

FISH AND GAME CODE CLEAN-UP

1 In 2010, the Legislature directed the Secretary of the Natural Resources Agency
2 to convene a committee to develop and submit a “strategic vision” for the Fish and
3 Game Commission and the Department of Fish and Game (now the Department of
4 Fish 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 by
6 doing all of the following:

7 (1) resolve inconsistencies; (2) eliminate redundancies; (3) eliminate unused and
8 outdated code sections; (4) consolidate sections creating parallel systems and
9 processes; and (5) restructure codes to group similar statutes and regulations.²

10 In 2012, the Legislature acted on that recommendation, authorizing the
11 Commission to conduct the requested study:

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

14 Whether the Fish and Game Code and related statutory law should be revised to
15 improve its organization, clarify its meaning, resolve inconsistencies, eliminate
16 unnecessary or obsolete provisions, standardize terminology, clarify program
17 authority and funding sources, and make other minor improvements, without
18 making any significant substantive change to the effect of the law[.]³

19 In order to achieve the greatest degree of improvement to the organization and
20 expression of the Fish and Game Code, the Commission decided to prepare a
21 recommendation that would repeal the existing code and replace it with a new Fish
22 and Wildlife Code. The new code would continue the entire substance of the former
23 code with a more user-friendly organization, without making any significant
24 substantive change to the effect of existing law. In the process of preparing the
25 proposed new code, the Commission would identify technical problems of the type
26 described above (e.g., ambiguity, redundancy, inconsistency) and prepare language

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. 2012 Cal. Stat. res. ch. 108.

1 to cure them.⁴ There were no objections to that general approach from the affected
2 agencies.⁵

3 In conducting its work, the Commission identified some technical defects that
4 could be addressed immediately, without waiting until the entire recodification draft
5 had been completed. Two omnibus recommendations were approved to address
6 those issues.⁶ Both proposals were enacted into law.⁷

7 In 2018, the Commission released a tentative recommendation proposing the new
8 Fish and Wildlife Code.⁸ The original deadline for public comment on the proposed
9 law was January 1, 2020. The deadline for comment on technical revisions was later
10 extended by another year, and the deadline for comment on organizational changes
11 was extended by 18 months, at the request of the Department of Fish and Wildlife.⁹

12 In January 2021, the Fish and Game Commission and Department of Fish and
13 Wildlife provided written comments on a large number of the technical revisions
14 that were proposed in the tentative recommendation. This recommendation is
15 substantially informed by that input.

16 In June 2021, the Department of Fish and Wildlife informed the Commission that
17 it would not support the proposed reorganization of the Fish and Wildlife Code. It

4. Early in its study of the Fish and Game Code, the Commission identified the potential for ambiguity in the definition of “fish.” See Fish & Game Code § 45. As defined, the term includes animals that are not classified zoologically as fish (i.e., invertebrates and amphibians). This creates some uncertainty, because the statutory definition is not necessarily intended to apply to every provision that uses the term “fish.” See Fish & Game Code § 2. Courts have held that Section 45 applies to the California Endangered Species Act. See *Almond All. of California v. Fish & Game Comm’n* (2022) 79 Cal.App.5th 337, 366, 294 Cal.Rptr.3d 603 *republished with additional material* at 2022 WL 4374847 (Cal. Ct. App. May 31, 2022), *rev. denied* (Sept. 21, 2022); *California Forestry Assn. v. Fish & Game Comm’n* (2007) 156 Cal.App.4th 1535, 68 Cal.Rptr.3d 391. But there are over 600 other Fish and Game Code sections that use the term “fish.” The Commission agrees with stakeholder comments that it is impossible to determine the intended meaning of the term in all of these sections without a significant risk of inadvertent substantive change. Because the Commission’s authority in this study prohibits proposing any significant substantive changes, the Commission decided against attempting to clarify the meaning of “fish.” See Memorandum 2013-12, pp. 5-6 *available at* <http://clrc.ca.gov/pub/2013/MM13-12.pdf>.

