

## Memorandum 2022-28

**Fish and Game Law: Phase One Public Comment**

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In this study, the Commission<sup>1</sup> has been directed by the Legislature to consider revision of the Fish and Game Code that would make technical improvements to that law, without making any significant substantive change to the law's effect.<sup>2</sup>

Pursuant to that directive, in December 2018 the Commission approved and distributed a tentative recommendation to recodify the existing Fish and Game Code in a proposed new Fish and Wildlife Code.<sup>3</sup> The Commission received extensive public comment on the proposed statutory revisions in the tentative recommendation,<sup>4</sup> and decided to divide the study into two phases.

"Phase One" of the study would incorporate the received comment in a draft recommendation proposing revisions of the existing Fish and Game Code, rather than a recodification of that code.<sup>5</sup> The Commission further decided to evaluate which revisions to include in that recommendation pursuant to a methodology that divided previously proposed revisions into distinct categories, based on the comment received on the revision.<sup>6</sup> In summary, with regard to each proposed revision, the categories call for either inclusion of the revision in the draft recommendation, exclusion from the recommendation, or seeking of further input from commenting entities.

At this point in the study, the Commission has been presented at least once with all public comment received on the tentative recommendation. Based on its

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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](http://www.clrc.ca.gov)). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

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

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

3. See Memorandum 2018-67 and its First Supplement; Minutes (Dec. 2018), p. 10.

4. All received comments were submitted by the Fish and Game Commission (hereafter, "FGC"), and the Department of Fish and Wildlife (hereafter, "DFW").

5. See Memorandum 2021-11; Minutes (Feb. 2021), p. 5. The second phase would involve consideration of proposed organizational changes to the existing law.

6. See Memorandum 2021-16, pp. 2-3; Minutes (Mar. 2021), p. 4.

consideration of that comment, the Commission has approved inclusion in the draft recommendation of proposed revision of 77 existing Fish and Game Code sections, has decided to exclude proposed revision of 41 existing code sections, and has directed staff to obtain further input on proposed revision of 183 existing code sections.<sup>7</sup>

Unless otherwise noted, this memorandum and future memoranda going forward will present proposed revisions in that latter category for which staff has received further input.

Unless otherwise indicated, all statutory references in the memorandum are to the existing Fish and Game Code, or to the proposed Fish and Wildlife Code as set out in the Commission's previously distributed tentative recommendation.

#### CHANGES THAT SHOULD BE MADE

The comment on each proposed revision that follows was previously presented to the Commission accompanied by a staff recommendation that further input be obtained regarding the comment before a decision was made on the revision.<sup>8</sup> The input was needed because, while the commenting entities had confirmed the revision would not substantively change existing law, neither entity had expressed affirmative support for the revision.

The proposed revisions that follow, in the form they were presented in the tentative recommendation, have now been expressly approved by at least one entity, with no opposition from either entity. Still, this memorandum presents the first opportunity for either entity to view the revisions as an amendment of an existing Fish and Game Code section, rather than as a recodified new provision. **The staff therefore recommends only provisional approval of the proposed revisions that follow for inclusion in the draft recommendation.** Once commenters have been afforded time to confirm that the proposed drafting of a revision hasn't created any new problem, the staff will add the revised provision to the cumulative draft regularly presented to the Commission in this study.

A brief summary of the rationale for each proposed revision appears in the proposed Comment following the revised section. In most instances, revision is

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7. There is a small amount of overlap in these tallies, as the tentative recommendation typically proposed multiple revisions of existing sections, and in some instances the proposed revisions to a single existing section were presented in multiple categories.

8. The original comments on the proposed revisions discussed in this memorandum are reproduced in the attached Exhibit.

proposed to enhance the clarity of the existing section, or to make a purely technical correction.

**The proposed revisions that follow will be treated collectively as a consent item.** Unless a Commissioner or member of the public requests that a revision in this section be discussed, it will not be individually presented at the upcoming meeting. Instead, after an opportunity to raise any objections, the staff will ask the Commission to provisionally approve all the revisions below for inclusion in the draft recommendation.

### **Proposed Sections 5680, 5710, 5720, and 5820 (Existing Section 12002.8)**

Proposed Sections 5680, 5710, 5720, and 5820 would all continue the application of existing Section 12002.8 in different contexts.

