of the market squid fishery pursuant to Sections 51460 and 51465.

26 **Comment.** Section 51470 continues former Fish and Game Code Section 8428 without
27 substantive change.

28 See also Section 5880 (enforcement).

29 **§ 51475. Statements relating to permit**

30 51475. Any statement made to the department, orally or in writing, relating to a
31 permit issued under this chapter, shall be made under penalty of perjury.

32 **Comment.** Section 51475 continues the first sentence of former Fish and Game Code Section
33 8429 without substantive change.

34 **§ 51485. No limit on authority of director or commission**

35 51485. Notwithstanding any other provision of law, nothing in this chapter shall
36 prohibit or otherwise limit the authority of the director or the commission under
37 any other law.

38 **Comment.** Section 51485 continues former Fish and Game Code Section 8429.5 without
39 substantive change.

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DIVISION 12. AMPHIBIANS

PART 1. GENERAL PROVISIONS

§ 51900. Governance by other provisions

51900. Animals governed by this division are also governed by other provisions of this code, including but not limited to Divisions 6 (commencing with Section 8000) and 7 (commencing with Section 23300).

Comment. Section 51900 is new. It is added for drafting convenience.

§ 51905. Use as bait

51905. An amphibian may be used for bait, or released in the same waters from which it was taken.

Comment. Section 51905 continues the part of former Fish and Game Code Section 5505 applicable to amphibians without substantive change.

PART 2. DISEASE CONTROL

§ 52000. Application of title

52000. (a) This part applies to all amphibians, including, but not limited to, amphibians being imported or transported.

(b) This part does not apply to activities governed by Part 1 (commencing with Section 23300) of Division 7.

Comment. Section 52000 continues the part of former Fish and Game Code Section 6300 applicable to amphibians without substantive change.

§ 52005. Authorized entry by department

52005. The department may enter at any time any vehicle, container, warehouse, depot, ship, or growing area where any amphibians are held, transported, or stored, for the purpose of making a regulatory inspection to ascertain whether those amphibians are infected, diseased, or parasitized, or to determine if aquaculture products are being or have been legally imported, transported, or possessed.

Comment. Section 52005 continues the part of former Fish and Game Code Section 6301 applicable to amphibians without substantive change.

§ 52010. Public nuisance

52010. Except as otherwise provided in Part 1 (commencing with Section 23300) of Division 7, all amphibians found to be infected, diseased, or parasitized are a public nuisance and shall be summarily destroyed by the department.

Comment. Section 52010 continues the part of former Fish and Game Code Section 6302 applicable to amphibians without substantive change.

1 **§ 52015. Conditional destruction**

2 52015. All amphibians that the department determines are merely deleterious to
3 fish amphibians, aquatic plants, or aquatic animal life, shall be destroyed by the
4 department, unless the owner or person in charge of the amphibians ships them out
5 of the state within a period of time to be specified by the department.

6 **Comment.** Section 52015 continues the part of former Fish and Game Code Section 6303
7 applicable to amphibians without substantive change.

8 **§ 52020. Posting of notices**

9 52020. (a) If the department finds any infected, diseased, or parasitized
10 amphibians within this state, the department shall post notices describing, as
11 nearly as possible, the boundaries of the area within which the amphibians are
12 found, and shall state the period during which the taking, carrying, and
13 transportation of the amphibians from the area shall be unlawful.

14 (b) The fact of posting the notices shall be published once a week for four
15 successive weeks in some newspaper of general circulation in the county in which
16 the infected area is situated, and, if there is no newspaper of general circulation in
17 that county, then in a newspaper of general circulation published in an adjoining
18 county.

19 **Comment.** Section 52020 continues the part of former Fish and Game Code Section 6304
20 applicable to amphibians without substantive change.

21 **§ 52025. Prohibited transportation within state**

22 52025. It is unlawful to carry or cause to be carried from one point in this state
23 which has been posted according to the provisions of this article, to any other
24 point in this state, any infected, diseased, or parasitized amphibian.

25 **Comment.** Section 52025 continues the part of former Fish and Game Code Section 6305
26 applicable to amphibians without substantive change.

27 **§ 52030. Expense of examination**

28 52030. The expense of any examination of any amphibian made necessary by
29 the provisions of this code shall be borne by the owner of the amphibian, or the
30 person or persons importing the amphibian into this state.

31 **Comment.** Section 52030 continues the part of former Fish and Game Code Section 6306
32 applicable to amphibians without substantive change.

33 **PART 3. CLASSES OF AMPHIBIANS**

34 **TITLE 1. FULLY PROTECTED AMPHIBIANS**

35 **§ 52200. Prohibition on take and possession**

36 52200. (a) Except as provided in this section, Section 63500 or 64605, or
37 Article 1 (commencing with Section 63300) of Chapter 4 of Title 3 of Part 1 of

1 Division 17, a fully protected amphibian may not be taken or possessed at any
2 time.

3 (b) No provision of this code or any other law shall be construed to authorize the
4 issuance of a permit or license to take a fully protected amphibian, and no permit
5 or license previously issued shall have any force or effect for that purpose.
6 However, the department may authorize the taking of a fully protected amphibian
7 for necessary scientific research, including efforts to recover fully protected,
8 threatened, or endangered species.

9 (c) Before authorizing the take of a fully protected amphibian, the department
10 shall make an effort to notify all affected and interested parties to solicit
11 information and comments on the proposed authorization. The notification shall be
12 published in the California Regulatory Notice Register and be made available to
13 each person who has notified the department, in writing, of his or her interest in
14 fully protected species and who has provided an email address, if available, or
15 postal address to the department. Affected and interested parties shall have 30
16 days after notification is published in the California Regulatory Notice Register to
17 provide relevant information and comments on the proposed authorization.

18 (d) A legally imported fully protected amphibian may be possessed under a
19 permit issued by the department.

20 (e) As used in this section, “scientific research” does not include an action taken
21 as part of specified mitigation for a project, as defined in Section 21065 of the
22 Public Resources Code.

23 **Comment.** Section 52200 continues the part of former Fish and Game Code Section 5050(a)
24 applicable to amphibians without substantive change.

25 See also Section 5900 (enforcement).

26 **Note.** Proposed Section 52200 would continue Section 5050(a), as it applies to amphibians.
27 That provision was amended by 2018 Cal. Stat. ch. 224 as an urgency measure.

28 TITLE 2. NATIVE AMPHIBIANS

29 § 52300. “Native amphibian”

30 52300. “Native amphibian” as used in this title means a salamander, toad, or any
31 other member of the class amphibia native to California.

32 **Comment.** Section 52300 continues former Fish and Game Code Section 6895 without
33 substantive change.

34 § 52305. Commission to establish rules

35 52305. Except as otherwise provided in this title and Part 4 (commencing with
36 Section 52400), the commission shall establish rules for the commercial take, sale,
37 transport, export, or import of native amphibians.

38 **Comment.** Section 52305 continues former Fish and Game Code Section 6896 without
39 substantive change.

1 PART 4. SPECIFIC TYPES OF AMPHIBIANS

2 TITLE 1. FROGS

3 CHAPTER 1. PRELIMINARY PROVISIONS

4 **§ 52400. “Frog”**

5 52400. As used in this title, “frog” means all species of frog.

6 **Comment.** Section 52400 continues former Fish and Game Code Section 6850 without
7 substantive change.

8 **§ 52405. Provisions not exclusive**

9 52405. The provisions of this title are not intended to be exclusive. Other
10 provisions that govern frogs include, but are not limited to, the following
11 provisions:

12 (a) Section 8115.

13 (b) Section 23355.

14 **Comment.** Section 52405 is new. It is added for drafting convenience.

15 CHAPTER 2. TAKE OR POSSESSION

16 **§ 52450. General prohibition on take or possession**

17 52450. (a) Except as otherwise provided in this code or in regulations adopted
18 by the commission, it is unlawful to take or possess any frog for a commercial
19 purpose.

20 (b) This chapter does not apply to frogs grown pursuant to Part 1 (commencing
21 with Section 23300) of Division 7.

22 **Comment.** Section 52450 continues former Fish and Game Code Section 6851 without
23 substantive change.

24 **§ 52455. Prohibited take by firearm**

25 52455. It is unlawful to take frogs by the use of firearms of any caliber or type.

26 **Comment.** Section 52455 continues former Fish and Game Code Section 6854 without
27 substantive change.

28 **§ 52460. Lawful possession limited to authorized number of frogs**

29 52460. Any person who conducts a place of business where frogs are sold to the
30 public for food, or who takes or possesses frogs for sale to or for use by
31 educational or scientific institutions for scientific purposes, may possess at the
32 place of business only the number of frogs that have been legally obtained
33 pursuant to this code or regulations adopted by the commission.

34 **Comment.** Section 52460 continues former Fish and Game Code Section 6852 without
35 substantive change.

1 § 52465. Disposal permit

2 52465. The department may issue a permit to take and dispose of frogs under
3 any limitations the commission may prescribe, when in the judgment of the
4 department, frogs are polluting the water supply in any area, or otherwise
5 constitute a nuisance.

6 **Comment.** Section 52465 continues former Fish and Game Code Section 6855 without
7 substantive change.

8 CHAPTER 3. FROG JUMPING CONTESTS

9 § 52500. “Frog-jumping contest”

10 52500. As used in this chapter, “frog-jumping contest” means a contest
11 generally and popularly known as a frog-jumping contest, which is open to the
12 public and is advertised or announced in a newspaper.

13 **Comment.** Section 52500 continues former Fish and Game Code Section 6880 without
14 substantive change.

15 § 52505. Applicability of chapter

16 52505. The provisions of this chapter apply only to a frog that satisfies all the
17 following requirements:

18 (a) The frog is taken by a means and in a manner that normally would not
19 seriously injure the frog.

20 (b) The frog is to be used in a frog-jumping contest.

21 (c) The frog is kept in a manner that will reasonably preserve its life.

22 **Comment.** Section 52505 combines and restates the first sentence of former Fish and Game
23 Code Section 6881, Section 6882, and Section 6884, without substantive change.

24 **Note.** Proposed Section 52505 is intended to combine and restate the first sentence of former
25 Fish and Game Code Section 6881, Section 6882, and Section 6884, to clarify the meaning of
26 those provisions without changing their substantive effect. The existing provisions read as
27 follows:

28 6881. Frogs to be used in frog-jumping contests shall be governed by this article only.

29 6882. If the means used for taking such frogs can, as normally used, seriously injure the frog, it
30 shall be conclusively presumed the taking is not for the purposes of a frog-jumping contest.

31 6884. A frog which is not kept in a manner which is reasonable to preserve its life is not within
32 the coverage of this article.

33 **The Commission invites comment on whether the proposed combination and restatement**
34 **of these provisions would cause any substantive change in their meaning.**

35 § 52510. Exemption from other law

36 52510. A frog that is governed by this chapter may be taken at any time, without
37 a license or permit.

38 **Comment.** Section 52510 continues the second sentence of former Fish and Game Code
39 Section 6881 without substantive change.

1 (c) Before authorizing the take of a fully protected reptile, the department shall
2 make an effort to notify all affected and interested parties to solicit information
3 and comments on the proposed authorization. The notification shall be published
4 in the California Regulatory Notice Register and be made available to each person
5 who has notified the department, in writing, of his or her interest in fully protected
6 species and who has provided an email address, if available, or postal address to
7 the department. Affected and interested parties shall have 30 days after
8 notification is published in the California Regulatory Notice Register to provide
9 relevant information and comments on the proposed authorization.

10 (d) A legally imported fully protected reptile may be possessed under a permit
11 issued by the department.

12 (e) As used in this section, “scientific research” does not include an action taken
13 as part of specified mitigation for a project, as defined in Section 21065 of the
14 Public Resources Code.

15 **Comment.** Section 53000 continues the part of former Fish and Game Code Section 5050(a)
16 applicable to reptiles without substantive change.

17 See also Section 5950 (enforcement).

18 **Note.** Proposed Section 53000 would continue Section 5050(a), as it applies to reptiles. That
19 provision was amended by 2018 Cal. Stat. ch. 224 as an urgency measure.

20 TITLE 2. NATIVE REPTILES

21 § 53100. “Native reptiles”

22 53100. For purposes of this title, “native reptiles” means snakes, lizards, turtles,
23 or any other members of the class reptilia native to California.

24 **Comment.** Section 53100 continues former Fish and Game Code Section 5060 without
25 substantive change.

26 § 53105. Commission to establish rules and regulations

27 53105. The commission shall establish rules and regulations for the commercial
28 take, sale, transport, export, or import of native reptiles.

29 **Comment.** Section 53105 continues former Fish and Game Code Section 5061 without
30 substantive change.

1 **§ 53610. Public nuisance**

2 53610. Except as otherwise provided in Part 1 (commencing with Section
3 23300) of Division 7, all aquatic plants found to be infected, diseased, or
4 parasitized are a public nuisance and shall be summarily destroyed by the
5 department.

6 **Comment.** Section 53610 continues the part of former Fish and Game Code Section 6302
7 applicable to plants, without substantive change.

8 **§ 53615. Deleterious plants**

9 53615. All aquatic plants that the department determines are merely deleterious
10 to fish, amphibia, aquatic plants, or aquatic animal life, shall be destroyed by the
11 department, unless the owner or person in charge of the aquatic plants ships them
12 out of the State within a period of time to be specified by the department.

13 **Comment.** Section 53615 continues the part of former Fish and Game Code Section 6303
14 applicable to plants, without substantive change.

15 **§ 53620. Notices**

16 53620. (a) If the department finds any infected, diseased, or parasitized aquatic
17 plants within this state, the department shall post notices describing, as nearly as
18 possible, the boundaries of the area within which the aquatic plants are found, and
19 shall state the period during which the taking, carrying, and transportation of the
20 aquatic plants from the area shall be unlawful.

21 (b) The fact of posting the notices shall be published once a week for four
22 successive weeks in some newspaper of general circulation in the county in which
23 the infected area is situated, and, if there is no newspaper of general circulation in
24 that county, then in a newspaper of general circulation published in an adjoining
25 county.

26 **Comment.** Section 53620 continues the part of former Fish and Game Code Section 6304
27 applicable to plants, without substantive change.

28 **§ 53625. Transportation within state**

29 53625. It is unlawful to carry or cause to be carried from one point in this state
30 which has been posted according to the provisions of this title, to any other point
31 in this state, any infected, diseased, or parasitized aquatic plant.

32 **Comment.** Section 53625 continues the part of former Fish and Game Code Section 6305
33 applicable to plants, without substantive change.

34 **§ 53630. Expense of examination**

35 53630. The expense of any examination made necessary by the provisions of
36 this code, shall be borne by the owner of the aquatic plants, or the person or
37 persons importing them into this state.

38 **Comment.** Section 53630 continues the part of former Fish and Game Code Section 6306
39 applicable to plants, without substantive change.

1 PART 3. CLASSES OF PLANTS

2 TITLE 1. NATIVE PLANT PROTECTION ACT

3 § 53800. Legislative intent

4 53800. (a) The intent of the Legislature and the purpose of this title is to
5 preserve, protect, and enhance endangered or rare native plants of this state.

6 (b) The Legislature finds that many species and subspecies of native plants are
7 endangered because their habitats are threatened with destruction, drastic
8 modification, or severe curtailment, or because of commercial exploitation or by
9 other means, or because of disease or other factors.

10 **Comment.** Section 53800 continues former Fish and Game Code Section 1900 without
11 substantive change.

12 § 53803. “Native plant”

13 53803. As used in this title, “native plant” means a plant growing in a wild
14 uncultivated state, which is normally found native to the plantlife of this state.

15 **Comment.** Section 53803 continues the second sentence of former Fish and Game Code
16 Section 1901 without substantive change.

17 **Note.** Proposed Section 53803 would continue the existing limited application of the
18 definition of “native plant.” There are other provisions of the Fish and Game Code that currently
19 use the term “native plant” without definition (Sections 1580, 1755, 1756, 1760-1763, 1771,
20 1801, 1925, 2781, 4180, 10667, and 13014).

21 **The Commission invites comment on whether applying the application of the definition**
22 **should be broadened to include some or all of those provisions.**

23 § 53805. Criteria

24 53805. (a) The department shall establish criteria for determining if a species,
25 subspecies, or variety of native plant is endangered or rare.

26 (b) A species, subspecies, or variety is endangered when its prospects of survival
27 and reproduction are in immediate jeopardy from one or more causes.

28 (c) A species, subspecies, or variety is rare when, although not presently
29 threatened with extinction, it is in such small numbers throughout its range that it
30 may become endangered if its present environment worsens.

31 **Comment.** Section 53805 continues former Fish and Game Code Section 1901 without
32 substantive change, except that the second sentence of former Section 1901 is continued in
33 Section 557 (“native plant” defined).

34 § 53810. Designation

35 53810. The commission may, after public hearing, designate endangered and
36 rare native plants.

37 **Comment.** Section 53810 continues the first sentence of former Fish and Game Code Section
38 1904 without substantive change.

1 **§ 53815. Notice to affected land owner**

2 53815. To the extent that the location of endangered or rare native plants is
3 known, the department shall notify the owners of affected land that an endangered
4 or rare native plant is growing on that land and shall provide any information
5 about the protection of the plants that may be appropriate.

6 **Comment.** Section 53815 continues the second sentence of former Fish and Game Code
7 Section 1904 without substantive change.

8 **§ 53820. Prohibited activities**

9 53820. No person shall import into this state, or take, possess, or sell within this
10 state, except as incident to the possession or sale of the real property on which the
11 plant is growing, any native plant, or any part or product thereof, that the
12 commission determines to be an endangered native plant or rare native plant,
13 except as otherwise provided in this title.

14 **Comment.** Section 53820 continues former Fish and Game Code Section 1908 without
15 substantive change.

16 **§ 53825. Regulation**

17 53825. (a) The commission may adopt regulations governing the taking,
18 possession, propagation, transportation, exportation, importation, or sale of any
19 endangered or rare native plants. The regulations may include, but shall not be
20 limited to, requirements for persons who perform any of the foregoing activities to
21 maintain written records and to obtain permits that may be issued by the
22 department.

23 (b) Persons engaged in the production, storage, sale, delivery, or transportation
24 of nursery stock pursuant to the provisions of Part 3 (commencing with Section
25 6701) of Division 4 of the Food and Agricultural Code shall not be required to
26 obtain a permit pursuant to this chapter unless those activities involve the
27 collection of rare or endangered plants or parts or products thereof, growing in a
28 wild, uncultivated state.

29 (c) Persons who purchase nursery grown stock shall not be required to obtain a
30 permit pursuant to this title.

31 **Comment.** Section 53825 continues former Fish and Game Code Section 1907 without
32 substantive change.

33 **§ 53830. Enforcement authority**

34 53830. (a) When any power or authority is given by any provision of this title to
35 any person, it may be exercised by any deputy, inspector, or agent duly authorized
36 by that person.

37 (b) Any person in whom the enforcement of any provision of this title is vested
38 has the power of a peace officer as to the enforcement of this title. This
39 subdivision applies to any state or federal agencies, the State of Nevada, the State

1 of Oregon, or the State of Arizona, with which cooperative agreements have been
2 made by the department to enforce any provisions of this title.

3 **Comment.** Section 53830 restates former Fish and Game Code Section 1909 without
4 substantive change.

5 **Note.** Proposed Section 53830(b) would restate the second sentence of existing Section
6 6656 to improve its clarity, without changing its substantive effect. The existing provision reads
7 as follows:

8 Any person in whom the enforcement of any provision of this chapter is vested has the power
9 of a peace officer as to such enforcement, which shall include state and federal agencies, and the
10 State of Nevada, State of Oregon, or State of Arizona with which cooperative agreements have
11 been made by the department to enforce any provisions of this chapter.

12 **The Commission invites comment on whether that restatement would cause any**
13 **problems.**

14 **§ 53835. Arrest**

15 53835. A peace officer or an employee or agent of the department may, in the
16 enforcement of this title, make arrests without warrant for a violation of this title
17 that the officer, employee, or agent may witness, and may confiscate plants or
18 parts of plants when unlawfully taken, transported, possessed, sold, or otherwise,
19 in violation of this title.

20 **Comment.** Section 53835 continues the first sentence of former Fish and Game Code Section
21 1910 without substantive change.

22 **§ 53840. Application of Penal Code Section 384a**

23 53840. The provisions of this title are in addition to the provisions of Section
24 384a of the Penal Code.

25 **Comment.** Section 53840 continues the second sentence of former Fish and Game Code
26 Section 1910 without substantive change.

27 **§ 53845. State agency programs**

28 53845. All state departments and agencies shall, in consultation with the
29 department, utilize their authority in furtherance of the purposes of this title by
30 carrying out programs for the conservation of endangered or rare native plants.
31 Those programs include, but are not limited to, the identification, delineation, and
32 protection of habitat critical to the continued survival of endangered or rare native
33 plants.

34 **Comment.** Section 53845 continues former Fish and Game Code Section 1911 without
35 substantive change.

36 **§ 53850. Department activities**

37 53850. (a) The department may undertake botanical research and field
38 investigations and may collect and diffuse any statistics and information that
39 pertain to the conservation, protection, and perpetuation of native plants.

1 (b) Nothing in this code or any other law shall prohibit the department from
2 taking, for scientific or propagation purposes, any species of native plants. The
3 department may import, propagate, and distribute native plants.

4 **Comment.** Subdivision (a) of Section 53850 continues former Fish and Game Code Section
5 1905 without substantive change.

6 Subdivision (b) continues former Fish and Game Code Section 1906 without substantive
7 change.

8 **§ 53855. Exemptions**

9 53855. (a) The provisions of this title shall not be applicable to emergency work
10 necessary to protect life or property. However, the person or agency performing
11 the emergency work shall notify the department within 14 days of the
12 commencement of the work.

13 (b) The provisions of this title are not intended and shall not be construed as
14 authorizing any public agency to mandate, prescribe, or otherwise regulate
15 agricultural operations or management practices, including the clearing of land for
16 agricultural practices or fire control measures.

17 (c) Notwithstanding the provisions of Section 53845, timber operations in
18 accordance with a timber harvesting plan submitted pursuant to the provisions of
19 the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511
20 of the Public Resources Code), or required mining assessment work pursuant to
21 federal or state mining laws, or the removal of endangered or rare native plants
22 from a canal, lateral ditch, building site, or road, or other right-of-way by the
23 owner of the land or the owner's agent, or the performance by a public agency or a
24 publicly or privately owned public utility of its obligation to provide service to the
25 public, shall not be restricted by this title because of the presence of rare or
26 endangered plants, except as provided in subdivision (d).

27 (d) Notwithstanding the provisions of subdivisions (b) and (c), where the owner
28 of land has been notified by the department pursuant to Section 53815 that a rare
29 or endangered native plant is growing on the owner's land, the owner shall notify
30 the department at least 10 days in advance of changing the land use to allow for
31 salvage of the plant. The failure by the department to salvage the plant within 10
32 days of notification shall entitle the owner of the land to proceed without regard to
33 this title. Submission of a timber harvesting plan pursuant to the Z'berg-Nejedly
34 Forest Practice Act of 1973 (commencing with Section 4511 of the Public
35 Resources Code) shall constitute notice under this section. Converting from one
36 type of agricultural use, as defined in Section 51201 of the Government Code, to
37 another type of agricultural use shall not constitute a change in land use.

38 **Comment.** Subdivision (a) of Section 53855 continues former Fish and Game Code Section
39 1912 without substantive change.

40 Subdivision (b) continues former Fish and Game Code Section 1913(a) without substantive
41 change.

42 Subdivision (c) continues former Fish and Game Code Section 1913(b) without substantive
43 change.

1 Subdivision (d) continues former Fish and Game Code Section 1913(c) without substantive
2 change.

3 **Note.** Existing Section 1913(c) refers to landowner notice given pursuant to Section 1903.5.
4 That section does not exist. In proposed Section 53855(d), the reference has been revised to refer
5 to proposed Section 53815, which continues the second sentence of existing Section 1904. That
6 provision requires notice to landowners when rare or endangered native plants are found on their
7 land.

8 **The Commission invites comment on whether that is the correct resolution of the**
9 **erroneous cross-reference.**

10 TITLE 2. CALIFORNIA DESERT
11 NATIVE PLANTS

12 **§ 53900. Department enforcement of Act**

13 53900. The department shall enforce the provisions of the California Desert
14 Native Plants Act, Division 23 (commencing with Section 80001) of the Food and
15 Agricultural Code, except that permits, tags, seals, and wood receipts shall be
16 issued pursuant to Chapter 4 (commencing with Section 80101) of Division 23 of
17 the Food and Agricultural Code, by the county agricultural commissioner or the
18 sheriff.

19 **Comment.** Section 53900 continues the first sentence of former Fish and Game Code Section
20 1925 without substantive change.

21 **§ 53905. Cooperation with Department of Food and Agriculture**

22 53905. In carrying out the provisions of this title, the department shall cooperate
23 fully with the Department of Food and Agriculture.

24 **Comment.** Section 53905 continues former Fish and Game Code Section 1926 without
25 substantive change.

26 **§ 53910. Effect of Act on department activities**

27 53910. Nothing in the California Desert Native Plants Act, or any other law,
28 prohibits the department from taking, for scientific or propagation purposes, any
29 species of native plants. The department may import, propagate, and distribute
30 native plants, and the California Desert Native Plants Act does not apply to those
31 activities.

32 **Comment.** Section 53910 continues the second and third sentences of former Fish and Game
33 Code Section 1925 without substantive change.

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PART 4. SPECIFIC TYPES OF PLANTS

TITLE 1. KELP AND OTHER AQUATIC PLANTS

CHAPTER 1. GENERAL PROVISIONS

§ 54000. Provisions not exclusive

54000. The provisions of this title are not intended to be exclusive. Other provisions may govern kelp and other aquatic plants.

Comment. Section 54000 is new.

§ 54005. Commission rulemaking

54005. The commission may make any regulations that may be necessary to insure the proper harvesting of kelp and other aquatic plants.

Comment. Section 54005 continues former Fish and Game Code Section 6653 without substantive change.

§ 54010. Application of title

54010. This title does not apply to aquatic plants grown on private land or on state water bottoms leased pursuant to Part 1 (commencing with Section 23300) of Division 7.

Comment. Section 54010 continues former Fish and Game Code Section 6651(c) without substantive change.

CHAPTER 2. COMMERCIAL PROVISIONS

Article 1. Kelp Harvest License

§ 54025. License requirement

54025. Every person engaged in harvesting kelp or other aquatic plants for profit in the waters of this state shall have a license for that purpose.

Comment. Section 54025 continues former Fish and Game Code Section 6650 without substantive change.

§ 54030. Issuance of license

54030. (a) A license granting the privilege to harvest kelp or other aquatic plants shall be issued upon application and the payment of a fee of one hundred dollars (\$100) to the department. The license shall be valid from January 1 to December 31, inclusive, or, if issued after the beginning of that term, for the remainder of that term.

(b) The commission shall adjust the amount of the fees specified in subdivision (a), as necessary, to fully recover, but not exceed, all reasonable administrative

1 and implementation costs of the department and the commission relating to those
2 licenses.

3 **Comment.** Section 54030 continues former Fish and Game Code Section 6651(a)-(b) without
4 substantive change.

5 **§ 54040. Scientific and educational permits**

6 54040. The commission may, subject to any regulations that it deems proper,
7 grant permits to any department of the United States Government or to any
8 scientific or any educational institution, to harvest kelp at any time for scientific or
9 experimental purposes without the payment of the kelp license or royalty imposed
10 by this title.

11 **Comment.** Section 54040 continues former Fish and Game Code Section 6657 without
12 substantive change.

13 **Note.** Existing Section 6657 refers to a “privilege tax imposed by this chapter.” There is no
14 other provision of the chapter that uses the term “privilege tax.” It seems likely that the term is
15 meant to refer to the “royalties” imposed by existing Section 6680 (proposed Section 54050).
16 That would be consistent with the use of the term “privilege tax” to refer to weight-based fees
17 imposed on a commercial fisherman when landing fish. See existing Section 8040(b). To avoid
18 any confusion, proposed Section 54040 would replace the term “privilege tax” with “royalty.”

19 **The Commission invites comment on whether that substitution would cause any**
20 **problems.**

21 **Article 2. Kelp Harvest Royalties**

22 **§ 54050. Royalty**

23 54050. (a) In addition to the license fee provided for in this chapter, every
24 person harvesting kelp or other aquatic plants shall pay a royalty, as the
25 commission may prescribe, of not less than five cents (\$0.05) per ton of wet kelp
26 or wet aquatic plants harvested.

27 (b) Any revenues derived from those royalties shall not be available for
28 expenditures until appropriated.

29 **Comment.** Section 54050 continues former Fish and Game Code Section 6680 without
30 substantive change.

31 **§ 54055. Weight records**

32 54055. (a) Every person engaged in harvesting kelp shall determine the weight
33 of all wet kelp, immediately after it is delivered to the licensee’s place of business
34 or elsewhere. The weight shall be entered in a book to be kept by the licensee. The
35 book shall be open at all times to the inspection of the department.

36 (b) The weight shall be determined by any method approved by the department,
37 including the displacement method.

38 (c) Every person engaged in harvesting kelp shall, on or before 10 days after
39 each month of the term of the license, deliver to the department a statement of the
40 weight of all wet kelp harvested during the preceding month.

1 **Comment.** Section 54055 restates former Fish and Game Code Section 6652 without
2 substantive change.

3 **Notes.** (1) Proposed Section 54055(a)-(b) would restate the first paragraph of existing
4 Section 6652 to improve its clarity, without changing its substantive effect. The restated
5 paragraph reads as follows:

6 Every person engaged in harvesting kelp shall determine the weight by any method, including
7 the displacement method, approved by the department of all wet kelp immediately after it is
8 delivered to the licensee's place of business or elsewhere, and the weight shall be entered in a
9 book to be kept by the licensee. The book shall be open at all times to the inspection of the
10 department.

11 **The Commission invites comment on whether that restatement would cause any**
12 **substantive change in the meaning of the provision.**

13 (2) The second paragraph of existing Section 6652 requires that a commercial kelp harvester
14 "render a statement" each month, without specifying where the statement must be "rendered." A
15 Fish and Game Commission regulation addresses that point, requiring that a kelp landing record
16 be "delivered to the department." 14 Cal. Code Regs. § 165(b)(3)(G). In the interests of clarity,
17 proposed Section 54055(c) would codify that element of the regulation, replacing "render" with
18 "deliver to the department."

19 **The Commission invites comment on whether that revision would cause any problems.**

20 Article 3. Kelp Bed Leases

21 § 54075. Description and regulation of kelp beds

22 54075. The commission shall describe the kelp beds of the state and adopt
23 regulations for the leasing of the beds.

24 **Comment.** Section 54075 continues the second sentence of former Fish and Game Code
25 Section 6700 without substantive change.

26 § 54080. Exclusive lease of kelp bed

27 54080. The commission may lease to any person the exclusive privilege to
28 harvest kelp in any designated kelp bed, or part thereof, if the commission
29 determines that the lease is in the public interest.

30 **Comment.** Section 54080 continues the first sentence of former Fish and Game Code Section
31 6700 without substantive change.

32 § 54085. Application

33 54085. A person wishing to lease the exclusive privilege to harvest kelp shall
34 submit a written application to the commission. The application shall include all of
35 the following, and any other information that the commission may prescribe:

36 (a) The number of the kelp bed or beds to be leased.

37 (b) The designated number of square miles in each bed.

38 **Comment.** Section 54085 continues former Fish and Game Code Section 6701 without
39 substantive change.

1 **§ 54090. Deposit**

2 54090. A deposit of not less than forty dollars (\$40) for each square mile, or
3 fraction thereof, of the total area of the kelp bed or beds which are designated in
4 the application shall be submitted with the application. The deposit shall be
5 refunded to the person making the application unless a lease is executed.

6 **Comment.** Section 54090 continues former Fish and Game Code Section 6701.5 without
7 substantive change.

8 **§ 54095. Commission action on application**

9 54095. (a) If the commission finds that the kelp beds included in the application
10 are available for lease and that the lease would be in the public interest, the
11 commission shall publish a notice that the area is being considered for leasing.

12 (b) The commission shall have legal notices published in a newspaper of general
13 circulation in each county where the kelp bed, or any part thereof, is located,
14 describing the area to be leased and the type of operation to be conducted. Except
15 as provided in this subdivision, the publication shall be made pursuant to Section
16 6066 of the Government Code.

17 (c) If the commission receives more than one application for the lease of a kelp
18 bed or beds, it shall advertise for bids on the area being considered for leasing.
19 The commission shall award the lease of that area to the highest qualified bidder.

20 **Comment.** Section 54095 continues former Fish and Game Code Section 6702 without
21 substantive change.

22 **§ 54100. Terms of lease**

23 54100. (a) The initial term of a lease for the exclusive privilege of harvesting
24 kelp shall not exceed 20 years.

25 (b) No lessee shall have an exclusive lease, excluding subleases, to an area in
26 excess of 25 square miles or 50 percent of the total area of the kelp resource as
27 shown on the maps of the resource prepared by the commission, whichever is
28 greater.

29 **Comment.** Section 54100 continues former Fish and Game Code Section 6703 without
30 substantive change.

31 **§ 54105. Renewal**

32 54105. (a) Each kelp bed lease entered into or renewed, on and after January 1,
33 1985, shall specify a period prior to expiration when renewal of the lease may be
34 requested by the lessee. If the commission determines that the lessee has complied
35 with the terms of the lease, the lessee shall have a prior right to renew the lease on
36 terms agreed upon between the commission and the lessee.

37 (b) If terms for a renewal of the lease are not agreed upon, or the commission
38 determines that the lessee has not complied with the terms of the lease, the
39 commission shall advertise for bids on the individual kelp beds comprising the
40 lease.

1 (c) If a request for renewal is not made during the specified period by the lessee,
2 the commission shall advertise for bids on the individual kelp beds comprising the
3 lease.

4 (d) The duration of the term of any renewal of a lease shall not exceed 20 years.

5 **Comment.** Section 54105 continues former Fish and Game Code Section 6704 without
6 substantive change.

7 **Note.** Given that the maximum term of a kelp bed lease is 20 years, the Commission invites
8 comment on whether the reference, in existing Section 6704, to a lease “entered into or renewed,
9 on and after January 1, 1985” is obsolete. **Could the quoted phrase be deleted without
10 substantive effect?**

11 **§ 54110. Renewal of leases in effect on specified dates**

12 54110. (a) Notwithstanding Section 54105, with respect to any kelp bed lease in
13 effect on January 1, 1983, the lessee shall have a prior right to renew the lease on
14 terms agreed upon between the commission and the lessee.

15 (b) If the lessee does not renew the lease, or if terms are not agreed upon, the
16 commission shall advertise for bids on the individual kelp beds comprising the
17 lease.

18 (c) The term of any renewal of a lease shall not exceed 20 years.

19 (d) Any lease in effect on January 1, 1985, may be performed pursuant to its
20 terms, notwithstanding this article, but any renewal of that lease is subject to this
21 article.

22 **Comment.** Section 54110 continues former Fish and Game Code Section 6705 without
23 substantive change.

24 **Note.** Existing Section 6705 provides special rules for kelp bed leases that were in effect in
25 1983 and 1985. Considering that kelp bed leases are limited to 20-year terms, it is not clear that
26 any such leases continue to exist. On the other hand, if renewal is considered to be an *extension* of
27 a lease, rather than *replacement* of a lease, it is possible that leases in effect in 1983 and 1985 still
28 exist.

29 **The Commission invites comment on whether Section 6705 is obsolete or continues to
30 serve a purpose.**

31 **§ 54115. Renegotiated terms**

32 54115. Notwithstanding Sections 54100 and 54105, at any time during the term
33 of a lease, the commission and the lessee may negotiate and enter into a new lease
34 on terms agreed upon between the two parties, if the commission determines that a
35 new lease would be in the best interest of the state. The initial term of the new
36 lease shall not exceed 20 years.

37 **Comment.** Section 54115 continues former Fish and Game Code Section 6706 without
38 substantive change.

39 **§ 54120. Royalty payment**

40 54120. Each lease entered into, or renewed, on or after January 1, 1985, shall
41 require, in addition to the license fee required by this chapter, a payment by the

1 lessee or any sublessee of not less than the minimum royalty established under
2 Article 2 (commencing with Section 54050), for all kelp harvested from the lease
3 area, and shall provide for an annual advance payment of not less than forty
4 dollars (\$40) per square mile per year for the kelp bed leased, to be credited
5 against the amount payable by the lessee, or sublessee, as the case may be, for
6 each ton of kelp harvested during the ensuing year. The lease shall, in addition,
7 include provisions for forfeiture of the lease if the annual payment is not made in
8 advance.

9 **Comment.** Section 54120 continues former Fish and Game Code Section 6707 without
10 substantive change.

11  **Note.** Given that the maximum term of a kelp bed lease is 20 years, the Commission invites
12 comment on whether the reference, in existing Section 6707, to a lease “entered into or renewed,
13 on and after January 1, 1985” is obsolete.

14 **Could the quoted phrase be deleted without substantive effect?**

15 **§ 54125. Assignment**

16 54125. (a) A lease may not be assigned, in whole or in part, by the lessee, either
17 voluntarily or by operation of law, and no subleases or other rights may be granted
18 thereunder by the lessee without the prior approval of the commission, subject to
19 the conditions that the commission prescribes.

20 (b) The lease shall be forfeited in the event of a violation of this section.

21 (c) Each lease shall contain a statement of the contents of this section.

22 **Comment.** Section 54125 continues former Fish and Game Code Section 6708 without
23 substantive change.

24 **§ 54130. DGS approval**

25 54130. A lease, or any renewal thereof, shall be submitted to, and approved by,
26 the Department of General Services.

27 **Comment.** Section 54130 continues former Fish and Game Code Section 6709 without
28 substantive change.

29 **§ 54135. Official record of lease**

30 54135. When an exclusive privilege to harvest kelp has been granted by lease by
31 the commission, the commission shall furnish a true copy thereof to the
32 department. The department shall file a notice for record in the recorder’s office of
33 the county in which the kelp bed or beds, or part thereof, are located, setting forth
34 the name of the person having the privilege, the description of the kelp bed or
35 beds, or part thereof, and the time for which the privilege has been granted. The
36 notice required to be filed for record under this section may be a copy of the
37 executed lease.

38 **Comment.** Section 54135 continues former Fish and Game Code Section 6710 without
39 substantive change.

1 TITLE 1. CONSERVATION OF WILDLIFE
2 RESOURCES

3 § 54500. “Wildlife” defined

4 54500. As used in this title “wildlife” means birds, mammals, and reptiles not
5 raised in captivity.

6 **Comment.** Section 54500 continues former Fish and Game Code Section 1800 without
7 substantive change.

8 § 54505. Policy

9 54505. It is hereby declared to be the policy of the state to encourage the
10 preservation, conservation, and maintenance of wildlife resources under the
11 jurisdiction and influence of the state. This policy shall include the following
12 objectives:

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

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

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

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

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

25 (f) To provide for economic contributions to the citizens of the state, through the
26 recognition that wildlife is a renewable resource of the land by which economic
27 return can accrue to the citizens of the state, individually and collectively, through
28 regulated management. That management shall be consistent with the maintenance
29 of healthy and thriving wildlife resources and the public ownership status of the
30 wildlife resources.

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

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

39 **Comment.** Section 54505 continues former Fish and Game Code Section 1801 without
40 substantive change.

1 **§ 54510. Department jurisdiction**

2 54510. The department has jurisdiction over the conservation, protection, and
3 management of fish, wildlife, native plants, and habitat necessary for biologically
4 sustainable populations of those species. The department, as trustee for fish and
5 wildlife resources, shall consult with lead and responsible agencies and shall
6 provide, as available, the requisite biological expertise to review and comment
7 upon environmental documents and impacts arising from project activities, as
8 those terms are used in the California Environmental Protection Act (Division 13
9 (commencing with Section 21000) of the Public Resources Code).

10 **Comment.** Section 54510 continues former Fish and Game Code Section 1802 without
11 substantive change.

12 **TITLE 2. CONSERVATION OF AQUATIC**
13 **RESOURCES**

14 **§ 54525. Policy**

15 54525. It is hereby declared to be the policy of the state to encourage the
16 conservation, maintenance, and utilization of the living resources of the ocean and
17 other waters under the jurisdiction and influence of the state for the benefit of all
18 the citizens of the state and to promote the development of local fisheries and
19 distant-water fisheries based in California in harmony with international law
20 respecting fishing and the conservation of the living resources of the oceans and
21 other waters under the jurisdiction and influence of the state. This policy shall
22 include all of the following objectives:

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

25 (b) The recognition of the importance of the aesthetic, educational, scientific,
26 and nonextractive recreational uses of the living resources of the California
27 Current.

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

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

37 (e) The management, on a basis of adequate scientific information promptly
38 promulgated for public scrutiny, of the fisheries under the state's jurisdiction, and
39 the participation in the management of other fisheries in which California
40 fishermen are engaged, with the objective of maximizing the sustained harvest.

1 (f) The development of commercial aquaculture.

2 **Comment.** Section 54525 continues former Fish and Game Code Section 1700 without
3 substantive change.

4 TITLE 3. DEPARTMENT AUTHORITY

5 **§ 54550. Habitat improvement**

6 54550. (a) The department may expend any funds that may be necessary for the
7 improvement of property, including nonnavigable lakes and streams, riparian
8 zones, and upland, in order to restore, rehabilitate, and improve fish and wildlife
9 habitat. The improvement activities may include, but are not limited to, the
10 removal of barriers to migration of fish and wildlife and the improvement of
11 hatching, feeding, resting, and breeding places for wildlife.

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

15 **Comment.** Section 54550 continues former Fish and Game Code Section 1501 without
16 substantive change.

17 **§ 54555. Contracts for habitat improvement**

18 54555. (a) The department may enter into contracts for fish and wildlife habitat
19 preservation, restoration, and enhancement with public and private entities
20 whenever the department finds that the contracts will assist in meeting the
21 department's duty to preserve, protect, and restore fish and wildlife.

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

26 (c) Contracts authorized under this section are contracts for services and are
27 governed by Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of
28 Division 2 of the Public Contract Code. No work under this section is public work
29 or a public improvement, and is not subject to Chapter 1 (commencing with
30 Section 1720) of Part 7 of Division 2 of the Labor Code.

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

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

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

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

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

37 (5) Any project requiring engineered design or certification by a registered
38 engineer.

39 (6) Any contract, except contracts with public agencies, nonprofit organizations,
40 or Indian tribes that exceed fifty thousand dollars (\$50,000) in cost, excluding the

1 cost for gravel, for fish and wildlife habitat preservation, restoration, and
2 enhancement for any one of the following:

- 3 (A) Fish screens, weirs, and ladders.
- 4 (B) Drainage or other watershed improvements.
- 5 (C) Gravel and rock removal or placement.
- 6 (D) Irrigation and water distribution systems.
- 7 (E) Earthwork and grading.
- 8 (F) Fencing.
- 9 (G) Planting trees or other habitat vegetation.
- 10 (H) Construction of temporary storage buildings.

11 **Comment.** Section 54555 continues former Fish and Game Code Section 1501.5 without
12 substantive change.

13 TITLE 4. SIGNIFICANT NATURAL AREAS

14 § 54570. Findings and declarations

15 54570. The Legislature finds and declares that:

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

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

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

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

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

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

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

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

32 (i) The department's existing mapping activities and products should be
33 developed and sustained.

34 (j) The importance of wildlife corridors to assist in adapting to climate change
35 has been recognized by such groups as the Western Governors' Association,
36 which unanimously approved a policy to protect wildlife migration corridors and
37 crucial wildlife habitat in 2007. Individual local, state, and federal agencies have
38 also adopted policies aimed at protecting wildlife corridors and habitat
39 connectivity, in order to protect ecosystem health and biodiversity and to improve
40 the resiliency of wildlife and their habitats to climate change. However, these

1 efforts could be enhanced through establishment of a statewide policy to protect
2 important wildlife corridors and habitat linkages where feasible and practicable.

3 **Comment.** Section 54570 continues former Fish and Game Code Section 1930 without
4 substantive change.

5 **§ 54575. Definitions**

6 54575. For the purposes of Sections 54580 and 54600, the following terms have
7 the following meanings:

8 (1) “Habitat stronghold” means high-quality habitat that supports wildlife in
9 being more resilient to increasing pressures on species due to climate change and
10 land development.

11 (2) “Wildlife corridor” means a habitat linkage that joins two or more areas of
12 wildlife habitat, allowing for fish passage or the movement of wildlife from one
13 area to another.

14 **Comment.** Section 54575 continues former Fish and Game Code Section 1930.5(f) without
15 substantive change.

16 **Note.** Proposed Section 54575 continues the existing application of the definitions of “habitat
17 stronghold” and “wildlife corridor” provided in Fish and Game Code Section 1930.5(f). Those
18 terms are also used in other provisions of this title that are *not* governed by the definitions
19 (proposed Sections 54570, 54585, 54595). **The Commission invites comment on whether the
20 definitions should be generalized to apply to the entire title.**

21 **§ 54580. Identification of wildlife corridors**

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

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

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

35 **§ 54585. Significant Natural Areas Program**

36 54585. There is hereby established the Significant Natural Areas Program,
37 which shall be administered by the department. The department, in administering
38 this program, shall do all of the following:

39 (a) Obtain access to the most recent information with respect to natural
40 resources. In order to accomplish this, the department shall maintain, expand, and
41 keep current a data management system, designated the California Natural

1 Diversity Data Base, designed to document information on these resources. That
2 data shall be made available to interested parties on request.

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

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

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

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

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

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

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

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

32 **Comment.** Section 54585 continues former Fish and Game Code Section 1932 without
33 substantive change.

34 **Note.** Existing Section 1932(b) incorporates the definition of "wildlife" provided in Section
35 89.5. That language is not continued here, because the Commission is proposing to generalize
36 Section 89.5 so that its definition of "wildlife" applies to the entire code.

37 **§ 54590. Vegetation mapping standard**

38 54590. (a) The department shall undertake the development of a vegetation
39 mapping standard for the state.

40 (b) The development of a state vegetation mapping standard by the department
41 shall be done in consultation with interested stakeholders, including, but not
42 limited to, government agencies, nongovernmental conservation organizations,

1 landowners, agriculture, recreation, scientific entities, and industry. Components
2 of the standard shall include the following:

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

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

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

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

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

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

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

24 **Comment.** Section 54590 continues former Fish and Game Code Section 1940 without
25 substantive change.

26 **§ 54595. Cooperation with public and private entities**

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

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

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

41 (d) Private and public landowners shall be given a reasonable opportunity to
42 review and comment on the wildlife characteristics of their land if it is identified

1 pursuant to this title. The department shall utilize all relevant information when
2 developing data sets and associated analytical products pursuant to this title.

3 **Comment.** Subdivision (a) of Section 54595 continues former Fish and Game Code Section
4 1931 without substantive change.

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

7 **§ 54600. Voluntary protections**

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

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

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

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

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

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

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

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

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

1 **§ 54605. Disclaimers**

2 54605. (a) This title does not require, mandate, or authorize, under state or
3 federal law, any state or local planning, zoning, or other land use action or
4 decision.

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

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

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

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

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

18 **PART 2. HABITAT CONSERVATION AND ENHANCEMENT**
19 **PROGRAMS**

20 **TITLE 1. WILDLIFE CONSERVATION LAW**
21 **OF 1947**

22 **CHAPTER 1. GENERAL PROVISIONS**

23 **§ 54700. Short title**

24 54700. This title is known and may be cited as the Wildlife Conservation Law of
25 1947.

26 **Comment.** Section 54700 continues former Fish and Game Code Section 1300 without
27 substantive change.

28 **§ 54705. Definitions**

29 54705. For the purposes of this title, “board” means the Wildlife Conservation
30 Board.

31 **Comment.** Section 54705 is new. It is comparable to former Fish and Game Code Sections
32 1320 and 1361(a).

33 **§ 54710. Policy**

34 54710. The preservation, protection and restoration of wildlife within the state is
35 an inseparable part of providing adequate recreation for our people in the interest
36 of public welfare; and it is the policy of the state to acquire and restore to the
37 highest possible level, and maintain in a state of high productivity, those areas that

1 can be most successfully used to sustain wildlife and which will provide adequate
2 and suitable recreation. To carry out these purposes, a single and coordinated
3 program for the acquisition of lands and facilities suitable for recreational
4 purposes, and adaptable for conservation, propagation, and utilization of the fish
5 and game resources of the state, is established.

6 **Comment.** Section 54710 continues former Fish and Game Code Section 1301 without
7 substantive change.

8 CHAPTER 2. WILDLIFE CONSERVATION BOARD

9 Article 1. Administration

10 § 54750. Establishment and composition of board

11 54750. (a) There is in the department the Wildlife Conservation Board.

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

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

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

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

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

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

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

31 **Comment.** Section 54750 continues former Fish and Game Code Section 1320 without
32 substantive change.

33 § 54755. Board chair

34 54755. The board's chair shall be elected by the members of the board.

35 **Comment.** Section 54755 continues former Fish and Game Code Section 1321 without
36 substantive change.

1 **§ 54805. Determination**

2 54805. As a result of its studies, the board shall determine what areas, lands, or
3 rights in lands or waters should be acquired by the state in order to effectuate a
4 coordinated and balanced program resulting in the maximum restoration of
5 wildlife in the state and in the maximum recreational advantages to the people of
6 the state.

7 **Comment.** Section 54805 continues former Fish and Game Code Section 1347 without
8 substantive change.

9 **§ 54810. Consideration of greenhouse gas emissions**

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

17 **Comment.** Section 54810 continues former Fish and Game Code Section 1356 without
18 substantive change.

19 **§ 54815. Acquisition of property rights**

20 54815. (a)(1) The board shall authorize the acquisition of real property, rights in
21 real property, water, or water rights as may be necessary to carry out the purposes
22 of this title.

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

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

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

39 (c) To further implement this title and Title 12 (commencing with Section
40 57700), the board may authorize the department to do any of the following:

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

5 (2) Notwithstanding any other provision of law, lease, sell, exchange, or
6 otherwise transfer any real property, interest in real property, or option acquired by
7 or held under the jurisdiction of the board or the department. Except as provided in
8 Section 54870, proceeds from transactions entered into pursuant to this paragraph
9 shall be deposited in the Wildlife Restoration Fund.

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

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

28 **Comment.** Section 54815 continues former Fish and Game Code Section 1348 without
29 substantive change.

30 **§ 54820. Acquisition of property for public access**

31 54820. The board may authorize the acquisition of any lands or rights in land
32 that may be necessary for the purpose of furnishing public access to lands or
33 waters open to the public for fishing, hunting and shooting. The board may
34 authorize that acquisition by the department.

35 **Comment.** Section 54820 continues former Fish and Game Code Section 1354 without
36 substantive change.

37 **§ 54825. Notice of intent to acquire property**

38 54825. Before the board authorizes the purchase of any land, or any interest
39 therein, the board shall notify all owners of record of adjacent parcels of land of
40 the intent of the board to purchase the land. The notice to the adjacent owners of

1 land and the public notice shall include an explanation of the proposed use of the
2 land by the department.

3 **Comment.** Section 54825 continues former Fish and Game Code Section 1348.1 without
4 substantive change.

5 **§ 54830. Purchase price of acquired property**

6 54830. When the board acquires real property, other than by eminent domain,
7 the purchase price for the real property shall not exceed the fair market value of
8 the property, as defined in Section 1263.320 of the Code of Civil Procedure. The
9 fair market value shall be set forth in an appraisal that is (a) prepared by a licensed
10 real estate appraiser, and (b) approved by the Department of General Services.

11 **Comment.** Section 54830 continues former Fish and Game Code Section 1348.2 without
12 substantive change.

13 **§ 54835. Condemnation of wildlife conservation easement**

14 54835. (a) No governmental entity may condemn any wildlife conservation
15 easement acquired by a state agency, except as provided in subdivision (b). As
16 used in this section, the following terms have the following meanings:

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

21 (2) “Wildlife conservation easement” means a recorded conservation easement,
22 as defined in Section 815.1 of the Civil Code, that exists or will exist for at least
23 10 years and that is acquired and held by a state agency and administered
24 primarily for the benefit of wildlife.

25 (b) Prior to the initiation by a governmental entity of condemnation proceedings
26 against a wildlife conservation easement acquired by a state agency, the
27 governmental entity shall give notice to the holder of the easement, provide an
28 opportunity for the holder of the easement to consult with the governmental
29 agency, provide the holder of the easement the opportunity to state its objections
30 to the condemnation, and provide a response to the objections. Article 6
31 (commencing with Section 1240.510) and Article 7 (commencing with Section
32 1240.610) of Chapter 3 of Title 7 of Part 3 of the Code of Civil Procedure shall
33 apply to condemnation proceedings initiated by a governmental entity against a
34 wildlife conservation easement acquired by a state agency. In those proceedings,
35 the condemning governmental entity shall be required to prove by clear and
36 convincing evidence that its proposed use satisfies the requirements of Article 6
37 (commencing with Section 1240.510) or Article 7 (commencing with Section
38 1240.610) of Chapter 3 of Title 7 of Part 3 of the Code of Civil Procedure.

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

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

4 **§ 54840. Farm lands**

5 54840. No farm lands may be acquired under the provisions of this title by
6 proceedings in eminent domain except by specific authorization of the Legislature,
7 notwithstanding any provision of Section 54815. Nothing in this section shall
8 apply to any proceedings to acquire farm lands when the owner thereof has
9 consented to, or requested the institution of, the proceedings.

10 **Comment.** Section 54840 continues former Fish and Game Code Section 1349 without
11 substantive change.

12 **§ 54845. Receipt of grants, gifts, donations, and other financial support**

13 54845. The department, when authorized by the board, may apply for and accept
14 federal grants, and receive gifts, donations, and other financial support from public
15 or private sources to be used for fish and wildlife habitat enhancement, including
16 riparian habitat restoration projects on real property or waters for which the state
17 obtains an interest. Funds received from any of those sources shall be deposited in
18 the Wildlife Restoration Fund.

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

21 **§ 54850. Award of grant or loan**

22 54850. (a) The board may award grants or loans to nonprofit organizations, local
23 governmental agencies, federal agencies, and state agencies for the purposes of
24 fish and wildlife habitat restoration, enhancement, management, protection and
25 improvement of riparian resources, and for development of compatible public
26 access facilities in the same manner and subject to the same terms and conditions
27 as prescribed in Section 31116 of the Public Resources Code.

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

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

32 **§ 54855. Construction of facilities**

33 54855. (a) The department shall, when authorized by the board, construct in
34 accordance with law any facilities that are suitable for the purpose for which the
35 real property or rights in real property or water, or water rights were acquired.
36 Each completed project shall be managed and maintained by the department.

37 (b) The department, with the approval of the board, may enter into agreements
38 with any other department or agency of this state, any local agency, or nonprofit
39 organization, to provide for the construction, management, or maintenance of the
40 facilities authorized by the board, and the other department or agency of this state,

1 local agency, or nonprofit organization, and each of them may construct, manage,
2 or maintain those facilities pursuant to the agreement.

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

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

10 **Note:** Existing Section 1350(a) includes a reference to “Chapter 3 (commencing with Section
11 14250), of Part 5 of Division 3 of Title 2 of the Government Code.” The specified chapter does
12 not commence with Section 14250. It commences with Section 14200. The subject of that chapter
13 is state employee telecommuting, which seems inapt. **The Commission invites comment on**
14 **how to correct the apparently erroneous cross-reference.**

15 **§ 54860. Purchase of equipment**

16 54860. The board may purchase any boats, aircraft, or equipment that it deems
17 necessary for the use of the department for the improvement and protection of
18 marine fisheries.

19 **Comment.** Section 54860 continues former Fish and Game Code Section 1353 without
20 substantive change.

21 **§ 54865. Public access to recreational areas**

22 54865. Each recreational area shall be so managed and controlled that the public
23 shall have access to and use of the area for all recreational purposes.

24 **Comment.** Section 54865 continues former Fish and Game Code Section 1351 without
25 substantive change.

26 **§ 54870. Proceeds from sale or disposition of fish hatchery**

27 54870. The net proceeds of the sale or other disposition of real property used as
28 a fish hatchery that has been acquired by or is under the jurisdiction of the board
29 or the department, either in easement or in fee, shall be deposited in the Wildlife
30 Restoration Fund or the Fish and Game Preservation Fund, as determined by the
31 board, and shall be available for acquisition, enhancement, restoration, or
32 construction projects for the benefit of wildlife.

33 **Comment.** Section 54870 continues former Fish and Game Code Section 1355 without
34 substantive change.

35 **§ 54875. Wildlife Restoration Fund**

36 54875. (a) The money in the Wildlife Restoration Fund, as provided for by
37 Section 19632 of the Business and Professions Code, is available for expenditure
38 under any provision of this title.

39 (b) All federal moneys made available for projects authorized by the board shall
40 be deposited in the Wildlife Restoration Fund. Any unexpended balances of the

1 federal moneys remaining on or after June 30, 1979, in any other fund shall be
2 transferred to the Wildlife Restoration Fund.

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

8 **Comment.** Section 54875 continues former Fish and Game Code Section 1352 without
9 substantive change.

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

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

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

16 **§ 54880. San Francisco Baylands Restoration Program**

17 54880. (a) The San Francisco Baylands Restoration Program Account is hereby
18 established within the Wildlife Restoration Fund, as provided for by Section
19 19632 of the Business and Professions Code, for the purpose of acquiring and
20 restoring wetlands and lands that may be enhanced to support wetlands in the San
21 Francisco Bay area in order to achieve the objectives of the Baylands Ecosystem
22 Habitat Goals Report (Goals Report).

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

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

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

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

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

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

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

5 (4) The board has consulted with the State Coastal Conservancy and determined
6 that the proposed acquisition is consistent with most of the goals of the San
7 Francisco Bay Area Conservancy Program, as described in Section 31162 of the
8 Public Resources Code.

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

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

14 **Comment.** Section 54880 continues former Fish and Game Code Section 1352.5 without
15 substantive change.

16 **§ 54885. Cooperation with federal agencies**

17 54885. The board may act either independently or may cooperate with the
18 United States Fish and Wildlife Service, Department of Interior, or any other
19 federal agency in determining any of the questions referred to in this title, or in the
20 acquisition and construction of any of the projects mentioned in this title.

21 **Comment.** Section 54885 continues former Fish and Game Code Section 1375 without
22 substantive change.

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

24 **Article 1. General Provisions**

25 **§ 54900. Short title**

26 54900. This chapter shall be known, and may be cited, as the Oak Woodlands
27 Conservation Act.

28 **Comment.** Section 54900 continues former Fish and Game Code Section 1360 without
29 substantive change.

30 **§ 54905. Definitions**

31 54905. For purposes of this chapter, the following terms have the following
32 meanings:

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

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

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

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

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

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

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

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

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

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

17 **§ 54910. Legislative intent**

18 54910. It is the intent of the Legislature that this chapter accomplish all of the
19 following:

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

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

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

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

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

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

38 **Comment.** Section 54910 continues former Fish and Game Code Section 1362 without
39 substantive change.

1 conservation easement shall ensure, on an annual basis, that the conservation
2 easement conditions have been met for that year.

3 (2) Grants for land improvement.

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

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

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

18 (6) Technical assistance consistent with the purpose of preserving oak
19 woodlands.

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

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

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

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

32 § 54945. California Forest Legacy Program

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

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

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

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

8 **§ 54950. Memorandum of understanding with Department of Forestry and Fire Protection**

9 54950. On or before April 1, 2002, the board and the Department of Forestry
10 and Fire Protection shall develop a memorandum of understanding regarding the
11 protection of oak woodlands that does all of the following:

12 (a) If necessary, creates a specific process for working together to use money
13 from the fund in conjunction with the California Forest Legacy Program Act of
14 2000 (Division 10.5 (commencing with Section 12200) of the Public Resources
15 Code).

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

21 (1) Tree inventory mapping.

22 (2) Oak canopy retention standards.

23 (3) Oak habitat mitigation measures.

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

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

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

33 **Comment.** Section 54950 continues former Fish and Game Code Section 1367 without
34 substantive change.

35 **§ 54955. Expenditure pursuant to Public Resources Code Section 5096.350(a)(4)**

36 54955. Notwithstanding any other provision of law, this chapter governs the
37 expenditure of funds for the preservation of oak woodlands pursuant to paragraph
38 (4) of subdivision (a) of Section 5096.350 of the Public Resources Code.

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

1 **§ 54960. Grant criteria**

2 54960. The board shall develop and adopt guidelines and criteria for awarding
3 grants that achieve the greatest lasting conservation of oak woodlands. The board
4 shall develop these guidelines in consultation with the Department of Forestry and
5 Fire Protection, the Department of Food and Agriculture, the University of
6 California’s Integrated Hardwood Range Management Program, conservation
7 groups, and farming and ranching associations. As it applies to the award of grants
8 for the implementation of this chapter, the board criteria shall specify that
9 easement acquisitions that are the most cost-effective in comparison to the actual
10 resource value of the easement shall be given priority.

11 **Comment.** Section 54960 continues former Fish and Game Code Section 1365 without
12 substantive change.

13 **§ 54965. Qualification for grant**

14 54965. (a) To qualify for a grant pursuant to this chapter, the county or city in
15 which the grant money would be spent shall prepare, or demonstrate that it has
16 already prepared, an oak woodlands management plan that includes a description
17 of all native oak species located within the county’s or city’s jurisdiction.

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

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

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

34 (e) The process for developing an initial oak woodlands management plan, and
35 the adoption of significant amendments to a plan, as determined by the county or
36 city, are subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section
37 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

38 (f) A proposal by a local government entity, nonprofit corporation, park and
39 open-space district, private landowner, or resource conservation district for a grant
40 to be expended for the purposes of this chapter shall be certified by the county or
41 city as being consistent with the oak woodlands management plan of the county or
42 city. If the land covered by the proposal is in the jurisdiction of more than one

1 county or city, each county or city shall certify that the proposal is consistent with
2 the oak woodlands management plan of each county or city.

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

6 **Comment.** Section 54965 continues former Fish and Game Code Section 1366 without
7 substantive change.

8 **§ 54970. Use of eminent domain**

9 54970. The board may not approve a grant to a local government entity, park
10 and open-space district, resource conservation district, or nonprofit organization if
11 the entity requesting the grant has acquired, or proposes to acquire, an oak
12 woodlands conservation easement through the use of eminent domain, unless the
13 owner of the affected lands requests the owner to do so.

14 **Comment.** Section 54970 continues former Fish and Game Code Section 1368 without
15 substantive change.

16 **§ 54975. Use of grant funds by city or county planning department**

17 54975. (a) A city or county planning department may utilize a grant awarded for
18 the purposes of this chapter to consult with a citizen advisory committee and
19 appropriate natural resource specialists in order to report publicly to the city
20 council or the board of supervisors on the status of the city's or county's oak
21 woodlands.

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

26 **Comment.** Section 54975 continues former Fish and Game Code Section 1369 without
27 substantive change.

28 CHAPTER 4. MONARCH BUTTERFLY AND POLLINATOR RESCUE
29 PROGRAM

30 **55000. Program established**

31 55000. (a) The Monarch Butterfly and Pollinator Rescue Program is hereby
32 established and shall be administered by the Wildlife Conservation Board.

33 (b) The purpose of the program is to recover and sustain populations of monarch
34 butterflies and other pollinators.

35 (c) To achieve the purposes of the program, the Wildlife Conservation Board
36 may do all of the following:

37 (1) Provide grants for the restoration or enhancement of California prairie and
38 other appropriate breeding habitat for monarch butterflies and pollinators on
39 private and public lands.

1 (2) Provide grants for the restoration or enhancement of overwintering monarch
2 butterfly habitat on private and public lands.

3 (3) Provide technical assistance to grant recipients, including farmers and
4 ranchers, regarding restoration and enhancement of breeding, overwintering, and
5 other appropriate monarch butterfly habitat.

6 (4) Award grants pursuant to this title.

7 (5) Provide grants for seasonal or temporary habitat improvements.

8 (6) Provide block grants in which suballocations are made by the grant recipient,
9 with the approval of the Wildlife Conservation Board.

10 (d) Eligible recipients for grants under the program include private landowners,
11 nonprofit organizations, resource conservation districts, or public agencies.

12 **Comment.** Section 55000 continues former Fish and Game Code Section 1374(a)-(d) without
13 substantive change.

14 **Note.** Proposed Section 55000 would continue Section 1374(a)-(d), which were added by
15 2018 Cal. Stat. ch. 760. Although that bill will not take effect until 2019, it is included here in
16 anticipation of its effect.

17 **55005. Guidelines**

18 55005 (a) Before disbursing a grant pursuant to this chapter, the Wildlife
19 Conservation Board shall develop and adopt project selection and evaluation
20 guidelines. The guidelines shall include monitoring and reporting requirements to
21 help assess grant outcomes.

22 (b) The Wildlife Conservation Board shall coordinate with the Department of
23 Food and Agriculture in developing program guidelines.

24 **Comment.** Section 55005 continues former Fish and Game Code Section 1374(e) without
25 substantive change.

26 **Note.** Proposed Section 55005 would continue Section 1374(e), which was added by 2018
27 Cal. Stat. ch. 760. Although that bill will not take effect until 2019, it is included here in
28 anticipation of its effect.

29 **55010. Monarch Butterfly and Pollinator Rescue Fund Account**

30 55010. (a) The Monarch Butterfly and Pollinator Rescue Fund Account is
31 hereby created in the State Treasury. The account shall be administered by the
32 Wildlife Conservation Board. Moneys in the account may be expended, upon
33 appropriation by the Legislature, for the purposes of this article.

34 (b) Moneys may be deposited into the account from gifts, donations, funds
35 appropriated by the Legislature for the purposes of this chapter, or from federal
36 grants or other sources, and shall be used for the purpose of implementing this
37 chapter, including administrative costs.

38 **Comment.** Section 55010 continues former Fish and Game Code Section 1374.1 without
39 substantive change.

1 **Note.** Proposed Section 55010 would continue Section 1374.1, which was added by 2018
2 Cal. Stat. ch. 760. Although that bill will not take effect until 2019, it is included here in
3 anticipation of its effect.

4 TITLE 2. HABITAT RESTORATION AND
5 ENHANCEMENT ACT

6 CHAPTER 1. GENERAL PROVISIONS

7 **§ 55100. Short title**

8 55100. This title shall be known, and may be cited, as the Habitat Restoration
9 and Enhancement Act.

10 **Comment.** Section 55100 continues former Fish and Game Code Section 1650 without
11 substantive change.

12 **§ 55105. Definitions**

13 55105. As used in this title:

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

19 (b) “Habitat restoration or enhancement project” means a project with the
20 primary purpose of improving fish and wildlife habitat. A habitat restoration or
21 enhancement project shall meet the eligibility requirements for the State Water
22 Resources Control Board’s Order for Clean Water Act Section 401 General Water
23 Quality Certification for Small Habitat Restoration Projects, or its current
24 equivalent at the time the project proponent submits a written request pursuant to
25 Article 1 (commencing with Section 55200) or Article 3 (commencing with
26 Section 55300) of Chapter 3. The order or current equivalent may include
27 programmatic waivers or waste discharge requirements for small habitat
28 restoration projects.

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

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

35 **Comment.** Section 55105 continues former Fish and Game Code Section 1651 without
36 substantive change.

1 **§ 55110. Effect of title**

2 55110. This title shall not be construed as expanding the scope of projects
3 requiring a permit, agreement, license, or other approval issued by the department.

4 **Comment.** Section 55110 continues former Fish and Game Code Section 1654(b) without
5 substantive change.

6 **§ 55115. Report**

7 55115. (a) The department shall submit a report on the implementation of this
8 title to the Legislature no later than December 31, 2020, which shall include, but
9 not be limited to, the number, type, and geographical distribution of approved
10 projects, funding adequacy, and recommendations for changes and improvements
11 in the program.

12 (b) A report to be submitted pursuant to subdivision (a) shall be submitted in
13 compliance with Section 9795 of the Government Code.

14 **Comment.** Section 55115 continues former Fish and Game Code Section 1656 without
15 substantive change.

16 **§ 55120. Sunset**

17 55120. This title shall remain in effect only until January 1, 2022, and as of that
18 date is repealed, unless a later enacted statute, that is enacted before January 1,
19 2022, deletes or extends that date.

20 **Comment.** Section 55120 continues former Fish and Game Code Section 1657 without
21 substantive change.

22 CHAPTER 2. HABITAT RESTORATION AND ENHANCEMENT ACCOUNT

23 **§ 55150. Creation**

24 55150. The Habitat Restoration and Enhancement Account is hereby created in
25 the Fish and Game Preservation Fund.

26 **Comment.** Section 55150 continues former Fish and Game Code Section 1655(a) without
27 substantive change.

28 **§ 55155. Receipt of funds**

29 55155. The department may enter into an agreement to accept funds from any
30 public agency, person, business entity, or organization to achieve the purposes of
31 this title. The department shall deposit any funds so received in the account. The
32 funds received shall supplement existing resources for department administration
33 and permitting of projects and programs included in this title.

34 **Comment.** Section 55155 continues former Fish and Game Code Section 1655(b) without
35 substantive change.

1 Regulations, are likely to occur with application of the specified environmental
2 protection measures. Environmental protection measures may include, but are not
3 limited to, appropriate seasonal work limitations, measures to avoid and minimize
4 impacts to water quality and potentially present species protected by state and
5 federal law, and the use of qualified professionals for standard preconstruction
6 surveys where protected species are potentially present.

7 (f) Substantial evidence to support a conclusion that the project meets the
8 requirements set forth in this article. Substantial evidence shall include references
9 to relevant design criteria and environmental protection measures found in the
10 documents specified in subdivision (d) of Section 55215.

11 (g) A certifying statement that the project will comply with the California
12 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
13 Public Resources Code), which may include, but not be limited to, the
14 requirements of Section 15333 of Title 14 of the California Code of Regulations.

15 **Comment.** Section 55205 continues former Fish and Game Code Section 1652(b) without
16 substantive change.

17 **§ 55210. Application fee**

18 55210. The department shall assess an application fee for a project submitted to
19 the department pursuant to this article consistent with the fees adopted by the
20 department pursuant to Title 3 (commencing with Section 69700) of Part 4 of
21 Division 17, but the application fee shall not exceed the reasonable administrative
22 and implementation costs of the department relating to the project.

23 **Comment.** Section 55210 continues former Fish and Game Code Section 1655(c), as it relates
24 to this chapter, without substantive change.

25 **§ 55215. Approval**

26 55215. Notwithstanding any other law, within 60 days after receiving a written
27 request to approve a habitat restoration or enhancement project, the director shall
28 approve a habitat restoration or enhancement project if the director determines that
29 the written request includes all of the required information set forth in Section
30 55205, and the project meets all of the following requirements:

31 (a) The project purpose is voluntary habitat restoration and the project is not
32 required as mitigation.

33 (b) The project is not part of a regulatory permit for a nonhabitat restoration or
34 enhancement construction activity, a regulatory settlement, a regulatory
35 enforcement action, or a court order.

36 (c) The project meets the eligibility requirements of the State Water Resources
37 Control Board's Order for Clean Water Act Section 401 General Water Quality
38 Certification for Small Habitat Restoration Projects, or its current equivalent at the
39 time the project proponent submits the written request, but has not received
40 certification pursuant to that order or its equivalent.

1 (d) The project is consistent with, or identified in, sources that describe best
2 available restoration and enhancement methodologies, including one or more of
3 the following:

4 (1) Federal- and state-listed species recovery plans or published protection
5 measures, or previously approved department agreements and permits issued for
6 voluntary habitat restoration or enhancement projects.

7 (2) Department and National Marine Fisheries Service fish screening criteria or
8 fish passage guidelines.

9 (3) The department's California Salmonid Stream Habitat Restoration Manual.

10 (4) Guidance documents and practice manuals that describe best available
11 habitat restoration or enhancement methodologies that are utilized or approved by
12 the department.

13 (e) The project will not result in cumulative adverse environmental impacts that
14 are significant when viewed in connection with the effects of past, current, or
15 probable future projects.

16 **Comment.** Section 55215 continues former Fish and Game Code Section 1652(c) without
17 substantive change.

18 **§ 55220. Denial**

19 55220. If the director determines that the written request does not contain all of
20 the information required by Section 55205, or fails to meet the requirements set
21 forth in Section 55215, or both, the director shall deny the written request and
22 inform the project proponent of the reason or reasons for the denial.

23 **Comment.** Section 55220 continues former Fish and Game Code Section 1652(d) without
24 substantive change.

25 **§ 55225. Notice of completion**

26 55225. The project proponent shall submit a notice of completion to the
27 department no later than 30 days after the project approved pursuant to this article
28 is completed. The notice of completion shall demonstrate that the project has been
29 carried out in accordance with the project's description. The notice of completion
30 shall include a map of the project location, including the final boundaries of the
31 restoration area or areas and postproject photographs. Each photograph shall
32 include a descriptive title, date taken, photographic monitoring point, and
33 photographic orientation.

34 **Comment.** Section 55225 continues former Fish and Game Code Section 1652(e) without
35 substantive change.

36 **§ 55230. Monitoring report**

37 55230. The project proponent shall submit a monitoring report describing
38 whether the restoration project is meeting each of the restoration goals stated in
39 the project application. Each report shall include photographs with a descriptive
40 title, date taken, photographic monitoring point, and photographic orientation. The

1 monitoring reports for Section 401 Water Quality Certification or waste discharge
2 requirements of the State Water Resources Control Board or a regional water
3 quality control board, or for department or federal voluntary habitat restoration
4 programs, including, but not limited to, the Fisheries Restoration Grant Program,
5 may be submitted in lieu of this requirement.

6 **Comment.** Section 55230 continues former Fish and Game Code Section 1652(f) without
7 substantive change.

8 Article 2. Project Certified by Water Board

9 § 55300. Request to approve project

10 55300. A project proponent may submit a written request to approve a habitat
11 restoration or enhancement project to the director pursuant to this article if the
12 project has received certification pursuant to the State Water Resources Control
13 Board's Order for Clean Water Act Section 401 General Water Quality
14 Certification for Small Habitat Restoration Projects, or its current equivalent at the
15 time the project proponent submits the written request.

16 **Comment.** Section 55300 continues former Fish and Game Code Section 1653(a) without
17 substantive change.

18 § 55305. Content of request

19 55305. A written request to approve a habitat restoration or enhancement project
20 pursuant to this article shall include all of the following:

21 (a) Notice that the project proponent has received a notice of applicability that
22 indicates that the project is authorized pursuant to the State Water Resources
23 Control Board's Order for Clean Water Act Section 401 General Water Quality
24 Certification for Small Habitat Restoration Projects, or its equivalent at the time
25 the project proponent submits the written request.

26 (b) A copy of the notice of applicability.

27 (c) A copy of the notice of intent provided to the State Water Resources Control
28 Board or a regional water quality control board.

29 (d) A description of species protection measures incorporated into the project
30 design, but not already included in the notice of intent, to avoid and minimize
31 impacts to potentially present species protected by state and federal law, such as
32 appropriate seasonal work limitations and the use of qualified professionals for
33 standard preconstruction surveys where protected species are potentially present.

34 (e) The fees required pursuant to Section 55310.

35 **Comment.** Section 55305 continues former Fish and Game Code Section 1653(b) without
36 substantive change.

37 § 55310. Application fee

38 55310. The department shall assess an application fee for a project submitted to
39 the department pursuant to this article consistent with the fees adopted by the

1 department pursuant to Title 3 (commencing with Section 69700) of Part 4 of
2 Division 17, but the application fee shall not exceed the reasonable administrative
3 and implementation costs of the department relating to the project.

4 **Comment.** Section 55310 continues former Fish and Game Code Section 1655(c), as it relates
5 to this chapter, without substantive change.

6 **§ 55315. Publication of notice**

7 55315. Upon receipt of the notice specified in subdivision (a) of Section 55305,
8 the director shall immediately have published in the General Public Interest
9 Section of the California Regulatory Notice Register the receipt of that notice.

10 **Comment.** Section 55315 continues former Fish and Game Code Section 1653(c) without
11 substantive change.

12 **§ 55320. Determination of completeness**

13 55320. (a) Within 30 days after the director has received the notice of
14 applicability described in Section 55305, the director shall determine whether the
15 written request accompanying the notice of applicability is complete.

16 (b) If the director determines within that 30-day period, based upon substantial
17 evidence, that the written request is not complete, then the project may be
18 authorized under Article 1 (commencing with Section 55200).

19 (c) The director shall immediately publish the determination pursuant to
20 subdivision (a) in the General Public Interest Section of the California Regulatory
21 Notice Register.

22 **Comment.** Section 55320 continues former Fish and Game Code Section 1653(d)-(f) without
23 substantive change.

24 **§ 55325. Reporting requirements**

25 55325. The project proponent shall submit the monitoring plan, monitoring
26 report, and notice of completion to the department as required by the State Water
27 Resources Control Board's Order for Clean Water Act Section 401 General Water
28 Quality Certification for Small Habitat Restoration Projects, or its current
29 equivalent at the time the project proponent submits the written request. The order
30 or its current equivalent may include programmatic waivers or waste discharge
31 requirements for small scale restoration projects.

32 **Comment.** Section 55325 continues former Fish and Game Code Section 1653(g) without
33 substantive change.

34 **Article 3. Approval and Suspension**

35 **§ 55350. Director's approval**

36 55350. The director's approval of a habitat restoration or enhancement project
37 pursuant to Article 1 (commencing with Section 55200) or Article 2 (commencing
38 with Section 55300) shall be in lieu of any other permit, agreement, license, or

1 other approval issued by the department, including, but not limited to, those issued
2 pursuant to Title 1 (commencing with Section 53800) of Part 3 of Division 14, and
3 Part 1 (commencing with Section 62000) of Division 17, and Title 3 (commencing
4 with Section 69700) of Part 4 of Division 17.

5 **Comment.** Section 55350 continues former Fish and Game Code Section 1654(a) without
6 substantive change.

7 **§ 55355. Notice of suspension**

8 55355. (a) If the director determines at any time that a project is no longer
9 consistent with Section 55215 or Section 55305, as applicable, due to a material
10 change between the project as submitted and the project being implemented or a
11 change in the environmental circumstances in the area of implementation, the
12 director shall notify the project proponent in writing and project implementation
13 shall be suspended.

14 (b) Written notice from the director shall be delivered in person, by certified
15 mail, or by electronic communication to the project proponent and shall specify
16 the reasons why approval of the project was suspended. The approval for a project
17 shall not be revoked pursuant to this article unless it has first been suspended
18 pursuant to this article.

19 **Comment.** Section 55355 continues former Fish and Game Code Section 1654(c)(1) without
20 substantive change.

21 **§ 55360. Objection**

22 55360. Within 30 days of receipt of a notice of suspension, the project
23 proponent may file an objection with the director. Any objection shall be in
24 writing and state the reasons why the project proponent objects to the suspension.
25 The project proponent may provide additional environmental protection measures,
26 design modifications, or other evidence that the project is consistent with Section
27 55215 or Section 55305, as applicable, and request that the notice of suspension be
28 lifted and approval granted.

29 **Comment.** Section 55360 continues former Fish and Game Code Section 1654(c)(2) without
30 substantive change.

31 **§ 55365. Final decision**

32 55365. The director shall revoke approval or lift the suspension of project
33 approval within 30 days after receiving the project proponent's objection pursuant
34 to Section 55360.

35 **Comment.** Section 55365 continues former Fish and Game Code Section 1654(c)(3) without
36 substantive change.

37 **§ 55370. Liability**

38 55370. Pursuant to Section 818.4 of the Government Code, the department and
39 any other state agency exercising authority under this article shall not be liable
40 with regard to any determination or authorization made pursuant to this article.

1 **Comment.** Section 55370 continues former Fish and Game Code Section 1654(d) without
2 substantive change.

3 TITLE 3. FISH AND WILDLIFE HABITAT
4 ENHANCEMENT ACT OF 1984

5 **Note.** The Fish and Wildlife Habitat Enhancement Act (existing Sections 2600-2651) was
6 added by Proposition 19 (1984). The Commission has generally adopted a very deferential
7 approach to the recodification of provisions added by initiative. Consistent with that approach,
8 the Commission has made very minimal changes to the language of this part, mostly relating to
9 section numbering. The Commission believes that the nonsubstantive continuation of that act in
10 the proposed law would not be an impermissible amendment. See discussion of initiative statutes
11 *supra* at notes 20-22 and associated text.

12 CHAPTER 1. GENERAL PROVISIONS

13 § 55500. Short title

14 55500. This title shall be known and may be cited as the Fish and Wildlife
15 Habitat Enhancement Act of 1984.

16 **Comment.** Section 55500 continues former Fish and Game Code Section 2600 without
17 substantive change.

18 § 55505. Declaration of purpose

19 55505. (a) The fundamental requirement for healthy, vigorous populations of
20 fish and wildlife is habitat. Without adequate habitat, efforts to conserve and
21 manage fish and wildlife resources will have limited success.

22 (b) Assuring adequate habitat, with the resulting increase in the abundance of
23 fish and wildlife, confers substantial benefits on the people of California through
24 the opportunities afforded for the use, enjoyment, and appreciation of fish and
25 wildlife resources, the perpetuation of species of fish and wildlife for their
26 intrinsic and ecological values, and the enhancement of economic activities based
27 on these resources.

28 (c) Accordingly, the purpose of this title is to provide the financial means to
29 correct the most severe deficiencies in fish and wildlife habitat currently found in
30 California through a program of acquisition, enhancement, and development of
31 habitat areas that are most in need of proper conservation and management.

32 **Comment.** Section 55505 continues former Fish and Game Code Section 2601 without
33 substantive change.

34 § 55510. Definitions

35 55510. As used in this title, the following terms have the following meanings:

- 36 (a) “Acquisition” means the acquisition of any interest in real property.
37 (b) “Coastal zone” means the coastal zone as defined and mapped pursuant to
38 Section 30103 of the Public Resources Code.

1 (c) “Local public agency” means a city, county, city and county, regional park or
2 open-space district, recreation and park district, resource conservation district,
3 association of governments, or joint powers agency whose jurisdiction is wholly or
4 partially within the coastal zone or in the San Francisco Bay region.

5 **Comment.** Section 55510 continues former Fish and Game Code Section 2602 without
6 substantive change.

7 CHAPTER 2. HABITAT ENHANCEMENT PROGRAM

8 **§ 55525. Appropriation of funds**

9 55525. All money deposited in the Fish and Wildlife Habitat Enhancement Fund
10 shall be available for appropriation by the Legislature for the following purposes:

11 (a) Forty million dollars (\$40,000,000) for expenditure by the Wildlife
12 Conservation Board pursuant to the Wildlife Conservation Law of 1947 for the
13 acquisition, enhancement, or development, or any combination thereof, of lands
14 located outside the coastal zone for the preservation of resources and the
15 management of wildlife and fisheries, in accordance with the following schedule:

16 (1) Thirty million dollars (\$30,000,000) for the acquisition, enhancement, or
17 development, or any combination thereof, of lands for habitat for wildfowl and
18 other wildlife benefitted by a marsh or aquatic environment.

19 (2) Ten million dollars (\$10,000,000) for the restoration of waterways for the
20 management of fisheries and the enhancement or development, or both, of habitat
21 for other wildlife.

22 (b) Five million dollars (\$5,000,000) for expenditure by the Wildlife
23 Conservation Board pursuant to the Wildlife Conservation Law of 1947 for the
24 acquisition, enhancement, or development, or any combination thereof, of lands
25 for habitat for rare, endangered, and fully protected species.

26 (c) Thirty million dollars (\$30,000,000) for expenditure by the State Coastal
27 Conservancy for the acquisition, enhancement, or development, or any
28 combination thereof, of marshlands and associated and adjacent lands and the
29 development of associated facilities and for grants to local public agencies for
30 those purposes, in accordance with the following schedule:

31 (1) Twenty million dollars (\$20,000,000) for grants by the conservancy to local
32 public agencies in the coastal zone and in the San Francisco Bay region for the
33 acquisition, enhancement, or development, or any combination thereof, of
34 marshlands and adjacent lands for habitat for wildlife benefitted by a marsh or
35 aquatic environment and the improvement of drainage into wetlands to control or
36 retard erosion and sedimentation, and biologically and hydrologically associated
37 upland habitat areas. Of the amount made available pursuant to this paragraph, not
38 less than five million dollars (\$5,000,000) shall be available for grants for projects
39 in the San Francisco Bay region.

40 (2) Ten million dollars (\$10,000,000) for expenditure by the conservancy for the
41 purposes authorized in this subdivision.

1 (d) Ten million dollars (\$10,000,000) for expenditure by the Wildlife
2 Conservation Board pursuant to the Wildlife Conservation Law of 1947 for the
3 acquisition, enhancement, or development, or any combination thereof, inside the
4 coastal zone of marshlands and adjacent lands for habitat for wildlife benefitted by
5 a marsh or aquatic environment.

6 **Comment.** Section 55525 continues former Fish and Game Code Section 2620 without
7 substantive change.

8 **§ 55530. Administrative costs of Wildlife Conservation Board**

9 55530. An annual amount, not to exceed one hundred thousand dollars
10 (\$100,000), may be appropriated from the funds available pursuant to subdivisions
11 (a) and (d) of Section 55525 in the 1984–85 through 1989–90 fiscal years, in a
12 particular amount to be determined in each annual appropriation, to the Wildlife
13 Conservation Board for expenditure for costs incurred by the board in
14 administering this title, as provided in this section. The board shall augment, as
15 needed, any amount appropriated pursuant to this title with an appropriation from
16 any other funds available to it. This title is not intended, nor shall it be construed,
17 to authorize the Wildlife Conservation Board or the department to establish any
18 additional personnel positions.

19 **Comment.** Section 55530 continues former Fish and Game Code Section 2621 without
20 substantive change.

21 **§ 55535. Administrative costs of State Coastal Conservancy**

22 55535. An annual amount, not to exceed two hundred fifty thousand dollars
23 (\$250,000), may be appropriated from the funds available pursuant to subdivision
24 (c) of Section 55525 in the 1984–85 through 1989–90 fiscal years, in a particular
25 amount to be determined in each annual appropriation, to the State Coastal
26 Conservancy for expenditure for costs incurred by the conservancy in
27 administering this title.

28 **Comment.** Section 55535 continues former Fish and Game Code Section 2622 without
29 substantive change.

30 **§ 55540. Limitations**

31 55540. (a) None of the funds appropriated pursuant to this title may be
32 encumbered for any purpose described in Section 54860.

33 (b) Notwithstanding Sections 31105 and 31106 of the Public Resources Code,
34 the State Coastal Conservancy and the State Public Works Board may not make
35 any acquisition pursuant to the power of eminent domain with any funds
36 appropriated pursuant to this title.

37 **Comment.** Section 55540 continues former Fish and Game Code Section 2623 without
38 substantive change.

1 **§ 55545. Use of funds for specified lands**

2 55545. Funds available pursuant to subdivision (b) of Section 55525 may be
3 encumbered only for lands constituting habitat that is subject to destruction,
4 drastic modification, or severe curtailment of habitat values.

5 **Comment.** Section 55545 continues former Fish and Game Code Section 2624 without
6 substantive change.

7 **§ 55550. Limitations on acquisition of title**

8 55550. No acquisition shall be undertaken with funds appropriated pursuant to
9 Section 55525 and no grant of funds appropriated pursuant to subdivision (c) of
10 Section 55525 shall be encumbered until all practical alternatives to direct
11 purchase of the full fee title have been considered. The Wildlife Conservation
12 Board and the State Coastal Conservancy shall establish a procedure to assure
13 consideration of alternatives to direct purchase. These alternatives shall include,
14 but not be limited to, the following:

15 (a) Opportunities for obtaining the land through exchanges of other publicly
16 held lands.

17 (b) Tax considerations that may pertain to the contemplated transaction.

18 (c) Utilization of transfers of densities and density bonuses and other available
19 land use controls.

20 (d) Purchase of less than full fee title.

21 **Comment.** Section 55550 continues former Fish and Game Code Section 2625 without
22 substantive change.

23 **§ 55555. Further limitations on use of funds**

24 55555. (a) All restoration projects that involve the expenditure of funds
25 available pursuant to subdivision (c) of Section 55525 shall be reviewed in
26 accordance with Section 31208, 31208.5, 31258, or 31258.5 of the Public
27 Resources Code, as applicable.

28 (b) Funds available pursuant to subdivision (d) of Section 55525 shall be
29 encumbered in accordance with priorities of the California Coastal Commission.

30 (c) Of the total amount available pursuant to subdivision (d) of Section 55525,
31 not more than four million dollars (\$4,000,000) may be encumbered for any single
32 acquisition project.

33 **Comment.** Section 55555 continues former Fish and Game Code Section 2626 without
34 substantive change.

35 **§ 55560. Additional limitations on use of funds**

36 55560. (a) Funds granted pursuant to subdivision (c) of Section 55525 for any
37 purpose, other than acquisition, shall not be encumbered by the recipient until the
38 conservancy has entered into an agreement sufficient to protect the public interest
39 in any improvements constructed pursuant to this title with the entity that exercises
40 legal control of the real property on which the improvement is constructed.

1 (b) The conservancy shall not disburse any grant until the applicant, or any other
2 appropriate managing or operating entity, has entered into an agreement with the
3 conservancy or its designee, or both, sufficient to assure that the property
4 acquired, enhanced, or developed, and any improvements thereon, shall be
5 managed and operated for the purpose for which the grant was requested. No use
6 of the property that is incompatible with that purpose shall ever be permitted.

7 (c) The minimum amount for which an application for an individual project may
8 be made is fifteen thousand dollars (\$15,000).

9 (d) Every application for a grant shall comply with the California Environmental
10 Quality Act (Division 13 (commencing with Section 21000) of the Public
11 Resources Code).

12 (e) Notwithstanding Sections 31207 and 31257 of the Public Resources Code,
13 funds granted pursuant to subdivision (c) of Section 55525 may be encumbered
14 only for the acquisition, enhancement, or development, or any combination
15 thereof, and the costs incurred by the recipient in planning, preparation of
16 construction documents, fiscal management and accounting, and supervision of
17 construction in connection with the project for which the grant was made. All
18 expenditures made by a recipient of a grant shall be subject to being audited.

19 (f) Funds granted pursuant to subdivision (c) of Section 55525 shall be available
20 for encumbrance by the recipient for a period of three years after the date when the
21 grant became effective.

22 **Comment.** Section 55560 continues former Fish and Game Code Section 2627 without
23 substantive change.

24 CHAPTER 3. FISCAL PROVISIONS

25 § 55600. Issuance of bonds

26 55600. Bonds in the total amount of eighty-five million dollars (\$85,000,000),
27 or so much thereof as is necessary, may be issued and sold to provide a fund to be
28 used for carrying out the purposes expressed in this title and to be used to
29 reimburse the General Obligation Bond Expense Revolving Fund pursuant to
30 Section 16724.5 of the Government Code. The bonds shall, when sold, be and
31 constitute a valid and binding obligation of the State of California, and the full
32 faith and credit of the State of California is hereby pledged for the punctual
33 payment of both principal and interest on the bonds as the principal and interest
34 become due and payable.

35 **Comment.** Section 55600 continues former Fish and Game Code Section 2640 without
36 substantive change.

37 § 55605. Collection of revenue to pay principle and interest on bonds

38 55605. There shall be collected each year and in the same manner and at the
39 same time as other state revenue is collected, in addition to the ordinary revenues
40 of the state, the sum that is required to pay the principal and interest on the bonds

1 maturing each year, and it is hereby made the duty of all officers charged by law
2 with any duty in regard to the collection of the revenue to do and perform each and
3 every act that shall be necessary to collect that additional sum.

4 **Comment.** Section 55605 continues former Fish and Game Code Section 2641 without
5 substantive change.

6 **§ 55610. Appropriation from General Fund**

7 55610. There is hereby appropriated from the General Fund in the State
8 Treasury for the purpose of this title, an amount equal to the following:

9 (a) The sum, annually, that is necessary to pay the principal and interest on
10 bonds issued and sold pursuant to the provisions of this title, as principal and
11 interest become due and payable.

12 (b) The sum that is necessary to carry out the provisions of Section 55620,
13 which sum is appropriated without regard to fiscal years.

14 **Comment.** Section 55610 continues former Fish and Game Code Section 2642 without
15 substantive change.

16 **§ 55615. Fish and Wildlife Habitat Enhancement Fund**

17 55615. The proceeds of bonds issued and sold pursuant to this title shall be
18 deposited in the Fish and Wildlife Habitat Enhancement Fund, which is hereby
19 created. The money in the fund may be expended only for the purposes specified
20 in this title and only pursuant to appropriation by the Legislature in the manner
21 prescribed in this title.

22 **Comment.** Section 55615 continues former Fish and Game Code Section 2643 without
23 substantive change.

24 **§ 55620. Loan from General Fund**

25 55620. For the purposes of carrying out the provisions of this chapter, the
26 Director of Finance may, pursuant to appropriate authority in each annual Budget
27 Act, authorize the withdrawal from the General Fund of an amount or amounts not
28 to exceed the amount of the unsold bonds that have been authorized to be sold for
29 the purpose of carrying out this title. Any amounts withdrawn shall be deposited in
30 the fund. Any moneys made available under this section shall be returned to the
31 General Fund from moneys received from the sale of bonds for the purpose of
32 carrying out the provisions of this title. The withdrawals from the General Fund
33 shall be returned to the General Fund with interest at the rate that would otherwise
34 have been earned by those sums in the Pooled Money Investment Fund.

35 **Comment.** Section 55620 continues former Fish and Game Code Section 2644 without
36 substantive change.

37 **§ 55625. Special treatment of specified bond proceeds**

38 55625. Notwithstanding any other provision of this bond act, or of the State
39 General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of
40 Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells

1 bonds pursuant to this bond act that include a bond counsel opinion to the effect
2 that the interest on the bonds is excluded from gross income for federal tax
3 purposes under designated conditions, the Treasurer may maintain separate
4 accounts for the bond proceeds invested and the investment earnings on those
5 proceeds, and may use or direct the use of those proceeds or earnings to pay any
6 rebate, penalty, or other payment required under federal law, or take any other
7 action with respect to the investment and use of those bond proceeds, as may be
8 required or desirable under federal law in order to maintain the tax-exempt status
9 of those bonds and to obtain any other advantage under federal law on behalf of
10 the funds of this state.

11 **Comment.** Section 55625 continues former Fish and Game Code Section 2644.5 without
12 substantive change.

13 **§ 55630. Budget bill**

14 55630. (a) All proposed appropriations for the program shall be included in a
15 section in the Budget Bill for the 1984–85 fiscal year and each succeeding fiscal
16 year for consideration by the Legislature and shall bear the caption “Fish and
17 Wildlife Habitat Enhancement Program.” The section shall contain separate items
18 for each project, each class of projects, or each element of the program for which
19 an appropriation is made.

20 (b) All appropriations shall be subject to all limitations enacted in the Budget
21 Act and to all fiscal procedures prescribed by law with respect to the expenditure
22 of state funds unless expressly exempted from those laws by a statute enacted by
23 the Legislature. The section in the Budget Act shall contain proposed
24 appropriations only for the program elements and classes of projects contemplated
25 by this title, and no funds derived from the bonds authorized by this title may be
26 expended pursuant to an appropriation not contained in that section of the Budget
27 Act.

28 **Comment.** Section 55630 continues former Fish and Game Code Section 2645 without
29 substantive change.