5. See, e.g., Second Supplement to CLRC Staff Memorandum 2013-11, *available at* <http://clrc.ca.gov/pub/2013/MM13-11s2.pdf>; CLRC Staff Memorandum 2013-30, *available at* <http://clrc.ca.gov/pub/2013/MM13-30.pdf>; CLRC Staff Memorandum 2013-31, *available at* <http://clrc.ca.gov/pub/2013/MM13-31.pdf>; First Supplement to CLRC Staff Memorandum 2013-37, *available at* <http://clrc.ca.gov/pub/2013/MM13-37s1.pdf>; CLRC Staff Memorandum 2013-49, *available at* <http://clrc.ca.gov/pub/2013/MM13-49.pdf>; First Supplement to CLRC Staff Memorandum 2013-50, *available at* <http://clrc.ca.gov/pub/2013/MM13-50s1.pdf>.

6. See *Fish and Game Law: Technical Revisions and Minor Substantive Improvements (Part 1)*, 44 Cal. L. Revision Comm’n Reports 115 (2015); *Fish and Game Law: Technical Revisions and Minor Substantive Improvements (Part 2)*, 44 Cal. L. Revision Comm’n Reports 349 (2015).

7. See 2015 Cal. Stat. ch. 154; 2016 Cal. Stat. ch. 546.

8. See Tentative Recommendation on Fish and Wildlife Code (Dec. 2018), *available at* <http://clrc.ca.gov/pub/Misc-Report/TR-R100-Full.pdf>.

9. See CLRC Staff Memorandum 2019-44, Exhibit pp. 1-2, *available at* <http://www.clrc.ca.gov/pub/2019/MM19-44.pdf>.

1 explained its view that reorganization would be “likely to result in confusion at best,
2 and at worst, a Code that is difficult to use and not supported by the department that
3 is charged with its administration and enforcement.”¹⁰

4 The Commission considered restructuring its work on organizational
5 improvement, to minimize the transitional costs and other disadvantages that occur
6 when any body of existing statutory law is reorganized. Rather than enacting an
7 entirely new code, the Commission considered preparing a series of targeted
8 reorganization proposals, to improve the organization of disordered parts of the
9 existing Fish and Game Code.¹¹ Such incremental improvement would reduce the
10 transitional disruption, by implementing it in a series of smaller reforms.

11 The Department of Fish and Wildlife did not support that alternative approach,
12 making clear that it would not support any Commission work to reorganize the Fish
13 and Game Code. Nor would it provide any assistance, if the Commission were to
14 proceed with such work.¹² A variety of stakeholder groups wrote jointly to endorse
15 the Department of Fish and Wildlife’s position.¹³ No stakeholder group wrote in
16 support of reorganization.

17 Given that input, the Commission decided to set aside its efforts to improve the
18 organization of the code. That decision was based on a combination of deference to
19 the Department of Fish and Wildlife as the agency charged with administration of
20 the Fish and Game Code and practical recognition that an effort to improve the
21 organization of the Fish and Game Code would likely fail without the support and
22 assistance of the Department of Fish and Wildlife and faced with coordinated
23 opposition by stakeholders.¹⁴

24 This recommendation proposes technical revisions to existing sections within the
25 Fish and Game Code. It does not recommend any changes to the organization of the
26 Fish and Game Code.

10. See, e.g., CLRC Staff Memorandum 2021-33, available at <http://clrc.ca.gov/pub/2021/MM21-33.pdf>.

11. See, e.g., CLRC Staff Memorandum 2022-30, available at <http://clrc.ca.gov/pub/2022/MM22-30.pdf>; First Supplement to CLRC Staff Memorandum 2022-30, available at <http://clrc.ca.gov/pub/2022/MM22-30s1.pdf>.

12. See, e.g., Fifth Supplement to CLRC Staff Memorandum 2022-30, available at <http://clrc.ca.gov/pub/2022/MM22-30s5.pdf>.

13. See, e.g., Third Supplement to CLRC Staff Memorandum 2022-30 available at <http://clrc.ca.gov/pub/2022/MM22-30s3.pdf>; Fourth Supplement to CLRC Staff Memorandum 2022-30 available at <http://clrc.ca.gov/pub/2022/MM22-30s4.pdf>.