In addition to the revisions to Section 12002.8 noted in the tentative recommendation, in subdivision (d)(1) of the proposed revision below an obsolete parenthetical cross-reference to Section 8210 has been corrected to cross-refer to Section 8210.2.<sup>9</sup>

Section 8210 was repealed in 2002,<sup>10</sup> and based on the Legislative Counsel's Digest explaining the bill that repealed the section, it appears the provisions of Section 8210 were not continued elsewhere. The cross-reference to Section 8210 has therefore been replaced with a cross-reference to Section 8210.2, which is at present the first section in the corresponding statutory article cross-referenced in Section 12002.8(d)(1).

#### **§ 12002.8 (amended). Revocation of commercial fishing license or permit**

12002.8. (a) The court shall order the department to permanently revoke and the department shall permanently revoke, the commercial fishing license and any commercial fishing permits of any person convicted of either of the following:

- (1) Taking or possessing abalone out of season.
- (2) Taking or possessing abalone taken illegally from any area north of Point Sur.

(b) The court shall order the department to permanently revoke and the department shall permanently revoke the commercial

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9. This correction was not expressly noted in the tentative recommendation. The second proposed correction of a cross-reference in the same statutory paragraph was specifically called out in the tentative recommendation, and both entities expressed a belief that the correction would not cause any substantive change.

10. See 2002 Cal. Stat. ch. 573.

fishing license and any commercial fishing permits of any person convicted of either of the following two offenses, if the person possessed more than 12 abalone at the time of the offense:

(1) Removing abalone from the shell or possessing abalone illegally removed from the shell.

(2) Taking or possessing abalone that are less than the minimum size.

(c) Any person sentenced pursuant to subdivision (a) or (b) shall not thereafter be eligible for any license or permit to take or possess fish for sport or commercial purposes.

(d) ~~Notwithstanding Sections 12000, 12001, and 12002~~ 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 of the following provisions or regulations adopted pursuant thereto:

(1) Article 2 (commencing with Section 8150.5), Article 3 (commencing with Section 8180), Article 4 (commencing with Section ~~8210~~ 8210.2), Article 5 (commencing with Section 8250), Article 6 (commencing with Section 8275), Article 9 (commencing with Section 8370), Article 13 (commencing with Section ~~8495~~ 8494), and Article 15 (commencing with Section 8550) of Chapter 2 of Part 3 of Division 6.

(2) Article 1 (commencing with Section 8601), Article 2 (commencing with Section 8623), Article 4 (commencing with Section 8660), Article 5 (commencing with Section 8680), Article 6 (commencing with Section 8720), Article 7 (commencing with Section 8750), Article 8 (commencing with Section 8780), and Article 10 (commencing with Section 8830) of Chapter 3 of Part 3 of Division 6.

(3) Article 1 (commencing with Section 9000) of Chapter 4 of Part 3 of Division 6.

(e) 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.

(f) The master of a vessel is the person on board the vessel who is in charge of the vessel.

**Comment.** Subdivision (d) of Section 12002.8 is amended for clarity.

Paragraph (1) of subdivision (d) is amended to correct two erroneous cross-references.

**Proposed Section 5880 (Existing Section 8429)**

**§ 8429 (amended). Revocation of privileges for materially false statements**

8429. (a) Any statement made to the department, orally or in writing, relating to a permit issued under this article, shall be made under penalty of perjury.

(b) The commission shall revoke the commercial fishing license, the commercial boat registration of any vessel, and, if applicable, any licenses issued pursuant to Section 8032, 8033, or 8034 that are held by any person submitting material false statements, as determined by the commission, for the purpose of obtaining a commercial market squid vessel permit or a commercial squid light boat owner's permit.

**Comment.** Subdivision (b) of Section 8429 is amended for clarity. The section is also amended to add subdivision designations.

**Proposed Section 6000 (Existing Section 6656)**

**§ 6656 (amended). License revocation or nonrenewal**

6656. (a) The commission may revoke a license and prohibit its reissuance for a period of not more than one year, ~~the license of in either of the following: circumstances:~~

~~(a) Any person who harvests any~~ (1) The licensee harvested kelp from a bed which is that was closed, between the time of service of notice upon him or her of the closing of the bed and the decision of the commission upon a hearing as to the necessity for the closing after the department served notice of the closure on the licensee and before the bed was reopened.

~~(b) Any person who violates~~ (2) The licensee violated any law or regulation of the commission relating to kelp.