30 **§ 55635. State General Obligation Bond Law**

31 55635. The bonds authorized by this title shall be prepared, executed, issued,
32 sold, paid, and redeemed as provided in the State General Obligation Bond Law
33 (Chapter 4 (commencing with Section 16720) of Part 3, Division 4, Title 2 of the
34 Government Code), and all of the provisions of that law are applicable to the
35 bonds and to this title and are hereby incorporated in this title as though set forth
36 in full herein.

37 **Comment.** Section 55635 continues former Fish and Game Code Section 2646 without
38 substantive change.

1 **§ 55640. Wildlife Habitat Enhancement Program Finance Committee**

2 55640. Solely for the purpose of authorizing the issuance and sale, pursuant to
3 the State General Obligation Bond Law (Chapter 4 (commencing with Section
4 16720) of Part 1 of Division 4 of Title 2 of the Government Code), of the bonds
5 authorized by this title, the Wildlife Habitat Enhancement Program Finance
6 Committee is hereby created. The committee consists of the Controller, the
7 Director of Finance, and the Treasurer. For purposes of this title, this committee is
8 “the committee” as that term is used in the State General Obligation Bond Law,
9 and the Treasurer shall serve as chair of the committee.

10 **Comment.** Section 55640 continues former Fish and Game Code Section 2647 without
11 substantive change.

12 **§ 55645. Deposit of premiums and accrued interest**

13 55645. All money deposited in the fund that is derived from premium and
14 accrued interest on bonds sold shall be reserved in the fund and shall be available
15 for transfer to the General Fund as a credit to expenditures for bond interest.

16 **Comment.** Section 55645 continues former Fish and Game Code Section 2648 without
17 substantive change.

18 **§ 55650. Budget appropriation**

19 55650. Commencing with the Budget Bill for the 1995-96 fiscal year, the
20 balance remaining in the fund may be appropriated by the Legislature for
21 expenditure, without regard to the maximum amounts allocated to each element of
22 the program, for any or all elements of the program specified in Section 55525, or
23 any class or classes of projects within those elements that the Legislature deems to
24 be of the highest priority.

25 **Comment.** Section 55650 continues former Fish and Game Code Section 2649 without
26 substantive change.

27 **§ 55655. Proceeds of bonds not proceeds of taxes**

28 55655. The Legislature hereby finds and declares that, inasmuch as the proceeds
29 from the sale of bonds authorized by this title are not “proceeds of taxes” as that
30 term is used in Article XIII B of the California Constitution, the disbursement of
31 these proceeds is not subject to the limitations imposed by that article.

32 **Comment.** Section 55655 continues former Fish and Game Code Section 2650 without
33 substantive change.

34 **§ 55660. Severability**

35 55660. If any provision of this title or the application thereof to any person or
36 circumstances is held invalid, that invalidity shall not affect other provisions or
37 applications of the title that can be given effect without the invalid provision or
38 application, and to this end, the provisions of this title are severable.

39 **Comment.** Section 55660 continues former Fish and Game Code Section 2651 without
40 substantive change.

1 TITLE 4. WILDLIFE AND NATURAL AREAS
2 CONSERVATION PROGRAM

3 **Note.** The Wildlife and Natural Areas Conservation Program (existing Sections 2700-2729)
4 was added by Proposition 70 (1988). The Commission has generally adopted a very deferential
5 approach to the recodification of provisions added by initiative. Consistent with that approach,
6 the Commission has made very minimal changes to the language of this part, mostly relating to
7 section numbering. The Commission believes that the nonsubstantive continuation of that act in
8 the proposed law would not be an impermissible amendment. See discussion of initiative statutes
9 *supra* at notes 20-22 and associated text.

10 CHAPTER 1. GENERAL PROVISIONS

11 § 55700. Short title

12 55700. This title shall be known and may be cited as the Wildlife and Natural
13 Areas Conservation Act.

14 **Comment.** Section 55700 continues former Fish and Game Code Section 2700 without
15 substantive change.

16 § 55705. Declaration of purpose

17 55705. (a) The fundamental requirement for healthy, vigorous populations of
18 fish and wildlife is habitat. Without adequate habitat, efforts to conserve and
19 manage fish and wildlife resources will have limited success. Further, California
20 contains the greatest diversity of wildlife and plant species of virtually any state in
21 the nation. This rich natural heritage enables Californians to enjoy a great variety
22 of recreational, aesthetic, ecological, and other uses and benefits of these
23 biological resources. The public interest is served only by ensuring that these
24 resources are preserved, protected, and propagated for this and future generations.

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

31 (c) The people of California have vested in the department the principal
32 responsibility for protecting, conserving, and perpetuating native fish, plants, and
33 wildlife, including endangered species and game animals, for their aesthetic,
34 intrinsic, ecological, educational, and economic values. To help accomplish this
35 goal, the people of California have further established a significant natural areas
36 program and a natural diversity database in the department, which is charged with
37 maintaining and perpetuating California's most significant natural areas for
38 present and future generations. To ensure the perpetuation of areas containing
39 uncommon elements of natural diversity and to ensure the continued abundance of

1 habitat for more common species, especially examples of those that are presently
2 threatened with destruction, the purchase of land is often necessary.

3 (d) Accordingly, the purpose of this title is to provide the Wildlife Conservation
4 Board and the department the financial means to correct the most severe
5 deficiencies in wildlife habitat and in the statewide system of areas designated for
6 the preservation of California’s natural diversity through a program of acquisition,
7 enhancement, restoration, and protection of areas that are most in need of proper
8 conservation.

9 **Comment.** Section 55705 continues former Fish and Game Code Section 2701 without
10 substantive change.

11 **§ 55710. Definitions**

12 55710. As used in this title, the following terms have the following meanings:

13 (a) “Acquisition” means the acquiring of any interest in real property.

14 (b) “Fund” means the Wildlife and Natural Areas Conservation Fund created
15 pursuant to Section 55725.

16 (c) “Highly rare” means a worldwide rarity in which any species or natural
17 community occurs in 50 or fewer locations, irrespective of whether the species or
18 any species in the community is listed as threatened or endangered or was
19 previously listed as rare.

20 (d) “Natural community” means a distinct, identifiable, and recurring
21 association of plants and animals that are ecologically interrelated.

22 (e) “Species” means the fundamental biological unit of plant and animal
23 classification that comprises a subdivision of a genus, but for the purposes of this
24 title, “species” also includes the unit of a subspecies.

25 **Comment.** Section 55710 continues former Fish and Game Code Section 2702 without
26 substantive change.

27 **CHAPTER 2. HABITAT CONSERVATION PROGRAM**

28 **§ 55725. Deposits**

29 55725. Moneys available for the purposes of this title pursuant to Chapter 4
30 (commencing with Section 5930) of Division 5.8 of the Public Resources Code
31 shall be deposited in the Wildlife and Natural Areas Conservation Fund, which is
32 hereby created. Money deposited in the fund shall be available for appropriation
33 by the Legislature to the Wildlife Conservation Board, for expenditure pursuant to
34 the Wildlife Conservation Law of 1947, for the following programs:

35 (a) Forty-one million dollars (\$41,000,000) for the preservation of highly rare
36 examples of the state’s natural diversity through the acquisition, enhancement,
37 restoration, or protection, or a combination thereof, of lands supporting
38 California’s unique, fragile, threatened, or endangered plants, animals, and natural
39 communities.

1 (b) Six million dollars (\$6,000,000) for the acquisition, enhancement,
2 restoration, or protection, or a combination thereof, of critical habitat areas for
3 fish, game mammals, and game birds, including, but not limited to, the following
4 types:

5 (1) Winter deer ranges.

6 (2) Wild trout or steelhead nursery and spawning areas.

7 (3) Significant routes of migration for wildlife.

8 (4) Breeding, nesting, and forage areas for sage grouse and other upland game
9 birds.

10 For purposes of this subdivision, “enhancement” includes the construction or
11 development of facilities for furnishing public access to lands or waters open to
12 the public for fishing, hunting, or shooting.

13 (c) Three million dollars (\$3,000,000) for the acquisition, enhancement,
14 restoration, or protection, or any combination thereof, of lands providing habitat
15 for threatened, endangered, or fully protected species, such as the bald eagle, San
16 Joaquin kit fox, desert tortoise, bighorn sheep, peregrine falcon, and California
17 condor.

18 **Comment.** Section 55725 continues former Fish and Game Code Section 2720 without
19 substantive change.

20 § 55730. Expenditures

21 55730. Funds available pursuant to subdivision (a) of Section 55725 shall be
22 expended to acquire, enhance, restore, or protect lands in California on which any
23 of the following naturally exists:

24 (a) A unique species or natural community, whose existence at a single location
25 in California is the only known occurrence in the world of that particular species
26 or natural community.

27 (b) A species that occurs in only 20 or fewer locations in the world, at least one
28 of which is in California.

29 (c) A natural community that occurs in only 50 or fewer locations in the world,
30 at least one of which is in California.

31 (d) An assemblage of three or more highly rare species or natural communities,
32 or any combination thereof, of which at least one of the species or natural
33 communities is found only in 20 or fewer locations in the world.

34 **Comment.** Section 55730 continues former Fish and Game Code Section 2721 without
35 substantive change.

36 § 55735. Priorities

37 55735. (a) Whenever the application of the criteria specified in Section 55730
38 results in the identification of two or more parcels of land that are essentially
39 indistinguishable as to their quality, preference shall be given to the parcel on
40 which exists the species that is more threatened or more endangered.

1 (b) Whenever the application of the criteria specified in Section 55730 results in
2 the identification of two or more parcels of land that are essentially
3 indistinguishable as to their quality and the degree of threat to, or endangerment
4 of, the species existing on them, preference shall be given to the parcel on which
5 exists the best example of the species. As used in this subdivision, “best example”
6 means the parcel of land and the wildlife inhabiting it that, in balancing all the
7 factors present, represents, as determined by the board, the stronger combination
8 of all of the following: the better condition, higher quality, easier defensibility,
9 greater likelihood of long-term viability, and the lesser costs to be incurred by the
10 department in operating and maintaining the parcel.

11 **Comment.** Section 55735 continues former Fish and Game Code Section 2722 without
12 substantive change.

13 **§ 55740. Limitations on use of funds**

14 55740. (a) Of the total amount available pursuant to subdivision (a) of Section
15 55725, not more than five million dollars (\$5,000,000) may be encumbered for
16 any single acquisition project. In enacting this limitation, the people of California
17 recognize that there are a number of important projects meeting the criteria of this
18 title but whose acquisition cost would most likely exceed this limitation.
19 Therefore, in these instances any acquisition cost in excess of this limitation may
20 be met by a donation by the owner, donations of funds from private sources, or
21 other funds from state or nonstate sources.

22 (b) The qualification for or allocation of a grant or grants to a local agency under
23 Section 55725 shall not preclude eligibility for an additional allocation of grant
24 funds to the same local agency pursuant to Section 55725 of this code or Section
25 5907 of the Public Resources Code.

26 **Comment.** Section 55740 continues former Fish and Game Code Section 2723 without
27 substantive change.

28 **§ 55745. Priorities**

29 55745. (a) In choosing among two or more parcels of land to be acquired,
30 enhanced, restored, or protected with funds available pursuant to subdivision (b)
31 or (c) of Section 55725, preference shall be given to acquiring, enhancing,
32 restoring, or protecting the parcel that will result in the least cost to the department
33 for operating and maintaining the land.

34 (b) Funds available pursuant to subdivisions (b) and (c) of Section 55725 may
35 be encumbered only for lands that constitute habitat that is subject to destruction,
36 drastic modification, or significant curtailment of habitat values.

37 **Comment.** Section 55745 continues former Fish and Game Code Section 2724 without
38 substantive change.

1 **§ 55750. Limitation on use of funds**

2 55750. No funds available pursuant to this title shall be encumbered for any
3 lands that, due to their degraded character, will not sustain plants or wildlife or
4 will not afford protection to a natural community on a long-term basis.

5 **Comment.** Section 55750 continues former Fish and Game Code Section 2725 without
6 substantive change.

7 **§ 55755. Further limitation on use of funds**

8 55755. With respect to any lands that may be acquired, enhanced, restored, or
9 protected with funds under this title and that could also be eligible for funds under
10 Title 3 (commencing with Section 55500), funds under this title shall not be
11 encumbered for those lands until it is determined by the Wildlife Conservation
12 Board that funds are not likely to be available for those lands under Title 3
13 (commencing with Section 55500).

14 **Comment.** Section 55755 continues former Fish and Game Code Section 2726 without
15 substantive change.

16 **§ 55760. Additional limitation on use of funds**

17 55760. No funds available for appropriation under this title may be encumbered
18 for any purpose described in Section 54860.

19 **Comment.** Section 55760 continues former Fish and Game Code Section 2727 without
20 substantive change.

21 **§ 55765. Administrative costs of Wildlife Conservation Board**

22 55765. An annual amount, not to exceed three hundred fifty thousand dollars
23 (\$350,000) may be appropriated from the fund in the 1988–89 through 1998–99
24 fiscal years, in an amount to be determined in each annual appropriation, to the
25 Wildlife Conservation Board for expenditure for costs incurred by the board and
26 the department in administering this title, including, but not limited to,
27 preacquisition studies, planning, appraisals, surveys, and closing costs. The
28 Wildlife Conservation Board and the department may augment, as needed, any
29 amount thus appropriated with any funds appropriated to it from any other source.

30 **Comment.** Section 55765 continues former Fish and Game Code Section 2728 without
31 substantive change.

32 **§ 55770. Staffing**

33 55770. (a) For the purpose of administering this title, the Wildlife Conservation
34 Board and the department shall augment its existing staff, whenever possible, by
35 contracting for those services necessary for the administration of this title. Any
36 contract shall, however, be entered into only pursuant to Sections 19130 to 19132,
37 inclusive, of the Government Code and shall be only for the minimum period
38 necessary for completion of the particular project or projects for which the
39 contract was entered into.

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

7 **Comment.** Section 55770 continues former Fish and Game Code Section 2729 without
8 substantive change.

9 TITLE 5. CALIFORNIA WILDLIFE PROTECTION
10 ACT OF 1990

11 **Note.** The California Wildlife Protection Act of 1990 (existing Sections 2780-2799.6) was
12 added by Proposition 117 (1990). The Commission has generally adopted a very deferential
13 approach to the recodification of provisions added by initiative. Consistent with that approach,
14 the Commission has made very minimal changes to the language of this part, mostly relating to
15 section numbering.

16 The Commission believes that the nonsubstantive continuation of those provisions in the
17 proposed law would not be an impermissible amendment. See discussion of initiative statutes
18 *supra* at notes 20-22 and associated text.

19 CHAPTER 1. GENERAL PROVISIONS

20 § 55800. Findings and declarations

21 55800. The people of California find and declare all of the following:

22 (a) Protection, enhancement, and restoration of wildlife habitat and fisheries are
23 vital to maintaining the quality of life in California. As the state's human
24 population increases, there is an urgent need to protect the rapidly disappearing
25 wildlife habitats that support California's unique and varied wildlife resources.

26 (b) Much of the state's most important deer winter ranges have been destroyed
27 in the last 20 years.

28 (c) Critical winter ranges of migratory deer in the Sierra Nevada and Cascade
29 mountain ranges are increasingly subject to incompatible land uses. In some
30 counties, over 80 percent of the critical winter ranges fall on these lands. The
31 potential for incompatible land uses on these lands is a major threat to the survival
32 of many migratory deer herds.

33 (d) Deer, mountain lion, and other wildlife habitat within the Sierra Nevada,
34 Cascade, Coast Range (including the Santa Lucia Mountains in Monterey County
35 along the Central Coast), Siskiyou and Klamath Mountains; and the Santa Susana,
36 Simi Hills, Santa Monica, San Gabriel, San Bernardino, San Jacinto, Santa Ana
37 and other mountains and foothill areas within southern California, is disappearing
38 rapidly. Small and often isolated wildlife populations are forced to depend upon
39 these shrinking habitat areas within the heavily urbanizing areas of this state.

1 Corridors of natural habitat must be preserved to maintain the genetic integrity of
2 California’s wildlife.

3 (e) This title shall be implemented in the most expeditious manner. All state
4 officials shall implement this title to the fullest extent of their authority in order to
5 preserve, maintain, and enhance California’s diverse wildlife heritage and the
6 habitats upon which it depends.

7 **Comment.** Section 55800 continues former Fish and Game Code Section 2780 without
8 substantive change.

9 **§ 55805. Further findings and declarations**

10 55805. (a) The people of California find and declare that wildlife and fisheries
11 conservation is in the public interest and that it is necessary to keep certain lands
12 in open space and natural condition to protect significant environmental values of
13 wildlife and native plant habitat, riparian and wetland areas, native oak woodlands,
14 and other open-space lands, and to provide opportunities for the people of
15 California to appreciate and visit natural environments and enjoy California’s
16 unique and varied fish and wildlife resources.

17 (b) It is the intent of the people, in enacting this title, that additional funds are
18 needed to protect fish, wildlife, and native plant resources and that the Legislature
19 should provide those funds through bond acts and other appropriate sources.

20 **Comment.** Section 55805 continues former Fish and Game Code Section 2781 without
21 substantive change.

22 **CHAPTER 2. CALIFORNIA WILDLIFE PROTECTION**

23 **§ 55825. Definitions**

24 55825. The following definitions govern the construction of this title:

25 (a) “Acquisition” includes but is not limited to, gifts, purchases, leases,
26 easements, the exercise of eminent domain if expressly authorized, the transfer or
27 exchange of property for other property of like value, transfers of development
28 rights or credits, and purchases of development rights and other interests.

29 (b) “Board” means the Wildlife Conservation Board.

30 (c) “Fund” means the Habitat Conservation Fund created by Section 55830.

31 (d) “Local agency” means a city, county, city and county, or a district as defined
32 in subdivision (b) of Section 5902 of the Public Resources Code.

33 (e) “Riparian habitat” means lands that contain habitat that grows close to and
34 which depends upon soil moisture from a nearby freshwater source.

35 (f) “Southern California” means the Counties of Imperial, Los Angeles, Orange,
36 Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura.

37 (g) “Wetlands” means lands that may be covered periodically or permanently
38 with shallow water and that include saltwater marshes, freshwater marshes, open
39 or closed brackish water marshes, swamps, mudflats, fens, and vernal pools.

1 **Comment.** Section 55825 continues former Fish and Game Code Section 2785 without
2 substantive change.

3 **§ 55830. Habitat Conservation Fund**

4 55830. Except as otherwise expressly provided in paragraph (3) of subdivision
5 (a) of Section 55835, the money in the Habitat Conservation Fund, which is
6 hereby created, shall be used for the following purposes:

7 (a) The acquisition of habitat, including native oak woodlands, necessary to
8 protect deer and mountain lions.

9 (b) The acquisition of habitat to protect rare, endangered, threatened, or fully
10 protected species.

11 (c) The acquisition of habitat to further implement the Habitat Conservation
12 Program pursuant to Chapter 2 (commencing with Section 55725) of Title 4,
13 excepting Section 55735 and subdivision (a) of Section 55740, and Sections 55745
14 and 55770.

15 (d) The acquisition, enhancement, or restoration of wetlands.

16 (e) The acquisition, restoration, or enhancement of aquatic habitat for spawning
17 and rearing of anadromous salmonids and trout resources.

18 (f) The acquisition, restoration, or enhancement of riparian habitat.

19 **Comment.** Section 55830 continues former Fish and Game Code Section 2786 without
20 substantive change.

21 **Note.** Existing Section 2786(c) contains an erroneous cross-reference to “Article 2
22 (commencing with Section 2721).” The reference is erroneous in two ways: (1) The referenced
23 article begins with Section 2720, not Section 2721. (2) The reference is incomplete. It should
24 continue with the words “of Chapter 7.5.” Proposed Section 55830 would correct those errors.
25 **The Commission invites comment on whether those corrections would cause any problems.**

26 **§ 55835. Continuous appropriations**

27 55835. Notwithstanding Section 13340 of the Government Code, the money in
28 the fund is continuously appropriated, without regard to fiscal years, as follows:

29 (a) To the Department of Parks and Recreation, four million five hundred
30 thousand dollars (\$4,500,000) annually for allocation as follows:

31 (1) One million five hundred thousand dollars (\$1,500,000) for projects that are
32 located in the Santa Lucia Mountain Range in Monterey County for expenditure
33 by the Department of Parks and Recreation and for grants to the Monterey
34 Peninsula Regional Park District.

35 (2) One million dollars (\$1,000,000) for acquisitions in, and adjacent to, units of
36 the state park system.

37 (3) Two million dollars (\$2,000,000) for 50 percent matching grants to local
38 agencies for projects meeting the purposes specified in Section 55830 and,
39 additionally, for the acquisition of wildlife corridors and urban trails, nature
40 interpretation programs, and other programs that bring urban residents into park
41 and wildlife areas. The grants made pursuant to this subdivision are subject to the

1 conditions of subdivision (d) of Section 5910, and Sections 5917 and 5919, of the
2 Public Resources Code, as nearly as may be practicable.

3 (b) To the State Coastal Conservancy, four million dollars (\$4,000,000)
4 annually.

5 (c) To the Santa Monica Mountains Conservancy, five million dollars
6 (\$5,000,000) annually for the next 10 fiscal years, commencing with the 1990–91
7 fiscal year. The money shall be used for the purposes specified in Section 55830
8 for wildlife habitat, and for related open-space projects, within the Santa Monica
9 Mountains Zone, the Rim of the Valley Corridor, and the Santa Clarita
10 Woodlands. Of the total amount appropriated pursuant to this subdivision, not less
11 than a total of ten million dollars (\$10,000,000) shall be spent within the Santa
12 Susana Mountains and the Simi Hills, and not less than a total of ten million
13 dollars (\$10,000,000) shall be spent within the Santa Clarita Woodlands. These
14 funds shall be expended in accordance with Division 23 (commencing with
15 Section 33000) of the Public Resources Code during the operative period of this
16 section as specified in subdivision (f) and in Section 55885. The Legislature may,
17 by statute, extend the period for expenditure of the funds provided by this
18 paragraph.

19 (d) To the California Tahoe Conservancy, five hundred thousand dollars
20 (\$500,000) annually.

21 (e) To the board, the balance of the fund.

22 (f) This section shall become operative on July 1, 1990, and, as of July 1, 2020,
23 is repealed, unless a later enacted statute, which becomes effective on or before
24 July 1, 2020, deletes or extends that date.

25 **Comment.** Section 55835 continues former Fish and Game Code Section 2787 without
26 substantive change.

27 **§ 55840. Continuous appropriations (contingent operation)**

28 55840. (a) Notwithstanding Section 13340 of the Government Code, the money
29 in the fund is continuously appropriated, without regard to fiscal years, to the
30 board.

31 (b) This section shall become operative only if, and on the date that, Section
32 55835 is repealed.

33 **Comment.** Section 55840 continues former Fish and Game Code Section 2788 without
34 substantive change.

35 **§ 55845. Priorities**

36 55845. In areas where habitats are or may become isolated or fragmented,
37 preference shall be given by the agencies expending money from the fund to
38 projects that will serve as corridors linking otherwise separated habitat so that the
39 genetic integrity of wildlife populations will be maintained.

40 **Comment.** Section 55845 continues former Fish and Game Code Section 2789 without
41 substantive change.

1 **§ 55850. Expenditure reporting**

2 55850. Each agency receiving money from the fund pursuant to Section 55835
3 shall report to the board on or before July 1 of each year the amount of money that
4 was expended and the purposes for which the money was expended. The board
5 shall prescribe the information in the agencies reports that it determines is
6 necessary to carry out the requirements of Section 55855.

7 **Comment.** Section 55850 continues former Fish and Game Code Section 2790 without
8 substantive change.

9 **§ 55855. Expenditure conditions**

10 55855. The board shall expend the money appropriated to it from the fund
11 subject to the following conditions:

12 (a) Not more than one and one-half (1¹/₂) percent shall be expended for
13 administration of this title.

14 (b) The board shall, to the extent practicable, expend the money in a manner and
15 for projects so that, within each 24-month period, approximately one-third of the
16 total expenditures of the money in the fund, including, until July 1, 2020, the
17 expenditures by the agencies receiving money from the fund pursuant to
18 subdivisions (a) to (d), inclusive, of Section 55835, are expended for the purposes
19 specified in subdivision (a) of Section 55830 and approximately two-thirds of the
20 total expenditures of the money in the fund, including, until July 1, 2020, the
21 expenditures by the agencies receiving money from the fund pursuant to
22 subdivisions (a) to (d), inclusive, of Section 55835, are expended for the purposes
23 specified in subdivisions (b) and (c) of Section 55830.

24 (c) Notwithstanding the requirement for acquisition in subdivisions (a), (b), and
25 (c) of Section 55830, the board shall, to the extent practicable, expend the money
26 in the fund in a manner and for projects so that, within each 24-month period,
27 approximately six million dollars (\$6,000,000) of the money, including, until July
28 1, 2020, the expenditures by the agencies receiving money from the fund pursuant
29 to subdivisions (a) to (d), inclusive, of Section 55835, are expended for the
30 purposes specified in subdivision (d) of Section 55830.

31 (d) Notwithstanding the requirement for acquisition in subdivisions (a), (b), and
32 (c) of Section 55830, the board shall, to the extent practicable, expend the money
33 in the fund in a manner and for projects so that, within each 24-month period,
34 approximately six million dollars (\$6,000,000) of the money, including, until July
35 1, 2020, the expenditures by the agencies receiving money from the fund pursuant
36 to subdivisions (a) to (d), inclusive, of Section 55835, are expended for the
37 purposes specified in subdivision (e) and (f) of Section 55830.

38 (e) To the extent practicable, the board shall expend the money appropriated to it
39 from the fund in a manner and for projects so that, within each 24-month period,
40 approximately one-half of the total expenditures of the money in the fund,
41 including, until July 1, 2020, the expenditures by the agencies receiving money
42 from the fund pursuant to subdivisions (a) to (d), inclusive, of Section 55835, are

1 expended in northern California and approximately one-half in southern
2 California.

3 (f) Subject to the other requirements of this section, the board may allocate not
4 more than two million dollars (\$2,000,000) annually for the purposes of this title
5 to one or more state agencies created by the Legislature or the people that are
6 authorized by other provisions of law to expend funds for the purposes of this title.

7 **Comment.** Section 55855 continues former Fish and Game Code Section 2791 without
8 substantive change.

9 **§ 55860. Inability to make specified expenditures**

10 55860. If any agency designated in Section 55835 ceases to exist, or is otherwise
11 unable to expend the funds appropriated by Section 55835 to that agency for the
12 period specified, the board or its successor agency shall expend the same funds for
13 the same purpose.

14 **Comment.** Section 55860 continues former Fish and Game Code Section 2792 without
15 substantive change.

16 **§ 55865. Use of conservation corps**

17 55865. The board and any other state or local agency that expends any funds
18 appropriated from the fund on environmental enhancement, restoration, or
19 improvement projects shall utilize the services of the California Conservation
20 Corps and local community conservation corps to the extent practicable.

21 **Comment.** Section 55865 continues former Fish and Game Code Section 2793 without
22 substantive change.

23 **§ 55870. Management plan**

24 55870. In implementing this title, the state or local agency that manages lands
25 acquired with funds appropriated from the fund shall prepare, with full public
26 participation, a management plan for lands that have been acquired, which plan
27 shall reasonably reduce possible conflicts with neighboring land use and
28 landowners, including agriculturists. The plans shall comply with the California
29 Environmental Quality Act (Division 21 (commencing with Section 21000) of the
30 Public Resources Code).

31 **Comment.** Section 55870 continues former Fish and Game Code Section 2794 without
32 substantive change.

33 **§ 55875. Unallocated Account in the Cigarette and Tobacco Products Surtax Fund**

34 55875. (a) The Controller shall annually transfer 10 percent of the funds in the
35 Unallocated Account in the Cigarette and Tobacco Products Surtax Fund to the
36 Habitat Conservation Fund.

37 (b) No additional allocation of funds from that account shall be made by the
38 Legislature for purposes of this title or for any other natural resource or
39 environmental protection program.

1 **Comment.** Section 55875 continues former Fish and Game Code Section 2795 without
2 substantive change.

3 **§ 55880. Fund transfers**

4 55880. (a) The Controller shall annually transfer the sum of thirty million
5 dollars (\$30,000,000) from the General Fund to the Habitat Conservation Fund,
6 less any amount transferred to the Habitat Conservation Fund from, but not limited
7 to, the following accounts and funds:

8 (1) The Public Resources Account in the Cigarette and Tobacco Products Surtax
9 Fund to the extent authorized by the Tobacco Tax and Health Protection Act of
10 1988.

11 (2) The Unallocated Account in the Cigarette and Tobacco Products Surtax
12 Fund pursuant to subdivision (a) of Section 55875.

13 (3) The California Environmental License Plate Fund.

14 (4) The Endangered and Rare Fish, Wildlife, and Plant Species Conservation
15 and Enhancement Account in the Fish and Game Preservation Fund.

16 (5) Any other non-General Fund accounts and funds created by the Legislature
17 or the people for purposes that are consistent with the purposes of this act.

18 (6) Any bond funds that are authorized by the people after July 1, 1990, which
19 may be used for purposes that are identical to the purposes specified in Section
20 55830.

21 (7) The Wildlife Restoration Fund.

22 (b) Except for transfers from the Endangered and Rare Fish, Wildlife, and Plant
23 Species Conservation and Enhancement Account, transfers from the Fish and
24 Game Preservation Fund are not transfers for purposes of subdivision (a) and shall
25 not be made to the fund. Transfers of federal, local, or privately donated funds or
26 transfers from the State Coastal Conservancy Fund pursuant to Section 31011 of
27 the Public Resources Code to the fund are not transfers for purposes of subdivision
28 (a).

29 (c) This section does not limit the amount of funds that may be transferred to the
30 fund or that may be expended for fish and wildlife habitat protection either from
31 the fund or from any other sources.

32 (d) This section shall become operative on July 1, 1990, shall become
33 inoperative on June 30, 2020, and, as of January 1, 2021, is repealed, unless a later
34 enacted statute, which becomes effective before January 1, 2021, deletes or
35 extends the dates on which it becomes inoperative and is repealed.

36 **Comment.** Section 55880 continues former Fish and Game Code Section 2796 without
37 substantive change.

38 **§ 55885. Effect of specified provisions**

39 55885. (a) The people find it necessary to acquire, restore, and improve the
40 rapidly disappearing wildlife habitat of southern California in the quickest and
41 most efficient manner possible using existing governmental resources. Therefore,

1 notwithstanding Section 33216 of the Public Resources Code, Division 23
2 (commencing with Section 33000) of the Public Resources Code shall continue in
3 effect for the period that funds may be expended pursuant to subdivision (c) of
4 Section 55835.

5 This subdivision shall not become operative if, prior to June 6, 1990, Section
6 33216 of the Public Resources Code has been amended to extend the operative
7 effect of that Division 23 to at least July 1, 1995.

8 (b) If subdivision (a) of this section does not become operative, the controller
9 shall increase the annual transfer of funds pursuant to subdivision (c) of Section
10 55835 on a pro rata basis so that the total amount available to the Santa Monica
11 Mountains Conservancy for purposes of this title pursuant to that subdivision (c) is
12 fifty million dollars (\$50,000,000). Nothing in this section precludes the
13 Legislature from extending the time for expenditure of funds pursuant to
14 subdivision (c) of Section 55835.

15 **Comment.** Section 55885 continues former Fish and Game Code Section 2797 without
16 substantive change.

17 **Note.** The second paragraph of existing Section 2797(a) establishes an operation contingency
18 based on whether “prior to June 6, 1990, Section 33216 of the Public Resources Code has been
19 amended to extend the operative effect of that Division 23 to at least July 1, 1995.” That
20 contingency appears to have been satisfied. In 1990, Section 33216 was amended to extend the
21 specified sunset date to July 1, 1995. See 1990 Cal. Stat. ch. 216, § 95. Despite the apparent
22 obsolescence of the operation contingency provision, it has been continued in proposed Section
23 55885. This avoids any possibility of deleting substantive language that was added by citizen
24 initiative. Section 2797(b) also appears to be obsolete, but is retained for the same reason. **The**
25 **Commission invites comment on whether this approach would cause any problems.**

26 **§ 55890. Land acquisition law**

27 55890. Acquisitions of real property made pursuant to this title shall be done in
28 compliance with the land acquisition law as existing or as hereafter amended and
29 as it applies to the agencies designated in Section 55835, and in compliance with
30 subdivision (a) of Section 5929 of the Public Resources Code.

31 **Comment.** Section 55890 continues former Fish and Game Code Section 2798 without
32 substantive change.

33 **§ 55895. Application of CEQA**

34 55895. Every expenditure made pursuant to this title shall comply with the
35 California Environmental Quality Act (Division 13 (commencing with Section
36 21000) of the Public Resources Code).

37 **Comment.** Section 55895 continues former Fish and Game Code Section 2799 without
38 substantive change.

39 **§ 55900. Public access to acquired lands**

40 55900. Reasonable public access to lands acquired in fee with funds made
41 available pursuant to this title shall be provided except when that access may
42 interfere with habitat protection.

1 **Comment.** Section 55900 continues former Fish and Game Code Section 2799.5 without
2 substantive change.

3 **§ 55905. Reappropriation of transferred funds**

4 55905. Only those amounts of money that are transferred to the fund from the
5 General Fund pursuant to Section 55880 may be reappropriated for purposes of
6 this title by a two-thirds vote of the Legislature.

7 **Comment.** Section 55905 continues former Fish and Game Code Section 2799.6 without
8 substantive change.

9 **TITLE 6. NATIVE SPECIES CONSERVATION**
10 **AND ENHANCEMENT**

11 **CHAPTER 1. GENERAL PROVISIONS**

12 **§ 56000. Short title**

13 56000. This title shall be known and may be cited as the Native Species
14 Conservation and Enhancement Act.

15 **Comment.** Section 56000 continues former Fish and Game Code Section 1750 without
16 substantive change.

17 **§ 56005. Findings and declarations**

18 56005. The Legislature finds and declares all of the following:

19 (a) That it is the policy of this state:

20 (1) To maintain sufficient populations of all species of wildlife and native plants
21 and the habitat necessary to insure their continued existence at the optimum levels
22 possible to insure the policies stated in paragraphs (2), (3), and (4).

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

25 (3) To perpetuate native plants and all species of wildlife for their intrinsic and
26 ecological values, as well as for their direct benefits to humans.

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

29 (b) That the conservation and enhancement of wildlife species that are not the
30 object of hunting and native plant species is in the general public interest and it is
31 appropriate that the cost of programs to achieve that conservation and
32 enhancement, including the biological and botanical research necessary thereto,
33 and the diffusion of the information resulting therefrom to the public, be borne to
34 the extent necessary by general public funds.

35 **Comment.** Section 56005 continues former Fish and Game Code Section 1755 without
36 substantive change.

1 (4) Possesses written authorization from the department to enter the area for a
2 specific purpose.

3 **Comment.** Section 56030 continues former Fish and Game Code Section 1764 without
4 substantive change.

5 See also Section 6050 (enforcement).

6 CHAPTER 3. NATIVE SPECIES CONSERVATION AND ENHANCEMENT
7 ACCOUNT

8 **§ 56050. Creation of account**

9 56050. The department shall maintain within the Fish and Game Preservation
10 Fund a Native Species Conservation and Enhancement Account, which is hereby
11 created, to permit separate accountability for the receipt and expenditure of
12 moneys derived through donation from persons or organizations for the support of
13 nongame and native plant species conservation and enhancement programs.

14 **Comment.** Section 56050 continues former Fish and Game Code Section 1760 without
15 substantive change.

16 **§ 56055. Deposit of funds**

17 56055. Whenever the department receives funds from persons or organizations
18 for the support of nongame and native plant species conservation and
19 enhancement programs, those funds shall be deposited in the Fish and Game
20 Preservation Fund and credited to the Native Species Conservation and
21 Enhancement Account.

22 **Comment.** Section 56055 continues former Fish and Game Code Section 1761 without
23 substantive change.

24 **§ 56060. Donor appreciation**

25 56060. (a) The department shall provide each person or organization making a
26 contribution of five dollars (\$5) or more for the support of nongame and native
27 plant species conservation and enhancement programs a suitably prepared
28 certificate, decal, medallion, or other object of public appreciation signifying the
29 interest of the person or organization in the conservation and enhancement of
30 native plant and wildlife species.

31 (b) The commission shall approve the form, nature, and content of any
32 certificate, decal, medallion or other object proposed for use by the department
33 pursuant to this section.

34 **Comment.** Section 56060 continues former Fish and Game Code Section 1762 without
35 substantive change.

36 **§ 56065. Encouraging donations**

37 56065. (a) The department may take all appropriate measures to encourage
38 donations by individuals, organizations, and public agencies to the Native Species
39 Conservation and Enhancement Account, including, but not limited to, public

1 information concerning the status of native plant and wildlife species threatened
2 by the activities of man.

3 (b) The cost to the department to carry out the provisions of this section may be
4 charged to the Native Species Conservation and Enhancement Account.

5 **Comment.** Section 56065 continues former Fish and Game Code Section 1763 without
6 substantive change.

7 **§ 56070. Deposit of fee revenue**

8 56070. (a) The revenues from fees and sales under this chapter and Section 3210
9 shall be deposited in the Native Species Conservation and Enhancement Account
10 in the Fish and Game Preservation Fund, and shall be available for appropriation
11 for expenditure in the 1988–89 and subsequent fiscal years in the following order
12 of priority:

13 (1) Repayment of any loan to the account from the Fish and Game Preservation
14 Fund. The amounts repaid annually shall be prorated to complete the repayment
15 with interest on or before July 1, 1993. Interest shall be calculated at the rate
16 earned by the Surplus Money Investment Fund from the date funds for the loan
17 were advanced to the date of repayment.

18 (2) The costs of ongoing wildlife management programs incurred at any lands
19 managed by the department alone or cooperatively with other governmental
20 agencies, irrespective of their designation pursuant to Section 56030, that are not
21 adequately funded under Section 58000 or 58010.

22 (3) The costs of natural history education and recreational programs and
23 improvements at areas designated pursuant to Section 56030.

24 (4) Augmentation of wildlife management programs and acquisition of
25 additional lands at areas designated pursuant to Section 56030.

26 (b) Revenues from fees and sales under this chapter and Section 3210 shall be
27 used to augment and not to replace money appropriated from existing funds
28 available to the department for the purposes specified in subdivision (a).

29 **Comment.** Section 56070 continues former Fish and Game Code Section 1767.5 without
30 substantive change.

31 **§ 56075. Legislative finding and declaration**

32 56075. The Legislature finds and declares that the revenues from fees and sales
33 under this chapter are related to the protection and propagation of fish and game
34 within the meaning of Section 9 of Article XVI of the California Constitution.

35 **Comment.** Section 56075 continues former Fish and Game Code Section 1768 without
36 substantive change.

37 **§ 56080. Wildlife area pass**

38 56080. (a) The department may issue an annual wildlife area pass or a day use
39 pass that authorizes the bearer to enter and use facilities and programs on the

1 department managed lands subject to Section 56030 for the period of a calendar
2 year or, if issued after the beginning of the year, for the remainder thereof.

3 (b) The fee for the annual wildlife area pass is ten dollars (\$10). The fee for the
4 day use pass is two dollars (\$2).

5 (c) The fees shall be adjusted in the calendar years following 1989 in accordance
6 with Section 3755.

7 (d) The following persons are exempt from the payment of fees under this
8 section for an annual wildlife area pass or a day use pass:

9 (1) A person under the age of 16 years.

10 (2) A tour by an organized youth or school group.

11 (e) Any person eligible for a reduced fee or free sportfishing license pursuant to
12 Section 13150 or Sections 13200 through 13215, inclusive, shall be issued an
13 annual wildlife area pass upon application therefor and under the same conditions
14 and for the same fee as provided in those sections.

15 (f) There shall be appropriated in the annual Budget Act from the General Fund,
16 for transfer to the Native Species Conservation and Enhancement Account, a sum
17 equal to two dollars (\$2) for each free annual wildlife area pass issued pursuant to
18 subdivision (e) during the preceding calendar year.

19 **Comment.** Section 56080 continues former Fish and Game Code Section 1765 without
20 substantive change.

21 **§ 56085. Native species stamp**

22 56085. The department may also offer for sale a native species stamp,
23 promotional materials, and nature study aids. The fee for a native species stamp is
24 seven dollars and fifty cents (\$7.50), as adjusted in the calendar years following
25 1989 in accordance with Section 3755.

26 **Comment.** Section 56085 continues former Fish and Game Code Section 1766 without
27 substantive change.

28 **§ 56090. Promotional activity**

29 56090. (a) The department may take all appropriate measures to encourage
30 persons to obtain annual wildlife area passes and day use passes issued pursuant to
31 Section 56080, and to promote the sale of native species stamps, promotional
32 materials, and nature study aids to provide revenue for the support of the
33 department.

34 (b) The measures may include, but are not limited to, the dissemination of public
35 information concerning the status of wildlife, fish, and plant species, conservation
36 activities of the department, and programs and facilities provided by the
37 department for the enjoyment of the lands managed by the department.

38 **Comment.** Section 56090 continues former Fish and Game Code Section 1769 without
39 substantive change.

1 CHAPTER 4. ENDANGERED AND RARE FISH, WILDLIFE, AND PLANT
2 SPECIES CONSERVATION AND ENHANCEMENT ACCOUNT

3 **§ 56100. Creation of account**

4 56100. The department shall maintain within the Fish and Game Preservation
5 Fund an Endangered and Rare Fish, Wildlife, and Plant Species Conservation and
6 Enhancement Account which is hereby created.

7 **Comment.** Section 56100 continues former Fish and Game Code Section 1770 without
8 substantive change.

9 **§ 56105. Deposit of funds**

10 56105. (a) Whenever the department receives funds from the Treasurer under
11 Article 7 (commencing with Section 18520) of Chapter 17 of Part 10 of Division 2
12 of the Revenue and Taxation Code for the support of this chapter, the funds shall
13 be deposited in the Fish and Game Preservation Fund and credited to the
14 Endangered and Rare Fish, Wildlife, and Plant Species Conservation and
15 Enhancement Account.

16 (b) These funds are for the support of programs for endangered and rare animals
17 and native plant species as determined by the commission, related conservation
18 and enhancement programs, and programs for those species that may be
19 candidates for determination as endangered or rare under the criteria developed by
20 the commission.

21 (c) The administrative overhead assessment on that portion of funds deposited in
22 the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and
23 Enhancement Account expended through contracts shall not exceed 15 percent.

24 **Comment.** Section 56105 continues former Fish and Game Code Section 1771 without
25 substantive change.

26 🔍 **Note.** Existing Section 1771 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 **§ 56110. Encouraging donations**

30 56110. (a) The department may take all appropriate measures to encourage
31 donations to this account through the tax return checkoff system provided for in
32 Article 7 (commencing with Section 18520) of Chapter 17 of Part 10 of Division 2
33 of the Revenue and Taxation Code.

34 (b) The department may also disseminate information to the public concerning
35 the status of endangered and rare species. The cost to the department to carry out
36 the provisions of this section may be charged to this account.

37 **Comment.** Section 56110 continues former Fish and Game Code Section 1772 without
38 substantive change.

1 **Note.** Existing Section 1772 refers to “Article 7 (commencing with Section 18520) of
2 Chapter 17 of Part 10 of Division 2.” There is no such article, chapter, or section. **The**
3 **Commission invites comment on how to correct this erroneous cross-reference.**

4 CHAPTER 5. NATIVE CALIFORNIA WILDLIFE REHABILITATION

5 VOLUNTARY TAX CONTRIBUTION FUND

6 **§ 56150. Maintenance of fund**

7 56150. The department shall maintain the Native California Wildlife
8 Rehabilitation Voluntary Tax Contribution Fund established pursuant to Section
9 18749.1 of the Revenue and Taxation Code.

10 **Comment.** Section 56150 continues former Fish and Game Code Section 1773 without
11 substantive change.

12 **§ 56155. Competitive grant program**

13 56155. (a) The funds deposited in the Native California Wildlife Rehabilitation
14 Voluntary Tax Contribution Fund pursuant to Article 5.2 (commencing with
15 Section 18749) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and
16 Taxation Code are for the support of a competitive grant program to be established
17 by the department for the purposes of the recovery and rehabilitation of injured,
18 sick, or orphaned wildlife, and conservation education.

19 (b) A maximum of 5 percent of the funds allocated to the department may be
20 used to defray the administrative expenses associated with administering the
21 Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund.

22 **Comment.** Section 56155 continues former Fish and Game Code Section 1773.1 without
23 substantive change.

24 **§ 56160. Grant requirements**

25 56160. To be eligible for grant funding from the competitive grant program
26 established pursuant to Section 56155, an applicant shall meet all of the following
27 criteria:

28 (a) The applicant shall provide proof that it is a nonprofit organization that
29 operates a wildlife rehabilitation facility permitted pursuant to Section 679 of Title
30 14 of the California Code of Regulations.

31 (b) The applicant shall be in compliance with all conditions of its Wildlife
32 Rehabilitation Memorandum of Understanding.

33 (c) The applicant shall maintain active participation in the wildlife rehabilitation
34 medical database.

35 **Comment.** Section 56160 continues former Fish and Game Code Section 1773.2 without
36 substantive change.

1 TITLE 7. SHARED HABITAT ALLIANCE FOR
2 RECREATIONAL ENHANCEMENT PROGRAM

3 CHAPTER 1. GENERAL PROVISIONS

4 § 56200. Legislative intent

5 56200. (a) In establishing the Shared Habitat Alliance for Recreational
6 Enhancement (“SHARE”) program, it is the intent of the Legislature to encourage
7 private landowners to voluntarily make their land available to the public for
8 wildlife-dependent recreational activities.

9 (b) The Legislature further encourages private landowners to use any funds
10 received from the SHARE program for wildlife conservation purposes on their
11 property.

12 (c) The SHARE program shall be a collaborative effort by all participants to
13 facilitate wildlife-dependent recreational activities on private land at minimal
14 expense to the state.

15 (d) The Legislature declares that interested nongovernmental organizations are
16 the key to developing, planning, and implementing the SHARE program.

17 **Comment.** Section 56200 continues former Fish and Game Code Section 1570 without
18 substantive change.

19 § 56205. Definitions

20 56205. For purposes of this title, the following definitions apply:

21 (a) “Agreement” includes, but is not limited to, a contract, license, easement,
22 memorandum of understanding, or lease.

23 (b) “Partnership” means a collaborative effort involving financial or in-kind
24 contributions by nongovernmental organizations, the department, and other
25 interested parties working in concert to achieve the goals of the program.

26 (c) “Private landowner” means an owner of any possessory interest in real
27 property that is suitable for use for wildlife-dependent recreational activities.

28 (d) “Program” means the SHARE program established under this title.

29 (e) “Wildlife-dependent recreational activities” means hunting, fishing, wildlife
30 observation, conservation education, and related outdoor activities through means
31 that are consistent with applicable law.

32 **Comment.** Section 56205 continues former Fish and Game Code Section 1571 without
33 substantive change.

34 CHAPTER 2. PROGRAM ADMINISTRATION

35 § 56225. Program established

36 56225. There is hereby established the Shared Habitat Alliance for Recreational
37 Enhancement (SHARE) program.

1 **Comment.** Section 56225 continues the first sentence of former Fish and Game Code Section
2 1572(a) without substantive change.

3 **§ 56230. Implementation**

4 56230. The department, in partnership with nonprofit conservation groups and
5 other interested nongovernmental organizations that seek to increase and enhance
6 wildlife-dependent recreational opportunities, shall work cooperatively to
7 implement the program in order to facilitate public access to private lands in a
8 voluntary and incentive-based manner.

9 **Comment.** Section 56230 continues the second sentence of former Fish and Game Code
10 Section 1572(a) without substantive change.

11 **§ 56235. Priorities**

12 56235. In determining which lands may be included in the program, the
13 department shall give priority to those lands with the greatest wildlife habitat
14 value. To the extent possible, the department shall also include in the program
15 private lands that permit multiple wildlife-dependent recreational activities, in
16 order to take into consideration the participation of the general public in the
17 program.

18 **Comment.** Section 56235 continues former Fish and Game Code Section 1573(g) without
19 substantive change.

20 **§ 56240. Grants and agreements**

21 56240. The department may make grants to, or enter into agreements with,
22 nonprofit organizations, governmental entities, or any other entities for the use of
23 the funds described in Section 56255 when the department finds that the
24 agreements are necessary for carrying out the purposes of this title.

25 **Comment.** Section 56240 continues former Fish and Game Code Section 1572(d) without
26 substantive change.

27 **§ 56245. Landowner agreements**

28 56245. (a) The department may enter into a voluntary agreement with a private
29 landowner, including an agreement under which the private landowner is
30 compensated by the department for public use of the land, to provide public access
31 for wildlife-dependent recreational activities. Any financial compensation offered
32 to a private landowner pursuant to this subdivision shall not exceed thirty dollars
33 (\$30) per acre, or fifty dollars (\$50) per public participant per day, and shall be
34 commensurate with the quality of the wildlife-dependent recreational opportunities
35 that are to be provided on the property.

36 (b) The department also may enter into a voluntary agreement with a private
37 landowner to facilitate access to adjacent public lands or waters, upon approval of
38 the governmental entity that holds title to the land. This title does not authorize a
39 private landowner to exclude persons not participating in the SHARE program
40 from using public land for wildlife-dependent recreational activities.

1 (c) The department may enter into a voluntary agreement with a governmental
2 entity to provide wildlife-dependent recreational opportunities to the public on
3 public lands or waters.

4 **Comment.** Section 56245 continues former Fish and Game Code Section 1573(a) without
5 substantive change.

6 **§ 56250. Limitations on agreements**

7 56250. An agreement executed pursuant to the program shall not authorize the
8 take of nongame species by public participants in the program. An agreement may
9 not authorize a private landowner to transfer a hunting or fishing license, stamp, or
10 tag to another person, unless otherwise authorized by law.

11 **Comment.** Section 56250 continues former Fish and Game Code Section 1573(f) without
12 substantive change.

13 **§ 56255. Modification or cancellation of agreement**

14 56255. Either the department or a private landowner may, in writing, modify or
15 cancel an agreement executed under the program, at any time. Upon cancellation
16 or modification of the agreement by either party, the other party shall be
17 reimbursed for any lost revenues or expenses incurred pursuant to the terms of the
18 original agreement.

19 **Comment.** Section 56255 continues former Fish and Game Code Section 1573(c) without
20 substantive change.

21 **§ 56260. Landowner protections and remedies**

22 56260. In addition to any other protection or remedy under law, the protections
23 and remedies afforded to an owner of an estate or any other interest in real
24 property under Section 846 of the Civil Code shall apply to a private landowner,
25 nonprofit organization, or other entity participating in the program.

26 **Comment.** Section 56260 continues former Fish and Game Code Section 1573(d) without
27 substantive change.

28 **§ 56265. Waiver of liability**

29 56265. The department shall require every person who wants to use land that is
30 subject to an agreement pursuant to Section 56245, prior to using that land, to sign
31 a waiver that releases the department or any private group, nonprofit organization,
32 governmental entity, or other organization involved in administering the program,
33 and the private landowner, from liability for any injury or damage that arises from,
34 or is connected with that person's use of the land. Upon request, the department
35 shall provide a copy of the waiver to any of the parties to the waiver.

36 **Comment.** Section 56265 continues former Fish and Game Code Section 1573(e) without
37 substantive change.

1 **Comment.** Section 56325 continues former Fish and Game Code Section 1572(c)(1) without
2 substantive change.

3 **§ 56330. Funding**

4 56330. Consistent with existing law, the department may establish and impose
5 user fees, use existing hunting and fishing license stamp or tag fees from the Fish
6 and Game Preservation Fund, or apply for grants, federal funds, or other
7 contributions from other sources to fund the program. General Fund moneys shall
8 not be used for the program.

9 **Comment.** Section 56330 continues former Fish and Game Code Section 1572(c)(2) without
10 substantive change.

11 **§ 56335. Deposit and expenditure**

12 56335. (a) All funding generated pursuant to Section 56330 from grants, federal
13 funds, or other sources, where the person or entity providing the funds specifically
14 designates in writing prior to the time of transmittal of the funds to the department
15 that the funds are intended solely for the purposes of the program, and any user
16 fees assessed by the department specifically for the program, shall be deposited in
17 the SHARE Account in the Fish and Game Preservation Fund.

18 (b) The moneys in the SHARE account, upon appropriation by the Legislature,
19 shall be available for expenditure by the department solely for programs and
20 projects to benefit the program and for the direct costs and administrative
21 overhead incurred solely in carrying out the department's program activities.

22 (c) Funds may also be used for wildlife conservation purposes on lands subject
23 to an agreement under the program.

24 (d) Administrative overhead shall be limited to the reasonable costs associated
25 with the direct administration of the program.

26 (e) The department shall maintain internal accountability necessary to ensure
27 that all restrictions on the expenditure of these funds are met.

28 **Comment.** Section 56335 continues former Fish and Game Code Section 1572(c)(3) without
29 substantive change.

30 **§ 56340. Reimbursement of other persons and entities**

31 56340. The department may reimburse a nonprofit organization, a private
32 landowner, or other entity for its costs related to the implementation of the
33 program.

34 **Comment.** Section 56340 continues former Fish and Game Code Section 1572(f) without
35 substantive change.

1 TITLE 8. ENHANCEMENT AND MANAGEMENT
2 OF FISH AND WILDLIFE AND THEIR HABITAT
3 ON PRIVATE LANDS

4 CHAPTER 1. GENERAL PROVISIONS

5 § 56500. Policy

6 56500. It is the policy of the state actively to ensure the improvement of wildlife
7 habitat on private land in order to encourage the propagation, utilization, and
8 conservation of fish and wildlife resources on those lands now and for the future in
9 cooperation with private landowners. The commission and the department may
10 develop a private wildlife habitat enhancement and management program for the
11 implementation of this title.

12 **Comment.** Section 56500 continues former Fish and Game Code Section 3400 without
13 substantive change.

14 CHAPTER 2. ESTABLISHMENT AND REGULATION

15 § 56525. License to operate wildlife habitat enhancement and management area

16 56525. The commission may authorize the department to issue revocable,
17 nontransferable licenses for the operation of wildlife habitat enhancement and
18 management areas on any private lands it determines are suitable for habitat
19 enhancement, management, utilization, propagation, and conservation of fish and
20 wildlife resources of those lands.

21 **Comment.** Section 56525 continues the first sentence of former Fish and Game Code Section
22 3401(a) without substantive change.

23 See also Section 6052 (revocation for violation of code or regulation).

24 § 56530. License application

25 56530. (a) A license for a wildlife habitat enhancement and management area
26 may be issued to any landholder or combination of landholders upon approval by
27 the commission of an application submitted by the landholder. As used in this title,
28 “landholder” means any person who owns, leases, or has a possessory interest in
29 land.

30 (b) Each license application shall be accompanied by a nonrefundable fee in an
31 amount established by the commission which, in conjunction with the fees
32 collected pursuant to Section 56585, is calculated to meet the department’s actual
33 costs in administering all aspects of the habitat enhancement and management
34 program. The application shall be accompanied by a wildlife habitat enhancement
35 and management plan and any other information about the proposed wildlife
36 habitat enhancement and management area that may be required by the
37 commission.

1 (c) An application for a license may be submitted by any number of landholders
2 if all parcels to be included in the wildlife habitat enhancement and management
3 area are contiguous and, in combination, are of a size suitable for the management
4 of the species included in the wildlife habitat enhancement and management plan.
5 The landholders shall designate one landholder who shall represent them in all
6 dealings with the commission and the department. The designated landholder shall
7 be responsible for the operation of the wildlife habitat enhancement and
8 management area.

9 (d) A landholder who does not own the fee to the land may apply for a license
10 pursuant to this title only if the owner signs the application.

11 **Comment.** Section 56530 continues former Fish and Game Code Section 3402 without
12 substantive change.

13 **§ 56535. Plan and license**

14 56535. (a) Upon approval of the wildlife habitat enhancement and management
15 plan, the department shall issue a license, which shall be valid for five calendar
16 years, authorizing the taking of those species of fish, game birds, and game
17 mammals designated in the wildlife habitat enhancement and management plan,
18 pursuant to the plan and regulations of the commission for the operation of the
19 wildlife habitat enhancement and management area.

20 (b) Regulations adopted pursuant to this section may supersede any provision of
21 this code designated by number in the regulation, but shall do so only to the extent
22 specifically provided in the regulation.

23 **Comment.** Section 56535 continues former Fish and Game Code Section 3406(a) without
24 substantive change.

25  **Note.** Existing Section 3406(a) refers to “regulations adopted pursuant to this section.” That
26 reference to “this section” has been preserved in proposed Section 56535, even though Section
27 56535 would not continue the entirety of Section 3406. This appears to be appropriate, because
28 subdivision (a) of Section 3406 is the only part of that section that seems to authorize rulemaking.
29 **The Commission invites comment on whether the scope of the reference proposed in Section**
30 **56535 would cause any problems.**

31 **§ 56545. Boundary posting**

32 56545. The commission shall require the landowners of a wildlife habitat
33 enhancement and management area to post all or part of its boundaries with public
34 land. The commission may require the owners of a wildlife habitat enhancement
35 and management area to post all or part of its boundaries with private land.

36 **Comment.** Section 56545 continues former Fish and Game Code Section 3403 without
37 substantive change.

38 **§ 56550. Review and reporting**

39 56550. (a) The activities conducted pursuant to each wildlife habitat
40 enhancement and management plan shall be reviewed annually by the department
41 and reviewed by the commission at a public hearing.

1 (b) Each licensee shall annually submit information to the department about past
2 activities and the activities intended to be conducted in the succeeding year. Any
3 change to the wildlife habitat enhancement and management plan or the
4 regulations applicable to the wildlife habitat enhancement and management area
5 shall be proposed to the commission by the department or the licensee at the
6 license review hearing.

7 **Comment.** Section 56550 continues former Fish and Game Code Section 3406(c) without
8 substantive change.

9 **§ 56555. Regulations**

10 56555. The commission may adopt regulations necessary for the administration
11 of this title.

12 **Comment.** Section 56555 continues former Fish and Game Code Section 3404(a) without
13 substantive change.

14 **§ 56560. Application of other license and fee requirements**

15 56560. (a) Any landholder who has paid the fee required by this title, has a valid
16 license issued pursuant to this title, and who is conducting activities pursuant to an
17 approved wildlife habitat enhancement and management plan that could be
18 licensed or permitted pursuant to another provision of this code shall be exempt
19 from any requirement to obtain that other license or permit or to pay any other fee.

20 (b) This section shall not be construed to exempt anyone from any requirement
21 pertaining to hunting and sport fishing licenses and stamps.

22 **Comment.** Section 56560 continues former Fish and Game Code Section 3408 without
23 substantive change.

24 **CHAPTER 3. EFFECT**

25 **§ 56575. Public access**

26 56575. Any private lands affected by a habitat enhancement and management
27 plan licensed pursuant to this title shall not be available for use by the general
28 public without the consent of the landholders.

29 **Comment.** Section 56575 continues the second sentence of former Fish and Game Code
30 Section 3401(a) without substantive change.

31 **§ 56580. Public access roads**

32 56580. No public access road shall be closed to the public under this title as a
33 result of licensing a wildlife habitat enhancement and management area or
34 implementing the wildlife habitat enhancement and management plan.

35 **Comment.** Section 56580 continues the third sentence of former Fish and Game Code Section
36 3401(a) without substantive change.

1 **§ 56585. Animal taken in area**

2 56585. (a) The commission may require that any fish, bird, or mammal taken in
3 a wildlife habitat enhancement and management area licensed pursuant to this title
4 be marked for identification with a distinctive tag or seal issued by the department
5 prior to being removed from the area. A deer tag shall be countersigned by a
6 person who is authorized to countersign deer tags pursuant to Section 372 of Title
7 14 of the California Code of Regulations.

8 (b) Any fish, bird, or mammal so identified may be possessed and transported at
9 any time during the period for which the tag or seal is valid.

10 (c) The fees for tags and seals shall be established by the commission in
11 amounts which, in conjunction with fees collected pursuant to Section 56530, are
12 calculated to meet the actual costs incurred by the department in administering all
13 aspects of the habitat enhancement and management program.

14 **Comment.** Section 56585 continues former Fish and Game Code Section 3407 without
15 substantive change.

16 ✎ **Note.** Existing Section 3407 refers to “Section 372 of Title 14 of the California Code of
17 Regulations.” There is no such regulation. **The Commission invites comment on how to correct
18 this erroneous reference.**

19 **§ 56590. Take of deer**

20 56590. During the first year of operation of a wildlife habitat enhancement and
21 management area under a wildlife habitat enhancement and management plan and,
22 thereafter, until the operator demonstrates habitat enhancement in the area
23 acceptable to the department, no person shall take, and the plan shall not authorize
24 the taking, of deer except during the general open season and consistent with the
25 bag and possession limits for the fish and game district or the zone in which the
26 wildlife habitat enhancement and management area is located.

27 **Comment.** Section 56590 continues former Fish and Game Code Section 3406(b) without
28 substantive change.

29 **§ 56595. Hunting during the rut**

30 56595. The commission shall authorize hunting during the rut only in a wildlife
31 habitat enhancement and management area when that hunting is consistent with
32 the management plans prepared for that area or herd and does not result in an
33 overall negative effect on the deer herd population in that area.

34 **Comment.** Section 56595 continues former Fish and Game Code Section 3401(b) without
35 substantive change.

1 TITLE 9. THE CALIFORNIA WATERFOWL
2 HABITAT PROGRAM

3 § 56700. Contract for conservation of waterfowl and habitat

4 56700. (a) Subject to appropriation pursuant to Section 56740, the director may
5 enter into contracts with nonpublic entities that are owners of record, or with
6 lessees, who have the owners of record execute the contract, of land determined by
7 the director to be important for the conservation of waterfowl.

8 (b) The contract shall enforceably restrict the use of the land for the
9 conservation of waterfowl and their habitat consistent with Section 8 of Article
10 XIII of the California Constitution.

11 **Comment.** Section 56700 continues former Fish and Game Code Section 3460(a) without
12 substantive change.

13 § 56705. Contract term and contents

14 56705. Each contract shall be for an initial term of 10 years and shall include all
15 of the following:

16 (a) The designation of the owner of record and any lessee, and the legal
17 description and the assessor's parcel number of the land subject to the contract.

18 (b) An agreement by the owner and any lessee to restore, enhance, and protect
19 the waterfowl habitat character of the described land and to carry out a waterfowl
20 habitat management plan developed with the department.

21 (c) Specification of the amount and date in each year that the payment is to be
22 made by the department to the owner or lessee, which shall be calculated at the
23 rate or rates that the director determines to be fair and reasonable in consideration
24 of the obligations undertaken by the owner or lessee.

25 (d) A requirement that the owner or lessee do either of the following:

26 (1) Refund to the state all payments received under the contract plus interest at
27 the legal rate, as specified in Section 3289 of the Civil Code, upon the owner's or
28 lessee's violation of the contract, or any extension thereof, if the director
29 determines that the violation warrants termination of the contract and the director
30 terminates the contract.

31 (2) Make refunds or accept payment adjustments that the director determines are
32 appropriate, not to exceed the total amount paid by the state to the owner or lessee
33 in the preceding calendar year plus interest at the legal rate, as specified in Section
34 3289 of the Civil Code, if the director determines that the violation by the owner
35 or lessee does not warrant termination of the contract.

36 (e) A requirement that the department reduce the amount of any payment to the
37 owner or lessee under subdivision (c) by an amount equal to the portion of any
38 payment under the Federal Water Bank Program (16 U.S.C. Sec. 1301 et seq.) that
39 the department determines to be in compensation for the same obligation
40 undertaken by the owner under the water bank program.

1 (f) A requirement that the department monitor compliance with the management
2 plan or contract with the United States Soil Conservation Service or other
3 appropriate agency, entity, or person to monitor compliance with the management
4 plan, and that the owner or lessee allows access for the monitoring.

5 (g) Any additional provisions that the director determines are desirable to
6 effectuate the purposes of the program or to facilitate its administration.

7 **Comment.** Section 56705 continues former Fish and Game Code Section 3461 without
8 substantive change.

9 **§ 56710. Recordation of contract**

10 56710. (a) Not later than 20 days after the director has entered into a contract
11 pursuant to this division, a copy of the contract particularly describing the subject
12 habitat as required by subdivision (a) of Section 56705 shall be recorded by the
13 department in the office of the county recorder in each county in which any
14 portion of the areas subject to the contract is located. The contract shall be indexed
15 by the recorder in the grantor-grantee index to the name of the owner of record as
16 grantor and to the department as grantee.

17 (b) Notwithstanding Section 27383 of the Government Code, the department
18 shall pay the fees for recording and indexing the contract, and the department shall
19 deduct the amount paid from the amounts due to the owner under the contract.

20 **Comment.** Section 56710 continues former Fish and Game Code Section 3462 without
21 substantive change.

22 **Note.** Existing Section 3462 refers to any contract entered into by the director pursuant to
23 “this division.” The division that contains Section 3462 addresses a broad range of subjects
24 relating to “Birds and Mammals.” Because of the breadth of that reference, the Commission
25 wonders if it is erroneously overbroad. In addition to the contracts authorized under the California
26 Waterfowl Habitat Program, the following provisions of the division authorize contracting:
27 Sections 3684, 3686, 3702, 3704.5, 3802, 3851, 3853, 3953, 4154. **The Commission invites**
28 **comment on whether Section 3462 should apply to all of those sections, this title only, or**
29 **some other combination of sections?**

30 **§ 56715. Renewal of contract**

31 56715. (a) The contract shall be automatically renewed in the same manner as
32 contracts are renewed and extended, or noticed for nonrenewal, under the
33 Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1 of
34 Title 5 of the Government Code).

35 (b) Upon the request of the owner or lessee, the director shall reexamine the
36 payment rate for the contract at five-year intervals, considering the then current
37 management costs and, with the concurrence of the owner or lessee, make any
38 needed adjustments in rates for the remainder of the contract term.

39 **Comment.** Section 56715 continues former Fish and Game Code Section 3464 without
40 substantive change.

1 **§ 56720. Modification of terms**

2 56720. The director and the owner or lessee may mutually agree to modify the
3 terms and conditions of a contract under this division as the director may
4 determine to be desirable to carry out the purposes of, or to facilitate
5 administration of, the program.

6 **Comment.** Section 56720 continues former Fish and Game Code Section 3466 without
7 substantive change.

8 ☞ **Note.** Existing Section 3466 refers to any contract entered into by the director pursuant to
9 “this division.” The division that contains Section 3466 addresses a broad range of subjects
10 relating to “Birds and Mammals.” Because of the breadth of that reference, the Commission
11 wonders if it is erroneously overbroad. In addition to the contracts authorized under the California
12 Waterfowl Habitat Program, the following provisions of the division authorize contracting:
13 Sections 3684, 3686, 3702, 3704.5, 3802, 3851, 3853, 3953, 4154. **The Commission invites**
14 **comment on whether Section 3462 should apply to all of those sections, this title only, or**
15 **some other combination of sections?**

16 **§ 56725. Change in ownership**

17 56725. (a) If during the contract period the owner or lessee is divested of the use
18 of the waterfowl habitat subject to the contract, the owner or lessee shall notify the
19 department concurrent with that divestment. Any unearned payment shall
20 immediately be refunded by the owner or lessee to the department.

21 (b) If the owner or lessee divests himself or herself of the use of the area subject
22 to a contract by sale or otherwise, the person succeeding to that use is subject to all
23 of the terms and conditions of the contract.

24 **Comment.** Section 56725 continues former Fish and Game Code Section 3465 without
25 substantive change.

26 **§ 56730. Priorities**

27 56730. The director shall give priority to contracts that have the greatest
28 potential for restoring, enhancing, and protecting high quality waterfowl habitat,
29 especially that which is subject to destruction, drastic modification, or significant
30 curtailment of habitat values.

31 **Comment.** Section 56730 continues former Fish and Game Code Section 3460(b) without
32 substantive change.

33 **§ 56735. Application of Public Contract Code**

34 56735. Contracts entered into pursuant to Section 56700 are not subject to Part 2
35 (commencing with Section 10100) of Division 2 of the Public Contract Code.

36 **Comment.** Section 56735 continues former Fish and Game Code Section 3460(c) without
37 substantive change.

38 **§ 56740. California Waterfowl Habitat Preservation Account**

39 56740. (a) The California Waterfowl Habitat Preservation Account is hereby
40 created in the Fish and Game Preservation Fund, and the money in the account
41 shall be transferred to the Surplus Money Investment Fund for investment

1 pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Division 4
2 of Title 2 of the Government Code.

3 (b) The proceeds of the investment deposited in the account shall be available,
4 upon appropriation by the Legislature, for expenditure pursuant to this title.

5 (c) Not more than 7 percent of the money appropriated from the account for
6 expenditure in any fiscal year shall be expended in that fiscal year for
7 administrative costs of the department.

8 **Comment.** Section 56740 continues former Fish and Game Code Section 3467 without
9 substantive change.

10 TITLE 10. SALTON SEA RESTORATION

11 CHAPTER 1. GENERAL PROVISIONS

12 § 56800. Short title

13 56800. (a) This title shall be known and may be cited as the Salton Sea
14 Restoration Act.

15 (b) The state's comprehensive management plan for the Salton Sea, established
16 pursuant to the Governor's directive of May 2015, shall be known, and may be
17 cited, as the John J. Benoit Salton Sea Restoration Plan.

18 **Comment.** Section 56800 continues former Fish and Game Code Section 2930 without
19 substantive change.

20 § 56805. Legislative intent

21 56805. It is the intent of the Legislature that the State of California undertake the
22 restoration of the Salton Sea ecosystem and the permanent protection of the
23 wildlife dependent on that ecosystem.

24 **Comment.** Section 56805 continues former Fish and Game Code Section 2931(a) without
25 substantive change.

26 § 56810. Findings and declarations

27 56810. The Legislature finds and declares all of the following:

28 (a) The Salton Sea is California's largest inland water body with beneficial uses
29 that include fisheries and wildlife habitat and preservation of endangered species,
30 and is a repository for agricultural drainage.

31 (b) The Salton Sea ecosystem is a critical link on the international Pacific
32 Flyway and supports over 400 species of birds.

33 (c) The Salton Sea is threatened by increasing salinity and reduced inflows.
34 Mitigation water inflows ordered by the State Water Resources Control Board in
35 2002 will expire at the end of 2017. Combined, these changes increasingly
36 threaten the unparalleled wildlife resources at the sea, as well as air quality in the
37 region.

1 (d) In cooperation with local governments, nonprofit organizations, private
2 businesses, and the public, the State of California can help protect wildlife habitats
3 and endangered species, improve water and air quality, and enhance recreational
4 opportunities in the region.

5 (e) The State of California and the United States Department of the Interior
6 committed through a memorandum of understanding signed on August 31, 2016,
7 to protect the ecological values of the Salton Sea and to prevent dust emissions
8 from at least 25,000 acres of lakebed exposed by reduced agricultural inflows
9 resulting from the implementation of the Quantification Settlement Agreement.

10 (f) In restoring the Salton Sea, it is the intent of the Legislature to do all of the
11 following:

12 (1) Protect and provide long-term conservation of fish and wildlife that are
13 dependent on the Salton Sea ecosystem.

14 (2) Restore the long-term stable aquatic and shoreline habitat for fish and
15 wildlife that depend on the Salton Sea.

16 (3) Mitigate air quality impacts from restoration projects using the best available
17 technology or best available control measures, as determined by the South Coast
18 Air Quality Management District and the Imperial County Air Pollution Control
19 District.

20 (4) Protect water quality.

21 (5) Maintain the Salton Sea as a vital link along the Pacific Flyway.

22 (6) Preserve local tribal heritage and cultural values associated with the Salton
23 Sea.

24 (7) Minimize noxious odors and other water and air quality problems.

25 (8) Coordinate with local, state, and federal agencies that are responsible for air
26 quality, endangered species, and other environmental mitigation implementation
27 requirements of the Quantification Settlement Agreement.

28 (9) Enhance economic development opportunities that will provide sustainable
29 financial improvements benefiting the local environment and the economic quality
30 of life for communities around the Salton Sea.

31 **Comment.** Section 56810 continues former Fish and Game Code Section 2940 without
32 substantive change.

33 **§ 56815. Definitions**

34 56815. Unless the context requires otherwise, the definitions set forth in this
35 section govern the construction of this title.

36 (a) “Agency” means the Natural Resources Agency.

37 (b) “Habitat mosaics” means two or more proximate habitat types, such as
38 saltwater shoreline abutting riverine deltas and irrigated farmland.

39 (c) “Quantification Settlement Agreement” has the same meaning as defined in
40 subdivision (a) of Section 1 of Chapter 617 of the Statutes of 2002.

41 (d) “Salton Sea Authority” or “authority” means the joint powers authority
42 comprised of the County of Imperial, the County of Riverside, the Imperial

1 Irrigation District, the Coachella Valley Water District, and the Torres Martinez
2 Desert Cahuilla Indian Tribe.

3 (e) “Secretary” means the Secretary of the Natural Resources Agency.

4 (f) “Vector management” means services that eliminate or reduce the risk of
5 illness caused by any organism transporting a pathogen.

6 **Comment.** Section 56815 generalizes former Fish and Game Code Section 2941 without
7 substantive change.

8 **Note.** Existing Section 2941 applies, by its terms, to Article 2 (commencing with Section
9 2940) of Chapter 13 of Division 3 of the Fish and Game Code. Proposed Section 56815 would
10 generalize the provision slightly, so that it also applies to Article 1 of Chapter 13. **The
11 Commission invites comment on whether that change would cause any problems.**

12 **§ 56820. Effect of article**

13 56820. (a) Nothing in this title interferes with or prevents the exercise of
14 authority by a public agency to carry out its programs, projects, or responsibilities.

15 (b) Nothing in this title affects requirements imposed under any other provision
16 of law.

17 **Comment.** Section 56820 generalizes former Fish and Game Code Section 2945 without
18 substantive change.

19 **Note.** Existing Section 2945 applies, by its terms, to Article 2 (commencing with Section
20 2940) of Chapter 13 of Division 3 of the Fish and Game Code. Proposed Section 56820 would
21 generalize the provision slightly, so that it also applies to Article 1 of Chapter 13. **The
22 Commission invites comment on whether that change would cause any problems.**

23 **§ 56825. Quantification Settlement Agreement**

24 56825. Nothing in this title shall alter any state responsibility under the
25 Quantification Settlement Agreement or the state’s authority to carry out any
26 responsibility under the Quantification Settlement Agreement.

27 **Comment.** Section 56825 generalizes former Fish and Game Code Section 2942(a)(2) without
28 substantive change.

29 **Note.** Existing Section 2942 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 56825 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 **CHAPTER 2. FINANCES**

34 **§ 56850. Creation and use of Salton Sea Restoration Fund**

35 56850. (a) There is hereby established the Salton Sea Restoration Fund, which
36 shall be administered by the director.

37 (b) Money deposited in the fund shall be expended, upon appropriation by the
38 Legislature, for the following purposes:

39 (1) Environmental and engineering studies related to the restoration of the
40 Salton Sea and the protection of fish and wildlife dependent on the sea.

1 (2) Implementation of conservation measures necessary to protect the fish and
2 wildlife species dependent on the Salton Sea, including adaptive management
3 measurements pursuant to Article 1 (commencing with Section 63300) of Chapter
4 4 of Title 3 of Division 17. These conservation measures shall be limited to the
5 Salton Sea and lower Colorado River ecosystems, including the Colorado River
6 Delta.

7 (3) Implementation of the preferred Salton Sea restoration alternative.

8 (4) Administrative, technical, and public outreach costs related to the
9 development and selection of the preferred Salton Sea restoration alternative.

10 **Comment.** Section 56850 continues former Fish and Game Code Section 2932 without
11 substantive change.

12 **§ 56855. Funds appropriated pursuant to Water Code § 79565**

13 56855. Of the funds appropriated pursuant to Section 79565 of the Water Code,
14 not less than eight million five hundred thousand dollars (\$8,500,000) shall be
15 made available for transfer or direct expenditure for acquisition, grants, or other
16 activities that directly restore the Salton Sea and its transboundary watersheds,
17 consistent with Section 56850.

18 **Comment.** Section 56855 continues former Fish and Game Code Section 2932.2 without
19 substantive change.

20 **§ 56860. Deposited funds**

21 56860. (a) Any moneys made available by paragraph (3) of subdivision (b) of
22 Section 75050 of the Public Resources Code and deposited in the Salton Sea
23 Restoration Fund shall be expended, upon appropriation by the Legislature in the
24 annual Budget Act, for a restoration project at the Salton Sea that is consistent
25 with subdivision (b) of Section 56900.

26 (b)(1) The activities and expenditures authorized by this section shall be limited
27 to funding those activities identified in the Resources Agency report entitled
28 “Salton Sea Ecosystem Restoration Program Preferred Alternative Report and
29 Funding Plan,” and dated May 2007, for completion in the first five years of
30 implementation identified in the report as “Period I.”

31 (2) The activities specified for completion in Period I include, but are not limited
32 to, a demonstration project, early start habitat, and additional biological, inflow,
33 sediment quality, water quality, and air quality investigations.

34 (3) For purposes of carrying out these activities and expending the funds made
35 available, the Resources Agency shall act as the lead agency and work
36 cooperatively with designated staff from the Department of Water Resources, the
37 State Air Resources Board, the State Water Resources Control Board, and the
38 department.

39 (4) The Resources Agency shall remain the lead agency for implementation, in
40 partnership with one or more of its departments, unless and until legislation is

1 enacted on or after January 1, 2009, establishing a new governance structure for
2 restoration of the Salton Sea.

3 (c) This section is not legislative approval or denial of the preferred alternative
4 identified in the Secretary of the Resources Agency’s recommendations contained
5 in the “Salton Sea Ecosystem Restoration Program Preferred Alternative Report
6 and Funding Plan,” dated May 2007 and submitted to the Legislature.

7 **Comment.** Section 56860 continues former Fish and Game Code Section 2932.3 without
8 substantive change.

9 **§ 56865. Limitation on use of funds**

10 56865. Moneys deposited in the fund created pursuant to Section 56850 shall
11 not be expended for mitigation except for mitigation undertaken by the State of
12 California.

13 **Comment.** Section 56865 continues former Fish and Game Code Section 2932.5 without
14 substantive change.

15 **CHAPTER 3. SALTON SEA RESTORATION**

16 **§ 56900. Preferred alternative**

17 56900. (a) The restoration of the Salton Sea ecosystem shall be based on the
18 preferred alternative developed as a result of the restoration study and alternative
19 selection process described in Article 1 (commencing with Section 63300) of
20 Chapter 4 of Title 3 of Division 17 and using the funds made available in
21 accordance with that section to be deposited in the Salton Sea Restoration Fund
22 and other funds made available by the Legislature and the federal government.

23 (b) The preferred alternative shall provide the maximum feasible attainment of
24 the following objectives:

25 (1) Restoration of long-term stable aquatic and shoreline habitat for the historic
26 levels and diversity of fish and wildlife that depend on the Salton Sea.

27 (2) Elimination of air quality impacts from the restoration projects.

28 (3) Protection of water quality.

29 **Comment.** Section 56900 continues former Fish and Game Code Section 2931(b)-(c) without
30 substantive change.

31 **§ 56905. Salton Sea Species Conservation Habitat Project**

32 56905. The department and the Department of Water Resources shall do all of
33 the following for the Salton Sea Species Conservation Habitat Project:

34 (a) Immediately make available relevant information relating to the factors that
35 influence the cost and size of the alternatives discussed in the environmental
36 impact report or environmental impact statement for the species habitat
37 conservation program.

38 (b) Release all available detail on a final project design immediately, or upon
39 final determination of a least environmentally damaging preferred alternative by

1 the United States Army Corps of Engineers. Details of a final project design shall
2 include location, configuration, size, and cost.

3 (c) Immediately make available project evaluation protocols that include the
4 following principles of adaptive management:

5 (1) Goals and objectives of the project.

6 (2) The project design and an operations plan.

7 (3) A monitoring plan that will include metrics that identify benefits to the
8 species.

9 (4) A performance evaluation based on species population identified through
10 monitoring.

11 (5) A decisionmaking framework to evaluate project performance and guide
12 operations and management changes.

13 **Comment.** Section 56905 continues former Fish and Game Code Section 2942(a)(3)(B)
14 without substantive change.

15 **§ 56910. Secretary responsibilities**

16 56910. The secretary, in consultation and coordination with the authority, shall
17 lead the Salton Sea restoration efforts that shall include all of the following:

18 (a) Early start habitat demonstration projects.

19 (b) Biological investigations relating to the restoration of the Salton Sea.

20 (c) Investigations of water quality, sedimentation, and inflows relating to the
21 restoration of the Salton Sea.

22 (d) Air quality investigations, in consultation and coordination with local and
23 regional air quality agencies, relating to the restoration of the Salton Sea.

24 (e) Geotechnical investigations relating to the restoration of the Salton Sea.

25 (f) Financial assistance grant programs to support restoration activities of local
26 stakeholders.

27 **Comment.** Section 56910 continues former Fish and Game Code Section 2942(a)(1) without
28 substantive change.

29 **§ 56915. Department of Water Resources restoration efforts**

30 56915. To the extent that funding is appropriated to the department for Salton
31 Sea restoration activities, the Department of Water Resources, in coordination and
32 under agreement with the department, may undertake restoration efforts identified
33 in Sections 56905 and 56910.

34 **Comment.** Section 56915 continues former Fish and Game Code Section 2942(a)(3)(A)
35 without substantive change.

36 **§ 56920. Department of Water Resources contracts**

37 56920. The Department of Water Resources may contract with water suppliers
38 to purchase and sell water made available pursuant to Section 1745.02 of the
39 Water Code to achieve the goals of this title.

40 **Comment.** Section 56920 continues former Fish and Game Code Section 2933 without
41 substantive change.

1 **§ 56925. Department of Water Resources design-build procurement authority**

2 56925. Notwithstanding any other law, the Department of Water Resources is
3 authorized to use design-build procurement authority for projects constructed at
4 the Salton Sea in accordance with Article 6 (commencing with Section 10187) of
5 Chapter 1 of Part 2 of Division 2 of the Public Contract Code.

6 **Comment.** Section 56925 continues former Fish and Game Code Section 2942(c) without
7 substantive change.

8 **§ 56930. Feasibility study**

9 56930. The authority may lead a feasibility study, in coordination and under
10 contract with the secretary, to do the following:

11 (a) Investigate access and utility agreements that may contribute to the future
12 funding of restoration activities at the Salton Sea.

13 (b) Analyze all feasible funding sources for restoration program components and
14 activities.

15 (c) Analyze economic development opportunities, including, but not limited to,
16 renewable energy, biofuels, mineral development, and algae production for the
17 purposes of identifying new revenue sources for the Salton Sea restoration efforts.

18 (d) Identify state procurement and royalty sharing opportunities.

19 (e) Review existing long-term plans for restoration of the Salton Sea and
20 recommend to the secretary changes to existing restoration plans. In any review
21 pursuant to this subparagraph, the authority shall consider the impacts of the
22 restoration plan on air quality, fish and wildlife habitat, water quality, and the
23 technical and financial feasibility of the restoration plan and shall consider the
24 impacts on other agencies responsible for air quality, endangered species, and
25 other environmental mitigation requirements for implementation of the
26 Quantification Settlement Agreement.

27 **Comment.** Section 56930 continues former Fish and Game Code Section 2942(b)(1) without
28 substantive change.

29 **§ 56935. Local, publicly derived input**

30 56935. For the purposes of considering local, publicly derived input concerning
31 habitat objectives and actions, types and levels of public access, and integration of
32 air quality management and habitat restoration, the secretary shall seek input from
33 the authority with regard to the following components of restoration of the Salton
34 Sea:

35 (a) Design opportunities and constraints, including the integration of the habitat,
36 public access, and air quality management objectives.

37 (b) Public access and recreational components.

38 (c) Opportunities for economic development.

39 (d) Habitat mosaics and location.

40 (e) Vector management and predator control.

1 (f) Feasible financial resources to fund all recommended restoration program
2 components.

3 **Comment.** Section 56935 continues former Fish and Game Code Section 2943 without
4 substantive change.

5 **§ 56940. Delay prohibited**

6 56940. No evaluation, study, review, or other activity pursuant to this chapter
7 shall delay the planning and implementation of ongoing and planned restoration or
8 mitigation projects, including, but not limited to, the Salton Sea Species
9 Conservation Habitat Project or other measures pursuant to existing state and
10 federal programs and agreements.

11 **Comment.** Section 56940 continues former Fish and Game Code Section 2942(b)(2) without
12 substantive change.

13 **§ 56945. Salton Sea ecosystem**

14 56945. For the purpose of the restoration plan, the Salton Sea ecosystem shall
15 include, but is not limited to, the Salton Sea, the agricultural lands surrounding the
16 Salton Sea, and the tributaries and drains within the Imperial and Coachella
17 Valleys that deliver water to the Salton Sea.

18 **Comment.** Section 56945 continues former Fish and Game Code Section 2931(d) without
19 substantive change.

20 **§ 56950. Facilities**

21 56950. (a) The construction of facilities to separate fresh water from highly
22 saline water for the purposes of implementing restoration activities pursuant to this
23 title shall not be subject to review, approval, inspection, or any fees associated
24 with implementing Division 3 (commencing with Section 6000) of the Water
25 Code.

26 (b) No barrier in the Salton Sea within or below the minus 220 foot contour
27 based on the North American Vertical Datum of 1988 shall be considered a dam.

28 **Comment.** Section 56950 continues former Fish and Game Code Section 2931.5 without
29 substantive change.

30 TITLE 11. INLAND WETLANDS
31 CONSERVATION PROGRAM

32 CHAPTER 1. DEFINITIONS

33 **§ 57000. Application**

34 57000. Unless the context otherwise requires, the definitions in this chapter
35 govern the construction of this title.

36 **Comment.** Section 57000 continues former Fish and Game Code Section 1400 without
37 substantive change.

1 **§ 57005. “Fund”**

2 57005. “Fund” means the Inland Wetlands Conservation Fund, created in the
3 Wildlife Restoration Fund by Section 57635.

4 **Comment.** Section 57005 continues former Fish and Game Code Section 1401 without
5 substantive change.

6 **§ 57510. “Board”**

7 57510. “Board” means the Wildlife Conservation Board created by Section
8 54750.

9 **Comment.** Section 57510 continues former Fish and Game Code Section 1402 without
10 substantive change.

11 **§ 57515. “Inland area”**

12 57515. “Inland areas” means the entire area of California except lands under the
13 jurisdiction of the State Coastal Conservancy, lands within the Santa Monica
14 Mountains Zone, as defined in Section 33105 of the Public Resources Code, and
15 lands under the jurisdiction of the California Tahoe Conservancy Agency in the
16 Lake Tahoe region, as defined in Section 66905.5 of the Government Code.

17 **Comment.** Section 57515 continues former Fish and Game Code Section 1403 without
18 substantive change.

19 **§ 57520. “Program”**

20 57520. “Program” means the Inland Wetlands Conservation Program, as
21 provided in this title.

22 **Comment.** Section 57520 continues former Fish and Game Code Section 1404 without
23 substantive change.

24 **§ 57525. “Nonprofit organization”**

25 57525. “Nonprofit organization” means an organization described in subsection
26 (c) of Section 501 of the Internal Revenue Code of the United States (26 U.S.C.
27 501(c)).

28 **Comment.** Section 57525 continues former Fish and Game Code Section 1405 without
29 substantive change.

30 CHAPTER 2. THE INLAND WETLANDS CONSERVATION PROGRAM

31 **§ 57550. Creation**

32 57550. The Inland Wetlands Conservation Program is hereby created in the
33 board.

34 **Comment.** Section 57550 continues former Fish and Game Code Section 1410 without
35 substantive change.

36 **§ 57555. Administration**

37 57555. The board shall administer the program.

1 **Comment.** Section 57555 continues the second sentence of former Fish and Game Code
2 Section 1411(a) without substantive change.

3 **§ 57560. Purpose and goal of program**

4 57560. The purpose and goal of the program is to carry out the programs of the
5 Central Valley Habitat Joint Venture.

6 **Comment.** Section 57560 continues former Fish and Game Code Section 1411(c) without
7 substantive change.

8 **§ 57565. Acquisition of interest in land**

9 57565. The board may acquire or accept the gift or dedication of fee title,
10 easements, leases, development rights, or other interests in lands in inland areas
11 necessary to carry out the purposes of this title.

12 **Comment.** Section 57565 continues former Fish and Game Code Section 1413 without
13 substantive change.

14 **§ 57570. Federal surplus land sales**

15 57570. The board shall coordinate its activities in the program with federal
16 surplus land sales in inland areas.

17 **Comment.** Section 57570 continues former Fish and Game Code Section 1414 without
18 substantive change.

19 **§ 57575. Land transactions**

20 57575. (a) Notwithstanding any other provision of law, the board may lease,
21 rent, sell, exchange, or otherwise transfer any land, interest in land, or option
22 acquired pursuant to this title for the purposes of carrying out the program.

23 (b) The proceeds from any lease, rental, sale, exchange, or transfer of land, or
24 any interest therein, or option thereon, shall be deposited in the fund.

25 **Comment.** Section 57575 continues former Fish and Game Code Section 1415 without
26 substantive change.

27 **§ 57580. Grants and loans**

28 57580. (a) The board may make grants or loans to nonprofit organizations, local
29 governmental agencies, and state departments and agencies for the purpose of
30 wetland and associated upland habitat acquisition, restoration, or enhancement in
31 the same manner and subject to the same provisions as prescribed in Section
32 31116 of the Public Resources Code.

33 (b) Proceeds from repayment of any loans and the interest thereon shall be
34 deposited in the fund.

35 **Comment.** Section 57580 continues former Fish and Game Code Section 1416 without
36 substantive change.

1 **§ 57585. Lease of nonwetlands habitat for restoration**

2 57585. (a) The board may lease nonwetlands habitat in need of restoration to
3 nonprofit organizations, local governmental agencies, and state departments and
4 agencies under agreements in which the lessee agrees to restore the wetlands to
5 their highest possible wetland value and maintain the wetlands at that highest
6 possible wetland value.

7 (b) Proceeds from any lease or rental and interest thereon shall be deposited in
8 the fund.

9 **Comment.** Section 57585 continues former Fish and Game Code Section 1417 without
10 substantive change.

11 **§ 57590. Sale of restored habitat**

12 57590. (a) The board may acquire former wetlands and associated upland
13 habitat, restore those areas, and sell the lands, or any interest therein, to private
14 owners, local governmental agencies, and state departments and agencies or
15 exchange them for other land, if an agreement is secured to keep and maintain the
16 lands as wetlands in perpetuity.

17 (b) The agreement shall contain a reversion if the lands sold or exchanged are
18 not maintained as wetlands.

19 (c) The agreement containing the reversion shall be set forth in any conveyance
20 transferring any land, interest in land, or option subject to this section.

21 (d) Proceeds from the sales or exchanges shall be deposited in the fund.

22 **Comment.** Section 57590 continues former Fish and Game Code Section 1418 without
23 substantive change.

24 **§ 57595. Grant and loan preferences**

25 57595. (a) In reviewing any grant or loan application, preference shall be given
26 to projects on wetlands that have a secure source of water or are adjacent to
27 existing wetlands that are protected by public ownership or conservation
28 easements, or both.

29 (b) The board shall give preference to wintering habitat in the central valley.

30 **Comment.** Section 57595 continues former Fish and Game Code Section 1420 without
31 substantive change.

32 **§ 57600. Wetland creation preferences**

33 57600. When creating new wetlands, the board shall give preference to lands
34 most suitable for this purpose due to elevations, existence of levees, proximity to
35 existing wetlands that are protected, and potential sources of water. These
36 potential sources of water are limited to all of the following:

37 (a) Water rights that are attached to the land to be restored including
38 groundwater associated with the property.

39 (b) Water willingly made available for a wetlands conservation project through
40 water conservation.

- 1 (c) Recycled water.
2 (d) Undeveloped water supplies of the state.
3 (e) Water marketed for wetlands purposes by a willing seller.
4 (f) Water otherwise made available for wetlands purposes by private, nonprofit,
5 local, and regional entities.

6 **Comment.** Section 57600 continues former Fish and Game Code Section 1421 without
7 substantive change.

8 **§ 57605. Report**

9 57605. On or before January 1, 1992, and every third year thereafter, the board
10 shall prepare and submit a report to the Governor and the Legislature on activities
11 of the board under this title and other activities relating to wetland acquisition by
12 the board. The report shall include, but is not limited to, the following:

13 (a) The status of wetland acquisition, restoration, and enhancement projects in
14 inland areas.

15 (b) The net increase of wetland habitat as a result of projects of the board,
16 including the activities carried out pursuant to the program.

17 **Comment.** Section 57605 continues former Fish and Game Code Section 1422 without
18 substantive change.

19 **CHAPTER 3. FINANCES**

20 **§ 57625. Inland Wetlands Conservation Fund created**

21 57625. The Inland Wetlands Conservation Fund is hereby created in the Wildlife
22 Restoration Fund.

23 **Comment.** Section 57625 continues the first sentence of former Fish and Game Code Section
24 1430 without substantive change.

25 **§ 57630. Deposits**

26 57630. The board shall deposit in the fund all allocations made pursuant to
27 subdivision (f) of Section 55855.

28 **Comment.** Section 57630 continues the first sentence of former Fish and Game Code Section
29 1431 without substantive change.

30 **§ 57635. Use of funds**

31 57635. The money in the Inland Wetlands Conservation Fund shall be solely
32 used to carry out the Inland Wetlands Conservation Program, including the
33 administrative costs of the program.

34 **Comment.** Section 57635 continues the second sentence of former Fish and Game Code
35 Section 1430 without substantive change.

36 **§ 57640. Continuous appropriation**

37 57640. Notwithstanding Section 13340 of the Government Code, the money in
38 the fund is continuously appropriated to the board to carry out this title.

1 **Comment.** Section 57640 continues the second sentence of former Fish and Game Code
2 Section 1431 without substantive change.

3 **§ 57645. Funding**

4 57645. (a) The Inland Wetlands Conservation Program is the program
5 designated for use of the funds allocated pursuant to subdivision (f) of Section
6 55855, as enacted by the California Wildlife Protection Act of 1990.

7 (b) The board is the agency designated for receipt of the funds allocated
8 pursuant to subdivision (f) of Section 55855, as enacted by the California Wildlife
9 Protection Act of 1990.

10 **Comment.** Subdivision (a) of Section 57645 continues the first sentence of former Fish and
11 Game Code Section 1411(a) without substantive change.

12 Subdivision (b) continues former Fish and Game Code Section 1411(b).

13 **§ 57650. Acceptance of financial support**

14 57650. The board may apply for and accept federal grants and receive gifts,
15 donations, subventions, rent, royalties, and other financial support from public and
16 private sources for the purposes of the program.

17 **Comment.** Section 57650 continues former Fish and Game Code Section 1412 without
18 substantive change.

19 **§ 57655. Surplus funds**

20 57655. Any funds remaining after an eligible acquisition, restoration, or
21 enhancement of any project under Chapter 2 (commencing with Section 57550)
22 shall be returned to the board and shall be deposited in the fund.

23 **Comment.** Section 57655 continues former Fish and Game Code Section 1419 without
24 substantive change.