14. Early in this study the Commission adopted a posture of deference to the Fish and Game Commission and Department of Fish and Wildlife on matters of administration of fish and game law. See, e.g., CLRC Staff Memorandum 2013-30 available at <http://clrc.ca.gov/pub/2013/MM13-30.pdf>.

1 ~~(vi) Striped bass stamp funds collected pursuant to Section 7360.~~

2 ~~(vii)~~ (vi) The California Ocean Resource Enhancement Account.

3 (D) The project is implemented by the department through a contract with either
4 a nonprofit entity or a local government agency.

5 (3) Filing fees shall be paid at the time and in the amount specified in subdivision
6 (d). Notwithstanding Sections 21080.5 and 21081 of the Public Resources Code, a
7 project shall not be operative, vested, or final, and local government permits for the
8 project shall not be valid, until the filing fees required pursuant to this section are
9 paid.

10 (d) The fees shall be in the following amounts:

11 (1) For a project that is statutorily or categorically exempt from the California
12 Environmental Quality Act, including those certified regulatory programs that
13 incorporate statutory and categorical exemptions, a filing fee shall not be paid.

14 (2) For a project for which a negative declaration is prepared pursuant to
15 subdivision (c) of Section 21080 of the Public Resources Code, the filing fee is one
16 thousand eight hundred dollars (\$1,800). A local agency collecting the filing fee
17 shall remit the fee to the county clerk at the time of filing a notice of determination
18 pursuant to Section 21152 of the Public Resources Code. A state agency collecting
19 the filing fee shall remit the fee to the Office of Planning and Research at the time
20 of filing a notice of determination pursuant to Section 21108 of the Public Resources
21 Code.

22 (3) For a project with an environmental impact report prepared pursuant to the
23 California Environmental Quality Act, the filing fee is two thousand five hundred
24 dollars (\$2,500). A local agency collecting the filing fee shall remit the fee to the
25 county clerk at the time of filing a notice of determination pursuant to Section 21152
26 of the Public Resources Code. A state agency collecting the filing fee shall remit the
27 fee to the Office of Planning and Research at the time of filing a notice of
28 determination pursuant to Section 21108 of the Public Resources Code.

29 (4) For a project that is subject to a certified regulatory program pursuant to
30 Section 21080.5 of the Public Resources Code, the filing fee is eight hundred fifty
31 dollars (\$850). The filing fee shall be paid to the department before the filing of the
32 notice of determination pursuant to Section 21080.5 of the Public Resources Code.

33 (e) The county clerk may charge a documentary handling fee of fifty dollars (\$50)
34 per filing in addition to the filing fee specified in subdivision (d).

35 (1) The county clerk of each county and the Office of Planning and Research shall
36 maintain a record, both electronic and in paper, of all environmental documents
37 received. The record shall include, for each environmental document received, the
38 name of each applicant or lead agency, the document filing number, the project
39 name as approved by the lead agency, and the filing date. The record shall be made
40 available for examination or audit by authorized personnel of the department during
41 normal business hours.

42 (2) The filing fee imposed and collected pursuant to subdivision (d) shall be
43 remitted monthly to the department within 30 days after the end of each month. The

1 remittance shall be accompanied with the information required pursuant to
2 paragraph (1). The amount of fees due shall be reported on forms prescribed and
3 provided by the department.

4 (3) The department shall assess a penalty of 10 percent of the amount of fees due
5 for a failure to remit the amount payable when due. The department may pursue
6 collection of delinquent fees through the Controller's office pursuant to Section
7 12419.5 of the Government Code.

8 (f) Notwithstanding subdivision (a) of Section 12000, failure to pay the fee under
9 subdivision (d) is not a misdemeanor. All unpaid fees are a statutory assessment
10 subject to collection under procedures as provided in the Revenue and Taxation
11 Code.

12 (g) Only one filing fee shall be paid for each project unless the project is tiered or
13 phased, or separate environmental documents are required.

14 (h) This section does not preclude or modify the duty of the department to
15 recommend, require, permit, or engage in mitigation activities pursuant to the
16 California Environmental Quality Act.