~~The proceedings~~ (b) A proceeding pursuant to this section shall be conducted at one of the commission's regularly scheduled meetings.

**Comment.** Section 6656 is amended for clarity.

The section is also amended to add subdivision designations.

**Proposed Section 6050 (Existing Section 12002.5)**

**§ 12002.5 (amended). Required possession of wildlife area pass**

12002.5. (a) Notwithstanding subdivision (a) of Section 12002, a violation of Section 1764 is an infraction, not a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100) and not more than five hundred dollars (\$500). If a person convicted of a violation of Section 1764 is granted probation, the court shall impose as a condition of probation that the person pay at least the minimum fine prescribed in this subdivision.

(b) If a person is convicted of a violation of Section 1764 and produces in court a valid wildlife area pass, the court may reduce the fine imposed for the violation of Section 1764 to fifty dollars (\$50).

**Comment.** Subdivision (a) of Section 12002.5 is amended to clarify a cross-reference.

### **Proposed Section 6204 (Existing Section 12008.1)**

#### **§ 12008.1 (amended). Punishment and disposition of fine or forfeiture relating to endangered, threatened or candidate species**

12008.1. (a) Notwithstanding subdivision (a) of Section 12002 or Section 12008, the punishment for any violation of Section 2080 or 2085 is a fine of not less than twenty-five thousand dollars (\$25,000) or more than fifty thousand dollars (\$50,000) for each violation, or imprisonment in the county jail for not more than one year, or ~~by~~ both that fine and imprisonment.

(b) Notwithstanding any other law, the moneys collected from any fine or forfeiture imposed or collected for violating Chapter 1.5 (commencing with Section 2050) of Division 3 shall be deposited as follows:

(1) One-half in the Endangered Species Permitting Account established pursuant to Section 2081.2.

(2) One-half in the county treasury of the county in which the violation occurred. The board of supervisors shall first use revenues pursuant to this 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 13103.

**Comment.** Subdivision (a) of Section 12008.1 is amended to clarify a cross-reference.

Subdivision (a) is also amended to make two technical corrections.

### **Proposed Section 21300 (Existing Section 8050)**

#### **§ 8050 (amended). Accounting records**

8050. (a) In addition to the receipt required ~~in~~ by 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~~ 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.

(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.

(c) The accounting records shall be maintained by both buyer and seller for a period of three years and upon request, shall be open for inspection during normal business hours by the department. The accounting records shall be maintained within the State of California.

~~(d) The names used for designating the species of fish shall be those in common usage unless otherwise designated by the department.~~

**Comment.** Paragraph (1) of subdivision (a) of Section 8050 is amended to incorporate the substance of subdivision (d).

Subdivision (a) is also amended to make a technical correction.

## **Proposed Sections 34605, 37365 (Existing Section 4188)**

### **§ 4188 (amended). Depredator permits**

4188. (a) If a landowner or tenant applies for a permit under Section 4181 ~~for to take~~ wild pigs or wild turkeys, or under Section 4181.5 ~~for to take~~ deer, the department shall ~~notify the landowner or tenant~~ inform the applicant about available options for allowing access by licensed hunters, including, but not limited to, access authorized pursuant to Article 3 (commencing with Section 1570) of Chapter 5 of Division 2 to control wild pigs, wild turkeys, and deer.

(b) The commission, in lieu of a permit as described in subdivision (a), and with the consent of, or upon the request of, the landowner or tenant, ~~under appropriate regulations,~~ may pursuant to appropriate regulation authorize the issuance of permits to persons holding valid hunting licenses to take wild pigs, wild turkeys, or deer in sufficient numbers to stop the damage or threatened damage. Before issuing permits to licensed hunters, the department shall investigate and determine the number of permits necessary, the territory involved, the dates of the proposed hunt, the manner of issuing the permits, and the fee for the permit.

**Comment.** Section 4188 is amended for clarity.

## Proposed Section 42100 (Existing Section 7925)

### § 7925 (amended). Take from commercial passenger fishing boat

7925. (a) If a ~~vessel~~ commercial passenger fishing boat is licensed ~~under this article and is~~ used to take salmon or has salmon aboard in ocean waters north of Point Arguello, there shall be on board that vessel, a total number of commercial fishing salmon stamps sufficient to have at least one for the operator and one for each crewmember required by United States Coast Guard regulations, excepting an operator or a crewmember who is exempt from the commercial fishing salmon stamp requirement ~~under~~ of subdivision (b) of Section 7860. The commercial fishing salmon stamps shall be affixed to either the commercial fishing licenses of the operator and the crewmembers or, pursuant to subdivision (b), to the commercial passenger fishing license. No person shall operate, or cause to be operated, ~~any vessel licensed under this article~~ a commercial passenger fishing boat in violation of this subdivision. Vessels permitted as commercial salmon fishing vessels pursuant to Section 8234 are exempt from the requirements of this subdivision.