25 **TITLE 12. CALIFORNIA RIPARIAN HABITAT**
26 **CONSERVATION PROGRAM**

27 **CHAPTER 1. GENERAL PROVISIONS**

28 **§ 57700. Short title**

29 57700. This title shall be known and may be cited as the California Riparian
30 Habitat Conservation Act.

31 **Comment.** Section 57700 continues former Fish and Game Code Section 1385 without
32 substantive change.

33 **§ 57705. Findings and declarations**

34 57705. The Legislature finds and declares all of the following:

35 (a) California's rivers, wetlands, and waterways, and the fisheries and wildlife
36 habitat they provide, are valuable and finite resources that benefit the people of the

1 state and are threatened with deterioration or degeneration that may endanger the
2 natural beauty and productivity of these valuable resources.

3 (b) The public interest requires the coordinated protection of rivers and riparian
4 resources in order to maintain an equilibrium between the natural endowment of,
5 and manmade alterations to, California's river environment, and in order to
6 preserve the scenic beauty of these natural resources and the recreational and
7 economic benefits they provide.

8 (c) By virtue of the special conditions and circumstances of the natural ecology,
9 the increasing human populations and needs in the state, and the numerous
10 governmental agencies with an interest in coordinating activities that affect rivers
11 and riparian habitat resources, there is a need for a coordinated state rivers and
12 riparian habitat protection program.

13 **Comment.** Section 57705 continues former Fish and Game Code Section 1386 without
14 substantive change.

15 **§ 57710. Primary concern**

16 57710. The preservation and enhancement of riparian habitat shall be a primary
17 concern of the board and the department, and of all state agencies whose activities
18 impact riparian habitat, including the Department of Conservation, the Department
19 of Parks and Recreation, the Department of Water Resources, the Department of
20 Forestry and Fire Protection, the State Coastal Conservancy, the California
21 Conservation Corps, the California Tahoe Conservancy, the Santa Monica
22 Mountains Conservancy, the California Coastal Commission, the San Francisco
23 Bay Conservation and Development Commission, and the State Lands
24 Commission.

25 **Comment.** Section 57710 continues former Fish and Game Code Section 1389 without
26 substantive change.

27 **CHAPTER 2. ADMINISTRATION**

28 **§ 57725. California Riparian Habitat Conservation Program**

29 57725. (a) The board shall establish and administer, through the department, the
30 California Riparian Habitat Conservation Program pursuant to this title and Title 1
31 (commencing with Section 54700).

32 (b) The purpose and goal of the program is to protect, preserve, and restore
33 riparian habitats throughout the state by the acquisition of interests and rights in
34 real property and waters to the extent deemed necessary to carry out the purposes
35 of the program.

36 **Comment.** Section 57725 continues former Fish and Game Code Section 1387 without
37 substantive change.

1 **§ 57730. Activities**

2 57730. The board, pursuant to this title, shall approve projects to acquire,
3 preserve, restore, and enhance riparian habitat throughout the state, and coordinate
4 its activities undertaken pursuant to this program with other resources protection
5 activities of the board and other state agencies.

6 **Comment.** Section 57730 continues former Fish and Game Code Section 1388 without
7 substantive change.

8 **§ 57735. Department authority**

9 57735. In order to accomplish the objectives of this title, the board may
10 authorize the department to do all of the following:

11 (a) Acquire interests in real property and water rights through gift, purchase,
12 lease, easement, and transfer or exchange of easements, development rights or
13 credits, and other interests in real property.

14 (b) Coordinate its activities under the program with any governmental program
15 for surplus real property sales in the state.

16 (c) Award grants and loans to local public agencies, state agencies, federal
17 agencies, and nonprofit organizations for the purposes of this program.

18 (d) For the purposes of this title, “nonprofit organization” means any private,
19 nonprofit organization that qualifies for exempt status under Section 501(c)(3) of
20 the United States Internal Revenue Code of 1986, and has among its principal
21 charitable purposes the preservation of real property for scientific, historic,
22 educational, recreational, scenic or open-space values, the protection of the natural
23 environment, or the preservation and enhancement of fisheries and wildlife or their
24 habitat.

25 (e) Exercise any authority and comply with requirements contained in Sections
26 54815 and 54845 through 54855, inclusive, as appropriate, to preserve and
27 enhance riparian habitat for purposes of this title.

28 **Comment.** Section 57735 continues former Fish and Game Code Section 1390 without
29 substantive change.

30 **§ 57740. Grants**

31 57740. Grants to nonprofit organizations pursuant to Section 57735 for the
32 acquisition of real property or interests therein shall be subject to all of the
33 following conditions:

34 (a) The purchase price of any interest in real property acquired by the nonprofit
35 organization may not exceed fair market value as established by an appraisal
36 approved by the board.

37 (b) The board approves the terms under which the interest in real property is
38 acquired.

39 (c) The interest in real property acquired pursuant to a grant from the board may
40 not be used as security for any debt to be incurred by the nonprofit organization
41 unless the board approves the transaction.

1 (d) The transfer of real property acquired pursuant to a grant shall be subject to
2 the approval of the board and the execution of an agreement between the board
3 and the transferee sufficient to protect the interest of the State of California.

4 (e) The state shall have a right of entry and power of termination in and over all
5 interests in real property acquired with state funds, which may be exercised if any
6 essential term or condition of the grant is violated.

7 (f) If the existence of the nonprofit organization is terminated for any reason,
8 title to all interest in real property acquired with state funds shall immediately vest
9 in the state. However, prior to that termination, upon approval of the board,
10 another public agency or nonprofit organization may receive title to all or a
11 portion of that interest in real property by recording its acceptance of title in
12 writing. Any deed or other instrument of conveyance whereby real property is
13 being acquired by a nonprofit organization pursuant to this section shall be
14 recorded and shall set forth the executory interest or right of entry on the part of
15 the state.

16 **Comment.** Section 57740 continues former Fish and Game Code Section 1391 without
17 substantive change.

18 TITLE 13. ADOPT A LAKE

19 § 57775. Findings and declarations

20 57775. (a) The Legislature finds and declares that the fish of this state are a
21 vital, renewable resource that provides recreation, outdoor experiences, and food
22 for many of this state's citizens. Therefore, it is in the state's best interests to
23 promote volunteer private rehabilitation and improvement of fisheries, fish habitat,
24 and resources.

25 (b) The Legislature declares it is the policy of this state to encourage
26 cooperation by local, regional, state, and federal governmental agencies with
27 jurisdiction over inland waters with private groups and associations in order to do
28 fish habitat and restoration work. This policy shall be pursued through the
29 implementation of a program known as the "Adopt a Lake Program."

30 **Comment.** Section 57775 continues former Fish and Game Code Section 2003.5 without
31 substantive change.

32 § 57780. Implementation

33 57780. The department may implement the "Adopt a Lake Program" to facilitate
34 private groups' and associations' undertaking volunteer efforts to rehabilitate and
35 improve fisheries, fish habitat, and resources. In implementing this program, the
36 department shall prepare and periodically update a plan for the volunteer efforts to
37 be undertaken. The plan shall be prepared cooperatively by the department, the
38 private group or association, and the public agency with jurisdiction over the
39 inland water to be affected by the plan. The plan shall be consistent with the

1 management plan and management objectives of the department and the public
2 agency with jurisdiction over the inland water.

3 **Comment.** Section 57780 continues former Fish and Game Code Section 2003.6 without
4 substantive change.

5 TITLE 14. CALIFORNIA WINTER RICE
6 HABITAT INCENTIVE PROGRAM

7 **§ 57790. Definitions**

8 57790. For purposes of this title, “productive agricultural rice lands that are
9 winter-flooded” means a field that has been farmed to rice at least two of the last
10 three growing seasons and is intentionally maintained in a flooded state for at least
11 70 days between October 15 and March 15, inclusive, of the following year.

12 **Comment.** Section 57790 continues former Fish and Game Code Section 3469(f) without
13 substantive change.

14 **Note.** Proposed Section 57790 would continue Section 3469(f), which was added by 2018
15 Cal. Stat. ch. 649. Although that bill will not take effect until 2019, it is included here in
16 anticipation of its effect.

17 **§ 57795. Establishment of program**

18 57795. There is established the California Winter Rice Habitat Incentive
19 Program subject to the requirements of this title.

20 **Comment.** Section 57795 continues former Fish and Game Code Section 3469(a) without
21 substantive change.

22 **Note.** Proposed Section 57795 would continue Section 3469(a), which was added by 2018
23 Cal. Stat. ch. 649. Although that bill will not take effect until 2019, it is included here in
24 anticipation of its effect.

25 **§ 57800. Contracts**

26 57800. (a) Subject to appropriation for purposes of this title, the director may
27 enter into contracts with nonpublic entities that are owners of record, or with
28 lessees who have the owners of record execute the contract, of productive
29 agricultural rice lands that are winter-flooded and that are determined by the
30 director to be important for the conservation of waterfowl. The contract shall
31 enforceably restrict the use of the land for the conservation of waterfowl and their
32 habitat in a manner that allows for the use of the land for rice farming consistent
33 with Section 8 of Article XIII of the California Constitution.

34 (b) The director shall give priority to contracts that have the greatest potential
35 for restoring, enhancing, and protecting high-quality waterfowl habitat, especially
36 that subject to destruction, drastic modification, or significant curtailment of
37 habitat values. The director may give priority to contracts that provide additional
38 environmental cobenefits, including cobenefits to species such as fish or snakes.

1 **Comment.** Section 57800 continues former Fish and Game Code Section 3469(b)-(c) without
2 substantive change.

3 **Note.** Proposed Section 57800 would continue Section 3469(b)-(c), which was added by
4 2018 Cal. Stat. ch. 649. Although that bill will not take effect until 2019, it is included here in
5 anticipation of its effect.

6 **§ 57805. Land near military runway or international airport**

7 57805. (a) Before entering into a contract pursuant to this title, if the land
8 proposed to be subject to the contract is located within five miles of a runway on a
9 military base or international airport, the director shall consult with the applicable
10 branch of the United States military or the operator of the international airport, as
11 applicable.

12 (b) The department shall develop guidance and protocols regarding consultation
13 conducted pursuant to subdivision (a) that addresses, at a minimum, notification,
14 participation, and a procedure to request the director to reconsider a decision to
15 enter into a contract pursuant to this title.

16 **Comment.** Section 57805 continues former Fish and Game Code Section 3469(d) without
17 substantive change.

18 **Note.** Proposed Section 57805 would continue Section 3469(d), which was added by 2018
19 Cal. Stat. ch. 649. Although that bill will not take effect until 2019, it is included here in
20 anticipation of its effect.

21 **§ 57810. Application of Public Contract Code**

22 57810. Contracts entered into pursuant to this title are not subject to Part 2
23 (commencing with Section 10100) of Division 2 of the Public Contract Code.

24 **Comment.** Section 57810 continues former Fish and Game Code Section 3469(e) without
25 substantive change.

26 **Note.** Proposed Section 57810 would continue Section 3469(e), which was added by 2018
27 Cal. Stat. ch. 649. Although that bill will not take effect until 2019, it is included here in
28 anticipation of its effect.

29 **§ 57820. Term and content of contract**

30 57820. Each contract shall be for an initial term of three years and shall include
31 the following:

32 (a) The designation of the owner of record and any lessee, and the legal
33 description and the assessor's parcel number of the land subject to the contract.

34 (b) An agreement by the owner and any lessee to restore, enhance, and protect
35 the waterfowl habitat character of the described land.

36 (c) Specification of the amount and date in each year that the payment is to be
37 made by the department to the owner or lessee, which shall be calculated at the
38 rate or rates that the director determines to be fair and reasonable in consideration
39 of the obligations undertaken by the owner or lessee.

40 (d) A requirement that the owner or lessee do either of the following:

1 (1) Refund to the state all payments received under the contract plus interest at
2 the legal rate, as specified in Section 3289 of the Civil Code, upon the owner's or
3 lessee's violation of the contract, or any extension thereof, if the director
4 determines that the violation warrants termination of the contract and the director
5 terminates the contract.

6 (2) Make refunds or accept payment adjustments that the director determines are
7 appropriate, not to exceed the total amount paid by the state to the owner or lessee
8 in the preceding calendar year plus interest at the legal rate, as specified in Section
9 3289 of the Civil Code, if the director determines that the violation by the owner
10 or lessee does not warrant termination of the contract.

11 (e) A requirement that the department reduce the amount of any payment to the
12 owner or lessee under subdivision (c) by an amount equal to the portion of any
13 payment under the federal Water Bank Program (16 U.S.C. Sec. 1301 et seq.) that
14 the department determines to be in compensation for the same obligation
15 undertaken by the owner under the water bank program.

16 (f) In addition to subdivision (e), a requirement that the department reduce the
17 amount of any payment to the owner or lessee under subdivision (c) by an amount
18 equal to the portion of any payment that the department determines to be in
19 compensation for the same obligation undertaken by the owner under any other
20 governmental program.

21 (g) An authorization for the department to monitor compliance with the contract
22 with the federal Natural Resources Conservation Service, a county agricultural
23 commissioner, or other appropriate agency, entity, or person to monitor
24 compliance with the contract, and a requirement that the owner or lessee allow
25 access for the monitoring.

26 (h) Any additional provisions that the director determines are desirable to
27 effectuate the purposes of the program or to facilitate its administration.

28 **Comment.** Section 57820 continues former Fish and Game Code Section 3469.2 without
29 substantive change.

30 **Note.** Proposed Section 57820 would continue Section 3469.2, which was added by 2018
31 Cal. Stat. ch. 649. Although that bill will not take effect until 2019, it is included here in
32 anticipation of its effect.

33 **57825. Loss of property use**

34 57825. If during the contract period the owner or lessee is divested of the use of
35 the waterfowl habitat subject to the contract, the owner or lessee shall notify the
36 department concurrent with that divestment. Any unearned payment shall
37 immediately be refunded by the owner or lessee to the department.

38 **Comment.** Section 57825 continues former Fish and Game Code Section 3469.4 without
39 substantive change.

40 **Note.** Proposed Section 57825 would continue Section 3469.4, which was added by 2018
41 Cal. Stat. ch. 649. Although that bill will not take effect until 2019, it is included here in
42 anticipation of its effect.

1 **§ 57830. Modification of contract**

2 57830. The director and the owner or lessee may mutually agree to modify the
3 terms and conditions of a contract under this title as the director may determine to
4 be desirable to carry out the purposes of, or to facilitate administration of, the
5 program.

6 **Comment.** Section 57830 continues former Fish and Game Code Section 3469.6 without
7 substantive change.

8 **Note.** Proposed Section 57830 would continue Section 3469.6, which was added by 2018
9 Cal. Stat. ch. 649. Although that bill will not take effect until 2019, it is included here in
10 anticipation of its effect.

11 **§ 57835. California Winter Rice Habitat Incentive Program Account**

12 57835. (a) The California Winter Rice Habitat Incentive Program Account is
13 hereby created in the Fish and Game Preservation Fund.

14 (b) Funds deposited in the California Winter Rice Habitat Incentive Program
15 Account shall be made available for expenditure, upon appropriation by the
16 Legislature, to the department. These funds shall be expended solely for the
17 purposes set forth in this title.

18 (c) An amount that equals not more than 5 percent of the funds allocated for this
19 program may be used to pay the administrative costs of the program and up to 10
20 percent of funds allocated may be used for planning and monitoring necessary to
21 ensure the success of the program.

22 **Comment.** Section 57835 continues former Fish and Game Code Section 3469.8 without
23 substantive change.

24 **Note.** Proposed Section 57835 would continue Section 3469.8, which was added by 2018
25 Cal. Stat. ch. 649. Although that bill will not take effect until 2019, it is included here in
26 anticipation of its effect.

27 **TITLE 15. NESTING BIRD HABITAT**
28 **INCENTIVE PROGRAM**

29 **§ 57850. Definition**

30 57850. As used in this title, “program” means the Nesting Bird Habitat Incentive
31 Program.

32 **Comment.** Section 57850 is new. It is added for drafting convenience.

33 **§ 57855. Establishment of program**

34 57855. (a) The department shall establish the Nesting Bird Habitat Incentive
35 Program, which may include direct payments or other incentives, to encourage
36 landowners to voluntarily cultivate or retain upland cover crops or other upland
37 vegetation on idled lands to provide waterfowl, upland game bird, and other
38 wildlife habitat cover, including, but not limited to, for the purposes described in
39 Section 1018 of the Water Code.

1 (b) The program may also include agricultural lands not subject to water
2 transfers or lands fallowed for any other legal purpose.

3 (c) Landowners who take voluntary action to cultivate or retain irrigated or
4 nonirrigated cover crops, natural vegetation, or other wildlife habitat on lands
5 fallowed pursuant to the goals of the Sustainable Groundwater Management Act
6 (Part 2.74 (commencing with Section 10720) of Division 6 of the Water Code)
7 shall also be eligible to participate in the program described in subdivision (a).

8 **Comment.** Subdivision (a) of Section 57855 continues former Fish and Game Code Section
9 3480(a) without substantive change.

10 Subdivision (b) continues former Fish and Game Code Section 3480(e) without substantive
11 change.

12 Subdivision (c) continues former Fish and Game Code Section 3480(g) without substantive
13 change.

14 **Note.** Proposed Section 57855 would continue Section 3480(a), (e) & (g), which was added
15 by 2018 Cal. Stat. ch. 588. Although that bill will not take effect until 2019, it is included here in
16 anticipation of its effect.

17 **§ 57860. Purpose of program**

18 57860. The program is established for waterfowl and other game bird breeding
19 purposes and shall not be used to provide waterfowl wintering habitat, including
20 managed wetland habitat, as defined in paragraph (1) of subdivision (a) of Section
21 60685.

22 **Comment.** Section 57860 continues former Fish and Game Code Section 3480(h) without
23 substantive change.

24 **Note.** Proposed Section 57860 would continue Section 3480(h), which was added by 2018
25 Cal. Stat. ch. 588. Although that bill will not take effect until 2019, it is included here in
26 anticipation of its effect.

27 **§ 57865. Requirements**

28 57865. This title shall be implemented only if either of the following occur:

29 (1) The Water Supply and Water Quality Act of 2018 (Division 38
30 (commencing with Section 86000) of the Water Code) is approved by the voters at
31 the November 6, 2018, statewide general election.

32 (2) A sufficient amount of federal grants or other funds are secured, as
33 determined by the department, for the purposes of this title.

34 **Comment.** Section 57865 continues former Fish and Game Code Section 3580(i) without
35 substantive change.

36 **Note.** Proposed Section 57865 would continue Section 3480(i), which was added by 2018
37 Cal. Stat. ch. 588. Although that bill will not take effect until 2019, it is included here in
38 anticipation of its effect.

39 **§ 57870. Program guidelines and criteria**

40 57870. The department may develop guidelines and criteria for the program
41 established under subdivision (a) of Section 57855 as it deems appropriate, but

1 shall ensure that it is flexible enough to meet landowner needs. The program shall
2 do all of the following:

3 (a) Prohibit a landowner who participates in the program and has committed to
4 leaving the established upland cover crops or other upland vegetation in place after
5 April 1 from engaging in practices such as discing, spraying of herbicides,
6 mowing, chipping, or rolling any vegetation on those idled lands until after July 1,
7 or as late as possible each year, to address waterfowl nesting, upland game bird
8 habitat, and other wildlife needs.

9 (b) Give priority to contracts with landowners that do both of the following:

10 (1) Include lands adjacent to, or in proximity to, waterfowl brood habitat,
11 including, but not limited to, areas flooded during the spring or summer for the
12 cultivation of rice.

13 (2) Establish upland nesting cover over multiple years.

14 (c) Be consistent with waterfowl habitat breeding goals and objectives of the
15 Central Valley Joint Venture Implementation Plan as it may be amended.

16 (d) Allow for one year or multiyear contracts with landowners.

17 (e) Allow for the rotation of fallowed fields to different areas of a landowner's
18 property on an annual basis.

19 (f) Prohibit, in connection with the approval of a transfer, a landowner who
20 participates in the program from diverting or using any water under any basis of
21 right to irrigate land idled in order to provide water for transfer, unless the transfer
22 is approved by the State Water Resources Control Board pursuant to Part 2
23 (commencing with Section 1200) of Division 2 of the Water Code, or by the
24 Department of Water Resources pursuant to Article 4 (commencing with Section
25 1810) of Chapter 11 of Part 2 of Division 2 of the Water Code, and the irrigation
26 of the idled land is expressly authorized under that approval.

27 (h) Allow for activities undertaken or requested by mosquito control agencies to
28 address mosquito production.

29 **Comment.** Section 57870 continues former Fish and Game Code Section
30 3480(b) without substantive change.

31 **Note.** Proposed Section 57870 would continue Section 3480(b), which was added by 2018
32 Cal. Stat. ch. 588. Although that bill will not take effect until 2019, it is included here in
33 anticipation of its effect.

34 **§ 57875. Funding**

35 57875. The program may be supported with state or federal grants, state bond
36 moneys, and private grants and donations. Funds may also be used as a state match
37 for related federal conservation programs that provide waterfowl and upland game
38 bird breeding habitat benefits.

39 **Comment.** Section 57875 continues former Fish and Game Code Section 3480(c) without
40 substantive change.

1 **Note.** Proposed Section 57875 would continue Section 3480(c), which was added by 2018
2 Cal. Stat. ch. 588. Although that bill will not take effect until 2019, it is included here in
3 anticipation of its effect.

4 **§ 57880. Relation to California Waterfowl Habitat Program**

5 57880. The department may utilize the assistance of the California Waterfowl
6 Habitat Program in implementing the Nesting Bird Habitat Incentive Program,
7 including, but not limited to, establishing program priorities, contract
8 requirements, and monitoring and compliance activities. Nonprofit conservation
9 organizations may also assist in the implementation and delivery of the program to
10 the extent that the department deems appropriate.

11 **Comment.** Section 57880 continues former Fish and Game Code Section 3480(d) without
12 substantive change.

13 **Note.** Proposed Section 57880 would continue Section 3480(d), which was added by 2018
14 Cal. Stat. ch. 588. Although that bill will not take effect until 2019, it is included here in
15 anticipation of its effect.

16 **§ 57885. Consultation with other entities**

17 57885. The department may consult with the Wildlife Conservation Board, the
18 United States Fish and Wildlife Service, the Natural Resources Conservation
19 Service, and nonprofit waterfowl and upland game bird organizations before
20 implementing this section to determine the optimal ways to increase and enhance
21 waterfowl and upland game bird breeding habitat on idled lands.

22 **Comment.** Section 57885 continues former Fish and Game Code Section 3480(f)
23 without substantive change.

24 **Note.** Proposed Section 57885 would continue Section 3480(f), which was added by 2018
25 Cal. Stat. ch. 588. Although that bill will not take effect until 2019, it is included here in
26 anticipation of its effect.

27 **PART 3. FINANCES**

28 **TITLE 1. FEDERAL AID IN WILDLIFE**
29 **RESTORATION ACT**

30 **§ 58000. Expenditures**

31 58000. The expenditure of all federal grant moneys made available to the state
32 pursuant to the Federal Aid in Wildlife Restoration Act (16 U.S.C. Sec. 669 et
33 seq.) shall be consistent with that act.

34 **Comment.** Section 58000 continues former Fish and Game Code Section 711.1(a) without
35 substantive change.

1 **§ 58005. Application for grant money**

2 58005. In applying for federal grant moneys available pursuant to the Federal
3 Aid in Wildlife Restoration Act, the department shall give priority to projects that
4 fulfill one or more of the following purposes:

5 (a) Management of the department’s wildlife areas or other lands open to the
6 public for hunting and other public priority uses listed in subdivision (b) of
7 Section 2015.

8 (b) Conservation of, or scientific research concerning, wildlife or wildlife
9 habitat.

10 (c) Support of the department’s hunting-related programs, including hunter
11 education, public access, and target shooting.

12 **Comment.** Section 58005 continues former Fish and Game Code Section 711.1(b) without
13 substantive change.

14 **§ 58010. Description of funded projects and programs**

15 58010. The department shall post a brief description of projects or programs
16 funded by moneys received pursuant to the Federal Aid in Wildlife Restoration
17 Act on its Internet Web site. The description shall include information about the
18 budget of each project or program.

19 **Comment.** Section 58010 continues former Fish and Game Code Section 711.1(c) without
20 substantive change.

21 **§ 58015. Consultation with advisory committees**

22 58015. The department shall consult with any of the advisory committees
23 established pursuant to Sections 29540, 30565, and 31915 regarding all projects
24 funded by the Federal Aid in Wildlife Restoration Act that are relevant to the
25 committee or committees.

26 **Comment.** Section 58015 continues former Fish and Game Code Section 711.1(d) without
27 substantive change.

28 **Note.** Existing Section 711.1(d) refers to “advisory committees established pursuant to
29 Sections 3684, 3702.1, and 3953.” Proposed Section 58015 would narrow that reference to refer
30 only to the parts of those sections that authorize the establishment of advisory committees. **The
31 Commission invites Comment on whether that revision would cause any problems.**

32 **TITLE 2. FISH AND GAME MITIGATION AND**
33 **PROTECTION ACCOUNTS**

34 **§ 58050. Establishment of Accounts**

35 58050. There are hereby established, initially in the Special Deposit Fund,
36 continued in existence by Section 16370 of the Government Code, both of the
37 following accounts:

38 (a) The Fish and Game Mitigation and Protection Endowment Principal
39 Account. The department shall deposit in this account the endowment funds

1 received by the department pursuant to an agreement described in Section 58055
2 and all earnings generated thereon. The earnings shall be available to the
3 department, upon appropriation by the Legislature, to fund long-term
4 management, enhancement, monitoring, and enforcement activities on habitat
5 lands in a manner consistent with the terms of the underlying agreement.

6 (b) The Fish and Game Mitigation and Protection Expendable Funds Account.
7 The department shall deposit in this account moneys received pursuant to an
8 agreement described in Section 58055 that are not endowment funds and that are
9 designated for expenditure for the purposes described in subdivision (b) of that
10 section. Notwithstanding Section 13340 of the Government Code, the moneys in
11 the account established by this subdivision are hereby continuously appropriated
12 to the department for expenditure without regard to fiscal year, for the purposes
13 described in this title.

14 **Comment.** Section 58050 continues former Fish and Game Code Section 13014(a) without
15 substantive change.

16 **§ 58055. Deposits**

17 58055. (a) The department may deposit moneys into the accounts established
18 pursuant to Section 58050 that it receives pursuant to any of the following, if those
19 moneys are received for the purposes described in subdivision (b):

20 (1) Agreements or permits pursuant to the Natural Communities Conservation
21 Planning Act (Title 2 (commencing with Section 64500) of Part 2 of Division 17).

22 (2) Conservation bank agreements.

23 (3) Habitat conservation implementation agreements.

24 (4) Incidental take permits.

25 (5) Legal or other written settlements.

26 (6) Mitigation agreements.

27 (7) Streambed or lakebed alteration agreements.

28 (8) Trust agreements.

29 (b) The department may deposit the moneys received pursuant to an agreement
30 described in subdivision (a) in an account established by this title only if it
31 receives those moneys for at least one of the following purposes:

32 (1) Mitigating the adverse biological impacts of a specific project, activity, spill,
33 or release.

34 (2) Protecting, conserving, restoring, enhancing, managing, and maintaining
35 fish, wildlife, native plants, or their habitats.

36 **Comment.** Section 58055 continues former Fish and Game Code Section 13014(b) without
37 substantive change.

38 **§ 58060. Transfer to another account**

39 58060. (a) While the Fish and Game Mitigation and Protection Endowment
40 Principal Account and the Fish and Game Mitigation and Protection Expendable
41 Funds Account are initially established in the Special Deposit Fund within the

1 Pooled Money Investment Account, the Treasurer’s office shall, at the
2 department’s request, transfer these funds from the Pooled Money Investment
3 Account to another account within the State Treasury system to increase earnings
4 over time while providing adequate liquidity. If either or both of these accounts
5 are transferred from the Pooled Money Investment Account, assets in the
6 transferred account or accounts may be held and invested in any of the
7 investments identified in Section 16430 of the Government Code, except that the
8 maturity date of commercial paper may exceed the limits set forth in Section
9 16430 of the Government Code. These investments shall be made as determined
10 and directed by the department.

11 (b) To develop and maintain the investment strategy for these accounts, the
12 department may retain investment advisers deemed acceptable to the Treasurer.

13 **Comment.** Section 58060 continues former Fish and Game Code Section 13014(c)-(d) without
14 substantive change.

15 TITLE 3. HABITAT MAINTENANCE
16 ASSESSMENT DISTRICTS

17 § 58075. Short title

18 58075. This title shall be known and may be cited as the Habitat Maintenance
19 Funding Act.

20 **Comment.** Section 58075 continues former Fish and Game Code Section 2900 without
21 substantive change.

22 § 58080. Assessment districts

23 58080. (a) A local agency may establish an assessment district pursuant to
24 Article 3.1 (commencing with Section 50060) of Chapter 1 of Part 1 of Division 1
25 of Title 5 of the Government Code for the improvement or maintenance of natural
26 habitat, in a manner consistent with the policies and procedures of this code.
27 Funds generated pursuant to this title may not be allocated to implement a plan
28 without the approval of the owner of the land to be improved.

29 (b) A local agency may provide for the long-term maintenance of natural habitat
30 pursuant to Section 50060.5 of the Government Code only pursuant to a plan for
31 the conservation of natural habitat approved by the department.

32 **Comment.** Section 58080 continues former Fish and Game Code Section 2901 without
33 substantive change.

34 DIVISION 16. PROTECTED AND MANAGED AREAS

35 PART 1. REFUGES

TITLE 1. REFUGES GENERALLY

§ 58500. Commission regulation of refuges

58500. The commission may:

(a) Authorize the department to issue, under any restrictions it deems best, permits that authorize the person named therein to carry, use, and possess, within a refuge, firearms, traps, or other contrivances for taking birds, mammals, fish, amphibians, or reptiles.

(b) Except as provided in subdivision (c) of Section 59865, Sections 59705 and 59715, and subdivisions (a) and (b) of Section 59865, authorize the department to issue permits that authorize the person named therein to take birds, mammals, fish, amphibians, or reptiles within a refuge.

(c) Adopt regulations not in conflict with any law for the protection of birds, mammals, fish, amphibians, reptiles, or marine life within a refuge.

Comment. Section 58500 continues former Fish and Game Code Section 10502(b)-(d) without substantive change.

§ 58505. Commission powers

58505. For the purposes of propagating, feeding, and protecting birds, mammals, fish, amphibians, and reptiles, the commission may do all of the following:

(a) Accept, on behalf of the state, donations of an interest in land within a refuge.

(b) Accept, on behalf of the state, from a person owning and in possession of patented land, other than land covered and uncovered by the ordinary daily tide of the Pacific Ocean, the right to preserve and protect all birds, mammals, fish, amphibians, and reptiles on the patented land.

(c) Accept, on behalf of the state, donations of birds, mammals, fish, amphibians, and reptiles, and of money given or appropriated. Those donations shall be used for the purposes for which they are accepted, and, as nearly as may be, for any purpose indicated by the donor.

Comment. Section 58505 continues former Fish and Game Code Section 10503(a)-(c) without substantive change.

Note. Existing Section 10503(b) and (c) are not expressly limited to refuge-related activities. Should they be? Or are those provisions best understood as expressing general powers of the commission?

§ 58515. Enforcement

58515. The department and the district attorney, sheriff, and all peace officers of the county in which any refuge or part thereof is situated, shall enforce all of the provisions of this code relating to the refuge, and institute and assist in prosecutions for violations thereof.

1 **Comment.** Section 58515 continues former Fish and Game Code Section 10508 without
2 substantive change.

3 **§ 58520. Take in refuge**

4 58520. No specification of an open season in any area authorizes the taking of a
5 bird, mammal, fish, amphibian, or reptile from a refuge within that area from
6 which the taking is prohibited by this code.

7 **Comment.** Section 58520 continues former Fish and Game Code Section 10510 without
8 substantive change.

9 **§ 58525. Application of provisions governing Fish and Wildlife District**

10 58525. Except as they may conflict with refuge provisions, the provisions of this
11 code relating to a particular fish and wildlife district shall apply to each refuge
12 lying wholly, or in major part, within the boundaries of the district.

13 **Comment.** Section 58525 continues former Fish and Game Code Section 10511 without
14 substantive change.

15 **§ 58530. Flight restrictions**

16 58530. (a) It is unlawful to fly any aircraft, including any airplane or helicopter,
17 less than 3,000 feet above water or land over the Sespe Condor Sanctuary, and less
18 than 1,000 feet above water or land over the Año Nuevo State Reserve, the
19 Farallon Islands Game Refuge, the Point Lobos State Reserve, the California Sea
20 Otter Game Refuge, and Anacapa, San Miguel, Santa Barbara, and San Nicolas
21 Islands, except for rescue operations, in case of any emergency, or for scientific or
22 filmmaking purposes under a permit issued by the department after a review of
23 potential biological impacts.

24 (b) This section does not apply to the landing of any aircraft, including any
25 airplane or helicopter, on Anacapa, San Miguel, Santa Barbara, San Nicolas, and
26 Farallon Islands for administrative or operational purposes of the National Park
27 Service, the United States Navy, or the United States Coast Guard.

28 **Comment.** Section 58530 continues former Fish and Game Code Section 10501.5 without
29 substantive change.

30 **TITLE 2. FISH REFUGES**

31 **CHAPTER 1. FISH REFUGES GENERALLY**

32 **§ 58550. Prohibitions**

33 58550. Except under a permit or specific authorization, it is unlawful to take or
34 possess a fish or amphibian in a fish refuge, or to use or have in possession in that
35 refuge a contrivance designed to be used for catching fish.

36 **Comment.** Section 58550 continues the part of former Fish and Game Code Section 10500(c)
37 without substantive change.

38 See also Section 6102 (enforcement).

1 (b) Notwithstanding any other provision of this section, holders of scientific
2 collectors' permits issued by the commission, or students working under their
3 direction, may take marine life for scientific purposes in this refuge.

4 (c) In this refuge, sardines, mackerel, anchovies, squid and herring may be taken
5 by ring net, lampara net or bait net as authorized by this code.

6 **Comment.** Section 58630 continues former Fish and Game Code Section 10660 without
7 substantive change.

8 TITLE 3. GAME REFUGES

9 CHAPTER 1. GAME REFUGES GENERALLY

10 § 58700. Prohibitions

11 58700. Except under a permit or specific authorization, it is unlawful to do any
12 of the following:

13 (a) To take or possess a bird or mammal in a game refuge.

14 (b) To use or have in possession in a game refuge, a firearm, BB device as
15 defined in Section 16250 of the Penal Code, crossbow, bow and arrow, or a trap or
16 other contrivance designed to be, or capable of being, used to take birds or
17 mammals, or to discharge a firearm or BB device or to release an arrow or
18 crossbow bolt into a game refuge.

19 **Comment.** Section 58700 continues former Fish and Game Code Section 10500(a)-(b) without
20 substantive change.

21 See also Section 6102 (enforcement).

22 § 58705. Take from navigable waters

23 58705. Nothing in this title shall be construed as prohibiting or preventing a
24 person from taking a bird, mammal, fish, amphibian, or reptile from or on
25 navigable water in a game refuge.

26 **Comment.** Section 58705 continues former Fish and Game Code Section 10513 without
27 substantive change.

28 § 58710. Commission control of mammals and birds

29 58710. The commission may exercise control over all mammals and birds in a
30 game refuge.

31 **Comment.** Section 58710 continues the part of former Fish and Game Code Section 10502(a)
32 that applies to a game refuge without substantive change.

33 § 58715. Acquisition of land for game refuge

34 58715. (a) For the purposes of propagating, feeding, and protecting birds,
35 mammals, fish, amphibians, and reptiles, the commission may acquire, by
36 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 $\frac{1}{4}$ 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.

1 **Comment.** Section 59250 continues the first paragraph of former Fish and Game Code Section
2 10843 without substantive change.

3 **§ 59255. Regulated activity**

4 59255. (a) Section 58705 shall have no application in the Farrallon Islands
5 Game Refuge. Fishermen, however, may not take any seal or sea lion while in this
6 refuge, notwithstanding the provisions of Section 32500.

7 (b) Notwithstanding the provisions of Section 58700, persons on commercial
8 vessels may possess unloaded firearms when traveling through the navigable
9 waters of this refuge.

10 **Comment.** Section 59255 continues the second paragraph of former Fish and Game Code
11 Section 10843 without substantive change.

12  **Note.** Existing Section 10843 refers to Section 4500.5, a provision that was repealed in 1975.
13 See 1975 Cal. stat. ch. 786. That apparently obsolete reference is not continued in proposed
14 Section 59255. **The Commission invites comment on whether that revision would cause any**
15 **problem.**

16 Article 20. Johnsville Game Refuge

17 **§ 59275. Description**

18 59275. The following constitutes the Johnsville Game Refuge: All that area
19 within the County of Plumas within the following boundaries:

20 Beginning at the North $\frac{1}{4}$ corner of Section 24, T. 22 N., R. 11 E., M. D. M.;
21 thence North 89° 39' 25" East 334.93 feet; thence South 0° 08' 47" East 418.08
22 feet; thence South 89° 48' 44" West 167.37 feet; thence South 0° 09' 33" East
23 668.15 feet; thence South 89° 59' 48" West 496.21 feet; thence South 0° 09' 15"
24 East 83.34 feet; thence South 89° 58' 24" West 164.51 feet; thence South 0° 08'
25 41" East 83.31 feet; thence South 89° 59' 14" West 82.26 feet; thence South 0°
26 08' 24" East 83.29 feet; thence North 89° 59' 55" West 82.26 feet; thence South
27 0° 03' 55" East 83.09 feet; thence North 89° 51' 34" West 82.43 feet; thence
28 South 0° 03' 58" East 83.05 feet; thence North 89° 50' 14" West 82.42 feet;
29 thence South 0° 03' 30" East 331.95 feet; thence North 89° 46' 07" West 329.53
30 feet; thence North 0° 03' 37" West 331.59 feet; thence South 89° 49' 39" East
31 164.68 feet; thence North 0° 04' 08" West 165.91 feet; thence North 0° 04' 47"
32 West 498.64 feet; thence South 89° 57' 00" West 164.57 feet; thence North 0° 04'
33 11" West 184.90 feet; thence North 69° 21' 49" East 175.25 feet; thence North 0°
34 05' 22" West 584.25 feet; thence North 89° 43' 00" East 985.90 feet to the point
35 of beginning.

36 **Comment.** Section 59275 continues former Fish and Game Code Section 10842 without
37 substantive change. The refuge described in this section was formerly known as "Fish and Game
38 District 1K."

1 **§ 59280. Firearms and other devices**

2 59280. (a) Notwithstanding any provision of law to the contrary, in the
3 Johnsville Game Refuge it shall be unlawful for any person to discharge a firearm
4 or other device capable of killing or injuring any animal.

5 (b) However, it shall not be unlawful for the lawful occupants of privately
6 owned lands or the employees of those occupants to possess firearms or other
7 devices capable of killing or injuring an animal without a permit.

8 **Comment.** Section 59280 continues the first paragraph of former Fish and Game Code Section
9 10665 without substantive change.

10 **§ 59285. Possession**

11 59285. Birds and animals lawfully taken and possessed outside of the
12 boundaries of the Johnsville Game Refuge may be possessed within the refuge.

13 **Comment.** Section 59285 continues the second paragraph of former Fish and Game Code
14 Section 10665 without substantive change.

15 Article 21. Mount Tamalpais Game Refuge

16 **§ 59300. Description**

17 59300. The following constitutes the Mount Tamalpais Game Refuge: All that
18 area within the County of Marin within the following boundaries:

19 Beginning at the intersection of the easterly shore of inner Bolinas Bay with the
20 northwesterly boundary line extended, of the Stinson ranch conveyed to A. H.
21 Stinson et al., by decree of distribution dated the 28th of July, 1911; thence
22 northwesterly along the said northwesterly boundary line to the southwesterly
23 boundary line of the lands of the Marin municipal water district on the crest of
24 Bolinás Ridge; thence northeasterly, northwesterly, and easterly along the westerly
25 and northerly boundary line of the watershed lands of the said water district to its
26 intersection with the southwesterly corner of the Rancho Canada de Herrera;
27 thence north 14 degrees west along the westerly line of said Rancho Canada de
28 Herrera to the southwesterly corner of the Bothin real estate property; thence in an
29 easterly direction along the southerly line of the said Bothin property to its
30 intersection with the westerly boundary line of the town of Fairfax; thence in a
31 general southerly direction along the westerly boundary of the said town of Fairfax
32 to its intersection with the southerly boundary line of the said Rancho Canada de
33 Herrera; thence northerly 83 degrees 15 minutes east along said southerly line
34 3,200 feet, more or less, to its intersection with the southeasterly line of the county
35 road leading from Fairfax to Bolinas; thence northerly along said road and along
36 the Fairfax-Bolinas County Road to a point in the southerly line of the right of
37 way of the Northwestern Pacific Railroad Company near Fairfax station; thence
38 along the said last-mentioned line in a southerly direction following the westerly
39 line of said railroad right of way to its intersection with the southerly line of the
40 road or highway immediately south of Alto station; thence following the southerly

1 side of said Alto-Belvedere Road and state highway easterly to its intersection
2 with the northwesterly line of the Town of Belvedere; thence following the
3 northwesterly line of the Town of Belvedere southwesterly to its extreme westerly
4 corner; thence in a direct line to the extreme northerly corner of the Town of
5 Sausalito; thence southwesterly along the northwesterly line of the Town of
6 Sausalito to its intersection with the Northwestern Pacific Railroad; thence
7 following the westerly line of the right of way of the Northwestern Pacific railroad
8 to Manzanita Station; thence southwesterly in a direct line to the Mill Valley State
9 Highway; thence westerly along the said highway to its intersection with
10 Tennessee Avenue; thence following the southerly and easterly line of Tennessee
11 Avenue, westerly and southerly, to the corner common to ranches E, F, and A, as
12 said ranches are delineated on the Tamalpais Land and Water Company's map No.
13 3; thence southwesterly along the southeasterly boundary lines of ranches E, L,
14 and K, as shown on the said last-mentioned map, to the shore of the Pacific Ocean;
15 thence northwesterly along the shore of the Pacific Ocean and across the easterly
16 end of the Bolinas sandspit, and along the easterly shore of inner Bolinas Bay, to
17 the point of beginning, excepting from the area of said Mount Tamalpais Game
18 Refuge all lands lying within incorporated areas.

19 **Comment.** Section 59300 continues former Fish and Game Code Section 10833 without
20 substantive change. The refuge described in this section was formerly known as "Fish and Game
21 District 2B."

22 **§ 59305. Take by private land owner**

23 59305. In Mt. Tamalpais Game Refuge, the lawful occupant of privately owned
24 land, or the employees of that occupant, may take on those lands, predatory, or
25 destructive birds and mammals that are not protected or fostered by any of the
26 laws of this state, and are not required to obtain permits for that taking.

27 **Comment.** Section 59305 continues former Fish and Game Code Section 10650 without
28 substantive change.

29 **§ 59310. Firearm use by high school militia**

30 59310. In the Mt. Tamalpais Game Refuge firearms may be possessed and used
31 by members of any high school militia while on the grounds of the high school at
32 which time they may be enrolled.

33 **Comment.** Section 59310 continues former Fish and Game Code Section 10651 without
34 substantive change.

35 **§ 59315. Special rules on take**

36 59315. (a) In the Mt. Tamalpais Game Refuge, no threatened, endangered, or
37 fully-protected birds or mammals may be taken under any permit issued by the
38 department.

39 (b) Except for wild pigs, it is unlawful to take any bird or mammal under a
40 permit issued by the department unless the person possessing the permit is

1 accompanied by a member of the commission, a deputy of the department, or a
2 sheriff or deputy sheriff of Marin County.

3 **Comment.** Section 59315 continues former Fish and Game Code Section 10652 without
4 substantive change.

5 Article 22. Preston School of Industry Game Refuge

6 **§ 59350. Description**

7 59350. The Preston School of Industry Game Refuge consists of and includes
8 the following:

9 The Preston School of Industry Reservoir, which is situated on land occupied by
10 the Preston School of Industry, Ione, Amador County.

11 **Comment.** Section 59350 continues former Fish and Game Code Section 10841 without
12 substantive change.

13 TITLE 4. FISH AND GAME REFUGES

14 CHAPTER 1. FISH AND GAME REFUGES GENERALLY

15 **§ 59400. Fish and game refuge is both a fish refuge and game refuge**

16 59400. Any refuge designated as a “fish and game refuge” shall be considered,
17 for the purposes of this part, as both a game refuge and a fish refuge.

18 **Comment.** Section 59400 continues former Fish and Game Code Section 10509 without
19 substantive change.

20 CHAPTER 2. SPECIFIC FISH AND GAME REFUGES

21 Article 1. General Provisions

22 **§ 59425. Described areas**

23 59425. The areas described in this chapter are fish and game refuges.

24 **Comment.** Section 59425 continues former Fish and Game Code Section 10770 without
25 substantive change.

26 Article 2. San Francisco Fish and Game Refuge

27 **§ 59450. Description**

28 59450. The following constitutes and shall be designated the San Francisco Fish
29 and Game Refuge: All that area within the County of San Mateo, within the
30 following boundaries:

31 Beginning at a point on the westerly side of the Skyline Boulevard where said
32 line crosses the fence line between the properties of the San Francisco Water
33 Department and the Jersey farm, thence following southerly the westerly line of

1 the Skyline Boulevard to the northerly line of the property of the Panama Realty
2 Company, thence following in a generally southerly direction the easterly line of
3 the property of the San Francisco Water Department to the center of the Canada
4 Road, thence due west to the westerly line of said Canada Road, thence southerly
5 along the westerly line of said road to the southerly line of the property of the San
6 Francisco Water Department, thence westerly following the southerly line of the
7 San Francisco Water Department to the Skyline Boulevard, thence northerly
8 following the easterly line of the Skyline Boulevard to its intersection with the
9 easterly line of the Carry E. Bridge property, thence following northerly the
10 easterly line of the said Carry E. Bridge property to its intersection with the
11 easterly line of the Skyline Boulevard, thence northerly following the easterly line
12 of the said Skyline Boulevard to the Half Moon Bay Road, thence crossing the
13 said Skyline Boulevard and said Half Moon Bay Road to the westerly line of the
14 property of the San Francisco Water Department on the northerly side of said Half
15 Moon Bay Road, thence following the westerly line of the San Francisco Water
16 Department in a generally northwesterly direction to the point of beginning.

17 **Comment.** Section 59450 continues former Fish and Game Code Section 10771 without
18 substantive change.

19 **§ 59455. Transport of animals**

20 59455. In the San Francisco Fish and Game Refuge, birds, mammals, fish,
21 amphibians, and reptiles legally possessed may be carried openly by persons
22 traveling through the refuge on public roads, between one-half hour before sunrise
23 and one-half hour after sunset.

24 **Comment.** Section 59455 continues former Fish and Game Code Section 10653 without
25 substantive change.

26 **Note.** Existing Section 10653 refers to the “San Francisco Game Refuge.” There is no game
27 refuge with that name. However, there is a “San Francisco Fish and Game Refuge” (which, by
28 law, is treated as both a fish refuge and game refuge). It seems probable that Section 10653 was
29 intended to apply to the San Francisco Fish and Game Refuge. In proposed Section 59455, the
30 provision is revised and located accordingly. **The Commission invites comment on whether**
31 **that would cause any problems.**

32 **§ 59460. Use of land for water supply purposes**

33 59460. Nothing in this part prevents the full use of the land included in the San
34 Francisco Fish and Game Refuge for water supply purposes, nor prohibits any
35 authorized employee of the San Francisco water department from carrying out any
36 reasonable measures that may be necessary for the protection of the water supply
37 or the prevention of pollution of the streams or reservoirs.

38 **Comment.** Section 59460 continues former Fish and Game Code Section 10654 without
39 substantive

40 **Note.** Existing Section 10654 refers to the “San Francisco Game Refuge.” There is no game
41 refuge with that name. However, there is a “San Francisco Fish and Game Refuge” (which, by
42 law, is treated as both a fish refuge and game refuge). It seems probable that Section 10654 was

1 intended to apply to the San Francisco Fish and Game Refuge. In proposed Section 59460, the
2 provision is revised and located accordingly. **The Commission invites comment on whether**
3 **that would cause any problems.**

4 TITLE 5. WATERFOWL REFUGES

5 CHAPTER 1. WATERFOWL REFUGES GENERALLY

6 § 59500. Prohibition

7 59500. Except under a permit or specific authorization, it is unlawful to take or
8 possess a bird, discharge a firearm or BB device, or release an arrow or crossbow
9 bolt, within or into a waterfowl refuge.

10 **Comment.** Section 59500 continues former Fish and Game Code Section 10500(d) without
11 substantive change.

12 See also Section 6102 (enforcement).

13 CHAPTER 2. SPECIFIC WATERFOWL REFUGES

14 Article 1. General Provisions

15 § 59525. Described areas

16 59525. The areas described in this chapter are waterfowl refuges.

17 **Comment.** Section 59525 continues former Fish and Game Code Section 10860 without
18 substantive change.

19 Article 2. San Leandro Waterfowl Refuge

20 § 59550. Description

21 59550. The following constitutes a waterfowl refuge and shall be designated the
22 San Leandro Waterfowl Refuge: All the area within the County of Alameda,
23 within the following boundaries:

24 Beginning at the Bay Farm Island Bridge, in Alameda, thence in a southerly
25 direction, following the levee on westerly side of San Leandro Bay to the
26 Hagenburger Road, thence in a northeasterly direction along said Hagenburger
27 Road to a point where the Pacific Gas and Electric tower line crosses said
28 Hagenburger Road, thence following said Pacific Gas and Electric tower line to
29 the Pacific Gas and Electric substation at the foot of Fiftieth Avenue in Oakland,
30 thence in a westerly direction along the high tide line of San Leandro Bay to the
31 point of beginning.

32 **Comment.** Section 59550 continues former Fish and Game Code Section 10861 without
33 substantive change.

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TITLE 6. MARINE LIFE REFUGES

CHAPTER 1. MARINE LIFE REFUGES GENERALLY

§ 59600. Prohibition

59600. 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.

Comment. Section 59600 continues former Fish and Game Code Section 10500(f) without substantive change.

See also Section 6102 (enforcement).

CHAPTER 2. SPECIFIC MARINE LIFE REFUGES

Article 1. General Provisions

§ 59625. Described areas

59625. The areas described in this chapter are marine life refuges.

Comment. Section 59625 continues former Fish and Game Code Section 10900 without substantive change.

Article 2. Bodega Marine Life Refuge

§ 59650. Description

59650. The following constitutes a marine life refuge and shall be designated the Bodega Marine Life Refuge:

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.

Comment. Section 59650 continues former Fish and Game Code Section 10903 without substantive change.

§ 59655. Director

59655. (a) The director may appoint the Director of the Bodega Marine Life Refuge.

(b) The Director of the Bodega Marine Life Refuge may authorize any person to enter the Bodega Marine Life Refuge for the purpose of taking fish, invertebrates,

1 or marine plants for scientific study and to take or possess fish, invertebrates, or
2 marine plants for scientific study.

3 (c) The Director of the Bodega Marine Life Refuge may authorize any person to
4 anchor a vessel in the Bodega Marine Life Refuge for the purpose of scientific
5 study.

6 **Comment.** Section 59655 continues former Fish and Game Code Section 10502.7 without
7 substantive change.

8 **§ 59670. Prohibitions**

9 59670. (a) Except as expressly provided in this part, it is unlawful to enter the
10 Bodega Marine Life Refuge for the purpose of taking or possessing any fish,
11 marine invertebrate, or marine plant, or to take or possess any fish, marine
12 invertebrate, or marine plant in the Bodega Marine Life Refuge.

13 (b) Except as permitted by federal law or emergency caused by hazardous
14 weather, it is unlawful to anchor or moor a vessel in the Bodega Marine Life
15 Refuge without authorization by the Director of the Bodega Marine Life Refuge
16 pursuant to Section 59655.

17 (c) This section does not prohibit or restrict navigation in the Bodega Marine
18 Life Refuge pursuant to federal law.

19 **Comment.** Section 59670 continues former Fish and Game Code Section 10656 without
20 substantive change.

21 **§ 59675. University of California**

22 59675. In the Bodega Marine Life Refuge, licensees of the Regents of the
23 University of California and all officers, employees, and students of that university
24 may take, for scientific purposes, any invertebrate or specimen of marine plant life
25 without a permit from the department.

26 **Comment.** Section 59675 continues former Fish and Game Code Section 10661 without
27 substantive change.

28 **Article 3. Catalina Marine Science Center Marine Life Refuge**

29 **§ 59700. Description**

30 59700. The following constitutes a marine life refuge and shall be designated the
31 Catalina Marine Science Center Marine Life Refuge:

32 All that area bounded on the south and southeast by the mean high tide line and
33 by the present seaward boundary of the lease to tide and submerged lands now
34 held by the University of Southern California from the State Lands Commission
35 (No. 3692.1 Public Resources Code Series) and extending from a point on the
36 mean high tide line at 33° 26' 39" North Latitude 118° 29' 19" West Longitude,
37 thence to 33° 26' 50" North Latitude 118° 29' 08" West Longitude, thence to 33°
38 26' 57.5" North Latitude 118° 28' 33.5" West Longitude, thence to 33° 26' 55"

1 North Latitude 118° 28' 32" West Longitude, and thence to a point on the mean
2 high tide line at 33° 26' 53.5" North Latitude 118° 28' 35" West Longitude.

3 **Comment.** Section 59700 continues former Fish and Game Code Section 10932 without
4 substantive change.

5 **§ 59705. Director**

6 59705. (a) The director may appoint the Director of the Catalina Marine Science
7 Center Marine Life Refuge.

8 (b) The Director of the Catalina Marine Science Center Marine Life Refuge may
9 authorize any person to enter the Catalina Marine Science Center Marine Life
10 Refuge for the purpose of taking fish or marine plants under the conditions that the
11 department determines necessary for the protection and propagation of fish and
12 wildlife and related scientific purposes in that refuge.

13 (c) The Director of the Catalina Marine Science Center Marine Life Refuge,
14 upon recommendation of the Director of the Catalina Marine Science Center, may
15 authorize any person involved in oceanographic and scientific research in and
16 around Santa Catalina Island to anchor or moor a vessel in the Catalina Marine
17 Science Center Marine Life Refuge.

18 **Comment.** Section 59705 continues former Fish and Game Code Section 10502.8 without
19 substantive change.

20 **§ 59710. Prohibitions**

21 59710. (a) Except as expressly provided in this part, it is unlawful to enter the
22 Catalina Marine Science Center Marine Life Refuge for the purpose of taking or
23 possessing any fish or marine plants or to take or possess any fish or marine plants
24 in the Catalina Marine Science Center Marine Life Refuge.

25 (b) Except as permitted by federal law or emergency caused by hazardous
26 weather, it is unlawful to anchor or moor a vessel in the Catalina Marine Science
27 Center Marine Life Refuge without authorization by the Director of the Catalina
28 Marine Science Center Marine Life Refuge pursuant to Section 59705.

29 (c) Section 59715 and this section do not prohibit or restrict navigation in the
30 Catalina Marine Science Center Marine Life Refuge pursuant to federal law.

31 **Comment.** Section 59710 continues former Fish and Game Code Section 10655.5 without
32 substantive change.

33 **§ 59715. Exceptions to prohibitions**

34 59715. (a) A person involved in oceanographic and scientific research in and
35 around Santa Catalina Island may be authorized by the Director of the Catalina
36 Marine Science Center Marine Life Refuge to enter the Catalina Marine Science
37 Center Marine Life Refuge and to anchor or moor a vessel therein.

38 (b) The Director of the Catalina Marine Science Center Marine Life Refuge, or
39 any person that the Director of the Catalina Marine Science Center Marine Life
40 Refuge has authorized under Section 59705, may take, for scientific purposes, any

1 fish or specimen of marine plant life under the conditions prescribed by the
2 department under Section 59705.

3 **Comment.** Section 59715 continues former Fish and Game Code Section 10655 without
4 substantive change.

5 Article 4. City of Encinitas Marine Life Refuge

6 **§ 59750. Description**

7 59750. The land and ocean waters within the following boundaries constitute the
8 City of Encinitas Marine Life Refuge:

9 All those submerged lands lying between the mean high tide line in the City of
10 Encinitas, County of San Diego, State of California, and a line which is 600 feet
11 westerly of and parallel and concentric with that mean high tide line and lying
12 southerly of the westerly prolongation of the northerly right-of-way line of “D”
13 Street as shown on Map No. 148, in the City of Encinitas, County of San Diego,
14 State of California, filed in the office of the County Recorder of San Diego
15 County, and lying northerly of the following described line:

16 Beginning at the southeasterly corner of Lot N in Block 3 of Resubdivision of
17 Sea Cliff Villa, in the City of Encinitas, County of San Diego, State of California,
18 filed in the San Diego County Recorder’s office, December 10, 1914; thence
19 southwesterly along the southwesterly prolongation of the southeasterly line of
20 said Lot N, South 36°36’30” west, to a point on that line which is 600 feet
21 westerly of and parallel and concentric with the mean high tide line.

22 **Comment.** Section 59750 continues former Fish and Game Code Section 10913 without
23 substantive change.

24 Article 5. Dana Point Marine Life Refuge

25 **§ 59775. Description**

26 59775. The following constitutes a marine life refuge and shall be designated as
27 the Dana Point Marine Life Refuge:

28 That portion of District 2625 consisting of land and ocean waters bounded by a
29 line commencing at Station 70 of the mean high tide line as shown on Document
30 Number 25208 recorded in Book 7651, page 69 of Official Records on file in the
31 Office of County Recorder of Orange County; thence along the mean high tide
32 line westerly and northerly 3500 feet more or less to intersection with a line which
33 is 2440 feet south of and parallel to the north line of Fractional Section 21, R. 8
34 W., T. 8 S., S.B.M.’; thence west 1200 feet; thence southerly and easterly 1200
35 feet from and parallel to the shore line to an intersection with a line which bears S
36 40° 00’ E. from said Station 70; thence N 40° 00’ W. 1200 feet more or less to the
37 point of beginning.

38 **Comment.** Section 59775 continues former Fish and Game Code Section 10907 without
39 substantive change.

1 **§ 59780. Director**

2 59780. (a) The director may appoint a Director of the Dana Point Marine Life
3 Refuge.

4 (b) Except as otherwise provided in this section, no state funds, including, but
5 not limited to, the Fish and Game Preservation Fund, shall be used to pay the
6 compensation or expenses of the Director of the Dana Point Marine Life Refuge.
7 A city, county, or special district may use any funds, including state funds
8 appropriated to the city, county, or special district, to pay the compensation and
9 expenses of the director and a public postsecondary educational institution may
10 use private or state funds to pay the compensation and expenses of the director.

11 (c) The Director of the Dana Point Marine Life Refuge may issue a permit
12 authorizing any person to enter the Dana Point Marine Life Refuge for the purpose
13 of taking fish or marine plants under the conditions that the department determines
14 to be necessary for the protection and propagation of fish and wildlife and related
15 scientific purposes in that refuge.

16 (d) The Director of the Dana Point Marine Life Refuge shall erect and maintain
17 signs identifying the boundaries of the Dana Point Marine Life Refuge. The signs
18 shall contain notification regarding the permit requirements of the refuge. The
19 signs shall specify that an access permit shall be obtained from the Director of the
20 Dana Point Marine Life Refuge and a scientific collector's permit from the
21 department in order to take any fish or specimen of marine plant life.

22 **Comment.** Section 59780 continues former Fish and Game Code Section 10502.6 without
23 substantive change.

24 **§ 59785. Take**

25 59785. (a) In the Dana Point Marine Life Refuge below the intertidal zone, the
26 following fish, mollusks, and crustaceans may be taken under the authority of a
27 sportfishing license as authorized by this code: abalone (subject to the moratorium
28 imposed under Section 45800), lobster, rockfish (Scorpaenidae), greenling, ling
29 cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass,
30 barred sand bass, sargo, croaker, queenfish, corbina, white seabass, opaleye,
31 halfmoon, surfperch (Embiotocidae), blacksmith, barracuda, sheephead, bonito,
32 California halibut, sole, turbot, and sanddab.

33 (b) All other fish and forms of aquatic life are protected and may not be taken
34 without a written permit from the department.

35 (c) Fin fish shall be taken only by hook and line or by spearfishing gear.

36 **Comment.** Section 59785 continues former Fish and Game Code Section 10667(a) without
37 substantive change.

38 **§ 59790. Entry prohibition**

39 59790. Except as expressly provided in this article, it is unlawful to enter the
40 intertidal zone in the Dana Point Marine Life Refuge for the purpose of taking or
41 possessing, or to take or possess, any species of fish, plant, or invertebrate, or part

1 thereof, to use or have in possession any contrivance designed to be used for
2 catching fish, to disturb any native plant, fish, wildlife, aquatic organism, or to
3 take or disturb any natural geological feature.

4 **Comment.** Section 59790 generalizes the first sentence of former Fish and Game Code Section
5 10667(b) without substantive change.

6 **Note.** Existing Section 10667(b) refers to “this section.” Proposed Section 59790 would
7 broaden that provision to refer to “this article.” This would include Section 10502.6 within the
8 scope of the reference. **The Commission invites comment on whether that change would**
9 **cause any problem.**

10 **§ 59795. Exceptions to prohibitions**

11 59795. (a) Section 59790 does not prohibit persons from entering the intertidal
12 zone for the purpose of entertainment, recreation, and education while having a
13 minimum impact on the intertidal environment and the living organisms therein.
14 For this purpose, minimum impact includes foot traffic, general observation of
15 organisms in their environment with immediate replacement of any unattached
16 organisms to their natural location after temporary lifting for examination, and
17 photography. Minimum impact does not include removal of attached organisms
18 from their environment, gathering of fishing bait, littering, collecting rocks and
19 shells, or turning rocks or other acts destructive to the environment.

20 (b) Notwithstanding Sections 59785 and 59790, the Director of the Dana Point
21 Marine Life Refuge, or any person, who has a scientific collector’s permit from
22 the department, to whom the Director of the Dana Point Marine Life Refuge has
23 issued a permit pursuant to Section 59780, may take, for scientific purposes, any
24 fish or specimen of marine plant life under the conditions prescribed by the
25 department pursuant to Section 59780.

26 (c) This article does not prohibit the entry of state and local law enforcement
27 officers, fire suppression agencies, and employees of the department in the
28 performance of their official duties.

29 (d) This article does not prohibit or restrict navigation in the Dana Point Marine
30 Life Refuge pursuant to federal law.

31 **Comment.** Subdivision (a) of Section 59795 continues the second through fourth sentences of
32 former Fish and Game Code Section 10667(b) without substantive change.

33 Subdivision (b) continues former Fish and Game Code Section 10667(d).

34 Subdivision (c) continues the first sentence of former Fish and Game Code Section 10667(e).

35 Subdivision (d) continues the second sentence of former Fish and Game Code Section
36 10667(e).

37 **Note.** Existing Section 10667(e) refers twice to “this section.” Proposed Section 59795(c) and
38 (d) would broaden that language to refer to “this article.” This would include Section 10502.6
39 within the scope of the references. **The Commission invites comment on whether that change**
40 **would cause any problem.**

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. Except under a permit or specific authorization, it is unlawful to take or
26 possess a quail in a quail refuge.

27 **Comment.** Section 60200 continues former Fish and Game Code Section 10500(e) without
28 substantive change.

29 See also Section 6102 (enforcement).

30 **CHAPTER 2. SPECIFIC QUAIL REFUGES**

31 **Article 1. General Provisions**

32 **§ 60225. Described areas**

33 60225. The areas described in this chapter are quail refuges.

34 **Comment.** Section 60225 continues former Fish and Game Code Section 10880 without
35 substantive change.

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Article 2. Bolinas Quail Refuge

§ 60250. Description

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:

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.

Comment. Section 60250 continues former Fish and Game Code Section 10881 without substantive change.

TITLE 8. CLAM REFUGES

CHAPTER 1. CLAM REFUGES GENERALLY

§ 60300. Prohibition

60300. 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.

Comment. Section 60300 continues former Fish and Game Code Section 10500(g) without substantive change.

See also Section 6102 (enforcement).

CHAPTER 2. SPECIFIC CLAM REFUGES

§ 60325. Pismo clam bearing beaches

60325. (a) The commission may close for the taking of clams not less than eight land miles of pismo clam bearing beaches within San Luis Obispo County as a clam refuge, but not more than 50 percent of any individual pismo clam bearing beach or beaches may be so closed at any time. The commission may from time to time vary the location of the closed and open portions of those beaches.

(b) Before the commission closes, opens, or varies the location of the closed and open portions of pismo clam bearing beaches, one or more members of the

1 commission shall hold a public hearing in the county to be affected, notice of
2 which has been published at least once in a newspaper of general circulation,
3 printed, and published in that county. The commission may determine which
4 newspaper will be most likely to give notice to the inhabitants of the county, and
5 its determination shall be final and conclusive. The commission may authorize any
6 employee of the department in its place to hold the hearings, in which event a copy
7 of a transcript of all proceedings taken or had at the hearing shall be furnished to
8 each commissioner at least five days before any regulation is made by the
9 commission.

10 **Comment.** Section 60325 continues former Fish and Game Code Section 10711 without
11 substantive change.

12 PART 2. MARINE LIFE PROTECTION ACT

13 TITLE 1. GENERAL PROVISIONS

14 § 60400. Short title

15 60400. This part shall be known and may be cited as the Marine Life Protection
16 Act.

17 **Comment.** Section 60400 continues former Fish and Game Code Section 2850 without
18 substantive change.

19 § 60405. Legislative findings and declarations

20 60405. The Legislature finds and declares all of the following:

21 (a) California's marine protected areas (MPAs) were established on a piecemeal
22 basis rather than according to a coherent plan and sound scientific guidelines.
23 Many of these MPAs lack clearly defined purposes, effective management
24 measures and enforcement. As a result, the array of MPAs creates the illusion of
25 protection while falling far short of its potential to protect and conserve living
26 marine life and habitat.

27 (b) California's extraordinary marine biological diversity is a vital asset to the
28 state and nation. The diversity of species and ecosystems found in the state's
29 ocean waters is important to public health and well-being, ecological health, and
30 ocean-dependent industry.

31 (c) Coastal development, water pollution, and other human activities threaten the
32 health of marine habitat and the biological diversity found in California's ocean
33 waters. New technologies and demands have encouraged the expansion of fishing
34 and other activities to formerly inaccessible marine areas that once recharged
35 nearby fisheries. As a result, ecosystems throughout the state's ocean waters are
36 being altered, often at a rapid rate.

1 (d) Fish and other sea life are a sustainable resource, and fishing is an important
2 community asset. MPAs and sound fishery management are complementary
3 components of a comprehensive effort to sustain marine habitats and fisheries.

4 (e) Understanding of the impacts of human activities and the processes required
5 to sustain the abundance and diversity of marine life is limited. The designation of
6 certain areas as sea life reserves can help expand our knowledge by providing
7 baseline information and improving our understanding of ecosystems where
8 minimal disturbance occurs.

9 (f) Marine life reserves are an essential element of an MPA system because they
10 protect habitat and ecosystems, conserve biological diversity, provide a sanctuary
11 for fish and other sea life, enhance recreational and educational opportunities,
12 provide a reference point against which scientists can measure changes elsewhere
13 in the marine environment, and may help rebuild depleted fisheries.

14 (g) Despite the demonstrated value of marine life reserves, only 14 of the
15 220,000 square miles of combined state and federal ocean water off California, or
16 six-thousandths of 1 percent, are set aside as genuine no take areas.

17 (h) For all of the above reasons, it is necessary to modify the existing collection
18 of MPAs to ensure that they are designed and managed according to clear,
19 conservation-based goals and guidelines that take full advantage of the multiple
20 benefits that can be derived from the establishment of marine life reserves.

21 **Comment.** Section 60405 continues former Fish and Game Code Section 2851 without
22 substantive change.

23 **§ 60410. Definitions**

24 60410. The following definitions govern the construction of this part:

25 (a) “Adaptive management,” with regard to marine protected areas, means a
26 management policy that seeks to improve management of biological resources,
27 particularly in areas of scientific uncertainty, by viewing program actions as tools
28 for learning. Actions shall be designed so that, even if they fail, they will provide
29 useful information for future actions, and monitoring and evaluation shall be
30 emphasized so that the interaction of different elements within marine systems
31 may be better understood.

32 (b) “Biogeographical regions” refers to the following oceanic or near shore
33 areas, seaward from the mean high tide line or the mouth of coastal rivers, with
34 distinctive biological characteristics, unless the team establishes an alternative set
35 of boundaries:

36 (1) The area extending south from Point Conception.

37 (2) The area between Point Conception and Point Arena.

38 (3) The area extending north from Point Arena.

39 (c) “Marine protected area” or “MPA” means a named, discrete geographic
40 marine or estuarine area seaward of the mean high tide line or the mouth of a
41 coastal river, including any area of intertidal or subtidal terrain, together with its
42 overlying water and associated flora and fauna that has been designated by law,

1 administrative action, or voter initiative to protect or conserve marine life and
2 habitat. An MPA includes marine life reserves and other areas that allow for
3 specified commercial and recreational activities, including fishing for certain
4 species but not others, fishing with certain practices but not others, and kelp
5 harvesting, provided that these activities are consistent with the objectives of the
6 area and the goals and guidelines of this part. MPAs are primarily intended to
7 protect or conserve marine life and habitat, and are therefore a subset of marine
8 managed areas (MMAs), which are broader groups of named, discrete geographic
9 areas along the coast that protect, conserve, or otherwise manage a variety of
10 resources and uses, including living marine resources, cultural and historical
11 resources, and recreational opportunities.

12 (d) “Marine life reserve,” for the purposes of this part, means a marine protected
13 area in which all extractive activities, including the taking of marine species, and,
14 at the discretion of the commission and within the authority of the commission,
15 other activities that upset the natural ecological functions of the area, are
16 prohibited. While, to the extent feasible, the area shall be open to the public for
17 managed enjoyment and study, the area shall be maintained to the extent
18 practicable in an undisturbed and unpolluted state.

19 (e) “Team” means the master plan team convened pursuant to subdivision (b) of
20 Section 2855.

21 **Comment.** Subdivisions (a) through (d) of Section 60410 continue former Fish and Game
22 Code Section 2852 without substantive change.

23 Subdivision (e) is new.

24 § 60415. Ocean Protection Council authority

25 60415. Notwithstanding any other law and consistent with the authority granted
26 under Section 60450, commencing on July 1, 2013, the Ocean Protection Council
27 shall assume responsibility for the direction of policy of marine protected areas
28 (MPAs).

29 **Comment.** Section 60415 continues former Fish and Game Code Section 2850.5 without
30 substantive change.

31 § 60420. Consultation with United States Navy

32 60420. The department shall confer as necessary with the United States Navy
33 regarding issues related to its activities.

34 **Comment.** Section 60420 continues former Fish and Game Code Section 2863 without
35 substantive change.

36 TITLE 2. PROTECTIONS

37 § 60450. Take of fish in MPA or marine life reserve

38 60450. (a) The commission may regulate commercial and recreational fishing
39 and any other taking of marine species in MPAs.

1 (b) Notwithstanding any other provision of this code, the taking of a marine
2 species in a marine life reserve is prohibited for any purpose, including
3 recreational and commercial fishing, except that the commission may authorize
4 the taking of a marine species for scientific purposes, consistent with the purposes
5 of this part, under a scientific collecting permit issued by the department.

6 **Comment.** Section 60450 continues former Fish and Game Code Section 2860 without
7 substantive change.

8 **§ 60455. Impact analysis**

9 60455. The department, in evaluating proposed projects with potential adverse
10 impacts on marine life and habitat in MPAs, shall highlight those impacts in its
11 analysis and comments related to the project and shall recommend measures to
12 avoid or fully mitigate any impacts that are inconsistent with the goals and
13 guidelines of this part or the objectives of the MPA.

14 **Comment.** Section 60455 continues former Fish and Game Code Section 2862 without
15 substantive change.

16 TITLE 3. MARINE LIFE PROTECTION
17 PROGRAM

18 **§ 60475. Marine Life Protection Program**

19 60475. (a) The Legislature finds and declares that there is a need to reexamine
20 and redesign California's MPA system to increase its coherence and its
21 effectiveness at protecting the state's marine life, habitat, and ecosystems.

22 (b) To improve the design and management of that system, the commission,
23 pursuant to Section 60520, shall adopt a Marine Life Protection Program, which
24 shall have all of the following goals:

25 (1) To protect the natural diversity and abundance of marine life, and the
26 structure, function, and integrity of marine ecosystems.

27 (2) To help sustain, conserve, and protect marine life populations, including
28 those of economic value, and rebuild those that are depleted.

29 (3) To improve recreational, educational, and study opportunities provided by
30 marine ecosystems that are subject to minimal human disturbance, and to manage
31 these uses in a manner consistent with protecting biodiversity.

32 (4) To protect marine natural heritage, including protection of representative and
33 unique marine life habitats in California waters for their intrinsic value.

34 (5) To ensure that California's MPAs have clearly defined objectives, effective
35 management measures, and adequate enforcement, and are based on sound
36 scientific guidelines.

37 (6) To ensure that the state's MPAs are designed and managed, to the extent
38 possible, as a network.

39 **Comment.** Section 60475 continues former Fish and Game Code Section 2853(a)-(b) without
40 substantive change.

1 (B) Five to seven members who shall be scientists, one of whom may have
2 expertise in the economics and culture of California coastal communities.

3 (C) One member, appointed from a list prepared by Sea Grant marine advisers,
4 who shall have direct expertise with ocean habitat and sea life in California marine
5 waters.

6 (4) The master plan shall be prepared with the advice, assistance, and
7 involvement of participants in the various fisheries and their representatives,
8 marine conservationists, marine scientists, and other interested persons. In
9 preparing the master plan, the department shall confer, to the extent feasible, with
10 the commission, the Pacific Fishery Management Council, the National Marine
11 Fisheries Service, the United States Navy, the United States Geological Survey's
12 national biological survey, staff from national marine sanctuaries off California,
13 Sea Grant researchers, marine advisers, and national parks personnel.

14 (5) The department may engage other experts to contribute to the master plan,
15 including scientists, geographic information system (GIS) experts, and commercial
16 and recreational fishermen, divers, and other individuals knowledgeable about the
17 state's underwater ecosystems, the history of fishing effort or MPA management,
18 or other relevant subjects.

19 (c) The department and team, in carrying out this part, shall take into account
20 relevant information from local communities, and shall solicit comments and
21 advice for the master plan from interested parties on issues including, but not
22 necessarily limited to, each of the following:

23 (1) Practical information on the marine environment and the relevant history of
24 fishing and other resources use, areas where fishing is currently prohibited, and
25 water pollution in the state's coastal waters.

26 (2) Socioeconomic and environmental impacts of various alternatives.

27 (3) Design of monitoring and evaluation activities.

28 (4) Methods to encourage public participation in the stewardship of the state's
29 MPAs.

30 **Comment.** Section 60500 continues former Fish and Game Code Section 2855 without
31 substantive change.

32 **§ 60505. Content of master plan**

33 60505. (a) The department and team shall use the best readily available
34 scientific information in preparing the master plan adopted pursuant to Section
35 60500, and shall organize the location-specific contents, where feasible, by
36 biogeographical region. In preparing the plan, the department and team shall use
37 and build upon the findings of the Sea Grant survey of protected areas in
38 California waters, which is entitled "California's Marine Protected Areas," the
39 report of the State Interagency Marine Managed Areas Workgroup, the
40 Department of Parks and Recreation's planning information and documents
41 regarding existing and potential underwater parks and reserves, maps and other

1 information from the department’s marine nearshore ecosystem mapping project,
2 and other relevant planning and scientific materials.

3 (b) The master plan shall include all of the following components:

4 (1) Recommendations for the extent and types of habitat that should be
5 represented in the MPA system and in marine life reserves. Habitat types
6 described on maps shall include, to the extent possible using existing information,
7 rocky reefs, intertidal zones, sandy or soft ocean bottoms, underwater pinnacles,
8 sea mounts, kelp forests, submarine canyons, and seagrass beds.

9 (2) An identification of select species or groups of species likely to benefit from
10 MPAs, and the extent of their marine habitat, with special attention to marine
11 breeding and spawning grounds, and available information on oceanographic
12 features, including current patterns, upwelling zones, and other factors that
13 significantly affect the distribution of those fish or shellfish and their larvae.

14 (3) Recommendations to augment or modify the guidelines in subdivision (c) of
15 Section 60525, if necessary to ensure that the guidelines reflect the most up-to-
16 date science, including, for example, recommendations regarding the minimum
17 size of individual marine life reserves needed to accomplish the various goals set
18 forth in Sections 60475 and 60480.

19 (4) Recommended alternative networks of MPAs, including marine life reserves
20 in each biogeographical region that are capable of achieving the goals in Sections
21 60475 and 60480 and designed according to the guidelines in subdivision (c) of
22 Section 2857.

23 (5) A simplified classification system, which shall be consistent with the goals
24 of Sections 60475 and 60480 and the guidelines in subdivision (c) of Section
25 60525, and which may include protections for specific habitats or species, if no
26 system that meets these specifications has already been developed.

27 (6) Recommendations for a preferred siting alternative for a network of MPAs
28 that is consistent with the goals in Sections 60475 and 60480 and the guidelines in
29 subdivision (c) of Section 60525.

30 (7) An analysis of the state’s current MPAs, based on the preferred siting
31 alternative, and recommendations as to whether any specific MPAs should be
32 consolidated, expanded, abolished, reclassified, or managed differently so that,
33 taken as a group, the MPAs best achieve the goals of Sections 60475 and 60480
34 and conform to the guidelines in subdivision (c) of Section 60525.

35 (8) Recommendations for monitoring, research, and evaluation in selected areas
36 of the preferred alternative, including existing and long-established MPAs, to
37 assist in adaptive management of the MPA network, taking into account existing
38 and planned research and evaluation efforts.

39 (9) Recommendations for management and enforcement measures for the
40 preferred alternative that apply systemwide or to specific types of sites and that
41 would achieve the goals of this part.

1 (10) Recommendations for improving the effectiveness of enforcement
2 practices, including, to the extent practicable, the increased use of advanced
3 technology surveillance systems.

4 (11) Recommendations for funding sources to ensure all MPA management
5 activities are carried out and the Marine Life Protection Program is implemented.

6 (c) The team shall, as necessary, identify and define additional appropriate
7 components of the master plan as soon as possible after enactment of this section.

8 **Comment.** Section 60505 continues former Fish and Game Code Section 2856 without
9 substantive change.

10 **§ 60510. Workgroup actions**

11 60510. The workgroup shall, after appropriate consultation with members of the
12 public, determine future actions for implementing the recommendations of its final
13 report.

14 **Comment.** Section 60510 continues former Fish and Game Code Section 2854 without
15 substantive change.

16 **Note.** Existing Section 2854 uses the term “workgroup” without any prior use of the term in
17 nearby provisions. Consequently, its meaning is not clear. Does the provision refer to the “State
18 Interagency Marine Managed Areas Workgroup” that is mentioned in Section 2856?

19 **The Commission invites Comment on how to clarify the meaning of Section 2854.**

20 **§ 60515. Peer review**

21 60515. The department shall establish a process for external peer review of the
22 scientific basis for the master plan prepared pursuant to Section 60500. The peer
23 review process may be based, to the extent practicable, on the peer review process
24 described in Section 12205.

25 **Comment.** Section 60515 continues former Fish and Game Code Section 2858 without
26 substantive change.

27 **§ 60520. Adoption of master plan**

28 60520. (a) On or before January 1, 2005, the department shall submit to the
29 commission a draft of the master plan prepared pursuant to this part.

30 (b) On or before April 1, 2005, after public review, not less than three public
31 meetings, and appropriate modifications of the draft plan, the department shall
32 submit a proposed final master plan to the commission.

33 (c) On or before December 1, 2005, the commission shall adopt a final master
34 plan and a Marine Life Protection Program with regulations based on the plan and
35 shall implement the program, to the extent funds are available. The commission’s
36 adoption of the plan and a program based on the plan shall not trigger an
37 additional review under the California Environmental Quality Act (Division 13
38 commencing with Section 21000) of the Public Resources Code).

39 (d) The commission shall hold at least two public hearings on the master plan
40 and the Marine Life Protection Program prior to adopting the plan and program.

1 The commission may adopt the plan and the program immediately following the
2 second public hearing or at any duly noticed subsequent meeting.

3 (e) Upon the commission's adoption of the program, the commission shall
4 submit the master plan and program description, including marine life reserve and
5 other MPA designations, to the Joint Committee on Fisheries and Aquaculture for
6 review and comment.

7 (f) Upon receipt of the plan, the joint committee shall have 60 days to review the
8 plan and to submit written recommendations to the commission regarding the plan
9 and program. The joint committee shall only submit a recommendation to the
10 commission if a majority of the members agree to that recommendation. The
11 commission shall consider all recommendations submitted by the joint committee,
12 and may amend the program to incorporate the recommendations. If the
13 commission does not incorporate any recommendations submitted by the joint
14 committee, the commission shall set forth, in writing, its reasons for not
15 incorporating that recommendation.

16 **Comment.** Section 60520 continues former Fish and Game Code Section 2859 without
17 substantive change.

18 **Note.** Existing Section 2859 sets deadlines for the preparation and adoption of a master plan
19 that are more than 10 years in the past. **The Commission invites comment on whether any part**
20 **of Section 2859 should be repealed as obsolete.**

21 **§ 60525. MPA siting**

22 60525. (a) On or before July 1, 2001, the department shall convene, in each
23 biogeographical region and to the extent practicable near major working harbors,
24 siting workshops, composed of interested parties, to review the alternatives for
25 MPA networks and to provide advice on a preferred siting alternative. The
26 department and team shall develop a preferred siting alternative that incorporates
27 information and views provided by people who live in the area and other
28 interested parties, including economic information, to the extent possible while
29 maintaining consistency with the goals of Sections 60475 and 60480 and
30 guidelines in subdivision (c) of this section.

31 (b) The preferred alternative may include MPAs that will achieve either or both
32 of the following objectives:

33 (1) Protection of habitat by prohibiting potentially damaging fishing practices or
34 other activities that upset the natural ecological functions of the area.

35 (2) Enhancement of a particular species or group of species, by prohibiting or
36 restricting fishing for that species or group within the MPA boundary.

37 (c) The preferred siting alternative shall include MPA networks with an
38 improved marine life reserve component, and shall be designed according to each
39 of the following guidelines:

40 (1) Each MPA shall have identified goals and objectives. Individual MPAs may
41 serve varied primary purposes while collectively achieving the overall goals and
42 guidelines of this part.

1 (2) Marine life reserves in each bioregion shall encompass a representative
2 variety of marine habitat types and communities, across a range of depths and
3 environmental conditions.

4 (3) Similar types of marine habitats and communities shall be replicated, to the
5 extent possible, in more than one marine life reserve in each biogeographical
6 region.

7 (4) Marine life reserves shall be designed, to the extent practicable, to ensure
8 that activities that upset the natural ecological functions of the area are avoided.

9 (5) The MPA network and individual MPAs shall be of adequate size, number,
10 type of protection, and location to ensure that each MPA meets its objectives and
11 that the network as a whole meets the goals and guidelines of this part.

12 (d) The department and team, in developing the preferred siting alternative, shall
13 take into account the existence and location of commercial kelp beds.

14 (e) The department and team may provide recommendations for phasing in the
15 new MPAs in the preferred siting alternative.

16 **Comment.** Section 60525 continues former Fish and Game Code Section 2857 without
17 substantive change.

18 **Note.** Existing Section 2857(a) sets a deadline for certain actions that is more than 15 years in
19 the past. **The Commission invites comment on whether any part of Section 2857 should be**
20 **repealed as obsolete.**

21 **§ 60530. Petitions of interested persons**

22 60530. The commission shall, annually until the master plan is adopted and
23 thereafter at least every three years, receive, consider, and promptly act upon
24 petitions from any interested party, to add, delete, or modify MPAs, favoring those
25 petitions that are compatible with the goals and guidelines of this part.

26 **Comment.** Section 60530 continues former Fish and Game Code Section 2861(a) without
27 substantive change.

28 **§ 60535. Other authority**

29 60535. (a) Nothing in this part restricts any existing authority of the department
30 or the commission to make changes to improve the management or design of
31 existing MPAs or designate new MPAs prior to the completion of the master plan.

32 (b) The commission may abbreviate the master plan process to account for
33 equivalent activities that have taken place before enactment of this part, providing
34 that those activities are consistent with this part.

35 **Comment.** Section 60535 continues former Fish and Game Code Section 2861(b) without
36 substantive change.

37 **PART 3. MARINE MANAGED AREAS**

1 **§ 60550. Designation, deletion, or modification of marine recreational management areas**

2 60550. (a) The commission may designate, delete, or modify state marine
3 recreational management areas established by the commission for hunting
4 purposes, state marine reserves, and state marine conservation areas, as delineated
5 in subdivision (a) of Section 36725 of the Public Resources Code.

6 (b) The commission shall consult with, and secure concurrence from, the State
7 Park and Recreation Commission prior to modifying or deleting marine reserves
8 and marine conservation areas designated by the State Park and Recreation
9 Commission. The commission shall not delete or modify state marine recreational
10 management areas designated by the State Park and Recreation Commission.

11 **Comment.** Section 60550 continues former Fish and Game Code Section 1590 without
12 substantive change.

13 **§ 60555. Marine Managed Areas Improvement Act**

14 60555. (a) The Marine Managed Areas Improvement Act (Chapter 7
15 (commencing with Section 36600) of Division 27 of the Public Resources Code)
16 establishes a uniform classification system for state marine managed areas and is
17 incorporated herein by reference. Any proposals for marine protected areas made
18 after January 1, 2002, shall follow the guidelines set forth in that act. Pursuant to
19 Section 36750 of the Public Resources Code, all marine protected areas in
20 existence and not reclassified in accordance with the Marine Life Protection Act
21 (Part 2 (commencing with Section 60400)) on January 1, 2002, shall be
22 reclassified by the State Interagency Coordinating Committee established pursuant
23 to Section 36800 of the Public Resources Code into one of the following
24 classifications:

25 (1) State marine reserve.

26 (2) State marine park.

27 (3) State marine conservation area.

28 (b) State marine recreational management areas established by the commission
29 for hunting purposes, state marine reserves, and state marine conservation areas
30 shall be designated, deleted, or modified by the commission pursuant to that act.
31 The restrictions and allowable uses applicable to those areas are as set forth in that
32 act.

33 **Comment.** Section 60555 continues former Fish and Game Code Section 1591 without
34 substantive change.

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TITLE 2. PROTECTIONS

§ 60625. Unlawful entry upon wildlife management area or public shooting ground

60625. Except in accordance with the regulations of the commission, it is unlawful to enter upon any wildlife management areas or public shooting grounds established under the provisions of this part, or to take therein any bird or the nest or eggs thereof, or any mammal.

Comment. Section 60625 continues the first paragraph of former Fish and Game Code Section 1530 without substantive change.

§ 60630. Regulation of take in public shooting ground

60630. (a) The taking of birds and mammals on public shooting grounds shall be regulated by the commission by regulation as provided in this section.

(b) Prior to a regulation pursuant to this section, the commission shall, at an open meeting of the commission, publicly announce the contents of the regulation it proposes to make and at the same time specify a subsequent open meeting to be held not less than 30 days thereafter at which it will take final action on the proposed regulation.

Comment. Section 60630 continues the second paragraph of former Fish and Game Code Section 1530 without substantive change.

TITLE 3. OPERATION

§ 60650. Acquired lands to operate on nonprofit basis

60650. Lands, or lands and water, acquired for public shooting grounds, state marine (estuarine) recreational management areas, or wildlife management areas shall be operated on a nonprofit basis by the department.

Comment. Section 60650 continues the first sentence of former Fish and Game Code Section 1528 without substantive change.

§ 60655. Multiple recreational use

60655. Multiple recreational use of wildlife management areas is desirable and that use shall be encouraged by the commission.

Comment. Section 60655 continues the second sentence of former Fish and Game Code Section 1528 without substantive change.

§ 60660. Facilities

60660. Except for hunting and fishing purposes, only minimum facilities to permit other forms of multiple recreational use, such as camping, picnicking, boating, or swimming, shall be provided.

Comment. Section 60660 continues the third sentence of former Fish and Game Code Section 1528 without substantive change.

1 **§ 60665. Fees for use privileges**

2 60665. Except as provided in Section 56080, and to defray the costs associated
3 with multiple use, the commission may determine and fix the amount of, and the
4 department shall collect, fees for any use privileges. However, tours by organized
5 youth and school groups are exempt from the payment of those fees.

6 **Comment.** Section 60665 continues the fourth and fifth sentences of former Fish and Game
7 Code Section 1528 without substantive change.

8 **§ 60670. Shooting permits**

9 60670. Only persons holding valid hunting licenses may apply for or obtain
10 shooting permits for public shooting grounds, state marine (estuarine) recreational
11 management areas, or wildlife management areas.

12 **Comment.** Section 60670 continues the sixth sentence of former Fish and Game Code Section
13 1528 without substantive change.

14 **§ 60675. Output of state game farm**

15 60675. The output of any state game farm shall be distributed on public lands or
16 where the department determines that the output will receive adequate protection
17 and be most likely to thrive and multiply.

18 **Comment.** Section 60675 continues former Fish and Game Code Section 1529 without
19 substantive change.

20 **§ 60680. Payments to offset local taxes and assessments**

21 60680. (a) When income is derived directly from real property acquired and
22 operated by the state as a wildlife management area, and regardless of whether
23 income is derived from property acquired after October 1, 1949, the department
24 may pay annually to the county in which the property is located an amount equal
25 to the county taxes levied upon the property at the time title to the property was
26 transferred to the state. The department may also pay the assessments levied upon
27 the property by any irrigation, drainage, or reclamation district.

28 (b) Any delinquent penalties or interest applicable to any of those assessments
29 made before September 9, 1953, are hereby canceled and shall be waived.

30 (c) Payments provided by this section shall only be made from funds that are
31 appropriated to the department for the purposes of this section.

32 (d) As used in this section, the term “wildlife management area” includes
33 waterfowl management areas, deer ranges, upland game bird management areas,
34 and public shooting grounds.

35 (e) Any payment made under this section shall be made on or before December
36 10 of each year, with the exception of newly acquired property for which
37 payments shall be made pursuant to subdivision (f).

38 (f) Any payments made for the purposes of this section shall be made within one
39 year of the date title to the property was transferred to the state, or within 90 days
40 from the date of designation as a wildlife management area, whichever occurs

1 first, prorated for the balance of the year from the date of designation as a wildlife
2 management area to the 30th day of June following the date of designation as a
3 wildlife management area, and, thereafter, payments shall be made on or before
4 December 10 of each year.

5 (g) Notwithstanding any other law, payments provided under this section shall
6 not be allocated to a school district, a community college district, or a county
7 superintendent of schools.

8 **Comment.** Section 60680 continues former Fish and Game Code Section 1504 without
9 substantive change.

10 **§ 60685. Mosquitos**

11 60685. (a) For purposes of this section, the following definitions apply:

12 (1) “Managed wetland habitat” means artificially irrigated and intensively
13 managed wetland habitat administered primarily for the benefit of waterfowl and
14 other wetland-dependent species.

15 (2) “Best management practices” means management strategies jointly
16 developed by the department, the State Department of Public Health, and
17 mosquito abatement and vector control districts, in consultation with the Central
18 Valley Joint Venture, for the ecological control of mosquitoes on managed
19 wetland habitat.

20 (3) “Mosquito abatement and vector control district” has the same meaning as
21 set forth in subdivision (f) of Section 2002 of the Health and Safety Code.

22 (4) “Wildlife management area” has the same meaning as set forth in
23 subdivision (d) of Section 60680.

24 (b) (1) A mosquito abatement and vector control district whose district
25 boundaries include one or more wildlife management areas or a mosquito
26 abatement and vector control district in which vectors and vectorborne diseases
27 from a wildlife management area may enter the district shall periodically, or at
28 least semiannually, notify the department of those areas that are of concern due to
29 the potential for high mosquito populations that may incur associated mosquito
30 control costs.

31 (2) (A) To reduce mosquito production at those wildlife management areas
32 described in paragraph (1), the department shall consult with local mosquito
33 abatement and vector control districts to identify those areas within wildlife
34 management areas having the highest need for additional mosquito reduction
35 through the implementation of best management practices.

36 (B) If the wetland occupies land outside the jurisdictional boundaries of a
37 mosquito abatement and vector control district, the department may consult with
38 the State Department of Public Health to determine which best management
39 practices can be implemented in the absence of an organized local mosquito
40 control program.

41 (c) This section does not affect existing authority of a mosquito abatement and
42 vector control district under Section 2040 of the Health and Safety Code.

1 (d) (1) A private landowner whose property includes managed wetland habitat
2 located within the boundaries of a mosquito abatement and vector control district
3 may initiate the opportunity to enter into a memorandum of understanding with the
4 district if all of the following criteria are met:

5 (A) The managed wetland habitat is encumbered by a state or federal
6 conservation easement or similar state or federal voluntary habitat agreement or is
7 protected in perpetuity by state or federal law.

8 (B) The managed wetland habitat is within the boundaries of the Central Valley
9 Joint Venture, as those boundaries are identified in the Central Valley Joint
10 Venture Implementation Plan.

11 (2) The goal of a memorandum of understanding entered into pursuant to
12 paragraph (1) is to establish a process to implement best management practices for
13 the purposes of decreasing mosquito production, providing net cost savings to the
14 landowner, decreasing the application of pesticides, and maintaining or enhancing
15 the waterfowl habitat values on the property.

16 (3) Notwithstanding paragraph (2) of subdivision (a), the Central Valley Joint
17 Venture, in consultation with mosquito abatement and vector control districts, the
18 department, and the State Department of Public Health, may periodically modify
19 the best management practices in order to best fulfill the purposes described in
20 paragraph (2) of this subdivision.

21 (4) A memorandum of understanding entered into pursuant to paragraph (1)
22 shall not conflict with the provisions of any applicable conservation easement or
23 other state or federal habitat agreement. The participating private landowner shall
24 ensure that the memorandum of understanding is in compliance with the
25 requirements of this paragraph. Compliance with the requirements of this
26 paragraph is the sole responsibility of the private landowner and subject to
27 enforcement pursuant to the terms contained in any applicable conservation
28 easement or habitat agreement.

29 **Comment.** Section 60685 continues former Fish and Game Code Section 1506 without
30 substantive change, except that Section 1506(a)(3) is continued in Section 810.

31 PART 5. WILDLIFE AREAS, RANGES, AND RESERVES

32 § 60700. Exchange or sale of property within specified areas

33 60700. (a) The department may, with the approval of the commission and the
34 Department of General Services, take any of the following actions with regard to
35 the areas listed in subdivision (d):

36 (1) Exchange any property lying within the boundaries of a listed area for
37 property that is within or contiguous to that area.

38 (2) Sell any property within the boundaries of a listed area and use the proceeds
39 to acquire property that is within or contiguous to that area.

40 (b) No exchange or sale of property authorized in subdivision (a) shall
41 materially reduce the total area of any area listed in subdivision (d).

1 (c) A copy of each deed of conveyance executed and delivered by the
2 department, and of each deed conveying lands to the state, pursuant to this section
3 shall be delivered to the State Lands Commission.

4 (d) The provisions of this section apply to all of the following areas:

5 (1) The Doyle Deer Winter Range, located in Lassen County.

6 (2) The Tehama Deer Winter Range, located in Tehama County.

7 (3) The Honey Lake Waterfowl Management Area, located in Lassen County.

8 (4) The Imperial Waterfowl Management Area, located in Imperial County.

9 (5) The Mendota Waterfowl Management Area, located in Fresno County.

10 (6) The San Jacinto Wildlife Area, located in Riverside County.

11 (7) The Lakes Earl/Talawa Wildlife Area, located in Del Norte County.

12 (8) The Santa Rosa Mountains Bighorn Sheep Reserve, located in Riverside
13 County.

14 (9) The Camp Cady Wildlife Area, located in San Bernardino County.

15 (10) The Butte Valley Wildlife Area, located in Siskiyou County.

16 (11) The Ash Creek Wildlife Area, located in Lassen and Modoc Counties.

17 (12) The Moss Landing Wildlife Area, located in Monterey County.

18 **Comment.** Section 60700 restates former Fish and Game Code Section 1500 without
19 substantive change.

20 **Note.** Proposed Section 60700(a)-(c) would restate the first paragraph of existing Section
21 1500 to improve its clarity, without changing its substantive effect. The existing provision reads
22 as follows:

23 “The department may, with the approval of the commission and the Department of General
24 Services, exchange any portion of the property lying within the boundaries of any area or range
25 referred to in this section for any property within or contiguous to such area or range or may sell
26 any portion of the property within such boundaries and with the proceeds thereof acquire any
27 property within or contiguous to such area or range; provided, that no exchange or sale of
28 property authorized in this section shall materially reduce the total area of any range or area
29 referred to in this section. A copy of each deed of conveyance executed and delivered by the
30 department, and of each deed conveying lands to the state, pursuant to this section shall be
31 delivered to the State Lands Commission.”

32 **The Commission invites comment on whether that restatement would cause any problems.**

33 **§ 60705. Mineral rights**

34 60705. (a) The following rules govern an exchange or sale of property pursuant
35 to Section 60700:

36 (1) If a parcel contains 15 acres or less, the director shall except and reserve to
37 the state all mineral deposits below a depth of 500 feet, without surface rights of
38 entry.

39 (2) If a parcel contains more than 15 acres, the director shall except and reserve
40 to the state all mineral deposits together with the right to prospect for, mine, and
41 remove the deposits. The rights to prospect for, mine, and remove shall be limited
42 to those areas of the property conveyed that the director, after consultation with

1 the State Lands Commission, determines to be reasonably necessary for the
2 removal of the resources and deposits.

3 (b) For the purposes of this section, the mineral deposits reserved to the state are
4 those described in Section 6407 of the Public Resources Code.

5 **Comment.** Section 60705 restates former Fish and Game Code Section 1500.5 without
6 substantive change.

7 **Note.** Proposed Section 60705 would restate existing Section 1500.5 to improve its clarity,
8 without changing its substantive effect. The existing provision reads as follows:

9 “With respect to exchanging or selling any property pursuant to Section 1500, the director, with
10 respect to any parcel containing 15 acres or less, shall except and reserve to the state all mineral
11 deposits, as defined in Section 6407 of the Public Resources Code, below a depth of 500 feet,
12 without surface rights of entry. As to any parcel containing more than 15 acres, the director shall
13 except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public
14 Resources Code, together with the right to prospect for, mine, and remove the deposits.”

15 **The Commission invites comment on whether that restatement would cause any problems.**

16 **§ 60710. Apiculture in wildlife area**

17 60710. (a) The department shall do both of the following:

18 (1) Consider authorizing apiculture on department-managed wildlife areas,
19 where deemed appropriate by the department.

20 (2) Determine, when developing or amending its land management plans, the
21 following:

22 (A) If the department-managed wildlife areas, or any portion of the those areas,
23 are suitable for apiculture and whether apiculture is consistent with the
24 management goals and objectives for those areas on a temporary, seasonal, or
25 long-term basis.

26 (B) If the administration of apiculture on department-managed wildlife areas,
27 where deemed appropriate by the department, is meeting the management goals
28 and objectives for those areas.

29 (C) The appropriate fee and lease rent to be assessed for conducting apiculture
30 on department-managed wildlife areas. The amount of the fee shall be sufficient to
31 recover, but not exceed, all reasonable administrative and implementation costs of
32 the department. The lease rent shall take into account whether the lease is a
33 nonexclusive use of the land.

34 (b) The department, in implementing this section, may consult with apiculture
35 experts, including, but not limited to, the Department of Food and Agriculture, the
36 University of California, other academic or professional experts, and interested
37 stakeholders, when considering authorizing apiculture on department-managed
38 wildlife areas consistent with the respective management goals and objectives for
39 those areas.

40 (c) Moneys collected for conducting apiculture on department-managed wildlife
41 areas pursuant to subparagraph (C) of paragraph (2) of subdivision (a) shall be
42 deposited by the department into the Wildlife Restoration Fund and, upon

1 appropriation by the Legislature, be used to support the management,
2 maintenance, restoration, and operation of department-managed wildlife areas.

3 (d) The department may authorize the temporary placement of beehives on
4 department-managed wildlife areas through simple lease or permit agreements
5 specifying appropriate conditions. These agreements are not subject to competitive
6 bidding requirements.

7 (e) The department may continue any authorization for apiculture on
8 department-managed areas that it granted before January 1, 2015, without taking
9 further action.

10 **Comment.** Section 60710 continues former Fish and Game Code Section 1745.2 without
11 substantive change.

12 **§ 60715. Lower Sherman Island**

13 60715. (a) The department, upon request of the leaseholder, shall extend any
14 existing lease for a recreational homesite on Lower Sherman Island to the holder
15 of any lease of lands under the control of the department, under the following
16 conditions:

17 (1) The existing lease is between the department and an individual person,
18 partnership, or any affiliated group of two or more persons.

19 (2) Subject to subdivision (e), the lease may be extended for the natural life of
20 the person who is the leaseholder on January 1, 1991. With respect to any lease to
21 an affiliated group or an association of persons, the lease shall expire upon the
22 death of the last individual who is a leaseholder on January 1, 1991.

23 (3) The lease, or any interest therein, may not be transferred, bequeathed,
24 hypothecated, encumbered, sublet, assigned, sold, alienated, exchanged, or
25 otherwise changed to the benefit of another party. The leaseholder shall annually
26 certify to the department that he or she has not transferred, bequeathed,
27 hypothecated, encumbered, sublet, assigned, sold, alienated, or exchanged the
28 lease for consideration or by gift, or otherwise.

29 (4) If a lease is violated or breached by the leaseholder at any time during the
30 life of the leaseholder, the lease may be terminated by the department within 30
31 days of the receipt by the department of actual or constructive notice of the breach.

32 (b) All leases entered into pursuant to this section shall include the following:

33 (1) A requirement for public access to navigable waters adjacent to the lease
34 properties.

35 (2) A provision prohibiting the introduction and cultivation of exotic plant
36 species and requiring existing exotic plant species to be removed according to a
37 plan developed by the department.

38 (3) A provision establishing the right of the department and county employees to
39 inspect the property for the purposes of monitoring and enforcing the conditions of
40 the lease.

41 (4) A provision requiring the lessee, within 60 days after the lease is extended,
42 and annually thereafter, to provide the department with proof that (A) the lessee

1 will remove the buildings and all ancillary structures and facilities necessary to
2 return the area to a natural condition, or (B) the lessee has made arrangements for
3 the removal of the buildings and all ancillary structures and facilities necessary to
4 return the area to a natural condition, upon termination of the lease.

5 (c) The department shall develop a plan for the removal of nonnative plants
6 from the island. The plan shall include, at a minimum, the following:

7 (1) The type and location of nonnative plants.

8 (2) The relative threat that these plants pose to the natural environment of the
9 island.

10 (3) A time schedule for the leaseholders to remove the nonnative plants within
11 200 yards of the leaseholders' structures.

12 (d) Proceeds from the leases of lands under the control of the department on
13 Lower Sherman Island shall be deposited in the Fish and Game Preservation Fund
14 and used for the purpose of enforcing and monitoring those lease terms and
15 managing the Lower Sherman Island Wildlife area.

16 (e) The department shall, on or before July 31, 1991, and annually thereafter,
17 review all leases of land subject to subdivision (a) under the control of the
18 department and, as soon as possible, charge the fair market rate on those leases of
19 land.

20 **Comment.** Section 60715 continues former Fish and Game Code Section 1526.4 without
21 substantive change.

22 § 60720. Fish and wildlife enhancement facilities

23 60720. If the Department of Parks and Recreation contracts with the federal
24 government pursuant to Public Law 89-161 for the administration of recreation
25 development or fish and wildlife enhancement facilities, as authorized by Section
26 5006.6 of the Public Resources Code, the Department of Fish and Wildlife is
27 authorized to operate, maintain, and replace those facilities designated as fish and
28 wildlife enhancement facilities and to assume all costs of that operation,
29 maintenance, and replacement, subject to appropriation of funds by the
30 Legislature.

31 **Comment.** Section 60720 continues former Fish and Game Code Section 1014 without
32 substantive change.

33 PART 6. ECOLOGICAL RESERVES

34 TITLE 1. ECOLOGICAL RESERVES

35 GENERALLY

36 § 60750. Legislative declaration

37 60750. The Legislature hereby declares that the policy of the state is to protect
38 threatened or endangered native plants, wildlife, or aquatic organisms or

1 specialized habitat types, both terrestrial and nonmarine aquatic, or large
2 heterogeneous natural gene pools for the future use of mankind through the
3 establishment of ecological reserves.

4 **Comment.** Section 60750 continues the first sentence of former Fish and Game Code Section
5 1580 without substantive change.

6 **§ 60755. “Ecological reserve” defined**

7 60755. As used in this part, “ecological reserve” means land or land and water
8 areas that are designated as an ecological reserve by the commission pursuant to
9 Section 60760 and that are to be preserved in a natural condition, or which are to
10 be provided some level of protection as determined by the commission, for the
11 benefit of the general public to observe native flora and fauna and for scientific
12 study or research.

13 **Comment.** Section 60755 continues former Fish and Game Code Section 1584 without
14 substantive change.

15 **§ 60760. Acquisition of property**

16 60760. (a) For the purpose of establishing ecological reserves, the department,
17 with the approval of the commission, may obtain, accept on behalf of the state,
18 acquire, or control, by purchase, lease, easement, gift, rental, memorandum of
19 understanding, or otherwise, and occupy, develop, maintain, use, and administer
20 land, or land and nonmarine water, or land and nonmarine water rights, suitable
21 for the purpose of establishing ecological reserves.

22 (b) Any property obtained, accepted, acquired, or controlled by the department
23 pursuant to this part may be designated by the commission as an ecological
24 reserve.

25 **Comment.** Section 60760 continues the second and third sentences of former Fish and Game
26 Code Section 1580 without substantive change.

27 **§ 60765. Regulation of ecological reserves**

28 60765. The commission may adopt regulations for the occupation, utilization,
29 operation, protection, enhancement, maintenance, and administration of ecological
30 reserves.

31 **Comment.** Section 60765 continues the fourth sentence of former Fish and Game Code
32 Section 1580 without substantive change.

33 **§ 60770. Ownership and regulation of property**

34 60770. Any property acquired in fee for ecological reserves shall be acquired in
35 the name of the state, and shall, at all times, be subject to any rules and regulations
36 that may be prescribed from time to time by the commission for the occupation,
37 use, operation, protection, and administration of the property as ecological
38 reserves.

39 **Comment.** Section 60770 continues former Fish and Game Code Section 1581 without
40 substantive change.

1 **§ 60775. Valid title to acquired property**

2 60775. The department shall do all things necessary to secure a valid title in the
3 state to the property acquired in fee for ecological reserves but no payment shall
4 be made therefor until the title is vested in and satisfactory to the state. No such
5 land will be acquired by eminent domain.

6 **Comment.** Section 60775 continues former Fish and Game Code Section 1582 without
7 substantive change.

8 **§ 60780. Prohibited entry**

9 60780. Except in accordance with the regulations of the commission it is
10 unlawful to enter upon any ecological reserves established under the provisions of
11 this part, or to take therein any bird or the nest or eggs thereof, or any mammal,
12 fish, mollusk, crustacean, amphibian, reptile or any other form of plant or animal
13 life.

14 **Comment.** Section 60780 continues former Fish and Game Code Section 1583 without
15 substantive change.

16 **§ 60785. Facilities and programs**

17 60785. (a) Notwithstanding Section 60750, which sets forth the primary
18 purposes of ecological reserves, the department may construct facilities and
19 conduct programs in ecological reserves it selects to provide natural history
20 education and recreation if those facilities and programs are compatible with the
21 protection of the biological resources of the reserve.

22 (b) As provided in Sections 56030 and 56080, the department may control
23 access, use, and collect fees for selected ecological reserves.

24 **Comment.** Section 60785 continues former Fish and Game Code Section 1585 without
25 substantive change.

26 **§ 60790. Ecological reserves not wildlife management areas**

27 60790. The ecological reserves shall not be classified as wildlife management
28 areas pursuant to Section 60680 and shall be exempt from Section 60680.

29 **Comment.** Section 60790 continues the fifth sentence of former Fish and Game Code Section
30 1580 without substantive change.

31 **TITLE 2. SPECIFIC ECOLOGICAL RESERVES**

32 **§ 60850. Upper Newport Bay Ecological Reserve Maintenance and Preservation Fund**

33 60850. (a) The Upper Newport Bay Ecological Reserve Maintenance and
34 Preservation Fund is hereby created in the State Treasury.

35 (b) Notwithstanding Section 13340 of the Government Code, the money in the
36 fund is continuously appropriated, without regard to fiscal years, to the department
37 for purposes related to the maintenance and preservation of the Upper Newport
38 Bay Ecological Reserve.

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

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

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

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

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

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

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

11 (11) The South Fork Eel River.

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

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

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

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

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

19 (17) The Van Duzen River, from Yager Creek to the falls 1½ miles above
20 Bloody Run Creek.

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

22 (19) The Middle Fork Eel River.

23 (20) The Mattole River.

24 (21) The Noyo River.

25 (22) The Big River, Mendocino County.

26 (23) The Gualala River.

27 (24) The Garcia River, Mendocino County.

28 (b) In the event of a conflict between an action of the department pursuant to
29 this section and the action of another department or agency of the state or another
30 public agency, the action of the Department of Fish and Wildlife taken pursuant to
31 this section shall prevail, except in the event of conflict with the following actions:

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

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

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

41 (c) The director shall disapprove a stream alteration of a prime salmon or
42 steelhead spawning area on land of which ownership has not been legally

1 determined, when in the director’s opinion the alteration would prove deleterious
2 to fishlife.

3 **Comment.** Section 60900 continues former Fish and Game Code Section 1505 without
4 substantive change.

5 PART 8. WILDERNESS AREAS

6 § 60950. Vehicle prohibition

7 60950. It is unlawful for any person other than a legally constituted peace officer
8 or officer or employee of the Forest Service of the United States Department of
9 Agriculture, the department, or of the Department of Forestry and Fire Protection,
10 or county fish and game wardens or their duly authorized representatives, to travel
11 by motor boat, automobile, motorcycle, or other type of motorized vehicle, or,
12 except for emergencies and for rescue and aerial search for rescue purposes, to
13 land an airplane, helicopter, or similar equipment, within the boundaries of a
14 primitive, wilderness, or wild area closed to the above modes of travel as
15 established by a duly authorized officer of the Forest Service of the United States
16 Department of Agriculture and recorded in the office of the Regional Headquarters
17 of the Pacific-Southwest Region of the Forest Service of the United States
18 Department of Agriculture and with the department.

19 **Comment.** Section 60950 continues former Fish and Game Code Section 10740 without
20 substantive change.

21 § 60955. Exception to vehicle prohibition

22 60955. (a) Except as provided in subdivision (b), nothing in this part prohibits
23 access to a road or trail, in an area described in Section 60950, by a person who is
24 accessing the road or trail in order to reach land that the person lawfully possesses.
25 A person who may lawfully access a road or trail pursuant to this subdivision may
26 authorize another person to do the same.

27 (b) Notwithstanding subdivision (a), none of the motorized vehicles or aircraft
28 mentioned in Section 60950 may be used by any person as a means of gaining
29 access to the wilderness areas for the purpose of hunting or fishing. Nor shall
30 anyone who lawfully enters a wilderness area with a motorized vehicle or aircraft
31 fish or hunt while within that area after having entered with a motorized vehicle or
32 aircraft.

33 **Comment.** Section 60955 restates former Fish and Game Code Section 10741 without
34 substantive change.

35 **Note.** Proposed Section 60955 would restate Existing Section 10741 to improve its clarity,
36 without changing its substantive effect. The existing provision reads as follows:

37 “ Nothing in this article shall be construed as prohibiting access over any road or trail in any such
38 area to any land to which any person is entitled to possession by such person or any person
39 authorized by him to use such road or trail as a means of access to the land; provided, that none of
40 the motorized vehicles or aircraft mentioned in Section 10740 shall be used by any person as a
41 means of gaining access to the wilderness areas for the purpose of hunting or fishing. Nor shall

1 anyone having a lawful right to enter a wilderness area with a motorized vehicle or aircraft fish or
2 hunt while within the area after having entered the area with a motorized vehicle or aircraft.”

3 **The Commission invites comment on whether the proposed restatement would cause any**
4 **problems.**

5 DIVISION 17. ACTIVITIES THAT AFFECT WILDLIFE

6 PART 1. CALIFORNIA ENDANGERED SPECIES ACT

7 TITLE 1. GENERAL PROVISIONS

8 CHAPTER 1. SHORT TITLE AND LEGISLATIVE FINDINGS

9 **§ 62000. Short title**

10 62000. This part shall be known and may be cited as the California Endangered
11 Species Act.

12 **Comment.** Section 62000 continues former Fish and Game Code Section 2050 without
13 substantive change.

14 **§ 62005. Need for conservation**

15 62005. The Legislature hereby finds and declares all of the following:

16 (a) Certain species of fish, wildlife, and plants have been rendered extinct as a
17 consequence of human activities, untempered by adequate concern and
18 conservation.

19 (b) Other species of fish, wildlife, and plants are in danger of, or threatened
20 with, extinction because their habitats are threatened with destruction, adverse
21 modification, or severe curtailment, or because of overexploitation, disease,
22 predation, or other factors.

23 (c) These species of fish, wildlife, and plants are of ecological, educational,
24 historical, recreational, esthetic, economic, and scientific value to the people of
25 this state, and the conservation, protection, and enhancement of these species and
26 their habitat is of statewide concern.

27 **Comment.** Section 62005 continues former Fish and Game Code Section 2051 without
28 substantive change.

29 **§ 62010. General policy**

30 62010. The Legislature further finds and declares that it is the policy of the state
31 to conserve, protect, restore, and enhance any endangered species or any
32 threatened species and its habitat and that it is the intent of the Legislature,
33 consistent with conserving the species, to acquire lands for habitat for these
34 species.

1 **Comment.** Section 62010 continues former Fish and Game Code Section 2052 without
2 substantive change.

3 **§ 62015. Scope of required mitigation**

4 62015. The Legislature further finds and declares that if any provision of this
5 part requires a person to provide mitigation measures or alternatives to address a
6 particular impact on a candidate species, threatened species, or endangered
7 species, the measures or alternatives required shall be roughly proportional in
8 extent to any impact on those species that is caused by that person. Where various
9 measures or alternatives are available to meet this obligation, the measures or
10 alternatives required shall maintain the person’s objectives to the greatest extent
11 possible consistent with this section. All required measures or alternatives shall be
12 capable of successful implementation. This section governs the full extent of
13 mitigation measures or alternatives that may be imposed on a person pursuant to
14 this part. This section shall not affect the state’s obligations set forth in Section
15 62010.

16 **Comment.** Section 62015 continues former Fish and Game Code Section 2052.1 without
17 substantive change.

18 **§ 62020. Project approval and alternatives**

19 62020. (a) The Legislature further finds and declares that it is the policy of the
20 state that public agencies should not approve projects as proposed that would
21 jeopardize the continued existence of any endangered species or threatened species
22 or result in the destruction or adverse modification of habitat essential to the
23 continued existence of those species, if there are reasonable and prudent
24 alternatives available consistent with conserving the species or its habitat that
25 would prevent jeopardy.

26 (b) Furthermore, it is the policy of this state and the intent of the Legislature that
27 reasonable and prudent alternatives shall be developed by the department, together
28 with the project proponent and the state lead agency, consistent with conserving
29 the species, while at the same time maintaining the project purpose to the greatest
30 extent possible.

31 **Comment.** Section 62020 continues former Fish and Game Code Section 2053 without
32 substantive change.

33 **Note.** Proposed Section 62020 would continue Section 2053, which was amended by 2018
34 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
35 anticipation of its effect.

36 **§ 62025. Mitigation and enhancement in lieu of infeasible alternatives**

37 62025. The Legislature further finds and declares that, in the event specific
38 economic, social, or other conditions make alternatives infeasible, individual
39 projects may be approved if appropriate mitigation and enhancement measures are
40 provided.

1 or threatened species to the point at which the measures provided pursuant to this
2 part are no longer necessary. These methods and procedures include, but are not
3 limited to, all activities associated with scientific resources management, such as
4 research, census, law enforcement, habitat acquisition, restoration and
5 maintenance, propagation, live trapping, and transplantation, and, in the
6 extraordinary case where population pressures within a given ecosystem cannot be
7 otherwise relieved, may include regulated taking.

8 **Comment.** Section 62110 continues former Fish and Game Code Section 2061 without
9 substantive change.

10 **§ 62115. Endangered species**

11 62115. (a) “Endangered species” means a native species or subspecies of a bird,
12 mammal, fish, amphibian, reptile, or plant that is in serious danger of becoming
13 extinct throughout all, or a significant portion, of its range due to one or more
14 causes, including loss of habitat, change in habitat, overexploitation, predation,
15 competition, or disease.

16 (b) Any species determined by the commission as “endangered” on or before
17 January 1, 1985, is an “endangered species.”

18 **Comment.** Section 62115 continues former Fish and Game Code Section 2062 without
19 substantive change.

20 **§ 62120. Feasible**

21 62120. “Feasible” means feasible as defined in Section 21061.1 of the Public
22 Resources Code.

23 **Comment.** Section 62120 continues former Fish and Game Code Section 2063 without
24 substantive change.

25 **§ 62125. Project**

26 62125. “Project” means project as defined in Section 21065 of the Public
27 Resources Code.

28 **Comment.** Section 62125 continues former Fish and Game Code Section 2064 without
29 substantive change.

30 **§ 62128. Recover and recovery**

31 62128. “Recover” and “recovery” mean to improve, and improvement in, the
32 status of a species to the point at which listing is no longer appropriate under the
33 criteria set out in this part and any regulations adopted thereunder, and, if the
34 department has approved a recovery plan, satisfaction of the conditions of that
35 plan.

36 **Comment.** Section 62128 continues former Fish and Game Code Section 2064.5 without
37 substantive change.

38  **Note:** Proposed Section 62128 would continue Section 2064.5, which was added by 2018 Cal.
39 Stat. ch. 473.

1 **§ 62130. State lead agency**

2 62130. “State lead agency” means the state agency, board, or commission that is
3 a lead agency under the California Environmental Quality Act (Division 13
4 (commencing with Sec. 21000) of the Public Resources Code).

5 **Comment.** Section 62130 continues former Fish and Game Code Section 2065 without
6 substantive change.

7 **§ 62135. Threatened species**

8 62135. (a) “Threatened species” means a native species or subspecies of a bird,
9 mammal, fish, amphibian, reptile, or plant that, although not presently threatened
10 with extinction, is likely to become an endangered species in the foreseeable
11 future in the absence of the special protection and management efforts required by
12 this part.

13 (b) Any animal determined by the commission as “rare” on or before January 1,
14 1985, is a “threatened species.”

15 **Comment.** Section 62135 continues former Fish and Game Code Section 2067 without
16 substantive change.

17 **TITLE 2. LISTING OF ENDANGERED AND**
18 **THREATENED SPECIES**

19 **CHAPTER 1. GENERAL PROVISIONS**

20 **§ 62200. Establishment and maintenance of lists**

21 62200. (a) The commission shall establish a list of endangered species and a list
22 of threatened species.

23 (b) The commission shall add or remove species from either list if it finds, upon
24 the receipt of sufficient scientific information pursuant to this title, and based
25 solely upon the best available scientific information, that the action is warranted.

26 **Comment.** Section 62200 continues former Fish and Game Code Section 2070 without
27 substantive change.

28 ☞ **Note.** Proposed Section 62200 would continue Section 2070, which was amended by 2018
29 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
30 anticipation of its effect.

31 **§ 62205. Criteria**

32 62205. The department shall recommend, and the commission shall adopt,
33 criteria for determining if a species is endangered or threatened.

34 **Comment.** Section 62205 continues former Fish and Game Code Section 2071.5 without
35 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 30 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 **Note.** Proposed Section 62285 would continue Section 2073.4, which was amended by 2018
31 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
32 anticipation of its effect.

33 **§ 62290. Amendment of petition**

34 62290. (a) A petitioner may amend a petition at any time prior to the beginning
35 of the meeting held by the commission pursuant to Section 62350.

36 (b) If the commission determines that an amendment is substantive, the
37 commission shall resubmit the petition to the department for review pursuant to
38 Section 62280, publish notice of the amendment pursuant to Section 62270, and
39 renote or continue any hearing scheduled pursuant to Section 62350 in order to
40 provide adequate opportunity for public comment.

1 provides sufficient information to indicate that the petitioned action may be
2 warranted.

3 (b) The commission determines that it requires further information to evaluate
4 whether the petition provides sufficient information to indicate that the petitioned
5 action may be warranted. If the commission makes that determination during its
6 deliberation, the commission may request, on the record at the scheduled meeting
7 or at a continued meeting, further information on any issue relevant to making its
8 determination as to whether the petition provides sufficient information to indicate
9 that the petitioned action may be warranted. Any request by the commission
10 pursuant to this subdivision shall specify a date by which the information must be
11 submitted to the commission and shall serve to reopen the administrative record
12 for the limited purpose of receiving further information relating to the issues
13 specified by the commission in the request. Commission and department staff, the
14 petitioner, or any other person may submit information in response to a request
15 pursuant to this subdivision. If the commission reopens the record pursuant to this
16 section, it shall provide an opportunity for public comment on the submitted
17 information prior to the issuance of its decision.

18 **Comment.** Section 62365 continues former Fish and Game Code Section 2074.2(c) without
19 substantive change.

20 **§ 62370. Continuation of meeting**

21 62370. (a) In its discretion, the commission may continue a meeting on a
22 petition to a later date, which shall be no later than 90 days after the meeting
23 scheduled pursuant to Section 62350, and subject to applicable notice and agenda
24 requirements.

25 (b) If the public hearing has not yet closed, the meeting shall be continued for
26 further public hearing and then deliberations.

27 (c) If the public hearing has been closed, the meeting will be continued for the
28 purpose of deliberation, without further public hearing. In this case, a person shall
29 not submit, and the commission shall not receive, further information relating to
30 the petition except as provided in Section 62365.

31 **Comment.** Section 62370 continues former Fish and Game Code Section 2074.2(d) without
32 substantive change.

33 **Note.** Proposed Section 62370 would restate existing Section 2074.2(d) to improve its clarity,
34 without changing its substantive effect. The existing provision reads as follows:

35 “In its discretion, the commission may either close the public hearing and continue the meeting
36 on the petition for the purpose of deliberation or continue both the public hearing and the meeting
37 on the petition to a subsequent date, which shall be no later than 90 days after the meeting
38 scheduled pursuant to Section 2074, and subject to applicable notice and agenda requirements.

39 If the commission closes the public hearing but continues the meeting for the purpose of
40 deliberation, a person shall not submit, and the commission shall not receive, further information
41 relating to the petition except as provided in subdivision (c).”

42 **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 person, the commission may close the
4 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 before 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. (a) At the meeting scheduled pursuant to Section 62450, or at a
21 continued meeting scheduled pursuant to Section 62470, the commission shall
22 make one of the following findings based on the best available scientific
23 information:

24 (1) The petitioned action is not warranted, in which case the finding shall be
25 entered in the public records of the commission and the petitioned species shall be
26 removed from the list of candidate species maintained pursuant to Section 62375.

27 (2) The petitioned action is warranted, or the petitioned action is not warranted
28 but listing the petitioned species at a different status than that requested by the
29 petitioner is warranted, in which case the commission shall, within 30 days of
30 adopting written findings, publish a notice of that finding and shall add the species
31 to, or remove the species from, the list of endangered species or the list of
32 threatened species.

33 (b) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
34 Title 2 of the Government Code does not apply to the change in status of a species
35 pursuant to this title. The commission shall submit the change in status to the
36 Office of Administrative Law for filing with the Secretary of State and publication
37 in the California Code of Regulations. The commission shall use underline or
38 italics to indicate additions to, and strikeout to indicate deletions from, the
39 California Code of Regulations to reflect the change in status.

40 **Comment.** Section 62475 continues former Fish and Game Code Section 2075.5(e) without
41 substantive change.

1 **Note.** Proposed Section 62020 would continue Section 2075.5(e), which was amended by
2 2018 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
3 anticipation of its effect.

4 **§ 62480. Writ of mandate**

5 62480. A finding made pursuant to Section 62475 is subject to judicial review
6 under Section 1094.5 of the Code of Civil Procedure.

7 **Comment.** Section 62480 continues former Fish and Game Code Section 2076 without
8 substantive change.

9 **Note.** Existing Section 2076 provides for mandamus review of “any finding pursuant to this
10 section.” That reference to “this section” appears to be an error, as Section 2076 does not provide
11 for any findings. The Commission believes that Section 2076 was intended to refer to the
12 preceding provision, Section 2075.5. That would make sense, as Section 2075.5(e) provides for a
13 final commission decision on whether to list a species as endangered or threatened. Proposed
14 Section 62480 has been revised to refer to proposed Section 62475, which would continue
15 existing Section 2075.5(e). **The Commission invites comment on whether that revision**
16 **correctly captures the intended meaning of Section 2076.**

17 **§ 62485. Emergency regulation**

18 62485. (a) Notwithstanding Sections 62250 to 62475, inclusive, the commission
19 may adopt a regulation that adds a species to the list of endangered species or to
20 the list of threatened species as an emergency regulation pursuant to Section 1250
21 if the commission finds that there is any emergency posing a significant threat to
22 the continued existence of the species.

23 (b) The commission shall notify affected or interested persons of the adoption of
24 the emergency regulation pursuant to the methods described in Section 62380.

25 **Comment.** Section 62485 continues former Fish and Game Code Section 2076.5 without
26 substantive change.

27 **Article 5. Ongoing Review**

28 **§ 62500. Five-year review of listed species**

29 62500. (a) Upon a specific appropriation of funds by the Legislature, the
30 department shall, or if other funding is available, in the absence of a specific
31 appropriation, may, review species listed as an endangered species or as a
32 threatened species every five years to determine if the conditions that led to the
33 original listing are still present.

34 (b) The review shall be conducted based on information that is consistent with
35 the information specified in Section 62260 and that is the best scientific
36 information available to the department.

37 (c) The review shall include a review of the identification of the habitat that may
38 be essential to the continued existence of the species and the department’s
39 recommendations for management activities and other recommendations for
40 recovery of the species.

1 (d) The department shall notify any person who has notified the commission, in
2 writing with their address, of their interest, and the department may notify any
3 other person.

4 **Comment.** Section 62500 continues former Fish and Game Code Section 2077(a) without
5 substantive change.

6 **Note.** Proposed Section 62500 would continue Section 2077(a), which was amended by 2018
7 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
8 anticipation of its effect.

9 **§ 62505. Five-year review of species listed by both Commission and US Department of**
10 **Interior**

11 62505. Review pursuant to section 62500 of species that are listed by both the
12 commission and the United States Department of Interior shall be conducted in
13 conjunction with the five-year review process of the United States Department of
14 the Interior.

15 **Comment.** Section 62505 continues former Fish and Game Code Section 2077(b) without
16 substantive change.

17 **Note.** Proposed Section 62505 would continue Section 2077(b), which was amended by 2018
18 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
19 anticipation of its effect.

20 **§ 62510. Timing of initial five-year review**

21 62510. (a) Initial review of those species listed by the commission before
22 January 1, 1982, that are not listed by the federal government shall be undertaken
23 and completed by July 1, 1987.

24 (b) Initial review of those species listed by the commission after January 1,
25 1982, that are not listed by the federal government shall be undertaken and
26 completed within five years of the date the species was originally listed by the
27 commission.

28 **Comment.** Section 62510 continues former Fish and Game Code Section 2077(c) without
29 substantive change.

30 **§ 62515. Written report of five-year review results**

31 62515. (a) The department shall report in writing to the commission the results
32 of its five-year review for each listed species.

33 (b) The commission shall treat any report of the department under this section
34 that contains a recommendation to add a species to, or remove a species from, the
35 list of endangered species or the list of threatened species as a department
36 recommendation submitted pursuant to Section 62275.

37 **Comment.** Section 62515 continues former Fish and Game Code Section 2077(e) without
38 substantive change.

1 **§ 62520. Discretionary review**

2 62520. Notwithstanding any other provision of this article, the commission or
3 the department may review a species at any time based upon a petition or upon
4 other data available to the department and the commission.

5 **Comment.** Section 62520 continues former Fish and Game Code Section 2077(d) without
6 substantive change.

7 **§ 62525. Triennial report**

8 62525. (a) The department shall, by January 30 of every third year, beginning
9 January 30, 1986, prepare a report summarizing the status of all state listed
10 endangered, threatened, and candidate species, and shall post the report on the
11 commission’s Internet Web site.

12 (b) The report shall include, but not be limited to, a listing of those species
13 designated as endangered, threatened, and candidate species, a discussion of the
14 current status of endangered, threatened, or candidate species, and the timeframes
15 for the review of listed species pursuant to this title.

16 **Comment.** Section 62525 continues former Fish and Game Code Section 2079 without
17 substantive change.

18 **TITLE 3. TAKE, IMPORTATION,**
19 **EXPORTATION, OR SALE**

20 **CHAPTER 1. PROHIBITION**

21 **§ 62600. Take, possession, purchase, or sale**

22 62600. No person or public agency shall import into this state, export out of this
23 state, or take, possess, purchase, or sell within this state, any species, or any part or
24 product thereof, that the commission determines to be an endangered species or a
25 threatened species, or attempt any of those acts, except as otherwise provided in
26 this part, the Native Plant Protection Act (Title 1 (commencing with Section
27 53800) of Part 3 of Division 14), or the California Desert Native Plants Act
28 (Division 23 (commencing with Section 80001) of the Food and Agricultural
29 Code).

30 **Comment.** Section 62600 continues former Fish and Game Code Section 2080 without
31 substantive change.

32 See also Sections 4482, 4570, 6202, 6204, 6206 (enforcement).

33 **Note.** Proposed Section 62600 would continue Section 2080), which was amended by 2018
34 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
35 anticipation of its effect.

1 if the taking was authorized by the department through a permit or memorandum
2 of understanding, or in a natural communities conservation plan, habitat
3 conservation plan, habitat management plan, or other plan or agreement approved
4 by or entered into by the department, or in an amendment to a permit,
5 memorandum of understanding, plan, or agreement and all of the following
6 conditions are met:

7 (1) The application process commenced on or before April 10, 1997.

8 (2) The department approved the permit, memorandum of understanding, plan,
9 agreement, or amendment thereto within either of the following timeframes:

10 (A) On or before April 10, 1997.

11 (B) Between April 10, 1997, and January 1, 1998, and the department also
12 certifies that the permit, memorandum of understanding, plan, agreement, or
13 amendment thereto meets the substantive criteria of subdivision (a) of Section
14 62700.

15 (b) The permits, memoranda of understanding, plan, agreements, and
16 amendments thereto described in this section are deemed to be in full force and
17 effect, as of the date approved or entered into by the parties insofar as they
18 authorize the take of species.

19 (c) This section does not apply to the “Emergency Management Measures
20 Permit” issued by the department on March 15, 1995.

21 **Comment.** Section 62670 continues former Fish and Game Code Section 2081.1 without
22 substantive change.

23 **§ 62675. Sale of organism by person who possessed it before it was listed**

24 62675. This part does not prohibit the sale of any endangered species or
25 threatened species, or any part or product thereof, when the owner can
26 demonstrate that the species, or part or product thereof, was in the person’s
27 possession before the date upon which the commission listed the species as an
28 endangered species or threatened species or as an endangered animal or rare
29 animal prior to January 1, 1985, and shall not prohibit the sale of that part or
30 product by an individual not normally engaged in that sale if it was originally
31 possessed by the seller for the seller’s own use and so used by that seller.
32 However, it shall be unlawful to sell any species, or part or product thereof, if that
33 sale would have been unlawful prior to the date upon which the commission added
34 the species to the listing of endangered species or threatened species or to the
35 listing of endangered animals or rare animals prior to January 1, 1985.

36 **Comment.** Section 62675 continues former Fish and Game Code Section 2082 without
37 substantive change.

38 **§ 62680. Possession of animal possessed before it was listed**

39 62680. This part does not apply to the possession of individual animals that were
40 lawfully possessed before the commission listed the species as an endangered

1 species or as a threatened species or as an endangered animal or rare animal prior
2 to January 1, 1985.

3 **Comment.** Section 62680 continues the second clause of former Fish and Game Code Section
4 2083 without substantive change.

5 CHAPTER 3. INCIDENTAL TAKE

6 § 62700. Incidental take

7 62700. (a) The department may authorize acts that are otherwise prohibited
8 pursuant to Section 62600, by a permit for the take of endangered species,
9 threatened species, and candidate species if all of the following conditions are met:

10 (1) The take is incidental to an otherwise lawful activity.

11 (2) The impacts of the authorized take shall be minimized and fully mitigated.
12 The measures required to meet this obligation shall be roughly proportional in
13 extent to the impact of the authorized taking on the species. Where various
14 measures are available to meet this obligation, the measures required shall
15 maintain the applicant's objectives to the greatest extent possible. All required
16 measures shall be capable of successful implementation. For purposes of this
17 section only, impacts of taking include all impacts on the species that result from
18 any act that would cause the proposed taking.

19 (3) The applicant shall ensure adequate funding to implement the measures
20 required by paragraph (2), and for monitoring compliance with, and effectiveness
21 of, those measures.

22 (b) No permit may be issued pursuant to subdivision (a) if issuance of the permit
23 would jeopardize the continued existence of the species. The department shall
24 make this determination based on the best scientific and other information that is
25 reasonably available, and shall include consideration of the species' capability to
26 survive and reproduce, and any adverse impacts of the taking on those abilities in
27 light of (1) known population trends; (2) known threats to the species; and (3)
28 reasonably foreseeable impacts on the species from other related projects and
29 activities.

30 (c) The department shall adopt regulations to aid in the implementation of
31 subdivision (a) and the requirements of Division 13 (commencing with Section
32 21000) of the Public Resources Code, with respect to authorization of take. The
33 department may seek certification pursuant to Section 21080.5 of the Public
34 Resources Code to implement subdivision (a).

35 (e) Commencing January 1, 2019, the department shall post each new permit
36 issued pursuant to subdivision (a) on its Internet Web site within 15 days of the
37 effective date of the permit.

38 **Comment.** Section 62700 continues former Fish and Game Code Section 2081(b)-(e) without
39 substantive change.

1 **Note.** Proposed Section 62700 would continue Section 2081(b)-(e), which was amended by
2 2018 Cal. Stat. ch. 329, § 11.5. Although that bill will not take effect until 2019, it is included
3 here in anticipation of its effect.

4 **§ 62705. Incidental take authorized by federal entity**

5 62705. (a) Notwithstanding any other provision of this part, Title 1
6 (commencing with Section 53800) of, or Title 2 (commencing with Section
7 53900) of Part 3 of Division 14, but subject to subdivision (c), if any person
8 obtains from the United States Secretary of the Interior or the United States
9 Secretary of Commerce an incidental take statement pursuant to Section 7 of the
10 federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1536) or an incidental
11 take permit pursuant to Section 10 of that federal act (16 U.S.C. Sec. 1539) that
12 authorizes the taking of an endangered species or a threatened species that is listed
13 pursuant to Section 4 of that federal act (16 U.S.C. Sec. 1533) and that is an
14 endangered species, threatened species, or a candidate species pursuant to this
15 chapter, no further authorization or approval is necessary under this chapter for
16 that person to take that endangered species, threatened species, or candidate
17 species identified in, and in accordance with, the incidental take statement or
18 incidental take permit, if that person does all of the following:

19 (1) Notifies the director in writing that the person has received an incidental take
20 statement or an incidental take permit issued pursuant to the federal Endangered
21 Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.).

22 (2) Includes in the notice to the director a copy of the incidental take statement
23 or incidental take permit.

24 (3) Includes with the notice payment of the permit application fee required
25 pursuant to Chapter 6 (commencing with Section 63600).

26 (b) Upon receipt of the notice specified in paragraph (1) of subdivision (a), the
27 director shall immediately have published in the General Public Interest section of
28 the California Regulatory Notice Register the receipt of that notice.

29 (c) Within 30 days after the director has received the notice described in
30 subdivision (a) that an incidental take statement or an incidental take permit has
31 been issued pursuant to the federal Endangered Species Act of 1973 (16 U.S.C.
32 Sec. 1531 et seq.), the director shall determine whether the incidental take
33 statement or incidental take permit is consistent with this chapter. If the director
34 determines within that 30-day period, based upon substantial evidence, that the
35 incidental take statement or incidental take permit is not consistent with this
36 chapter, then the taking of that species may only be authorized pursuant to this
37 chapter.

38 (d) The director shall immediately publish the determination pursuant to
39 subdivision (c) in the General Public Interest section of the California Regulatory
40 Notice Register.

41 (e) Unless deleted or extended by a later enacted statute that is chaptered before
42 the date this section is repealed, this section shall remain in effect only until, and is

1 repealed on, the effective date of an amendment to Section 7 or 10 of the federal
2 Endangered Species Act of 1973 (16 U.S.C. Secs. 1536 and 1539) that alters the
3 requirements for issuing an incidental take statement or an incidental take permit,
4 as applicable.

5 **Comment.** Section 62705 continues former Fish and Game Code Section 2080.1 without
6 substantive change.

7 **Note.** Proposed Section 62705 would continue Section 2080.1, which was amended by 2018
8 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
9 anticipation of its effect.

10 CHAPTER 4. SPECIFIC EXCEPTIONS

11 Article 1. Quantification Settlement Agreement

12 **§ 63300. Take from specified effects of implementation of agreement**

13 63300. Notwithstanding Title 5 (commencing with Section 30200) of Part 3 of
14 Division 8, Title 4 (commencing with Section 32700) of Part 3 of Division 9, and
15 Sections 38200, 52200, and 53000, and contingent upon the fulfillment of the
16 conditions listed in Section 63305, the department may authorize, under this part
17 or Title 1 (commencing with Section 64500) of Part 2, the take of species resulting
18 from impacts attributable to the implementation of the Quantification Settlement
19 Agreement, as defined in subdivision (a) of Section 1 of Chapter 617 of the
20 Statutes of 2002, on all of the following:

21 (a) The salinity, elevation, shoreline habitat, or water quality of the Salton Sea.

22 (b) The quantity and quality of water flowing in the All American Canal, the
23 Coachella Canal, the Imperial Valley and Coachella Valley drains, the New and
24 Alamo Rivers, the Coachella Valley Stormwater Channel, and the habitat
25 sustained by those flows.

26 (c) Agricultural lands in the Imperial Valley.

27 (d) The quantity and quality of water flowing in the Colorado River, the habitat
28 sustained by those flows, and the collection of that water for delivery to authorized
29 users.

30 **Comment.** Section 63300 restates former Fish and Game Code Section 2081.7(a) without
31 substantive change.

32 **§ 63305. Application of Section 63300**

33 63305. Section 63300 only applies if all of the following conditions are fulfilled:

34 (a) The Quantification Settlement Agreement is executed by the appropriate
35 parties on or before October 12, 2003.

36 (b) The department has determined that the appropriate agreements have been
37 executed to address environmental impacts at the Salton Sea that include
38 enforceable commitments requiring all of the following:

1 (1) Imperial Irrigation District to transfer 800,000 acre-feet of conserved water,
2 by conservation methods selected by the Imperial Irrigation District, to the
3 Department of Water Resources on a mutually agreed-upon schedule in exchange
4 for payment of one hundred seventy-five dollars (\$175) per acre-foot. The price
5 shall be adjusted for inflation on an annual basis.

6 (2) Imperial Irrigation District to transfer up to 800,000 additional acre-feet of
7 conserved water, by conservation methods selected by the Imperial Irrigation
8 District, to the Department of Water Resources during the first 15 years of the
9 Quantification Settlement Agreement on the schedule established for the
10 mitigation water that was previously to be transferred to the San Diego Water
11 Authority, or on a mutually agreed-upon schedule, at no cost for the water in
12 addition to the payment for the water from the mitigation fund described in
13 paragraph (1) of subdivision (b) of Section 3 of Chapter 613 of the Statutes of
14 2003.

15 (3) As a condition to acquisition of the water described in paragraph (1), the
16 Department of Water Resources shall be responsible for any environmental
17 impacts, including Salton Sea salinity, related to use or transfer of that water. As a
18 condition to acquisition of the water described in paragraph (2), the Department of
19 Water Resources shall be responsible for environmental impacts related to Salton
20 Sea salinity that are related to the use or transfer of that water.

21 (4) The Metropolitan Water District of Southern California (MWD) to purchase
22 up to 1.6 million acre-feet of the water provided in accordance with paragraphs (1)
23 and (2) from the Department of Water Resources at a price of not less than two
24 hundred fifty dollars (\$250) per acre-foot on a mutually agreed-upon schedule.
25 The price shall be adjusted for inflation on an annual basis. The Department of
26 Water Resources shall deposit all proceeds from the sale of water pursuant to this
27 paragraph, after deducting costs and reasonable administrative expenses, into the
28 Salton Sea Restoration Fund established in Section 56850.

29 (5) The Metropolitan Water District of Southern California to pay not less than
30 twenty dollars (\$20) per acre-foot for all special surplus water received by MWD
31 as a result of reinstatement of access to that water under the Interim Surplus
32 Guidelines by the United States Department of Interior subtracting any water
33 delivered to Arizona as a result of a shortage. The money shall be paid into the
34 Salton Sea Restoration Fund. The price shall be adjusted for inflation on an annual
35 basis. Metropolitan Water District of Southern California shall receive a credit
36 against future mitigation obligations under the Lower Colorado River Multi-
37 Species Conservation Plan for any funds provided under this paragraph to the
38 extent that those funds are spent on projects that contribute to the conservation or
39 mitigation for species identified in the Lower Colorado River Multi-Species
40 Conservation Plan and that are consistent with the preferred alternative for Salton
41 Sea restoration.

42 (6) Coachella Valley Water District, Imperial Irrigation District, and San Diego
43 County Water Authority to pay a total of thirty million dollars (\$30,000,000) to

1 the Salton Sea Restoration Fund as provided in paragraph (2) of subdivision (b) of
2 Section 3 of Chapter 613 of the Statutes of 2003.

3 (c) The requirements of subdivision (a) and (b) of Section 62700 are satisfied as
4 to the species for which take is authorized.

5 (d) The take authorization provides for the development and implementation, in
6 cooperation with federal and state agencies, of an adaptive management process
7 for monitoring the effectiveness of, and adjusting as necessary, the measures to
8 minimize and fully mitigate the impacts of the authorized take. The adjusted
9 measures are subject to Section 62015.

10 (e) The take authorization provides for the development and implementation in
11 cooperation with state and federal agencies of an adaptive management process
12 that substantially contributes to the long-term conservation of the species for
13 which take is authorized. Preparation of the adaptive management program and
14 implementation of the program is the responsibility of the department. The
15 department's obligation to prepare and implement the adaptive management
16 program is conditioned upon the availability of funds pursuant to the Water
17 Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, if it is
18 approved by the voters at the statewide general election to be held November 5,
19 2002 (Proposition 50), or other funds that may be appropriated by the Legislature
20 or approved by the voters for that purpose. The failure to appropriate funds does
21 not relieve the applicant of the obligations of subdivisions (c) and (d). However,
22 the applicant shall not be required to fund any program pursuant to this
23 subdivision.

24 (f) The requirements of subdivision (c) may be satisfied if the take is authorized
25 under this title.

26 **Comment.** Section 63305 restates former Fish and Game Code Section 2081.7(b)-(d) without
27 substantive change.

28 **Note.** Existing Section 2081.7(d)(4) (proposed Section 63305(f)) refers to "Chapter 10
29 (commencing with Section 2080)." The reference to "Chapter 10" appears to be erroneous.
30 Section 2080 is the first section of Article 3 of Chapter 1.5 (which would be continued as Title 3
31 of Part 1). Proposed Section 63305(f) corrects the error. **The Commission invites comment on
32 whether the proposed correction would cause any problem.**

33 **§ 63310. Restoration study**

34 63310. (a) The Secretary of the Resources Agency, in consultation with the
35 department, the Department of Water Resources, the Salton Sea Authority,
36 appropriate air quality districts, and the Salton Sea Advisory Committee, shall
37 undertake a restoration study to determine a preferred alternative for the
38 restoration of the Salton Sea ecosystem and the protection of wildlife dependent
39 on that ecosystem.

40 (b) The Secretary of the Resources Agency shall extend an invitation to the
41 United States Geological Survey Salton Sea Science Office to also participate in
42 the restoration study, and the office may participate if it accepts the invitation.

1 (c) The restoration study shall be conducted pursuant to a process with deadlines
2 for release of the report and programmatic environmental documents established
3 by the secretary, in consultation with the department, the Department of Water
4 Resources, the Salton Sea Authority, and the Salton Sea Advisory Committee, and
5 the United States Geological Survey Salton Sea Science Office, if it is a
6 participant. The secretary shall use all available authority to enter into a
7 memorandum of understanding (MOU) with the Secretary of the Interior, as
8 provided in Section 101(b)(1)(B)(i) of the Salton Sea Reclamation Act of 1998
9 (P.L. 105-372) for the purpose of obtaining federal participation in the restoration
10 of the Salton Sea.

11 (d) The restoration study shall establish all of the following:

12 (1) An evaluation of alternatives for the restoration of the Salton Sea that
13 includes consideration of strategies for salinity control, habitation creation and
14 restoration, and different shoreline elevations and surface area configurations. The
15 alternatives shall consider the range of possible inflow conditions. The evaluation
16 established pursuant to this paragraph shall also include suggested criteria for
17 selecting and evaluating alternatives consistent with Title 10 (commencing with
18 Section 56800) of Part 2 of Division 15, including, but not limited to, at least one
19 most cost-effective, technically feasible, alternative.

20 (2) An evaluation of the magnitude and practicability of costs of construction,
21 operation, and maintenance of each alternative evaluated.

22 (3) A recommended plan for the use or transfer of water provided by paragraph
23 (2) of subdivision (b) of Section 63305. No water may be transferred pursuant to
24 that subdivision unless the secretary finds that transfer is consistent with the
25 preferred alternative for Salton Sea restoration.

26 (4) The selection of a preferred alternative consistent with Section 56900,
27 including a proposed funding plan to implement the preferred alternative. The
28 proposed funding plan shall include a determination of the moneys that are, or
29 may be, available to construct and operate the preferred project, including, but not
30 limited to, all of the following moneys:

31 (A) Moneys in the Salton Sea Restoration Fund established by Section 56850.

32 (B) State water and environmental bond moneys.

33 (C) Federal authorizations and appropriations.

34 (D) Moneys available through a Salton Sea Infrastructure Financing District
35 established pursuant to Section 53395.9 of the Government Code and local
36 assessments by the Salton Sea Authority or its member agencies.

37 (E) Moneys derived from user or other fees.

38 (e) The study identifying the preferred alternative shall be submitted to the
39 Legislature on or before December 31, 2006.

40 **Comment.** Section 63310 continues former Fish and Game Code Section 2081.7(e)(1)-(3)
41 without substantive change.

42 **Note.** The Commission invites comment on whether proposed Section 63310(e) can be
43 omitted as obsolete.

1 § 63315. Advisory committee

2 63315. The Secretary of the Resources Agency shall establish an advisory
3 committee for purposes of Section 63310 as follows:

4 (a) The advisory committee shall be selected to provide balanced representation
5 of the following interests:

- 6 (1) Agriculture.
- 7 (2) Local governments.
- 8 (3) Conservation groups.
- 9 (4) Tribal governments.
- 10 (5) Recreational users.
- 11 (6) Water agencies.
- 12 (7) Air pollution control districts.
- 13 (8) Geothermal energy development.

14 (b) Appropriate federal agency representatives may be asked to serve in an ex
15 officio capacity.

16 (c) The Resources Agency shall consult with the advisory committee throughout
17 all stages of the alternative selection process.

18 (d) The advisory committee shall meet no fewer than six times annually.

19 (e) The secretary shall appoint a vice chair of the advisory committee from the
20 committee membership. The vice chair shall work with the secretary to develop
21 advisory committee agendas and to schedule meetings of the committee. The
22 secretary and vice chair shall appoint an agenda subcommittee to assist in the
23 preparation of advisory committee agendas.

24 (f) The advisory committee shall submit to the Resources Agency
25 recommendations to assist the agency in preparation of its restoration plan. The
26 Resources Agency shall develop a schedule for the completion of these
27 recommendations to ensure that these recommendations will be considered by the
28 agency in a timely and meaningful manner as the restoration plan is developed.
29 These recommendations may include, but are not limited to:

- 30 (1) The specific goals and objectives of the restoration plan.
- 31 (2) The range of alternative restoration actions that must be developed and
32 analyzed.
- 33 (3) The no action alternative.
- 34 (4) The criteria for determining economic and technical feasibility of the
35 alternatives.
- 36 (5) The range of options for funding the restoration plan.
- 37 (6) The selection of a preferred alternative for a restoration plan.

38 (g) The Resources Agency shall periodically provide an update to the advisory
39 committee of the current work plan and schedule for the development of the
40 restoration plan.

41 **Comment.** Section 63315 continues former Fish and Game Code Section 2081.7(e)(4) without
42 substantive change.

1 **Comment.** Section 63350 continues former Fish and Game Code Section 2080.2 without
2 substantive change.

3 **§ 63355. Enhancement of survival permit**

4 63355. (a) Notwithstanding any other provision of this part, if any person
5 obtains from the Secretary of Commerce an enhancement of survival permit
6 pursuant to subparagraph (A) of paragraph (1) of subdivision (a) of Section 1539
7 of Title 16 of the United States Code that authorizes the taking of spring run
8 Chinook salmon (*Oncorhynchus tshawytscha*) in order to establish or maintain an
9 experimental population in the San Joaquin River pursuant to subsection (j) of that
10 section and the San Joaquin River Restoration Settlement Act (Part I of Subtitle A
11 of Title X of Public Law 111-11), no further authorization or approval is necessary
12 under this part for that person to take that species as identified in, and in
13 accordance with, the enhancement of survival permit, if all of the following
14 requirements are met:

15 (1) That person shall notify the director in writing that the person has received
16 an enhancement of survival permit and include in the notification a copy of the
17 permit.

18 (2) Upon receipt of the notice specified in paragraph (1), the director shall
19 immediately have the notice published in the General Public Interest Section of the
20 California Regulatory Notice Register.

21 (3) Within 30 days after the director has received the notice specified in
22 paragraph (1), the director shall determine whether the enhancement of survival
23 permit will further the conservation of the species. As used in this paragraph,
24 “conservation” has the same meaning as defined in Section 62110.

25 (4) The director shall immediately have the determination pursuant to paragraph
26 (3) published in the General Public Interest Section of the California Regulatory
27 Notice Register.

28 (b) The timing and extent of a take authorization under this section shall be
29 limited to the terms in the federal enhancement of survival permit and shall expire
30 upon the expiration of the federal permit.

31 (c) This section shall remain in effect only until the effective date of an
32 amendment to Section 1539 of Title 16 of the United States Code that alters the
33 requirements for issuing an enhancement of survival permit, as applicable, and as
34 of that date is repealed, unless a later enacted statute, that is chaptered before the
35 date this section is repealed, deletes or extends that date.

36 **Comment.** Section 63355 continues former Fish and Game Code Section 2080.3 without
37 substantive change.

38  **Note.** Existing Section 2080.3(a)(2) refers to “paragraph (1) of subdivision (c).” That
39 reference is erroneous, as subdivision (c) is not divided into paragraphs. In context, it appears that
40 the reference should have been to Section 2080.3(a)(1). That change has been made in proposed
41 Section 63355. **The Commission invites comment on whether the change would cause any**
42 **problems.**

1 Spring Creek Bridge in the County of Shasta, if all of the following conditions are
2 satisfied:

3 (1) The requirements of subdivisions (a) and (b) of Section 62700 are satisfied
4 for the take of the rough sculpin.

5 (2) The department ensures that all further measures necessary to satisfy the
6 conservation standard of subdivision (d) of Section 64515 are incorporated into
7 the project.

8 (3) The take authorization provides for the development and implementation, in
9 cooperation with federal and state agencies, of a monitoring program and an
10 adaptive management process until the department determines that any impacts
11 resulting from the replacement of the Spring Creek Bridge have been fully
12 mitigated.

13 (b) This section shall not be construed to exempt the project described in
14 subdivision (a) from any other law.

15 **Comment.** Section 63400 continues former Fish and Game Code Section 2081.4 without
16 substantive change.

17 Article 4. Threespine Stickleback

18 § 63450. Bouquet Creek

19 63450. (a) The department may authorize, under this part, the take of the
20 unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*) resulting
21 from impacts attributable to the habitat restoration project to restore, maintain, and
22 improve riparian habitat on public lands in the geographic area defined in
23 paragraph (1) and projects to restore the flow capacity to Bouquet Creek in
24 Bouquet Canyon on public lands, undertaken by the Los Angeles County
25 Department of Public Works, the Los Angeles Department of Water and Power,
26 and the United States Department of Agriculture, Forest Service, if all of the
27 following conditions are satisfied:

28 (1) The take authorization is limited to the portion of Bouquet Creek located
29 from a position normal to mile marker 8.3 on Bouquet Canyon Road to a position
30 normal to mile marker 16.3 on Bouquet Canyon Road, inclusive.

31 (2) The department has determined that the appropriate agreements have been
32 executed to address environmental impacts at the Bouquet Canyon area, including,
33 but not limited to, Bouquet Creek.

34 (3) The requirements of subdivisions (a) and (b) of Section 62700 are satisfied
35 for the take of the unarmored threespine stickleback.

36 (4) The department ensures that all further measures necessary to satisfy the
37 conservation standard of subdivision (d) of Section 64515 are incorporated into
38 the projects.

39 (5) A biologist will be on duty whenever an activity is conducted that may affect
40 the unarmored threespine stickleback.

1 (6) The take authorization provides for the development and implementation, in
2 cooperation with federal and state agencies, of a monitoring program and an
3 adaptive management process that satisfy the conservation standard of subdivision
4 (d) of Section 64515 for monitoring the effectiveness of, and adjusting, as
5 necessary, the measures to minimize and fully mitigate the impacts of the
6 authorized take.

7 (7) The take authorization provides for the development and implementation, in
8 cooperation with state and federal agencies, of an adaptive management process
9 that substantially contributes to the long-term conservation of the unarmored
10 threespine stickleback.

11 (b) This section shall not be construed to exempt the projects described in
12 subdivision (a) from any other law.

13 (c) This section shall not be construed to affect the contractual obligations of the
14 Los Angeles Department of Water and Power to provide water from Bouquet
15 Reservoir.

16 **Comment.** Section 63450 continues former Fish and Game Code Section 2081.6 without
17 substantive change.

18 **§ 63455. Metropolitan Water District of Southern California water supply facility**

19 63455. (a) The department may authorize, under this part, the incidental take of
20 unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*) attributable
21 to the periodic dewatering, inspection, maintenance, modification, or repair,
22 including emergency repair, of the Metropolitan Water District of Southern
23 California's Foothill Feeder water supply facility from Castaic Dam to the Joseph
24 Jensen Treatment Plant in the County of Los Angeles, contingent upon the
25 fulfillment of the following conditions:

26 (1) The department determines that the requirements of subdivisions (a) and (b)
27 of Section 62700 are satisfied for the take of the unarmored threespine stickleback.

28 (2) The department ensures that all further measures necessary to satisfy the
29 conservation standard of subdivision (d) of Section 64515 are incorporated into
30 the project.

31 (3) The take authorization provides for the development and implementation, in
32 cooperation with the department, of an adaptive management plan for monitoring
33 the effectiveness of, and adjusting as necessary, the measures to minimize and
34 fully mitigate the impacts of the authorized take and to satisfy the conservation
35 standard of subdivision (d) of Section 64515.

36 (4) A biologist who has substantial relevant experience evaluating impacts to
37 inland fisheries is on duty whenever an activity is conducted that may affect the
38 unarmored threespine stickleback.

39 (5) The Metropolitan Water District of Southern California consults with the
40 department to consider feasible measures to avoid and minimize incidental take of
41 unarmored threespine stickleback. For purposes of this paragraph, "feasible" has

1 the same meaning as defined in Section 15364 of Title 14 of the California Code
2 of Regulations.

3 (b) The take authorization shall cover any incidental take of unarmored
4 threespine stickleback attributable to the periodic dewatering, inspection,
5 maintenance, modification, or repair, including emergency repair, of the Foothill
6 Feeder that may occur in the following locations:

7 (1) Within the Santa Clara River, from the Bouquet Canyon Road Bridge to a
8 point located 4,000 feet downstream of where Commerce Center Drive, as of
9 January 1, 2016, dead-ends adjacent to the Santa Clara River.

10 (2) From the confluence with the Santa Clara River upstream to the following
11 locations:

12 (A) In Charlie Canyon to a point 1,000 feet upstream of the Foothill Feeder
13 facility dewatering structure.

14 (B) In San Francisquito Creek to the Copper Hill Drive bridge.

15 (C) In Placerita Creek to the Hacienda Lane crossing.

16 (D) In Bouquet Creek to the Newhall Ranch Road Bridge.

17 (c) The take authorization shall also cover any incidental take of unarmored
18 threespine stickleback that may occur in the course of implementing mitigation or
19 conservation actions required in the permit issued pursuant to subdivision (a) as
20 may be modified through an adaptive management plan adopted pursuant to
21 paragraph (3) of subdivision (a).

22 (d) The permit issued pursuant to subdivision (a) shall include conditions that
23 cover biological and scientific considerations including, but not limited to, criteria
24 for the handling of stranded fish and their relocation into suitable habitat, the
25 dewatering of the Foothill Feeder, and the reasonable and feasible mimicking of
26 streamflows. The permit conditions shall be in compliance with the project
27 description, mitigation measures, and release plan set forth in the certified
28 environmental impact report known as the “Foothill Feeder Repair and Future
29 Inspections Project Environmental Impact Report, January 2005, State
30 Clearinghouse Number 2005071082.” The permit conditions are subject to
31 amendment when required by the adaptive management plan or when modified by
32 a subsequent final environmental document pursuant to the California
33 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
34 Public Resources Code).

35 (e) This section shall not be construed to exempt from any other law the periodic
36 dewatering, inspection, maintenance, modification, or repair of the Foothill
37 Feeder.

38 (f) If the Metropolitan Water District of Southern California receives a permit
39 under this section, the permit shall require the district to report to the department
40 within six months after every dewatering of the Foothill Feeder. The report shall
41 address compliance with the permit conditions and the effectiveness of the
42 adaptive management plan in contributing to the conservation of the unarmored

1 threespine stickleback. The Metropolitan Water District of Southern California
2 shall ensure that each report is made available to the public.

3 (g) As used in this section, “modification” does not include alterations to expand
4 the maximum physical capacity of the Foothill Feeder to deliver water.

5 **Comment.** Section 63455 continues former Fish and Game Code Section 2081.10 without
6 substantive change.

7 Article 5. Lost River and Shortnose Sucker

8 **§ 63475. Klamath Hydroelectric Settlement Agreement**

9 63475. (a) The department may authorize, under this part, the take or possession
10 of the Lost River sucker (*Deltistes luxatus* and *Catostomus luxatus*) and shortnose
11 sucker (*Chasmistes brevirostris*) resulting from impacts attributable to or
12 otherwise related to the decommissioning and removal of the Iron Gate Dam, the
13 Copco 1 Dam, the Copco 2 Dam, or the J.C. Boyle Dam, each located on the
14 Klamath River, consistent with the Klamath Hydroelectric Settlement Agreement,
15 if all of the following conditions are met:

16 (1) The department finds the authorized take will not jeopardize the continued
17 existence of the Lost River sucker or shortnose sucker.

18 (2) The impacts of the authorized take are minimized.

19 (3) The take authorization requires department approval of a sampling, salvage,
20 and relocation plan to be implemented and that describes the measures necessary
21 to minimize the take of adult Lost River sucker and shortnose sucker associated
22 with the department’s authorization. The plan shall provide for a sampling effort,
23 the results of which will provide information used to make decisions and to
24 implement the plan while utilizing the principles of adaptive management.

25 (b) This section shall not be construed to exempt the project described in
26 subdivision (a) from any other law.

27 **Comment.** Section 63475 continues former Fish and Game Code Section 2081.11 without
28 substantive change.

29  **Note.** Proposed Section 63475 would continue Section 2081.11, which was added by 2018
30 Cal. Stat. ch. 586. Although that bill will not take effect until 2019, it is included here in
31 anticipation of its effect.

32 Article 6. Limestone Salamander

33 **§ 63500. Ferguson Slide Permanent Restoration Project**

34 63500. (a) Notwithstanding Section 52200, the department may authorize, under
35 this part, the incidental take of limestone salamander (*Hydromantes brunus*)
36 resulting from impacts attributable to the Department of Transportation’s
37 implementation of the Ferguson Slide Permanent Restoration Project on State
38 Route 140 from 8 miles east of Briceburg to 7.6 miles west of El Portal in
39 Mariposa County, contingent upon the fulfillment of the following conditions:

1 (1) The Department of Transportation begins construction of the Ferguson Slide
2 Permanent Restoration Project on or before January 1, 2016.

3 (2) The department has determined that the Department of Transportation will
4 adopt appropriate avoidance and mitigation measures to protect the limestone
5 salamander through enforceable commitments that, at a minimum, include the
6 following:

7 (A) A construction work window that prevents initial ground-disturbing
8 construction activities from occurring on the southern slope during the
9 salamander's active season of December to March, inclusive.

10 (B) Environmentally sensitive area fencing in the form of five-foot orange
11 plastic mesh, as well as salamander protection exclusionary fencing in the form of
12 24-inch sheet metal, will be erected if construction-related activities will occur
13 adjacent to limestone salamander habitat during their active season.

14 (C) A biological monitor will be onsite during active building to inspect the
15 worksite and all exclusionary fencing.

16 (D) All ground-disturbing activities within 100 feet will cease if a limestone
17 salamander is detected in an active construction site until the animal can be safely
18 removed from the area according to an agreed-upon salvage plan.

19 (3) The requirements of subdivisions (a) and (b) of Section 62700 are satisfied
20 for the take of the limestone salamander.

21 (4) The department ensures that all further measures necessary to satisfy the
22 conservation standard of subdivision (d) of Section 64515 are incorporated into
23 the project.

24 (5) The take authorization provides for the development and implementation, in
25 cooperation with the department, of an adaptive management process for
26 monitoring the effectiveness of, and adjusting as necessary, the measures to
27 minimize and fully mitigate the impacts of the authorized take. The adjusted
28 measures are subject to Section 62015.

29 (6) The failure to appropriate funds does not relieve the applicant of the
30 obligations of paragraphs (1) and (2).

31 (7) Any observations of the species in the worksite and any accidental injury or
32 mortality from vehicle strikes or other means will be reported to the department
33 immediately and the onsite biological monitor will notify the resident engineer
34 who will halt the work immediately.

35 (b) This section shall not be construed to exempt the Ferguson Slide Permanent
36 Restoration Project on State Route 140 from 8 miles east of Briceburg to 7.6 miles
37 west of El Portal in Mariposa County from any other law.

38 **Comment.** Section 63500 continues former Fish and Game Code Section 2081.9 without
39 substantive change.

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Article 7. Bluntnose Leopard Lizard

§ 63510. Allensworth Community Services District

63510. (a) The department may authorize, under this title, by permit, the take or possession of the blunt-nosed leopard lizard (*Gambelia sila*) resulting from impacts attributable to or otherwise related to the Allensworth Community Services District’s drilling and construction of a new water well, connection of the new water well to the existing distribution system, and construction of a new water storage tank, if both of the following conditions are met:

(1) The requirements of subdivisions (a) and (b) of Section 62700 are satisfied for the take of the blunt-nosed leopard lizard.

(2) The take authorization provides for the development and implementation of a monitoring program and an adaptive management plan, approved by the department, for monitoring the effectiveness of, and adjusting as necessary, the measures to minimize and fully mitigate the impacts of the authorized take.

(b) The permit issued pursuant to subdivision (a) shall cover any incidental take of a blunt-nosed leopard lizard that may occur in the course of implementing mitigation or conservation actions required in the permit.

(c) The permit conditions are subject to amendment when required by the monitoring program and adaptive management plan adopted pursuant to paragraph (2) of subdivision (a).

(d) This section shall not be construed to exempt the projects described in subdivision (a) from any other law.

Comment. Section 63510 continues former Fish and Game Code Section 2081.12 without substantive change.

Note. Proposed Section 63510 would continue Section 2018.12, which was added by 2018 Cal. Stat. ch. 22 as an urgency measure.

CHAPTER 5. EXPERIMENTAL POPULATIONS

§ 63550. Enhancement of survival permit

63550. (a) Notwithstanding any other provision of this chapter, if any person obtains from the Secretary of Commerce or the Secretary of the Interior an enhancement of survival permit pursuant to Section 1539(a)(1)(A) of Title 16 of the United States Code that authorizes the taking of an endangered species or a threatened species that is listed pursuant to Section 1533 of Title 16 of the United States Code and that is an endangered species, threatened species, or candidate species pursuant to this chapter in order to establish or maintain an experimental population, no further authorization or approval is necessary under this chapter for that person to take that endangered species, threatened species, or candidate species identified in, and in accordance with, the enhancement of survival permit, if all of the following requirements are met:

1 (1) That person shall notify the director in writing that the person has received
2 an enhancement of survival permit and include in the notification a copy of the
3 permit.

4 (2) Upon receipt of the notice specified in paragraph (1), the director shall
5 immediately have the notice published in the General Public Interest section of the
6 California Regulatory Notice Register.

7 (3) Within 30 days after the director has received the notice specified in
8 paragraph (1), the director determines the enhancement of survival permit will
9 further the conservation of the species. As used in this paragraph, “conservation”
10 has the same meaning as defined in Section 2061.

11 (4) The director shall immediately have the determination pursuant to paragraph
12 (3) published in the General Public Interest section of the California Regulatory
13 Notice Register.

14 (b) The timing and extent of a take authorization under this section shall be
15 limited to the terms in the federal enhancement of survival permit and shall expire
16 upon the expiration of the federal permit.

17 (c) (1) This section shall remain in effect only until the effective date of an
18 amendment to Section 1539 of Title 16 of the United States Code that alters the
19 requirements for issuing an enhancement of survival permit, as applicable, and as
20 of that date is repealed.

21 (2) If the director becomes aware that this section has been repealed pursuant to
22 this subdivision, the director shall notify the Legislature of that fact pursuant to
23 Section 9795 of the Government Code.

24 **Comment.** Section 63550 continues former Fish and Game Code Section 2080.5 without
25 substantive change.

26 **§ 63555. Experimental population**

27 63555. (a) For purposes of this chapter, “experimental population” means any
28 population nonessential to the continued existence of an endangered, threatened,
29 or candidate species, including any eggs, propagules, individuals, or offspring
30 arising solely therefrom, that the Secretary of the Interior or the Secretary of
31 Commerce designates as an experimental population pursuant to Section 1539(j)
32 of Title 16 of the United States Code.

33 (b) If a population of a species is an experimental population, no further
34 authorization or approval is necessary under this chapter for any person to
35 incidentally take members of that experimental population, if all of the following
36 requirements are met:

37 (1) The Secretary of the Interior or the Secretary of Commerce has published
38 regulations in the Federal Register for the designated experimental population as
39 required by Section 1539(j) of Title 16 of the United States Code.

40 (2) The director has determined, in writing, that the regulations specified in
41 paragraph (1) meet the requirements in subdivision (c).

1 (3) The action or activity that results in incidental take of the designated
2 experimental population is authorized by the regulations published in the Federal
3 Register.

4 (c) The director shall issue the determination described in paragraph (2) of
5 subdivision (b), if the director finds that the federal regulations described in
6 paragraph (1) of subdivision (b) meet all of the following criteria:

7 (1) The federal regulations will further the conservation of the species. As used
8 in this paragraph, “conservation” has the same meaning as defined in Section
9 2061.

10 (2) The federal regulations contain measures to avoid and minimize the impacts
11 of any taking allowed by the regulation.

12 (3) The federal regulations will not jeopardize the continued existence or
13 recovery of the species.

14 (d) If the director determines that the federal regulations described in paragraph
15 (1) of subdivision (b) are not consistent with this chapter, or if the action or
16 activity that results in incidental take is not authorized in those federal regulations,
17 the incidental take of members of the designated experimental population may
18 only be authorized pursuant to the other provisions of this chapter.

19 (e) The director shall publish the determination, pursuant to paragraph (2) of
20 subdivision (b), and subdivision (d), in the General Public Interest section of the
21 California Regulatory Notice Register.

22 **Comment.** Section 63555 continues former Fish and Game Code Section 2080.6 without
23 substantive change.

24 § 63560. Public outreach

25 63560. It is the intent of the Legislature that, before the introduction of an
26 experimental population, as defined in Section 2080.6, onto land or into waters of
27 this state, the department should undertake appropriate public outreach, including
28 public meetings, in an effort to inform the public about the proposed introduction
29 of the experimental population and its potential effects, if any, on ongoing human
30 activities. To the extent practicable, this public outreach should include inviting
31 other public boards, departments, or agencies that may have a regulatory or other
32 role regarding the experimental population to collaborate with the department.
33 Nothing in this section shall be construed to modify any other law or legal
34 obligation.

35 **Comment.** Section 63560 continues former Fish and Game Code Section 2080.7 without
36 substantive change.

37 CHAPTER 6. PERMIT APPLICATION FEE

38 § 63600. Definitions

39 63600. For purposes of this chapter, the following terms have the following
40 meanings:

1 (a) “Permit” means any authorization issued by the department pursuant to this
2 title to take a species listed by this part as candidate, threatened, or endangered.
3 The term includes a consistency determination pursuant to Section 62705 and a
4 concurrence determination pursuant to Section 63355 or 63360.

5 (b) “Permit application” means an application for a permit, an amendment to a
6 permit, or a renewal of a permit. The term includes a consistency determination
7 request pursuant to Section 62705 and a concurrence determination request
8 pursuant to Section 63355 or 63360.

9 (c) “Permittee” includes any individual, firm, association, organization,
10 partnership, business, trust, corporation, limited liability company, district, city,
11 county, city and county, town, federal agency, and the state who applies for or
12 who has received a permit pursuant to this title.

13 (d) “Project” has the same meaning as defined in Section 21065 of the Public
14 Resources Code.

15 (e) “Project cost” means the total direct and indirect project expenses that
16 include, but are not limited to, labor, equipment, permanent materials and supplies,
17 subcontracts, overhead, and miscellaneous costs. The term shall not include permit
18 or license expenses or mitigation costs. For purposes of this paragraph, the term
19 “permit” includes, but is not limited to, a permit as defined in subdivision (a).

20 (f) “Voluntary habitat restoration project” means a project that meets both of the
21 following requirements:

22 (1) The project’s primary purpose is voluntary habitat restoration and the project
23 may have other environmental benefits, and the project is not required as
24 mitigation due to a regulatory action.

25 (2) The project is not part of a regulatory settlement, a regulatory enforcement
26 action, or a court order.

27 **Comment.** Section 63600 continues former Fish and Game Code Section 2081.2(a) without
28 substantive change.

29  **Note.** Proposed Section 63600 would continue Section 2081.2(a), which was amended by
30 2018 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
31 anticipation of its effect.

32 **§ 63605. Collection and use of fee**

33 63605. (a) The department shall collect a permit application fee for processing a
34 permit application submitted pursuant to this title at the time the permit application
35 is submitted to the department.

36 (b) Notwithstanding Section 64100, upon appropriation to the department from
37 the Endangered Species Permitting Account, the department shall use the permit
38 application fee to pay for all or a portion of the department’s cost of processing
39 permit applications, permit development, and compliance monitoring pursuant to
40 this title.

41 (c) This section does not apply to any of the following:

1 (1) Activities or costs associated with the review of projects, inspection and
2 oversight of projects, and permits necessary to conduct timber operations, as
3 defined in Section 4527 of the Public Resources Code, in accordance with Article
4 9.5 (commencing with Section 4629) of Chapter 8 of Part 2 of Division 4 of the
5 Public Resources Code.

6 (2) Permits or memoranda of understanding authorized by Section 62650.

7 (3) Permits for voluntary habitat restoration projects.

8 **Comment.** Section 63605 continues former Fish and Game Code Section 2081.2(b) without
9 substantive change.

10 **§ 63610. Timing**

11 63610. (a) For a permit application submitted to the department pursuant to this
12 title on or after September 13, 2016, the department shall collect the permit
13 application fee at the time the permit application is submitted. The department
14 shall not deem the permit application complete until it has collected the permit
15 application fee. A permit application submitted or deemed complete before
16 September 13, 2016, shall not be subject to fees established pursuant to this article.

17 (b) If a permit application is withdrawn within 30 days after paying the permit
18 application fee, the department shall refund any unused portion of the fee to the
19 permittee.

20 (c) If a permit application is withdrawn after 30 days of paying the permit
21 application fee, the department shall not refund any portion of the fee to the
22 permittee.

23 **Comment.** Section 63610 continues former Fish and Game Code Section 2081.2(e) without
24 substantive change.

25 **Notes.** (1) Existing Section 2081.2(e)(1) twice refers to “the effective date of this section.”
26 According to the Legislative Counsel’s website, the section became effective on September 13,
27 2016. Proposed Section 63610 replaces the references to the effective date of the section with that
28 date. **The Commission invites comment on whether that change would cause any problems.**
29 (2) Proposed Section 63610 would continue Section 2081.2(e), which was amended by 2018
30 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
31 anticipation of its effect.

32 **§ 63615. Fee amounts**

33 63615. The department shall assess the permit application fee as follows, subject
34 to Sections 63620, 63630, and 63640:

35 (a) For a project, regardless of estimated project cost, that is subject only to
36 Section 62705, 63355, or 63360, the department shall assess either of the
37 following amounts:

38 (1) Seven thousand five hundred dollars (\$7,500).

39 (2) Six thousand dollars (\$6,000), if the project uses a department-approved
40 conservation or mitigation bank to fulfill mitigation obligations pursuant to this
41 title.

1 (b) For a project where the estimated project cost is less than one hundred
2 thousand dollars (\$100,000), the department shall assess either of the following
3 amounts:

4 (1) Seven thousand five hundred dollars (\$7,500).

5 (2) Six thousand dollars (\$6,000), if the project uses a department-approved
6 conservation or mitigation bank to fulfill mitigation obligations pursuant to this
7 title.

8 (c) For a project where the estimated project cost is one hundred thousand
9 dollars (\$100,000) or more but less than five hundred thousand dollars (\$500,000),
10 the department shall assess either of the following amounts:

11 (1) Fifteen thousand dollars (\$15,000).

12 (2) Twelve thousand dollars (\$12,000), if the project uses a department-
13 approved conservation or mitigation bank to fulfill mitigation obligations pursuant
14 to this title.

15 (d) For a project where the estimated project cost is five hundred thousand
16 dollars (\$500,000) or more, the department shall assess either of the following
17 amounts:

18 (1) Thirty thousand dollars (\$30,000).

19 (2) Twenty-four thousand dollars (\$24,000), if the project uses a department-
20 approved conservation or mitigation bank to fulfill mitigation obligations pursuant
21 to this title.

22 (e) The department shall collect a fee of seven thousand five hundred dollars
23 (\$7,500) for processing permit amendments that the department has determined
24 are minor as defined in regulation or fifteen thousand dollars (\$15,000) for
25 processing permit amendments that the department has determined are major as
26 defined in regulation.

27 **Comment.** Section 63615 continues former Fish and Game Code Section 2081.2(c) without
28 substantive change.

29 **§ 63620. Adjustment of fee amount**

30 63620. The department shall adjust the fees in this article pursuant to Section
31 3755.

32 **Comment.** Section 63620 continues former Fish and Game Code Section 2081.2(f)(1) without
33 substantive change.

34 **§ 63625. Additional fee to cover costs**

35 63625. (a) If the permit application fee paid pursuant to Section 63615 is
36 determined by the department to be insufficient to complete permitting work due
37 to the complexity of a project or the potential effects of a project, the department
38 shall collect an additional fee of up to ten thousand dollars (\$10,000) from the
39 permittee to pay for its estimated costs. Upon its determination, the department
40 shall notify the permittee of the reasons why an additional fee is necessary and the
41 estimated amount of the additional fee.

1 (b) The additional fee collected pursuant to subdivision (a) shall not exceed an
2 amount that, when added to the fee paid pursuant to Section 63615, equals thirty-
3 five thousand dollars (\$35,000). The department shall collect the additional fee
4 before a final decision on the application by the department.

5 **Comment.** Section 63625 continues former Fish and Game Code Section 2081.2(d) without
6 substantive change.

7 **Note.** Proposed Section 63625 would continue Section 2081.2(d), which was amended by
8 2018 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
9 anticipation of its effect.

10 **§ 63630. Periodic review of fee amount**

11 63630. The department, at least every five years, shall analyze permit
12 application fees pursuant to Section 3755 to ensure the appropriate fee amounts
13 are charged.

14 **Comment.** Section 63630 continues former Fish and Game Code Section 2081.2(f)(3) without
15 substantive change.

16 **Note.** Proposed Section 63630 would continue Section 2081.2(f)(3), which was amended by
17 2018 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
18 anticipation of its effect.

19 **§ 63635. Endangered Species Permitting Account**

20 63635. Fees paid to the department pursuant to this article shall be deposited in
21 the Endangered Species Permitting Account, which is hereby established in the
22 Fish and Game Preservation Fund. Notwithstanding Section 64100, funds in the
23 account shall be available to the department, upon appropriation by the
24 Legislature, for the purposes of administering and implementing this part, except
25 that fee moneys collected pursuant to this article shall only be used for the
26 purposes of this title.

27 **Comment.** Section 63635 continues former Fish and Game Code Section 2081.2(g) without
28 substantive change.

29 **§ 63640. Article XIII B of the California Constitution**

30 63640. The Legislature finds that all revenues generated under this article and
31 used for the purposes for which they were imposed are not subject to Article XIII
32 B of the California Constitution.

33 **Comment.** Section 63640 continues former Fish and Game Code Section 2081.2(f)(2) without
34 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 CHAPTER 2. VOLUNTARY PROGRAM

30 § 63750. Authorization of voluntary programs

31 63750. (a) The department, in cooperation with the Department of Food and
32 Agriculture, agricultural commissioners, extension agents, farmers, ranchers, and
33 other agricultural experts, shall adopt regulations that authorize locally designed
34 voluntary programs for routine and ongoing agricultural activities on farms or
35 ranches that encourage habitat for candidate, threatened, and endangered species,
36 and wildlife generally.

1 (b) Agricultural commissioners, extension agents, farmers, ranchers, or other
2 agricultural experts, in cooperation with conservation groups, may propose those
3 programs to the department.

4 (c) The department shall propose regulations for those programs not later than
5 July 1, 1998.

6 **Comment.** Section 63750 continues former Fish and Game Code Section 2086(a) without
7 substantive change.

8 **Note.** The Commission invites comment on whether proposed Section 63750(c) can be
9 omitted as obsolete.

10 **§ 63755. Program requirements**

11 63755. Programs authorized under Section 63750 shall do all of the following:

12 (a) Include management practices that will, to the maximum extent practicable,
13 avoid and minimize take of candidate, endangered, and threatened species, while
14 encouraging the enhancement of habitat.

15 (b) Be supported by the best available scientific information for both agricultural
16 and conservation practices.

17 (c) Be consistent with the policies and goals of this part.

18 (d) Be designed to provide sufficient flexibility to maximize participation and to
19 gain the maximum wildlife benefits without compromising the economics of
20 agricultural operations.

21 (e) Include terms and conditions to allow farmers or ranchers to cease
22 participation in a program without penalty. The terms and conditions shall include
23 reasonable measures to minimize take during withdrawal from the program.

24 **Comment.** Section 63755 continues former Fish and Game Code Section 2086(b) without
25 substantive change.

26 **§ 63760. Take occurring while management practices followed**

27 63760. Any taking of candidate, threatened, or endangered species incidental to
28 routine and ongoing agricultural activities that occurs while the management
29 practices specified by subdivision (a) of Section 63755 are followed, is not
30 prohibited by this part.

31 **Comment.** Section 63760 continues former Fish and Game Code Section 2086(c) without
32 substantive change.

33 **§ 63765. Renewal of programs**

34 63765. The department shall automatically renew the authorization for these
35 voluntary programs every five years, unless the Legislature amends or repeals this
36 chapter in which case the program shall be revised to conform to this chapter.

37 **Comment.** Section 63765 continues former Fish and Game Code Section 2086(d)(1) without
38 substantive change.

1 **§ 63770. Report on program effects**

2 63770. (a) Commencing in 2000, and every five years thereafter, the department
3 shall post a report regarding the effect of the programs on its Internet Web site.
4 The department shall consult with the Department of Food and Agriculture in
5 evaluating the programs and preparing the report.

6 (b) The report shall address factors such as the temporary and permanent
7 acreage benefiting from the programs, include an estimate of the amount of land
8 upon which routine and ongoing agricultural activities are conducted, provide
9 examples of farmer and rancher cooperation, and include recommendations to
10 improve the voluntary participation by farmers and ranchers.

11 **Comment.** Section 63770 continues former Fish and Game Code Section 2086(d)(2) without
12 substantive change.

13 **§ 63775. Nonrenewal or modification of program**

14 63775. If the authorization for these programs is not renewed or is modified
15 under Section 63765, persons participating in the program shall be allowed to
16 cease participating in the program in accordance with the terms and conditions
17 specified in subdivision (e) of Section 63755, without penalty.

18 **Comment.** Section 63775 continues former Fish and Game Code Section 2086(e) without
19 substantive change.

20 **§ 63780. Educational outreach by nonprofit entity**

21 63780. (a) The department may approve an application submitted by an
22 agricultural-based nonprofit organization or other entity registered as a California
23 nonprofit organization to initiate and undertake public education and outreach
24 activities that promote the achievement of the objectives of this part.

25 (b) An application submitted pursuant to this section shall include the following:

26 (1) The name and contact information of the participating organization.

27 (2) A brief description of the planned outreach activities.

28 (3) An end date for the outreach activities.

29 (c) The department may require a participating organization to submit, for
30 approval by the department, educational materials and outreach materials that are
31 disseminated to the public in furtherance of this section.

32 (d) A participating organization shall file an annual report with the department
33 before the end of each calendar year during the time period specified in the
34 application. The report shall include, but is not limited to, the following:

35 (1) Complete information on the activities conducted by the participating
36 organization in the prior year, including a description of all means of
37 communicating to the public and agricultural community, including personal
38 visits, electronic communications, organized meetings, or other means.

39 (2) A compilation of responses from the public and members of the agricultural
40 community that will assist the participating organization and the department to
41 modify or improve public education and outreach activities on an ongoing basis.

1 (3) An assessment of the existing knowledge within the agricultural community
2 of programs and prohibitions under this part and a review of outreach activities
3 that could be used to adapt and improve future outreach efforts.

4 (4) Information on a farm or ranch that has expressed interest in participating in
5 a voluntary program pursuant to this chapter or the safe harbor agreement program
6 contained in Title 5 (commencing with Section 63900). This provision does not
7 require the annual report to include the identification to the department of an
8 individual, farm, or ranch.

9 **Comment.** Section 63780 continues former Fish and Game Code Section 2086(f) without
10 substantive change.

11 TITLE 5. CALIFORNIA STATE SAFE HARBOR
12 AGREEMENT PROGRAM ACT

13 CHAPTER 1. GENERAL PROVISIONS

14 § 63900. Short title

15 63900. This title shall be known and may be cited as the California State Safe
16 Harbor Agreement Program Act.

17 **Comment.** Section 63900 continues former Fish and Game Code Section 2089.2(a) without
18 substantive change.

19 § 63905. Findings

20 63905. The Legislature finds that a key to the goals set forth in this title of
21 conserving, protecting, restoring, and enhancing endangered, threatened, and
22 candidate species, is their habitat. A significant portion of the state’s current and
23 potential habitat for these species exists on property owned by private citizens,
24 municipalities, tribes, and other nonfederal entities. Conservation efforts on these
25 lands and waters are critical to help these declining species. Using a collaborative
26 stewardship approach to these lands and waters will help ensure the success of
27 these efforts.

28 **Comment.** Section 63905 continues former Fish and Game Code Section 2089.2(b) without
29 substantive change.

30 § 63910. Definitions

31 63910. As used in this title, the following definitions apply:

32 (a) “Agreement” means a state safe harbor agreement approved by the
33 department pursuant to this title. “Agreement” includes an agreement with an
34 individual landowner and a programmatic agreement.

35 (b) “Baseline conditions” means the existing estimated population size, the
36 extent and quality of habitat, or both population size and the extent and quality of
37 habitat, for the species on the land to be enrolled in the agreement that sustain
38 seasonal or permanent use by the covered species. Baseline conditions shall be

1 determined by the department, in consultation with the applicant, and shall be
2 based on the best available science and objective scientific methodologies. For
3 purposes of establishing baseline conditions, a qualified person that is not
4 employed by the department may conduct habitat surveys, if that person has
5 appropriate species expertise and has been approved by the department.

6 (c) “Declining or vulnerable species” include candidate species, species
7 proposed for listing as an endangered or threatened species pursuant to this
8 chapter, or species that the department determines may, in the near future, be
9 candidate species or proposed for listing as an endangered or threatened species
10 pursuant to this part.

11 (d) “Department” means the Department of Fish and Wildlife, acting through its
12 director or his or her designee.

13 (e) “Landowner” means any person or nonstate or federal entity or entities that
14 lawfully hold any interest in land or water to which they are committing to
15 implement the requirements of this title.

16 (f) “Management actions” means activities on the enrolled land or water that are
17 reasonably expected by the department to provide a net benefit to the species or
18 their habitat, or both.

19 (g) “Monitoring program” means a program established or approved by the
20 department in accordance with paragraph (6) of subdivision (a) of Section 63950.

21 (h) “Net conservation benefit” means the cumulative benefits of the
22 management activities identified in the agreement that provide for an increase in a
23 species’ population or the enhancement, restoration, or maintenance of covered
24 species’ suitable habitats within the enrolled property. Net conservation benefit
25 shall take into account the length of the agreement, any offsetting adverse effects
26 attributable to the incidental taking allowed by the agreement, and other mutually
27 agreed upon factors. Net conservation benefits shall be sufficient to contribute
28 either directly or indirectly to the recovery of the covered species. These benefits
29 include, but are not limited to, reducing fragmentation and increasing the
30 connectivity of habitats, maintaining or increasing populations, enhancing and
31 restoring habitats, and buffering protected areas.

32 (i) “Programmatic agreement” means a state safe harbor agreement issued to a
33 governmental or nongovernmental program administrator. The program
34 administrator for a programmatic agreement shall work with landowners and the
35 department to implement the agreement. The program administrator and the
36 department shall be responsible for ensuring compliance with the terms of the
37 agreement.

38 (j) “Qualified person” means a person with species expertise who has been
39 approved by the department.

40 (k) “Return to baseline” means, at the termination of an agreement, activities
41 undertaken by the landowner to return the species population or extent or quality
42 of habitat to baseline, excluding catastrophic events such as floods, unplanned

1 fires, or earthquakes, and other factors mutually agreed upon prior to permit
2 issuance and that are beyond the control of the landowner.

3 **Comment.** Section 63910 continues former Fish and Game Code Section 2089.4 without
4 substantive change.

5 **Note.** Proposed Section 63910 would continue Section 2089.4, which was amended by 2018
6 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
7 anticipation of its effect.

8 **§ 63915. Purpose and effect**

9 63915. (a) The purpose of this title is to establish a program that will encourage
10 landowners to manage their lands voluntarily to benefit endangered, threatened, or
11 candidate species, or declining or vulnerable species, and not be subject to
12 additional regulatory restrictions as a result of their conservation efforts.

13 (b) This title does not relieve landowners of any legal obligation with respect to
14 endangered, threatened, or candidate species existing on their land. The program
15 established by this title is designed to increase species populations, create new
16 habitats, and enhance existing habitats. Although this increase may be temporary
17 or long term, California state safe harbor agreements shall not reduce the existing
18 populations of species present at the time the baseline is established by the
19 department.

20 **Comment.** Section 63915 continues former Fish and Game Code Section 2089.2(c)-(d)
21 without substantive change.

22 **Note.** Proposed Section 63915 would continue Section 2089.2(c)-(d), which was amended by
23 2018 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
24 anticipation of its effect.

25 **§ 63920. Regulations**

26 63920. The department may promulgate regulations to implement this title.

27 **Comment.** Section 63920 continues former Fish and Game Code Section 2089.25 without
28 substantive change.

29 **§ 63925. List of qualified persons and program administrators**

30 63925. The department, for informational purposes, shall maintain a list of
31 qualified persons who have worked with the department on an approved
32 agreement, and persons, entities, and organizations serving as program
33 administrators for approved agreements.

34 **Comment.** Section 63925 continues former Fish and Game Code Section 2089.24 without
35 substantive change.

36 **§ 63930. Federal safe harbor agreement**

37 63930. (a) If a federal safe harbor agreement, or a federal candidate conservation
38 agreement with assurances, has been approved pursuant to applicable provisions
39 of federal law and the federal agreement contains species that are endangered,
40 threatened, candidate, or declining or vulnerable species pursuant to this chapter,

1 no further authorization or approval is necessary under this article for any person
2 authorized by that federal agreement to take the species identified in and in
3 accordance with the federal agreement, if that person and the department follow
4 all of the procedures specified in Section 62705, except that the determination of
5 consistency shall be made by the department based only on the issuance criteria
6 contained in this title.

7 (b) Any authority pursuant to subdivision (a) to take species identified in a
8 federal agreement shall terminate immediately upon the expiration or termination
9 of the federal agreement.

10 **Comment.** Section 63930 continues former Fish and Game Code Section 2089.22 without
11 substantive change.

12 **Note.** Proposed Section 63930 would continue Section 2089.22, which was amended by 2018
13 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
14 anticipation of its effect.

15 **§ 63935. Sunset date**

16 63935. This title shall remain in effect only until January 1, 2020, and as of that
17 date is repealed, unless a later enacted statute, that is enacted before January 1,
18 2020, deletes or extends that date.

19 **Comment.** Section 63935 continues former Fish and Game Code Section 2089.26 without
20 substantive change.