(b) Notwithstanding Section ~~1053~~ 1053.1, the department may issue to the owner or operator of a vessel licensed pursuant to this article, upon application and payment of the fees prescribed in subdivision (c) of Section 7860, one commercial fishing salmon stamp for the operator and not more than one additional commercial salmon stamp for each crewmember required by the United States Coast Guard regulations. The commercial fishing salmon stamps issued under this subdivision shall be affixed to the vessel's commercial passenger fishing boat license issued pursuant to this article.

**Comment.** Section 8429 is amended for clarity.

Subdivision (b) is also amended to update a cross-reference to a repealed code section.

## Proposed Section 43265 (Existing Section 10002)

### § 10002 (amended). Required documentation

10002. Every person licensed pursuant to this division shall make a true and legible record of each transaction involving the eggs of sturgeon. This documentation shall show all of the following:

(a) The weight of the eggs received.

(b) The name and address of the person from whom the eggs were received, ~~and, if different~~ .

(c) If the eggs were obtained from a sturgeon that was artificially propagated by a person other than the licensee, the name and address of ~~the that person who artificially propagated the sturgeon from which~~ .

(d) If the eggs were obtained ~~or~~ from a sturgeon that was not taken by the licensee, the name and address of the person from



whom the ~~sturgeon were received~~ licensee obtained the sturgeon from which the eggs were obtained.

~~(e)~~ (e) The date of receipt.

~~(d)~~ (f) If imported into this state, the place where the sturgeon were taken.

~~(e)~~ (g) Whether the eggs are to be processed by the recipient or sold by ~~him or her~~ the recipient to another for processing, and, if the eggs are to be sold for processing by another, the name and address of that person.

~~(f)~~ ~~Such~~ (h) Any other information as that the department may require and specify ~~on the form~~ on any form provided.

**Comment.** Section 10002 is amended for clarity.

The section is also amended to make it gender neutral.

### **Proposed Section 43850 (Existing Section 2356)**

#### **§ 2356 (amended). Transport of trout**

2356. (a) It is unlawful at any time to offer for shipment, ship, or receive for shipment, or transport from this state any trout taken in the waters of this state, except ~~that the~~ as provided in subdivision (b).

(b) The following persons may personally transport from this state not more than one daily bag limit of trout:

(1) The holder of a nonresident ~~angling~~ sport fishing license, or any .

(2) A person on active military duty with the armed forces of the United States or who possesses a valid angling license.

(3) A person on active military duty with an auxiliary branch thereof of the armed forces of the United States who possesses a valid angling license, may personally transport from this state not more than one daily bag limit of trout.

**Comment.** Section 2356 is amended for clarity.

The section is also amended to add subdivision designations.

### **Proposed Section 4492 (Existing Section 2584)**

The section of the existing Fish and Game Code that appears below was amended by the Legislature in 2021, but that amendment does not become operative until January 1, 2023.<sup>11</sup> The statutory text shown below is the text of the section that will be operative on that date.

In addition, based on the complexity of the section, the staff has informally discussed further clarifying revision of the section with DFW, beyond revision

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11. See 2021 Cal. Stat. ch. 615.

proposed in the tentative recommendation. Following a supportive response from DFW, the proposed revision below incorporates that further clarification.

Finally, subsequent to that exchange with DFW, the staff noticed a possible drafting error in the existing section that was also not noted in the tentative recommendation. The staff suggests that the two sentences shown in shaded text below were inadvertently mislocated in the existing section. As both sentences expressly refer to a “proposed decision,” the staff believes the sentences were meant to be the last sentences of subdivision (d), which discusses and references a “proposed decision,” rather than the last two sentences of subdivision (e), which instead discusses and refers to a “final” decision.

The statutory text shown below would also incorporate the relocation of these two sentences.