21 **CHAPTER 2. SAFE HARBOR AGREEMENT**

22 **Article 1. Permissible take**

23 **§ 63950. Department authorization of otherwise prohibited take**

24 63950. (a) In addition to the other provisions of this title, the department may
25 authorize acts that are or may become otherwise prohibited pursuant to Section
26 8000, 62600, or 62605 through an agreement, including a programmatic
27 agreement, if all the following conditions are met:

28 (1) The department receives a complete application containing all of the
29 information described in Section 64000.

30 (2) The take is incidental to an otherwise lawful activity.

31 (3) The department finds that the implementation of the agreement is reasonably
32 expected to provide a net conservation benefit to the species listed in the
33 application. This finding shall be based, at a minimum, upon the determination
34 that the agreement is of sufficient duration and has appropriate assurances to
35 realize these benefits.

36 (4) The take authorized by the agreement will not jeopardize the continued
37 existence of the species. This determination shall be made based on the provisions
38 of subdivision (b) of Section 62700.

1 (5) The department finds that the landowner has agreed, to the maximum extent
2 practicable, to avoid or minimize any incidental take authorized in the agreement,
3 including returning to baseline.

4 (6) The department has established or approved a monitoring program, based
5 upon objective scientific methodologies, to provide information for the department
6 to evaluate the effectiveness and efficiency of the agreement program, including
7 whether the net conservation benefits set forth in the agreement are being achieved
8 and whether the participating landowner is implementing the provisions of the
9 agreement.

10 (7) The department has determined that sufficient funding is ensured, for it or its
11 contractors or agents, to determine baseline conditions on the property, and that
12 there is sufficient funding for the landowner to carry out management actions and
13 for monitoring for the duration of the agreement.

14 (8) Implementation of the agreement will not be in conflict with any existing
15 department-approved conservation or recovery programs for the species covered
16 by the agreement.

17 (b) If the species covered by an agreement is a declining or vulnerable species,
18 and the species is subsequently listed as an endangered, threatened, or candidate
19 species pursuant to this chapter, no further authorization or approval shall be
20 required for take of the species in accordance with the agreement, regardless of the
21 species' change in status.

22 **Comment.** Section 63950 continues former Fish and Game Code Section 2089.6 without
23 substantive change.

24 **Note.** Proposed Section 63950 would continue Section 2089.6, which was amended by 2018
25 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
26 anticipation of its effect.

27 **§ 63955. Owens pupfish**

28 63955. The department may authorize the taking of the Owens pupfish in the
29 Owens River watershed if the take is authorized under an agreement pursuant to
30 this title.

31 **Comment.** Section 63955 continues former Fish and Game Code Section 2089.7 without
32 substantive change.

33 **Article 2. Agreement**

34 **§ 64000. Information to be submitted by landowner**

35 64000. The landowner shall submit all of the following:

36 (a) A detailed map depicting the land proposed to be enrolled in the agreement.

37 (b) The common and scientific names of the species for which the landowner
38 requests incidental take authorization.

1 (c) A detailed description of the landowner’s current land and water use and
2 management practices that affect the covered species, and the habitat of the
3 covered species, for which the landowner requests incidental take authorization.

4 (d) A detailed description of the landowner’s future land and water use and
5 management practices that may affect the covered species, and the habitat of the
6 covered species, for which the landowner requests incidental take authorization.
7 This description shall be used only for informational and planning purposes.

8 (e) The proposed duration of the agreement that is sufficient to provide a net
9 conservation benefit to the species covered in the permit and an explanation of the
10 basis for this conclusion.

11 (f) A detailed description of the proposed management actions and the
12 timeframe for implementing them.

13 (g) A description of the possible incidental take that may be caused by the
14 management actions and of the anticipated species populations and habitat
15 changes over the duration of the permit.

16 (h) A detailed description of the proposed monitoring program.

17 (i) Any other information that the department may reasonably require in order to
18 evaluate the application.

19 **Comment.** Section 64000 continues former Fish and Game Code Section 2089.8 without
20 substantive change.

21 **§ 64005. Treatment of proprietary information**

22 64005. (a) As used in this section, “proprietary information” means information
23 that is all of the following:

24 (1) Related to an agricultural operation or land that is a part of an agricultural
25 operation.

26 (2) A trade secret, or commercial or financial information, that is privileged or
27 confidential, and is identified as such by the person providing the information to
28 the department.

29 (3) Not required to be disclosed under any other provision of law or any
30 regulation affecting the land or the agricultural operation on the land.

31 (b) Proprietary information received by the department pursuant to Section
32 64000 is not public information, and the department shall not release or disclose
33 the proprietary information to any person, including any federal, state, or local
34 governmental agency, outside of the department.

35 (c) Notwithstanding subdivision (b), the department may release or disclose
36 proprietary information received pursuant to Section 64000 to the following
37 entities under the following circumstances:

38 (1) Any person or federal, state, or local governmental agency, to enforce this
39 title.

40 (2) Any person or federal, state, or local governmental agency working in
41 cooperation with the department to provide technical or financial assistance for the
42 purposes of implementing the program established by this title.

1 (3) Any entity, to the extent that the owner, operator, or producer has consented
2 to the release or disclosure.

3 (4) The general public, if the information has been transformed into a statistical
4 or aggregate form without identifying any individual owner, operator, or producer,
5 or the specific location from which the information was gathered.

6 **Comment.** Section 64005 continues former Fish and Game Code Section 2089.9 without
7 substantive change.

8 **§ 64010. Department access to land or water proposed for enrollment**

9 64010. (a) Neither this section nor Section 64045 provide the public a right of
10 entry onto the enrolled land or water. The landowner shall provide the department,
11 its contractors, or agents with access to the land or water proposed to be enrolled
12 in the agreement to develop the agreement, determine the baseline conditions,
13 monitor the effectiveness of management actions, or safely remove or salvage
14 species proposed to be taken.

15 (b) The department shall provide notice to the landowner at least seven days
16 before accessing the land or water for the purposes of subdivision (a). The notice
17 shall identify each person selected by the department, its contractors, or agents to
18 access the land or water.

19 (c) Notwithstanding subdivision (a), during the seven-day notice period, a
20 landowner may object, in writing, to a person selected to access the land or water.
21 If a landowner objects, another person shall be selected by the department, its
22 contractors, or agents, and notification shall be provided to the landowner pursuant
23 to subdivision (b). However, if a landowner objects to a selection on two
24 successive occasions, the landowner shall be deemed to consent to access to the
25 land or water by a person selected by the department, its contractors, or agents.
26 Failure by a landowner to object to the selection within the seven-day notice
27 period shall be deemed consent to access the land or water by a person selected by
28 the department, its contractors, or agents.

29 **Comment.** Section 64010 continues former Fish and Game Code Section 2089.20(a)-(c)
30 without substantive change.

31 **§ 64015. Alteration or modification of enrolled property**

32 64015. If an agreement has been approved and the department finds that the
33 agreement is being properly implemented, the department shall allow the
34 landowner to alter or modify the enrolled property, even if that alteration or
35 modification will result in the incidental take of a listed species, to the extent that
36 the alteration or modification returns the species to baseline conditions.

37 **Comment.** Section 64015 continues former Fish and Game Code Section 2089.10 without
38 substantive change.

1 **§ 64020. Advance notice of specified matters**

2 64020. Unless the department determines that it is inappropriate to do so based
3 on the nature of the management actions being proposed, the species listed in the
4 permit, or other factors, the agreement shall require that the landowner provide the
5 department with at least 60 days' advance notice of any of the following:

- 6 (a) Any incidental take that is anticipated to occur under the agreement.
- 7 (b) The landowner's plan to return to baseline at the end of the agreement.
- 8 (c) Any plan to transfer or alienate the landowner's interest in the land or water.

9 **Comment.** Section 64020 continues former Fish and Game Code Section 2089.12(a) without
10 substantive change.

11 **§ 64025. Department access to land after receiving notice**

12 64025. (a) If the department receives any notice described in Section 64020, the
13 landowner shall provide the department, its contractors, or agents with access to
14 the land or water for purposes of safely removing or salvaging the species.

15 (b) The department shall provide notice to the landowner at least seven days
16 prior to accessing the land or water for the purposes of subdivision (a). The notice
17 shall identify each person selected by the department, its contractors, or agents to
18 access the land or water.

19 (c) Notwithstanding subdivision (a), during the seven-day notice period, a
20 landowner may object, in writing, to a person selected to access the land or water.
21 If a landowner objects, another person shall be selected by the department, its
22 contractors, or agents, and notification shall be provided to the landowner pursuant
23 to subdivision (b). However, if a landowner objects to a selection on two
24 successive occasions, the landowner shall be deemed to consent to access to the
25 land or water by a person selected by the department, its contractors, or agents.
26 Failure by a landowner to object to the selection within the seven-day notice
27 period shall be deemed consent to access the land or water by a person selected by
28 the department, its contractors, or agents.

29 (d) If the landowner objects to a person selected to access the land or water
30 pursuant to subdivision (c), the 60-day notice period described in Section 64020
31 shall be tolled for the period between the landowner's objection to a person
32 selected for access to the land or water and the landowner's consent to a person
33 selected for access to the land or water.

34 **Comment.** Section 64025 continues former Fish and Game Code Section 2089.12(b) without
35 substantive change.

36 **§ 64030. Conveyance of enrolled land or water**

37 64030. If a landowner seeks to sell, transfer, or otherwise alienate the land or
38 water enrolled in the agreement during the term of the agreement, the person or
39 entity assuming that interest in the property shall (a) assume the existing
40 landowner's duties under the agreement, (b) enter into a new agreement with the

1 department, or (c) withdraw from an existing agreement under the terms provided
2 in the agreement, as approved by the department.

3 **Comment.** Section 64030 continues former Fish and Game Code Section 2089.16 without
4 substantive change.

5 **§ 64035. Agreement amendment**

6 64035. An agreement may be amended with the mutual consent of the
7 landowner and the department.

8 **Comment.** Section 64035 continues former Fish and Game Code Section 2089.14 without
9 substantive change.

10 **§ 64040. Suspension or revocation of agreement**

11 64040. The suspension and revocation of the agreement shall be governed by
12 suspension and revocation regulations adopted by the department.

13 **Comment.** Section 64040 continues former Fish and Game Code Section 2089.18 without
14 substantive change.

15 **§ 64045. Liability**

16 64045. (a) Nothing in this section or Section 64010 creates a duty of care or a
17 ground of liability for injury to person or property.

18 (b) Notwithstanding any other law, the landowner is not required to do either of
19 the following:

20 (1) Maintain enrolled land or water, or land or water proposed to be enrolled in
21 an agreement, in a condition that is safe for access, entry, or use by the
22 department, its contractors, or agents for purposes of providing access pursuant to
23 subdivision (a) of Section 64010.

24 (2) Provide to the department, its contractors, or agents, any warning of a
25 hazardous condition, use, structure, or activity on enrolled land or water, or land or
26 water proposed to be enrolled in an agreement, for purposes of providing access
27 pursuant to subdivision (a) of Section 64010.

28 (c) Notwithstanding any other law, the landowner shall not be liable for any
29 injury, and does not owe a duty of care, to the department, its contractors, or
30 agents resulting from any act or omission described in paragraph (1) or (2) of
31 subdivision (b).

32 (d) The provision of access to land pursuant to subdivision (a) of Section 64010
33 shall not be construed as any of the following:

34 (1) An assurance that the land or water is safe.

35 (2) A grant to the person accessing the land or water of a legal status for which
36 the landowner would owe a duty of care.

37 (3) An assumption of responsibility or liability for any injury to a person or
38 property caused by any act of the person to whom access to the land or water is
39 provided.

1 (e) Notwithstanding subdivisions (b), (c), and (d), this section shall not be
2 construed to limit a landowner's liability for an injury under either of the
3 following circumstances:

4 (1) Willful or malicious failure to guard or warn against a dangerous condition,
5 use, structure, or activity on the land or water.

6 (2) Express invitation to a person by the landowner to access the land or water,
7 in a manner that is beyond the access required to be provided pursuant to
8 subdivision (a) of Section 64010.

9 **Comment.** Section 64045 continues former Fish and Game Code Section 2089.20(d)-(e)
10 without substantive change.

11 **§ 64050. Neighboring landowner**

12 64050. (a) A landowner that owns land that abuts a property enrolled in a state
13 safe harbor agreement shall not be required, for purposes of an incidental take
14 permit, to undertake the management activities set forth in the state safe harbor
15 agreement, if all of the following conditions are met:

16 (1) The neighboring landowner allows the department to determine baseline
17 conditions on the property.

18 (2) The neighboring landowner agrees to maintain the baseline conditions for
19 the duration specified in the safe harbor agreement.

20 (3) The department determines that allowing the neighboring landowner to
21 receive an incidental take permit for the abutting property does not undermine the
22 net conservation benefit determination made by the department in the approval of
23 the safe harbor agreement.

24 (4) The take authorized by the department will not jeopardize the continued
25 existence of the species. This determination shall be made in accordance with
26 subdivision (b) of Section 62700.

27 (b) Unless the department determines that it is inappropriate to do so based on
28 the species listed in the permit, or any other factors, the neighboring landowner
29 shall provide the department with at least 60 days' advance notice of any of the
30 following:

31 (1) Any incidental take that is anticipated to occur under the permit.

32 (2) The neighboring landowner's plan to return to baseline conditions.

33 (3) Any plan to transfer or alienate the neighboring landowner's interest in the
34 land or water.

35 (c) If the department receives any notice described in subdivision (b), the
36 neighboring landowner shall provide the department, its contractors, or agents
37 with access to the land or water for purposes of safely removing or salvaging the
38 species.

39 (d) The department shall provide notice to the neighboring landowner at least
40 seven days before accessing the land or water for the purposes of subdivision (c).
41 The notice shall identify each person selected by the department, its contractors, or
42 agents to access the land or water.

1 (e) Notwithstanding subdivision (d), during the seven-day notice period, the
2 neighboring landowner may object, in writing, to a person selected to access the
3 land or water. If the neighboring landowner objects, another person shall be
4 selected by the department, its contractors, or agents, and notification shall be
5 provided to the neighboring landowner pursuant to subdivision (d). However, if
6 the neighboring landowner objects to a selection on two successive occasions, the
7 neighboring landowner shall be deemed to consent to access to the land or water
8 by a person selected by the department, its contractors, or agents. Failure by the
9 neighboring landowner to object to the selection within the seven-day notice
10 period shall be deemed consent to access the land or water by the person selected
11 by the department, its contractors, or agents.

12 **Comment.** Section 64050 continues former Fish and Game Code Section 2089.23 without
13 substantive change.

14 Article 3. Special Circumstances

15 § 64075. Forest land subject to conservation easement

16 64075. (a) The department shall, to the maximum extent practicable, prioritize
17 the review of, and decision to approve, an agreement if the property proposed to
18 be enrolled in the agreement is encumbered by a conservation easement that
19 requires a permanent commitment to protect, restore, and maintain habitat
20 conditions, provided that the department finds that practices consistent with the
21 conservation easement can reasonably be expected to provide a net conservation
22 benefit to the species listed in the application.

23 (b) If the property proposed to be enrolled in an agreement is subject to a
24 conservation easement, the department, to the maximum extent practicable, shall
25 rely on the conservation easement to fulfill the requirements of Section 64000.

26 (c) This section only applies to agreements where a majority of the property is
27 forestland.

28 **Comment.** Section 64075 continues former Fish and Game Code Section 2089.5 without
29 substantive change.

30 **Note.** Proposed Section 64075 would continue Section 2089.5, which was added by 2018
31 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
32 anticipation of its effect.

33 TITLE 6. RECOVERY PLAN

34 § 64100. Development of nonregulatory recovery plan

35 64100. (a) Upon a specific appropriation of funds by the Legislature, or if
36 funding is otherwise available, the department may develop and implement
37 nonregulatory recovery plans for the conservation and survival of species listed as
38 an endangered species or as a threatened species, unless the department finds that
39 the recovery plan will not promote the conservation of the species.

1 (b) The department, in developing and implementing recovery plans, shall, to
2 the extent practicable, give priority to those endangered or threatened species,
3 without regard to taxonomic classification, that are most likely to benefit from a
4 recovery plan, particularly those species populations that are, or may be,
5 significantly affected by anticipated land use changes, climate change, or changes
6 in aquatic conditions.

7 **Comment.** Section 64100 continues former Fish and Game Code Section 2079.1(a)-(b)
8 without substantive change.

9  **Note.** Proposed Section 64100 would continue Section 2079.1(a)-(b), which was added by
10 2018 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
11 anticipation of its effect.

12 **§ 64105. Neighboring landowner**

13 64105. (a) Each recovery plan shall be based on the best available scientific
14 information and shall, at a minimum, include all of the following:

15 (1) A description of site-specific management actions necessary to achieve the
16 recovery plan's goal for the conservation of the species.

17 (2) Objective, measurable criteria that, when achieved, would result in a
18 determination, in accordance with the provisions of this section, that the species be
19 removed from the list of endangered species or the list of threatened species, as
20 applicable.

21 (3) Estimates of the time required and the cost to carry out those measures
22 needed to achieve the goal of the recovery plan and to achieve intermediate steps
23 toward that goal.

24 (b) The department, in developing and implementing a recovery plan, may
25 consider data and appropriate information from public and private agencies and
26 institutions, and other qualified persons, in addition to data and appropriate
27 information derived from the public process required pursuant to subdivision (b)
28 of Section 64110.

29 (c) The department may, in its discretion, adopt, or may adopt with revisions, an
30 existing federal recovery plan for a species described in subdivision (a) of Section
31 64100 that is also listed as an endangered species or a threatened species pursuant
32 to Section 4 of the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1533)
33 if the department finds that the recovery plan is consistent with the provisions of
34 this title.

35 **Comment.** Section 64105 continues former Fish and Game Code Section 2079.1(c)-(e)
36 without substantive change.

37  **Note.** Proposed Section 64105 would continue Section 2079.1(c)-(e), which was added by
38 2018 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
39 anticipation of its effect.

1 **§ 64110. Neighboring landowner**

2 64110. (a) Subject to subdivision (a) of Section 64100, and pursuant to
3 subdivision (b), the department shall adopt guidelines and criteria to aid in the
4 implementation of this title. Upon adoption, the department shall post the
5 guidelines and criteria on its Internet Web site.

6 (b) Development of a recovery plan pursuant to subdivision (a) of Section
7 64100, and adoption of guidelines and criteria pursuant to subdivision (a), shall be
8 through a public process including at least one public meeting at which the
9 department provides landowners, local governments, and interested members of
10 the public the opportunity for input. The public meeting may be in conjunction
11 with a meeting of the commission. In the case of a recovery plan, the public
12 meeting shall be held in the recovery planning area.

13 (c) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
14 Title 2 of the Government Code does not apply to the development, adoption, or
15 amendment of guidelines, criteria, or recovery plans pursuant to this title.

16 **Comment.** Section 64110 continues former Fish and Game Code Section 2079.1(f)-(h) without
17 substantive change.

18 ☞ **Note.** Proposed Section 64110 would continue Section 2079.1(f)-(h), which was added by
19 2018 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
20 anticipation of its effect.

21 **PART 2. PLANNING AND MITIGATION**

22 **TITLE 1. GENERAL PROVISIONS**

23 **§ 64400. Planning and environmental compliance division**

24 64400. (a) The department shall establish an internal division with the primary
25 purpose of performing comprehensive planning and environmental compliance
26 services with priority given to projects involving the building of eligible
27 renewable energy resources.

28 (b) The internal division shall ensure the timely completion of plans pursuant to
29 the Natural Community Conservation Planning Act (Title 2 (commencing with
30 Section 64500)).

31 (c) For purposes of this section, “eligible renewable energy resources” has the
32 same meaning as in the California Renewables Portfolio Standard Program
33 (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division
34 1 of the Public Utilities Code).

35 **Comment.** Section 64400 continues former Fish and Game Code Section 705 without
36 substantive change.

1 TITLE 2. NATURAL COMMUNITY
2 CONSERVATION PLANNING ACT

3 CHAPTER 1. GENERAL PROVISIONS

4 § 64500. Short title

5 64500. This title shall be known, and may be cited, as the Natural Community
6 Conservation Planning Act.

7 **Comment.** Section 64500 continues former Fish and Game Code Section 2800 without
8 substantive change.

9 § 64505. Findings and declarations

10 64505. The Legislature finds and declares all of the following:

11 (a) The continuing population growth in California will result in increasing
12 demands for dwindling natural resources and result in the continuing decline of the
13 state's wildlife.

14 (b) There is a need for broad-based planning to provide for effective protection
15 and conservation of the state's wildlife heritage while continuing to allow
16 appropriate development and growth.

17 (c) Natural community conservation planning is an effective tool in protecting
18 California's natural diversity while reducing conflicts between protection of the
19 state's wildlife heritage and reasonable use of natural resources for economic
20 development.

21 (d) Natural community conservation planning promotes coordination and
22 cooperation among public agencies, landowners, and other private interests,
23 provides a mechanism by which landowners and development proponents can
24 effectively address cumulative impact concerns, promotes conservation of
25 unfragmented habitat areas, promotes multispecies and multihabitat management
26 and conservation, provides one option for identifying and ensuring appropriate
27 mitigation that is roughly proportional to impacts on fish and wildlife, and
28 promotes the conservation of broad-based natural communities and species
29 diversity.

30 (e) Natural community conservation planning can provide for efficient use and
31 protection of natural and economic resources while promoting greater sensitivity
32 to important elements of the state's critical natural diversity.

33 (f) Natural community conservation planning is a voluntary and effective
34 planning process that can facilitate early coordination to protect the interests of the
35 state, the federal government, and local public agencies, landowners, and other
36 private parties.

37 (g) Natural community conservation planning is a mechanism that can provide
38 an early planning framework for proposed development projects within the
39 planning area in order to avoid, minimize, and compensate for project impacts to
40 wildlife.

1 (h) Natural community conservation planning is consistent with, and will
2 support, the fish and wildlife management activities of the department in its role as
3 the trustee for fish and wildlife within the state.

4 (i) The purpose of natural community conservation planning is to sustain and
5 restore those species and their habitat identified by the department that are
6 necessary to maintain the continued viability of those biological communities
7 impacted by human changes to the landscape.

8 (j) Natural community conservation planning is a cooperative process that often
9 involves local, state, and federal agencies and the public, including landowners
10 within the plan area. The process should encourage the active participation and
11 support of landowners and others in the conservation and stewardship of natural
12 resources in the plan area during plan development using appropriate measures,
13 including incentives.

14 **Comment.** Section 64505 continues former Fish and Game Code Section 2801 without
15 substantive change.

16 **§ 64510. Further findings and declarations**

17 64510. The Legislature further finds and declares that it is the policy of the state
18 to conserve, protect, restore, and enhance natural communities. It is the intent of
19 the Legislature to acquire a fee or less than fee interest in lands consistent with
20 approved natural community conservation plans and to provide assistance with the
21 implementation of those plans.

22 **Comment.** Section 64510 continues former Fish and Game Code Section 2802 without
23 substantive change.

24 **§ 64515. Definitions**

25 64515. The definitions in this section govern the construction of this title:

26 (a) “Adaptive management” means to use the results of new information
27 gathered through the monitoring program of the plan and from other sources to
28 adjust management strategies and practices to assist in providing for the
29 conservation of covered species.

30 (b) “Candidate species” has the same meaning as defined in Section 62105.

31 (c) “Changed circumstances” are reasonably foreseeable circumstances that
32 could affect a covered species or geographic area covered by the plan.

33 (d) “Conserve,” “conserving,” and “conservation” mean to use, and the use of,
34 methods and procedures within the plan area that are necessary to bring any
35 covered species to the point at which the measures provided pursuant to Part 1
36 (commencing with Section 62000) are not necessary, and for covered species that
37 are not listed pursuant to Part 1 (commencing with Section 62000), to maintain or
38 enhance the condition of a species so that listing pursuant to Part 1 (commencing
39 with Section 62000) will not become necessary.

40 (e) “Covered species” means those species, both listed pursuant to Part 1
41 (commencing with Section 62000) and nonlisted, conserved and managed under

1 an approved natural community conservation plan and that may be authorized for
2 take. Notwithstanding Title 5 (commencing with Section 30200) of Part 3 of
3 Division 8, Title 4 (commencing with Section 32700) of Part 3 of Division 9, and
4 Sections 38200, 52200, 53000, fully protected species may be covered species
5 pursuant to this subdivision, and taking of fully protected species may be
6 authorized pursuant to Section 64605 for any fully protected species conserved
7 and managed as a covered species under an approved natural community
8 conservation plan.

9 (f) “Department assurance” means the department’s commitment pursuant to
10 Section 64610.

11 (g) “Monitoring program” means a program within an approved natural
12 community conservation plan that provides periodic evaluations of monitoring
13 results to assess the adequacy of the mitigation and conservation strategies or
14 activities and to provide information to direct the adaptive management program.
15 The monitoring program shall, to the extent practicable, also be used to meet the
16 monitoring requirements of Section 21081.6 of the Public Resources Code. A
17 monitoring program includes all of the following:

18 (1) Surveys to determine the status of biological resources addressed by the
19 plan, including covered species.

20 (2) Periodic accountings and assessment of authorized take.

21 (3) Progress reports on all of the following matters:

22 (A) Establishment of habitat reserves or other measures that provide equivalent
23 conservation of covered species and providing funding where applicable.

24 (B) Compliance with the plan and the implementation agreement by the wildlife
25 agencies, local governments, and landowners who have responsibilities under the
26 plan.

27 (C) Measurements to determine if mitigation and conservation measures are
28 being implemented roughly proportional in time and extent to the impact on
29 habitat or covered species authorized under the plan.

30 (D) Evaluation of the effectiveness of the plan in meeting the conservation
31 objectives of the plan.

32 (E) Maps of land use changes in the plan area that may affect habitat values or
33 covered species.

34 (4) A schedule for conducting monitoring activities.

35 (h) “Natural community conservation plan” or “plan” means the plan prepared
36 pursuant to a planning agreement entered into in accordance with Section 64555.
37 The plan shall identify and provide for those measures necessary to conserve and
38 manage natural biological diversity within the plan area while allowing compatible
39 and appropriate economic development, growth, and other human uses.

40 (i) “Person” has the same meaning as defined in subdivision (i) of Section 9100.

41 (j) (1) “Plan participant,” prior to approval of a natural community conservation
42 plan and execution of an implementation agreement, means a signatory to the
43 planning agreement.

1 (2) Upon approval of a natural community conservation plan and execution of
2 an implementation agreement, “plan participant” means the permittees and any
3 local agency that is a signatory to the implementing agreement.

4 (k) “Unforeseen circumstances” means changes affecting one or more species,
5 habitat, natural community, or the geographic area covered by a conservation plan
6 that could not reasonably have been anticipated at the time of plan development,
7 and that result in a substantial adverse change in the status of one or more covered
8 species.

9 (l) “Wildlife” has the same meaning as defined in Section 560.

10 (m) “Wildlife agencies” means the department and one or both of the following:

11 (1) United States Fish and Wildlife Service.

12 (2) National Marine Fisheries Service.

13 **Comment.** Section 64515 continues former Fish and Game Code Section 2805 without
14 substantive change.

15 **§ 64520. Regulations**

16 64520. The department may adopt regulations for the development and
17 implementation of natural community conservation plans consistent with this title.

18 **Comment.** Section 64520 continues former Fish and Game Code Section 2825 without
19 substantive change.

20 **§ 64530. Department compensation**

21 64530. (a) The department may be compensated for the actual costs incurred in
22 participating in the preparation and implementation of natural community
23 conservation plans. These costs may include consultation with other parties to
24 agreements authorized by Section 64555, providing and compiling wildlife and
25 wildlife habitat data, reviewing and approving the final plan, monitoring
26 implementation of the plan, and other activities necessary to the preparation and
27 implementation of a plan.

28 (b) The department may be compensated for those expenses identified in
29 subdivision (a) according to a schedule in the agreement authorized by Section
30 64555.

31 **Comment.** Section 64530 continues former Fish and Game Code Section 2829 without
32 substantive change.

33 **CHAPTER 2. PLANNING**

34 **§ 64550. Authority to undertake planning**

35 64550. Any person, or any local, state, or federal agency, independently, or in
36 cooperation with other persons, may undertake natural community conservation
37 planning.

38 **Comment.** Section 64550 continues former Fish and Game Code Section 2809 without
39 substantive change.

1 **§ 64555. Cooperative agreement to conduct planning**

2 64555. The department may enter into an agreement with any person or public
3 entity for the purpose of preparing a natural community conservation plan, in
4 cooperation with a local agency that has land use permit authority over the
5 activities proposed to be addressed in the plan, to provide comprehensive
6 management and conservation of multiple wildlife species, including, but not
7 limited to, those species listed pursuant to Title 2 (commencing with Section
8 62200) of Part 1.

9 **Comment.** Section 64555 continues the first sentence of former Fish and Game Code Section
10 2810(a) without substantive change.

11 **§ 64560. Agreement requirements**

12 64560. A planning agreement entered into pursuant to Section 64555 shall meet
13 all of the following conditions:

14 (a) The agreement shall be binding upon the department, other participating
15 federal, state, and local agencies, and participating private landowners.

16 (b) The agreement shall define the geographic scope of the conservation
17 planning area.

18 (c) The agreement shall identify a preliminary list of those natural communities,
19 and the endangered, threatened, candidate, or other species known, or reasonably
20 expected to be found, in those communities, that are intended to be the initial
21 focus of the plan.

22 (d) The agreement shall identify preliminary conservation objectives for the
23 planning area.

24 (e) The agreement shall establish a process for the inclusion of independent
25 scientific input to assist the department and plan participants, and to do all of the
26 following:

27 (1) Recommend scientifically sound conservation strategies for species and
28 natural communities proposed to be covered by the plan.

29 (2) Recommend a set of reserve design principles that addresses the needs of
30 species, landscapes, ecosystems, and ecological processes in the planning area
31 proposed to be addressed by the plan.

32 (3) Recommend management principles and conservation goals that can be used
33 in developing a framework for the monitoring and adaptive management
34 component of the plan.

35 (4) Identify data gaps and uncertainties so that risk factors can be evaluated.

36 (f) The agreement shall require coordination with federal wildlife agencies with
37 respect to the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.).

38 (g) The agreement shall encourage concurrent planning for wetlands and waters
39 of the United States.

40 (h) The agreement shall establish an interim process during plan development
41 for project review wherein discretionary projects within the plan area subject to
42 Division 13 (commencing with Section 21000) of the Public Resources Code that

1 potentially conflict with the preliminary conservation objectives in the planning
2 agreement are reviewed by the department prior to, or as soon as possible after the
3 project application is deemed complete pursuant to Section 65943 of the
4 Government Code and the department recommends mitigation measures or project
5 alternatives that would help achieve the preliminary conservation objectives. As
6 part of this process, information developed pursuant to subdivision (e) of Section
7 64560 shall be taken into consideration by the department and plan participants.
8 Any take of candidate, threatened, or endangered species that occurs during this
9 interim period shall be included in the analysis of take to be authorized under an
10 approved plan. Nothing in this subdivision is intended to authorize take of
11 candidate, protected, or endangered species.

12 (i) The agreement shall establish a process for public participation throughout
13 the plan development and review pursuant to Section 64570.

14 (j) The agreement shall include a provision specifying the amount of
15 compensation, if any, payable to the department pursuant to Section 64530.

16 **Comment.** Subdivisions (a) through (i) of Section 64560 continues former Fish and Game
17 Code Section 2810(b) without substantive change.

18 Subdivision (j) continues the second sentence of former Fish and Game Code Section 2810(a)
19 without substantive change.

20 § 64565. Implementation agreement

21 64565. A natural community conservation plan approved pursuant to Section
22 64580 shall include an implementation agreement that contains all of the
23 following:

24 (a) Provisions defining species coverage, including any conditions of coverage.

25 (b) Provisions for establishing the long-term protection of any habitat reserve or
26 other measures that provide equivalent conservation of covered species.

27 (c) Specific terms and conditions, which, if violated, would result in the
28 suspension or revocation of the permit, in whole or in part. The department shall
29 include a provision requiring notification to the plan participant of a specified
30 period of time to cure any default prior to suspension or revocation of the permit
31 in whole or in part. These terms and conditions shall address, but are not limited
32 to, provisions specifying the actions the department shall take under all of the
33 following circumstances:

34 (1) If the plan participant fails to provide adequate funding.

35 (2) If the plan participant fails to maintain the rough proportionality between
36 impacts on habitat or covered species and conservation measures.

37 (3) If the plan participant adopts, amends, or approves any plan or project
38 without the concurrence of the wildlife agencies that is inconsistent with the
39 objectives and requirements of the approved plan.

40 (4) If the level of take exceeds that authorized by the permit.

41 (d) Provisions specifying procedures for amendment of the plan and the
42 implementation agreement.

1 (e) Provisions ensuring implementation of the monitoring program and adaptive
2 management program.

3 (f) Provisions for oversight of plan implementation for purposes of assessing
4 mitigation performance, funding, and habitat protection measures.

5 (g) Provisions for periodic reporting to the wildlife agencies and the public for
6 purposes of information and evaluation of plan progress.

7 (h) Mechanisms to ensure adequate funding to carry out the conservation actions
8 identified in the plan.

9 (i) Provisions to ensure that implementation of mitigation and conservation
10 measures on a plan basis is roughly proportional in time and extent to the impact
11 on habitat or covered species authorized under the plan. These provisions shall
12 identify the conservation measures, including assembly of reserves where
13 appropriate and implementation of monitoring and management activities, that
14 will be maintained or carried out in rough proportion to the impact on habitat or
15 covered species and the measurements that will be used to determine if this is
16 occurring.

17 **Comment.** Section 64565 continues former Fish and Game Code Section 2820(b) without
18 substantive change.

19 **§ 64570. Public participation in plan development and review**

20 64570. The department shall establish, in cooperation with the parties to the
21 planning agreement, a process for public participation throughout plan
22 development and review to ensure that interested persons, including landowners,
23 have an adequate opportunity to provide input to lead agencies, state and federal
24 wildlife agencies, and others involved in preparing the plan. The public
25 participation objectives of this section may be achieved through public working
26 groups or advisory committees, established early in the process. This process shall
27 include all of the following:

28 (a) A requirement that draft documents associated with a natural community
29 conservation plan that are being considered for adoption by the plan lead agency
30 shall be available for public review and comment for at least 60 days prior to the
31 adoption of that draft document. Preliminary public review documents shall be
32 made available by the plan lead agency at least 10 working days prior to any
33 public hearing addressing these documents. The review period specified in this
34 subdivision may run concurrently with the review period provided for any
35 document required by the California Environmental Quality Act (Division 13
36 commencing with Section 21000) of the Public Resources Code) that is
37 associated with the natural community conservation plan. This subdivision shall
38 not be construed to limit the discretion of a public agency to revise any draft
39 documents at a public hearing.

40 (b) A requirement to make available in a reasonable and timely manner all draft
41 plans, memoranda of understanding, maps, conservation guidelines, species

1 coverage lists, and other planning documents associated with a natural community
2 conservation plan that are subject to public review.

3 (c) A requirement that all public hearings held during plan preparation or review
4 for approval are complementary to, or integrated with, those hearings otherwise
5 provided by law.

6 (d) An outreach program to provide access to information for persons interested
7 in the plan, including landowners, with an emphasis on obtaining input from a
8 balanced variety of affected public and private interests, including state and local
9 governments, county agricultural commissioners, agricultural organizations,
10 landowners, conservation organizations, and the general public.

11 **Comment.** Section 64570 continues former Fish and Game Code Section 2815 without
12 substantive change.

13 **§ 64575. Public review prior to approval**

14 64575. Prior to department approval of the planning agreement, the public shall
15 have 21 calendar days to review and comment on the proposed planning
16 agreement.

17 **Comment.** Section 64575 continues former Fish and Game Code Section 2810(d) without
18 substantive change.

19 **§ 64580. Plan approval**

20 64580. The department shall approve a natural community conservation plan for
21 implementation after making the following findings, based upon substantial
22 evidence in the record:

23 (a) The plan has been developed consistent with the process identified in the
24 planning agreement entered into pursuant to Section 64555.

25 (b) The plan integrates adaptive management strategies that are periodically
26 evaluated and modified based on the information from the monitoring program
27 and other sources, which will assist in providing for the conservation of covered
28 species and ecosystems within the plan area.

29 (c) The plan provides for the protection of habitat, natural communities, and
30 species diversity on a landscape or ecosystem level through the creation and long-
31 term management of habitat reserves or other measures that provide equivalent
32 conservation of covered species appropriate for land, aquatic, and marine habitats
33 within the plan area.

34 (d) The development of reserve systems and conservation measures in the plan
35 area provides, as needed for the conservation of species, all of the following:

36 (1) Conserving, restoring, and managing representative natural and seminatural
37 landscapes to maintain the ecological integrity of large habitat blocks, ecosystem
38 function, and biological diversity.

39 (2) Establishing one or more reserves or other measures that provide equivalent
40 conservation of covered species within the plan area and linkages between them
41 and adjacent habitat areas outside of the plan area.

1 (3) Protecting and maintaining habitat areas that are large enough to support
2 sustainable populations of covered species.

3 (4) Incorporating a range of environmental gradients (such as slope, elevation,
4 aspect, and coastal or inland characteristics) and high habitat diversity to provide
5 for shifting species distributions due to changed circumstances.

6 (5) Sustaining the effective movement and interchange of organisms between
7 habitat areas in a manner that maintains the ecological integrity of the habitat areas
8 within the plan area.

9 (e) The plan identifies activities, and any restrictions on those activities, allowed
10 within reserve areas that are compatible with the conservation of species, habitats,
11 natural communities, and their associated ecological functions.

12 (f) The plan contains specific conservation measures that meet the biological
13 needs of covered species and that are based upon the best available scientific
14 information regarding the status of covered species and the impacts of permitted
15 activities on those species.

16 (g) The plan contains a monitoring program.

17 (h) The plan contains an adaptive management program.

18 (i) The plan includes the estimated timeframe and process by which the reserves
19 or other conservation measures are to be implemented, including obligations of
20 landowners and plan signatories and consequences of the failure to acquire lands
21 in a timely manner.

22 (j) The plan contains provisions that ensure adequate funding to carry out the
23 conservation actions identified in the plan.

24 **Comment.** Section 64580 continues former Fish and Game Code Section 2820(a) without
25 substantive change.

26 **§ 64585. Approval of agreement not a “project”**

27 64585. The approval of a planning agreement is not a project pursuant to
28 Division 13 (commencing with Section 21000) of the Public Resources Code.

29 **Comment.** Section 64585 continues former Fish and Game Code Section 2810(c) without
30 substantive change.

31 **CHAPTER 3. IMPLEMENTATION**

32 **§ 64600. Department actions**

33 64600. Concurrent with the approval by the department of a final natural
34 community conservation plan, the department shall do both of the following:

35 (a) Establish a list of species that are authorized for take pursuant to Section
36 64605 and the department shall make specific findings to support coverage
37 pursuant to Sections 64565 and 64580. For purposes of determining whether a
38 species should receive coverage under a plan, the department shall use, in addition
39 to the standards required for the adoption of a plan, one or more of the following
40 criteria:

1 (1) Coverage is warranted based upon regional or landscape level consideration,
2 such as healthy population levels, widespread distribution throughout the plan
3 area, and life history characteristics that respond to habitat-scale conservation and
4 management actions.

5 (2) Coverage is warranted based on regional or landscape level considerations
6 with site specific conservation and management requirements that are clearly
7 identified in the plan for species that are generally well-distributed, but that have
8 core habitats that must be conserved.

9 (3) Coverage is warranted based upon site specific considerations and the
10 identification of specific conservation and management conditions for species
11 within a narrowly defined habitat or limited geographic area within the plan area.

12 (b) Find that the mitigation measures specified in the plan and imposed by the
13 plan participants are consistent with subdivision (d) of Section 64505.

14 **Comment.** Section 64600 continues former Fish and Game Code Section 2821 without
15 substantive change.

16 **Note.** Existing Section 2821 requires the department to “make specific findings to support
17 coverage pursuant to Section 2820.” Section 2820 is a long section that addresses many aspects of
18 the approval and implementation of a natural community conservation plan. In proposed Section
19 64600(a), the reference is revised to refer to the provisions that seem most relevant to the purpose
20 of the reference: proposed Sections 64565 and 64580. **The Commission invites comment on
21 whether that change would cause any problems.**

22 § 64605. Authorized take

23 64605. At the time of plan approval, the department may authorize by permit the
24 taking of any covered species, including species designated as fully protected
25 species pursuant to Title 5 (commencing with Section 30200) of Part 3 of Division
26 8, Title 4 (commencing with Section 32700) of Part 3 of Division 9, or Sections
27 38200, 52200, and 53000, whose conservation and management is provided for in
28 a natural community conservation plan approved by the department.

29 **Comment.** Section 64605 continues former Fish and Game Code Section 2835 without
30 substantive change.

31 § 64610. Assurances

32 64610. The department may provide assurances for plan participants
33 commensurate with long-term conservation assurances and associated
34 implementation measures pursuant to the approved plan.

35 (a) When providing assurances pursuant to this section, the department’s
36 determination of the level of assurances and the time limits specified in the
37 implementation agreement for assurances may be based on localized conditions
38 and shall consider all of the following:

39 (1) The level of knowledge of the status of the covered species and natural
40 communities.

41 (2) The adequacy of analysis of the impact of take on covered species.

1 (3) The use of the best available science to make assessments about the impacts
2 of take, the reliability of mitigation strategies, and the appropriateness of
3 monitoring techniques.

4 (4) The appropriateness of the size and duration of the plan with respect to
5 quality and amount of data.

6 (5) The sufficiency of mechanisms for long-term funding of all components of
7 the plan and contingencies.

8 (6) The degree of coordination and accessibility of centralized data for analysis
9 and evaluation of the effectiveness of the plan.

10 (7) The degree to which a thorough range of foreseeable circumstances are
11 considered and provided for under the adaptive management program.

12 (8) The size and duration of the plan.

13 (b) If there are unforeseen circumstances, additional land, water, or financial
14 compensation or additional restrictions on the use of land, water, or other natural
15 resources shall not be required without the consent of plan participants for a period
16 of time specified in the implementation agreement, unless the department
17 determines that the plan is not being implemented consistent with the substantive
18 terms of the implementation agreement.

19 **Comment.** Section 64610 continues former Fish and Game Code Section 2820(f) without
20 substantive change.

21 **§ 64615. No effect on application of CEQA**

22 64615. Nothing in this title exempts a project proposed in a natural community
23 conservation planning area from Division 13 (commencing with Section 21000) of
24 the Public Resources Code or otherwise alters or affects the applicability of that
25 division.

26 **Comment.** Section 64615 continues former Fish and Game Code Section 2826 without
27 substantive change.

28 **§ 64620. CEQA analysis**

29 64620. To the extent provided pursuant to Division 13 (commencing with
30 Section 21000) of the Public Resources Code and any guidelines adopted pursuant
31 thereto, if the impacts on one or more covered species and its habitat are analyzed
32 and mitigated pursuant to a program environmental impact report for a plan
33 adopted pursuant to this title, a plan participant that is a lead agency or a
34 responsible agency under that division shall incorporate in the review of any
35 subsequent project in the plan area the feasible mitigation measures and
36 alternatives related to the biological impacts on covered species and their habitat
37 developed in the program environmental impact report.

38 **Comment.** Section 64620 continues former Fish and Game Code Section 2820(e) without
39 substantive change.

1 **§ 64625. Data and reports available for public review**

2 64625. Any data and reports associated with the monitoring program required by
3 Sections 64565 and 64580 shall be available for public review. The entity
4 managing the plan shall also conduct public workshops on an annual basis to
5 provide information and evaluate progress toward attaining the conservation
6 objectives of the plan.

7 **Comment.** Section 64625 continues former Fish and Game Code Section 2820(d) without
8 substantive change.

9 **§ 64630. Use of conservation corps**

10 64630. To the extent practicable, implementation of natural community
11 conservation plans shall use the services of either the California Conservation
12 Corps or local community conservation corps.

13 **Comment.** Section 64630 continues former Fish and Game Code Section 2827 without
14 substantive change.

15 **§ 64635. Injunctive relief**

16 64635. The department may seek injunctive relief against any plan participant,
17 person, or entity to enforce this title.

18 **Comment.** Section 64635 continues former Fish and Game Code Section 2822 without
19 substantive change.

20 **§ 64640. Suspension of take or revocation of permit**

21 64640. The department shall suspend or revoke any permit, in whole or in part,
22 issued for the take of a species subject to Section 64605 if the continued take of
23 the species would result in jeopardizing the continued existence of the species.

24 **Comment.** Section 64640 continues former Fish and Game Code Section 2823 without
25 substantive change.

26 **§ 64645. Breach of proportionality between take and conservation**

27 64645. If a plan participant does not maintain the proportionality between take
28 and conservation measures specified in the implementation agreement and does
29 not either cure the default within 45 days or enter into an agreement with the
30 department within 45 days to expeditiously cure the default, the department shall
31 suspend or revoke the permit, in whole or in part.

32 **Comment.** Section 64645 continues former Fish and Game Code Section 2820(c) without
33 substantive change.

34 **§ 64650. Local government authority to acquire land or water**

35 64650. Nothing in this title prohibits a local government from exercising any
36 power or authority granted to it pursuant to state law to acquire land or water to
37 implement a plan.

38 **Comment.** Section 64650 continues former Fish and Game Code Section 2828 without
39 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 **§ 64815. Report to Legislature**

2 64815. (a) The department shall submit a report to the Legislature on or before
3 January 1, 2020, regarding the implementation of this title.

4 (b) The report required to be submitted pursuant to subdivision (a) shall be
5 submitted in compliance with Section 9795 of the Government Code.

6 **Comment.** Section 64815 continues former Fish and Game Code Section 1859 without
7 substantive change.

8 **§ 64820. Effect on specified statutes**

9 64820. Nothing in this title supersedes, limits, or otherwise modifies the
10 Sacramento-San Joaquin Delta Reform Act of 2009 (Division 35 (commencing
11 with Section 85000) of the Water Code) or Division 22.3 (commencing with
12 Section 32300) of the Public Resources Code.

13 **Comment.** Section 64820 continues former Fish and Game Code Section 1860 without
14 substantive change.

15 CHAPTER 2. REGIONAL CONSERVATION ASSESSMENT

16 **§ 64850. Voluntary**

17 64850. A regional conservation assessment is nonbinding, voluntary, and does
18 not create, modify, or impose regulatory requirements or standards, regulate the
19 use of land, establish land use designations, or affect the land use authority of, or
20 the exercise of discretion by, any public agency. The preparation and use of a
21 regional conservation assessment is voluntary.

22 **Comment.** Section 64850 continues the fourth and fifth sentences of former Fish and Game
23 Code Section 1851(k) without substantive change.

24 **§ 64855. Proposal and approval**

25 64855. (a) A regional conservation assessment may be proposed by the
26 department or any other public agency.

27 (b) A regional conservation assessment may be proposed by the department or
28 any other public agency.

29 (c) The department may approve a regional conservation assessment only for the
30 purposes of a regional conservation investment strategy pursuant to this title.

31 (d) A regional conservation assessment is not required for department approval
32 of a regional conservation investment strategy.

33 **Comment.** Section 64855 continues former Fish and Game Code Section 1853(a) without
34 substantive change.

35 **§ 64860. Requirements**

36 64860. A regional conservation assessment shall do all of the following:

37 (a) Identify and summarize relevant regional pressures and stressors, including
38 climate change vulnerability, conservation areas and habitat connectivity values,
39 included in all of the following:

1 (1) Conservation plans, such as the State Wildlife Action Plan and approved
2 natural community conservation plans.

3 (2) Analyses designed to identify areas of high biological diversity, such as the
4 Areas of Conservation Emphasis.

5 (3) Analyses designed to identify areas for habitat connectivity.

6 (b) Identify the best available scientific information and analyses, including
7 geospatial information regarding the distribution of species and natural
8 communities.

9 (c) Use spatial analysis to identify ecological relationships between existing
10 protected areas and conservation areas.

11 (d) Use standard or prevalent vegetation classifications and standard ecoregional
12 classifications for terrestrial and aquatic data to enable and promote consistency
13 among regional conservation assessments throughout California.

14 (e) Compile input and summary data in a consistent format that could be
15 uploaded for interactive use in an Internet Web portal and that would allow
16 stakeholders to generate queries of regional conservation values within the
17 strategy area.

18 (f) Be consistent with administrative draft natural community conservation
19 plans, approved natural community conservation plans, and regional habitat
20 conservation plans, and approved recovery plans within the ecoregion or
21 subecoregion included in the assessment.

22 (g) Consider existing major water, transportation, and transmission
23 infrastructure facilities in the assessment area and account for reasonably
24 foreseeable development of major infrastructure facilities, including, but not
25 limited to, renewable energy and housing.

26 (h) Include provisions ensuring that the strategy will be in compliance with all
27 applicable state and local requirements and does not preempt the authority of local
28 agencies to implement infrastructure and urban development in local general
29 plans.

30 (i) Include provisions ensuring that the assessment is consistent with and
31 complements any approved natural community conservation plan or regional
32 federal habitat conservation plan that overlaps with the assessment area.

33 (j) Include an explanation of whether, and to what extent, the assessment is
34 consistent with any previously approved assessment or amended assessment, state
35 or federal recovery plan, or other state or federal approved conservation strategy
36 that overlaps with the assessment area.

37 **Comment.** Section 64860 continues former Fish and Game Code Section 1853(c) without
38 substantive change.

1 CHAPTER 3. REGIONAL CONSERVATION INVESTMENT STRATEGY

2 Article 1. Regional Conservation Investment Strategy Generally

3 **§ 64900. Purpose**

4 64900. The purpose of a regional conservation investment strategy shall be to
5 inform science-based nonbinding and voluntary conservation actions and habitat
6 enhancement actions that would advance the conservation of focal species,
7 including the ecological processes, natural communities, and habitat connectivity
8 upon which those focal species depend, and to provide nonbinding voluntary
9 guidance for one or more of the following:

10 (a) Identification of wildlife and habitat conservation priorities, including
11 actions to address the impacts of climate change and other wildlife stressors.

12 (b) Investments in resource conservation.

13 (c) Infrastructure.

14 (d) Identification of areas for compensatory mitigation for impacts to species
15 and natural resources.

16 **Comment.** Section 64900 continues former Fish and Game Code Section 1852(b) without
17 substantive change.

18 **§ 64905. Voluntary**

19 64905. Regional conservation investment strategies are intended to provide
20 scientific information for the consideration of public agencies, are voluntary, and
21 do not create, modify, or impose regulatory requirements or standards, regulate the
22 use of land, establish land use designations, or affect the land use authority of or
23 exercise of discretion by, any public agency. The preparation and use of regional
24 conservation investment strategies for this guidance is voluntary.

25 **Comment.** Section 64905 continues the second and third sentences of former Fish and Game
26 Code Section 1851(l) without substantive change.

27 **§ 64910. Content**

28 64910. A regional conservation investment strategy shall include all of the
29 following:

30 (a) An explanation of the conservation purpose of and need for the strategy.

31 (b) The geographic area of the strategy and rationale for the selection of the
32 area, together with a description of the surrounding ecoregions and any adjacent
33 protected habitat areas or linkages that provide relevant context for the
34 development of the strategy.

35 (c) The focal species included in, and their current known or estimated status
36 within, the strategy.

37 (d) Important resource conservation elements within the strategy area, including,
38 but not limited to, important ecological resources and processes, natural
39 communities, habitat, habitat connectivity, and existing protected areas, and an

1 explanation of the criteria, data, and methods used to identify those important
2 conservation elements.

3 (e) A summary of historic, current, and projected future stressors and pressures
4 in the strategy area, including climate change vulnerability, on the focal species,
5 habitat, and other natural resources, as identified in the best available scientific
6 information, including, but not limited to, the State Wildlife Action Plan.

7 (f) Consideration of major water, transportation and transmission infrastructure
8 facilities, urban development areas, and city, county, and city and county general
9 plan designations that accounts for reasonably foreseeable development of major
10 infrastructure facilities, including, but not limited to, renewable energy and
11 housing in the strategy area.

12 (g) Provisions ensuring that the strategy will be in compliance with all
13 applicable state and local requirements and does not preempt the authority of local
14 agencies to implement infrastructure and urban development in local general
15 plans.

16 (h) Conservation goals and measurable objectives for the focal species and
17 important conservation elements identified in the strategy that address or respond
18 to the identified stressors and pressures on focal species.

19 (i) Conservation actions, including a description of the general amounts and
20 types of habitat that, if preserved or restored and permanently protected, could
21 achieve the conservation goals and objectives, and a description of how the
22 conservation actions and habitat enhancement actions were prioritized and
23 selected in relation to the conservation goals and objectives.

24 (j) Provisions ensuring that the strategy is consistent with and complements any
25 administrative draft natural community conservation plan, approved natural
26 community conservation plan, or federal habitat conservation plan that overlaps
27 with the strategy area.

28 (k) An explanation of whether and to what extent the strategy is consistent with
29 any previously approved strategy or amended strategy, state or federal recovery
30 plan, or other state or federal approved conservation strategy that overlaps with the
31 strategy area.

32 (l) A summary of mitigation banks and conservation banks approved by the
33 department or the United States Fish and Wildlife Service that are located within
34 the strategy area or whose service area overlaps with the strategy area.

35 (m) A description of how the strategy's conservation goals and objectives
36 provide for adaptation opportunities against the effects of climate change for the
37 strategy's focal species.

38 (n) Incorporation and reliance on, and citation of, the best available scientific
39 information regarding the strategy area and the surrounding ecoregion, including a
40 brief description of gaps in relevant scientific information, and use of standard or
41 prevalent vegetation classifications and standard ecoregional classifications for
42 terrestrial and aquatic data to enable and promote consistency among regional
43 conservation investment strategies throughout California.

1 **Comment.** Section 64910 continues former Fish and Game Code Section 1852(c) without
2 substantive change.

3 **§ 64915. Considerations**

4 64915. In addition to considering the potential to advance the conservation of
5 focal species, regional conservation investment strategies shall consider all of the
6 following:

7 (a) The conservation benefits of preserving working lands for agricultural uses.

8 (b) Reasonably foreseeable development of infrastructure facilities.

9 (c) Reasonably foreseeable projects in the strategy area, including, but not
10 limited to, housing.

11 (d) Reasonably foreseeable development for the production of renewable
12 energy.

13 (e) Draft natural community conservation plans within the area of the applicable
14 regional conservation investment strategy.

15 **Comment.** Section 64915 continues former Fish and Game Code Section 1852(e) without
16 substantive change.

17 **§ 64920. Incorporation of regional conservation assessment**

18 64920. If a regional conservation assessment that encompasses the area of a
19 proposed regional conservation investment strategy has already been approved by
20 the department, the strategy shall explain how and to what extent it has
21 incorporated the assessment information and analysis.

22 **Comment.** Section 64920 continues former Fish and Game Code Section 1853(b) without
23 substantive change.

24 **§ 64925. Format**

25 64925. A regional conservation investment strategy shall compile input and
26 summary priority data in a consistent format that could be uploaded for interactive
27 use in an Internet Web portal and that would allow stakeholders to generate
28 queries of regional conservation values within the strategy area.

29 **Comment.** Section 64925 continues former Fish and Game Code Section 1852(d) without
30 substantive change.

31 **§ 64930. Consistent metrics.**

32 64930. The department shall require the use of consistent metrics that
33 incorporate both the area and quality of habitat and other natural resources in
34 relation to a regional conservation investment strategy's conservation objectives to
35 measure the net change resulting from the implementation of conservation actions
36 and habitat enhancement actions.

37 **Comment.** Section 64930 continues former Fish and Game Code Section 1854(e) without
38 substantive change.

1 **Comment.** Section 64965 continues former Fish and Game Code Section 1854(c)(2) without
2 substantive change.

3 **§ 64970. Public meeting and comment**

4 64970. (a) A public agency proposing a strategy or amended strategy shall hold
5 a public meeting to allow interested persons and entities to receive information
6 about the draft regional conservation investment strategy or amended strategy
7 early in the process of preparing it and to have an adequate opportunity to provide
8 written and oral comments. The public meeting shall be held at a location within
9 or near the strategy area.

10 (b) In a draft regional conservation investment strategy or amended strategy
11 submitted to the department for approval, the public agency shall include
12 responses to written public comments submitted during the public comment
13 period.

14 (c) If preparation of a regional conservation investment strategy was initiated
15 before January 1, 2017, and a public meeting regarding the strategy or amended
16 strategy that is consistent with the requirements of this article was held before
17 January 1, 2017, an additional public meeting shall not be required.

18 (d) If preparation of a regional conservation investment strategy was initiated
19 before January 1, 2017, and a public meeting regarding the strategy was not held
20 before January 1, 2017, the public meeting required under this article may be held
21 after January 1, 2017, if it is held at least 30 days before the strategy is submitted
22 to the department for approval.

23 **Comment.** Section 64970 continues former Fish and Game Code Section 1854(c)(3) without
24 substantive change.

25 **§ 64975. Notice of meeting**

26 64975. At least 30 days before holding a public meeting to distribute
27 information about the development of a draft regional conservation investment
28 strategy or amended strategy, a public agency proposing a strategy shall provide
29 notice of a regional conservation investment strategy or amended strategy public
30 meeting as follows:

31 (a) On the public agency's Internet Web site and any relevant LISTSERV.

32 (b) To each city, county, and city and county within or adjacent to the regional
33 conservation investment strategy area.

34 (c) To the implementing entity for each natural community conservation plan or
35 federal regional habitat conservation plan that overlaps with the strategy area.

36 (d) To each public agency, organization, or individual who has filed a written
37 request for the notice, including any agency, organization, or individual who has
38 filed a written request to the department for notices of all regional conservation
39 investment strategy public meetings.

40 **Comment.** Section 64975 continues former Fish and Game Code Section 1854(c)(4) without
41 substantive change.

1 **§ 64980. Notice of final draft**

2 64980. At least 60 days before submitting a final regional conservation
3 investment strategy or amended strategy to the department for approval, the public
4 agency proposing the investment strategy or amended strategy shall notify the
5 board of supervisors and the city councils in each county within the geographical
6 scope of the strategy and provide the board of supervisors and the city councils
7 with an opportunity to submit written comments for a period of at least 30 days.

8 **Comment.** Section 64980 continues former Fish and Game Code Section 1854(c)(5) without
9 substantive change.

10 **§ 64985. Department review of final draft**

11 64985. After a final regional conservation investment strategy or amended
12 strategy is submitted to the department for approval, the department shall have 30
13 days within which to approve the final regional conservation investment strategy
14 or amended strategy or to explain in writing to the public agency submitting the
15 strategy or amended strategy what is needed to approve the strategy or amended
16 strategy.

17 **Comment.** Section 64985 continues former Fish and Game Code Section 1854(c)(6) without
18 substantive change.

19 **§ 64990. Limitation on department rejection**

20 64990. The department shall not reject biologically appropriate and adequate
21 compensatory mitigation proposed by a project proponent on the basis that the
22 compensatory mitigation is not a conservation action or habitat enhancement
23 identified in a regional conservation investment strategy.

24 **Comment.** Section 64990 continues former Fish and Game Code Section 1855(e) without
25 substantive change.

26 **§ 64995. Internet publication**

27 64995. The department shall make all approved regional conservation
28 investment strategies, including all updates to scientific information and analyses
29 used in a regional conservation investment strategy and any amendments to the
30 strategy available on its Internet Web site.

31 **Comment.** Section 64995 continues former Fish and Game Code Section 1854(d) without
32 substantive change.

33 **§ 65000. Duration**

34 65000. (a) The department may prepare or approve a regional conservation
35 investment strategy, or approve an amended strategy, for an initial period of up to
36 10 years after finding that the strategy meets the requirements of Article 1
37 (commencing with Section 64900).

38 (b) The department may extend the duration of an approved or amended regional
39 conservation investment strategy for additional periods of up to 10 years after

1 updating the strategy for new scientific information and finding that the strategy
2 continues to meet the requirements of Article 1 (commencing with Section 64900).

3 (c) For purposes of this article, an amended strategy means a complete regional
4 conservation investment strategy prepared by a public agency to amend
5 substantially and to replace an approved strategy submitted by the public agency.

6 **Comment.** Section 65000 continues former Fish and Game Code Section 1854(a) without
7 substantive change.

8 Article 3. Effect

9 **§ 65050. Effect on public agencies**

10 65050. (a) Regional conservation investment strategies shall not affect the
11 authority or discretion of any public agency and shall not be binding upon public
12 agencies other than parties to a mitigation credit agreement.

13 (b) Nothing in this title increases or decreases the authority or jurisdiction of the
14 department regarding any land use, species, habitat, area, resource, plan, process,
15 or corridor.

16 (c) Regional conservation investment strategies are intended to provide
17 scientific information for the consideration of public agencies.

18 (d) Nothing in this title or any other provision of law requires any public agency,
19 other than a public agency that is party to a mitigation credit agreement, to adopt,
20 implement, or otherwise adhere to a regional conservation investment strategy or a
21 regional conservation assessment.

22 **Comment.** Section 65050 continues former Fish and Game Code Section 1855(a) without
23 substantive change.

24 **§ 65055. Effect on other processes**

25 65055. The approval or existence of a regional conservation investment strategy,
26 mitigation credit agreement, or credit pursuant to this title does not do any of the
27 following:

28 (a) Modify in any way the standards for issuance of incidental take permits or
29 consistency determinations pursuant to Section 62700 or 62705, issuance of take
30 authorizations pursuant to Section 64605, the issuance of lake or streambed
31 alteration agreements pursuant to Section 69750, or any other provision of this
32 code or regulations adopted pursuant to this code.

33 (b) Modify in any way the standards under the California Environmental Quality
34 Act (Division 13 (commencing with Section 21000) of the Public Resources
35 Code), or in any way limit a lead agency's or responsible agency's discretion, in
36 connection with any determination of whether a proposed project may or may not
37 result in significant environmental effects or in any way establish a presumption in
38 connection with any determination of whether a proposed project may or may not
39 result in significant environmental effects or whether a proposed project's impacts
40 would be mitigated.

1 (c) Prohibit or authorize any project or project impacts.

2 (d) Create a presumption or guarantee that any proposed project will be
3 approved or permitted, or that any proposed impact will be authorized, by any
4 state or local agency.

5 (e) Create a presumption that any proposed project will be disapproved or
6 prohibited, or that any proposed impact will be prohibited, by any state or local
7 agency.

8 (f) Alter or affect, or create additional requirements for, the general plan of the
9 city, county, or city and county, in which it is located.

10 (g) Constitute any of the following, for the purposes of the California
11 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
12 Public Resources Code):

13 (1) A plan, policy, or regulation adopted for the purpose of avoiding or
14 mitigating an environmental effect.

15 (2) A local policy or ordinance protecting biological resources.

16 (3) An adopted local, regional, or state habitat conservation plan.

17 **Comment.** Section 65055 continues former Fish and Game Code Section 1855(b) without
18 substantive change.

19 **Note.** Existing Section 1855(b) refers to “the issuance of lake or streambed alteration
20 agreements pursuant to Section 1602...” In proposed Section 65055, the reference to Section
21 1602 has been narrowed to refer to subdivision (a) of that section, the part of the section that
22 authorizes the issuance of such agreements (proposed Section 69750). **The Commission invites
23 comment on whether that revision would cause a problem.**

24 **§ 65060. Effect on project proponent**

25 65060. (a) Nothing in this title shall require a project proponent seeking to
26 provide compensatory mitigation pursuant to Section 62700, 62705, or 64605, or
27 the California Environmental Quality Act (Division 13 (commencing with Section
28 21000) of the Public Resources Code) to take any of the following actions:

29 (1) Undertake conservation actions or habitat enhancement actions identified in
30 a regional conservation investment strategy.

31 (2) Implement, contribute to, fund, or otherwise comply with the actions
32 described in a regional conservation investment strategy.

33 (3) Enter into a mitigation credit agreement.

34 (4) Use or purchase mitigation credits established pursuant to this title to satisfy
35 the compensatory mitigation requirements.

36 (b) Nothing in this chapter shall prevent a project proponent from proposing
37 mitigation consistent with one or more strategies approved pursuant to this title.

38 **Comment.** Section 65060 continues former Fish and Game Code Section 1855(c) without
39 substantive change.

40 **Notes.** (1) Existing Section 1855(c) (proposed Section 65060(b)) provides that “nothing in
41 this section shall prevent a project proponent from proposing mitigation consistent with one or
42 more strategies approved pursuant to this chapter.” It is not clear which provisions of “this
43 section” (i.e., Section 1855) are intended to be covered by that disclaimer. In proposed Section

1 65060, the disclaimer is revised to refer to “this chapter” (which would continue Section 1855(a)-
2 (c)). **The Commission invites comment on whether the scope of that reference should be
3 broadened or narrowed.**

4 (2) Existing Section 1855(c) refers to “a project proponent seeking to provide compensatory
5 mitigation pursuant to Section 1602” and other specified sections. There is no language in Section
6 1602 that clearly authorizes or requires “compensatory mitigation.” The section does authorize
7 the imposition of “measures” to protect an adversely affected fish or wildlife resource, but it is
8 not clear that those are understood to be “compensatory mitigation.” As a tentative measure, the
9 reference to Section 1602 has not been continued in proposed Section 65060. **The Commission
10 invites comment on whether the reference to Section 1602 should be included and, if so,
11 which portion of Section 1602 is relevant to the reference.**

12 CHAPTER 4. MITIGATION CREDITS

13 § 65100. Creation

14 65100. (a) A conservation action or habitat enhancement action that measurably
15 advances the conservation objectives of an approved regional conservation
16 investment strategy may be used to create mitigation credits that can be used to
17 compensate for impacts to focal species and other species, habitat, and other
18 natural resources, as provided in this chapter.

19 (b) The requirements of this chapter apply only to the creation of mitigation
20 credits under mitigation credit agreements pursuant to this chapter and do not
21 establish requirements for other forms of compensatory mitigation.

22 **Comment.** Section 65100 continues former Fish and Game Code Section 1856(a) without
23 substantive change.

24 § 65105. Requirements

25 65105. For a conservation action or habitat enhancement action identified in a
26 regional conservation investment strategy to be used to create mitigation credits
27 pursuant to this chapter, the regional conservation investment strategy shall
28 include, in addition to the requirements of Article 1 (commencing with Section
29 64900) of Chapter 3, all of the following:

30 (a) An adaptive management and monitoring strategy for conserved habitat and
31 other conserved natural resources.

32 (b) A process for updating the scientific information used in the strategy, and for
33 tracking the progress of, and evaluating the effectiveness of, conservation actions
34 and habitat enhancement actions identified in the strategy, in offsetting identified
35 threats to focal species and in achieving the strategy’s biological goals and
36 objectives, at least once every 10 years, until all mitigation credits are used.

37 (c) Identification of a public or private entity that will be responsible for the
38 updates and evaluation required pursuant to subdivision (b).

39 **Comment.** Section 65105 continues former Fish and Game Code Section 1856(b) without
40 substantive change.

1 **§ 65110. Use of mitigation credits**

2 65110. A mitigation credit created in accordance with this chapter may be used
3 to fulfill, in whole or in part, compensatory mitigation requirements established
4 under any state or federal environmental law, as determined by the applicable
5 local, state, or federal regulatory agency, including, but not limited to, the
6 following:

7 (a) To compensate for take or other adverse impacts of activities authorized
8 pursuant to Part 1 (commencing with Section 62000) within the regional
9 conservation investment strategy area.

10 (b) To reduce adverse impacts to fish or wildlife resources, or both, from
11 activities authorized pursuant to Title 3 (commencing with Section 69700) of Part
12 4 within the regional conservation investment strategy area to less than substantial.

13 (c) To mitigate significant effects on the environment within the regional
14 conservation investment strategy area pursuant to the California Environmental
15 Quality Act (Division 13 (commencing with Section 21000) of the Public
16 Resources Code) and Guidelines for Implementation of the California
17 Environmental Quality Act (Chapter 3 (commencing with Section 15000) of
18 Division 6 of Title 14 of the California Code of Regulations).

19 **Comment.** Section 65110 continues former Fish and Game Code Section 1856(c) without
20 substantive change.

21 **§ 65115. Long-term durability of enhancement action**

22 65115. (a) The department shall ensure the long-term durability of a habitat
23 enhancement action.

24 (b) If a habitat enhancement action is used to create one or more mitigation
25 credits pursuant to this chapter, the habitat enhancement action shall remain in
26 effect at least until the site of the environmental impact is returned to preimpact
27 ecological conditions.

28 **Comment.** Section 65115 continues former Fish and Game Code Section 1856(d) without
29 substantive change.

30 **§ 65120. Mitigation credit agreement**

31 65120. (a) To create mitigation credits pursuant to this chapter, a person or
32 entity, including a state or local agency, shall enter into a mitigation credit
33 agreement with the department.

34 (b) The mitigation credit agreement shall identify the type and number of
35 mitigation credits proposed to be created and the terms and conditions under
36 which the mitigation credits may be used.

37 (c) Mitigation credits shall not be created on a site that has already been
38 permanently protected and has been used, or is currently in use, to fulfill
39 compensatory mitigation requirements for one or more projects.

1 (d) The person or entity may create and use, sell, or otherwise transfer the
2 mitigation credits upon department approval that the credits have been created in
3 accordance with the agreement.

4 **Comment.** Section 65120 continues former Fish and Game Code Section 1856(e) without
5 substantive change.

6 **§ 65125. Creation process**

7 65125. (a) To enter into a mitigation credit agreement with the department, a
8 person or entity shall submit a draft mitigation credit agreement to the department
9 for its review, revision, and approval or disapproval.

10 (b) Within five days of deeming a draft agreement complete, the department
11 shall publish notice of the availability of the draft agreement by filing its notice
12 with the Governor's Office of Planning and Research and the city and county
13 clerks of each county in which the agreement is applicable in part or in whole and
14 shall make the draft agreement available to the public on its Internet Web site, and
15 to any public agency, organization, or individual who has filed a written request to
16 the department for notices regarding agreements, for review and comment for a
17 period of at least 45 days.

18 (c) Following the notice period required by subdivision (b), the department shall
19 respond to written comments submitted during the public comment period and
20 may approve the agreement, approve it with revisions, or disapprove it.

21 (d) The department may enter into a mitigation credit agreement if it determines
22 that the mitigation credit agreement does all of the following:

23 (1) Provides contact information for, and establishes the qualifications of, the
24 person or entity entering into the agreement, the entity that will manage the site of
25 the conservation action or habitat enhancement action, and any contractors or
26 consultants.

27 (2) Fully describes the proposed conservation actions or habitat enhancement
28 actions and explains how, and to what extent, they will measurably advance
29 conservation objectives of the regional conservation investment strategy that have
30 not yet been achieved.

31 (3) Identifies the location of the conservation actions or habitat enhancement
32 actions, including a location map, address, and size of the site where the proposed
33 conservation action or habitat enhancement action will be implemented.

34 (4) Provides color aerial and ground-level photographs that reflect current
35 conditions on the site and surrounding properties.

36 (5) Explains how the mitigation credits will be created, including, but not
37 limited to, information regarding proposed ownership arrangements, long-term
38 management strategy, and any phases of implementation.

39 (6) Identifies mitigation banks and conservation banks approved by the
40 department as a mitigation alternative and explains how available mitigation
41 credits at those banks will be purchased or used in combination with the mitigation
42 credits created under the mitigation credit agreement or, if those available

1 mitigation credits will not be purchased or used, why they will not be purchased or
2 used.

3 (7) Includes a natural resources evaluation that documents biotic and abiotic
4 baseline conditions, including past, current, and adjacent land uses, vegetation
5 types, species information, topography, hydrology, and soil types.

6 (8) Identifies public lands and permanently protected lands in the vicinity of the
7 conservation actions or habitat enhancement actions.

8 (9) Fully describes the proposed type and quantity of mitigation credits and the
9 supporting rationale. Mitigation credits created pursuant to this chapter shall
10 directly correlate to the focal species and other species, habitat, and other natural
11 resources protected by the conservation actions or habitat enhancement actions.

12 (10) Identifies metrics or indicators by which the proposed conservation action
13 or habitat enhancement action's contribution to achieving the strategy's
14 conservation goals and objectives can feasibly be measured with existing
15 technology. The net ecological gain from the implementation of conservation
16 actions and habitat enhancement actions that include habitat restoration shall be
17 reported using consistent metrics that measure the increment of gain in the area
18 and quality of habitat or other natural resource values compared to baseline
19 conditions described in the regional conservation investment strategy, and
20 measures the increment of gain in relation to the regional conservation investment
21 strategy's conservation objectives.

22 (11) Describes the proposed landownership of the site or sites of the
23 conservation actions or habitat enhancement actions.

24 (12) Includes a template conservation easement, or other instrument providing
25 for perpetual protection of land in a manner consistent with approved natural
26 community conservation plans within the area of the applicable regional
27 conservation investment strategy, for the sites of any conservation action and an
28 explanation of how the long-term durability of the sites of any habitat
29 enhancement actions will be ensured.

30 (13) Ensures that the implementation of the conservation action or habitat
31 enhancement action will be adequately funded and that long-term protection and
32 management of the site will be funded in accordance with Chapter 4.6
33 (commencing with Section 65965) of Division 1 of Title 7 of the Government
34 Code or, if a state agency proposed to enter into a mitigation credit agreement,
35 other comparable funding mechanism approved by the department in accordance
36 with an adopted statewide policy regarding funding for long-term management
37 and operations of mitigation sites.

38 (14) Includes a template monitoring and long-term adaptive management plan.

39 (15) Explains the terms and conditions under which the proposed mitigation
40 credits may be sold or otherwise transferred and how the proposed mitigation
41 credits will be accounted for, including the specific methods proposed for
42 reporting and maintaining a record of credit creation, release, and use, sale, or
43 transfer.

1 (16) Includes enforcement provisions.

2 (17) Ensures that, for each site on which the conservation actions or habitat
3 enhancement actions will be implemented, information consistent with, pursuant
4 to this title, the information required for a mitigation bank in subdivision (c) of
5 Section 65455 and subdivisions (b) to (h), inclusive, of Section 65505 shall be
6 prepared and submitted to the department for review for adequacy and approval
7 prior to implementation.

8 (18) Includes a proposed credit ledger and credit release schedule that meets the
9 requirements of Section 65135.

10 **Comment.** Section 65125 continues former Fish and Game Code Section 1856(f) without
11 substantive change.

12 **§ 65130. Project that quantifiably exceeds compensatory mitigation requirements**

13 65130. (a) Mitigation credit agreements may be used to establish the terms and
14 conditions under which mitigation credits can be created by projects that improve
15 wildlife habitat, or that address stressors to wildlife, to an extent that quantifiably
16 exceeds compensatory mitigation requirements established by the department for
17 those projects pursuant to Title 3 (commencing with Section 69700) of Part 4 or
18 Part 1 (commencing with Section 62000).

19 (b) Those projects may include, but are not limited to:

20 (1) The construction of setback levees that result in the creation of more
21 floodplain or riparian habitat than is required to compensate for construction
22 impacts.

23 (2) The construction of transportation facility improvements that remove
24 barriers to fish or wildlife movement and thereby improve the quality of habitat or
25 address stressors to wildlife to a greater extent than is required to compensate for
26 construction impacts.

27 (c) For those projects, the project proponent may submit a draft mitigation credit
28 agreement that proposes the terms and conditions under which mitigation credits
29 may be created and used by or in conjunction with those projects to the department
30 for its review, revision, and approval. The submission may occur concurrently
31 with, or after, an application submitted pursuant to Part 1 (commencing with
32 Section 62000) or a notice submitted pursuant to Title 3 (commencing with
33 Section 69700) of Part 4 or may occur after the application or notice is submitted.
34 Where a draft mitigation agreement is submitted concurrently with the application
35 or notice, the department shall review the draft mitigation credit agreement
36 concurrently with its review of the application or notice and shall, to the maximum
37 extent practicable, complete its review of both the notice or application and the
38 draft agreement concurrently.

39 (d) Mitigation credit agreements submitted to the department pursuant to this
40 section may comply with the requirements of Section 65135 with a credit release
41 schedule related to construction of the project that will improve wildlife habitat, or
42 will address stressors to wildlife, to an extent that exceeds compensatory

1 mitigation requirements quantifiably. For those projects, construction of the
2 project may be a performance-based milestone required by subdivision (b) of
3 Section 65135.

4 **Comment.** Section 65130 continues former Fish and Game Code Section 1856(h) without
5 substantive change.

6 **§ 65135. Release of mitigation credits**

7 65135. (a) The release of mitigation credits for use, sale, or transfer under a
8 mitigation credit agreement shall require the department's approval in accordance
9 with this section.

10 (b) The release of mitigation credits shall be tied to performance-based
11 milestones and achievement of ecological performance standards. The credit
12 release schedule for each mitigation credit agreement shall reserve a substantial
13 share of the total credits for release after those ecological performance standards
14 are fully achieved.

15 (c) Performance-based milestones shall include, but are not be limited to, the
16 following:

17 (1) Recording a conservation easement consistent with approved natural
18 community conservation plans within the area of the applicable regional
19 conservation investment strategy on the site of a conservation action, or putting
20 into place measures that ensure the long-term durability of a habitat enhancement
21 action in accordance with Section 65115.

22 (2) Completing construction of a habitat restoration action.

23 (3) Achieving temporal ecological performance standards for habitat restoration,
24 such as standards established for one year, three years, or five years following the
25 initiation of habitat restoration.

26 (4) Fully achieving ecological performance standards.

27 (5) The terms of the credit release schedule shall be specified in the mitigation
28 credit agreement. When conservation actions and habitat enhancement actions are
29 implemented and meet the performance-based milestones specified in the credit
30 release schedule, credits shall be created in accordance with the credit release
31 schedule. If a conservation action or habitat enhancement action does not meet
32 performance-based milestones, the department may suspend the release of credits,
33 reduce the number of credits, or otherwise modify the credit release schedule
34 accordingly.

35 (d) In order for mitigation credits to be released, the person or entity that has
36 entered into a mitigation credit agreement shall demonstrate to the department that
37 the appropriate performance-based milestones for credit release have been met.
38 The department shall determine whether the milestones have been met and the
39 credits may be released.

40 **Comment.** Section 65135 continues former Fish and Game Code Section 1856(g) without
41 substantive change.

1 **§ 65140. Effect on conservation bank or mitigation bank**

2 65140. Nothing in this title is intended to limit or impose additional conditions
3 on the creation or sale of mitigation credits by a conservation bank or mitigation
4 bank approved by the department pursuant to Title 3 (commencing with Section
5 65300).

6 **Comment.** Section 65140 continues former Fish and Game Code Section 1856(i) without
7 substantive change.

8 **§ 65145. Application to natural community conservation plan**

9 65145. (a) The creation of mitigation credits pursuant to this chapter from a
10 conservation action or habitat enhancement action implemented within the plan
11 area of an approved natural community conservation plan shall not duplicate or
12 replace mitigation requirements set forth in the natural community conservation
13 plan and shall require the advance written approval of the plan’s implementing
14 entity.

15 (b) Mitigation credits created pursuant to this chapter may be used for covered
16 activities under an approved natural community conservation plan only in
17 accordance with the requirements of the plan.

18 (c) Individuals and entities eligible for coverage as a participating special entity
19 under an approved natural community conservation plan may use mitigation
20 credits created pursuant to this chapter only if the plan’s implementing entity
21 declines to extend coverage to the covered activity proposed by the eligible
22 individual or entity.

23 **Comment.** Section 65145 continues former Fish and Game Code Section 1856(j) without
24 substantive change.

25 **§ 65150. Application to Delta water conveyance facilities**

26 65150. Mitigation credits provided by this title shall not be utilized to fund or
27 offset the costs of the design, construction, or mitigation of new Delta water
28 conveyance facilities.

29 **Comment.** Section 65150 continues former Fish and Game Code Section 1855(d) without
30 substantive change.

31 **§ 65155. Internet publication**

32 65155. The department shall make project mitigation credit and release
33 information, including the demonstration submitted pursuant to subdivision (d) of
34 Section 65135, publicly available on the department’s Internet Web site.

35 **Comment.** Section 65155 continues former Fish and Game Code Section 1856(k) without
36 substantive change.

1 TITLE 4. CONSERVATION BANK AND
2 MITIGATION BANK APPLICATIONS AND FEES

3 CHAPTER 1. GENERAL PROVISIONS

4 Article 1. Findings and Declarations

5 **§ 65300. Findings and declarations**

6 65300. The Legislature finds and declares as follows:

7 (a) Mitigation banks and conservation banks provide for the conservation of
8 important habitats and habitat linkages, take advantage of economies of scale that
9 are often not available to individualized mitigation projects, and simplify the state
10 regulatory compliance process while achieving conservation goals.

11 (b) The department authorizes the establishment of private and public
12 conservation and mitigation banks that can provide viable consolidated mitigation
13 for adverse impacts caused by projects. Banks sell habitat or species credits to
14 project proponents having mitigation responsibilities that require compensation for
15 impacts to wetlands, threatened or endangered species, and other sensitive
16 resources. The state policy on conservation banks was established in 1995 by the
17 Natural Resources Agency and the California Environmental Protection Agency.

18 (c) In 2011, the department and other state and federal agencies, including the
19 United States Fish and Wildlife Service, the National Marine Fisheries Service,
20 the United States Army Corps of Engineers, and the United States Environmental
21 Protection Agency, renewed a memorandum of understanding for the purpose of
22 jointly establishing a framework for developing and using combined or
23 coordinated approaches to mitigation and conservation banking in the state. The
24 memorandum of understanding includes provisions for the development and
25 continuous improvement of standardized banking program documents and
26 guidance. Existing standardized documents identified in the memorandum of
27 understanding include bank enabling instruments, conservation easements, long-
28 term management plans, and bank proposal review checklists, among others.

29 (d) The department has properly excluded from being eligible as mitigation and
30 conservation banks those lands that are not suitable to become banks, for reasons
31 that include that the lands do not support significant biological resources or are not
32 biologically viable, are subject to potentially inconsistent uses, encumbrances, or
33 requirements, or would not meet requirements of permits or authorizations that
34 require mitigation.

35 (e) Greater transparency is desired to ensure that mitigation requirements of
36 regulatory programs, permits, and authorizations are fully met when employing
37 conservation and mitigation banks, and that the monitoring of banks to ensure
38 long-term conservation of species and habitats is scientifically valid.

1 (f) The private and public mitigation and conservation banks and the private and
2 public entities to which bank credits are sold should fully fund the administrative
3 and regulatory costs of the department in providing banking program services,
4 administration and oversight.

5 (g) The department has found that the establishment and use of conservation and
6 mitigation banks may result in added ecological benefits and reduced
7 administrative costs over the more traditional forms of smaller, single-purpose
8 mitigation projects.

9 (h) It is the intent of the Legislature that banking and all other forms of
10 mitigation for wildlife species comply with regulatory requirements, are based on
11 the best available scientific information, can be implemented successfully, and
12 have adequate funding to achieve mitigation measures and be monitored for
13 compliance and effectiveness. The Legislature recognizes that mitigation and
14 conservation banking is important to the state because banks provide regulatory
15 efficiencies, environmental benefits, and economic advantages. Properly
16 developed and monitored banks have demonstrated their value and efficacy and
17 are important tools in mitigating impacts to resources and in conserving a wide
18 range of habitat lands.

19 **Comment.** Section 65300 continues former Fish and Game Code Section 1797 without
20 substantive change.

21 Article 2. Definitions

22 § 65305. Application

23 65305. The definitions in this article govern this title.

24 **Comment.** Section 65305 restates the introductory clause of former Fish and Game Code
25 Section 1797.5 without substantive change.

26 § 65310. Bank

27 65310. “Bank” means a conservation bank, mitigation bank, or conservation and
28 mitigation bank.

29 **Comment.** Section 65310 continues former Fish and Game Code Section 1797.5(a) without
30 substantive change.

31 § 65315. Bank enabling instrument

32 65315. “Bank enabling instrument” means a written agreement with the
33 department regarding the establishment, use, operation, and maintenance of the
34 bank.

35 **Comment.** Section 65315 continues former Fish and Game Code Section 1797.5(b) without
36 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 number of credits sold or obligated, the number of credits applied, the balance of
2 each type of credit remaining, the status of the species and habitat at the bank,
3 links to the bank's long-term management plans, and links to the complete annual
4 monitoring reports required by departmental policy.

5 (d) Information contained in the database created pursuant to former Title 2
6 (commencing with Section 64700) on January 1, 2011, shall be incorporated into
7 the database established pursuant to subdivision (a).

8 **Comment.** Section 65660 continues former Fish and Game Code Section 1799(c) without
9 substantive change.

10 **§ 65665. Annual report**

11 65665. (a) By January 1, 2014, and annually thereafter, the department shall
12 provide a report to the Legislature.

13 (b) The report shall include the following information based on data from the
14 previous calendar year:

15 (1) Number of new bank applications, prospectuses, bank agreement packages,
16 and amendments received.

17 (2) Number of bank applications approved, rejected because not complete,
18 rejected because not acceptable, and withdrawn.

19 (3) Name of new or existing bank, geographic location, number of acres,
20 number of credits approved for each habitat type or species, and number of credits
21 sold.

22 (4) An accounting of fees collected pursuant to this title.

23 (5) A statement of whether or not the timelines for bank review in this title were
24 met.

25 (6) Other information determined by the department to be relevant in assessing
26 the effectiveness of the department's mitigation and conservation banking
27 program.

28 **Comment.** Section 65665 continues former Fish and Game Code Section 1799(d) without
29 substantive change.

30 **§ 65670. Implementation and compliance fees**

31 65670. (a) The department shall collect fees to pay for all or a portion of the
32 department's bank implementation and compliance costs.

33 (b) The department shall collect a total payment of sixty thousand (\$60,000) per
34 bank, apportioned by an amount that equals the ratio of the number of credits
35 released to the total number of credits in the bank, and shall be identified in the
36 bank enabling instrument.

37 (c) Payments shall be due following each credit release no later than the due date
38 for the submission of the bank's annual report. The payments shall be submitted
39 following each credit release and no later than the time of the submission of the
40 bank's annual report.

1 (d) The department may require the bank to cease selling credits and may stop
2 credit releases until these fees are paid in full.

3 (e) The department shall assess a penalty of 10 percent of the amount of fees due
4 if there is a failure to remit the amount payable when due.

5 **Comment.** Section 65670 continues former Fish and Game Code Section 1799(e) without
6 substantive change.

7 **§ 65675. Fee adjustment**

8 65675. The department shall annually adjust the fees in this title pursuant to
9 Section 3755.

10 **Comment.** Section 65675 continues former Fish and Game Code Section 1799.1(a) without
11 substantive change.

12 **§ 65680. Deposit of fees**

13 65680. Moneys received pursuant to this title shall be deposited in a separate
14 dedicated account within the Fish and Game Preservation Fund and expended for
15 the purposes of this title.

16 **Comment.** Section 65680 continues former Fish and Game Code Section 1799.1(b) without
17 substantive change.

18 **§ 65685. Guidelines**

19 65685. (a) The department shall adopt and amend guidelines and criteria to
20 implement this title.

21 (b) The department shall develop these guidelines and criteria in coordination
22 with interested parties, including, but not limited to, bank sponsors, conservation
23 organizations, and federal and state bank approving agencies. The guidelines shall
24 incorporate all relevant documents and program guidance, including, but not
25 limited to, the 2011 Memorandum of Understanding approved by the United
26 States Fish and Wildlife Service, the United States Army Corps of Engineers, and
27 the United States Environmental Protection Agency, for the purpose of jointly
28 establishing a framework for developing and using combined or coordinated
29 approaches to mitigation and conservation banking in California. Chapter 3.5
30 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the
31 Government Code shall not apply to the development, adoption, or amendment, of
32 guidelines or criteria pursuant to this section. The guidelines and criteria shall be
33 posted on the department's Internet Web site.

34 **Comment.** Section 65685 continues former Fish and Game Code Section 1799.1(c) without
35 substantive change.

36 **§ 65690. Reimbursement of costs**

37 65690. The costs of a conservation and mitigation banking program, including,
38 but not limited to, costs incurred by the department during its guideline adoption
39 and review, approval, establishment, monitoring, and oversight of banks, shall be

1 reimbursed from revenues of conservation and mitigation bank application fees
2 imposed pursuant to this title.

3 **Comment.** Section 65690 continues former Fish and Game Code Section 1799.1(d) without
4 substantive change.

5 **Note.** Existing Section 1799.1(d) refers to fees imposed pursuant to Sections 1798.5, 1798.6,
6 and 1799. Proposed Section 65690 simplifies this reference, referring instead to fees imposed
7 pursuant to “this title.” **The Commission does not believe that this would result in any**
8 **substantive change, but invites comment on that point.**

9 TITLE 5. SACRAMENTO-SAN JOAQUIN
10 VALLEY WETLANDS MITIGATION BANK ACT
11 OF 1993

12 CHAPTER 1. GENERAL PROVISIONS

13 Article 1. Short Title

14 § 65800. Short title

15 65800. This title shall be known and may be cited as the Sacramento-San
16 Joaquin Valley Wetlands Mitigation Bank Act of 1993.

17 **Comment.** Section 65800 continues former Fish and Game Code Section 1775 without
18 substantive change.

19 Article 2. Findings, Declarations, and Intent

20 § 65805. Findings and declarations

21 65805. The Legislature finds and declares the following:

22 (a) Wetlands are an important natural resource of the Sacramento-San Joaquin
23 Valley because they provide significant habitat for migratory waterfowl of the
24 Pacific flyway, for endangered species, and for many other resident wildlife and
25 fish populations. Wetlands provide additional public benefits, including water
26 quality improvement, flood protection, stream bank stabilization, recreation, and
27 scientific research.

28 (b) Active and voluntary involvement by private landowners is necessary for the
29 long-term availability and productivity of wetlands in the Sacramento-San Joaquin
30 Valley.

31 (c) Large wetland preserves in the Sacramento-San Joaquin Valley, under
32 certain circumstances, can provide an environmentally preferable alternative to a
33 number of small, isolated wetland preserves of the same type surrounded by urban
34 development.

35 (d) It is the policy of the state with respect to the Sacramento-San Joaquin
36 Valley:

1 (1) To provide for the protection, preservation, restoration, enhancement, and
2 expansion of the wetland habitat in the Sacramento-San Joaquin Valley.

3 (2) To promote the protection, preservation, restoration, enhancement, and
4 expansion of the Sacramento-San Joaquin Valley wetlands in concert with other
5 federal, state, and local programs, and interested parties.

6 (3) To improve cooperative efforts among private, nonprofit, and public entities
7 for the management and protection of wetlands.

8 (4) To assure that no net loss of either wetland acreage or habitat values results
9 from activities pursuant to this title in the Sacramento-San Joaquin Valley that
10 otherwise comply with state and federal law.

11 (5) To encourage and maintain a predictable, efficient, and timely regulatory
12 framework for environmentally acceptable development.

13 (6) To assure that the construction or maintenance of wetland mitigation banks
14 in the Sacramento-San Joaquin Valley does not reduce any local tax base, does not
15 create any uncompensated increased requirement for local services, and does not
16 create conditions that have the potential to adversely affect the public health.

17 (7) To provide an alternative for accomplishing offsite mitigation in the
18 Sacramento-San Joaquin Valley when offsite mitigation is required under a fill
19 permit issued pursuant to Section 404 of the federal Clean Water Act (33 U.S.C.
20 Sec. 1344 et seq.).

21 (e) This title constitutes a nonexclusive alternative to other lawful methods of
22 mitigating project impacts upon wetlands and maintaining and increasing wetlands
23 acreage and habitat values generally. Specifically, this title is not intended to, and
24 shall not be interpreted to:

25 (1) Condone or encourage the removal, loss, or degradation of wetlands.

26 (2) Condone or encourage the removal, loss, or degradation of habitat for any
27 rare, threatened, or endangered species.

28 (3) Abrogate any other local, state, or federal law or policy relating to wetlands,
29 nor prohibit any city or county from prohibiting the removal, filling, or other
30 destruction of particular wetlands.

31 (4) Establish maximum or minimum standards or any other requirements for
32 wetland fill or mitigation, except for mitigation banks established pursuant to this
33 title.

34 (5) Have legal or necessary precedential application to any other area of the
35 state, or to other lands, resources, situations, or circumstances.

36 (6) Preclude other forms of mitigation banking, including private or for-profit
37 programs, within the Sacramento-San Joaquin Valley.

38 (7) Be the exclusive method of providing compensation by permittees for the
39 loss of wetlands within the Sacramento-San Joaquin Valley.

40 **Comment.** Section 65805 continues former Fish and Game Code Section 1776 without
41 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 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 proposed Section 66210(c)(6). **The Commission invites comment on how to**
38 **correct the erroneous reference.** Should it be repealed as obsolete? Replaced with a reference to
39 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 See also Section 6250 (enforcement).

27 **§ 66220. County clerk**

28 66220. (a) The county clerk may charge a documentary handling fee of fifty
29 dollars (\$50) per filing in addition to the filing fee specified in Section 66215.

30 (b) The county clerk of each county and the Office of Planning and Research
31 shall maintain a record, both electronic and in paper, of all environmental
32 documents received. The record shall include, for each environmental document
33 received, the name of each applicant or lead agency, the document filing number,
34 the project name as approved by the lead agency, and the filing date. The record
35 shall be made available for examination or audit by authorized personnel of the
36 department during normal business hours.

37 **Comment.** Section 66220 continues former Fish and Game Code Section 711.4(e)(1) without
38 substantive change.

39 **§ 66225. Remittance of fee**

40 66225. (a) The filing fee imposed and collected pursuant to Section 66215 shall
41 be remitted monthly to the department within 30 days after the end of each month.

1 The remittance shall be accompanied with the information required pursuant to
2 Section 66220. The amount of fees due shall be reported on forms prescribed and
3 provided by the department.

4 (b) The department shall assess a penalty of 10 percent of the amount of fees
5 due for a failure to remit the amount payable when due. The department may
6 pursue collection of delinquent fees through the Controller's office pursuant to
7 Section 12419.5 of the Government Code.

8 **Comment.** Section 66225 continues former Fish and Game Code Section 711.4(e)(2)-(3)
9 without substantive change.

10 **§ 66230. Nonpayment**

11 66230. All unpaid fees are a statutory assessment subject to collection under
12 procedures as provided in the Revenue and Taxation Code.

13 **Comment.** Section 66230 continues the second sentence of former Fish and Game Code
14 Section 711.4(f) without substantive change.

15 **§ 66235. Number of fees per project**

16 66235. Only one filing fee shall be paid for each project unless the project is
17 tiered or phased, or separate environmental documents are required.

18 **Comment.** Section 66235 continues former Fish and Game Code Section 711.4(g) without
19 substantive change.

20 **§ 66240. Effect on specified department duties**

21 66240. This article does not preclude or modify the duty of the department to
22 recommend, require, permit, or engage in mitigation activities pursuant to the
23 California Environmental Quality Act.

24 **Comment.** Section 66240 continues former Fish and Game Code Section 711.4(h) without
25 substantive change.

26 **§ 66245. Coastal Commission permit process**

27 66245. The permit process of the California Coastal Commission, as certified by
28 the Secretary of the Resources Agency, is exempt from the payment of the filing
29 fees prescribed by subdivision (d) of Section 66215 insofar as the permits are
30 issued under any of the following regulations:

31 (a) Subchapter 4 (commencing with Section 13136) of Chapter 5 of Division 5.5
32 of Title 14 of the California Code of Regulations.

33 (b) Subchapter 1 (commencing with Section 13200), Subchapter 3 (commencing
34 with Section 13211), Subchapter 3.5 (commencing with Section 13214),
35 Subchapter 4 (commencing with Section 13215), Subchapter 4.5 (commencing
36 with Section 13238), Subchapter 5 (commencing with Section 13240), Subchapter
37 6 (commencing with Section 13250), and Subchapter 8 (commencing with Section
38 13255.0) of Section 66215 14 of the California Code of Regulations.

39 **Comment.** Section 66245 continues former Fish and Game Code Section 711.4(i) without
40 substantive change.

1 **Note.** Existing Section 711.4(i) refers to “Subchapter 3 (commencing with Section 13213).”
2 That appears to be an error. Subchapter 3 begins with Section 13211, not Section 13213.
3 Proposed Section 66245 corrects that error. **The Commission invites comment on whether the**
4 **change would cause any problems.**

5 **§ 66250. Federal agencies**

6 66250. (a) The fish and wildlife resources are held in trust for the people of the
7 state by and through the department.

8 (b) Insofar as state wildlife trust resources exist and depend upon federal
9 proprietary lands or federal land and water adjacent to or affecting state trust
10 resources, all persons engaging in projects or activities under federal license,
11 contract, or permit, to the extent permitted by federal law, shall be governed by
12 this article and shall pay project filing fees unless the payment of state filing and
13 permit fees is explicitly preempted by the authority of the federal agency
14 permitting the use or modification of state trust resources.

15 (c) Insofar as state wildlife trust resources exist and depend upon federal
16 proprietary lands or federal lands and waters adjacent to or affecting state trust
17 resources, all federal agencies acting in their proprietary capacity, to the extent
18 permitted by federal law, shall be governed by this article and Sections 10005 and
19 21089 of the Public Resources Code, unless the payment of state filing and permit
20 fees is explicitly preempted by the authority of a particular federal agency.

21 (d) If a court of competent jurisdiction finds that any provision of this section or
22 the application thereof to any federal agency, person, or circumstances is held
23 invalid, that invalidity shall not affect other provisions or applications of the
24 section which can be given effect without the invalid provision or application, and
25 to this end the provisions of this section are severable.

26 (e) For purposes of this section, “person” includes any individual, firm,
27 association, organization, partnership, business, trust, corporation, limited liability
28 company, company, district, city, county, city and county, town, the state, and any
29 of the agencies of those entities.

30 **Comment.** Subdivisions (a) through (d) of Section 66250 continue former Fish and Game
31 Code Section 711.7 without substantive change.

32 Subdivision (e) continues former Fish and Game Code Section 711.2 without substantive
33 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,
44 those references would only encompass Section 711.4. **The Commission believes that this**

1 would preserve the meaning of the references, without substantive change, but invites
2 public comment on that point.

3 PART 3. POLLUTION

4 TITLE 1. WATER POLLUTION

5 CHAPTER 1. PROHIBITIONS

6 Article 1. Contaminants

7 § 66500. Prohibition

8 66500. Except as provided in Section 66505, it is unlawful to deposit in, permit
9 to pass into, or place where it can pass into the waters of this state any of the
10 following:

11 (a) Any petroleum, acid, coal or oil tar, lampblack, aniline, asphalt, bitumen, or
12 residuary product of petroleum, or carbonaceous material or substance.

13 (b) Any refuse, liquid or solid, from any refinery, gas house, tannery, distillery,
14 chemical works, mill, or factory of any kind.

15 (c) Any sawdust, shavings, slabs, or edgings.

16 (d) Any factory refuse, lime, or slag.

17 (e) Any cocculus indicus.

18 (f) Any substance or material deleterious to fish, plant life, mammals, or bird
19 life.

20 **Comment.** Section 66500 continues former Fish and Game Code Section 5650(a) without
21 substantive change.

22 See also Sections 6300, 6302, 6654 (enforcement).

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 See also Sections 6552, 6554 (enforcement).

9 CHAPTER 2. CLEAN-UP

10 § 66700. Continuing pollution

11 66700. Whenever it is determined by the department that a continuing and
12 chronic condition of pollution exists, the department shall report that condition to
13 the appropriate regional water quality control board, and shall cooperate with the
14 board in obtaining correction or abatement in accordance with any laws
15 administered by the board for the control of practices for sewage and industrial
16 waste disposal.

17 **Comment.** Section 66700 continues former Fish and Game Code Section 5651 without
18 substantive change.

19 § 66705. Responsible party obligations

20 66705. (a) It is the intent of the Legislature that expeditious cleanup is the
21 primary interest of the people of the State of California in order to protect the
22 people and the environment of the state.

23 (b) In addition to any other penalty, anyone responsible for polluting,
24 contaminating, or obstructing waters of this state, or depositing or discharging
25 materials threatening to pollute, contaminate, or obstruct waters of this state, to the
26 detriment of fish, plant, bird, or animal life in those waters, shall be required to
27 remove any substance placed in the waters, or to remove any material threatening
28 to pollute, contaminate, or obstruct waters of this state, which can be removed,
29 that caused the prohibited condition, or to pay the costs of the removal by the
30 department.

31 (c) Prior to taking any action committing the use of state funds pursuant to this
32 section or Section 66710, the department shall first make a reasonable effort to
33 have the person responsible, when that person is known and readily available,
34 remove, or agree to pay for the removal of, the substance causing the prohibited
35 condition, if the responsible person acts expeditiously and does not cause the
36 prohibited condition to be prolonged to the detriment of fish, plant, animal, or bird
37 life in the affected waters. When the responsible party is unknown or is not
38 providing adequate and timely cleanup, the emergency reserve account of the
39 Toxic Substances Control Account in the General Fund shall be used to provide
40 funding for the cleanup pursuant to Section 25354 of the Health and Safety Code.

1 When those or other funds are not available, moneys in the Fish and Wildlife
2 Pollution Account shall be available, in accordance with Section 67510, for
3 funding the cleanup expenses.

4 **Comment.** Section 66705 continues former Fish and Game Code Section 12015 without
5 substantive change.

6 **§ 66710. Department clean-up of petroleum products**

7 66710. (a) In addition to the responsibilities imposed pursuant to Section 66700,
8 the department may clean up or abate, or cause to be cleaned up or abated, the
9 effects of any petroleum or petroleum product deposited or discharged in the
10 waters of this state or deposited or discharged in any location onshore or offshore
11 where the petroleum or petroleum product is likely to enter the waters of this state,
12 order any person responsible for the deposit or discharge to clean up the petroleum
13 or petroleum product or abate the effects of the deposit or discharge, and recover
14 any costs incurred as a result of the cleanup or abatement from the responsible
15 party.

16 (b) An order shall not be issued pursuant to this section for the cleanup or
17 abatement of petroleum products in any sump, pond, pit, or lagoon used in
18 conjunction with crude oil production that is in compliance with all applicable
19 state and federal laws and regulations.

20 (c) The department may issue an order pursuant to this section only if there is an
21 imminent and substantial endangerment to human health or the environment and
22 the order shall remain in effect only until any cleanup and abatement order is
23 issued pursuant to Section 13304 of the Water Code. A regional water quality
24 control board shall incorporate the department's order into the cleanup and
25 abatement order issued pursuant to Section 13304 of the Water Code, unless the
26 department's order is inconsistent with any more stringent requirement established
27 in the cleanup and abatement order. Any action taken in compliance with the
28 department's order is not a violation of any subsequent regional water quality
29 control board cleanup and abatement order issued pursuant to Section 13304 of the
30 Water Code.

31 (d) The Administrator of the Office of Spill Prevention and Response has the
32 primary authority to serve as a state incident commander and direct removal,
33 abatement, response, containment, and cleanup efforts with regard to all aspects of
34 any placement of petroleum or a petroleum product in the waters of the state,
35 except as otherwise provided by law. This authority may be delegated.

36 (e) For purposes of this section, the following definitions apply:

37 (1) "Petroleum product" means oil of any kind or form, including, but not
38 limited to, fuel oil, sludge, oil refuse, and oil mixed with waste other than dredged
39 spoil. "Petroleum product" does not include any pesticide that has been applied for
40 agricultural, commercial, or industrial purposes or that has been applied in
41 accordance with a cooperative agreement authorized by Section 116180 of the
42 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 3. 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.

41 **§ 66810. Immediate reopening**

42 66810. If the director finds in his or her assessment pursuant to Section 66805
43 that there is no significant risk to the public or to the fisheries, the director may

1 immediately reopen the closed area and waive the testing requirements of Sections
2 66820 and 66830.

3 **Comment.** Section 66810 continues former Fish and Game Code Section 5654(d) without
4 substantive change.

5 **Note.** Existing Section 5654(d) refers to the “testing requirements” of Section 5654(e) and
6 (f). Section 5654(f) (proposed Section 66830) does not appear to impose any testing
7 requirements. **The Commission invites comment on whether the cross-reference to that**
8 **provision can be deleted as erroneous.**

9 **§ 66820. Expedited testing**

10 66820. Except under the conditions specified in Section 66810, after complying
11 with Sections 66800 and 66805, the director, in consultation with the Office of
12 Environmental Health Hazard Assessment, but in no event more than seven days
13 from the notification of the spill or discharge, shall order expedited tests of fish
14 and shellfish that would have been open for take for commercial, recreational, or
15 subsistence purposes in the closed area if not for the closure, to determine the
16 levels of contamination, if any, and whether the fish or shellfish is safe for human
17 consumption.

18 **Comment.** Section 66820 continues former Fish and Game Code Section 5654(e) without
19 substantive change.

20 **§ 66825. Assessment of fish aboard vessel in closed area**

21 66825. Within 48 hours after receiving notification of a spill or discharge
22 subject to Section 66800, or as soon as is feasible, the director, in consultation
23 with the Office of Environmental Health Hazard Assessment, shall assess and
24 determine the potential danger from consuming fish that have been contained in a
25 recirculating seawater tank onboard a vessel that may become contaminated by the
26 vessel’s movement through an area where the spill or discharge occurred or
27 spread.

28 **Comment.** Section 66825 continues former Fish and Game Code Section 5654(c) without
29 substantive change.

30 **§ 66830. Action in response to OEHHA assessment**

31 66830. (a) Within 24 hours of receiving a notification from the Office of
32 Environmental Health Hazard Assessment that no threat to human health exists
33 from the spill or discharge or that no contaminant from the spill or discharge is
34 present that could contaminate fish or shellfish, the director shall reopen the areas
35 closed pursuant to this chapter. The director may maintain a closure in any
36 remaining portion of the closed area where the Office of Environmental Health
37 Hazard Assessment finds contamination from the spill or discharge persists that
38 may adversely affect human health.

39 (b) The director, in consultation with the commission, may also maintain a
40 closure in any remaining portion of the closed area where commercial fishing or
41 aquaculture occurs and where the department determines, pursuant to this

1 subdivision, that contamination from the spill or discharge persists that may cause
2 the waste of commercial fish or shellfish as regulated by Section 21610.

3 **Comment.** Section 66830 continues former Fish and Game Code Section 5654(f) without
4 substantive change.

5 **§ 66835. Consultation with affected groups**

6 66835. (a) To the extent feasible, the director shall consult with representatives
7 of commercial and recreational fishing associations and subsistence fishing
8 communities regarding the extent and duration of a closure, testing protocols, and
9 findings.

10 (b) If a spill or discharge occurs within the lands governed by a Native
11 American tribe or affects waters flowing through tribal lands, or tribal fisheries,
12 the director shall consult with the affected tribal governments.

13 **Comment.** Section 66835 continues former Fish and Game Code Section 5654(g) without
14 substantive change.

15 **§ 66840. Reimbursement of costs**

16 66840. The director shall seek full reimbursement from the responsible party or
17 parties for the spill or discharge for all reasonable costs incurred by the department
18 in carrying out this chapter, including, but not limited to, all testing.

19 **Comment.** Section 66840 continues former Fish and Game Code Section 5654(h) without
20 substantive change.

21 TITLE 2. CALIFORNIA MARINE RESOURCES
22 LEGACY ACT

23 CHAPTER 1. GENERAL PROVISIONS

24 Article 1. Preliminary Provisions

25 **§ 67000. Short title**

26 67000. This act shall be known, and may be cited, as the California Marine
27 Resources Legacy Act.

28 **Comment.** Section 67000 continues former Fish and Game Code Section 6600 without
29 substantive change.

30 **§ 67005. Findings and declarations**

31 67005. The Legislature finds and declares all of the following:

32 (a) California's extraordinary marine biological diversity is a vital asset to the
33 state and nation. The diversity of species and ecosystems found in the ocean
34 waters off the state is important to public health and well-being, ecological health,
35 and ocean-dependent economic activities.

1 (b) Although the state maintains various programs to protect, restore, and
2 enhance California’s marine resources, the effect of these programs is limited by
3 inadequate and unstable funding.

4 (c) There is an existing permitting process for decommissioning and fully
5 removing offshore oil platforms or production facilities. Owners and operators are
6 currently responsible for the full cost of decommissioning and remediating those
7 facilities.

8 (d) According to the United States Department of the Interior, the 23 oil and gas
9 platforms in federal waters off the California coast are expected to reach the end of
10 their useful production lifetimes and be decommissioned between 2015 and 2030.

11 (e) The California Ocean Science Trust in its June 2010 study, titled “Evaluating
12 Alternatives for Decommissioning California’s Offshore Oil and Gas Platforms: A
13 Technical Analysis to Inform State Policy,” analyzed a number of
14 decommissioning alternatives to full rig removal and determined that the most
15 likely alternative is to remove the upper portion of the rig and leave the remainder
16 of the structure in place.

17 (f) The California Ocean Science Trust report and other studies indicate that the
18 partial removal option can result in a net benefit to the marine environment and
19 substantial cost savings compared to full removal of an oil platform or production
20 facility.

21 (g) Provided that partial removal of an oil rig would result in a net benefit to the
22 marine environment compared to full removal, it is in the interest of the state that a
23 portion of the cost savings that result from partial removal should be shared with
24 the citizens of this state to protect and enhance the state’s marine resources.

25 (h) It is also in the interest of the state that any program to allow partial removal
26 of oil platforms meet all of the following criteria:

27 (1) Partial removal shall result in a net benefit to the marine environment
28 compared to full removal.

29 (2) The determination of whether partial removal would result in a net benefit to
30 the marine environment should be made only after scientific study and evaluation.

31 (3) Because the location and depth of an oil platform, as well as other ecological
32 factors, create a unique environment, each oil platform shall be subject to
33 scientific study and evaluation before partial removal is allowed.

34 (4) The costs of the scientific study and evaluation should be borne by the
35 applicant.

36 **Comment.** Section 67005 continues former Fish and Game Code Section 6601 without
37 substantive change.

38 **§ 67010. Definitions**

39 67010. For purposes of this title, the following terms have the following
40 meanings:

41 (a) “Applicant” means the owner or operator of an offshore oil structure in state
42 or federal waters or another party responsible for decommissioning an offshore oil

1 structure in state or federal waters who applies pursuant to this title to carry out
2 partial removal of the structure.

3 (b) “Commission” means the State Lands Commission.

4 (c) “Conservancy” means the State Coastal Conservancy.

5 (d) “Cost savings” means the difference between the estimated cost to the
6 applicant of complete removal of an oil platform as required by state and federal
7 leases and the estimated costs to the applicant of partial removal of the oil
8 platform pursuant to this title.

9 (e) “Council” means the Ocean Protection Council.

10 (f) “Endowment” means the California Endowment for Marine Preservation
11 established in Division 37 (commencing with Section 71500) of the Public
12 Resources Code.

13 (g) “Exclusive economic zone (EEZ)” means the zone as measured from the
14 mean high tide line seaward to 200 nautical miles, as set forth in Presidential
15 Proclamation 5030 of March 10, 1983, in which the United States proclaimed
16 jurisdiction over the resources of the ocean within 200 miles of the coastline.

17 (h) “National Fishing Enhancement Act of 1984” means Title II of Public Law
18 98-623.

19 (i) “Offshore oil structure” means platforms, piers, and artificial islands located
20 seaward of mean lower low water, used for oil and gas exploration, development,
21 production, processing, or storage.

22 (j) “Oil” means any kind of petroleum, liquid hydrocarbons, natural gas, or
23 petroleum products or any fraction or residues therefrom.

24 (k) “Open coastal marine resources” means those marine resources that use open
25 coastal waters as their habitat.

26 (l) “Open coastal waters” means the area composed of the submerged lands of
27 the state that are below the mean lower low water, extending seaward to the
28 boundaries of the exclusive economic zone.

29 (m) “Partial removal” means an alternative to full removal of an offshore oil
30 structure, in compliance with all requirements of this title.

31 (n) “State waters” means waters within the seaward boundary of the state as
32 identified in Section 2 of Article III of the California Constitution.

33 **Comment.** Section 67010 continues former Fish and Game Code Section 6602 without
34 substantive change.

35 **§ 67015. No limitation of other authority or duties**

36 67015. Nothing in this title is intended, and it shall not be construed, to limit or
37 affect the authority or duties of any state or local agency, including, but not limited
38 to, the commission, the council, and the California Coastal Commission.

39 **Comment.** Section 67015 continues former Fish and Game Code Section 6605(a) without
40 substantive change.

1 Article 2. Program Generally

2 **§ 67050. Nature of program**

3 67050. (a) This title establishes a program through which an applicant may
4 voluntarily apply to the department to carry out partial removal of the structure.

5 (b) The program established pursuant to this title shall be deemed consistent
6 with, and part of, the California Artificial Reef Program pursuant to Title 3
7 (commencing with Section 25600) of Part 3 of Division 7 for purposes of
8 compliance with federal law including the National Fishing Enhancement Act of
9 1984.

10 (c) Except as specified in Section 67065, the department shall serve as the
11 primary authority for carrying out the program, including review and approval of
12 applications to partially remove an offshore oil structure in state or federal waters
13 and management and operation of decommissioned offshore oil structures in state
14 or federal waters approved pursuant to this title.

15 **Comment.** Section 67050 continues former Fish and Game Code Section 6603(a)-(c) without
16 substantive change.

17 **§ 67055. Application approval**

18 67055. Final approval of an application shall not be granted until the applicant
19 complies with all requirements of the title, including the payment of all costs to
20 the state to review and approve the proposed project as required by Section 67115
21 and the transmittal of the required portion of cost savings to the endowment and
22 other parties as required by Section 67265.

23 **Comment.** Section 67055 continues former Fish and Game Code Section 6603(d) without
24 substantive change.

25 **§ 67060. Funding**

26 67060. The department may obtain funds for the planning, development,
27 maintenance, and operation of an offshore oil structure transferred to the
28 department pursuant to this title and may accept gifts, subventions, grants, rebates,
29 reimbursements, and subsidies from any lawful source.

30 **Comment.** Section 67060 continues former Fish and Game Code Section 6603(e) without
31 substantive change.

32 **§ 67065. Proposal for partial removal is a project**

33 67065. (a) A proposed project to partially remove an offshore oil structure
34 pursuant to this title is a project as defined in subdivision (c) of Section 21065 of
35 the Public Resources Code and is therefore subject to the California
36 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
37 Public Resources Code) and shall be reviewed pursuant to the time limits
38 established in Section 21100.2 of the Public Resources Code.

1 (b) The Natural Resources Agency shall serve as the lead agency for the
2 environmental review of any project proposed pursuant to this title.

3 **Comment.** Section 67065 continues former Fish and Game Code Section 6604 without
4 substantive change.

5 **§ 67070. No limitation on liability**

6 67070. Nothing in this title shall be construed to do any of the following:

7 (a) Relieve the applicant or prior owner or operator of an offshore oil structure
8 from any continuing liability under any of the following, if the liability is
9 associated with seepage or release of oil from an offshore oil structure that was
10 decommissioned pursuant to an order of, or any action taken by, and in accordance
11 with, any applicable rule or regulation of, any federal or state agency:

12 (1) Any state statute or regulation regarding liability for the spilling of oil.

13 (2) The federal Oil Pollution Act of 1990 (33 U.S.C. Sec. 2701 et seq.).

14 (3) Any other provision of law.

15 (b) Establish any new liability on the part of the state.

16 (c) Require any agency with jurisdiction to approve the partial removal of an
17 offshore oil structure.

18 (d) Promote, encourage, or facilitate offshore oil exploration, development, and
19 production within California's open coastal waters.

20 (e) Require the United States Department of the Interior or the commission to
21 modify, amend, or alter an existing oil and gas lease to approve partial removal of
22 an offshore oil structure.

23 (f) Alter any existing law or applicable rule or regulation of any federal or state
24 agency that establishes liability for damages arising with respect to artificial reefs
25 or reef materials, including, but not limited to, components of decommissioned oil
26 structures.

27 (g) Alter any existing law or policy that protects natural reefs.

28 (h) Approve any particular method of abandonment.

29 **Comment.** Section 67070 continues former Fish and Game Code Section 6605(b) without
30 substantive change.

31 **§ 67075. Partial removal is not mitigation**

32 67075. Any partial removal of an offshore oil structure pursuant to this title shall
33 not be used or counted as mitigation for any environmental impacts or natural
34 resource damages.

35 **Comment.** Section 67075 continues former Fish and Game Code Section 6605(c) without
36 substantive change.

37 **§ 67080. Regulation**

38 67080. The department may adopt regulations to implement this title.

39 **Comment.** Section 67080 continues former Fish and Game Code Section 6603(f) without
40 substantive change.

1 CHAPTER 2. PARTIAL REMOVAL OF OFFSHORE OIL STRUCTURES

2 Article 1. Application

3 **§ 67100. Application generally**

4 67100. (a) An owner or operator, or other party responsible for
5 decommissioning, of an offshore oil structure may apply to the department for
6 approval to partially remove the structure pursuant to the requirements of this title.

7 (b) The department shall design and make available to potential applicants an
8 application process that will facilitate review of the application by the department
9 in a timely manner, consistent with Section 67065.

10 (c) Upon receipt of an application pursuant to this section, the department shall
11 transmit a copy of the application to the council, the commission, and the
12 endowment, which shall constitute notice to these agencies.

13 **Comment.** Section 67100 continues former Fish and Game Code Section 6610 without
14 substantive change.

15 **§ 67105. Application content**

16 67105. (a) The application for partial removal shall include, at a minimum, all of
17 the following:

18 (1) The applicant's plan and schedule for partial removal of the offshore oil
19 structure, including removal of any portion of the structure as appropriate to
20 maintain navigational safety.

21 (2) A determination of the estimated cost of partial removal and the estimated
22 cost of full removal.

23 (3) A determination of the environmental impacts and benefits to the marine
24 environment from partial removal and full removal of the structure.

25 (4) Identification of all permits, leases, and approvals required by any
26 governmental agency, including a permit issued by the United States Army Corps
27 of Engineers if required for offshore oil structures, and a lease issued by the
28 commission if the proposed project involves state tidelands and submerged lands,
29 and a proposed schedule for the applicant or the state to receive those permits,
30 leases, and approvals.

31 (b) The department may require the applicant to submit a management plan for
32 the structure following partial removal, including maintenance in a manner
33 consistent with navigational safety, enforcement, and monitoring.

34 (c) The information submitted pursuant to subdivisions (a) and (b) shall be used
35 by the department for advisory purposes only. Final determinations regarding the
36 partial removal and management of the offshore oil structure, net benefit to the
37 marine environment from partial removal, and cost savings from partial removal
38 shall be made solely by the department, council, and commission, as specified in
39 this title, based on their independent review and judgment.

1 **Comment.** Section 67105 continues former Fish and Game Code Section 6611 without
2 substantive change.

3 **§ 67110. Application completeness**

4 67110. Upon receipt of an application to partially remove an offshore oil
5 structure pursuant to this title, the department shall determine whether the
6 application is complete and includes all information needed by the department.

7 **Comment.** Section 67110 continues former Fish and Game Code Section 6612(a) without
8 substantive change.

9 **§ 67115. Financial assurances**

10 67115. (a) Upon a determination that the application is complete, the applicant
11 shall provide surety bonds executed by an admitted surety insurer, irrevocable
12 letters of credit, trust funds, or other forms of financial assurances, determined by
13 the department to be available and adequate, to ensure that the applicant will
14 provide sufficient funds to the department, council, commission, and conservancy
15 to carry out all required activities pursuant to this chapter, including all of the
16 following:

17 (1) Environmental review of the proposed project pursuant to Section 67065.

18 (2) A determination of net environmental benefit pursuant to Article 2
19 (commencing with Section 67150).

20 (3) A determination of cost savings pursuant to Article 3 (commencing with
21 Section 67200).

22 (4) Preparation of a management plan for the structure pursuant to Section
23 67250.

24 (5) Implementation of the management plan and ongoing maintenance of the
25 structure after the department takes title pursuant to Section 67275.

26 (6) Development of an advisory spending plan pursuant to Section 67280.

27 (7) Other activities undertaken to meet the requirements of this chapter,
28 including the costs of reviewing applications for completeness, and reviewing,
29 approving, and permitting the proposed project, which includes the costs of
30 determining whether the project meets the requirements of all applicable laws and
31 regulations and the costs of environmental assessment and review.

32 (b) The department shall consult with the council, commission, and conservancy
33 in determining appropriate funding for activities to be carried out by those
34 agencies.

35 (c) The funds provided pursuant to Section 67110 shall not be considered in the
36 calculation of cost savings pursuant to Article 3 (commencing with Section 67200)
37 or the apportionment of cost savings pursuant to Section 67265.

38 **Comment.** Section 67115 continues former Fish and Game Code Section 6612(b) without
39 substantive change.

1 **§ 67120. Startup costs**

2 67120. (a) The first person to file an application on and after January 1, 2011, to
3 partially remove an offshore oil structure pursuant to this title, shall pay, in
4 addition to all costs identified under Section 67115, the startup costs incurred by
5 the department or the commission to implement this title, including the costs to
6 develop and adopt regulations pursuant to this title.

7 (b) This payment of startup costs shall be reimbursed by the department as
8 provided in paragraph (3) of subdivision (c) of Section 67265.

9 **Comment.** Section 67120 continues former Fish and Game Code Section 6612(c) without
10 substantive change.

11 **§ 67125. Environmental review**

12 67125. As soon as feasible after reaching the agreement pursuant to Section
13 67115, the lead agency shall begin the environmental review of the proposed
14 project as required pursuant to Section 67065.

15 **Comment.** Section 67125 continues former Fish and Game Code Section 6612(d) without
16 substantive change.

17 Article 2. Determination of Net Benefit

18 **§ 67150. Council determination of net benefit**

19 67150. The council shall determine whether the partial removal of an offshore
20 oil structure pursuant to this title provides a net benefit to the marine environment
21 compared to the full removal of the structure.

22 **Comment.** Section 67150 continues former Fish and Game Code Section 6613(a) without
23 substantive change.

24 **§ 67155. Establishment of criteria**

25 67155. As a necessary prerequisite to determining net environmental benefit as
26 required in Section 67150, the council shall, upon receipt of its initial application
27 from the department pursuant to Section 67100, establish appropriate criteria for
28 evaluating the net environmental benefit of full removal and partial removal of
29 offshore oil structures.

30 (a) The criteria shall include, but are not limited to, the depth of the partially
31 removed structure in relation to its value as habitat and the location of the
32 structure, including its proximity to other reefs, both natural and artificial.

33 (b) The criteria shall not include any consideration of the funds to be generated
34 by the partial removal of the structure.

35 (c) In determining the criteria, the council shall consult with appropriate entities,
36 including, but not limited to, the department, the commission, the California
37 Coastal Commission, and the California Ocean Science Trust.

38 (d) The council shall establish the criteria in time to use them in making its
39 initial determination of net environmental benefit pursuant to this article.

1 **Comment.** Section 67155 continues former Fish and Game Code Section 6613(b) without
2 substantive change.

3 **§ 67160. Making the determination**

4 67160. (a) Upon certification of environmental documents pursuant to the
5 California Environmental Quality Act, the council shall, based on the criteria
6 developed pursuant to Section 67155 and other relevant information, determine
7 whether partial removal of the structure would provide a net benefit to the marine
8 environment compared to full removal of the structure.

9 (b) In making the determination, the council shall, at a minimum, take into
10 account the following:

11 (1) The contribution of the proposed structure to protection and productivity of
12 fish and other marine life.

13 (2) Any adverse impacts to biological resources or water quality, or any other
14 marine environmental impacts, from the full removal of the facility that would be
15 avoided by partial removal as proposed in the application.

16 (3) Any adverse impacts to biological resources or water quality, or any other
17 marine environmental impacts, from partial removal of the structure as proposed
18 in the application.

19 (4) Any benefits to the marine environment that would result from the full
20 removal of the structure or from partial removal as proposed in the application.

21 (5) Any identified management requirements and restrictions of the partially
22 removed structure, including, but not limited to, restrictions on fishing or other
23 activities at the site.

24 **Comment.** Section 67160 continues former Fish and Game Code Section 6613(c) without
25 substantive change.

26 **§ 67165. Specified benefits excluded from determination**

27 67165. Benefits resulting from the contribution of cost savings to the
28 endowment shall not be considered in the determination of net environmental
29 benefit.

30 **Comment.** Section 67165 continues former Fish and Game Code Section 6613(d) without
31 substantive change.

32 **§ 67170. Assistance of other entities**

33 67170. The council may contract or enter into a memorandum of understanding
34 with any other appropriate governmental or nongovernmental entity to assist in its
35 determination of net environmental benefit.

36 **Comment.** Section 67170 continues former Fish and Game Code Section 6613(e) without
37 substantive change.

1 differences, between the commission’s determination of cost savings and any
2 other estimates of cost savings the commission considered.

3 **Comment.** Section 67210 continues former Fish and Game Code Section 6614(c) without
4 substantive change.

5 **§ 67215. Duties of applicant**

6 67215. The applicant shall provide all necessary documentation, as determined
7 by the commission, to allow the commission to calculate the amount of cost
8 savings. Failure to provide information requested by the commission in a timely
9 manner may result in rejection of the application.

10 **Comment.** Section 67215 continues former Fish and Game Code Section 6614(d) without
11 substantive change.

12 **§ 67220. Finality of determination**

13 67220. The determination made pursuant to this article and submitted to the
14 department by the commission shall constitute the final determination and shall
15 not be revised except by the commission.

16 **Comment.** Section 67220 continues former Fish and Game Code Section 6614(e) without
17 substantive change.

18 **§ 67225. Timeliness**

19 67225. The commission shall take all feasible steps to complete its
20 determination in a timely manner that accommodates the department’s schedule
21 for consideration of the application.

22 **Comment.** Section 67225 continues former Fish and Game Code Section 6614(f) without
23 substantive change.

24 **Article 4. Application Approval**

25 **§ 67250. Department responsibilities**

26 67250. Prior to granting conditional approval of an application for partial
27 removal of an offshore oil structure, the department shall do all of the following:

28 (a) Prepare a plan to manage the offshore oil structure after its partial removal.
29 The plan shall include measures to manage fishery and marine life resources at
30 and around the structure in a manner that will ensure that the net benefits to the
31 marine environment identified pursuant to Article 1 (commencing with Section
32 67150) are maintained or enhanced. Consistent with state and federal law,
33 management measures may include a buffer zone in which fishing or removal of
34 marine life is restricted or prohibited.

35 (b) Provide an opportunity for public comment on the application pursuant to the
36 California Environmental Quality Act.

37 (c) Hold a public hearing in the county nearest to the location of the offshore oil
38 structure that is the subject of the application.

1 **Comment.** Section 67250 continues former Fish and Game Code Section 6615 without
2 substantive change.

3 **§ 67255. Standards for granting conditional approval**

4 67255. The department may grant conditional approval of an application for
5 partial removal of an offshore oil structure only if all of the following criteria are
6 satisfied:

7 (a) The partial removal of the offshore oil structure and the planning,
8 development, maintenance, and operation of the structure would be consistent with
9 all applicable state, federal, and international laws, including, but not limited to,
10 all of the following:

11 (1) The federal Magnuson-Stevens Fishery Conservation and Management Act
12 (16 U.S.C. Sec. 1801 et seq.).

13 (2) The federal National Fishing Enhancement Act of 1984 (33 U.S.C. Sec. 2101
14 et seq.).

15 (3) The federal Coastal Zone Management Act (16 U.S.C. Sec. 1451 et seq.).

16 (4) The California Coastal Management Program.

17 (5) The Marine Life Management Act (Title 3 (commencing with Section
18 12100) of Part 4 of Division 6).

19 (6) The Marine Life Protection Act (Part 2 (commencing with Section 60400) of
20 Division 16).

21 (7) State and federal water quality laws.

22 (8) Navigational safety laws.

23 (b) The partial removal of the offshore oil structure provides a net benefit to the
24 marine environment compared to full removal of the structure, as determined
25 pursuant to Article 2 (commencing with Section 67150).

26 (c) The cost savings that would result from the conversion of the offshore oil
27 platform or production facility have been determined pursuant to Article 3
28 (commencing with Section 67200).

29 (d) The applicant has provided sufficient funds consistent with Section 67115.

30 (e) The department and the applicant have entered into a contractual agreement
31 whereby the applicant will provide sufficient funds for overall management of the
32 structure by the department, including, but not limited to, ongoing management,
33 operations, maintenance, monitoring, and enforcement as these relate to the
34 structure.

35 (f) The department has entered into an indemnification agreement with the
36 applicant that indemnifies the state and the department, to the extent permitted by
37 law, against any and all liability that may result, including, but not limited to,
38 active negligence, and including defending the state and the department against
39 any claims against the state for any actions the state undertakes pursuant to this
40 chapter. The agreement may be in the form of an insurance policy, cash
41 settlement, or other mechanism as determined by the department. In adopting
42 indemnification requirements for the agreement, the department shall ensure that

1 the state can defend itself against any liability claims against the state for any
2 actions the state undertakes pursuant to this chapter and pay any resulting
3 judgments. The department shall consult with and, as necessary, use the resources
4 of the office of the Attorney General in preparing and entering into the
5 indemnification agreement.

6 (g) The applicant has applied for and received all required permits, leases, and
7 approvals issued by any governmental agency, including, but not limited to, a
8 lease issued by the commission if the proposed project involves state tidelands and
9 submerged lands. For structures located in federal waters, all of the following
10 requirements shall be met:

11 (1) The department and the owner or operator of the structure reach an
12 agreement providing for the department to take title to the platform or facility as
13 provided in Section 67275.

14 (2) The department acquires the permit issued by the United States Army Corps
15 of Engineers.

16 (3) The partial removal of the structure is approved by the Bureau of Ocean
17 Energy Management, Regulation and Enforcement of the United States
18 Department of the Interior.

19 **Comment.** Section 67255 continues former Fish and Game Code Section 6616 without
20 substantive change.

21 **§ 67260. Conditional approval**

22 67260. Upon a finding that all the requirements of Sections 67250 and 67255
23 have been met, the department shall grant conditional approval to an application
24 for partial removal of an offshore oil structure.

25 **Comment.** Section 67260 continues former Fish and Game Code Section 6617 without
26 substantive change.

27 **§ 67265. Apportionment of cost savings**

28 67265. (a) The cost savings from the partial removal of an offshore oil structure,
29 as determined pursuant to Article 3 (commencing with Section 67200), shall be
30 apportioned and transmitted as described in this section.

31 (b) Upon receipt of conditional approval pursuant to Section 67260, the owner
32 or operator of the structure shall apportion and directly transmit a portion of the
33 total amount of the cost savings to the entities in subdivision (c) as follows:

34 (1) Fifty-five percent, if transmitted before January 1, 2017.

35 (2) Sixty-five percent, if transmitted on or after January 1, 2017, and before
36 January 1, 2023.

37 (3) Eighty percent, if transmitted on or after January 1, 2023.

38 (c) Of the total amount of the cost savings to be transmitted pursuant to
39 subdivision (b), the applicant shall directly transmit the following amounts to the
40 following entities:

1 (1) Eighty-five percent shall be deposited into the California Endowment for
2 Marine Preservation established pursuant to Division 37 (commencing with
3 Section 71500) of the Public Resources Code.

4 (2) Ten percent shall be deposited into the General Fund.

5 (3) Two percent shall be deposited into the Fish and Game Preservation Fund
6 for expenditure, upon appropriation by the Legislature, by the department to pay
7 any costs imposed by this title that are not otherwise provided for pursuant to
8 Section 67115 and subdivision (e) of Section 67255. Any moneys remaining in the
9 Fish and Game Preservation Fund, after providing for these costs, shall be used,
10 upon appropriation by the Legislature, first to reimburse the payment of the startup
11 costs described in Section 67120, and thereafter to conserve, protect, restore, and
12 enhance the coastal and marine resources of the state consistent with the mission
13 of the department.

14 (4) Two percent shall be deposited into the Coastal Act Services Fund,
15 established pursuant to Section 30620.1 of the Public Resources Code, and shall
16 be allocated to support state agency work involving research, planning, and
17 regulatory review associated with the application and enforcement of coastal
18 management policies in state and federal waters pursuant to state and federal
19 quasi-judicial authority over offshore oil and gas development.

20 (5) One percent shall be deposited with the board of supervisors of the county
21 immediately adjacent to the location of the facility prior to its decommissioning.
22 The amount paid to the county shall be managed pursuant to paragraph (1) of
23 subdivision (d) of Section 6817 of the Public Resources Code.

24 **Comment.** Section 67265 continues former Fish and Game Code Section 6618 without
25 substantive change.

26 **§ 67270. Final approval**

27 67270. Upon a determination by the department that the full amount of cost
28 savings has been transmitted pursuant to Section 67265, the department shall grant
29 final approval of the application for partial removal of an offshore oil structure.

30 **Comment.** Section 67270 continues former Fish and Game Code Section 6619 without
31 substantive change.

32 **§ 67275. Requirements for state to take title**

33 67275. The department shall not take title to a decommissioned offshore oil
34 structure in open coastal waters or take responsibility for management of the
35 structure pursuant to this chapter until decommissioning and partial removal of the
36 structure have been completed and both of the following requirements are met:

37 (a) The partial removal of the structure has been granted final approval by the
38 department.

39 (b) The state is indemnified, as required in subdivision (f) of Section 67255,
40 from any liability that may result from approving the partial removal of an

1 offshore oil structure or any liability that may result from the ownership of the
2 structure.

3 **Comment.** Section 67275 continues former Fish and Game Code Section 6620 without
4 substantive change.

5 **§ 67280. Advisory spending plan**

6 67280. Upon the department’s final approval of the first application for partial
7 removal of an offshore oil structure pursuant to Section 67270, the conservancy
8 shall create an advisory spending plan for cost savings deposited in the
9 endowment, to provide the Board of Directors of the California Endowment for
10 Marine Preservation with guidance on spending those funds. The conservancy
11 shall update the spending plan no less than once every five years, except the
12 conservancy shall also update the spending plan when each additional application
13 for partial removal is approved. The conservancy shall submit a copy of the
14 spending plan and all updates to the plan to the Legislature, in accordance with
15 Section 9795 of the Government Code, and to the Board of Directors of the
16 California Endowment for Marine Preservation.

17 **Comment.** Section 67280 continues former Fish and Game Code Section 6621 without
18 substantive change.

19 **TITLE 3. OIL SUMPS**

20 **§ 67400. Definition of “oil sump”**

21 67400. For the purposes of this title, “oil sump” has the meaning provided in
22 Section 3780 of the Public Resources Code.

23 **Comment.** Section 67400 continues part of the first sentence of former Fish and Game Code
24 Section 1016(a) and (b) without substantive change.

25 **§ 67405. Hazard to wildlife**

26 67405. (a) Whenever the department determines that an oil sump is hazardous to
27 wildlife, but does not constitute an immediate and grave danger to wildlife, the
28 department shall forthwith notify the State Oil and Gas Supervisor of that
29 condition in order that the State Oil and Gas Supervisor may take action pursuant
30 to Section 3783 of the Public Resources Code to have that condition cleaned up or
31 abated.

32 (b) The department in making that notification shall specify the hazardous
33 conditions.

34 **Comment.** Section 67405 continues former Fish and Game Code Section 1016(a), except for
35 the part that is continued in Section 67400, without substantive change.

36 **§ 67410. Immediate and grave danger to wildlife**

37 67410. (a) Whenever the department determines that an oil sump constitutes an
38 immediate and grave danger to wildlife, the department shall forthwith notify the

1 State Oil and Gas Supervisor of that condition in order that the State Oil and Gas
2 Supervisor may take action pursuant to Section 3784 of the Public Resources Code
3 to have that condition cleaned up or abated.

4 (b) The department, in making that notification, shall specify the immediate and
5 grave danger.

6 **Comment.** Section 67410 continues former Fish and Game Code Section 1016(b), except for
7 the part that is continued in Section 67400, without substantive change.

8 **§ 67415. Regulations**

9 67415. The commission shall promulgate any rules and regulations that are
10 necessary to implement the provisions of this title, including a reasonable
11 definition of the term “hazardous” for the purposes of this title. It is the intent of
12 the Legislature that the department adopt, as a part of those rules and regulations, a
13 definition of the term “wildlife,” as herein employed, which will provide for
14 reasonable exclusions consistent with effectuating the wildlife protection purposes
15 of this title.

16 **Comment.** Section 67415 continues former Fish and Game Code Section 1016(c) without
17 substantive change.

18 **§ 67420. No limitation on other department authority or duties**

19 67420. No provision of this title shall be construed as a limitation on the
20 authority or responsibilities of the department with respect to the enforcement or
21 administration of any provision of state law that it is authorized or required to
22 enforce or administer.

23 **Comment.** Section 67420 continues former Fish and Game Code Section 1016(d) without
24 substantive change.

25 **TITLE 4. FINANCES**

26 **§ 67500. Fish and Wildlife Pollution Account**

27 67500. (a) There is a Fish and Wildlife Pollution Account in the Fish and Game
28 Preservation Fund.

29 (b) The Fish and Wildlife Pollution Account is the successor to the Fish and
30 Wildlife Pollution Cleanup and Abatement Account in the Fish and Game
31 Preservation Fund which is hereby abolished. All references in any law to the Fish
32 and Wildlife Pollution Cleanup and Abatement Account shall be deemed to refer
33 to the Fish and Wildlife Pollution Account. All money in the Fish and Wildlife
34 Pollution Cleanup and Abatement Account on January 1, 1996, shall be
35 transferred to the Fish and Wildlife Pollution Account.

36 (c) The following subaccounts are created within the Fish and Wildlife Pollution
37 Account:

38 (1) The Oil Pollution Administration Subaccount.

39 (2) The Oil Pollution Response and Restoration Subaccount.

1 (3) The Hazardous Materials Administration Subaccount.

2 (4) The Hazardous Materials Response and Restoration Subaccount.

3 **Comment.** Section 67500 continues former Fish and Game Code Section 13010 without
4 substantive change.

5 **§ 67505. Deposit of specified funds**

6 67505. (a) The state portion of any recovery or settlement of money damages
7 received pursuant to any citation or charges brought under the following sections
8 by the people by or through any state or local public entity shall be deposited in
9 the following subaccounts:

10 (1) Administrative and judicially imposed fines, penalties, or punitive damages
11 resulting from either civil or criminal action or administrative civil liability for
12 violations of the oil and petroleum product control and discharge provisions of this
13 code, including, but not limited to, Sections 4470, 6302, and 66715, Article 2
14 (commencing with Section 4480) of Chapter 2 of Title 2 of Part 4 of Division 3,
15 and Title 1 (commencing with Section 66500) and shall be deposited in the Oil
16 Pollution Administration Subaccount or the Oil Pollution Response and
17 Restoration Subaccount as determined by administrative or judicial settlement, or
18 as provided by law.

19 (2) Administrative and judicially imposed fines, penalties, or punitive damages
20 resulting from either criminal or administrative civil liability for violations of
21 hazardous materials and other pollution laws including, but not limited to,
22 Sections 4470, 11500, and 66715, and Article 2 (commencing with Section 4480)
23 of Chapter 2 of Title 2 of Part 4 of Division 3, shall be deposited in the Hazardous
24 Materials Administration Subaccount or the Hazardous Materials Response and
25 Restoration Subaccount as determined by administrative or judicial settlement or
26 as provided by law.

27 (b) Notwithstanding Section 3600, any recovery or settlement of money
28 received pursuant to the following sections shall be deposited in the Fish and
29 Wildlife Pollution Account:

30 (1) Title 1 (commencing with Section 66500) of Part 3 of Division 17.

31 (2) Section 66705 or 66715.

32 (3) Chapter 4 (commencing with Section 151) of Division 1.5 of the Harbors
33 and Navigation Code.

34 (4) Section 13442 of the Water Code.

35 (5) Proceeds or recoveries from pollution and abatement actions.

36 (c) Any recovery or settlement of money damages, including, but not limited to,
37 civil penalties arising out of any civil action filed and maintained by the Attorney
38 General in the enforcement of Title 1 (commencing with Section 66500) shall be
39 deposited in the Fish and Wildlife Pollution Account in the Fish and Game
40 Preservation Fund.

41 **Comment.** Subdivision (a) of Section 67505 continues former Fish and Game Code Section
42 13011 without substantive change.

1 Subdivision (b) continues former Fish and Game Code Section 12017(a)(2)-(6) without
2 substantive change.

3 Subdivision (c) continues former Fish and Game Code Section 5656 without substantive
4 change.

5 **Notes.** (1) Existing Section 13011(a) contains an erroneous cross-reference to “Chapter 2
6 (commencing with Section 5600) of Part 1 of Division 6.” There is no Section 5600 in existing
7 law. In proposed Section 67505(a)(1), the reference is revised to refer to the relevant pollution-
8 related provisions of the referenced chapter (i.e., proposed “Title 1 (commencing with Section
9 66500)”). **The Commission invites comment on whether that revision would cause any
10 problems.**

11 (2) Existing Section 13011(b) refers to “Part 1 (commencing with Section 5500) of Division
12 6.” That part is a miscellaneous collection of provisions, only one of which appears to be relevant
13 to the purpose of the reference (existing Section 5523). In proposed Section 67505, the reference
14 is narrowed to refer to the provision that would continue Section 5523 (proposed Section 11500).
15 **The Commission invites comment on whether that revision would cause any problems.**

16 (3) Existing Section 12017(a) refers to Section 13001. In proposed Section 67505(b), that
17 reference is narrowed to refer to the part of Section 13001(a) that appears to be relevant to the
18 purpose of the reference. **The Commission invites comment on whether that revision would
19 cause any problems.**

20 **§ 67510. Continuous appropriation**

21 67510. Moneys in the Fish and Wildlife Pollution Account are continuously
22 appropriated to the department, except as provided in Section 67530.

23 **Comment.** Section 67510 continues former Fish and Game Code Section 12017(b) without
24 substantive change.

25 **§ 67515. Expenditures**

26 67515. (a) Funds in the account shall be expended for the following purposes:

27 (1) Abatement, cleanup, and removal of pollutants from the environment.

28 (2) Response coordination, planning, and program management.

29 (3) Resource injury determination.

30 (4) Resource damage assessment.

31 (5) Economic valuation of resources.

32 (6) Restoration or rehabilitation at sites damaged by pollution.

33 (b) Notwithstanding subdivision (a), funds in the account in excess of one
34 million dollars (\$1,000,000) as of July 1 of each year may also be expended for
35 the preservation of California plants, wildlife, and fisheries.

36 (c) Funds in the account may be expended for cleanup and abatement if a
37 reasonable effort has been made to have the responsible party pay cleanup and
38 abatement costs and funds are not available for disbursement from the emergency
39 reserve account of the Toxic Substances Control Account in the General Fund
40 pursuant to Section 25354 of the Health and Safety Code.

41 (d) The department may use funds in the account to pay the costs of consultant
42 contracts for resource injury determination or damage assessment during
43 hazardous material or oil spill emergencies. These contracts are not subject to Part
44 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

1 **Comment.** Section 67515 continues former Fish and Game Code Section 12017(c)-(f) without
2 substantive change.

3 **§ 67520. Maximum funds on deposit**

4 67520. (a) Funds on deposit in the subaccounts shall not exceed the amounts
5 prescribed below, adjusted in accordance with Section 2212 of the Revenue and
6 Taxation Code to equal 1995 dollars:

7 (1) The Oil Pollution Administration Subaccount shall not exceed five million
8 dollars (\$5,000,000).

9 (2) The Oil Pollution Response and Restoration Subaccount shall not exceed ten
10 million dollars (\$10,000,000).

11 (3) The Hazardous Materials Administration Subaccount shall not exceed five
12 million dollars (\$5,000,000).

13 (4) The Hazardous Material Response and Restoration Subaccount shall not
14 exceed ten million dollars (\$10,000,000).

15 (b) All funds in the Fish and Wildlife Pollution Account in excess of the
16 amounts listed above, on June 30 of each fiscal year, shall be used by the
17 department in succeeding fiscal years for projects that preserve California plants,
18 wildlife, and fisheries.

19 **Comment.** Section 67520 continues former Fish and Game Code Section 13012 without
20 substantive change.

21 **§ 67525. Prudent reserve**

22 67525. (a) Appropriations from either the Oil Pollution Administration
23 Subaccount or the Hazardous Materials Administration Subaccount shall not
24 exceed one third of the maximum fund level established under Section 67520 in
25 order to maintain a prudent reserve for future appropriations.

26 (b) If the director or his or her designee expends funds from the prudent reserve
27 established pursuant to subdivision (a) for activities authorized under subdivision
28 (b) of Section 67530, the director or the director's designee shall ensure that there
29 are adequate funds remaining in those subaccounts to carry out their purposes.
30 Expenditures from the prudent reserve shall be repaid in part, or in full, from any
31 funds received pursuant to subdivision (a) of Section 67505 until those reserves
32 are fully reimbursed.

33 (c) The director or his or her designee, shall recover from the spiller, responsible
34 party, or, in the absence of those responsible parties, from a particular pollution
35 abatement or remediation account, all expenditures paid pursuant to subdivisions
36 (b) and (d) of Section 67530, and all costs incurred by the department arising from
37 the administration and enforcement of applicable pollution laws. The director or
38 his or her designee may request, and a district attorney, city attorney, or other
39 prosecuting agency, as part of a prosecution or negotiation, may allege a claim for,
40 these costs and expenditures and shall deposit any recoveries into the fund from
41 which they were expended.

1 (d) The director or his or her designee shall ensure that there are adequate funds
2 in the accounts and subaccounts specified in this section to carry out their
3 purposes.

4 **Comment.** Section 67525 continues former Fish and Game Code Section 13013 without
5 substantive change.

6 **Note.** Existing Section 13013(c) refers to “expenditures paid from the accounts established
7 pursuant to subdivisions (b) and (d) of Section 13230.” That reference is confusing. While
8 Section 13230(b) and (d) do authorize expenditures, they do not establish any accounts. In
9 proposed Section 67525, the language has been revised to eliminate any reference to the
10 establishment of accounts. **The Commission invites comment on whether that revision would**
11 **cause any problems.**

12 **§ 67530. Expenditures from specified subaccounts**

13 67530. (a) Funds deposited in the Oil Pollution Administration Subaccount
14 created pursuant to paragraph (1) of subdivision (c) of Section 67500 shall, upon
15 appropriation by the Legislature, only be expended by the director, his or her
16 deputy, or designee, for the costs of administering the pollution response,
17 abatement, and habitat restoration activities not otherwise authorized by the
18 Lempert-Keene-Seastrand Oil Spill Prevention and Response Act.

19 (b) Notwithstanding Section 13340 of the Government Code, funds deposited in
20 the Oil Pollution Response and Restoration Subaccount created pursuant to
21 paragraph (2) of subdivision (c) of Section 67500 are continuously appropriated to
22 the department for expenditure by the director, his or her deputy, or designee,
23 without regard to fiscal years for response and restoration activity related to oil
24 spills not otherwise authorized by the Lempert-Keene-Seastrand Oil Spill
25 Prevention and Response Act.

26 (c) Funds deposited in the Hazardous Materials Administration Subaccount
27 created pursuant to paragraph (3) of subdivision (c) of Section 67500 shall, upon
28 appropriation by the Legislature, only be expended by the director, his or her
29 deputy, or designee, for the reasonable cost of administering the hazardous
30 materials response and restoration activities of the department.

31 (1) These activities shall include the cross training and staffing of existing
32 department and interagency personnel necessary to achieve efficiency in the use of
33 existing funds and resources in response to hazardous materials and restoration
34 activities of the department.

35 (2) The department may appoint and contract with technical experts to assist in
36 the response and remediation of toxic material discharges.

37 (d) Notwithstanding Section 13340 of the Government Code, funds deposited in
38 the Hazardous Materials Response and Restoration Subaccount are continuously
39 appropriated to the director, his or her deputy, or designee, for expenditure without
40 regard to fiscal years for the response and abatement of hazardous materials that
41 are spilled or discharged on the lands and in the waters of the state, and for the
42 protection, preservation, and restoration of fish and wildlife impacted by
43 discharges of hazardous materials into the environment of the state. No funds

1 appropriated from this subaccount shall be expended to establish personnel
2 positions nor shall any personnel positions be created with contract funds from this
3 subaccount.

4 **Comment.** Section 67530 continues former Fish and Game Code Section 13230 without
5 substantive change.

6 **§ 67535. Cost accounting system**

7 67535. Consistent with Section 3525, the department shall maintain a cost
8 accounting system that accounts for the costs of each activity or program engaged
9 in pursuant to Section 67530 using funds from the subaccounts listed in that
10 section.

11 **Comment.** Section 67535 continues former Fish and Game Code Section 13231 without
12 substantive change.

13 **PART 4. WATER DIVERSION, OBSTRUCTION, AND ALTERATION**

14 **TITLE 1. DAMS, CONDUITS, AND SCREENS**

15 **CHAPTER 1. GENERAL PROVISIONS**

16 **Article 1. Definitions**

17 **§ 68000. Definitions**

18 68000. As used in this title:

19 (a) “Dam” includes all artificial obstructions.

20 (b) “Conduit” includes pipe, millrace, ditch, flume, siphon, tunnel, canal, and
21 any other conduit or diversion used for the purpose of taking or receiving water
22 from any river, creek, stream, or lake.

23 (c) “Owner” includes the United States (except that for the purpose of Sections
24 68105, 68405, and 68650, “owner” does not include the United States as to any
25 dam in the condition the dam existed on September 15, 1945), the State, a person,
26 political subdivision, or district (other than a fish and game district) owning,
27 controlling or operating a dam or pipe.

28 (d) “United States” means the United States of America, and in relation to any
29 particular matter includes the officers, agents, employees, agencies, or
30 instrumentalities authorized to act in relation thereto.

31 **Comment.** Section 68000 continues former Fish and Game Code Section 5900 without
32 substantive change.

33 **Note.** Existing Section 5900 (c) provides that, in specified sections, the term “owner” does
34 not include the United States. One of the specified sections, existing Section 5933, does not use
35 the term “owner.” The reference to Section 5933 has not been continued in proposed Section
36 68000. **The Commission invites comment on whether that revision would cause any**
37 **problems.**

1 Article 2. Application of Chapter to United States

2 § 68050. Legislative intent

3 68050. (a) In including the United States within the scope of this title the
4 Legislature declares that it understands that the law and policy of the United States
5 with respect to the development of water resources, the reclamation of land from
6 flood and overflow, and in all other respects is to comply with state laws
7 respecting water.

8 (b) The provisions of this title provide a procedure for the United States to
9 comply with the provisions and policy of state law respecting its subject matter.

10 **Comment.** Section 68050 continues former Fish and Game Code Section 5902 without
11 substantive change.

12 § 68055. Application to construct or enlarge dam

13 68055. The United States shall file with the commission pursuant to this title a
14 separate application for each dam it proposes to construct or enlarge if an owner
15 other than the United States would be required to file an application pursuant to
16 Division 3 of the Water Code in order to construct or enlarge the same dam. The
17 application shall be on forms provided by the department.

18 **Comment.** Section 68055 continues former Fish and Game Code Section 5903 without
19 substantive change.

20 § 68060. Application content

21 68060. (a) The application of the United States shall give the following
22 information:

23 (1) The name and address of the owner.

24 (2) The location, type, size, and height of the proposed dam and appurtenant
25 works.

26 (3) The storage capacity of the reservoir.

27 (4) Such other pertinent information as the commission requires.

28 (5) As accurately as may be readily obtained, the area of the drainage basin,
29 rainfall, and stream flow records and flood flow records and estimates.

30 (6) The purpose for which the impounded or diverted water is to be used.

31 (7) Such other appropriate information as may be necessary in a given instance.

32 (b) If the physical conditions involved and the size of the dam render the above
33 requirements unnecessary as to drainage areas, rainfall, stream flow, and flood
34 flow, the commission may waive the requirements.

35 **Comment.** Section 68060 continues former Fish and Game Code Section 5904 without
36 substantive change.

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CHAPTER 2. PROHIBITED OBSTRUCTIONS

Article 1. General Prohibition

§ 68100. Obstruction generally

68100. (a) No person shall cause or having caused, permit to exist any log jam, debris accumulation or other artificial barrier in any stream in this state, which prevents the passing of fish up and down stream or which the Commission determines to be deleterious to fish.

(b) The Commission determination is subject to court review.

(c) This section does not apply to a dam for the storage or diversion of water, a public bridge and the approaches thereto, a groin, jetty, seawall, breakwater, bulkhead, wharf, or pier, that is permitted by law, or debris from mining operations,

Comment. Section 68100 restates former Fish and Game Code Section 5948 without substantive change.

Note. Proposed Section 68100 would restate existing Section 5948 to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

“No person shall cause or having caused, permit to exist any log jam or debris accumulation or any other artificial barrier, except a dam for the storage or diversion of water, public bridges and approaches thereto, groins, jetties, seawalls, breakwaters, bulkheads, wharves and piers permitted by law, and debris from mining operations, in any stream in this State, which will prevent the passing of fish up and down stream or which is deleterious to fish as determined by the commission, subject to review by the courts.”

The Commission invites comment on whether that restatement would cause any problems.

Article 2. Prohibition in Specified Districts

§ 68105. Obstruction in specified districts

68105. Except as otherwise provided in this code, it is unlawful to construct or maintain in any stream in Districts 2505, 2510, 2515, 2525, 2530, 2535, 2540, 2545, 2550, 2555, 2560, 2565, 2595, 2600, 2605, 2660, and 2665, any device or contrivance that prevents, impedes, or tends to prevent or impede, the passing of fish up and down stream.

Comment. Section 68105 continues former Fish and Game Code Section 5901 without substantive change.

See also Section 6380 (enforcement).

Note. Existing Section 5901 refers to District 1 7/8 and District 2 3/4. Neither of those districts exist in the current code. The references to them are omitted from proposed Section 68104. **The Commission invites comment on whether that revision would cause any problems.**

1 CHAPTER 3. FISHWAYS

2 Article 1. General Prohibitions and Obligations

3 § 68300. Damage or obstruction

4 68300. It is unlawful to willfully destroy, injure, or obstruct any fishway.

5 **Comment.** Section 68300 continues former Fish and Game Code Section 5936 without
6 substantive change.

7 § 68305. Maintenance

8 68305. The owner of any dam upon which a fishway has been provided shall
9 keep the fishway in repair and open and free from obstructions to the passage of
10 fish at all times.

11 **Comment.** Section 68305 continues former Fish and Game Code Section 5935 without
12 substantive change.

13 § 68310. Water flow

14 68310. (a) The owner of any dam shall allow sufficient water at all times to pass
15 through a fishway, or in the absence of a fishway, allow sufficient water to pass
16 over, around or through the dam, to keep in good condition any fish that may be
17 planted or exist below the dam.

18 (b) During the minimum flow of water in any river or stream, permission may
19 be granted by the department to the owner of any dam to allow sufficient water to
20 pass through a culvert, waste gate, or over or around the dam, to keep in good
21 condition any fish that may be planted or exist below the dam, when, in the
22 judgment of the department, it is impracticable or detrimental to the owner to pass
23 the water through the fishway.

24 **Comment.** Section 68310 continues former Fish and Game Code Section 5937 without
25 substantive change.

26 § 68315. Fishing in impounded waters

27 68315. (a) The owner of a dam shall accord to the public for the purpose of
28 fishing, the right of access to the waters impounded by the dam during the open
29 season for the taking of fish in the stream or river, subject to the regulations of the
30 commission.

31 (b) Subdivision (a) does not apply to any impoundment of water by a dam that is
32 wholly located on privately owned land that is primarily agricultural or residential
33 in nature if the impounded waters are from a stream or river that is not naturally
34 frequented by fish and if the dam does not prevent the free passage of fish over or
35 around the dam. The Legislature finds and declares that this subdivision is
36 intended to be declaratory of existing law.

37 **Comment.** Section 68315 continues former Fish and Game Code Section 5943 without
38 substantive change.

1 Part 1 (commencing with Section 6000) of Division 3 of the Water Code, a copy
2 of the application shall be filed by the applicant with the commission.

3 **Comment.** Section 68500 continues the first sentence of former Fish and Game Code Section
4 5933 without substantive change.

5 **§ 68505. Initial determination of necessity**

6 68505. If the commission deems that the construction of a fishway over the dam
7 is necessary for the preservation and protection of fish, and that construction and
8 operation of a fishway is practicable, it shall set a date for a hearing to be held
9 within 90 days after filing of the application with the commission.

10 **Comment.** Section 68505 continues the second sentence of former Fish and Game Code
11 Section 5933 without substantive change.

12 **§ 68510. Hearing**

13 68510. At the hearing provided pursuant to Section 68505 the applicant shall be
14 entitled to introduce evidence to show that construction of the fishway is not
15 necessary or is not practicable, taking into consideration the height of the dam and
16 the amount of water available.

17 **Comment.** Section 68510 continues the third sentence of former Fish and Game Code Section
18 5933 without substantive change.

19 **§ 68515. Deposition of witnesses in hearing**

20 68515. The commission or any party may, in any hearing, cause the deposition
21 of witnesses to be taken in the manner prescribed by law for depositions in civil
22 actions in the superior courts of this state under Title 4 (commencing with Section
23 2016.010) of Part 4 of the Code of Civil Procedure.

24 **Comment.** Section 68515 continues former Fish and Game Code Section 5934 without
25 substantive change.

26 **§ 68520. Notice of fishway requirement**

27 68520. (a) If, after the hearing, the commission finds that the construction of the
28 fishway is necessary and practicable it shall, within five days after the hearing,
29 notify the applicant to that effect.

30 (b) After notice from the commission that a fishway is required, it shall be
31 unlawful to commence the construction of any new dam or the enlargement of any
32 dam without first obtaining the written approval of the commission of the design
33 for the fishway.

34 **Comment.** Section 68520 continues the fourth and fifth sentences of former Fish and Game
35 Code Section 5933 without substantive change.

Article 4. Requirements in District 2560

§ 68600. Dams constructed in District 2560

68600. (a) The provisions of Section 68650 shall not be applicable to dams constructed in District 2560 after September 9, 1953.

(b) Plans and specifications for the dam shall not be approved by the Department of Water Resources unless adequate provision is made for full compliance with Section 68310.

(c) No permit or license to appropriate water in District 2560 shall be issued by the State Water Rights Board after September 9, 1953, unless conditioned upon full compliance with Section 68310.

Comment. Section 68600 continues former Fish and Game Code Section 5946 without substantive change.

Note. Existing Section 5946 (last amended by 1957 Cal. Stat. ch. 1932) refers to the “State Water Rights Board.” See proposed Section 68600(c). That reference is obsolete; there is no such entity in state government. **The Commission invites comment on whether the provision should be revised to refer to the State Water Resources Control Board, the Department of Water Resources, or some other entity. Alternatively, the provision could be omitted as entirely obsolete.**

§ 68605. Release of water from dam in District 2560

68605. It is unlawful for the owner of a dam in District 2560 to release water from the dam, or any facilities for the generation of hydroelectric energy operated in connection therewith, in varying flows in such a manner as to destroy fish life below such release.

Comment. Section 68605 continues former Fish and Game Code Section 5947 without substantive change.

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.

1 **§ 68655. Hatchery size and location**

2 68655. (a) The hatchery, traps, and other equipment necessary to operate a
3 hatchery station shall not be of a size greater than necessary to supply the stream
4 or river with a reasonable number of fish.

5 (b) The owner of the dam shall permit the department to locate the hatchery,
6 dwellings, traps, and other equipment upon any of the land of the owner of the
7 dam upon a site or sites to be mutually agreed upon by the department and the
8 owner of the dam.

9 **Comment.** Section 68655 continues former Fish and Game Code Section 5939 without
10 substantive change.

11 **§ 68660. Provision of electricity to hatchery**

12 68660. If the owner of the dam generates electricity at the place of the dam, the
13 owner shall furnish sufficient light, without charge, for the use of the hatchery.

14 **Comment.** Section 68660 continues former Fish and Game Code Section 5940 without
15 substantive change.

16 **§ 68665. Use of water to operate hatchery**

17 68665. The owner shall permit the use of water, without charge, to operate the
18 hatchery.

19 **Comment.** Section 68665 continues former Fish and Game Code Section 5941 without
20 substantive change.

21 **§ 68670. Fish planting in lieu of fishway or hatchery**

22 68670. The commission may, in lieu of a fishway, hatchery, dwelling, traps or
23 other equipment necessary to operate a hatchery station, order the owner of the
24 dam to plant, under the supervision of the department, the young of any fish that
25 naturally frequent the waters of the stream or river, at such times, in such places,
26 and in such numbers as the commission may order.

27 **Comment.** Section 68670 continues former Fish and Game Code Section 5942 without
28 substantive change.

29 **§ 68675. Sale of fish to be planted**

30 68675. The department may sell, at cost, to the owner of a dam, young fish
31 ordered to be planted.

32 **Comment.** Section 68675 continues former Fish and Game Code Section 5945 without
33 substantive change.

1 CHAPTER 4. CONDUITS AND SCREENS: DIVERSIONS OVER 250 CUBIC
2 FEET PER SECOND

3 Article 1. General provisions

4 § 68800. Application of title

5 68800. (a) This chapter shall apply only to a conduit that meets one or both of
6 the following criteria:

7 (1) The conduit is described in Section 68920.

8 (2) The conduit has a maximum flow capacity over 250 cubic feet per second of
9 water.

10 (b) In classifying conduits it is recognized that those involving the passage of
11 water through power devices and those of large size tend to destroy fish in a
12 greater degree than conduits of smaller size or different type.

13 (c) If this section is for any reason held to be unconstitutional, that decision shall
14 not affect the validity of the remainder of this chapter.

15 (d) The Legislature hereby declares that the persons owning conduits referred to
16 in this section are subject to the provisions of this chapter.

17 **Comment.** Section 68800 restates former Fish and Game Code Section 5980 without
18 substantive change.

19 **Note.** Existing Section 5980 provides that “this article” only applies to “conduits described in
20 Section 5987, and conduits with a maximum flow capacity over 250 cubic feet per second of
21 water.” The Commission has two questions about this provision:

22 (1) Section 5987 (proposed Section 68920) does not seem to describe a kind of conduit. That
23 provision is a special cost-reimbursement rule applicable to persons involved in energy
24 production and transmission. **What is the meaning of the reference to Section 5987?**

25 (2) It appears that the provision governs a conduit that meets *either* of the stated criteria. This
26 can be inferred from the first sentence of existing Section 6020 (proposed Section 69000), which
27 appears to govern conduits that are *not* governed by Section 5980 (“This article shall apply only
28 to conduits with a maximum flow capacity of 250 cubic feet per second or less of water, other
29 than those conduits described in Section 5987.”). Proposed Section 68800(a) has been restated to
30 make its meaning clearer. **The Commission invites comment on whether that revision would
31 cause any problems.**

32 Article 2. Screen Requirements

33 § 68850. General requirement

34 68850. (a) The department shall examine all conduits. If, in the opinion of the
35 department, a screen is necessary to prevent fish from passing into a conduit, the
36 department shall order the owner of the conduit to install a screen.

37 (b) Except as provided in Sections 68920, 68865 and 68870, one-half of the
38 expense of constructing or installing a screen shall be paid by the owner of a
39 conduit and one-half by the department.

1 **Comment.** Subdivision (a) of Section 68850 restates the first sentence of former Fish and
2 Game Code Section 5981 without substantive change.

3 Subdivision (b) continues the second sentence of former Fish and Game Code Section 5981
4 without substantive change.

5 **Note.** Proposed Section 68850(a) would restate the first sentence of existing Section 5981 to
6 improve its clarity, without changing its substantive effect. The existing provision reads as
7 follows:

8 “The department shall examine all conduits; and order the owner of a conduit to install, and it is
9 the duty of such an owner to install, a screen on the conduit when, in the opinion of the
10 department, a screen is necessary to prevent fish from passing into the conduit.”

11 The language stating the owner’s duty to comply with a department order is omitted as redundant.
12 Existing Section 5990 (proposed Section 68860) expressly states an owner’s duty to comply with
13 a department order to install a screen. **The Commission invites comment on whether the**
14 **proposed restatement would cause any problems.**

15 **§ 68855. Content of order**

16 68855. An order to install a screen shall be in writing, and shall specify the type,
17 size, mesh, material and location of the screen, the time within which the screen
18 shall be installed, and an estimate of the expense of installing the screen.

19 **Comment.** Section 68855 continues former Fish and Game Code Section 5982 without
20 substantive change.

21 **§ 68860. Duty to install and maintain screen**

22 68860. It is unlawful for the owner of a conduit to refuse, fail, or neglect to
23 install a screen in compliance with an order from the department or to permit the
24 screen to be removed or taken out of place, except for repairs or cleaning while
25 water is running in the conduit.

26 **Comment.** Section 68860 continues former Fish and Game Code Section 5990 without
27 substantive change.

28 **§ 68865. Acceptance**

29 68865. (a) When a screen has been installed, the owner may, by written notice
30 within 90 days after the installation, request the department to inspect the screen
31 for the purpose of accepting it.

32 (b) It is then the duty of the department to inspect the screen, and if it has been
33 installed in accordance with the order and plans and specifications agreed upon by
34 the department and the owner as provided in Section 68925 or approved by the
35 Department of Water Resources the department shall accept and approve the
36 screen in writing.

37 (c) If, upon inspection it appears that the screen has not been constructed and
38 installed in accordance with plans and specifications, the department shall, within
39 60 days after the inspection, notify the owner of any deviation from the order.

40 (d) The deviation may be remedied within 90 days, and a further inspection
41 requested.

1 **Comment.** Section 68865 continues former Fish and Game Code Section 5988 without
2 substantive change.

3 **§ 68870. Inefficient screen**

4 68870. After acceptance, if the screen fails to function in an efficient manner, no
5 changes in conditions affecting its operation having occurred subsequent to the
6 acceptance of the screen:

7 (a) The owner shall not be required to install a new screen.

8 (b) The department may install another screen at the sole cost and expense of the
9 department of a type, size, mesh, and at a location agreed upon by the department
10 and the owner, or approved by the Department of Water Resources, as provided in
11 Section 68925.

12 **Comment.** Section 68870 continues former Fish and Game Code Section 5989 without
13 substantive change.

14 **§ 68875. Department election to install screen**

15 68875. (a) In lieu of ordering the owner to install a screen, the department may,
16 at its option, elect to construct and install the screen itself, in which event the type,
17 size, mesh, and location of the screen and the time within which it shall be
18 installed shall be determined as provided by Section 68925.

19 (b) When the department elects to construct and install a screen, one-half of the
20 cost of construction and installation shall be paid by the owner.

21 (c) The department may pay the entire cost of the construction and installation
22 of a screen from the Fish and Game Preservation Fund, in which case it shall,
23 upon completion of the screen, notify the owner of the amount of one-half of the
24 cost, and the owner shall, within 30 days thereafter, remit that amount to the
25 department.

26 **Comment.** Section 68875 continues former Fish and Game Code Section 5991 without
27 substantive change.

28 **Article 3. Costs**

29 **§ 68900. Department contribution**

30 68900. When an order is made to install a screen, the department shall pay the
31 owner of the conduit upon whom the order is served one-half of the estimated
32 expense of the construction or installation of the screen.

33 **Comment.** Section 68900 continues former Fish and Game Code Section 5983 without
34 substantive change.

35 **§ 68905. Additional contribution**

36 68905. If the expense of constructing or installing a screen exceeds the
37 estimated expense the department shall, upon written notification by the owner of
38 the conduit, inspect the screen, and pay to the owner one-half of the amount
39 estimated to be necessary to complete the construction or installation of the screen.

1 **Comment.** Section 68905 continues former Fish and Game Code Section 5984 without
2 substantive change.

3 **§ 68910. Return of surplus contribution**

4 68910. The owner of the conduit shall, within 10 days after completing the
5 installation of the screen, return to the department any surplus money advanced by
6 the department pursuant to this chapter.

7 **Comment.** Section 68910 continues former Fish and Game Code Section 5985 without
8 substantive change.

9 **§ 68915. Source of funds**

10 68915. All money paid by the department to the owner of a conduit pursuant to
11 this chapter shall be paid out of the Fish and Game Preservation Fund.

12 **Comment.** Section 68915 continues former Fish and Game Code Section 5986 without
13 substantive change.

14 **§ 68920. Contribution exception**

15 68920. (a) The department shall not pay one-half of the expense of the
16 construction and installation of any screen as provided in Sections 68850, 68900,
17 and 68905 to any person engaged in producing, generating, transmitting,
18 delivering, or furnishing electricity for light, heat or power.

19 (b) If this section is for any reason held to be unconstitutional, the decision shall
20 not affect the validity of Section 68850, 68900 or 68905, and the Legislature
21 hereby declares that the persons mentioned in this section shall be subject to the
22 provisions of Sections 68850, 68900 and 68905.

23 **Comment.** Section 68920 continues former Fish and Game Code Section 5987 without
24 substantive change.

25 **§ 68925. Screen standards**

26 68925. (a) Any screen installed under any of the provisions of this chapter shall
27 be reasonably adequate to prevent fish from passing into the conduit and not
28 unnecessarily impede the flow of water or prevent the owner from diverting the
29 amount of water the owner is legally entitled to divert.

30 (b) The type, size, mesh, and location of the screen and the time within which it
31 shall be installed shall be mutually agreed upon by the department and the owner
32 of the conduit. In the event the department and the owner of the conduit cannot
33 agree upon the type, size, mesh, and location of the screen and the time within
34 which it shall be installed, those matters shall be submitted for determination to
35 the Department of Water Resources whose decision thereon shall be final and
36 conclusive.

37 (c) If the owner and the department fail to agree upon the type, size, mesh,
38 location, and time of installation of the screen within 60 days from the first
39 submission of proposed plans and specifications by the department to the owner,
40 either the department or the owner may submit those matters, in writing to the

1 Department of Water Resources for final and conclusive decision, and it shall,
2 within 60 days from that reference, render its decision in writing determining
3 those matters.

4 (d) The department shall maintain and keep the screen in repair, and shall
5 quarterly notify the owner in writing of the cost thereof, and the owner shall
6 within 30 days thereafter remit to the department an amount equal to one-half of
7 the cost.

8 (e) The owner shall operate and keep free from debris any screen installed, and
9 shall quarterly notify the department in writing of the cost thereof, and the
10 department shall within 30 days thereafter remit to the owner an amount equal to
11 one-half of the cost.

12 **Comment.** Section 68925 continues former Fish and Game Code Section 5992 without
13 substantive change.

14 **§ 68930. Cost agreement**

15 68930. Before the installation of any screen under the provisions of this chapter,
16 the department and the owner shall enter into an agreement defining the method of
17 determining the cost of maintenance, repairs, operation, and keeping the screen
18 free of debris, which agreement shall provide that in the event either the
19 department or the owner objects to the cost the matter shall be referred to the
20 Director of General Services for a final and conclusive decision.

21 **Comment.** Section 68930 continues former Fish and Game Code Section 5993 without
22 substantive change.

23 CHAPTER 5. CONDUITS AND SCREENS: DIVERSIONS OF 250 CUBIC
24 FEET PER SECOND OR LESS

25 Article 1. General Provisions

26 **§ 69000. Application of title**

27 69000. (a) This chapter shall apply only to conduits with a maximum flow
28 capacity of 250 cubic feet per second or less of water, other than those conduits
29 described in Section 68920.

30 (b) If this section is for any reason held to be unconstitutional, that decision shall
31 not affect the validity of Chapter 4 (commencing with Section 68800) and the
32 Legislature hereby declares that the persons owning conduits referred to in this
33 section shall be subject to the provisions of Chapter 4 (commencing with Section
34 68800).

35 **Comment.** Section 69000 continues former Fish and Game Code Section 6020 without
36 substantive change.

37  **Note.** Existing Section 6020 refers to a conduit “described in Section 5987.” As explained in
38 the Note following proposed Section 68800, Section 5987 does not describe a kind of conduit.
39 **What is the meaning of the reference to Section 5987?**

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Article 2. Screen or Bypass Requirements

§ 69050. General requirement

69050. (a) The department shall examine new or existing conduits, and may install, maintain, repair, and replace fish screens, bypasses, or other devices to prevent the passage of fish through a conduit, when in the opinion of the department the screen or device is practical and necessary.

(b) The owner of a conduit shall grant to the department the right of access to the conduit for the installation and maintenance of the screen, and shall provide the department with an easement for a site for the installation of the screen or device deemed suitable by the department.

(c) The owner shall supply sufficient water for a bypass to carry fish stopped by the screen or device back to the channel from which they were diverted, and an easement for the bypass channel, but the easement shall not require the acquisition or leasing of additional lands by the owner.

(d) No water for a bypass shall be required if the channel from which the water is diverted is dry or incapable of supporting fish life below the point of diversion.

Comment. Section 69050 continues former Fish and Game Code Section 6021 without substantive change.

§ 69055. Screen standards

69055. Any screen installed under this chapter shall meet both of the following requirements:

(a) The screen shall be reasonably adequate to prevent fish from passing into the conduit.

(b) The screen will not unnecessarily impede the flow of water or prevent the owner from diverting the amount of water the owner is legally entitled to divert.

Comment. Section 69055 restates former Fish and Game Code Section 6026 without substantive change.

§ 69060. Sufficient water for bypass

69060. Sufficient water for a bypass shall not exceed the following:

(a) Diversions under three cubic feet per second capacity shall not be required to bypass more than 18 gallons per minute.

(b) Diversions of three cubic feet per second or more, but under 10 cubic feet per second, shall not be required to bypass more than 30 gallons per minute.

(c) Diversions of 10 cubic feet per second or more, but under 20 cubic feet per second, shall not be required to bypass more than 40 gallons per minute.

(d) Diversions of 20 cubic feet per second or over shall not be required to bypass more than one-half of 1 percent of the capacity of the diversion.

(e) Diversions built by the Government of the United States and requiring bypasses longer than one-quarter mile shall bypass an amount of water necessary to return fish to the permanent channel satisfactorily.

1 **Comment.** Section 69060 continues former Fish and Game Code Section 6022 without
2 substantive change.

3 **§ 69065. Written notice and agreement**

4 69065. (a) The department shall serve written notice upon each owner of its
5 intention to install a fish screen.

6 (b) The notice shall describe the location of the screen, the access required, and
7 the amount of water required for the bypass. The location of the screen may be
8 described by the distance downstream from the intake or by another method.

9 (c) The notice shall be served upon the owner in duplicate.

10 (d) Once signed by the owner, the notice shall serve as an agreement to the
11 installation of the screen or device, according to the terms set out in the notice

12 (e) The signed agreement shall require the owner to render any assistance, other
13 than mechanical repair or replacement of parts, necessary to keep the screen or
14 device in satisfactory operating condition. The hiring of additional labor shall not
15 be required for that assistance.

16 **Comment.** Section 69065 restates former Fish and Game Code Section 6023 without
17 substantive change.

18  **Note.** Proposed Section 69065 would restate existing Section 6023 to improve its clarity,
19 without changing its substantive effect. The existing provision reads as follows:

20 “The department shall serve written notice upon each owner of its intention to install a fish
21 screen, and shall describe therein the distance downstream from the intake or in other manner the
22 location of the screen, the access required, and the amount of water required for the bypass. The
23 notice shall be served upon the owner in duplicate, and in such form that the original copy upon
24 signature by the owner shall serve as an agreement to the installation of the screen or device
25 under the terms therein, and shall require the owner to render such assistance, other than
26 mechanical repair or replacement of parts, necessary to keep the screen or device in satisfactory
27 operating condition. The hiring of additional labor shall not be required for such assistance.”

28 **The Commission invites comment on whether that restatement would cause any problems.**

29 **§ 69070. Disagreement**

30 69070. (a) If the owner fails to sign and return the agreement granting the
31 department the necessary rights for the installation of the screen or device within
32 60 days after its service on the owner, the department may install the screen as
33 though the agreement had been signed unless a decision of the Department of
34 Water Resources is requested.

35 (b) In the event the department and the owner of the conduit cannot agree upon
36 the type, size, mesh, or location of the screen or device, the amount of water
37 required for a bypass, or the time within which the screen or device shall be
38 installed, the matter shall be submitted for determination to the Department of
39 Water Resources, whose decision on those matters shall be final and conclusive.

40 (c) The Department of Water Resources shall render its decision within 60 days
41 after either the department or the owner has submitted the matter in writing and
42 requested a decision.

1 **Comment.** Section 69070 continues former Fish and Game Code Section 6024 without
2 substantive change.

3 **§ 69075. Duty to maintain screen or bypass**

4 69075. It is unlawful for the owner of a conduit to do either of the following:

5 (a) Cause or permit a screen to be removed or taken out of place, except for
6 repairs or cleaning, while water is running in the conduit.

7 (b) Operate the conduit with the bypass closed when the screen is operating as
8 provided in this chapter.

9 **Comment.** Section 69075 continues former Fish and Game Code Section 6025 without
10 substantive change.

11 **§ 69080. Temporary removal or closure**

12 69080. This chapter does not prevent the department from removing or
13 permitting an owner to remove a screen or close a bypass during any part of the
14 year when the department finds that the action will not endanger fish life.

15 **Comment.** Section 69080 continues former Fish and Game Code Section 6027 without
16 substantive change.

17 **§ 69085. Source of funds**

18 69085. All money paid by the department to the owner of a conduit pursuant to
19 this chapter shall be paid out of the Fish and Game Preservation Fund.

20 **Comment.** Section 69085 continues former Fish and Game Code Section 6028 without
21 substantive change.

22 **CHAPTER 6. SPECIFIC AREAS**

23 **Article 1. Isabella Dam**

24 **§ 69200. Isabella Dam**

25 69200. (a) The director shall use the department's resources, to the fullest extent
26 feasible, to coordinate with the federal government to promote the preservation of
27 species, including species listed as endangered species or threatened species under
28 the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) and the
29 California Endangered Species Act, Part 1 (commencing with Section 62000) of
30 Division 17, and their habitats within the locale of Isabella Dam and Reservoir in
31 Kern County in order to facilitate the continued operation of those facilities for
32 flood control and water conservation storage as authorized by Congress and as
33 provided in an agreement, dated October 23, 1964, among the United States and
34 various local public agencies.

35 (b) Nothing in this section is intended to amend, modify, or alter in any manner
36 the intent of the California Endangered Species Act.

37 **Comment.** Section 69200 continues former Fish and Game Code Section 1018 without
38 substantive change.

1 Article 2. Klamath River Fish and Wildlife District (Division 2670)

2 **§ 69250. Prohibition**

3 69250. (a) Every person, firm, corporation, or company that constructs or
4 maintains any dam or other artificial obstruction in any of the waters of Fish and
5 Wildlife District 2670 is guilty of a crime.

6 (b) Any dam or other artificial obstruction constructed, placed, or maintained in
7 any of the waters of Fish and Wildlife District 2670 is a public nuisance.

8 **Comment.** Section 69250 continues part of the fourth paragraph of former Fish and Game
9 Code Section 11036 without substantive change.

10 See also Section 6410 (enforcement).

11 TITLE 2. DIVERSION OF WATER FROM
12 STREAMS

13 CHAPTER 1. DIVERSION DELETERIOUS TO SALMON OR STEELHEAD

14 **§ 69500. Diversion deleterious to salmon or steelhead**

15 69500. (a) Notwithstanding any provision of Chapter 4 (commencing with
16 Section 68800) of, and Chapter 5 (commencing with Section 69000) of Title 1, on
17 or after January 1, 1972, any new diversion of water from any stream having
18 populations of salmon and steelhead that is determined by the department to be
19 deleterious to salmon and steelhead shall be screened by the owner.

20 (b) The construction, operation, or maintenance costs of any screen required
21 pursuant to this chapter shall be borne by the owner of the diversion.

22 **Comment.** Section 69500 continues former Fish and Game Code Section 6100(a) without
23 substantive change.

24 See also Section 6552 (enforcement).

25 **§ 69505. Notice of determination**

26 69505. (a) If the department has determined that a diversion is deleterious to
27 salmon and steelhead pursuant to Section 69500, it shall provide written notice of
28 its determination to the owner.

29 (b) The department shall notify the owner that it shall make onsite investigation
30 and shall make any other investigation before it shall propose any measures
31 necessary to protect fishlife.

32 (c) Within 30 days of providing notice under this section, or within a time
33 determined by mutual written agreement, the department shall submit to the owner
34 its proposals as to measures necessary to protect the salmon and steelhead.

35 **Comment.** Section 69505 restates former Fish and Game Code Section 6100(b) without
36 substantive change.

37  **Note.** Proposed Section 69505 would restate existing Section 6100(b) to improve its clarity.
38 The restatement would also make explicit a point that is only implicit in existing law: the

1 department must provide written notice to a property owner before taking action under Section
2 6100. The existing provision reads as follows:

3 “The department within 30 days of providing written notice to the owner that the department has
4 determined that the diversion is deleterious to salmon and steelhead pursuant to subdivision (a),
5 or within the time determined by mutual written agreement, shall submit to the owner its
6 proposals as to measures necessary to protect the salmon and steelhead. The department shall
7 notify the owner that it shall make onsite investigation and shall make any other investigation
8 before it shall propose any measures necessary to protect fishlife.”

9 **The Commission invites comment on whether that restatement would cause any problems.**

10 **§ 69510. Provision of information to owner**

11 69510. The department, or any agency of the state, shall provide the owner of
12 the diversion any available information that is required by the owner in order to
13 comply with the provisions of this chapter.

14 **Comment.** Section 69510 continues former Fish and Game Code Section 6100(c) without
15 substantive change.

16 **§ 69515. Department approval requirement**

17 69515. The diversion shall not commence until the department has determined
18 that measures necessary to protect fishlife have been incorporated into the plans
19 and construction of the diversion.

20 **Comment.** Section 69515 continues former Fish and Game Code Section 6100(d) without
21 substantive change.

22 **CHAPTER 2. ENFORCEMENT OF WATER CODE PROVISIONS**

23 **§ 69550. Violations deleterious to fish and wildlife**

24 69550. (a) The director or his or her designee may issue a complaint to any
25 person or entity in accordance with Section 1055 of the Water Code alleging a
26 violation for which liability may be imposed under Section 1052 or 1847 of the
27 Water Code that harms fish and wildlife resources.

28 (b) The complaint is subject to the substantive and procedural requirements set
29 forth in Section 1055 of the Water Code, and the department shall be designated a
30 party to any proceeding before the State Water Resources Control Board regarding
31 a complaint filed pursuant to this section.

32 **Comment.** Section 69550 continues former Fish and Game Code Section 12025.2 without
33 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 See also Section 6352 (enforcement).

28 § 69715. Extension of time

29 69715. Any time period prescribed in this title may be extended by mutual
30 agreement.

31 **Comment.** Section 69715 continues former Fish and Game Code Section 1607 without
32 substantive change.

33 § 69720. Agreements governed by former law

34 69720. (a) Any agreement or any memorandum of understanding executed by
35 the department pursuant to this title prior to January 1, 2004, shall be subject to,
36 and shall be governed by, the provisions of this title that were in existence prior to
37 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
40 the activity. Each item shall remain on the log for one year. Upon written request

1 by any person, a regional office shall send the log to that person monthly for one
2 year. A request made pursuant to this clause may be renewed annually.

3 (2) The department determines that the activity may substantially adversely
4 affect an existing fish or wildlife resource and issues a final agreement to the
5 entity that includes reasonable measures necessary to protect the resource, and the
6 entity conducts the activity in accordance with the agreement.

7 (3) A panel of arbitrators issues a final agreement to the entity in accordance
8 with Article 4 (commencing with Section 70050), and the entity conducts the
9 activity in accordance with the agreement.

10 (4) The department does not issue a draft agreement to the entity within 60 days
11 from the date notification is complete, and the entity conducts the activity as
12 described in the notification, including any measures in the notification that are
13 intended to protect fish and wildlife resources.

14 **Comment.** Section 69750 continues former Fish and Game Code Section 1602(a) without
15 substantive change.

16 See also Sections 6350, 6552, 6554 (enforcement).

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 See also Section 6350 (enforcement).

15 § 69855. Extension of agreement

16 69855. (a) Any entity may request one extension of a previously-approved
17 agreement, if the entity requests the extension prior to the expiration of its original
18 term.

19 (b) The department shall grant the extension unless it determines that the
20 agreement requires modification because the measures contained in the agreement
21 no longer protect the fish and wildlife resources that the activity may substantially
22 adversely affect. In the event the department makes that determination, the
23 department shall propose measures intended to protect those resources.

24 (c) If the entity disagrees with the department's determination that the
25 agreement requires modification to protect fish and wildlife resources or with the
26 measures proposed by the department, the disagreement shall be resolved pursuant
27 to the procedures described in Article 4 (commencing with Section 70050).

28 **Comment.** Section 69855 continues former Fish and Game Code Section 1605(b)-(c) without
29 substantive change.

30 § 69860. Maximum extension

31 69860. The department may not extend an agreement for more than five years.

32 **Comment.** Section 69860 continues former Fish and Game Code Section 1605(d) without
33 substantive change.

34 § 69865. Continuation pending resolution of extension request

35 69865. (a) An original agreement shall remain in effect until the department
36 grants the extension request, or new measures are imposed to protect fish and
37 wildlife resources by agreement or through the arbitration process.

38 (b) Notwithstanding subdivision (a), an original agreement may not remain in
39 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 See also Section 6350 (enforcement).

7 Article 4. Arbitration Panel

8 § 70050. Appointment of panel

9 70050. (a) If mutual agreement is not reached at any meeting held pursuant to
10 Section 69805, the entity may request, in writing, the appointment of a panel of
11 arbitrators to resolve the disagreement.

12 (b) A panel of arbitrators shall be appointed within 14 days of receipt of the
13 written request.

14 **Comment.** Section 70050 continues the first and second sentences of former Fish and Game
15 Code Section 1603(b) without substantive change.

16 § 70055. Composition of panel

17 70055. (a) The panel of arbitrators shall be comprised of three persons, as
18 follows: one representative selected by the department; one representative selected
19 by the affected entity; and a third person mutually agreed upon by the department
20 and the entity, who shall serve as the panel chair.

21 (b) If the department and the entity cannot agree on the third person within that
22 14-day period, the third person shall be appointed in the manner provided by
23 Section 1281.6 of the Code of Civil Procedure.

24 (c) The third person shall have scientific expertise relevant to the fish and
25 wildlife resources that may be substantially adversely affected by the activity
26 proposed by the entity and to the measures proposed by the department to protect
27 those resources.

28 **Comment.** Section 70055 continues the third through fifth sentences of former Fish and Game
29 Code Section 1603(b) without substantive change.

30 § 70060. Authority of panel

31 70060. The authority of the panel of arbitrators is limited to resolving
32 disagreements regarding the measures specified in Sections 69795, 69805, 69855,
33 and 69875, and, in the case of an extension, whether or not the agreement needs to
34 be modified to protect fish and wildlife resources.

35 **Comment.** Section 70060 continues the sixth sentence of former Fish and Game Code Section
36 1603(b) without substantive change.

37 § 70065. Decision

38 70065. (a) Any decision by the panel of arbitrators shall be issued within 14
39 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 Section 26060.1 of the Business and Professions Code.

29 (C) The fee specified in subdivision (c) of Section 69750.

30 (2) The department determines in its sole discretion that compliance with the
31 requirements specified in Section 26060.1 of the Business and Professions Code
32 that are included in the license will adequately protect existing fish and wildlife
33 resources that may be substantially adversely affected by the cultivation without
34 the need for additional measures that the department would include in a draft
35 streambed alteration agreement in accordance with Section 69795.

36 (3) The department notifies the entity in writing that the exemption applies to
37 the cultivation authorized by the license or renewed license.

38 (b) The department shall notify the entity in writing whether the exemption in
39 subdivision (a) applies to the cultivation authorized by the license or renewed
40 license within 60 days from the date that the notification is complete and the fee
41 has been paid.

1 (c) If an entity receives an exemption pursuant to this section and fails to comply
2 with any of the requirements described in Section 26060.1 of the Business and
3 Professions Code that are included in the license, the failure shall constitute a
4 violation of Section 69750, and the department shall notify the Department of
5 Food and Agriculture of any enforcement action taken.

6 **Comment.** Section 70165 continues former Fish and Game Code Section 1602(d) without
7 substantive change.

8 **Notes.** (1) Existing Section 1602(d) refers to a “draft streambed alteration agreement in
9 accordance with Section 1602.” Proposed Section 70165 would narrow that cross-reference to the
10 part of Section 1602 that appears to be relevant to the purpose of the reference (i.e., proposed
11 Section 69795). **The Commission invites comment on whether that revision would cause any
12 problems.**

13 (2) Existing Section 1602(d)(3) refers to “a violation under this section.” Proposed Section
14 70165(c) would narrow that cross-reference to the part of Section 1602 that appears to be relevant
15 to the purpose of the reference (i.e., proposed Section 69795). **The Commission invites
16 comment on whether that revision would cause any problems.**

17 **§ 70170. Area agreement regarding cannabis cultivation**

18 70170. (a) The department may adopt general agreements for the cultivation of
19 cannabis.

20 (b) Any general agreement adopted by the department subsequent to adoption of
21 regulations under this section shall be in lieu of an individual agreement described
22 in paragraph (2) of subdivision (d) of Section 69750.

23 (c) Paragraph (4) of subdivision (d) of Section 69750 and all other time periods
24 to process agreements specified in this title do not apply to the issuance of a
25 general agreement adopted by the department pursuant to this section.

26 (d) Any general agreement issued by the department pursuant to this section is a
27 final agreement and is not subject to Article 4 (commencing with Section 70050)
28 or Sections 69795, 69805, 69810, and 70075.

29 (e) The department shall charge a fee for a general agreement adopted by the
30 department under this section in accordance with Section 69780.

31 (f) If the department adopts or amends a general agreement under this section, it
32 shall do so as an emergency regulation. An emergency regulation adopted
33 pursuant to this section, and any amendments to it, shall be adopted by the
34 department in accordance with Chapter 3.5 (commencing with Section 11340) of
35 Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these
36 regulations is an emergency and shall be considered by the Office of
37 Administrative Law as necessary for the immediate preservation of the public
38 peace, health and safety, and general welfare. Notwithstanding Chapter 3.5
39 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the
40 Government Code, an emergency regulation adopted by the department, or any
41 amendments to it made by the department pursuant to this section, shall stay in
42 effect until revised by the department.

1 (g) Regulations adopted pursuant to this section, and any amendment thereto,
2 shall not be subject to Division 13 (commencing with Section 21000) of the Public
3 Resources Code.

4 **Comment.** Section 70170 continues former Fish and Game Code Section 1617 without
5 substantive change.

6 PART 5. MINING

7 TITLE 1. VACUUM OR SUCTION DREDGING

8 CHAPTER 1. GENERAL PROVISIONS

9 § 71000. Definitions

10 71000. (a) For purposes of this section and Section 71200, “river, stream, or
11 lake” means the body of water at the current water level at the time of the
12 dredging.