**§ 2584 (amended). Procedure for imposition of administrative penalty**

2584. (a) Upon an actionable violation, the department shall consult, as to the appropriate civil or criminal remedy, with the district attorney in the jurisdiction where the violation was alleged to have occurred. Before proceeding with a civil action, the department shall seek the concurrence of the Attorney General.

~~(b) The director shall appoint a qualified referee or hearing board, composed of one or any combination of the following persons:~~

~~(1) A qualified hearing officer, as defined in subdivision (a) of Section 2580.~~

~~(2) A retired judge of the Superior Court who is knowledgeable in fish and wildlife law.~~

~~(3) A qualified neutral referee, appointed upon petition to the Superior Court in which the violation was alleged to have occurred.~~

(e) The director, after investigation of the facts and circumstances, may issue a complaint to any person on whom a civil an administrative penalty may be imposed pursuant to Section 2582 or 2583. The complaint shall allege the acts or failures to act that constitute a basis for a civil an administrative penalty and the amount of the proposed civil administrative penalty. The complaint shall be served by personal service or certified mail and shall inform the person so served that a hearing shall be conducted within 60 days after the person has been served, unless the person waives the right to a hearing. If the person waives the right to a hearing, the department shall issue an order setting liability the penalty in the amount proposed in the complaint. If the person has waived the right to a hearing or if the department and the person have entered into a settlement agreement, the order shall be final.

(c) If the director issues a complaint pursuant to subdivision (a), the director shall appoint a qualified referee or hearing board, composed of one or any combination of the following persons:

(1) A qualified hearing officer, as defined in subdivision (a) of Section 2580.

(2) A retired judge of the superior court who is knowledgeable in fish and wildlife law.

(3) A qualified neutral referee, appointed upon petition to the superior court in which the violation was alleged to have occurred.

(d) Any hearing required under this section shall be conducted by a the appointed referee or hearing board according to the procedures specified in Sections 11507 to 11517, inclusive, of the Government Code, except as otherwise provided in this section. In making a determination, the ~~hearing officer~~ appointed referee or hearing board may consider the records of the department in the matter, the complaint, and any new facts brought to the ~~officer's~~ referee or hearing board by ~~that~~ the person served with the complaint. The ~~hearing officer~~ appointed referee or hearing board shall be the sole trier of fact as to the existence of a basis for liability under Section 2582 or 2583. The ~~hearing officer~~ appointed referee or hearing board shall make the determination of the facts of the case and shall prepare and submit the proposed decision, including a recommended penalty ~~assessment~~, to the director for the director's review and assistance in the penalty assessment process. The proposed decision is a public record and shall be served upon the person. The director may approve the proposed decision in its entirety, or the director may reduce the proposed penalty and adopt the balance of the proposed decision.

(e) The director may assess the ~~civil~~ recommended administrative penalty, ~~and may~~ reduce the amount of the recommended penalty, or not impose any ~~assessment~~, ~~of civil penalties~~ administrative penalty, based upon the nature, circumstances, extent, and gravity of the prohibited acts alleged, and the degree of culpability of the violator; ~~or the director may enter into a settlement agreement with the person served with the complaint in the best interests of the state or confirm the amount of civil administrative penalties contained in the complaint. If the director reduces the amount of the civil administrative penalty, does not impose the civil administrative penalty, or enters into a settlement agreement, the director shall seek the recommendation of the hearing officer appointed referee or hearing board and enter into the records of the case the reasons for that action, including the hearing officer's recommendation of the appointed referee or hearing board. The decision of the director assessing the civil administrative penalty is final. The proposed decision is a public record and shall be served upon the person. The director may approve the proposed decision in its entirety, or the director may reduce the proposed penalty and adopt the balance of the proposed decision.~~

(f) Upon the final assessment of the ~~civil~~ administrative penalty, the department shall issue an order setting the amount of the ~~civil administrative~~ penalty to be imposed. An order setting ~~civil liability~~ the amount of an administrative penalty under this section becomes effective and final upon the issuance ~~thereof~~ of the order, and payment shall be made within 30 days of issuance. Copies of the order shall be served by personal service or by certified mail upon the person served with the complaint and upon other persons who appeared before the director and requested a copy. Copies of the order shall be provided to any person within 10 days of receipt of a written request from that person.

(g) Within 30 days after service of a copy of an order setting the amount of the ~~civil~~ administrative penalty, any person so served may file with the superior court a petition for a writ of mandate for review of the order. In all proceedings pursuant to this subdivision, the court shall exercise its independent judgment on the evidence in the whole record. The filing of a petition for a writ of mandate shall not stay any other civil or criminal action.