13 (b) For purposes of Sections 6500, 71050, 71200, and 71270, “person” does not
14 include a partnership, corporation, or other type of association.

15 (c) For purposes of this title, the use of vacuum or suction dredge equipment,
16 also known as suction dredging, is the use of a mechanized or motorized system
17 for removing or assisting in the removal of, or the processing of, material from the
18 bed, bank, or channel of a river, stream, or lake in order to recover minerals.

19 **Comment.** Subdivision (a) of Section 71000 continues former Fish and Game Code Section
20 5653.5 without substantive change.

21 Subdivision (b) continues former Fish and Game Code Section 5653.8 without substantive
22 change.

23 Subdivision (c) continues the first sentence of former Fish and Game Code Section 5653(g)
24 without substantive change.

25 **Note.** Existing Section 5653(g) defines the terms “vacuum or suction dredge equipment” and
26 “suction dredging” for the purposes of Sections 5653 and 5653.1. In proposed Section 71000(c),
27 the application of the definition is broadened to apply to the entire title. This appears to be
28 appropriate because (1) vacuum and suction dredging is the subject of the title, and (2) Sections
29 5653 and 5653.1 are the only sections in the title that use the defined terms. **The Commission**
30 **invites comment on whether this revision would cause any problems.**

31 § 71005. Exception for recreational mining

32 71005. This title does not apply to, prohibit, or otherwise restrict nonmotorized
33 recreational mining activities, including panning for gold.

34 **Comment.** Section 71005 continues the second sentence of former Fish and Game Code
35 Section 5653(g) without substantive change.

36 **Note.** Existing Section 5653(g) establishes an exception to the application of Sections 5653
37 and 5653.1. In proposed Section 71005, that rule is stated as an exception to the entire title that
38 contains Sections 5653 and 5653.1. **The Commission believes that this revision would be**
39 **nonsubstantive, but invites comment on whether it would cause any problems.**

1 **§ 71010. Regulations**

2 71010. The department shall adopt regulations to carry out Chapter 2
3 (commencing with Section 71050) and Chapter 3 (commencing with Section
4 71200) and subdivision (a) of Section 71000. The regulations shall be adopted in
5 accordance with the requirements of Division 13 (commencing with Section
6 21000) of the Public Resources Code and Chapter 3.5 (commencing with Section
7 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

8 **Comment.** Section 71010 continues former Fish and Game Code Section 5653.9 without
9 substantive change.

10 See also Section 6500 (enforcement).

11 CHAPTER 2. PROHIBITIONS AND REQUIREMENTS

12 **§ 71050. General prohibition**

13 71050. The use of vacuum or suction dredge equipment by a person in a river,
14 stream, or lake of this state is prohibited, except as authorized under a permit
15 issued to that person by the department in compliance with the regulations adopted
16 pursuant to Section 71010.

17 **Comment.** Section 71050 continues the first sentence of former Fish and Game Code Section
18 5653(a) without substantive change.

19 **§ 71055. Geographic limitations**

20 71055. Under the regulations adopted pursuant to Section 71010, the department
21 shall designate waters or areas wherein vacuum or suction dredge equipment may
22 be used pursuant to a permit, waters or areas closed to the use of that equipment,
23 the maximum size of the vacuum or suction dredge equipment that may be used,
24 and the time of year when the equipment may be used.

25 **Comment.** Section 71055 continues the first sentence of former Fish and Game Code Section
26 5653(c) without substantive change.

27 **§ 71060. Unanticipated water level change**

28 71060. In the event of an unanticipated water level change, when necessary to
29 protect fish and wildlife resources, the department may close areas that were
30 otherwise opened for dredging and for which permits were issued pursuant to
31 Section 71205.

32 **Comment.** Section 71060 continues former Fish and Game Code Section 5653.7 without
33 substantive change.

34 ☞ **Note.** Existing Section 5653.7 refers to a permit issued “pursuant to Section 5653.” Proposed
35 Section 71060 would narrow that cross-reference to the part of Section 5653 that appears to be
36 relevant to the purpose of the reference (i.e., proposed Section 71205). **The Commission invites**
37 **comment on whether that revision would cause any problems.**

1 (3) If the State Water Resources Control Board or the appropriate regional water
2 quality control board determines that waste discharge requirements, a waiver of
3 waste discharge requirements, or a certification in accordance with Section 1341
4 of Title 33 of the United States Code is not necessary for the applicant to use of
5 vacuum or suction dredge equipment, a letter stating this determination signed by
6 the Executive Director of the State Water Resources Control Board, the executive
7 officer of the appropriate regional water quality control board, or their designee.

8 **Comment.** Subdivision (a) of Section 71200 continues the second sentence of former Fish and
9 Game Code Section 5653(a) without substantive change.

10 Subdivision (b) continues former Fish and Game Code Section 5653(b) without substantive
11 change.

12 **§ 71205. Issuance of permit**

13 71205. If the department determines, pursuant to the regulations adopted
14 pursuant to Section 71010, that the use of vacuum or suction dredge equipment
15 does not cause any significant effects to fish and wildlife, it shall issue a permit to
16 the applicant.

17 **Comment.** Section 71205 continues the second sentence of former Fish and Game Code
18 Section 5653(c) without substantive change.

19 **§ 71255. Permit fees**

20 71255. (a) Except as provided in subdivision (c), the department shall issue a
21 permit upon the payment, in the case of a resident, of a base fee of twenty-five
22 dollars (\$25), as adjusted under Section 3755, when an onsite investigation of the
23 project size is not deemed necessary by the department, and a base fee of one
24 hundred thirty dollars (\$130), as adjusted under Section 3755, when the
25 department deems that an onsite investigation is necessary.

26 (b) Except as provided in subdivision (c), in the case of a nonresident, the base
27 fee shall be one hundred dollars (\$100), as adjusted under Section 3755, when an
28 onsite investigation is not deemed necessary, and a base fee of two hundred twenty
29 dollars (\$220), as adjusted under Section 3755, when an onsite investigation is
30 deemed necessary.

31 (c) The department may adjust the base fees for a permit described in this
32 section to an amount sufficient to cover all reasonable costs of the department in
33 regulating suction dredging activities.

34 **Comment.** Section 71255 continues former Fish and Game Code Section 5653(d) without
35 substantive change.

36 **§ 71260. Other limitations**

37 71260. (a) A permit issued by the department under Section 71205 shall not
38 authorize an activity in violation of other applicable requirements, conditions, or
39 prohibitions governing the use of vacuum or suction dredge equipment, including
40 those adopted by the State Water Resources Control Board or a regional water
41 quality control board.

1 (b) The department, the State Water Resources Control Board, and the regional
2 water quality control boards shall make reasonable efforts to share information
3 among the agencies regarding potential violations of requirements, conditions, or
4 prohibitions governing the use of vacuum or suction dredge equipment.

5 **Comment.** Section 71260 continues former Fish and Game Code Section 5653(f) without
6 substantive change.

7 **Note.** Existing Section 5653(f) refers to a “permit issued by the department under this
8 section.” Proposed Section 71260 would narrow that cross-reference to the part of Section 5653
9 that appears to be relevant to the purpose of the reference (i.e., proposed Section 71205). **The**
10 **Commission invites comment on whether that revision would cause any problems.**

11 Article 2. Environmental Impact Report

12 § 71280. Moratorium and regulation review

13 71280. (a) The issuance of permits to operate vacuum or suction dredge
14 equipment is a project pursuant to the California Environmental Quality Act
15 (Division 13 (commencing with Section 21000) of the Public Resources Code)
16 and permits may only be issued, and vacuum or suction dredge mining may only
17 occur as authorized by any existing permit, if the department has caused to be
18 prepared, and certified the completion of, an environmental impact report for the
19 project pursuant to the court order and consent judgment entered in the case of
20 Karuk Tribe of California et al. v. California Department of Fish and Game et al.,
21 Alameda County Superior Court Case No. RG 05211597.

22 (b) Notwithstanding Article 1 (commencing with Section 71200) and Chapter 2
23 (commencing with Section 71050), the use of any vacuum or suction dredge
24 equipment in any river, stream, or lake of this state is prohibited until the director
25 certifies to the Secretary of State that all of the following have occurred:

26 (1) The department has completed the environmental review of its existing
27 suction dredge mining regulations, as ordered by the court in the case of Karuk
28 Tribe of California et al. v. California Department of Fish and Game et al.,
29 Alameda County Superior Court Case No. RG 05211597.

30 (2) The department has transmitted for filing with the Secretary of State
31 pursuant to Section 11343 of the Government Code, a certified copy of new
32 regulations adopted, as necessary, pursuant to Chapter 3.5 (commencing with
33 Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

34 (3) The new regulations described in paragraph (2) are operative.

35 (4) The new regulations described in paragraph (2) fully mitigate all identified
36 significant environmental impacts.

37 (5) A fee structure is in place that will fully cover all costs to the department
38 related to the administration of the program.

39 (c)(1) To facilitate its compliance with subdivision (b), the department shall
40 consult with other agencies as it determines to be necessary, including, but not
41 limited to, the State Water Resources Control Board, the State Department of

1 Public Health, and the Native American Heritage Commission, and, on or before
2 April 1, 2013, shall prepare and submit to the Legislature a report with
3 recommendations on statutory changes or authorizations that, in the determination
4 of the department, are necessary to develop the suction dredge regulations required
5 by paragraph (2) of subdivision (b), including, but not limited to,
6 recommendations relating to the mitigation of all identified significant
7 environmental impacts and a fee structure that will fully cover all program costs.

8 (2) The requirement for submitting a report imposed under this subdivision is
9 inoperative on January 1, 2017, pursuant to Section 10231.5 of the Government
10 Code.

11 (3) The report submitted to the Legislature pursuant to this subdivision shall be
12 submitted in accordance with Section 9795 of the Government Code.

13 (d) The Legislature finds and declares that this section, as added during the
14 2009-10 Regular Session, applies solely to vacuum and suction dredging activities
15 conducted for instream mining purposes. This section does not expand or provide
16 new authority for the department to close or regulate suction dredging conducted
17 for regular maintenance of energy or water supply management infrastructure,
18 flood control, or navigational purposes governed by other state or federal law.

19 (e) This section does not prohibit or restrict nonmotorized recreational mining
20 activities, including panning for gold.

21 **Comment.** Section 71280 continues former Fish and Game Code Section 5653.1 without
22 substantive change.

23 **Notes.** (1) If the regulation review required by Section 5653.1(b) has been completed, that
24 provision may be obsolete. **The Commission invites input on that issue.**

25 (2) Existing Section 5653.1(c) requires the preparation of a report by April 1, 2013. By its
26 terms, that requirement became inoperative on January 1, 2017. **The Commission invites
27 comment on whether that provision should be omitted as obsolete.**

28 TITLE 2. MINING MITIGATION PLANS

29 § 71500. Submission of plan

30 71500. (a) A mine operator shall prepare a mitigation plan that shall be
31 submitted to the department for approval.

32 (b) For ongoing mining operations, the mitigation plan shall, alone or in
33 conjunction with regulations adopted by the commission, result in an overall
34 reduction in take of avian or mammal species.

35 **Comment.** Subdivision (a) of Section 71500 continues the first sentence of former Fish and
36 Game Code Sections 3005(b)(3) and 3800(b)(3) without substantive change.

37 Subdivision (b) continues the substance of the second sentence of former Fish and Game Code
38 Sections 3005(b)(3) and 3800(b)(3) with one exception: the reference to regulations adopted by
39 the commission was not present in former Section 3005(b)(3).

40 **Note.** Proposed Section 71500(b) combines and harmonizes the second sentence of existing
41 Sections 3005(b)(3) and 3800(b)(3). In doing so, it includes language that is present in Section
42 3800 but is not present in Section 3005. That language is shown in italics below:

1 “For ongoing mining operations, the mitigation plan shall, *alone or in conjunction with*
2 *regulations adopted by the commission*, result in an overall reduction in take of avian or mammal
3 species.”

4 The Commission sees no policy reason that otherwise applicable commission regulations should
5 be taken into account in Section 3800 but disregarded in Section 3005. It seems unlikely that such
6 a distinction was intended. Thus, the proposed harmonization would likely be a clarification of
7 existing law and practice. **The Commission invites public comment on whether the proposed**
8 **revision would cause any problems.**

9 **§ 71505. Plan is site-specific**

10 71505. The mitigation plan shall be prepared on a site-specific basis and may
11 provide for offsite mitigation measures designed to reduce avian mortality.

12 **Comment.** Section 71505 continues the fourth sentence of former Fish and Game Code
13 Sections 3005(b)(3) and 3800(b)(3) without substantive change.

14 **§ 71510. Criteria for approval**

15 71510. (a) Mitigation plans relating to mining operations approved by the
16 department shall, among other criteria, require avoidance of take, where feasible,
17 and include reasonable and practicable methods of mitigating the unavoidable take
18 of birds and mammals.

19 (b) When approving mitigation plans, the department shall consider the use of
20 the best available technology on a site-specific basis.

21 (c) Mitigation plans relating to mining operations approved by the department
22 shall include provisions that address circumstances where mining operations
23 contribute to bird deaths, including ponding of process solutions on heap leach
24 pads and exposure of process solution channels, solution ponds, and tailing ponds.

25 **Comment.** Section 71510 continues former Fish and Game Code Sections 3005(b)(1)-(2) and
26 3800(b)(1)-(2) without substantive change.

27 **§ 71515. Public review and comment**

28 71515. The department shall provide an opportunity for public review and
29 comment on each mitigation plan during the department’s approval process.

30 **Comment.** Section 71515 continues the third sentence of former Fish and Game Code Sections
31 3005(b)(3) and 3800(b)(3) without substantive change.

32 **§ 71520. Monthly reports**

33 71520. The mine operator shall submit monthly monitoring reports on avian
34 mortality to the department to aid in evaluating the effectiveness of onsite
35 mitigation measures.

36 **Comment.** Section 71520 continues the fifth sentence of former Fish and Game Code Sections
37 3005(b)(3) and 3800(b)(3) without substantive change.

38 **§ 71525. Monitoring and evaluation**

39 71525. The department shall monitor and evaluate implementation of the
40 mitigation plan by the mine operator and require modification of the plan or other

1 remedial actions to be taken if the overall reduction in take of avian or mammal
2 species required pursuant to Section 71500 is not being achieved.

3 **Comment.** Section 71525 continues former Fish and Game Code Sections 3005(b)(4) and
4 3800(c) without substantive change.

5 **§ 71530. Reimbursement of department costs**

6 71530. The mining operator shall reimburse the department for its direct costs to
7 provide appropriate notice of the mitigation plan to affected local government
8 entities and other affected parties. The mine operator shall provide the department
9 a limited number of copies, as determined by the department, of the mitigation
10 plan for public review.

11 **Comment.** Section 71530 continues former Fish and Game Code Sections 3005(b)(5) and
12 3800(b)(4) without substantive change.

13 **TITLE 3. MINING IN SPECIFIC AREAS**

14 **CHAPTER 1. TRINITY AND KLAMATH RIVER FISH AND WILDLIFE**
15 **DISTRICT (DISTRICT 2675)**

16 **Article 1. General Provisions**

17 **§ 71700. No affect on other laws**

18 71700. Article 2 (commencing with Section 71750) does not affect any other
19 laws applying to the territory included in District 2675 that relate to birds,
20 mammals, and fish.

21 **Comment.** Section 71700 continues former Fish and Game Code Section 5801 without
22 substantive change.

23 **§ 71705. No limitation of authority of specified entities**

24 71705. No provision of this chapter is a limitation on the authority of the State
25 Water Resources Control Board or any California Regional Water Quality Control
26 Board to adopt and enforce additional discharge requirements or prohibitions.

27 **Comment.** Section 71705 continues former Fish and Game Code Section 5803 without
28 substantive change.

29 **§ 71710. No application to specified federal activities**

30 71710. Article 2 (commencing with Section 71750) does not apply to the
31 construction, repair, or maintenance of public works by the Federal or State
32 Government, or any political subdivision thereof.

33 **Comment.** Section 71710 continues former Fish and Game Code Section 5802 without
34 substantive change.

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Article 2. Prohibitions

§ 71750. Mining operations generally

71750. It is unlawful to conduct any mining operations in Fish and Wildlife District 2675 between July 1st and November 30th except when the debris, substances, tailings or other effluent from those operations do not and cannot pass into the waters in that district.

Comment. Section 71750 continues former Fish and Game Code Section 5800(a) without substantive change.

§ 71755. Contaminants

71755. (a) It is unlawful between July 1st and November 30th to pollute, muddy, contaminate, or roil the waters of Fish and Wildlife District 2675.

(b) It is unlawful between those dates to deposit in or cause, suffer, or procure to be deposited in, permit to pass into, or place where it can pass into, those waters, any debris, substance or tailings from hydraulic, placer, milling, or other mining operation affecting the clarity of those waters.

(c) The clarity of those waters shall be deemed affected when those waters at a point a distance of one mile below the confluence of the Klamath River and the Salmon River or at a point a distance of one mile below the confluence of the South Fork of the Trinity River and the Trinity River, contain fifty (50) parts per million, by weight, of suspended matter, not including vegetable matter in suspension and suspended matter occurring in the stream or streams due to an act of God.

Comment. Section 71755 continues former Fish and Game Code Section 5800(b) without substantive change.

§ 71760. Hydraulic mining

71760. (a) It is unlawful, between July 1st and November 30th to carry on or operate any hydraulic mine of any kind on, along, or in any waters flowing into Fish and Wildlife District 2675.

(b) Notwithstanding Section 71750, this article does not prevent the operation of a hydraulic mine where the tailings, substance, or debris, or other effluent therefrom, does not or will not pass into the waters of Fish and Wildlife District 2675, between those dates

(c) Any person, firm, or corporation engaged in hydraulic mining shall have the right until the fifteenth day of July to use water for the purpose of cleaning up.

Comment. Section 71760 continues former Fish and Game Code Section 5800(c) without substantive change.

Note. The last sentence of existing Section 5800(c) (proposed Section 71760(c)) provides that specified entities may “use water for the purpose of cleaning up.” This is ambiguous as to the source of the water at issue and the nature of the clean-up. **The Commission invites public comment on whether and how the provision should be revised to make its meaning clearer.**

1 § 71765. Public nuisance

2 71765. (a) Any structure or contrivance that is used to violate this article is a
3 public nuisance.

4 (b) Any person, firm, or corporation that maintains or permits a structure or
5 contrivance used in violating this article is guilty of maintaining a public nuisance

6 (c) It is the duty of the district attorney of the county where the violation occurs
7 or the acts creating the public nuisance occur, to bring an action to abate that
8 nuisance.

9 **Comment.** Section 71765 restates former Fish and Game Code Section 5800(d) without
10 substantive change.

11 **Note.** Proposed Section 71765 would restate existing Section 5800(d) to improve its clarity,
12 without changing its substantive effect. The existing provision reads as follows:

13 “Any structure or contrivance which causes or contributes, in whole or in part, to the condition,
14 the causing of which is in this section prohibited, is a public nuisance, and any person, firm, or
15 corporation maintaining or permitting it is guilty of maintaining a public nuisance, and it is the
16 duty of the district attorney of the county where the condition occurs or the acts creating the
17 public nuisance occur, to bring action to abate such nuisance.”

18 The most significant change made in the restatement is to recast references to “conditions” that
19 violate existing Section 5800, to instead refer simply to violations of that section. This seems
20 significantly clearer, because Section 5800 prohibits acts, not the “causing of conditions” (e.g.,
21 the section prohibits mining generally, depositing mining waste in waters, and hydraulic mining).

22 **The Commission invites comment on whether that restatement would cause any**
23 **problems.**

24 PART 6. OTHER ACTIVITIES

25 TITLE 1. FORESTRY AND AGRICULTURE

26 CHAPTER 1. TIMBER HARVEST PLANS

27 § 72000. Department review

28 72000. (a) The department shall respond to requests from the Department of
29 Forestry and Fire Protection, acting as the lead agency for the review of timber
30 harvesting plans, within the time period required under Section 4582.6 of the
31 Public Resources Code, unless additional time is granted by the Department of
32 Forestry and Fire Protection.

33 (b) The department shall include specific comments or recommendations, or
34 both, on any significant environmental issues raised by the proposed timber
35 harvesting plan in its area of jurisdiction, including any proposed mitigation
36 measures.

37 (c) The department shall identify its statutory authority for any requests or
38 recommendations for mitigation that it may determine to be necessary.

1 (d) If the department has no comment to make on the proposed timber
2 harvesting plan, it is not required to submit a response.

3 **Comment.** Section 72000 continues former Fish and Game Code Section 703(b) without
4 substantive change.

5 CHAPTER 2. CANNABIS CULTIVATION

6 § 72200. Findings and Declarations

7 72200. The Legislature finds and declares all of the following:

8 (a) The environmental impacts associated with cannabis cultivation have
9 increased, and unlawful water diversions for cannabis irrigation have a detrimental
10 effect on fish and wildlife and their habitat, which are held in trust by the state for
11 the benefit of the people of the state.

12 (b) The remediation of existing cannabis cultivation sites is often complex and
13 the permitting of these sites requires greater department staff time and personnel
14 expenditures.

15 (c) The potential for cannabis cultivation sites to significantly impact the state's
16 fish and wildlife resources requires immediate action on the part of the
17 department's lake and streambed alteration permitting staff.

18 **Comment.** Section 72200 continues former Fish and Game Code Section 12029(a) without
19 substantive change.

20 § 72205. Watershed enforcement program

21 72205. In order to address unlawful water diversions and other violations of the
22 Fish and Game Code associated with cannabis cultivation, the department shall
23 establish the watershed enforcement program to facilitate the investigation,
24 enforcement, and prosecution of these offenses.

25 **Comment.** Section 72205 continues former Fish and Game Code Section 12029(b) without
26 substantive change.

27 § 72210. Multiagency task force

28 72210. The department, in coordination with the State Water Resources Control
29 Board and the Department of Food and Agriculture, shall establish a permanent
30 multiagency task force to address the environmental impacts of cannabis
31 cultivation. The multiagency task force, to the extent feasible and subject to
32 available resources, shall expand its enforcement efforts on a statewide level to
33 ensure the reduction of adverse impacts of cannabis cultivation on fish and
34 wildlife and their habitats throughout the state.

35 **Comment.** Section 72210 continues former Fish and Game Code Section 12029(c) without
36 substantive change.

37 § 72215. Regulations

38 72215. (a) In order to facilitate the remediation and permitting of cannabis
39 cultivation sites, the department may adopt regulations to enhance the fees on any

1 entity subject to Section 69750 for cannabis cultivation sites that require
2 remediation.

3 (b) The fee schedule established pursuant to this section shall not exceed the fee
4 limits in Section 69780.

5 **Comment.** Section 72215 continues former Fish and Game Code Section 12029(d) without
6 substantive change.

7 TITLE 2. ACTIVITIES THAT AFFECT
8 WATERING PLACES

9 **§ 72500. Prohibition of activities that affect watering places**

10 72500. (a) For the preservation, protection and restoration of mountain sheep
11 and other birds and mammals in arid regions of the state, the commission, in
12 cooperation with the agency authorized to manage the land, may prohibit any
13 activity, including but not limited to camping, in the vicinity of waterholes,
14 springs, seeps, and other watering places which are on public lands.

15 (b) The department may enter into agreements with other state and federal
16 agencies controlling public lands for the purpose of posting those areas.

17 **Comment.** Section 72500 continues former Fish and Game Code Section 308.5 without
18 substantive change.

19 TITLE 3. AIRPORTS

20 CHAPTER 1. MANAGEMENT OF WILDLIFE AT PUBLIC USE AIRPORTS

21 **§ 72800. Statement of policy**

22 72800. It is the policy of the state to actively encourage the safe and biologically
23 sound management of wildlife resources on California's public use airports as
24 regulated by the Federal Aviation Administration (FAA) and its agents. The
25 Legislature recognizes that public use airports serving in the United States are
26 operated according to regulations and policies promulgated by the FAA and
27 federal law that protect the health, safety, and welfare of the public in compliance
28 with applicable FAA regulations, standards, policies, and guidance, wildlife
29 hazard management plans, and associated permits.

30 **Comment.** Section 72800 continues former Fish and Game Code Section 3470 without
31 substantive change.

32 **§ 72805. Recognition of federal requirements**

33 72805. (a) The Legislature recognizes that, in a public use airport's ongoing
34 efforts to protect the health, safety, and welfare of the traveling public in
35 compliance with Federal Aviation Administration (FAA) regulations, and
36 specifically Section 337 of Part 139 of Title 14 of the Code of Federal

1 Regulations, it is necessary to perform limited and authorized wildlife hazing,
2 harassment, and depredation.

3 (b) The Legislature further recognizes that FAA certificated public use airports
4 and their wildlife hazard management staff must harass, haze, or perform removal
5 of species to protect the health, safety, and welfare of the public when authorized
6 by a current, valid federal fish and wildlife depredation permit.

7 **Comment.** Section 72805 continues former Fish and Game Code Section 3471 without
8 substantive change.

9 **§ 72810. Federal actions not a violation of this code**

10 72810. The taking of birds by a public use airport certificated by the Federal
11 Aviation Administration to operate in California that has obtained, and is in
12 compliance with, a federal depredation permit that authorizes, under specified
13 conditions, the lawful taking of birds, does not violate any provision of this code
14 or regulations adopted pursuant to this code if the taking is in compliance with the
15 federal depredation permit for the purposes specified in Section 72815 and all of
16 the following conditions are met:

17 (a) The taking occurs on lands owned or leased by the airport.

18 (b) The taking does not occur on lands owned or leased by the airport that are
19 reserved for habitat mitigation or conservation purposes of the species being taken,
20 including lands in a habitat conservation plan, or a natural communities
21 conservation plan.

22 (c) There is no taking of a fully protected, candidate, threatened, or endangered
23 species.

24 **Comment.** Section 72810 continues former Fish and Game Code Section 3472 without
25 substantive change.

26 **§ 72815. Limitation of authorized take**

27 72815. Take is authorized pursuant to this chapter only to relieve or prevent
28 injurious situations affecting public safety and shall only be performed as part of
29 an integrated wildlife management program that emphasizes nonlethal
30 management techniques.

31 **Comment.** Section 72815 continues former Fish and Game Code Section 3472.1 without
32 substantive change.

33 **§ 72820. Monitoring of authority and compliance**

34 72820. A public use airport certificated by the Federal Aviation Administration
35 shall provide to the department any federal depredation permit and all federal
36 reports required pursuant to any federal depredation permit or wildlife hazard
37 management plan, or both, and shall also provide reasonable access to the
38 department for purposes of ensuring compliance with this chapter.

39 **Comment.** Section 72820 continues the first sentence of former Fish and Game Code Section
40 3472.2 without substantive change.

1 **§ 72825. Reimbursement of costs**

2 72825. The department shall seek reimbursement from the public use airport for
3 any reasonable costs associated with activities resulting from any violations of this
4 chapter.

5 **Comment.** Section 72825 continues the second sentence of former Fish and Game Code
6 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). In some instances, the substance of all or part of an existing provision was duplicated in more than one proposed provision. In the table, this is shown using multiple entries for the duplicated provision.

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
1	1(a)	57	440
2	200	60	445
3, 1st sent.....	10(a)	61	not cont'd
3, 2nd sent.	25	62	450
4	30	64	85
5	40	67	455
6	45	68	470
7	50	70	485
8	55	73	35(f)-(g)
9	60	75	500
9.2	520	79	80
10	65	80	95
11	70	81	505
12	3500(b)	82	510
13	75	83	525
13.5	205	86	535
14	215	88	540
15	220	89	480
16	210	89.1	530
17	225	89.1	550
18	230	89.5	560
19	460	90	600
22	235	90.1	605
24	245	90.5	610
27	250	90.7	615
29	255	91	620
30, 1st cl.	280	93	625
30, 2nd cl.	285	94	630
32	290	96	635
33	295	96.5	640
35, 1st cl.	300	97	645
35, 2nd cl.	555	97.5	650
37	305	98	655
39	310	98.2	660
41	315	98.5 ("population")	665
43	320	98.5 ("stock")	675
45	335	99	670
46	380	99.5	680
48	385	101	900
51	390	101.5	905
54	400	102	910
54.5	405	103	915
55	415	104	935
56	425	105	925

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
106.....	930	395.....	30100
106.5.....	7605	396.....	30105(a)-(b)
107.....	940	398, 1st cl.....	30105(c)
108.....	1200	398, 2nd cl.....	not cont'd
110.....	920	399.....	1250
200.....	1000	400.....	7200
201.....	1005	401.....	7205
203.....	1010	450.....	34500
203.1.....	1020	451.....	34530(e)
205.....	1015	452.....	34505
219.....	1025	453.....	34510(a)
250.....	1100	454.....	34510(b)
255.....	1105	455.....	34510(c)
260.....	1110	456, 1st sent.....	34515(a)
265.....	1115	456, 2nd sent.....	not cont'd
270.....	1120	456, 3rd sent.....	34515(b)
275.....	1125	457.....	34520
301.....	1205	458.....	34525
302.....	33400(a)	459.....	34525
303.....	33400(b)	460.....	34530(a)-(d)
306.....	8700	500(a)-(c), (d), 1st sent.....	4504
307.....	8705	500(d), 2nd sent.....	4484(b)
308.....	8720	700.....	1500
308.5.....	72500	701.....	1515
309(a).....	1300	701.3.....	1520
309(b).....	1305	701.5.....	1915(a)-(b)
310.....	41000	702.....	1505
312.....	9150	702.1.....	4315
313.....	44350	703(a).....	1510
314.....	8710(a)	703(b).....	72000
315.....	8710(b)	703.3.....	2410
315.3.....	8715	703.5.....	2400
316.....	39805	704.....	1525
316.5.....	41010	705.....	64400
317.....	10310	706.....	1530
325.....	10500(a)(1)-(3)	707.....	1605
326.....	10505(a)	709 (antelope).....	32965(a)
327.....	10510	709 (bighorn sheep).....	35820(a)
328, 1st sent.....	10505(b)	709 (deer).....	34245(a)
328, 2nd sent.....	10515	709 (elk).....	34870(a)
329.....	10500(a)(4)	710.....	3450
330.....	10500(b)	710.5.....	3455
331 (operative on 7/1/2025).....	32950	710.7.....	3460
331 (operative until 7/1/2025).....	32950	711.....	3465
332 (operative on 7/1/2025).....	34850	711.1(a).....	58000
332 (operative until 7/1/2025).....	34850	711.1(b).....	58005
355, 1st-2nd para.....	29210	711.1(c).....	58010
355, 3rd para.....	29220	711.1(d).....	58015
356, 1st para.....	29200	711.2(a).....	465
356, 2nd para.....	29215	711.2(b).....	66250(e)
357.....	29225	711.2(b).....	1915(c)
375.....	7320	711.4(a)-(b).....	66200
390.....	7300	711.4(c)(1), (3).....	66205
391.....	7315	711.4(c)(2).....	66210
392.....	7305	711.4(d).....	66215
393.....	7310	711.4(e)(1).....	66220

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
711.4(e)(2)-(3)	66225	876	4210
711.4(f) (1st sent.)	6250	877	4205
711.4(f) (2nd sent.)	66230	878	4215
711.4(g)	66235	879	4220
711.4(h)	66240	880	4225
711.4(i)	66245	881	4230
711.7	66250	882	4235
712	3470	1000	1745
713	3755	1000.6	40955
715	1910	1001	1700
716	7325	1002(a)-(l)	9200
716.1	7330	1002(m)	4602
716.2	7335	1002.5	9205
716.3(a)	7345	1003	9210
716.3(b)	7350	1004	1705
716.3(c)	7355	1005	1750
716.3(d)	7360	1005.5	1755
716.3(e)	7365	1006	1715
716.3(f)	7370	1007	1710
716.3(g)	7375	1008	1720
716.3(h)	7380	1009	2105
716.3(i)	7385	1010	2110
716.3, intro.	7340	1011	2200
716.3(j)	7390	1012	2205
716.3(k)	7400	1013	2210
716.3(l)	7405	1014	60720
716.3(m)	7410	1015	1725
716.3(n)	7415	1016(a), def. in 1st sent.	67400
716.3(o)	7420	1016(a), except def. in 1st sent.	67405
716.3(p)	7425	1016(b), def. in 1st sent.	67400
716.3(q)	7430	1016(b), except def. in 1st sent.	67410
716.3(r)	7435	1016(c)	67415
716.3(s)	7440	1016(d)	67420
716.3(t)	7445	1017	1740
716.4	7450	1018	69200
716.5	7455	1019	2100
716.6	7460	1020	2405
716.7	7465	1021	49850
716.8	7470	1022(a)	12055
716.9	7475	1022(b)	12060
717	7480	1022(c)	12075(a)
717.1	7485	1022(d)	12065
717.2	7490	1022(e)	12075(b)
850	1600	1022(f)	12075(c)
851	4110	1022(g)	12070
853	4115	1022(h)	12050
854	4105	1050(a)	2905
855	4305	1050(b)	2800
856	4100	1050(c)	2910
856.5	4320	1050(d)	3000
857	1610	1050(e)	3750
858(a)	1615	1050(f)	3005
858(b)	4325	1050.1	2815
859	3660	1050.3	2925
860	3670	1050.5	3010
875	4200	1050.6	2915

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
1050.8.....	3665	1202.....	25310
1051.....	2810	1203.....	25315
1052.....	3050	1204.....	25320
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	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).....	not cont'd	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(a).....	4450	1352.....	54875
1059(b).....	3360	1352.5.....	54880
1061(a)-(e).....	2935	1353.....	54860
1061(f).....	not cont'd	1354.....	54820
1065.....	3260	1355.....	54870
1068.....	50655	1356.....	54810
1069.....	23200	1360.....	54900
1110.....	15200(a)	1361(a).....	not cont'd
1120.....	25100	1361(b)-(j).....	54905
1121.....	25105	1362.....	54910
1122.....	25110	1363(a).....	54925
1122.5.....	25130	1363(b).....	54930
1123.....	25405	1363(c).....	54945
1123.5.....	25855	1363(d)-(e).....	54940(a)-(b)
1124.....	11505	1363(f).....	54955
1125.....	25420	1364.....	54940(c)
1126.....	25115	1365.....	54960
1150.....	25120	1366.....	54965
1170.....	25200	1367.....	54950
1171.....	25205	1368.....	54970
1172.....	25210	1369.....	54975
1173.....	25215	1370.....	54935
1174.....	25220	1372.....	54915
1175.....	25225	1374(a)-(d).....	55000
1200.....	25300	1374(e).....	55005
1201.....	25305	1374.1.....	55010

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
1375.....	54885	1571.....	56205
1385.....	57700	1572(a), 1st sent.....	56225
1386.....	57705	1572(a), 2nd sent.	56230
1387.....	57725	1572(b), 1st sent.	56270
1388.....	57730	1572(b), 2nd sent.	56285
1389.....	57710	1572(c)(1).....	56325
1390.....	57735	1572(c)(2).....	56330
1391.....	57740	1572(c)(3).....	56335
1400.....	57000	1572(d).....	56240
1401.....	57005	1572(e).....	56290
1402.....	57510	1572(f).....	56340
1403.....	57515	1573(a).....	56245
1404.....	57520	1573(b).....	56280
1405.....	57525	1573(c).....	56255
1410.....	57550	1573(d).....	56260
1411(a), 1st sent.	57645(a)	1573(e).....	56265
1411(a), 2nd sent.	57555	1573(f).....	56250
1411(b).....	57645(b)	1573(g).....	56235
1411(c).....	57560	1574(a).....	6054
1412.....	57650	1574(b).....	56275
1413.....	57565	1575.....	10700
1414.....	57570	1580, 1st sent.	60750
1415.....	57575	1580, 2nd-3rd sent.	60760
1416.....	57580	1580, 4th sent.....	60765
1417.....	57585	1580, 5th sent.....	60790
1418.....	57590	1581.....	60770
1419.....	57655	1582.....	60775
1420.....	57595	1583.....	60780
1421.....	57600	1584.....	60755
1422.....	57605	1585.....	60785
1430, 1st sent.....	57625	1586.....	60850
1430, 2nd sent.	57635	1587.....	60855
1431, 1st sent.....	57630	1590.....	60550
1431, 2nd sent.	57640	1591.....	60555
1500.....	60700	1600.....	69700
1500.5.....	60705	1601.....	69705
1501.....	54550	1602(a).....	69750
1501.5.....	54555	1602(b).....	70155
1502.....	1730	1602(c).....	69785
1503.....	34535	1602(d).....	70165
1504.....	60680	1602(e).....	69710
1505.....	60900	1603(a), 1st-4th sent.	69795
1506.....	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

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
1605(h)	69880	1745(a)	2000
1606	69800	1745(b)(1)	2005
1607	69715	1745(b)(2)	2010
1608	69775	1745(c), (d)	2015
1609	69780	1745(e)-(g)	2020
1610	70150	1745(h)	4452
1611	70160	1745(i)	2035
1612	69885	1745(j)	2030
1613	69790	1745.1	2040
1614	69815	1745.2	60710
1615(a)-(c)	6352	1750	56000
1615(d)-(e)	6354	1755	56005
1615(f)	6356	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	1773	56150
1654(a)	55350	1773.1	56155
1654(b)	55110	1773.2	56160
1654(c)(1)	55355	1775	65800
1654(c)(2)	55360	1776	65805
1654(c)(3)	55365	1776.5	65810
1654(d)	55370	1777	65850
1655(a)	55150	1777.2	65855
1655(b)	55155	1777.5	65860
1655(c)	55210	1778	65865
1655(c)	55310	1778.5	65870
1655(d)	55160	1779	65875
1656	55115	1779.5	65880
1657	55120	1780	65815
1675	712.1	1781	65820
1700	54525	1784(a)-(b)	65950
1725	11700	1784(c)-(e)	65955
1726	11705	1785, 1st sent.	65960
1726.1	11710	1785, 2nd sent.	65965
1726.4	11715	1786(a)	65970
1726.5	11720	1786(b)	65975
1727	11725	1787	65980
1728	11730	1790	66050
1729	11735	1791	66055
1730	11740	1792	66060
1740	38900	1792.5	66065
1741	38905	1793	66100
1742	38910	1794	66105
1743	38915	1795	66110

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
1796.....	66115	1851(i)	64755
1797.....	65300	1851, intro. cl.....	64710
1797.5(a)	65310	1851(j)	64760
1797.5(b)	65315	1851(k), 1st-3rd sent.....	64765
1797.5(c)	65320	1851(k), 4th-5th sent.	64850
1797.5(d)	65325	1851(l), 1st sent.	64770
1797.5(e)	65330	1851(l), 2nd-3rd sent.	64905
1797.5(f)	65335	1851(m)	64775
1797.5(g)	65340	1851(n)	64780
1797.5(h)	65345	1852(a)	64935
1797.5, intro. cl.	65305	1852(b)	64900
1798(a)	65450	1852(c).....	64910
1798(b)	65455	1852(d)	64925
1798(c)-(d)	65460	1852(e).....	64915
1798(e)	65465	1853(a).....	64855
1798(f).....	65470	1853(b)	64920
1798.5(a)(1).....	65500	1853(c).....	64860
1798.5(a)(2).....	65505	1854(a).....	65000
1798.5(b)	65510	1854(b)	64705
1798.5(c)-(d)	65515	1854(c)(1)	64960
1798.5(e)	65520	1854(c)(2)	64965
1798.5(f).....	65525	1854(c)(3)	64970
1798.5(g)	65530	1854(c)(4)	64975
1798.5(h)	65535	1854(c)(5)	64980
1798.6(a)	65550	1854(c)(6)	64985
1798.6(b), 1st-4th sent.	65555	1854(d)	64995
1798.6(b), 5th sent.	65585	1854(e).....	64930
1798.6(c)(1).....	65560	1855(a).....	65050
1798.6(c)(2)-(3).....	65565	1855(b)	65055
1798.6(c)(4), (d)	65570	1855(c).....	65060
1798.6(e)	65575	1855(d)	65150
1798.6(f).....	65580	1855(e).....	64990
1798.6(g)	65590	1856(a).....	65100
1798.6(h)	65600	1856(b)	65105
1798.7	65400	1856(c).....	65110
1799(a)	65650	1856(d)	65115
1799(b)	65655	1856(e).....	65120
1799(c)	65660	1856(f)	65125
1799(d)	65665	1856(g)	65135
1799(e)	65670	1856(h)	65130
1799.1(a)	65675	1856(i)	65140
1799.1(b)	65680	1856(j)	65145
1799.1(c)	65685	1856(k)	65155
1799.1(d)	65690	1857	64805
1800	54500	1858	64800
1801	54505	1859	64815
1802.....	54510	1860	64820
1850.....	64700	1861	64810
1851(a)	64715	1900	53800
1851(b)	64720	1901, 2nd sent.....	53803
1851(c)	64725	1901, except 2nd sent.	53805
1851(d)	64730	1904, 1st sent.	53810
1851(e)	64735	1904, 2nd sent.....	53815
1851(f).....	64740	1905	53850(a)
1851(g)	64745	1906	53850(b)
1851(h)	64750	1907	53825

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
1908.....	53820	2022(g).....	5302
1909.....	53830	2022(h).....	5304
1910, 1st sent.....	53835	2022(j).....	5306
1910, 2nd sent.....	53840	2050.....	62000
1911.....	53845	2051.....	62005
1912.....	53855(a)	2052.....	62010
1913(a).....	53855(b)	2052.1.....	62015
1913(b).....	53855(c)	2053.....	62020
1913(c).....	53855(d)	2054.....	62025
1925, 1st sent.....	53900	2055.....	62030
1925, 2nd-3rd sent.....	53910	2056.....	62035
1926.....	53905	2060.....	62100
1930.....	54570	2061.....	62110
1930.5(a)-(b).....	54580	2062.....	62115
1930.5(c)-(e).....	54600	2063.....	62120
1930.5(f)(1).....	478	2064.....	62125
1930.5(f)(2).....	805	2065.....	62130
1931.....	54595(a)	2065.4.....	62128
1932.....	54585	2067.....	62135
1932.5(a)-(b).....	54595(b)-(d)	2068.....	62105
1932.5(c)-(e).....	54605(a)-(c)	2070.....	62200
1933.....	54605(d)	2071.....	62250
1940.....	54590	2071.5.....	62205
2000.....	8000	2072.....	62255
2000.5.....	8005	2072.3.....	62260
2001.....	8015	2072.7.....	62275
2002.....	8010	2073.....	62265
2003.....	8115	2073.3.....	62270
2003.5.....	57775	2073.4.....	62285
2003.6.....	57780	2073.5.....	62280
2004.....	8120	2073.7.....	62290
2005.....	8125	2074.....	62350
2006.....	9715	2074.2(a), 1st sent.....	62355
2007.....	9560	2074.2(a), 2nd sent.....	62360(a)
2009(a), (d)-(f).....	8130	2074.2(b).....	62360(b)-(c)
2009(b).....	4600(a)	2074.2(c).....	62365
2009(c).....	4600(b)	2074.2(d).....	62370
2010.....	9555	2074.2(e)-(f).....	62375
2011.....	9735	2074.4.....	62380
2011.5.....	9725	2074.6, 1st sent.....	62400
2012.....	8305	2074.6, 2nd sent., 1st part.....	62405(a)
2013.....	90	2074.6, 2nd sent., 2nd part.....	62415
2014.....	4470	2074.6, 3rd sent.....	62410
2015.....	28600	2074.6, 4th sent.....	62405(b)
2016.....	9580	2074.6, 5th sent.....	62405(c)
2018.....	8135	2074.8.....	62420
2019.....	9730	2075.....	62450
2020.....	4405	2075.5(a), 1st sent.....	62455
2021.....	42610(a)-(d)	2075.5(a), 2nd sent.....	62460(a)
2021.5(a).....	42610(e)-(f)	2075.5(b).....	62460(b)-(c)
2021.5(b).....	42615	2075.5(c).....	62465
2022(a).....	28650	2075.5(d).....	62470
2022(b)-(c).....	28655	2075.5(e).....	62475
2022(d).....	28660	2076.....	62480
2022(e).....	5300	2076.5.....	62485
2022(f), (i).....	5308	2077(a).....	62500

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
2077(b)	62505	2089	63705
2077(c)	62510	2089.10	64015
2077(d)	62520	2089.12(a)	64020
2077(e)	62515	2089.12(b)	64025
2078	62210	2089.14	64035
2079	62525	2089.16	64030
2079.1(a)-(b)	64100	2089.18	64040
2079.1(c)-(e)	64105	2089.2(a)	63900
2079.1(f)-(h)	64110	2089.20(a)-(c)	64010
2080	62600	2089.2(b)	63905
2080.1	62705	2089.2(c)-(d)	63915
2080.2	63350	2089.20(d)-(e)	64045
2080.3	63355	2089.22	63930
2080.4	63360	2089.23	64050
2080.5	63550	2089.24	63925
2080.6	63555	2089.25	63920
2080.7	63560	2089.26	63935
2081(a)	62650	2089.4	63910
2081(b)-(d)	62700	2089.5	64075
2081.1	62670	2089.6	63950
2081.10	63455	2089.7	63955
2081.11	63475	2089.8	64000
2081.12	63510	2089.9	64005
2081.2(a)	63600	2116	26500
2081.2(b)	63605	2116.5	26510
2081.2(c)	63615	2117	26505
2081.2(d)	63625	2118(a)	26700
2081.2(e)	63610	2118(b)	26705
2081.2(f)(1)	63620	2118(c)	26710
2081.2(f)(2)	63640	2118(d)-(e), (j)	26715
2081.2(f)(3)	63630	2118(f)	26720
2081.2(g)	63635	2118(g)-(h)	26725
2081.4	63400	2118(i)	26730
2081.6	63450	2118(k)	26735
2081.7(a)	63300	2118.2	26865(a)-(c)
2081.7(b)-(d)	63305	2118.3	26865(d)
2081.7(e)(1)-(3)	63310	2118.4	5280
2081.7(e)(4)	63315	2118.5	26605
2081.7(f)	63320	2119	26615
2081.8	63325	2120	26600
2081.9	63500	2121	26860
2082	62675	2122	26610
2083, 1st cl.	62655	2123	26620
2083, 2nd cl.	62680	2124	26850
2084	62665	2125(a)	5200
2085	62605	2125(b)	5204
2086(a)	63750	2125(c)	5206
2086(b)	63755	2125(d)	5208
2086(c)	63760	2126	26855
2086(d)(1)	63765	2127	27020
2086(d)(2)	63770	2128(a)-(c)	26870
2086(e)	63775	2128(b)-(c)	5282
2086(f)	63780	2128(d)	not cont'd
2087	63700	2150(a)	27200
2088, 1st part	63710	2150(b) (denial)	27205
2088, 2nd part	63715	2150(b) (revocation)	5210

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
2150(c)-(f)	27210	2302(f), 1st-2nd sent	5862
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	2535	8800
2270.5	28105	2536	8805
2271	28110	2537	8810
2272	28115	2538	8900
2300(a)-(b)	28250	2539	8815
2300(c)	5266	2540(a)-(b), (d)-(e)	8905
2301(a)(1)	49950	2540(c)	8910
2301(a)(2)(A)-(D)(i), (c)(2)	49960	2541	8915
2301(a)(2)(D)(ii)-(iv)	49965	2542	8820
2301(b)	49970	2543	8825
2301(c)(1)	49975	2544	8920
2301(d)	49980	2545	8925
2301(e)	49955	2546	4590
2301(f)	5860(a)-(b)	2575	37455(b)
2301(g)	49985	2576	37455(a)
2301(h)	49990	2580	4480
2301(i)	5860(c)	2581	4484(a)
2301(i)	50000	2582	8355
2302(a)-(b)	50105	2583(a), 1st sent	4488
2302(c)	50110	2583(a), 2nd-3rd sent	4490
2302(d)	50115	2583(b)	4484(c)
2302(e)	50120	2584(a)	8365

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
2584(b)-(h)	4492	2781	55805
2585	4494	2785	55825
2586(a)	4300	2786	55830
2586(b)	4300	2787	55835
2586(b)	4484(b)	2788	55840
2587(a)	4496	2789	55845
2587(b)	4498	2790	55850
2588	4500	2791	55855
2589	4502	2792	55860
2600	55500	2793	55865
2601	55505	2794	55870
2602	55510	2795	55875
2620	55525	2796	55880
2621	55530	2797	55885
2622	55535	2798	55890
2623	55540	2799	55895
2624	55545	2799.5	55900
2625	55550	2799.6	55905
2626	55555	2800	64500
2627	55560	2801	64505
2640	55600	2802	64510
2641	55605	2805	64515
2642	55610	2809	64550
2643	55615	2810(a), 1st sent.	64555
2644	55620	2810(a), 2nd sent.	64560(j)
2644.5	55625	2810(b)	64560(a)-(i)
2645	55630	2810(c)	64585
2646	55635	2810(d)	64575
2647	55640	2815	64570
2648	55645	2820(a)	64580
2649	55650	2820(b)	64565
2650	55655	2820(c)	64645
2651	55660	2820(d)	64625
2700	55700	2820(e)	64620
2701	55705	2820(f)	64610
2702	55710	2821	64600
2720	55725	2822	64635
2721	55730	2823	64640
2722	55735	2825	64520
2723	55740	2826	64615
2724	55745	2827	64630
2725	55750	2828	64650
2726	55755	2829	64530
2727	55760	2830	64655
2728	55765	2831	64660
2729	55770	2835	64605
2760	11900	2850	60400
2761	11905	2850.5	60415
2762	11910	2851	60405
2762.2	11915	2852	60410(a)-(d)
2762.5	11920	2853(a)-(b)	60475
2762.6	11925	2853(c)	60480
2763	11930	2854	60510
2764	11935	2855	60500
2765	11940	2856	60505
2780	55800	2857	60525

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
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
2931(b)-(c).....	56900	3008.....	9720
2931(d).....	56945	3009.....	4750
2931.5.....	56950	3010.....	30910(a)
2932.....	56850	3011.....	33200
2932.2.....	56855	3012.....	9585
2932.3.....	56860	3031 (operative on 7/1/2025).....	10210
2932.5.....	56865	3031 (operative until 7/1/2025).....	10210
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	3034.....	31805
2942(a)(3)(B).....	56905	3037.....	10220
2942(b)(1).....	56930	3038.....	10305
2942(b)(2).....	56940	3039.....	28750
2942(c).....	56925	3040.....	10230
2943.....	56935	3049.....	10400
2945.....	56820	3050.....	10200
3000.....	9590	3051.....	10405
3001.....	9710	3052.....	10410
3002.....	9550	3053.....	10415
3003.....	9575	3054.....	10420
3003.1(a), 1st sent., (b)-(c).....	11110	3060.....	10355
3003.1(a), 2nd-3rd sent.	11100(a)	3061.....	10350
3003.1(d).....	11100(b)	3062.....	10360
3003.2.....	8140	3063.....	10365
3003.5.....	9570	3080(a).....	10800
3004(a).....	9700	3080(b).....	10805
3004(b).....	9705	3080(c).....	10810
3004.5(a).....	10000	3080(d).....	10815
3004.5(b).....	10005(a)	3080(e).....	10820
3004.5(c).....	10010	3086.....	10825
3004.5(d).....	10015	3087.....	10830(a)-(d)
3004.5(e).....	10020	3200.....	26000
3004.5(f).....	10030	3201.....	26005
3004.5(g).....	4714	3202.....	26010
3004.5(h).....	10025	3203.....	26015
3004.5(i).....	10005(b)	3204, 1st para.....	26020
3004.5(j).....	10005(c)	3204, 2nd para.	26025
3005(a).....	9565(a)	3205.....	26030
3005(b)(1)-(2).....	71510	3206.....	26035
3005(b)(3), 1st sent.	71500(a)	3207.....	26040
3005(b)(3), 2nd sent.	71500(b)	3208.....	26045
3005(b)(3), 3rd sent.....	71515	3209.....	26050

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
3212.....	26055	3461.....	56705
3213.....	26060	3462.....	56710
3214.....	26065	3464.....	56715
3216.....	26070	3465.....	56725
3217.....	26075	3466.....	56720
3218.....	5290	3467.....	56740
3219.....	26085	3469(a).....	57795
3240.5(a).....	10600	3469(b)-(c).....	57800
3240.5(b).....	10605	3469(d).....	57805
3240.5(c)-(d).....	10610	3469(e).....	57810
3241.....	10615	3469(f).....	57790
3242.....	10620	3469.2.....	57820
3243.5.....	10625	3469.4.....	57825
3245.....	10630	3469.6.....	57830
3246.....	4770	3469.8.....	57835
3270(a).....	29365	3470.....	72800
3270(b).....	not cont'd	3471.....	72805
3300, 1st para., 1st sent.....	26205	3472.....	72810
3300, 1st para., 2nd sent.....	26210(a)	3472.1.....	72815
3300, 2nd para.....	26200	3472.2, 1st sent.....	72820
3301, 1st sent.....	26210(b)	3472.2, 2nd sent.....	72825
3301, 2nd-3rd sent.....	26215	3480(a).....	57855(a)
3302.....	26220	3480(b).....	57870
3303, 1st-2nd sent.....	26225	3480(c).....	57875
3303, 3rd sent.....	26230	3480(d).....	57880
3305.....	26235	3480(e).....	57855(b)
3306, 1st-2nd para.....	26240	3480(f).....	57885
3306, 3rd para.....	26245	3480(g).....	57855(c)
3307, 1st para., 1st sent.....	26250(b)	3480(h).....	57860
3307, 1st para., 2nd sent.....	26250(a)	3480(i).....	57865
3307, 2nd para.....	26255	3500(a).....	490
3308.....	26265	3500(a)(10).....	30900
3309.....	26260	3500(a)(11).....	31100
3310.....	26270	3500(b).....	410
3311.....	26275	3500(b)(1).....	30500
3400.....	56500	3500(b)(6).....	31000
3401(a), 1st sent.....	56525	3500(c).....	370
3401(a), 2nd sent.....	56575	3501.....	29355
3401(a), 3rd sent.....	56580	3502.....	29350
3401(b).....	56595	3503.....	28905
3402.....	56530	3503.5.....	30110
3403.....	56545	3504.....	28910
3404(a).....	56555	3505 (bird of paradise).....	30300
3404(b).....	6052	3505 (egret).....	30700
3406(a).....	56535	3505 (goura).....	30750
3406(b).....	56590	3505 (numidi).....	30800
3406(c).....	56550	3505 (osprey).....	30850
3407.....	56585	3508.....	29360
3408.....	56560	3511(a)(1), 1st-2nd sent.....	30200
3450.....	7210	3511(a)(1), 3rd-6th sent., (a)(2).....	30205
3451.....	7215	3511(a)(3).....	30210
3452.....	7220	3511(b).....	345
3453.....	7225	3511(b)(5).....	30350
3460(a).....	56700	3513.....	29855
3460(b).....	56730	3514.....	325
3460(c).....	56735	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), 4th sent.	71505
3516, 2nd para.	29650	3800(b)(3), 5th sent.	71520
3660	30910(b)	3800(b)(4)	71530
3680	5332	3800(c)	71525
3681	30510	3801	31050
3682.1(a)	29500	3801.5	29860
3682.1(b)	29505	3801.6(a) (1st sent.)	30000
3682.1(c)	not cont'd	3801.6(a) (2nd sent.)	5344(a)
3682.2	29510	3801.6(b)(1)	30005
3683	545	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)	5344(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)	3858	30425
3686, 1st sent.	29520(c)	3860	29050
3686, 2nd sent., 1st cl.	29530(b)	3861	29055
3686, 2nd sent., 2nd cl.	29535	3862	29060
3700.1(a)	30505(a)	3863	29065
3700.1(b)	30515	3950	375(a)-(b)
3700.1(c)	not cont'd	3950(a) (antelope)	32900
3700.2(a)-(f)	30520	3950(a) (bear)	33100
3700.2(g)	30525(a)	3950(a) (deer)	34100
3701, 1st sent.	30530	3950(a) (elk)	34800
3701, 2nd sent.	30535(a)	3950(a) (mountain lion)	35300(a)
3702, 1st sent.	30540	3950(a) (rabbit & hare)	35700
3702, 2nd sent.	30555	3950(a) (squirrel)	36000
3702, 3rd sent.	30550	3950(a) (wild pig)	37100
3702.1	30565	3950(a) (wild rodent)	37450
3702.5, 1st sent.	30525(b)	3950.1	375(c)-(d)
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.	32960
3704.5, 1st para., 1st sent.	30570	3953(b), 1st sent.	34240
3704.5, 1st para., 2nd sent., 1st cl.	30555	3953(b), 1st sent.	34865
3704.5, 1st para., 2nd sent., 2nd cl.	30550	3953(b), 1st sent.	35825(a)
3704.5, 2nd para.	not cont'd	3953(b), 1st sent.	37220
3705	30560(b)	3953(b), 2nd sent.	32965(b)
3800(a), 1st sent.	430	3953(b), 2nd sent.	33305
3800(a), 2nd sent.	29850	3953(b), 2nd sent.	34245(b)
3800(b)(1)-(2)	71510	3953(b), 2nd sent.	34870(b)
3800(b)(3), 1st sent.	71500(a)	3953(b), 2nd sent.	35820(b)
3800(b)(3), 2nd sent.	71500(b)	3953(c)	31905
3800(b)(3), 3rd sent.	71515	3953(d)	31910

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
3953(e), 1st sent.	31915	4035	11320
3953(e), 2nd sent.	31920	4036	11350
3953(f)	31925	4037	11325(a)
3953(g)	31930	4038	11325(b)
3960(a)	31500	4040	11330
3960(b)	31510(a)	4041	11335
3960(c)(1)-(2), (4)	31550	4042	11340
3960(c)(3)	31510(b)	4043	4804
3960.2 (bear)	31500	4150, 1st sent.	435(a)
3960.2 (bear)	33515	4150, 2nd sent.	32300
3960.2 (bobcat)	33755	4151	435(b)
3960.2 (bobcat)	33905	4152	36010
3960.4(a)	31500	4152 (fox)	35215
3960.4(b)-(d)	33950	4152 (muskrat)	35610
3960.4 (bear)	33600	4152 (nongame mammal)	32305
3960.4 (bobcat)	33755	4152 (rabbit & hare)	35710
3960.6(a)	31500	4153, 1st para.	32310(a)
3960.6(b)	33900	4153, 2nd para.	31600
3960.6 (bear)	33505	4154	32310(b)
3960.6 (bobcat)	33755	4155(a)	33805
3961	31555	4155(b)-(c)	33810
4000 (beaver)	33700	4155(d)	33800
4000 (fox)	35200	4155(e)	33815
4000 ("fur bearing mammal")	365	4155(f)	33820
4000 (muskrat)	35600	4180	32155
4002	32150(a)	4180.1, 1st para.	31605(a)
4003	32150(b)	4180.1, 2nd para.	31605(b)
4004(a)	11150	4181(a) (bear)	33520(a)-(d), (f)
4004(b)	11105	4181(a) (beaver)	33710
4004(c)	11020(a)-(b)	4181(a) (elk)	35000(a)-(c), (f)
4004(d)	11000	4181(a) (squirrel)	36015
4004(e)	11155	4181(a) (wild pig)	37150
4004(f)	11005	4181(a) (wild pig)	37360(a)-(c), (e)
4004(g)	11010	4181(a) (wild turkey)	31110
4005(a), 1st sent.	11200(a)-(b)(1)	4181(b)	33520(e)
4005(a), 2nd sent.	475	4181(c) (wild pig)	37355(f)
4005(b)	11210	4181(c) (wild rodent)	37360(d)
4005(c)	11200(b)(6)	4181(d)	35000(d)-(e)
4005(d)	11205	4181.1(a)	33510(a)
4005(e)	11200(b)(2)-(5)	4181.1(b)	37355(a)-(d)
4005(f)	37460	4181.1(c) (bear)	33510(b)
4006(a)	11215(a)	4181.1(c) (wild pig)	37355(e)
4006(b)	11230	4181.1(d)	33510(c)
4006(c)	11215(b)	4181.1(e)	33510(d)
4007	11220	4181.2	37350
4008	11225	4181.5	34600
4009	11015	4185	33650
4009.5	11235	4186	35705
4010	26400	4188 (deer)	34605
4011	31700	4188 (wild pig)	37365
4012	35210	4188 (wild turkey)	31115
4030	11300	4190	31610
4031	11305	4301(a), 1st sent.	34400(b)-(c)
4032	11315(a)-(b)	4301(a), 2nd-5th sent.	34405(b)-(d)
4033	11315(c)	4301(b) (deer)	34400(a)
4034	11310	4301(b) (deer)	34405(a)

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
4302.....	34110	4800(d)	35310
4303.....	34410	4801	35400
4304, 1st sent.....	29370	4801.5	35440
4304 (deer)	34415	4802	35405
4304 (game mammal)	31800	4803	35410
4330.....	34200(a)	4804	35415
4331	34220	4805	35420
4332(a)-(d)	34225	4806	35425
4332(e)	not cont'd	4807	35430
4333.....	34230	4808	35315
4334.....	34215	4809	35435
4336.....	34205	4810	35500
4340.....	5480	4900	35810
4341	34210	4901	35815
4370.....	34350	4902 (operative on 7/1/2025)	35900
4371	34355	4902 (operative until 7/1/2025)	35900
4500(a)-(c)	32500	4903	35915
4500(c) (sea otter)	35750(a)	5000	53305
4500(c) (whale)	37000(a)	5001	53315
4501	35755	5002	53310
4502.5(a), (c)-(e)	37050	5050(a) (fully prot. amph.)	52200
4502.5(b)	5522	5050(a) (fully prot. reptile)	53000
4600.....	34055	5050(b)(1)-(2)	360
4650.....	37105	5050(b)(3)-(5)	340
4651	37300	5060	53100
4652.....	37150	5061	53105
4653.....	37200	5062	53200
4654 (wild pig).....	37205	5500	8145
4654 (wild pig).....	37215	5501	11540
4655.....	37210	5503	11525
4656.....	not cont'd	5505 (amphibians)	51905
4657	37155	5505 (bait)	11530
4700(a)(1), 1st-2nd sent.	32700	5505 (crustaceans)	45250
4700(a)(1), 3rd-6th sent., (a)(2)	32705	5505 (mollusks)	45400
4700(a)(3).....	32710	5507	11510
4700(b).....	355	5508	11515
4700(b)(1)	37450(b)	5509	11520
4700(b)(2)	35800	5510	13710
4700(b)(6)	37000(b)	5511	24905
4700(b)(7)	37450(c)	5514 (salmon)	41005
4700(b)(8)	35750(b)	5514 (steelhead).....	43950
4750.....	33205(a)	5515(a).....	38200
4751 (operative on 7/1/2025).....	33300	5515(b)	350
4751 (operative until 7/1/2025).....	33300	5516	11535
4752.....	33310	5517	42605
4753.....	33210	5520	46000
4754.....	5466	5521	45800
4755.....	33215	5521.5	45805
4757.....	33220	5521.6	45810
4758.....	33455	5522(a), (b)	46005
4759, 1st sent.....	33450(a)	5522(c).....	46010
4759, 2nd-3rd sent.....	33450(b)	5522(d)	46015
4760.....	33110	5522(e).....	46020
4763.....	33500	5523	11500
4800(a)-(b)	35350	5650(a).....	66500
4800(c)	5402	5650(b)	66505

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
5650(c)-(f)	66510	5901	68105
5650.1(a)-(c)	6320	5902	68050
5650.1(d)-(g)	6328	5903	68055
5650.1(h)	6326	5904	68060
5650.1(i)	6322	5930	68400
5650.1(j)	6324	5931	68405
5651	66700	5932	68410
5652	66525	5933, 1st sent.	68500
5653(a), 1st sent.	71050	5933, 2nd sent.	68505
5653(a), 2nd sent.	71200(a)	5933, 3rd sent.	68510
5653(b)	71200(b)	5933, 4th-5th sent.	68520
5653(c), 1st sent.	71055	5934	68515
5653(c), 2nd sent.	71205	5935	68305
5653(c), 3rd sent.	6500	5936	68300
5653(d)	71255	5937	68310
5653(e)	71065	5938	68650
5653(f)	71260	5939	68655
5653(g), 1st sent.	71000(c)	5940	68660
5653(g), 2nd sent.	71005	5941	68665
5653.1	71280	5942	68670
5653.3	71075	5943	68315
5653.5	71000(a)	5944	68320
5653.7	71060	5945	68675
5653.8	71000(b)	5946	68600
5653.9	71010	5947	68605
5654(a)(1)	66800(a)-(d)	5948	68100
5654(a)(2)	66800(e)	5980	68800
5654(b)	66805	5981	68850
5654(c)	66825	5982	68855
5654(d)	66810	5983	68900
5654(e)	66820	5984	68905
5654(f)	66830	5985	68910
5654(g)	66835	5986	68915
5654(h)	66840	5987	68920
5655	66710	5988	68865
5656	67505(c)	5989	68870
5669	45500(a)	5990	68860
5670	45505	5991	68875
5671	45500(a)	5992	68925
5672, 1st para.	45510(a)	5993	68930
5672, 2nd para.	45505	6020	69000
5673	45510(b)	6021	69050
5674	45515	6022	69060
5675	45500(b)	6023	69065
5700	45450	6024	69070
5701	45455	6025	69075
5701.5	45460	6026	69055
5702	45465	6027	69080
5800(a)	71750	6028	69085
5800(b)	71755	6100(a)	69500
5800(c)	71760	6100(b)	69505
5800(d)	71765	6100(c)	69510
5801	71700	6100(d)	69515
5802	71710	6300, 2nd sent.	53600
5803	71705	6300 (amphibians)	52000
5900	68000	6300 (fish)	37950

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
6301 (amphibians).....	52005	6596.1(f)	13255(a)
6301 (aquatic plants)	53605	6596.1(f)	14620(a)
6301 (fish)	37955	6596.1(g)	13255(b)
6302 (amphibians).....	52010	6596.1(g)	14620(b)
6302 (aquatic plants)	53610	6597	25730
6302 (fish)	37960	6597.5	25735
6303 (amphibians).....	52015	6598	25740
6303 (aquatic plants)	53615	6600	67000
6303 (fish)	37965	6601	67005
6304 (amphibians).....	52020	6602	67010
6304 (aquatic plants)	53620	6603(a)-(c)	67050
6304 (fish)	37970	6603(d)	67055
6305 (amphibians).....	52025	6603(e).....	67060
6305 (aquatic plants)	53625	6603(f)	67080
6305 (fish)	37975	6604	67065
6306 (amphibians).....	52030	6605(a).....	67015
6306 (aquatic plants)	53630	6605(b)	67070
6306 (fish)	37980	6605(c).....	67075
6400	25415	6610	67100
6400.5	38870(a)	6611	67105
6401	25410	6612(a).....	67110
6402	25850	6612(b)	67115
6403	25400	6612(c).....	67120
6403	38870(b)	6612(d)	67125
6403	39150	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(a)-(d) & part of (e)	39225	6615	67250
6455 part of (e).....	5670	6616	67255
6456	39200	6617	67260
6457	39240	6618	67265
6460	39245	6619	67270
6590	25700	6620	67275
6591	25705	6621	67280
6592	25710	6650	54025
6593, 1st, 3rd sent.	25720	6651(a)-(b).....	54030
6593, 2nd sent.	25715(b)	6651(c) (agar)	54305
6594	25715(a)	6651(c) (kelp)	54010
6595	25725	6652	54055
6596.1(a), 1st, 3rd sent.....	12910	6653	54005
6596.1(a), 2nd sent., (f).....	13255(a)	6653.5(a).....	54330
6596.1(b)	21935	6653.5(b)	54325
6596.1(c)	38875(c)	6654	54175
6596.1(d)	14620(a)	6655	54180
6596.1(e)	not cont'd	6656	6000

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
6657.....	54040	7056.....	12155
6680.....	54050	7058.....	12160
6700, 1st sent.....	54080	7059.....	12165
6700, 2nd sent.....	54075	7060.....	12200
6701.....	54085	7062.....	12205
6701.5.....	54090	7065.....	12250
6702.....	54095	7066.....	12255
6703.....	54100	7070.....	12300
6704.....	54105	7071(a).....	12305
6705.....	54110	7071(b)-(c).....	12310
6706.....	54115	7072(a)-(c).....	12315
6707.....	54120	7072(d).....	12320
6708.....	54125	7073.....	12325
6709.....	54130	7074.....	12330
6710.....	54135	7075.....	12400
6711.....	54140	7076.....	12405
6750.....	54200	7077.....	12410
6751.....	54205	7078(a)-(c).....	12415
6850.....	52400	7078(d).....	12420
6851.....	52450	7078(e)-(f).....	12425
6852.....	52460	7080.....	12500
6854.....	52455	7081.....	12510
6855.....	52465	7082.....	12515
6880.....	52500	7083.....	12520
6881, 1st sent.....	52505	7084.....	12525
6881, 2nd sent.....	52510	7085.....	12530
6882.....	52505	7086.....	12535
6883.....	52515	7087(a).....	12505
6884.....	52505	7087(b).....	12540(a)
6885.....	52520	7088.....	12540(b)
6895.....	52300	7090(a).....	12600
6896.....	52305	7090(b)(1), (b)(2), 1st sent.....	12605
6900.....	11800	7090(b)(2), 2nd sent., (b)(2), (A)-(E).....	12610
6901.....	11810	7090(c).....	12615
6902.....	11815	7090(d).....	12620
6903.....	11820	7090(e).....	12625
6903.5.....	25125	7090(f).....	12630
6910.....	11805	7090(g).....	12635
6911.....	11805(a)	7090(h).....	12640
6912.....	11805(b)	7100.....	12805
6920(a).....	11825(a)	7110.....	13800
6920(b).....	11830	7115.....	13805
6921.....	11825(b)	7120.....	13500
6922.....	11845	7121, 1st para.....	13600
6923.....	11840	7121, 2nd para.....	13605
6924.....	11835	7123.....	40710
6930.....	11850	7145(a).....	12900
6950.....	41100	7145(a).....	13000
6952.....	41105	7145(b).....	13010
6953.....	41110	7147.....	21930
6954.....	41115	7149.05(a).....	12850
6955.....	41120	7149.05(a).....	13100(a)
6956.....	41125	7149.05(b).....	13400
7050.....	12100	7149.05(c).....	not cont'd
7051.....	12105	7149.05(d).....	13100(b)
7055.....	12150	7149.05(e).....	13100(c)

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
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	14250(a)-(b)
7149.5	13110	7600	37805
7149.7	13020	7600	45005
7149.8	45700	7601	14205
7149.9(a), 1st, 2nd sent.	45955(a)	7601	37805
7149.9(a), 3rd sent.	45950(a)	7630	22900
7149.9(a)(1), 1st sent.	45960	7650	22300
7149.9(a)(1), 2nd sent.	45950(b)-(c)	7652(a)-(c)	22405
7149.9(a)(2)-(3)	45960	7652(d)	22315
7149.9(b)-(d)	45955(b)-(d)	7652.1	22400(a)-(d)
7150	13150	7652.2	22450(a)-(d)
7151(a)-(c)	13200	7652.3(a)	22410
7151(d)	13205	7652.3(a)	22455
7151(e)	13210	7652.3(b)	22400(e)
7151(f)-(g)	13215	7652.3(b)	22450(e)
7153(b)	13005	7653	22415
7153(a) (re aquaculture facility)	13015	7654	22305
7153(a) (re public pier)	13005	7655	22310
7155	7650	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)	14200
7180.1(c), 2nd sent.	not cont'd	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)
7232	13705	7712	22815
7256	49310	7850(a)	14500(a)
7260	43805	7850(b)	14500(b)
7261	420	7850(c), 1st sent.	14500(c)
7290	46250	7850(c), 2d sent.	14615
7332	46300	7850(d)	14500(d)(1)
7350	38855	7850.5	14500(d)(2)
7361	13900	7851	14550(b)
7362	13910	7852(a)-(b)	14550(a)
7363	13905	7852(a)-(d)	14600
7364	13915	7852(e)	14550(c)
7370	43150	7852.1	14610

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
7852.1	14770	8022	22205
7852.2	14605	8025(a) (fishing reports)	5170
7852.25	14555	8025(a) (landing fees)	5150
7852.27	14505	8025(b)	not cont'd
7852.27	20225	8026	5172(b)
7852.4	14860	8026	22200(a)
7853	14665(a)	8030	20200
7854	14665(b)	8031(a) (intro)	20150
7855	4872	8031(a)(1)	20165
7856(a)-(d)	14870 (a)-(g)	8031(a)(2)	20170
7856(e)	14870(h)	8031(a)(3)	20160
7856(f), 1st-3rd sent.	14875	8031(a)(4)	20155
7856(f), 4th sent.	14880	8031(b)	not cont'd
7857(a), (c)-(k), (m)	14560	8032(a), 1st sent.	20205(a)
7857(b)	4870	8032(a), 2d sent.	20230(a)
7857(e)	14865	8032(b)	20205(b)
7857(k)	14760	8032(c)	20230(b)
7857(l)	14855	8032.5(a)-(b), (d)-(i)	20210
7857(m)	14850	8032.5(c)	5100
7857(n)	14650	8033	395
7858	14565	8033(a)	20450
7860	41355	8033(b)	20455(a)
7861	41360(a)-(e)	8033(c)	20460
7861.1	41360(f)	8033.1(a)	515
7861.2	41365	8033.1(a)	20600
7861.3	41350	8033.1(b)	20610
7861.4	41375	8033.2	20605(a)
7861.5	41370	8033.5(a)	400
7862	41380	8033.5(a), 1st sent.	20500
7862.5	41385	8033.5(a), 2nd sent.	20505(a)
7863	41390	8033.5(b)	not cont'd
7880	14785	8034	390
7881(a)	14755	8034(a), 1st sent.	20400
7881(a)	14780	8034(a), 2nd sent.	20405(a)
7881(b), 1st sent.	14765(a)	8034(b)	not cont'd
7881(b), 2nd sent.	14775	8035	405
7881(c), 1st sent.	14765(a)	8035(a)	20550(a)
7881(c), 2nd sent.	14775	8035(b)	20555(a)
7881(d)	14790	8035(c)	20550(b)
7881(e)	14750	8036(a)	385
7881(f)	14765(b)	8036(a), 1st sent.	20350
7881(g)	14765(c)	8036(a), 2nd sent.	20355(a)
7891	15200(b)	8036(b)	not cont'd
7892, 1st sent.	15050	8037(a), 1st sent.	20300
7892, 2nd sent.	15055	8037(a), 2nd sent.	20220
7892, 3rd sent.	15060	8037(b)	not cont'd
7920, 1st, 3rd sent.	275	8038	20215
7920, 1st, 3rd sent.	300	8039 (fish importer)	20355(b)
7920, 1st, 3rd sent.	21905	8039 (fish processor)	20405(b)
7920, 2nd sent.	21900	8039 (fish receiver)	20455(b)
7921, 1st sent.	21915	8039 (fish retailer)	20505(b)
7921, 2nd sent.	21910	8039 (fish wholesaler)	20555(b)
7923	21920	8039 (marine aquaria receiver)	20605(b)
7924	4930	8039 (multi-function license)	20230(c)
7925	42100	8040	20900
8010	22210	8041	20950

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
8042, 1st sent.....	20955(a)	8051.4(a).....	46150
8042, 2nd sent.	20955(b)	8051.4(b).....	not cont'd
8043(a), 1st sent.	21000(a), (c)	8052.....	21360
8043(a), 2nd sent.....	21005(a)	8053.....	21350
8043(b).....	21020	8056.....	21355
8043(c), 1st sent.	21025(b)	8057.....	21365(a)
8043(c), 2nd-3rd sent.	21025(c)	8058.....	21365(b)
8043(c), 4th sent.....	21155	8059.....	21365(c)
8043.1(a).....	21000(b)	8060.....	21365(d)
8043.1(b).....	20905	8061.....	21365(e)
8043.1(c), 1st sent.	21005(b)	8062.....	21365(f)
8043.1(c), 2nd sent.	21005(c)	8063.....	21365(g)
8043.1(d).....	21150(a)	8064.....	21370
8043.2(a).....	21010	8065.....	21375(a)
8043.2(b).....	21450	8066.....	21375(b)
8043.2(c).....	21455	8067.....	21375(c)
8045.....	21020	8068.....	21375(d)
8045.....	21225	8069.....	21375(e)
8046(a), 1st sent.	21150(a)	8070.....	21375(f)
8046(a), 2d sent.....	21150(b)	8075.....	21650
8046(a), 3d-5th sent.	21100	8076.....	21805
8046(b).....	21015	8077.....	21655
8046(c).....	21110	8078.....	21660
8046(d).....	21150(c)	8079.....	21665
8046.1.....	21115	8079.1.....	21670
8046.1.....	38365	8080.....	21675
8047(a)(1), 1st sent., 1st cl.	21000(d)	8100.....	395
8047(a)(1), 1st sent., 2nd cl.....	21005(c)	8101.....	22500
8047(a)(1), 2nd sent.	21150(c)	8102.....	22505
8047(a)(1), 3rd sent.....	21105(a)	8103.....	22510
8047(a)(1), 4th sent.....	21110	8104.....	22515
8047(a)(2), 1st sent.	21210(b)	8110.....	22705
8047(a)(2), 2nd sent.	21000(a)	8111.....	22700
8047(a)(2), 3rd sent.....	21000(c)	8112.....	22710
8047(a)(2), 4th sent.	21215	8113.....	22715
8047(b), 1st sent.	21000(c)	8114.....	22720
8047(b), 2nd sent.....	20960	8120.....	41600
8047(b), 3rd sent.	21025(a)	8121.....	41605(a)-(c)
8047(b), 4th sent.	not cont'd	8122.....	41605(d)
8047(b), 5th sent.	21105(a)	8123.....	41610
8047(b), 6th sent.	21105(b)	8125, 1st-3rd sent.	22905
8047(b), 7th sent.	21110	8125, 4th sent.....	22915
8047(c)(1).....	21210(a)	8126.....	22910
8047(c)(1).....	21215	8140.....	14260
8047(c)(2), 1st sent.	21235	8150.5.....	42265
8047(c)(2), 2nd sent.	21230(a)	8150.7, 1st sent.	42255
8047(c)(2), 3rd sent.....	21230(b)	8150.7, 2nd sent.....	42260
8047(c)(3).....	21205	8154.....	42350
8047(c)(4).....	20450(b)(3)	8180.....	38555(a)
8047(c)(5).....	21200	8181.....	38555(b)
8047(d).....	21225	8182.....	38555(c)
8047(e), 1st sent.	21220	8183.....	38560
8047(e), 2nd-3rd sent.	21240	8190.....	38550
8047(e), 4th sent.....	21245	8210.2.....	41450
8050.....	21300	8213.....	41460
8051.....	20955(a)	8214.....	41465

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
8215.....	41470	8247.5(b).....	41920
8217.....	41455	8247.6.....	41955
8218.....	41475	8247.7.....	41910
8219.....	41480	8247.8.....	41950
8226.....	42110	8248.....	41655
8230.....	41650	8250.....	515
8231.....	41305	8250.5(a).....	49700
8232.....	41665	8250.5(b).....	49715
8232.5.....	41670	8250.5(c).....	49750
8233, 1st sent.....	41715	8251.....	49600
8233, 2nd sent.....	41795	8252.....	49605
8233.3.....	41730	8253.....	49755
8233.4.....	41760	8254.....	49500
8233.5.....	41735	8254.7, 1st-6th sent.....	5852
8233.8.....	41710	8254.7, 7th sent.....	49615
8233.9.....	41680	8257.....	49505
8234(a).....	41675	8258.....	49710(a)
8234(b).....	41800	8259.....	49510
8235.....	41725	8275.....	46855
8236.....	41720	8276(a)-(b), (d).....	47300
8237.....	41735	8276(c).....	47060
8238.....	41745(a)	8276.1(a).....	47850
8238.1.....	41745(b)	8276.1(b).....	47855(a)
8239.....	41740(a)-(i)	8276.1(c).....	47860
8239.1.....	41755(a)-(c)	8276.1(d).....	47865
8239.2.....	41660(b)	8276.1(e).....	47855(b)
8239.6.....	41765	8276.1(f).....	47870
8239.9.....	41750	8276.2(a).....	47350
8240.....	41755(d)-(e)	8276.2(b)(1).....	47355
8241.....	41740(j)	8276.2(b)(2)(A).....	47370
8242.....	41690	8276.2(b)(2)(B).....	47360
8243.....	41685	8276.2(c).....	47365
8244.....	41695	8276.2(d).....	47375
8245.....	41700	8276.3.....	47150
8245.5.....	41705	8276.4(a).....	47800
8246(a).....	4916(a)	8276.4(b)-(c).....	47805
8246(b).....	4916(b)	8276.4(d).....	47810
8246(c).....	4916(c)	8276.4(e).....	47815
8246(d).....	4916(e)	8276.4(f).....	47820
8246.2(a).....	4918	8276.4(g).....	47825
8246.2(b).....	4916(d)	8276.4(h).....	47830
8246.4.....	4910	8276.4(i).....	47010
8246.6 (revocation).....	4912	8276.4(j).....	47835
8246.6 (transfer).....	41775	8276.5(a), 1st sent.....	47610
8246.7 (renewal or transfer).....	41780	8276.5(a), 2nd sent.....	47615
8246.7 (revocation).....	4914	8276.5(a)(1)-(2).....	47620
8246.8.....	41660(a)	8276.5(a)(3).....	47625
8247, 1st sent.....	41900	8276.5(a)(4).....	47630
8247, 2nd sent.....	41940	8276.5(a)(5).....	47635
8247, 3rd sent.....	41930	8276.5(a)(6).....	47640
8247.1.....	41915	8276.5(a)(7).....	47645
8247.2, 1st sent.....	41925	8276.5(a)(8).....	47650
8247.2, 2nd-3rd sent.....	41935	8276.5(b).....	5836
8247.3.....	not cont'd	8276.5(c)-(d).....	47655
8247.4.....	41945	8276.5(e)-(f).....	47660
8247.5(a).....	41905	8276.5(g).....	47605

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
8276.5(h)	47600	8374	44470
8276.5(i)	47665	8375	44455(b)
8277	47305	8376	44450
8278	47070	8377	44460(b)
8279	47055	8377.5	44460(a)
8279.1(a)-(b), (d).....	47155	8378	44465
8279.1(c), (d).....	5834	8380	39100
8280	48500	8381	39655
8280.1(a)	47900	8382	38755(b)
8280.1(b)	48100	8382	44755(b)
8280.1(c)	48105	8383.5	39050
8280.1(d)-(e)	5832	8384	38755(c)
8280.1(e)	47935	8384	44755(c)
8280.1(e)	48115	8385	21950
8280.2(a)-(e)	48110	8386	38755(a)
8280.2(f).....	48115	8386	44755(a)
8280.3(a), (k).....	48355	8387	44760
8280.3(b)	48310	8388(a).....	42805
8280.3(c)	48315	8388(b)	42800
8280.3(d)	48320	8388(c).....	42810(a)
8280.3(e)	48330	8388(d)	42810(b)
8280.3(f).....	48325	8388.5	42905
8280.3(g)	48335	8389(a), 1st sent.....	40500
8280.3(h)	48340	8389(a), 2nd sent.	40505
8280.3(i)	48345	8389(b)	40510(a)
8280.3(j)	48350	8389(c).....	40510(b)
8280.3(l)	48360	8389(d)	40515
8280.4	5830	8391	39900
8280.6(a)	47905	8392	39905
8280.6(b)	48305	8393(a).....	40755
8280.6(c)	48300	8393(b)	40760
8280.6(c)	48360	8394	43655(a)
8280.6(d)	47910	8394.5	43655(b)
8280.7	48510	8395	43555
8280.9	48505	8398	15100
8281	47015	8399	51400
8282	48650	8399.1	51405
8283	47455	8400	15105
8284(a), 1st sent.	47450(a)	8403(a).....	38360
8284(a), 2nd sent.	47460(a)	8403(b), 1st sent.	19510(a)
8284(b)-(c)	48660	8403(b), 2nd sent.	19510(b)
8340	46400	8403(c).....	19505
8341	46410	8405	50505
8342	46425	8405.1	50510
8343	46415	8405.2	50515
8344	50255	8405.3(a)-(b), (d)	50520
8345	50405	8405.3(c).....	5870
8346	46420	8405.4	50525
8370 (salmon)	41495	8411	40610
8370 (striped bass)	39005	8412	40605
8370 (sturgeon)	43355	8420	51450
8371(a)-(b)	39010	8424	51455
8371(c)-(d)	41455	8425(a).....	51460
8372	39105	8425(b)	51465
8373	39555	8428	51470
8374	44455(a)	8429, 1st sent.	51475

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
8429, 2nd sent.	5880	8553	40455
8429.5	51485	8554	40405
8429.7	not cont'd	8555	40410
8430	44105(a)	8556	40415
8431	44200(a)-(b)	8557	40420
8432	44200(c)	8558	40425
8433	15150(b)	8558.1(a), 1st-2nd sent.	40430
8433	44105(b)	8558.1(a), 3rd sent.	40435(c)
8433	44200(d)	8558.1(b)	not cont'd
8434	15150(a)	8558.2	40435(a)-(b)
8435	39410	8558.3	40435(d)
8436	20105(a)	8559	40440
8436.5	20105(b)	8561	18300
8437	20100(a)	8561.5	18305
8437.1	20100(b)	8562	18310
8460	500	8563	18315
8460, 1st para.	22100(a)	8564	18320
8460, 2nd para.	4880	8567	18325
8460, 2nd para.	22105	8568	18330
8460, 3rd para.	22100(b)	8568.5	18335
8460, 4th para.	22130	8569	18340
8461	22110	8573	18345
8462	22120	8574	18350
8463	22125	8575	18355
8475	46405	8575.5	18360
8490	49005	8576(a)-(d), (f)	18365
8491	49015	8576(e)	4964
8492	49020	8576.5	18370
8494(a)	39950	8577	18375
8494(b)	39955	8579	18380
8494(c)(1) & part of (c)(2)	39960	8580	18385
8494(d)	39970	8581	5104
8494(e)	39975	8582(a)	18395(a)
8494(f)	39985	8582(b) (1st sent.)	5700
8494(g)	39980	8582(b) (2nd sent.)	18395(b)
8494 part of (c)(2)	39965	8583	18400
8495	40100	8583.5	18405
8496	40115	8585	22600
8497	40120	8585.5	22605
8500	45010	8586	22610
8510	49205	8586.1	22625
8550, 1st sent.	40350(a)	8587	22630
8550, 2nd-3rd sent.	40355	8587.1	22620
8550.5	40360	8589	22615
8552(a), 1st sent.	40350(b)	8589.5	5050
8552(a), 2nd sent.	40375	8589.7	22635
8552(a), 2nd sent.	40380	8590	50955
8552(b)-(e)	40365	8591	51005
8552.1	40400	8593	51000
8552.2	40380	8594	51050
8552.3	40385	8595(a)	51015(b)
8552.4	40395	8595(a)	51100(a)
8552.5	5692	8595(b)	51015(d)
8552.6	40375	8596	20700
8552.7	40390	8597(a)	510
8552.8	40370	8597(a)	20705

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
8597(b)	20710	8632	4980
8597(c)	20715	8632	19410
8598	20720	8633	4982
8598.2	20725	8633	19415
8598.3(a), (c)	20730	8634	15425
8598.3(b)	20735	8634	19430(a)
8598.4	20740	8635	4984
8598.6	5106	8635	19420
8599	42950	8660	15500
8599.3	42955	8661	15505
8599.4	42850	8663	15515
8601	15600	8664	15520
8601	18710	8664.13	17020
8601.5(a)	15605(a)	8664.5	17000
8601.5(a)	18900(c)	8664.67	17005
8601.5(b), 1st-2nd sent.	15605(b)	8664.7	17010
8601.5(b), 3rd sent.	15615(b)	8664.8	17015
8601.5(b), 4th sent.	5000	8665	15510
8601.5(c)	15615(a)	8666	17025
8601.6(a)	15610	8667	15525
8601.6(b)	not cont'd	8668	15530
8602	15300	8669	15535
8603	14300	8670	15540(a)
8604	14305	8680	18000
8605	1735	8681	18005
8606.1	16100	8681.5	18010
8607	38355	8681.7	18015
8608	15305	8682	18020
8609	16805	8683	18025
8610.1	16850.1	8684	18030
8610.11	16850.11	8685	18035
8610.12	16850.12	8685.5	18040
8610.13	16850.13(a)	8685.6	18045
8610.13 (refs to 8610.8)	not cont'd	8685.7	18050
8610.14	16850.14	8686	18055
8610.15	16850.15	8687	18060
8610.16	16850.16	8688	18065
8610.2	16850.2	8691	18070
8610.3	16850.3	8692	18075
8610.4	16850.4	8692.5	18080
8610.5	16850.5	8693	18085
8610.6	16850.6	8694	18090
8610.9	16850.9	8696	18095
8614	19900	8700	18100
8615	19910	8720	18200
8623(a)-(b), (e)	38760	8721	18205
8623(a)-(b), (e)	39055	8724	18210
8623(a)-(b), (e)	44765	8725	18215
8623(c)-(d)	18500	8750	15650
8625(a)-(c)	18505	8751	15700
8625(d)	not cont'd	8751	15705
8626(a)-(c)	18510	8751	15710
8626(d)	not cont'd	8752	15715
8630, 1st para.	15400(a)	8752	15720
8630, 2nd para.	4986	8752	15725
8631	4975	8752	15730

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
8752.....	15735	8841(d).....	16105(b)
8752.....	15740	8841(e).....	16110(d)
8754.....	15745	8841(f).....	16160(a)
8754.....	15750	8841(g).....	51010(a)-(b)
8754.....	15755	8841(h).....	16165(a)
8754.....	15760(a)-(c)	8841(i).....	16110(g)
8755.....	15775(a)	8841(i).....	16160(b)
8755.....	15775(b)	8841(i).....	16165(b)
8755.....	15780	8841(i).....	16170(b)
8755.....	15785	8841(i).....	51010(c)
8756.....	39000	8841(j)-(k).....	16010(e)-(f)
8756.....	41485	8841(l).....	16170(a)
8756.....	42505	8842(a), 1st para.....	51100(a)
8756.....	44205	8842(a), 2nd para.....	51100(b)
8757.....	15760(d)	8842(b).....	51105(a)
8757.....	15765(a)	8842(c), 1st sent.....	51110
8757.....	15765(b)	8842(c), 2nd sent.....	40125
8757.....	15770(a)	8842(c), 3rd sent.....	51115
8757.....	15770(b)	8842(d).....	51105(b)
8757.....	15775(c)	8843.....	16355
8780(a).....	15900	8870.....	16400
8780(b).....	15910	8870(a).....	16450
8780(c)-(d).....	15915	8870(a).....	16455
8780.1.....	15902	8870(a).....	16460
8800.....	16000	8870(a).....	16465
8801.....	16010	8870(a).....	16470
8802.....	16015	8870(b).....	16475
8803.....	16025	8870(c).....	16480
8804.....	16015	8890.....	16550
8805.....	16010	8890.....	16555
8806.....	16020	9000(a)-(b).....	19200
8807.....	16030	9000(c).....	19600
8830, 1st sent.....	16115	9000.5(a), (c), (d), (f).....	39755
8830, 2nd sent.....	16105(a)	9000.5(b)-(c), (e)-(f).....	19150
8831.....	16150	9001.....	19205
8832.....	16350	9001.6.....	39760
8832.....	16650	9001.7(a)-(j).....	19500
8833.....	16250	9001.7(k).....	49610
8833.....	16280	9001.8.....	40905
8833.....	16285	9002(a).....	19300(a)
8833.....	16290	9002(b).....	19305
8833.....	16295	9002(c).....	19300(b)
8833.....	16300	9002(d).....	19310
8833.....	16305	9002.5.....	19315
8834.....	47000	9003.....	19210
8834.1.....	41490	9004.....	19215
8834.5.....	47065	9004.....	19220
8835.....	16255	9005.....	19225
8835.....	16260	9006.....	19230
8835.....	16265	9007.....	19400(a)
8836.....	16270	9008.....	19400(b)
8836.....	16275	9010(a).....	49700
8836.....	16310	9010(b).....	49710(b)
8837.....	16155	9010(c)-(e).....	49705
8840.....	16175	9011(a)(1).....	47450(a)
8841(a)-(c).....	16110(a)-(c)	9011(a)(2).....	47450(b)

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
9011(a)(3)	47460(b)	9050	19805
9011(b)	48655	9051	19810
9011(c)	47465	9052	19800
9012(a)	47005	9053	45305
9012(b)	47450(c)	9053	45405
9015(a)	51015(a)	9054, 1st sent.	50705(a)
9015(b)	51015(c)	9054, 2nd sent.	50710
9020(a)	19605	9054, 3rd sent.	50705(c)
9020(b)	19610	9054, 4th sent.	50705(d)
9022(a)	19515	9055	50705(b)
9022(b)	19510(a)	9100	15000
9023	39305	9101	15005
9024	49010	10000	43250
9025.1	18700	10001, 1st sent.	43255
9025.5(a)	18950	10001, 2nd sent.	43260
9025.5(a)	19000	10002	43265
9025.5(a)	19005	10003	43270(a)
9025.5(a)	19010(a)	10004	43270(b)
9025.5(a)	19015(a)	10005	5732
9025.5(a)	19030	10500(a)-(b)	58700
9025.5(a)	19035	10500(c)	58550
9025.5(a)	19040	10500(d)	59500
9025.5(a)	19045	10500(e)	60200
9025.5(a)	19050	10500(f)	59600
9025.5(b)	18715	10500(g)	60300
9025.5(c)	19010(b)	10501	34450
9025.5(c)	19015(b)	10501.5	58530
9025.5(c)	19020	10502(a) (fish refuge)	58555
9025.5(c)	19025	10502(a) (game refuge)	58710
9026	18900(a)-(b)	10502(b)-(d)	58500
9027	18800(c)	10502.5, 1st sent.	59855
9027	18805(c)	10502.5, 2nd sent.	59865(c)
9027	18810(c)	10502.6	59780
9027.5	18815(c)	10502.7	59655
9027.5	18815(d)	10502.8	59705
9027.5	18820(c)	10503(a)-(c)	58505
9027.5	18820(d)	10503(d)	58715(a)
9027.5	18825(c)	10504	58715(b)
9027.5	18825(d)	10505	58715(c)
9028	18705	10506	58720
9029	18800(a)	10507	58725
9029	18800(b)	10508	58515
9029	18805(a)	10509	59400
9029	18805(b)	10510	58520
9029	18810(a)	10511	58525
9029	18810(b)	10512	58730
9029	18815(a)	10513	58705
9029	18815(b)	10514	58735
9029	18820(a)	10650	59305
9029	18820(b)	10651	59310
9029	18825(a)	10652	59315
9029	18825(b)	10653	59455
9029.5, 1st, 3rd sent.	18805(d)	10654	59460
9029.5, 1st, 3rd sent.	18810(d)	10655	59715
9029.5, 2nd sent.	18710	10655.5	59710
9029.5, 2nd sent.	18720	10656	59670

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
10657	59865(a)-(b)	10840	59225
10657.5, 1st para.	59860	10841	59350
10657.5, 2nd para.	59865(d)	10842	59275
10658	60055	10843, 1st para.	59250
10659	59230	10843, 2nd para.	59255
10660	58630	10844	58740
10661	59675	10860	59525
10662	59180(a)	10861	59550
10663	59180(b)	10880	60225
10664 (Doheny Beach)	59830	10881	60250
10664 (Irving Coast)	59905	10900	59625
10664 (Laguna Beach)	59955	10901	59850
10664 (Newport Beach)	59980	10902	60050
10664 (Niguel)	60005	10903	59650
10664 (Point Fermin)	60030	10904	59950
10664 (South Laguna Beach)	60080	10905	59975
10665, 1st para.	59280	10906	60075
10665, 2nd para.	59285	10907	59775
10666	59930	10908	59825
10667(a)	59785	10909	59925
10667(b), 1st sent.	59790	10910	60025
10667(b), 2nd-4th sent.	59795(a)	10911	60000
10667(c)	59800	10912	59900
10667(d)	59795(b)	10913	59750
10667(e), 1st sent.	59795(c)	10925	13950
10667(e), 2nd sent.	59795(d)	10930	34060
10680	7230	10931(a) (1st sent.), (b)	34065
10681	7235	10931(a) (2nd sent.)	5542
10682	7240	10932	59700
10683	7245	11000	2500
10684	7250	11001	2505(a)
10685	7255	11002	2510
10711	60325	11003	2515
10740	60950	11004	2520
10741	60955	11005	2525
10770	59425	11006	2530
10771	59450	11007	2535
10801	58625	11008	2540
10820	58800(a)	11009	2545
10821	58825	11010	2550
10822	58850	11011	2555
10823	58875	11012	2560
10824	58900	11013	2565
10825	58925	11014	2570
10826	58950	11015	2575
10827	58975	11016	2580
10828	59000	11017	2585
10829	59025	11018	2590
10830	59050	11019	2595
10831	59075	11020	2600
10832	59100	11022	2605
10833	59300	11024	2610
10835	59125	11025	2615
10836	59150	11026	2620
10837	59175	11027	2625
10838	59200	11028	2630

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
11029	2635	12003.2 (marine mammal)	5520
11030	2640	12003.5	16850.13(b)-(c)
11031	2645	12004	4962
11032	2650	12005	5462
11033	2655	12005.5 (body-gripping trap)	4802
11034	2660	12005.5 (sodium cyanide)	4712
11035	2665	12006(a)(1)	5730(a)
11036, 1st-3rd para.	2670	12006(a)(2)	5850(a)
11036, part of 4th para.	6410	12006(b) (lobster)	5850(b)-(d)
11036, part of 4th para.	69250	12006(b) (sturgeon)	5730(b)-(d)
11037	2675	12006.6	5804
11038	2680	12007 (diseased aquatic org.)	5254
11039	2685	12007 (diseased aquatic org.)	5262
12000(a)	4400(a)	12007 (fish planting)	5250
12000(b)(1)	4600(a)	12007 (import aquatic org.)	5258
12000(b)(11)-(12)	6100	12007 (import aquatic org.)	5264
12000(b)(2)	4864	12007 (planting aquatic org.)	5252
12000(b)(3)	5800(d)	12007 (quarantined aquatic org.)	5256
12000(b)(4)-(7)	4850	12007 (streambed alteration)	6350
12000(b)(8)-(10)	4702	12007 (white bass).....	5660
12001	4754(d)	12008(a)	6202
12001.5 (hunting w/o license)	4704	12008(b)	5320
12002(a)	4400(b)	12008(c).....	5400
12002(b)(1)	4450	12008(d) (fully prot. amph.)	5900
12002(b)(2)	4800	12008(d) (fully prot. reptile).....	5950
12002(b)(3) (burro)	5540	12008(e).....	5600
12002(b)(4)	6300	12008.1(a).....	6204
12002(b)(5)	4950(a)	12008.1(b)	6206
12002(b)(6)	6102	12008.5	5490
12002(b)(7)	4462(c)	12009	5802
12002(c) (bird nest & eggs)	5310	12010	5350
12002(c) (bird of prey).....	5350	12011	6302
12002(c) (migratory nongame bird).....	5342	12012	4460
12002(c) (nongame bird)	5340	12012.5	6104
12002(d)	4415	12013(a)-(b), (d)-(g)	4708
12002.1	4700	12013(c) (1st cl. of 1st sent.)	8110(a)
12002.10	5806	12013(c) (2d cl. of 1st sent.).....	4464(a)
12002.11	10830(e)	12013(c) (2d sent.).....	8110(b)
12002.2	4862	12013(g)	4464(b)
12002.2.1	4860	12013.3(specified mammals)	5450
12002.3	5108	12013.3(wild turkey)	5330
12002.4	4934	12013.5	5460
12002.5	6050	12014	4335
12002.6	4900	12015	66705
12002.7	4932	12016	66715
12002.8(a)-(c)	5808	12017(a)(1)	4470(g)
12002.8(d)-(f) (anchovies)	5650	12017(a)(2)-(6)	67505(b)
12002.8(d)-(f) (halibut)	5680	12017(b)	67510
12002.8(d)-(f) (herring)	5690	12017(c)-(f)	67515
12002.8(d)-(f) (rock crab)	5820	12020	4420
12002.8(d)-(f) (salmon)	41500	12021	4425
12002.8(d)-(f) (sardines)	5720	12023(a), (d)-(e)	5260
12002.9	20240	12023(b)-(e).....	25500
12003	4950(b)	12024	25505
12003.1	4462(a)-(b)	12025(a).....	6552
12003.2 (fully prot. mammal)	5400	12025(b)	6554

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
12025(c)	6556(a)	13002	3605
12025(d)	6556(b)	13003	3610
12025(d)	6558	13005	9105
12025(e)-(f)	6560	13006	3805
12025(g)	6556(c)	13007(a), 1st sent.....	12000
12025(h)	6550	13007(a), 2nd sent., (b)-(g).....	12005
12025.1(a)	6380	13010	67500
12025.1(b), 1st part	6382	13011	67505(a)
12025.1(b), 2nd part.....	6384	13012	67520
12025.1(c), 1st part	6382	13013	67525
12025.1(c), 2nd part	6386	13014(a).....	58050
12025.1(d)	6388	13014(b)	58055
12025.1(e), 1st part	6390	13014(c)-(d).....	58060
12025.1(e), 2nd part	6392	13100	3900
12025.1(f), 1st part.....	6390	13101	3905
12025.1(f), 2nd part	6394	13102	3910
12025.1(g)	6396	13103	3915
12025.2.....	69550	13104	3920
12026.....	25510	13200	3510
12028.....	4310	13201	3515
12029(a)	72200	13202	3520
12029(b)	72205	13203	3525
12029(c)	72210	13205	31935
12029(d)	72215	13220	3750
12150.....	4754(a)-(c)	13230	67530
12150.5.....	4756	13231	67535
12150.6.....	4762	14000	7500
12150.7.....	4764	14001	7505
12150.8.....	4766	14002	7510
12151.....	4758	14100	7550
12151.5.....	4752	14101	7555
12152.....	4760	14102	7560
12153.....	4874	14103	7565
12154.....	4552	14104	7570
12155.....	4706	14105	7575
12155.5.....	4556	15000(a).....	23305
12156.....	4806	15000(b)-(d)	23350
12156.5.....	4594	15001	23915
12157.....	4570	15002	24900
12157.5.....	4572	15003	23820
12158.....	4550	15004(a)-(b).....	23505
12158.5.....	4330	15004(c).....	23500
12159.....	4510	15005	23355
12159.5.....	6200	15006	23300
12160.....	4514	15007(a), 1st sent.....	24960(a)
12161.....	4516	15007(a), 2nd sent.	24960(b)
12162.....	4512	15007(a), 3rd sent.	24950(a)
12163.....	4518	15007(b)	24950(b)
12164.....	4710	15007(c).....	24960(c)
12165.....	4592	15007(d)	24965
12166.....	4554	15007(e).....	24970
12300.....	7600	15007(f)	24955
13000.....	3500(a)	15008	23360
13001(a)	3600	15100	23365
13001(b)	3810	15101(a).....	23605(a)
13001.5.....	3505	15101(b), 1st sent., 1st cl.....	23605(b)

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
15101(b), 1st sent., 2d cl.	23610	15505	24520
15101(b), 1st sent., 3d cl.	23700(a)	15506	24525
15101(b), 2nd, 4th sent.	23700(b)-(c)	15507	24530
15101(b), 3rd sent.	23600	15508	24535
15101(c)	23605(c)	15509	24545
15101(d)	23700(d)	15510	24540
15102	23805	15512	24600
15103(a), (c)-(e)	23705	15513	24605
15103(b)	23720	15514	24610
15104	23710	15516	24615
15105	23715	15600(a)	24705
15200, 1st sent.	23800(a)	15600(b)	24710
15200, 2nd sent.	23815	15601	24715
15201	23810	15604	24720
15202	23800(b)	15605	24700
15300	23900	15700	24800
15301(a)	23910	15701(a)	24805
15301(b)	23905(a)	15701(b)	24810
15301(c)	23905(b)	15702	24820
15400(a)	24000	15703	24815
15400(b), 1st sent.	24005	16000	7720
15400(b), 2nd sent.	24010	16001	7725
15400(c)	24015	16002	7730
15400(d)	24020	16003	7740
15401	24100(c)	16004	7745
15402	24310	16005	7735
15403, all except last sent.	24100(a)-(b)	16006	7750
15403, last sent.	24305	16007	7755
15404	24105	16008	7760
15405	24200	16009	7765
15406	24210	16010	7775
15406.5(a), 1st sent.	24115(a)	16011	7780
15406.5(a), 2nd sent.	24220(a)	16500	7850
15406.5(a), 3rd sent.	24115(b)	16510	7855
15406.5(b)	24115(c)	16511	7885
15406.7	24220(b)-(d)	16512	7900
15407	24300	16513	7905
15408	24320(a)	16514, 1st sent.	7910
15409	24320(b)-(e)	16514, 2d sent.	7875
15410	24205	16515	7870
15411	24315	16516	7890
15412	24325	16517	7860
15413	24400	16518	7865
15414	24215	16520	7880
15415	24110	16530	7925
15500	24500	16531	7930
15501	24505	16532	7935
15502	24510	16540	7950
15503	24515(a)	16541	7955
15504	24515(b)		

DERIVATION OF PROPOSED LAW

The table below shows the relationship between each provision of the proposed Fish and Wildlife Code and the corresponding provision of existing law. In some instances, more than one of the proposed provisions duplicates the substance of all or part of a single existing provision. In the table, this is shown using multiple entries for the duplicate provisions.

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
1(a)	1	310	39
1(b)	New	315	41
5	New	320	43
10(a)	3, 1st sent.	325	3514
10(b)-(d)	New	330	New
15	New	335	45
20	New	340	5050(b)(3)-(5)
25	3, 2nd sent.	345	3511(b)
30	4	350	5515(b)
35(f)-(g)	73	355	4700(b)
40	5	360	5050(b)(1)-(2)
45	6	365	4000 ("fur bearing mammal")
50	7	370	3500(c)
55	8	375(a)-(b)	3950
60	9	375(c)-(d)	3950.1
65	10	380	46
70	11	385	48
75	13	385	8036(a)
80	79	390	51
85	64	390	8034
90	2013	395	8033
95	80	395	8100
100	New	400	54
200	2	400	8033.5(a)
205	13.5	405	54.5
210	16	405	8035
215	14	410	3500(b)
220	15	415	55
225	17	420	7261
230	18	425	56
235	22	430	3800(a), 1st sent.
245	24	435(a)	4150, 1st sent.
250	27	435(b)	4151
255	29	440	57
265	New	445	60
275	7920, 1st, 3rd sent.	450	62
280	30, 1st cl.	455	67
285	30, 2nd cl.	460	19
290	32	465	711.2(a)
295	33	470	68
300	35, 1st cl.	475	4005(a), 2nd sent.
300	7920, 1st, 3rd sent.	478	1930.5(f)(1)
305	37	480	89

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
485.....	70	1120.....	270
490.....	3500(a)	1125.....	275
500.....	75	1200.....	108
500.....	8460	1205.....	301
505.....	81	1250.....	399
510.....	82	1300.....	309(a)
510.....	8597(a)	1305.....	309(b)
515.....	8033.1(a)	1500.....	700
515.....	8250	1505.....	702
520.....	9.2	1510.....	703(a)
525.....	83	1515.....	701
530.....	89.1	1520.....	701.3
535.....	86	1525.....	704
540.....	88	1530.....	706
545.....	3683	1600.....	850
550.....	89.1	1605.....	707
555.....	35, 2nd cl.	1610.....	857
560.....	89.5	1615.....	858(a)
600.....	90	1700.....	1001
605.....	90.1	1705.....	1004
610.....	90.5	1710.....	1007
615.....	90.7	1715.....	1006
620.....	91	1720.....	1008
625.....	93	1725.....	1015
630.....	94	1730.....	1502
635.....	96	1735.....	8605
640.....	96.5	1740.....	1017
645.....	97	1745.....	1000
650.....	97.5	1750.....	1005
655.....	98	1755.....	1005.5
660.....	98.2	1900.....	1226(b)
665.....	98.5 ("population")	1905.....	1227
670.....	99	1910.....	715
675.....	98.5 ("stock")	1915(a)-(b).....	701.5
680.....	99.5	1915(c).....	711.2(b)
712.1.....	1675	2000.....	1745(a)
805.....	1930.5(f)(2)	2005.....	1745(b)(1)
900.....	101	2010.....	1745(b)(2)
905.....	101.5	2015.....	1745(c), (d)
910.....	102	2020.....	1745(e)-(g)
915.....	103	2030.....	1745(j)
920.....	110	2035.....	1745(i)
925.....	105	2040.....	1745.1
930.....	106	2100.....	1019
935.....	104	2105.....	1009
940.....	107	2110.....	1010
1000.....	200	2200.....	1011
1005.....	201	2205.....	1012
1010.....	203	2210.....	1013
1015.....	205	2300.....	1054(a)
1020.....	203.1	2300.....	1054(c)
1025.....	219	2400.....	703.5
1100.....	250	2405.....	1020
1105.....	255	2410.....	703.3
1110.....	260	2500.....	11000
1115.....	265	2505(a).....	11001

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
2505(b)	New	2645(b)	New
2510	11002	2650	11032
2510(b)	New	2650(b)	New
2515	11003	2655	11033
2515(b)	New	2655(b)	New
2520	11004	2660	11034
2520(b)	New	2660(b)	New
2525	11005	2665	11035
2530	11006	2665(b)	New
2530(b)	New	2670	11036, 1st-3rd para.
2535	11007	2670(b)	New
2535(b)	New	2675	11037
2540	11008	2680	11038
2540(b)	New	2680(b)	New
2545	11009	2685	11039
2545(b)	New	2685(b)	New
2550	11010	2800	1050(b)
2550(b)	New	2810	1051
2555	11011	2815	1050.1
2555(b)	New	2820	1052.5
2560	11012	2900	1054.5
2560(b)	New	2905	1050(a)
2565	11013	2910	1050(c)
2565(b)	New	2915	1050.6
2570	11014	2920	1054(b)
2570(b)	New	2920	1054(c)
2575	11015	2925	1050.3
2575(b)	New	2930	1053.1(a)
2575(b)	New	2935	1061(a)-(e)
2580	11016	2940	1054.8
2580(b)	New	3000	1050(d)
2585	11017	3005	1050(f)
2585(b)	New	3010	1050.5
2590	11018	3050	1052
2590(b)	New	3200	1055.1(a)-(b)
2595	11019	3205	1055.1(g)
2595(b)	New	3210	1055.3
2600	11020	3250(a)	1055.1(c), 1st sent.
2600(b)	New	3250(b)	1055.1(c), 3rd-4th sent.
2605	11022	3250(c)	1055.1(c), 2nd sent.
2605(b)	New	3255(a)	1055.6(a)
2610	11024	3255(b)	1055.6(b)
2610(b)	New	3255(c)	1055.6(d)
2615	11025	3260	1065
2615(b)	New	3350	1055.1(d)-(f)
2620	11026	3360	1059(b)
2620(b)	New	3365	1057
2625	11027	3370	1056
2625(b)	New	3375	1058
2630	11028	3450	710
2630(b)	New	3455	710.5
2635	11029	3460	710.7
2635(b)	New	3465	711
2640	11030	3470	712
2640(b)	New	3500(a)	13000
2645	11031	3500(b)	12

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
3505.....	13001.5	4464(a).....	12013(c) (2d cl. of 1st sent.)
3510.....	13200	4464(b).....	12013(g)
3515.....	13201	4470.....	2014
3520.....	13202	4470(g).....	12017(a)(1)
3525.....	13203	4480.....	2580
3600.....	13001(a)	4484(a).....	2581
3605.....	13002	4484(b).....	500(d), 2nd sent.
3610.....	13003	4484(b).....	2586(b)
3650.....	1225	4484(c).....	2583(b)
3655.....	1226(a)	4488.....	2583(a), 1st sent.
3660.....	859	4490.....	2583(a), 2nd-3rd sent.
3665.....	1050.8	4492.....	2584(b)-(h)
3670.....	860	4494.....	2585
3750.....	1050(e)	4496.....	2587(a)
3750.....	13220	4498.....	2587(b)
3755.....	713	4500.....	2588
3805.....	13006	4502.....	2589
3810.....	13001(b)	4504.....	500(a)-(c), (d), 1st sent.
3900.....	13100	4510.....	12159
3905.....	13101	4512.....	12162
3910.....	13102	4514.....	12160
3915.....	13103	4516.....	12161
3920.....	13104	4518.....	12163
4100.....	856	4550.....	12158
4105.....	854	4552.....	12154
4110.....	851	4554.....	12166
4115.....	853	4556.....	12155.5
4200.....	875	4570.....	12157
4205.....	877	4572.....	12157.5
4210.....	876	4590.....	2546
4215.....	878	4592.....	12165
4220.....	879	4594.....	12156.5
4225.....	880	4600(a).....	2009(b)
4230.....	881	4600(a).....	12000(b)(1)
4235.....	882	4600(b).....	2009(c)
4300.....	2586(a)	4602.....	1002(m)
4300.....	2586(b)	4690.....	New
4305.....	855	4700.....	12002.1
4310.....	12028	4702.....	12000(b)(8)-(10)
4315.....	702.1	4704.....	12001.5 (hunting w/o license)
4320.....	856.5	4706.....	12155
4325.....	858(b)	4708.....	12013(a)-(b), (d)-(g)
4330.....	12158.5	4710.....	12164
4335.....	12014	4712.....	12005.5 (sodium cyanide)
4400(a).....	12000(a)	4714.....	3004.5(g)
4400(b).....	12002(a)	4750.....	3009
4405.....	2020	4752.....	12151.5
4415.....	12002(d)	4754(a)-(c).....	12150
4420.....	12020	4754(d).....	12001
4425.....	12021	4756.....	12150.5
4450.....	1059(a)	4758.....	12151
4450.....	12002(b)(1)	4760.....	12152
4452.....	1745(h)	4762.....	12150.6
4460.....	12012	4764.....	12150.7
4462(a)-(b).....	12003.1	4766.....	12150.8
4462(c).....	12002(b)(7)	4770.....	3246

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
4800.....	12002(b)(2)	5266.....	2300(c)
4802.....	12005.5 (body-gripping trap)	5280.....	2118.4
4804.....	4043	5282.....	2128(b)-(c)
4806.....	12156	5290.....	3218
4850.....	12000(b)(4)-(7)	5300.....	2022(e)
4860.....	12002.2.1	5302.....	2022(g)
4862.....	12002.2	5304.....	2022(h)
4864.....	12000(b)(2)	5306.....	2022(j)
4870.....	7857(b)	5308.....	2022(f), (i)
4872.....	7855	5310.....	12002(c) (bird nest & eggs)
4874.....	12153	5320.....	12008(b)
4880.....	8460, 2nd para.	5330.....	12013.3(wild turkey)
4900.....	12002.6	5332.....	3680
4910.....	8246.4	5340.....	12002(c) (nongame bird)
4912.....	8246.6 (revocation)	5342.....	12002(c) (migratory nongame bird)
4914.....	8246.7 (revocation)	5344(a).....	3801.6(a) (2nd sent.)
4916(a).....	8246(a)	5344(b).....	3801.6(c)
4916(b).....	8246(b)	5350.....	12002(c) (bird of prey)
4916(c).....	8246(c)	5350.....	12010
4916(d).....	8246.2(b)	5400.....	12003.2 (fully prot. mammal)
4916(e).....	8246(d)	5400.....	12008(c)
4918.....	8246.2(a)	5402.....	4800(c)
4930.....	7924	5450.....	12013.3(specified mammals)
4932.....	12002.7	5460.....	12013.5
4934.....	12002.4	5462.....	12005
4950(a).....	12002(b)(5)	5466.....	4754
4950(b).....	12003	5480.....	4340
4962.....	12004	5490.....	12008.5
4964.....	8576(e)	5520.....	12003.2 (marine mammal)
4975.....	8631	5522.....	4502.5(b)
4980.....	8632	5540.....	12002(b)(3) (burro)
4982.....	8633	5542.....	10931(a) (2nd sent.)
4984.....	8635	5600.....	12008(e)
4986.....	8630, 2nd para.	5650.....	12002.8(d)-(f) (anchovies)
5000.....	8601.5(b), 4th sent.	5660.....	12007 (white bass)
5050.....	8589.5	5670.....	6455 part of (e)
5100.....	8032.5(c)	5680.....	12002.8(d)-(f) (halibut)
5104.....	8581	5690.....	12002.8(d)-(f) (herring)
5106.....	8598.6	5692.....	8552.5
5108.....	12002.3	5700.....	8582(b) (1st sent.)
5150.....	8025(a) (landing fees)	5720.....	12002.8(d)-(f) (sardines)
5170.....	8025(a) (fishing reports)	5730(a).....	12006(a)(1)
5172(b).....	8026	5730(b)-(d).....	12006(b) (sturgeon)
5200.....	2125(a)	5732.....	10005
5204.....	2125(b)	5800(d).....	12000(b)(3)
5206.....	2125(c)	5802.....	12009
5208.....	2125(d)	5804.....	12006.6
5210.....	2150(b) (revocation)	5806.....	12002.10
5250.....	12007 (fish planting)	5808.....	12002.8(a)-(c)
5252.....	12007 (planting aquatic org.)	5820.....	12002.8(d)-(f) (rock crab)
5254.....	12007 (diseased aquatic org.)	5830.....	8280.4
5256.....	12007 (quarantined aquatic org.)	5832.....	8280.1(d)-(e)
5258.....	12007 (import aquatic org.)	5834.....	8279.1(c), (d)
5260.....	12023(a), (d)-(e)	5836.....	8276.5(b)
5262.....	12007 (diseased aquatic org.)	5850(a).....	12006(a)(2)
5264.....	12007 (import aquatic org.)	5850(b)-(d).....	12006(b) (lobster)

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
5852.....	8254.7, 1st-6th sent.	7220.....	3452
5860(a)-(b).....	2301(f)	7225.....	3453
5860(c).....	2301(i)	7230.....	10680
5862.....	2302(f), 1st-2nd sent.	7235.....	10681
5870.....	8405.3(c)	7240.....	10682
5880.....	8429, 2nd sent.	7245.....	10683
5900.....	12008(d) (fully prot. amph.)	7250.....	10684
5950.....	12008(d) (fully prot. reptile)	7255.....	10685
6000.....	6656	7300.....	390
6050.....	12002.5	7305.....	392
6052.....	3404(b)	7310.....	393
6054.....	1574(a)	7315.....	391
6100.....	12000(b)(11)-(12)	7320.....	375
6102.....	12002(b)(6)	7325.....	716
6104.....	12012.5	7330.....	716.1
6200.....	12159.5	7335.....	716.2
6202.....	12008(a)	7340.....	716.3, intro.
6204.....	12008.1(a)	7345.....	716.3(a)
6206.....	12008.1(b)	7350.....	716.3(b)
6250.....	711.4(f) (1st sent.)	7355.....	716.3(c)
6300.....	12002(b)(4)	7360.....	716.3(d)
6302.....	12011	7365.....	716.3(e)
6320.....	5650.1(a)-(c)	7370.....	716.3(f)
6322.....	5650.1(i)	7375.....	716.3(g)
6324.....	5650.1(j)	7380.....	716.3(h)
6326.....	5650.1(h)	7385.....	716.3(i)
6328.....	5650.1(d)-(g)	7390.....	716.3(j)
6350.....	12007 (streambed alteration)	7400.....	716.3(k)
6352.....	1615(a)-(c)	7405.....	716.3(l)
6354.....	1615(d)-(e)	7410.....	716.3(m)
6356.....	1615(f)	7415.....	716.3(n)
6380.....	12025.1(a)	7420.....	716.3(o)
6382.....	12025.1(b), 1st part	7425.....	716.3(p)
6382.....	12025.1(c), 1st part	7430.....	716.3(q)
6384.....	12025.1(b), 2nd part	7435.....	716.3(r)
6386.....	12025.1(c), 2nd part	7440.....	716.3(s)
6388.....	12025.1(d)	7445.....	716.3(t)
6390.....	12025.1(e), 1st part	7450.....	716.4
6390.....	12025.1(f), 1st part	7455.....	716.5
6392.....	12025.1(e), 2nd part	7460.....	716.6
6394.....	12025.1(f), 2nd part	7465.....	716.7
6396.....	12025.1(g)	7470.....	716.8
6410.....	11036, part of 4th para.	7475.....	716.9
6500.....	5653(c), 3rd sent.	7480.....	717
6550.....	12025(h)	7485.....	717.1
6552.....	12025(a)	7490.....	717.2
6554.....	12025(b)	7500.....	14000
6556(a).....	12025(c)	7505.....	14001
6556(b).....	12025(d)	7510.....	14002
6556(c).....	12025(g)	7550.....	14100
6558.....	12025(d)	7555.....	14101
6560.....	12025(e)-(f)	7560.....	14102
7200.....	400	7565.....	14103
7205.....	401	7570.....	14104
7210.....	3450	7575.....	14105
7215.....	3451	7600.....	12300

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
7605.....	106.5	8810.....	2537
7650.....	7155	8815.....	2539
7720.....	16000	8820.....	2542
7725.....	16001	8825.....	2543
7730.....	16002	8900.....	2538
7735.....	16005	8905.....	2540(a)-(b), (d)-(e)
7740.....	16003	8910.....	2540(c)
7745.....	16004	8915.....	2541
7750.....	16006	8920.....	2544
7755.....	16007	8925.....	2545
7760.....	16008	9105.....	13005
7765.....	16009	9150.....	312
7775.....	16010	9200.....	1002(a)-(l)
7780.....	16011	9205.....	1002.5
7850.....	16500	9210.....	1003
7855.....	16510	9500.....	3007
7860.....	16517	9550.....	3002
7865.....	16518	9555.....	2010
7870.....	16515	9560.....	2007
7875.....	16514, 2d sent.	9565(a).....	3005(a)
7880.....	16520	9565(b).....	3005(c)
7885.....	16511	9565(c).....	3005(d)
7890.....	16516	9570.....	3003.5
7900.....	16512	9575.....	3003
7905.....	16513	9580.....	2016
7910.....	16514, 1st sent.	9585.....	3012
7925.....	16530	9590.....	3000
7930.....	16531	9700.....	3004(a)
7935.....	16532	9705.....	3004(b)
7950.....	16540	9710.....	3001
7955.....	16541	9715.....	2006
8000.....	2000	9720.....	3008
8005.....	2000.5	9725.....	2011.5
8010.....	2002	9730.....	2019
8015.....	2001	9735.....	2011
8110(a).....	12013(c) (1st cl. of 1st sent.)	9740.....	3005.5
8110(b).....	12013(c) (2d sent.)	10000.....	3004.5(a)
8115.....	2003	10005(a).....	3004.5(b)
8120.....	2004	10005(b).....	3004.5(i)
8125.....	2005	10005(c).....	3004.5(j)
8130.....	2009(a), (d)-(f)	10010.....	3004.5(c)
8135.....	2018	10015.....	3004.5(d)
8140.....	3003.2	10020.....	3004.5(e)
8145.....	5500	10025.....	3004.5(h)
8300.....	1054.2	10030.....	3004.5(f)
8305.....	2012	10200.....	3050
8355.....	2582	10205.....	1053.5
8365.....	2584(a)	10210.....	3031 (operative on 7/1/2025)
8700.....	306	10210.....	3031 (operative until 7/1/2025)
8705.....	307	10215.....	3031.5
8710(a).....	314	10220.....	3037
8710(b).....	315	10225.....	3031.2
8715.....	315.3	10230.....	3040
8720.....	308	10300.....	3033
8800.....	2535	10305.....	3038
8805.....	2536	10310.....	317

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
10350	3061	11310	4034
10355	3060	11315(a)-(b)	4032
10360	3062	11315(c)	4033
10365	3063	11320	4035
10400	3049	11325(a)	4037
10405	3051	11325(b)	4038
10410	3052	11330	4040
10415	3053	11335	4041
10420	3054	11340	4042
10500(a)(1)-(3)	325	11350	4036
10500(a)(4)	329	11500	5523
10500(b)	330	11505	1124
10505(a)	326	11510	5507
10505(b)	328, 1st sent.	11515	5508
10510	327	11520	5509
10515	328, 2nd sent.	11525	5503
10600	3240.5(a)	11530	5505 (bait)
10605	3240.5(b)	11535	5516
10610	3240.5(c)-(d)	11540	5501
10615	3241	11700	1725
10620	3242	11705	1726
10625	3243.5	11710	1726.1
10630	3245	11715	1726.4
10700	1575	11720	1726.5
10800	3080(a)	11725	1727
10805	3080(b)	11730	1728
10810	3080(c)	11735	1729
10815	3080(d)	11740	1730
10820	3080(e)	11800	6900
10825	3086	11805	6910
10830(a)-(d)	3087	11805(a)	6911
10830(e)	12002.11	11805(b)	6912
11000	4004(d)	11810	6901
11005	4004(f)	11815	6902
11010	4004(g)	11820	6903
11015	4009	11825(a)	6920(a)
11020(a)-(b)	4004(c)	11825(b)	6921
11100(a)	3003.1(a), 2nd-3rd sent.	11830	6920(b)
11100(b)	3003.1(d)	11835	6924
11105	4004(b)	11840	6923
11110	3003.1(a), 1st sent., (b)-(c)	11845	6922
11150	4004(a)	11850	6930
11155	4004(e)	11900	2760
11200(a)-(b)(1)	4005(a), 1st sent.	11905	2761
11200(b)(2)-(5)	4005(e)	11910	2762
11200(b)(6)	4005(c)	11915	2762.2
11205	4005(d)	11920	2762.5
11210	4005(b)	11925	2762.6
11215(a)	4006(a)	11930	2763
11215(b)	4006(c)	11935	2764
11220	4007	11940	2765
11225	4008	12000	13007(a), 1st sent.
11230	4006(b)	12005	13007(a), 2nd sent., (b)-(g)
11235	4009.5	12050	1022(h)
11300	4030	12055	1022(a)
11305	4031	12060	1022(b)

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
12065	1022(d)	12955	7180.1(a)
12070	1022(g)	12955	7180.1(b)
12075(a)	1022(c)	12955	7180.1(c), 1st sent.
12075(b)	1022(e)	12960	7181.1(a)
12075(c)	1022(f)	12965	7185
12100	7050	13000	7145(a)
12105	7051	13005	7153(b)
12150	7055	13005	7153(a) (re public pier)
12155	7056	13010	7145(b)
12160	7058	13015	7153(a) (re aquaculture facility)
12165	7059	13020	7149.7
12200	7060	13100(a)	7149.05(a)
12205	7062	13100(b)	7149.05(d)
12250	7065	13100(c)	7149.05(e)
12255	7066	13105	7149.2
12300	7070	13110	7149.5
12305	7071(a)	13150	7150
12310	7071(b)-(c)	13200	7151(a)-(c)
12315	7072(a)-(c)	13205	7151(d)
12320	7072(d)	13210	7151(e)
12325	7073	13215	7151(f)-(g)
12330	7074	13250	7149.45(b)
12400	7075	13255(a)	6596.1(a), 2nd sent., (f)
12405	7076	13255(a)	6596.1(f)
12410	7077	13255(b)	6596.1(g)
12415	7078(a)-(c)	13350(a)	7185
12420	7078(d)	13350(b)	7186.1(b)
12425	7078(e)-(f)	13355	7183.1(a)-(b)
12500	7080	13360	7184.1(a)-(b)
12505	7087(a)	13365	7186.1(a)
12510	7081	13400	7149.05(b)
12515	7082	13405	7182.1(a)
12520	7083	13405(b)	7185
12525	7084	13500	7120
12530	7085	13600	7121, 1st para.
12535	7086	13605	7121, 2nd para.
12540(a)	7087(b)	13700	7230
12540(b)	7088	13705	7232
12600	7090(a)	13710	5510
12605	7090(b)(1), (b)(2), 1st sent.	13800	7110
12610	7090(b)(2), 2nd sent., (b)(2), (A)-(E)	13805	7115
12615	7090(c)	13900	7361
12620	7090(d)	13905	7363
12625	7090(e)	13910	7362
12630	7090(f)	13915	7364
12635	7090(g)	13950	10925
12640	7090(h)	14200	7700(d)
12800	New	14205	7601
12805	7100	14250(a)-(b)	7600
12850	7149.05(a)	14255	New
12855	New	14260	8140
12900	7145(a)	14300	8603
12905(c)	New	14305	8604
12905(a)-(b)	7149.45(a)	14310	7704(a)
12910	6596.1(a), 1st, 3rd sent.	14350	7708
12950	7180.1(a)	14500(a)	7850(a)

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
14500(b)	7850(b)	15425	8634
14500(c)	7850(c), 1st sent.	15500	8660
14500(d)(1)	7850(d)	15505	8661
14500(d)(2)	7850.5	15510	8665
14505	7852.27	15515	8663
14550(a)	7852(a)-(b)	15520	8664
14550(b)	7851	15525	8667
14550(c)	7852(e)	15530	8668
14555	7852.25	15535	8669
14560	7857(a), (c)-(k), (m)	15540(a)	8670
14565	7858	15600	8601
14600	7852(a)-(d)	15605(a)	8601.5(a)
14605	7852.2	15605(b)	8601.5(b), 1st-2nd sent.
14610	7852.1	15610	8601.6(a)
14615	7850(c), 2d sent.	15615(a)	8601.5(c)
14620(a)	6596.1(d)	15615(b)	8601.5(b), 3rd sent.
14620(a)	6596.1(f)	15650	8750
14620(b)	6596.1(g)	15700	8751
14650	7857(n)	15705	8751
14665(a)	7853	15710	8751
14665(b)	7854	15715	8752
14750	7881(e)	15720	8752
14755	7881(a)	15725	8752
14760	7857(k)	15730	8752
14765(a)	7881(b), 1st sent.	15735	8752
14765(a)	7881(c), 1st sent.	15740	8752
14765(b)	7881(f)	15745	8754
14765(c)	7881(g)	15750	8754
14770	7852.1	15755	8754
14775	7881(b), 2nd sent.	15760(a)-(c)	8754
14775	7881(c), 2nd sent.	15760(d)	8757
14780	7881(a)	15765(a)	8757
14785	7880	15765(b)	8757
14790	7881(d)	15770(a)	8757
14850	7857(m)	15770(b)	8757
14855	7857(l)	15775(a)	8755
14860	7852.4	15775(b)	8755
14865	7857(e)	15775(c)	8757
14870 (a)-(g)	7856(a)-(d)	15780	8755
14870(h)	7856(e)	15785	8755
14875	7856(f), 1st-3rd sent.	15900	8780(a)
14880	7856(f), 4th sent.	15902	8780.1
15000	9100	15910	8780(b)
15005	9101	15915	8780(c)-(d)
15050	7892, 1st sent.	16000	8800
15055	7892, 2nd sent.	16010	8801
15060	7892, 3rd sent.	16010	8805
15100	8398	16010(e)-(f)	8841(j)-(k)
15105	8400	16015	8802
15150(a)	8434	16015	8804
15150(b)	8433	16020	8806
15200(a)	1110	16025	8803
15200(b)	7891	16030	8807
15300	8602	16100	8606.1
15305	8608	16105(a)	8830, 2nd sent.
15400(a)	8630, 1st para.	16105(b)	8841(d)

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
16110(a)-(c)	8841(a)-(c)	17005	8664.67
16110(d)	8841(e)	17010	8664.7
16110(g)	8841(i)	17015	8664.8
16115	8830, 1st sent.	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	18040	8685.5
16255	8835	18045	8685.6
16260	8835	18050	8685.7
16265	8835	18055	8686
16270	8836	18060	8687
16275	8836	18065	8688
16280	8833	18070	8691
16285	8833	18075	8692
16290	8833	18080	8692.5
16295	8833	18085	8693
16300	8833	18090	8694
16305	8833	18095	8696
16310	8836	18100	8700
16350	8832	18200	8720
16355	8843	18205	8721
16400	8870	18210	8724
16450	8870(a)	18215	8725
16455	8870(a)	18300	8561
16460	8870(a)	18305	8561.5
16465	8870(a)	18310	8562
16470	8870(a)	18315	8563
16475	8870(b)	18320	8564
16480	8870(c)	18325	8567
16550	8890	18330	8568
16555	8890	18335	8568.5
16650	8832	18340	8569
16800	New	18345	8573
16805	8609	18350	8574
16850.1	8610.1	18355	8575
16850.11	8610.11	18360	8575.5
16850.12	8610.12	18365	8576(a)-(d), (f)
16850.13(a)	8610.13	18370	8576.5
16850.13(b)-(c)	12003.5	18375	8577
16850.14	8610.14	18380	8579
16850.15	8610.15	18385	8580
16850.16	8610.16	18395(a)	8582(a)
16850.2	8610.2	18395(b)	8582(b) (2nd sent.)
16850.3	8610.3	18400	8583
16850.4	8610.4	18405	8583.5
16850.5	8610.5	18500	8623(c)-(d)
16850.6	8610.6	18505	8625(a)-(c)
16850.9	8610.9	18510	8626(a)-(c)
17000	8664.5	18700	9025.1

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
18705	9028	19315	9002.5
18710	8601	19400(a)	9007
18710	9029.5, 2nd sent.	19400(b)	9008
18715	9025.5(b)	19410	8632
18720	9029.5, 2nd sent.	19415	8633
18800(a)	9029	19420	8635
18800(b)	9029	19430(a)	8634
18800(c)	9027	19500	9001.7(a)-(j)
18805(a)	9029	19505	8403(c)
18805(b)	9029	19510(a)	8403(b), 1st sent.
18805(c)	9027	19510(a)	9022(b)
18805(d)	9029.5, 1st, 3rd sent.	19510(b)	8403(b), 2nd sent.
18810(a)	9029	19515	9022(a)
18810(b)	9029	19600	9000(c)
18810(c)	9027	19605	9020(a)
18810(d)	9029.5, 1st, 3rd sent.	19610	9020(b)
18815(a)	9029	19800	9052
18815(b)	9029	19805	9050
18815(c)	9027.5	19810	9051
18815(d)	9027.5	19900	8614
18820(a)	9029	19910	8615
18820(b)	9029	20100(a)	8437
18820(c)	9027.5	20100(b)	8437.1
18820(d)	9027.5	20105(a)	8436
18825(a)	9029	20105(b)	8436.5
18825(b)	9029	20150	8031(a) (intro)
18825(c)	9027.5	20155	8031(a)(4)
18825(d)	9027.5	20160	8031(a)(3)
18900(a)-(b)	9026	20165	8031(a)(1)
18900(c)	8601.5(a)	20170	8031(a)(2)
18950	9025.5(a)	20200	8030
19000	9025.5(a)	20205(a)	8032(a), 1st. sent.
19005	9025.5(a)	20205(b)	8032(b)
19010(a)	9025.5(a)	20210	8032.5(a)-(b), (d)-(i)
19010(b)	9025.5(c)	20215	8038
19015(a)	9025.5(a)	20220	8037(a), 2nd sent.
19015(b)	9025.5(c)	20225	7852.27
19020	9025.5(c)	20230(a)	8032(a), 2d sent.
19025	9025.5(c)	20230(b)	8032(c)
19030	9025.5(a)	20230(c)	8039 (multi-function license)
19035	9025.5(a)	20240	12002.9
19040	9025.5(a)	20300	8037(a), 1st sent.
19045	9025.5(a)	20350	8036(a), 1st sent.
19050	9025.5(a)	20355(a)	8036(a), 2nd sent.
19150	9000.5(b)-(c), (e)-(f)	20355(b)	8039 (fish importer)
19200	9000(a)-(b)	20400	8034(a), 1st sent.
19205	9001	20405(a)	8034(a), 2nd sent.
19210	9003	20405(b)	8039 (fish processor)
19215	9004	20450	8033(a)
19220	9004	20450(b)(3)	8047(c)(4)
19225	9005	20455(a)	8033(b)
19230	9006	20455(b)	8039 (fish receiver)
19300(a)	9002(a)	20460	8033(c)
19300(b)	9002(c)	20500	8033.5(a), 1st sent.
19305	9002(b)	20505(a)	8033.5(a), 2nd sent.
19310	9002(d)	20505(b)	8039 (fish retailer)

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
20550(a)	8035(a)	21205	8047(c)(3)
20550(b)	8035(c)	21210(a)	8047(c)(1)
20555(a)	8035(b)	21210(b)	8047(a)(2), 1st sent.
20555(b)	8039 (fish wholesaler)	21215	8047(a)(2), 4th sent.
20600	8033.1(a)	21215	8047(c)(1)
20605(a)	8033.2	21220	8047(e), 1st sent.
20605(b)	8039 (marine aquaria receiver)	21225	8045
20610	8033.1(b)	21225	8047(d)
20700	8596	21230(a)	8047(c)(2), 2nd sent.
20705	8597(a)	21230(b)	8047(c)(2), 3rd sent.
20710	8597(b)	21235	8047(c)(2), 1st sent.
20715	8597(c)	21240	8047(e), 2nd-3rd sent.
20720	8598	21245	8047(e), 4th sent.
20725	8598.2	21300	8050
20730	8598.3(a), (c)	21350	8053
20735	8598.3(b)	21355	8056
20740	8598.4	21360	8052
20900	8040	21365(a)	8057
20905	8043.1(b)	21365(b)	8058
20950	8041	21365(c)	8059
20955(a)	8042, 1st sent.	21365(d)	8060
20955(a)	8051	21365(e)	8061
20955(b)	8042, 2nd sent.	21365(f)	8062
20960	8047(b), 2nd sent.	21365(g)	8063
21000(a)	8047(a)(2), 2nd sent.	21370	8064
21000(a), (c)	8043(a), 1st sent.	21375(a)	8065
21000(b)	8043.1(a)	21375(b)	8066
21000(c)	8047(a)(2), 3rd sent.	21375(c)	8067
21000(c)	8047(b), 1st sent.	21375(d)	8068
21000(d)	8047(a)(1), 1st sent., 1st cl.	21375(e)	8069
21005(a)	8043(a), 2nd sent.	21375(f)	8070
21005(b)	8043.1(c), 1st sent.	21450	8043.2(b)
21005(c)	8043.1(c), 2nd sent.	21455	8043.2(c)
21005(c)	8047(a)(1), 1st sent., 2nd cl.	21600	7700(a)-(c)
21010	8043.2(a)	21605	7701
21015	8046(b)	21610	7702
21020	8043(b)	21615	7703
21020	8045	21650	8075
21025(a)	8047(b), 3rd sent.	21655	8077
21025(b)	8043(c), 1st sent.	21660	8078
21025(c)	8043(c), 2nd-3rd sent.	21665	8079
21100	8046(a), 3d-5th sent.	21670	8079.1
21105(a)	8047(a)(1), 3rd sent.	21675	8080
21105(a)	8047(b), 5th sent.	21750	7705
21105(b)	8047(b), 6th sent.	21800	7704(b)
21110	8046(c)	21805	8076
21110	8047(a)(1), 4th sent.	21810	7702.1
21110	8047(b), 7th sent.	21850	7706
21115	8046.1	21855	7707
21150(a)	8043.1(d)	21900	7920, 2nd sent.
21150(a)	8046(a), 1st sent.	21905	7920, 1st, 3rd sent.
21150(b)	8046(a), 2d sent.	21910	7921, 2nd sent.
21150(c)	8046(d)	21915	7921, 1st sent.
21150(c)	8047(a)(1), 2nd sent.	21920	7923
21155	8043(c), 4th sent.	21930	7147
21200	8047(c)(5)	21935	6596.1(b)

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
21950	8385	23355	15005
22100(a)	8460, 1st para.	23360	15008
22100(b)	8460, 3rd para.	23365	15100
22105	8460, 2nd para.	23500	15004(c)
22110	8461	23505	15004(a)-(b)
22120	8462	23600	15101(b), 3rd sent.
22125	8463	23605(a)	15101(a)
22130	8460, 4th para.	23605(b)	15101(b), 1st sent., 1st cl.
22200(a)	8026	23605(c)	15101(c)
22205	8022	23610	15101(b), 1st sent., 2d cl.
22210	8010	23700(a)	15101(b), 1st sent., 3d cl.
22300	7650	23700(b)-(c)	15101(b), 2nd, 4th sent.
22305	7654	23700(d)	15101(d)
22310	7655	23705	15103(a), (c)-(e)
22315	7652(d)	23710	15104
22400(a)-(d)	7652.1	23715	15105
22400(e)	7652.3(b)	23720	15103(b)
22405	7652(a)-(c)	23800(a)	15200, 1st sent.
22410	7652.3(a)	23800(b)	15202
22415	7653	23805	15102
22450(a)-(d)	7652.2	23810	15201
22450(e)	7652.3(b)	23815	15200, 2nd sent.
22455	7652.3(a)	23820	15003
22500	8101	23900	15300
22505	8102	23905(a)	15301(b)
22510	8103	23905(b)	15301(c)
22515	8104	23910	15301(a)
22600	8585	23915	15001
22605	8585.5	24000	15400(a)
22610	8586	24005	15400(b), 1st sent.
22615	8589	24010	15400(b), 2nd sent.
22620	8587.1	24015	15400(c)
22625	8586.1	24020	15400(d)
22630	8587	24100(a)-(b)	15403, all except last sent.
22635	8589.7	24100(c)	15401
22700	8111	24105	15404
22705	8110	24110	15415
22710	8112	24115(a)	15406.5(a), 1st sent.
22715	8113	24115(b)	15406.5(a), 3rd sent.
22720	8114	24115(c)	15406.5(b)
22800(a)-(e)	7710(a)-(c)	24200	15405
22800(f)	7710, last para.	24205	15410
22805(a)-(c)	7710.5	24210	15406
22805(d)	7710, last para.	24215	15414
22810	7710.1	24220(a)	15406.5(a), 2nd sent.
22815	7712	24220(b)-(d)	15406.7
22900	7630	24300	15407
22905	8125, 1st-3rd sent.	24305	15403, last sent.
22910	8126	24310	15402
22915	8125, 4th sent.	24315	15411
23100	7690	24320(a)	15408
23150	7709	24320(b)-(e)	15409
23200	1069	24325	15412
23300	15006	24400	15413
23305	15000(a)	24500	15500
23350	15000(b)-(d)	24505	15501

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
24510	15502	25410	6401
24515(a)	15503	25415	6400
24515(b)	15504	25420	1125
24520	15505	25500	12023(b)-(e)
24525	15506	25505	12024
24530	15507	25510	12026
24535	15508	25600	6420
24540	15510	25605	6421
24545	15509	25610	6422
24600	15512	25615	6423
24605	15513	25620(a)	6424
24610	15514	25620(b)	6425(b)
24615	15516	25700	6590
24700	15605	25705	6591
24705	15600(a)	25710	6592
24710	15600(b)	25715(a)	6594
24715	15601	25715(b)	6593, 2nd sent.
24720	15604	25720	6593, 1st, 3rd sent.
24800	15700	25725	6595
24805	15701(a)	25730	6597
24810	15701(b)	25735	6597.5
24815	15703	25740	6598
24820	15702	25850	6402
24900	15002	25855	1123.5
24905	5511	26000	3200
24950(a)	15007(a), 3rd sent.	26005	3201
24950(b)	15007(b)	26010	3202
24955	15007(f)	26015	3203
24960(a)	15007(a), 1st sent.	26020	3204, 1st para.
24960(b)	15007(a), 2nd sent.	26025	3204, 2nd para.
24960(c)	15007(c)	26030	3205
24965	15007(d)	26035	3206
24970	15007(e)	26040	3207
25100	1120	26045	3208
25105	1121	26050	3209
25110	1122	26055	3212
25115	1126	26060	3213
25120	1150	26065	3214
25125	6903.5	26070	3216
25130	1122.5	26075	3217
25135	1210	26085	3219
25200	1170	26200	3300, 2nd para.
25205	1171	26205	3300, 1st para., 1st sent.
25210	1172	26210(a)	3300, 1st para., 2nd sent.
25215	1173	26210(b)	3301, 1st sent.
25220	1174	26215	3301, 2nd-3rd sent.
25225	1175	26220	3302
25300	1200	26225	3303, 1st-2nd sent.
25305	1201	26230	3303, 3rd sent.
25310	1202	26235	3305
25315	1203	26240	3306, 1st-2nd para.
25320	1204	26245	3306, 3rd para.
25325	1205	26250(a)	3307, 1st para., 2nd sent.
25330	1206	26250(b)	3307, 1st para., 1st sent.
25400	6403	26255	3307, 2nd para.
25405	1123	26260	3309

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
26265	3308	27610	2202
26270	3310	27615	2203
26275	3311	27700	2190
26400	4010	27705	2195
26500	2116	27710	2192
26505	2117	28000	2225
26510	2116.5	28100	2270
26600	2120	28105	2270.5
26605	2118.5	28110	2271
26610	2122	28115	2272
26615	2119	28250	2300(a)-(b)
26620	2123	28400	2345
26700	2118(a)	28405(a)	2346
26705	2118(b)	28405(b)	2347
26710	2118(c)	28410	2348
26715	2118(d)-(e), (j)	28415	2349
26720	2118(f)	28420	2352
26725	2118(g)-(h)	28425	2353
26730	2118(i)	28500	2400
26735	2118(k)	28505	2401
26850	2124	28600	2015
26855	2126	28650	2022(a)
26860	2121	28655	2022(b)-(c)
26865(a)-(c)	2118.2	28660	2022(d)
26865(d)	2118.3	28750	3039
26870	2128(a)-(c)	28900	New
27020	2127	28905	3503
27200	2150(a)	28910	3504
27205	2150(b) (denial)	28915	3803
27210	2150(c)-(f)	29050	3860
27215(a)	2150.2	29055	3861
27215(b)	2150.1	29060	3862
27220	2150.3	29065	3863
27225	2150.4	29200	356, 1st para.
27235	2151	29205	3806
27240	2152	29210	355, 1st-2nd para.
27245	2153	29215	356, 2nd para.
27250	2155	29220	355, 3rd para.
27255	2156	29225	357
27260	2157(a)	29350	3502
27265	2157(b), (d)	29355	3501
27270	2157(c)	29360	3508
27275	2193(a)	29365	3270(a)
27280	2193(b)-(c)	29370	4304, 1st sent.
27330	2150.5	29375	2350 (game birds)
27400	2185(b)	29500	3682.1(a)
27400	2186(b)	29505	3682.1(b)
27400	2187(b)	29510	3682.2
27405	2185(a)	29515(a)	3684(a)
27410	2186(a)	29515(b)	3684(b)
27415	2187(a)	29515(c)	3684(g)
27500	2189(a)	29515(d)	3684(c), 1st sent.
27505	2189(b)-(c)	29515(e)	3684(e), 2nd sent.
27510	2189(d)-(f)	29520(a)	3684(c), 2nd sent.
27600	2200	29520(b)	3684(c), 4th-5th sent.
27605	2201	29520(c)	3686, 1st sent.

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
29525	3684(c), 3rd sent.	30570	3704.5, 1st para., 1st sent.
29530(a)	3684(d)	30700	3505 (egret)
29530(b)	3686, 2nd sent., 1st cl.	30750	3505 (goura)
29535	3686, 2nd sent., 2nd cl.	30800	3505 (numidi)
29540	3684(e), 1st sent.	30850	3505 (osprey)
29545	3684(f)	30900	3500(a)(10)
29650	3516, 2nd para.	30900	3683(a)(11)
29700	3516, 1st para.	30905	New
29705	3515	30910(a)	3010
29850	3800(a), 2nd sent.	30910(b)	3660
29855	3513	31000	3500(b)(6)
29860	3801.5	31000	3683(b)(4)
30000	3801.6(a) (1st sent.)	31005	New
30005	3801.6(b)(1)	31050	3801
30010(a)	3801.6(b)(2), 2nd-4th sent.	31100	3500(a)(11)
30015	3801.6(b)(2), 1st sent.	31100	3683(a)(12)
30100	395	31110	4181(a) (wild turkey)
30105(a)-(b)	396	31115	4188 (wild turkey)
30105(c)	398, 1st cl.	31400	New
30110	3503.5	31500	3032(a)(1)
30115	3802	31500	3960(a)
30200	3511(a)(1), 1st-2nd sent.	31500	3960.2 (bear)
30205	3511(a)(1), 3rd-6th sent., (a)(2)	31500	3960.4(a)
30210	3511(a)(3)	31500	3960.6(a)
30300	3505 (bird of paradise)	31505	3032(a)(2)-(d)
30350	3511(b)(5)	31510(a)	3960(b)
30355	New	31510(b)	3960(c)(3)
30360	3850	31550	3960(c)(1)-(2), (4)
30365	3851	31555	3961
30370	3852	31600	4153, 2nd para.
30375	3853	31605(a)	4180.1, 1st para.
30380	3854	31605(b)	4180.1, 2nd para.
30385	3855	31610	4190
30390	3856	31700	4011
30395	3857	31800	4304 (game mammal)
30425	3858	31805	3034
30500	3500(b)(1)	31900	3953(a)
30505(a)	3700.1(a)	31905	3953(c)
30510	3681	31910	3953(d)
30515	3700.1(b)	31915	3953(e), 1st sent.
30520	3700.2(a)-(f)	31920	3953(e), 2nd sent.
30525(a)	3700.2(g)	31925	3953(f)
30525(b)	3702.5, 1st sent.	31930	3953(g)
30530	3701, 1st sent.	31935	13205
30535(a)	3701, 2nd sent.	32150(a)	4002
30535(b)	3704, 1st para., 1st-2nd sent.	32150(b)	4003
30535(c)	3704, 1st para., 3rd sent.	32155	4180
30540	3702, 1st sent.	32300	4150, 2nd sent.
30545	3704, 1st para., 4th sent.	32305	4152 (nongame mammal)
30550	3702, 3rd sent.	32310(a)	4153, 1st para.
30550	3704.5, 1st para., 2nd sent., 2nd cl.	32310(b)	4154
30555	3702, 2nd sent.	32500	4500(a)-(c)
30555	3704.5, 1st para., 2nd sent., 1st cl.	32700	4700(a)(1), 1st-2nd sent.
30560(a)	3703	32705	4700(a)(1), 3rd-6th sent., (a)(2)
30560(b)	3705	32710	4700(a)(3)
30565	3702.1	32900	3950(a) (antelope)

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
32905	New	34110	4302
32950	331 (operative on 7/1/2025)	34115	3006 (deer)
32950	331 (operative until 7/1/2025)	34120	2350 (deer)
32960	3953(b), 1st sent.	34125	2355
32965(a)	709 (antelope)	34200(a)	4330
32965(b)	3953(b), 2nd sent.	34205	4336
33100	3950(a) (bear)	34210	4341
33105	New	34215	4334
33110	4760	34220	4331
33200	3011	34225	4332(a)-(d)
33205(a)	4750	34230	4333
33210	4753	34240	3953(b), 1st sent.
33215	4755	34245(a)	709 (deer)
33220	4757	34245(b)	3953(b), 2nd sent.
33225	3006 (bear)	34350	4370
33300	4751 (operative on 7/1/2025)	34355	4371
33300	4751 (operative until 7/1/2025)	34400(a)	4301(b) (deer)
33305	3953(b), 2nd sent.	34400(b)-(c)	4301(a), 1st sent.
33310	4752	34405(a)	4301(b) (deer)
33400(a)	302	34405(b)-(d)	4301(a), 2nd-5th sent.
33400(b)	303	34410	4303
33450(a)	4759, 1st sent.	34415	4304 (deer)
33450(b)	4759, 2nd-3rd sent.	34450	10501
33455	4758	34500	450
33500	4763	34505	452
33505	3960.6 (bear)	34510(a)	453
33510(a)	4181.1(a)	34510(b)	454
33510(b)	4181.1(c) (bear)	34510(c)	455
33510(c)	4181.1(d)	34515(a)	456, 1st sent.
33510(d)	4181.1(e)	34515(b)	456, 3rd sent.
33515	3960.2 (bear)	34520	457
33520(a)-(d), (f)	4181(a) (bear)	34525	458
33520(e)	4181(b)	34525	459
33600	3960.4 (bear)	34530(a)-(d)	460
33650	4185	34530(e)	451
33700	4000 (beaver)	34535	1503
33705	New	34600	4181.5
33710	4181(a) (beaver)	34605	4188 (deer)
33750	New	34800	3950(a) (elk)
33755	3960.2 (bobcat)	34805	New
33755	3960.4 (bobcat)	34810	3006 (elk)
33755	3960.6 (bobcat)	34850	332 (operative on 7/1/2025)
33800	4155(d)	34850	332 (operative until 7/1/2025)
33805	4155(a)	34865	3953(b), 1st sent.
33810	4155(b)-(c)	34870(a)	709 (elk)
33815	4155(e)	34870(b)	3953(b), 2nd sent.
33820	4155(f)	34955	3952
33900	3960.6(b)	34960	3951
33905	3960.2 (bobcat)	35000(a)-(c), (f)	4181(a) (elk)
33950	3960.4(b)-(d)	35000(d)-(e)	4181(d)
34050	New	35200	4000 (fox)
34055	4600	35205	New
34060	10930	35210	4012
34065	10931(a) (1st sent.), (b)	35215	4152 (fox)
34100	3950(a) (deer)	35300(a)	3950(a) (mountain lion)
34105	New	35300(b)	3950.1(a)

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
35305.....	New	37355(a)-(d).....	4181.1(b)
35310.....	3950.1(b)	37355(e).....	4181.1(c) (wild pig)
35310.....	4800(d)	37355(f).....	4181(c) (wild pig)
35315.....	4808	37360(a)-(c), (e).....	4181(a) (wild pig)
35350.....	4800(a)-(b)	37360(d).....	4181(c) (wild rodent)
35400.....	4801	37365.....	4188 (wild pig)
35405.....	4802	37450.....	3950(a) (wild rodent)
35410.....	4803	37450(b).....	4700(b)(1)
35415.....	4804	37450(c).....	4700(b)(7)
35420.....	4805	37455(a).....	2576
35425.....	4806	37455(b).....	2575
35430.....	4807	37460.....	4005(f)
35435.....	4809	37800.....	New
35440.....	4801.5	37805.....	7600
35500.....	4810	37805.....	7601
35600.....	4000 (muskrat)	37950.....	6300 (fish)
35605.....	New	37955.....	6301 (fish)
35610.....	4152 (muskrat)	37960.....	6302 (fish)
35615.....	2250	37965.....	6303 (fish)
35700.....	3950(a) (rabbit & hare)	37970.....	6304 (fish)
35705.....	4186	37975.....	6305 (fish)
35710.....	4152 (rabbit & hare)	37980.....	6306 (fish)
35750(a).....	4500(c) (sea otter)	38200.....	5515(a)
35750(b).....	4700(b)(8)	38350.....	New
35755.....	4501	38355.....	8607
35800.....	4700(b)(2)	38360.....	8403(a)
35805.....	New	38365.....	8046.1
35810.....	4900	38450.....	New
35815.....	4901	38500.....	New
35820(a).....	709 (bighorn sheep)	38550.....	8190
35820(b).....	3953(b), 2nd sent.	38555(a).....	8180
35825(a).....	3953(b), 1st sent.	38555(b).....	8181
35900.....	4902 (operative on 7/1/2025)	38555(c).....	8182
35900.....	4902 (operative until 7/1/2025)	38560.....	8183
35915.....	4903	38700.....	New
36000.....	3950(a) (squirrel)	38705.....	2362 (barracuda)
36005.....	New	38750.....	New
36010.....	4152	38755(a).....	8386
36015.....	4181(a) (squirrel)	38755(b).....	8382
37000(a).....	4500(c) (whale)	38755(c).....	8384
37000(b).....	4700(b)(6)	38760.....	8623(a)-(b), (e)
37005.....	New	38800.....	New
37050.....	4502.5(a), (c)-(e)	38850.....	2360 (black bass)
37100.....	3950(a) (wild pig)	38855.....	7350
37105.....	4650	38860.....	2360 (spotted bass)
37110.....	New	38865(a).....	2359
37150.....	4181(a) (wild pig)	38865(b).....	2363 (striped bass)
37150.....	4652	38870(a).....	6400.5
37155.....	4657	38870(b).....	6403
37200.....	4653	38875(a).....	2362 (white sea bass)
37205.....	4654 (wild pig)	38875(b).....	2362 (white sea bass)
37210.....	4655	38875(c).....	6596.1(c)
37215.....	4654 (wild pig)	38900.....	1740
37220.....	3953(b), 1st sent.	38905.....	1741
37300.....	4651	38910.....	1742
37350.....	4181.2	38915.....	1743

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
38950	New	40355	8550, 2nd-3rd sent.
39000	8756	40360	8550.5
39005	8370 (striped bass)	40365	8552(b)-(e)
39010	8371(a)-(b)	40370	8552.8
39050	8383.5	40375	8552(a), 2nd sent.
39055	8623(a)-(b), (e)	40375	8552.6
39100	8380	40380	8552(a), 2nd sent.
39105	8372	40380	8552.2
39150	6403	40385	8552.3
39155	New	40390	8552.7
39200	6456	40395	8552.4
39205	6440	40400	8552.1
39210	6450	40405	8554
39215	6451	40410	8555
39220	6452	40415	8556
39225	6455(a)-(d) & part of (e)	40420	8557
39230	6454	40425	8558
39235	6453	40430	8558.1(a), 1st-2nd sent.
39240	6457	40435(a)-(b)	8558.2
39245	6460	40435(c)	8558.1(a), 3rd sent.
39300	New	40435(d)	8558.3
39305	9023	40440	8559
39400	New	40455	8553
39405	New	40500	8389(a), 1st sent.
39410	8435	40505	8389(a), 2nd sent.
39500	New	40510(a)	8389(b)
39550	New	40510(b)	8389(c)
39555	8373	40515	8389(d)
39600	New	40550	New
39650	New	40600	New
39655	8381	40605	8412
39700	New	40610	8411
39750	New	40700	New
39755	9000.5(a), (c), (d), (f)	40705	2354
39760	9001.6	40710	7123
39800	New	40750	New
39805	316	40755	8393(a)
39850	New	40760	8393(b)
39900	8391	40850	New
39905	8392	40900	New
39950	8494(a)	40905	9001.8
39955	8494(b)	40950	New
39960	8494(c)(1) & part of (c)(2)	40955	1000.6
39965	8494 part of (c)(2)	41000	310
39970	8494(d)	41005	5514 (salmon)
39975	8494(e)	41010	316.5
39980	8494(g)	41050	2361
39985	8494(f)	41100	6950
40100	8495	41105	6952
40115	8496	41110	6953
40120	8497	41115	6954
40125	8842(c), 2nd sent.	41120	6955
40250	New	41125	6956
40300	New	41300	New
40350(a)	8550, 1st sent.	41305	8231
40350(b)	8552(a), 1st sent.	41350	7861.3

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
41355	7860	41795	8233, 2nd sent.
41360(a)-(e)	7861	41800	8234(b)
41360(f)	7861.1	41900	8247, 1st sent.
41365	7861.2	41905	8247.5(a)
41370	7861.5	41910	8247.7
41375	7861.4	41915	8247.1
41380	7862	41920	8247.5(b)
41385	7862.5	41925	8247.2, 1st sent.
41390	7863	41930	8247, 3rd sent.
41450	8210.2	41935	8247.2, 2nd-3rd sent.
41455	8217	41940	8247, 2nd sent.
41455	8371(c)-(d)	41945	8247.4
41460	8213	41950	8247.8
41465	8214	41955	8247.6
41470	8215	42050(a)	7662
41475	8218	42050(b)	7660
41480	8219	42100	7925
41485	8756	42110	8226
41490	8834.1	42200	New
41495	8370 (salmon)	42250	New
41500	12002.8(d)-(f) (salmon)	42255	8150.7, 1st sent.
41600	8120	42260	8150.7, 2nd sent.
41605(a)-(c)	8121	42265	8150.5
41605(d)	8122	42350	8154
41610	8123	42450	New
41650	8230	42455	2363 (shad)
41655	8248	42500	New
41660(a)	8246.8	42505	8756
41660(b)	8239.2	42600	New
41665	8232	42605	5517
41670	8232.5	42610(a)-(d)	2021
41675	8234(a)	42610(e)-(f)	2021.5(a)
41680	8233.9	42615	2021.5(b)
41685	8243	42700	New
41690	8242	42750	7704(c)
41695	8244	42800	8388(b)
41700	8245	42805	8388(a)
41705	8245.5	42810(a)	8388(c)
41710	8233.8	42810(b)	8388(d)
41715	8233, 1st sent.	42850	8599.4
41720	8236	42900	New
41725	8235	42905	8388.5
41730	8233.3	42950	8599
41735	8233.5	42955	8599.3
41735	8237	43100	New
41740(a)-(i)	8239	43150	7370
41740(j)	8241	43200	2363 (sturgeon)
41745(a)	8238	43250	10000
41745(b)	8238.1	43255	10001, 1st sent.
41750	8239.9	43260	10001, 2nd sent.
41755(a)-(c)	8239.1	43265	10002
41755(d)-(e)	8240	43270(a)	10003
41760	8233.4	43270(b)	10004
41765	8239.6	43350	New
41775	8246.6 (transfer)	43355	8370 (sturgeon)
41780	8246.7 (renewal or transfer)	43500	New

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
43555	8395	45510(a)	5672, 1st para.
43600	New	45510(b)	5673
43650	New	45515	5674
43655(a)	8394	45650	New
43655(b)	8394.5	45700	7149.8
43800	New	45750	2371
43805	7260	45800	5521
43850	2356	45805	5521.5
43855	2358	45810	5521.6
43900	New	45950(a)	7149.9(a), 3rd sent.
43950	5514 (steelhead)	45950(b)-(c)	7149.9(a)(1), 2nd sent.
44000	7380	45955(a)	7149.9(a), 1st, 2nd sent.
44005	7381	45955(b)-(d)	7149.9(b)-(d)
44010	7382	45960	7149.9(a)(1), 1st sent.
44100	New	45960	7149.9(a)(2)-(3)
44105(a)	8430	46000	5520
44105(b)	8433	46005	5522(a), (b)
44200(a)-(b)	8431	46010	5522(c)
44200(c)	8432	46015	5522(d)
44200(d)	8433	46020	5522(e)
44205	8756	46050	7400
44300	New	46100	New
44350	313	46150	8051.4(a)
44400	New	46200	New
44450	8376	46205	New
44455(a)	8374	46250	7290
44455(b)	8375	46255	2368
44460(a)	8377.5	46260	2369
44460(b)	8377	46300	7332
44465	8378	46350	New
44470	8374	46400	8340
44600	New	46405	8475
44650	2362 (yellowtail)	46410	8341
44750	New	46415	8343
44755(a)	8386	46420	8346
44755(b)	8382	46425	8342
44755(c)	8384	46500	New
44760	8387	46505	New
44765	8623(a)-(b), (e)	46550	2364
45000	New	46800	New
45005	7600	46855	8275
45010	8500	47000	8834
45250	5505 (crustaceans)	47005	9012(a)
45300	New	47010	8276.4(i)
45305	9053	47015	8281
45400	5505 (mollusks)	47050	New
45405	9053	47055	8279
45450	5700	47060	8276(c)
45455	5701	47065	8834.5
45460	5701.5	47070	8278
45465	5702	47150	8276.3
45500(a)	5669	47155	8279.1(a)-(b), (d)
45500(a)	5671	47300	8276(a)-(b), (d)
45500(b)	5675	47305	8277
45505	5670	47350	8276.2(a)
45505	5672, 2nd para.	47355	8276.2(b)(1)

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
47360	8276.2(b)(2)(B)	48335	8280.3(g)
47365	8276.2(c)	48340	8280.3(h)
47370	8276.2(b)(2)(A)	48345	8280.3(i)
47375	8276.2(d)	48350	8280.3(j)
47450(a)	8284(a), 1st sent.	48355	8280.3(a), (k)
47450(a)	9011(a)(1)	48360	8280.3(l)
47450(b)	9011(a)(2)	48360	8280.6(c)
47450(c)	9012(b)	48500	8280
47455	8283	48505	8280.9
47460(a)	8284(a), 2nd sent.	48510	8280.7
47460(b)	9011(a)(3)	48650	8282
47465	9011(c)	48655	9011(b)
47600	8276.5(h)	48660	8284(b)-(c)
47605	8276.5(g)	48950	New
47610	8276.5(a), 1st sent.	48955	New
47615	8276.5(a), 2nd sent.	49000	New
47620	8276.5(a)(1)-(2)	49005	8490
47625	8276.5(a)(3)	49010	9024
47630	8276.5(a)(4)	49015	8491
47635	8276.5(a)(5)	49020	8492
47640	8276.5(a)(6)	49150	New
47645	8276.5(a)(7)	49200	New
47650	8276.5(a)(8)	49205	8510
47655	8276.5(c)-(d)	49300	New
47660	8276.5(e)-(f)	49305	New
47665	8276.5(i)	49310	7256
47800	8276.4(a)	49315	2365
47805	8276.4(b)-(c)	49450	New
47810	8276.4(d)	49500	8254
47815	8276.4(e)	49505	8257
47820	8276.4(f)	49510	8259
47825	8276.4(g)	49600	8251
47830	8276.4(h)	49605	8252
47835	8276.4(j)	49610	9001.7(k)
47850	8276.1(a)	49615	8254.7, 7th sent.
47855(a)	8276.1(b)	49700	8250.5(a)
47855(b)	8276.1(e)	49700	9010(a)
47860	8276.1(c)	49705	9010(c)-(e)
47865	8276.1(d)	49710(a)	8258
47870	8276.1(f)	49710(b)	9010(b)
47900	8280.1(a)	49715	8250.5(b)
47905	8280.6(a)	49750	8250.5(c)
47910	8280.6(d)	49755	8253
47935	8280.1(e)	49825	New
48100	8280.1(b)	49850	1021
48105	8280.1(c)	49900	New
48110	8280.2(a)-(e)	49905	New
48115	8280.1(e)	49950	2301(a)(1)
48115	8280.2(f)	49955	2301(e)
48300	8280.6(c)	49960	2301(a)(2)(A)-(D)(i), (c)(2)
48305	8280.6(b)	49965	2301(a)(2)(D)(ii)-(iv)
48310	8280.3(b)	49970	2301(b)
48315	8280.3(c)	49975	2301(c)(1)
48320	8280.3(d)	49980	2301(d)
48325	8280.3(f)	49985	2301(g)
48330	8280.3(e)	49990	2301(h)

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
50000	2301(i)	51470	8428
50100	2302(g)	51475	8429, 1st sent.
50105	2302(a)-(b)	51485	8429.5
50110	2302(c)	51900	New
50115	2302(d)	51905	5505 (amphibians)
50120	2302(e)	52000	6300 (amphibians)
50125	2302(f), 3rd sent.	52005	6301 (amphibians)
50250	New	52010	6302 (amphibians)
50255	8344	52015	6303 (amphibians)
50350	New	52020	6304 (amphibians)
50400	New	52025	6305 (amphibians)
50405	8345	52030	6306 (amphibians)
50450	New	52200	5050(a) (fully prot. amph.)
50500	New	52300	6895
50505	8405	52305	6896
50510	8405.1	52400	6850
50515	8405.2	52405	New
50520	8405.3(a)-(b), (d)	52450	6851
50525	8405.4	52455	6854
50650	New	52460	6852
50655	1068	52465	6855
50700	New	52500	6880
50705(a)	9054, 1st sent.	52505	6881, 1st sent.
50705(b)	9055	52505	6882
50705(c)	9054, 3rd sent.	52505	6884
50705(d)	9054, 4th sent.	52510	6881, 2nd sent.
50710	9054, 2nd sent.	52515	6883
50850	New	52520	6885
50855	New	52800	New
50950	New	53000	5050(a) (fully prot. reptile)
50955	8590	53100	5060
51000	8593	53105	5061
51005	8591	53200	5062
51010(a)-(b)	8841(g)	53250	7149.3
51010(c)	8841(i)	53300	New
51015(a)	9015(a)	53305	5000
51015(b)	8595(a)	53310	5002
51015(c)	9015(b)	53315	5001
51015(d)	8595(b)	53500	New
51050	8594	53600	6300, 2nd sent.
51100(a)	8595(a)	53605	6301 (aquatic plants)
51100(a)	8842(a), 1st para.	53610	6302 (aquatic plants)
51100(b)	8842(a), 2nd para.	53615	6303 (aquatic plants)
51105(a)	8842(b)	53620	6304 (aquatic plants)
51105(b)	8842(d)	53625	6305 (aquatic plants)
51110	8842(c), 1st sent.	53630	6306 (aquatic plants)
51115	8842(c), 3rd sent.	53800	1900
51300	New	53803	1901, 2nd sent.
51305	New	53805	1901, except 2nd sent.
51350	New	53810	1904, 1st sent.
51400	8399	53815	1904, 2nd sent.
51405	8399.1	53820	1908
51450	8420	53825	1907
51455	8424	53830	1909
51460	8425(a)	53835	1910, 1st sent.
51465	8425(b)	53840	1910, 2nd sent.

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
53845	1911	54705	New
53850(a)	1905	54710	1301
53850(b)	1906	54750	1320
53855(a)	1912	54755	1321
53855(b)	1913(a)	54760	1322
53855(c)	1913(b)	54765	1323
53855(d)	1913(c)	54770	1324
53900	1925, 1st sent.	54800(a)-(c)	1345
53905	1926	54800(d)	1346
53910	1925, 2nd-3rd sent.	54805	1347
54000	New	54810	1356
54005	6653	54815	1348
54010	6651(c) (kelp)	54820	1354
54025	6650	54825	1348.1
54030	6651(a)-(b)	54830	1348.2
54040	6657	54835	1348.3(a)(1), (a)(3), (b)
54050	6680	54840	1349
54055	6652	54845	1350(b)
54075	6700, 2nd sent.	54850	1350(c)
54080	6700, 1st sent.	54855	1350(a)
54085	6701	54860	1353
54090	6701.5	54865	1351
54095	6702	54870	1355
54100	6703	54875	1352
54105	6704	54880	1352.5
54110	6705	54885	1375
54115	6706	54900	1360
54120	6707	54905	1361(b)-(j)
54125	6708	54910	1362
54130	6709	54915	1372
54135	6710	54925	1363(a)
54140	6711	54930	1363(b)
54175	6654	54935	1370
54180	6655	54940(a)-(b)	1363(d)-(e)
54200	6750	54940(c)	1364
54205	6751	54945	1363(c)
54300	New	54950	1367
54305	6651(c) (agar)	54955	1363(f)
54325	6653.5(b)	54960	1365
54330	6653.5(a)	54965	1366
54500	1800	54970	1368
54505	1801	54975	1369
54510	1802	55000	1374(a)-(d)
54525	1700	55005	1374(e)
54550	1501	55010	1374.1
54555	1501.5	55100	1650
54570	1930	55105	1651
54580	1930.5(a)-(b)	55110	1654(b)
54585	1932	55115	1656
54590	1940	55120	1657
54595(a)	1931	55150	1655(a)
54595(b)-(d)	1932.5(a)-(b)	55155	1655(b)
54600	1930.5(c)-(e)	55160	1655(d)
54605(a)-(c)	1932.5(c)-(e)	55200	1652(a)
54605(d)	1933	55205	1652(b)
54700	1300	55210	1655(c)

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
55215	1652(c)	55835	2787
55220	1652(d)	55840	2788
55225	1652(e)	55845	2789
55230	1652(f)	55850	2790
55300	1653(a)	55855	2791
55305	1653(b)	55860	2792
55310	1655(c)	55865	2793
55315	1653(c)	55870	2794
55320	1653(d)-(f)	55875	2795
55325	1653(g)	55880	2796
55350	1654(a)	55885	2797
55355	1654(c)(1)	55890	2798
55360	1654(c)(2)	55895	2799
55365	1654(c)(3)	55900	2799.5
55370	1654(d)	55905	2799.6
55500	2600	56000	1750
55505	2601	56005	1755
55510	2602	56010	1756
55525	2620	56025	1758
55530	2621	56030	1764
55535	2622	56050	1760
55540	2623	56055	1761
55545	2624	56060	1762
55550	2625	56065	1763
55555	2626	56070	1767.5
55560	2627	56075	1768
55600	2640	56080	1765
55605	2641	56085	1766
55610	2642	56090	1769
55615	2643	56100	1770
55620	2644	56105	1771
55625	2644.5	56110	1772
55630	2645	56150	1773
55635	2646	56155	1773.1
55640	2647	56160	1773.2
55645	2648	56200	1570
55650	2649	56205	1571
55655	2650	56225	1572(a), 1st sent.
55660	2651	56230	1572(a), 2nd sent.
55700	2700	56235	1573(g)
55705	2701	56240	1572(d)
55710	2702	56245	1573(a)
55725	2720	56250	1573(f)
55730	2721	56255	1573(c)
55735	2722	56260	1573(d)
55740	2723	56265	1573(e)
55745	2724	56270	1572(b), 1st sent.
55750	2725	56275	1574(b)
55755	2726	56280	1573(b)
55760	2727	56285	1572(b), 2nd sent.
55765	2728	56290	1572(e)
55770	2729	56325	1572(c)(1)
55800	2780	56330	1572(c)(2)
55805	2781	56335	1572(c)(3)
55825	2785	56340	1572(f)
55830	2786	56500	3400

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
56525	3401(a), 1st sent.	57590	1418
56530	3402	57595	1420
56535	3406(a)	57600	1421
56545	3403	57605	1422
56550	3406(c)	57625	1430, 1st sent.
56555	3404(a)	57630	1431, 1st sent.
56560	3408	57635	1430, 2nd sent.
56575	3401(a), 2nd sent.	57640	1431, 2nd sent.
56580	3401(a), 3rd sent.	57645(a)	1411(a), 1st sent.
56585	3407	57645(b)	1411(b)
56590	3406(b)	57650	1412
56595	3401(b)	57655	1419
56700	3460(a)	57700	1385
56705	3461	57705	1386
56710	3462	57710	1389
56715	3464	57725	1387
56720	3466	57730	1388
56725	3465	57735	1390
56730	3460(b)	57740	1391
56735	3460(c)	57775	2003.5
56740	3467	57780	2003.6
56800	2930	57790	3469(f)
56805	2931(a)	57795	3469(a)
56810	2940	57800	3469(b)-(c)
56815	2941	57805	3469(d)
56820	2945	57810	3469(e)
56825	2942(a)(2)	57820	3469.2
56850	2932	57825	3469.4
56855	2932.2	57830	3469.6
56860	2932.3	57835	3469.8
56865	2932.5	57850	New
56900	2931(b)-(c)	57855(a)	3480(a)
56905	2942(a)(3)(B)	57855(b)	3480(e)
56910	2942(a)(1)	57855(c)	3480(g)
56915	2942(a)(3)(A)	57860	3480(h)
56920	2933	57865	3480(i)
56925	2942(c)	57870	3480(b)
56930	2942(b)(1)	57875	3480(c)
56935	2943	57880	3480(d)
56940	2942(b)(2)	57885	3480(f)
56945	2931(d)	58000	711.1(a)
56950	2931.5	58005	711.1(b)
57000	1400	58010	711.1(c)
57005	1401	58015	711.1(d)
57510	1402	58050	13014(a)
57515	1403	58055	13014(b)
57520	1404	58060	13014(c)-(d)
57525	1405	58075	2900
57550	1410	58080	2901
57555	1411(a), 2nd sent.	58500	10502(b)-(d)
57560	1411(c)	58505	10503(a)-(c)
57565	1413	58515	10508
57570	1414	58520	10510
57575	1415	58525	10511
57580	1416	58530	10501.5
57585	1417	58550	10500(c)

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
58555	10502(a) (fish refuge)	59625	10900
58600	New	59650	10903
58625	10801	59655	10502.7
58630	10660	59670	10656
58700	10500(a)-(b)	59675	10661
58705	10513	59700	10932
58710	10502(a) (game refuge)	59705	10502.8
58715(a)	10503(d)	59710	10655.5
58715(b)	10504	59715	10655
58715(c)	10505	59750	10913
58720	10506	59775	10907
58725	10507	59780	10502.6
58730	10512	59785	10667(a)
58735	10514	59790	10667(b), 1st sent.
58740	10844	59795(a)	10667(b), 2nd-4th sent.
58800(a)	10820	59795(b)	10667(d)
58800(b)	New	59795(c)	10667(e), 1st sent.
58825	10821	59795(d)	10667(e), 2nd sent.
58850	10822	59800	10667(c)
58875	10823	59825	10908
58900	10824	59830	10664 (Doheny Beach)
58925	10825	59850	10901
58950	10826	59855	10502.5, 1st sent.
58975	10827	59860	10657.5, 1st para.
59000	10828	59865(a)-(b)	10657
59025	10829	59865(c)	10502.5, 2nd sent.
59050	10830	59865(d)	10657.5, 2nd para.
59075	10831	59900	10912
59100	10832	59905	10664 (Irving Coast)
59125	10835	59925	10909
59150	10836	59930	10666
59175	10837	59950	10904
59180(a)	10662	59955	10664 (Laguna Beach)
59180(b)	10663	59975	10905
59200	10838	59980	10664 (Newport Beach)
59225	10840	60000	10911
59230	10659	60005	10664 (Niguel)
59250	10843, 1st para.	60025	10910
59255	10843, 2nd para.	60030	10664 (Point Fermin)
59275	10842	60050	10902
59280	10665, 1st para.	60055	10658
59285	10665, 2nd para.	60075	10906
59300	10833	60080	10664 (South Laguna Beach)
59305	10650	60200	10500(e)
59310	10651	60225	10880
59315	10652	60250	10881
59350	10841	60300	10500(g)
59400	10509	60325	10711
59425	10770	60400	2850
59450	10771	60405	2851
59455	10653	60410(a)-(d)	2852
59460	10654	60410(e)	New
59500	10500(d)	60415	2850.5
59525	10860	60420	2863
59550	10861	60450	2860
59600	10500(f)	60455	2862

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
60475	2853(a)-(b)	62120	2063
60480	2853(c)	62125	2064
60500	2855	62128	2065.4
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
60655	1528, 2nd sent.	62355	2074.2(a), 1st sent.
60660	1528, 3rd sent.	62360(a)	2074.2(a), 2nd sent.
60665	1528, 4th-5th sent.	62360(b)-(c)	2074.2(b)
60670	1528, 6th sent.	62365	2074.2(c)
60675	1529	62370	2074.2(d)
60680	1504	62375	2074.2(e)-(f)
60685	1506	62380	2074.4
60700	1500	62400	2074.6, 1st sent.
60705	1500.5	62405(a)	2074.6, 2nd sent., 1st part
60710	1745.2	62405(b)	2074.6, 4th sent.
60715	1526.4	62405(c)	2074.6, 5th sent.
60720	1014	62410	2074.6, 3rd sent.
60750	1580, 1st sent.	62415	2074.6, 2nd sent., 2nd part
60755	1584	62420	2074.8
60760	1580, 2nd-3rd sent.	62450	2075
60765	1580, 4th sent.	62455	2075.5(a), 1st sent.
60770	1581	62460(a)	2075.5(a), 2nd sent.
60775	1582	62460(b)-(c)	2075.5(b)
60780	1583	62465	2075.5(c)
60785	1585	62470	2075.5(d)
60790	1580, 5th sent.	62475	2075.5(e)
60850	1586	62480	2076
60855	1587	62485	2076.5
60900	1505	62500	2077(a)
60950	10740	62505	2077(b)
60955	10741	62510	2077(c)
62000	2050	62515	2077(e)
62005	2051	62520	2077(d)
62010	2052	62525	2079
62015	2052.1	62600	2080
62020	2053	62605	2085
62025	2054	62650	2081(a)
62030	2055	62655	2083, 1st cl.
62035	2056	62665	2084
62100	2060	62670	2081.1
62105	2068	62675	2082
62110	2061	62680	2083, 2nd cl.
62115	2062	62700	2081(b)-(d)

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
62705	2080.1	64035	2089.14
63300	2081.7(a)	64040	2089.18
63305	2081.7(b)-(d)	64045	2089.20(d)-(e)
63310	2081.7(e)(1)-(3)	64050	2089.23
63315	2081.7(e)(4)	64075	2089.5
63320	2081.7(f)	64100	2079.1(a)-(b)
63325	2081.8	64105	2079.1(c)-(e)
63350	2080.2	64110	2079.1(f)-(h)
63355	2080.3	64400	705
63360	2080.4	64500	2800
63400	2081.4	64505	2801
63450	2081.6	64510	2802
63455	2081.10	64515	2805
63475	2081.11	64520	2825
63500	2081.9	64530	2829
63510	2081.12	64550	2809
63550	2080.5	64555	2810(a), 1st sent.
63555	2080.6	64560(a)-(i)	2810(b)
63560	2080.7	64560(j)	2810(a), 2nd sent.
63600	2081.2(a)	64565	2820(b)
63605	2081.2(b)	64570	2815
63610	2081.2(e)	64575	2810(d)
63615	2081.2(c)	64580	2820(a)
63620	2081.2(f)(1)	64585	2810(c)
63625	2081.2(d)	64600	2821
63630	2081.2(f)(3)	64605	2835
63635	2081.2(g)	64610	2820(f)
63640	2081.2(f)(2)	64615	2826
63700	2087	64620	2820(e)
63705	2089	64625	2820(d)
63710	2088, 1st part	64630	2827
63715	2088, 2nd part	64635	2822
63750	2086(a)	64640	2823
63755	2086(b)	64645	2820(c)
63760	2086(c)	64650	2828
63765	2086(d)(1)	64655	2830
63770	2086(d)(2)	64660	2831
63775	2086(e)	64700	1850
63780	2086(f)	64705	1854(b)
63900	2089.2(a)	64710	1851, intro. cl.
63905	2089.2(b)	64715	1851(a)
63910	2089.4	64720	1851(b)
63915	2089.2(c)-(d)	64725	1851(c)
63920	2089.25	64730	1851(d)
63925	2089.24	64735	1851(e)
63930	2089.22	64740	1851(f)
63935	2089.26	64745	1851(g)
63950	2089.6	64750	1851(h)
63955	2089.7	64755	1851(i)
64000	2089.8	64760	1851(j)
64005	2089.9	64765	1851(k), 1st-3rd sent.
64010	2089.20(a)-(c)	64770	1851(l), 1st sent.
64015	2089.10	64775	1851(m)
64020	2089.12(a)	64780	1851(n)
64025	2089.12(b)	64800	1858
64030	2089.16	64805	1857

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
64810.....	1861	65510.....	1798.5(b)
64815.....	1859	65515.....	1798.5(c)-(d)
64820.....	1860	65520.....	1798.5(e)
64850.....	1851(k), 4th-5th sent.	65525.....	1798.5(f)
64855.....	1853(a)	65530.....	1798.5(g)
64860.....	1853(c)	65535.....	1798.5(h)
64900.....	1852(b)	65550.....	1798.6(a)
64905.....	1851(l), 2nd-3rd sent.	65555.....	1798.6(b), 1st-4th sent.
64910.....	1852(c)	65560.....	1798.6(c)(1)
64915.....	1852(e)	65565.....	1798.6(c)(2)-(3)
64920.....	1853(b)	65570.....	1798.6(c)(4), (d)
64925.....	1852(d)	65575.....	1798.6(e)
64930.....	1854(e)	65580.....	1798.6(f)
64935.....	1852(a)	65585.....	1798.6(b), 5th sent.
64960.....	1854(c)(1)	65590.....	1798.6(g)
64965.....	1854(c)(2)	65600.....	1798.6(h)
64970.....	1854(c)(3)	65650.....	1799(a)
64975.....	1854(c)(4)	65655.....	1799(b)
64980.....	1854(c)(5)	65660.....	1799(c)
64985.....	1854(c)(6)	65665.....	1799(d)
64990.....	1855(e)	65670.....	1799(e)
64995.....	1854(d)	65675.....	1799.1(a)
65000.....	1854(a)	65680.....	1799.1(b)
65050.....	1855(a)	65685.....	1799.1(c)
65055.....	1855(b)	65690.....	1799.1(d)
65060.....	1855(c)	65800.....	1775
65100.....	1856(a)	65805.....	1776
65105.....	1856(b)	65810.....	1776.5
65110.....	1856(c)	65815.....	1780
65115.....	1856(d)	65820.....	1781
65120.....	1856(e)	65850.....	1777
65125.....	1856(f)	65855.....	1777.2
65130.....	1856(h)	65860.....	1777.5
65135.....	1856(g)	65865.....	1778
65140.....	1856(i)	65870.....	1778.5
65145.....	1856(j)	65875.....	1779
65150.....	1855(d)	65880.....	1779.5
65155.....	1856(k)	65950.....	1784(a)-(b)
65300.....	1797	65955.....	1784(c)-(e)
65305.....	1797.5, intro. cl.	65960.....	1785, 1st sent.
65310.....	1797.5(a)	65965.....	1785, 2nd sent.
65315.....	1797.5(b)	65970.....	1786(a)
65320.....	1797.5(c)	65975.....	1786(b)
65325.....	1797.5(d)	65980.....	1787
65330.....	1797.5(e)	66050.....	1790
65335.....	1797.5(f)	66055.....	1791
65340.....	1797.5(g)	66060.....	1792
65345.....	1797.5(h)	66065.....	1792.5
65400.....	1798.7	66100.....	1793
65450.....	1798(a)	66105.....	1794
65455.....	1798(b)	66110.....	1795
65460.....	1798(c)-(d)	66115.....	1796
65465.....	1798(e)	66200.....	711.4(a)-(b)
65470.....	1798(f)	66205.....	711.4(c)(1), (3)
65500.....	1798.5(a)(1)	66210.....	711.4(c)(2)
65505.....	1798.5(a)(2)	66215.....	711.4(d)

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
66220	711.4(e)(1)	67250	6615
66225	711.4(e)(2)-(3)	67255	6616
66230	711.4(f) (2nd sent.)	67260	6617
66235	711.4(g)	67265	6618
66240	711.4(h)	67270	6619
66245	711.4(i)	67275	6620
66250	711.7	67280	6621
66250(e)	711.2(b)	67400	1016(a), def. in 1st sent.
66500	5650(a)	67400	1016(b), def. in 1st sent.
66505	5650(b)	67405	1016(a), except def. in 1st sent.
66510	5650(c)-(f)	67410	1016(b), except def. in 1st sent.
66525	5652	67415	1016(c)
66700	5651	67420	1016(d)
66705	12015	67500	13010
66710	5655	67505(a)	13011
66715	12016	67505(b)	12017(a)(2)-(6)
66800(a)-(d)	5654(a)(1)	67505(c)	5656
66800(e)	5654(a)(2)	67510	12017(b)
66805	5654(b)	67515	12017(c)-(f)
66810	5654(d)	67520	13012
66820	5654(e)	67525	13013
66825	5654(c)	67530	13230
66830	5654(f)	67535	13231
66835	5654(g)	68000	5900
66840	5654(h)	68050	5902
67000	6600	68055	5903
67005	6601	68060	5904
67010	6602	68100	5948
67015	6605(a)	68105	5901
67050	6603(a)-(c)	68300	5936
67055	6603(d)	68305	5935
67060	6603(e)	68310	5937
67065	6604	68315	5943
67070	6605(b)	68320	5944
67075	6605(c)	68400	5930
67080	6603(f)	68405	5931
67100	6610	68410	5932
67105	6611	68500	5933, 1st sent.
67110	6612(a)	68505	5933, 2nd sent.
67115	6612(b)	68510	5933, 3rd sent.
67120	6612(c)	68515	5934
67125	6612(d)	68520	5933, 4th-5th sent.
67150	6613(a)	68600	5946
67155	6613(b)	68605	5947
67160	6613(c)	68650	5938
67165	6613(d)	68655	5939
67170	6613(e)	68660	5940
67175	6613(f)	68665	5941
67180	6613(g)	68670	5942
67200(a)	6614(a)	68675	5945
67200(b)	6614(b), 1st sent.	68800	5980
67205	6614(b), 2nd. sent.	68850	5981
67210	6614(c)	68855	5982
67215	6614(d)	68860	5990
67220	6614(e)	68865	5988
67225	6614(f)	68870	5989

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
68875	5991	70165	1602(d)
68900	5983	70170	1617
68905	5984	71000(a)	5653.5
68910	5985	71000(b)	5653.8
68915	5986	71000(c)	5653(g), 1st sent.
68920	5987	71005	5653(g), 2nd sent.
68925	5992	71010	5653.9
68930	5993	71050	5653(a), 1st sent.
69000	6020	71055	5653(c), 1st sent.
69050	6021	71060	5653.7
69055	6026	71065	5653(e)
69060	6022	71075	5653.3
69065	6023	71200(a)	5653(a), 2nd sent.
69070	6024	71200(b)	5653(b)
69075	6025	71205	5653(c), 2nd sent.
69080	6027	71255	5653(d)
69085	6028	71260	5653(f)
69200	1018	71280	5653.1
69250	11036, part of 4th para.	71500(a)	3005(b)(3), 1st sent.
69500	6100(a)	71500(a)	3800(b)(3), 1st sent.
69505	6100(b)	71500(b)	3005(b)(3), 2nd sent.
69510	6100(c)	71500(b)	3800(b)(3), 2nd sent.
69515	6100(d)	71505	3005(b)(3), 4th sent.
69550	12025.2	71505	3800(b)(3), 4th sent.
69700	1600	71510	3005(b)(1)-(2)
69705	1601	71510	3800(b)(1)-(2)
69710	1602(e)	71515	3005(b)(3), 3rd sent.
69715	1607	71515	3800(b)(3), 3rd sent.
69720	1616	71520	3005(b)(3), 5th sent.
69750	1602(a)	71520	3800(b)(3), 5th sent.
69775	1608	71525	3005(b)(4)
69780	1609	71525	3800(c)
69785	1602(c)	71530	3005(b)(5)
69790	1613	71530	3800(b)(4)
69795	1603(a), 1st-4th sent.	71700	5801
69800	1606	71705	5803
69805	1603(a), 5th-7th sent.	71710	5802
69810	1603(a), 8th sent.	71750	5800(a)
69815	1614	71755	5800(b)
69850	1605(a)	71760	5800(c)
69855	1605(b)-(c)	71765	5800(d)
69860	1605(d)	72000	703(b)
69865	1605(e)	72200	12029(a)
69870	1605(f)	72205	12029(b)
69875	1605(g)	72210	12029(c)
69880	1605(h)	72215	12029(d)
69885	1612	72500	308.5
70050	1603(b), 1st-2nd sent.	72800	3470
70055	1603(b), 3rd-5th sent.	72805	3471
70060	1603(b), 6th sent.	72810	3472
70065	1603(b), 7th, 8th sent.	72815	3472.1
70070	1603(b), 9th sent.	72820	3472.2, 1st sent.
70075	1604	72825	3472.2, 2nd sent
70150	1610		
70155	1602(b)		
70160	1611		