(h) The records of the case, after all appeals are final, are public records, as defined in Section 7920.530 of the Government Code.

**Comment.** Section 2584 is amended to replace references to a “civil penalty” or “civil liability” with references to an “administrative penalty,” and make other nonsubstantive clarification.

Respectfully submitted,

Steve Cohen  
Staff Counsel

## PHASE ONE COMMENTS

The table below sets out the comments of the Fish and Game Commission and the Department of Fish and Wildlife on sections addressed in Memorandum 2022-28.

| Proposed Section | Existing Section | Fish and Game Commission  | Department of Fish and Wildlife  | First Presenting Memo |
|------------------|------------------|---|--|-----------------------|
| 4482             | 2582             | No comment  | CDFW agrees that the references in sec. 2580 et seq. to "civil liability" can be changed to "administrative penalty."  | 21-20                 |
| 4492             | 2584             | No comment  | The restatement of secs. 2584(b)-(h) will not have a substantive change in the meaning of those sections.<br><br>(See also comment to existing Section 4482)   | 21-20                 |
| 5680             | 12002.8          | FGC believes the proposed revision removing the reference to sec. 8495 in sec. 12002.8(d)(1) and replacing it with sec. 8494 does not cause any substantive changes. Reorganizing Fish and Game Code is outside the scope of the current review; therefore, FGC is not commenting at this time on CLRC's proposal to separate sec. 12002.8 by species.  | CDFW does not believe the proposed revision removing the reference to sec. 8495 in sec. 12002.8(d)(1) and replacing it with sec. 8494 causes any substantive changes. CDFW is not commenting at this time on CLRC's proposal to separate sec. 12002.8 by species.  | 21-26                 |
| 5710             | 12002.8          | FGC believes the proposed revision in subdivision 12002.8(d) substituting "In addition to any other applicable penalty" for "Notwithstanding Sections 12000, 12001, and 12002" does not cause unintended substantive changes. Reorganizing Fish and Game Code is outside the scope of the current review; therefore, FGC is not commenting at this time on CLRC's proposal to separate sec. 12002.8 by species. | CDFW does not believe the revised language substituting "In addition to any other applicable penalty" for "Notwithstanding Sections 12000, 12001, and 12002" in sec. 12002.8(d) causes any unintended substantive changes or problems. CDFW is not commenting at this time on CLRC's proposal to separate sec. 12002.8 by species. | 21-26                 |
| 5720             | 12002.8(d)-(f)   | FGC believes the proposed revision in subdivision 12002.8(d) substituting "In addition to any other applicable penalty" for "Notwithstanding Sections 12000, 12001, and 12002" does not cause unintended substantive changes. Reorganizing Fish and Game Code is outside the scope of the current review; therefore, FGC is not commenting at this time on CLRC's proposal to separate sec. 12002.8 by species. | CDFW does not believe the proposed revision substituting "In addition to any other applicable penalty" for "Notwithstanding Sections 12000, 12001, and 12002" in sec. 12002.8(d) causes unintended substantive changes. CDFW is not commenting at this time on CLRC's proposal to separate sec. 12002.8 by species.                | 21-26                 |

| Proposed Section | Existing Section   | Fish and Game Commission  | Department of Fish and Wildlife   | First Presenting Memo |
|------------------|--------------------|---|---|-----------------------|
| 5820             | 12002.8(d)<br>-(f) | FGC believes the proposed revision in subdivision 12002.8(d) substituting "In addition to any other applicable penalty" for "Notwithstanding Sections 12000, 12001, and 12002" does not cause unintended substantive changes. Reorganizing Fish and Game Code is outside the scope of the current review; therefore, FGC is not commenting at this time on CLRC's proposal to separate sec. 12002.8 by species. | CDFW does not believe the proposed revision substituting "In addition to any other applicable penalty" for "Notwithstanding Sections 12000, 12001, and 12002" in sec. 12002.8(d) causes unintended substantive changes. CDFW is not commenting at this time on CLRC's proposal to separate sec. 12002.8 by species.   | 21-26                 |
| 5880             | 8429               | FGC believes the terms "commercial light boat" and "commercial squid light boat" are synonymous, and that the proposal to add the word "squid" in sec. 8429 will not cause a problem.   | The terms "commercial light boat" and "commercial squid light boat" are synonymous; the proposed language adding the word "squid" to "commercial light boat owner's permit" in sec. 8429 will not cause a problem.  | 21-26                 |
| 6000             | 6656               | FGC believes that the proposed restatement of sec. 6656 would not cause any problems or substantive change in the meaning of the section.<br><br>FGC believes the proposed revision to sec. 6656(a) would not cause any problems.   | Two comments: (1) CDFW does not believe the restatement of sec. 6656 causes any problems or substantive changes.<br><br>(2) CDFW does not believe the revision to sec. 6656(a) causes any problems.   | 21-26                 |
| 6050             | 12002.5            | FGC believes that the more precise cross-reference does not effect a substantive change.  | CDFW agrees that sec. 12002.5 can be amended to change "Section 12002" to "Section 12002, subdivision (a)."   | 21-26                 |
| 6204             | 12008.1(a)         | FGC believes that it is not problematic to amend sec. 12008.1(a) to change "Section 12002" to "Section 12002, subdivision (a)."   | CDFW agrees that sec. 12008.1(a) can be amended to change "Section 12002" to "Section 12002, subdivision (a)."  | 21-26                 |
| 21300            | 8050               | No comment  | CDFW believes that the removal of the phrase "any commercial fisherman who sells fish to persons who are not licensed" from sec. 8050 would cause a significant substantive change in the meaning of that section that is not beneficial because it removes a class of people who must keep accounting records. To the extent to which this language has been moved, it is beyond the scope of CDFW's review at this time.<br><br>As to the combining of subsections 8050(a)(1) and (d), that would not have a substantive change in the meaning of | 21-39                 |

| Proposed Section | Existing Section | Fish and Game Commission  | Department of Fish and Wildlife   | First Presenting Memo |
|------------------|------------------|---|---|-----------------------|
|                  |                  |   | <p>the section.</p> <p>As to the restatement of the last sentence of sec. 8050(c), that would have a significant substantive effect (not beneficial) because it affects the Department's ability to enforce this rule since "the state" as used in the restatement is more ambiguous than "California" used in existing law.</p>  |                       |
| 34605            | 4188             | FGC believes that the restatement of sec. 4188 will not cause a substantive change in the meaning of the section. FGC has no comment about the proposal to divide sec. 4188 by species as reorganization of the Fish and Game Code is outside the scope of the current review.  | CDFW believes that the restatement of sec. 4188 will not cause a substantive change in the meaning of the section except it does not agree with the removal of wild pigs and wild turkeys from this section.  | 21-45                 |
| 37365            | 4188             | FGC believes that the restatement of sec. 4188 will not cause a substantive change in the meaning of the section. FGC has no comment about the proposal to divide sec. 4188 by species as reorganization of the Fish and Game Code is outside the scope of the current review.  | CDFW generally agrees that the restatement of sec. 4188 does not cause a substantive change in the meaning of the section, although has no comment at this time about the changes to divide sec. 4188 by species. The latter is beyond the scope of this review.  | 21-45                 |
| 42100            | 7925             | <p>[Note] (1): FGC has no comment.</p> <p>[Note] (2): FGC agrees with CLRC regarding changing the cross-reference to sec. 1053.1.FGC notes the addition of a comma after the word "aboard" in the first sentence of subdivision (a) (see line 32); FGC believes adding the comma potentially changes the meaning of the sentence, or at least makes it unclear.</p> | <p>Two comments. (1) The proposed restatement of sec. 7925 generally does not change its intended meaning, although CDFW believes that the addition of the comma on line 32 in proposed sec. 42100 after "aboard" may change the meaning of sec. 7925. At a minimum the addition of the comma is unnecessary.</p> <p>(2) The reference in sec. 7149.05(a)(4) to sec. 1053 should be changed to sec. 1053.1 since sec. 1053 was repealed and sec. 1053.1 is substantially similar to former sec. 1053.</p> | 21-49                 |
| 43265            | 10002            | No comment  | The restatement of sec. 10002(b) would not cause any substantive change in the provision's meaning.   | 21-49                 |
| 43850            | 2356             | FGC believes that the proposed restatement of sec. 2356 does not cause a substantive change in the meaning of that section.   | CDFW believes that the restatement of sec. 2356 does not cause a substantive change in the meaning of that section.   | 21-49                 |