17 (i) The permit process of the California Coastal Commission, as certified by the
18 Secretary of the Resources Agency, is exempt from the payment of the filing fees
19 prescribed by paragraph (4) of subdivision (d) insofar as the permits are issued under
20 any of the following regulations:

21 (1) Subchapter 4 (commencing with Section 13136) of Chapter 5 of Division 5.5
22 of Title 14 of the California Code of Regulations.

23 (2) Subchapter 1 (commencing with Section 13200), Subchapter 3 (commencing
24 with Section 13213), ~~Subchapter 3.5 (commencing with Section 13214)~~, Subchapter
25 4 (commencing with Section 13215), Subchapter 4.5 (commencing with Section
26 13238), Subchapter 5 (commencing with Section 13240), Subchapter 6
27 (commencing with Section 13250), and Subchapter 8 (commencing with Section
28 13255.0) of Chapter 6 of Division 5.5 of Title 14 of the California Code of
29 Regulations.

30 **Comment.** Subparagraph (vi) of subdivision (c)(2)(C) of Section 711.4 is deleted to reflect the
31 repeal of the statutory cross-reference in the provision, and the discontinuation of the referenced
32 collection of funds.

33 Subdivision (f) is amended to clarify a statutory cross-reference.

34 Subdivision (i) is amended to delete an obsolete cross-reference.

35 **Fish & Game Code § 1500.5 (amended). Mineral rights**

36 SEC. ____ . Section 1500.5 of the Fish and Game Code is amended to read:

37 1500.5. ~~With respect to exchanging or selling any~~ (a) The following rules govern
38 an exchange or sale of property pursuant to Section 1500, the director, with respect
39 to any parcel containing :

40 (1) If a parcel contains 15 acres or less, the director shall except and reserve to the
41 state all mineral deposits, as defined in Section 6407 of the Public Resources Code,

1 below a depth of 500 feet, without surface rights of entry. ~~As to any parcel~~
2 ~~containing~~

3 (2) If a parcel contains more than 15 acres, the director shall except and reserve
4 to the state all mineral deposits, ~~as defined in Section 6407 of the Public Resources~~
5 ~~Code~~, together with the right rights to prospect for, mine, and remove the ~~deposits.~~
6 ~~—The deposits.~~ The rights to prospect for, mine, and remove shall be limited to
7 those areas of the property conveyed ~~which~~ that the director, after consultation with
8 the State Lands Commission, determines to be reasonably necessary for the removal
9 of the resources and deposits.

10 (b) For the purposes of this section, the mineral deposits reserved to the state are
11 those described in Section 6407 of the Public Resources Code.

12 **Comment.** Section 1500.5 is amended for clarity.

13 The section is also amended to add subdivision and paragraph designations.

14 **Fish & Game Code § 1913 (amended). Exemptions**

15 SEC. ____ . Section 1913 is added to the Fish and Game Code, to read:

16 1913. (a) The provisions of this chapter are not intended and shall not be construed
17 as authorizing any public agency to mandate, prescribe, or otherwise regulate
18 agricultural operations or management practices, including the clearing of land for
19 agricultural practices or fire control measures.

20 (b) Notwithstanding the provisions of Section 1911, timber operations in
21 accordance with a timber harvesting plan submitted pursuant to the provisions of
22 the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with
23 Section 4511) of Part 2 of Division 4 of the Public Resources Code), or required
24 mining assessment work pursuant to federal or state mining laws, or the removal of
25 endangered or rare native plants from a canal, lateral ditch, building site, or road, or
26 other right-of-way by the owner of the land or ~~his~~ the owner's agent, or the
27 performance by a public agency or a publicly or privately owned public utility of its
28 obligation to provide service to the public, shall not be restricted by this chapter
29 because of the presence of rare or endangered plants, except as provided in
30 subdivision (c) of this section.

31 (c) Notwithstanding the provisions of subdivisions (a) and (b) of this section,
32 where the owner of land has been notified by the department pursuant to Section
33 ~~1903.5~~ 1904 that a rare or endangered native plant is growing on ~~such~~ that land, the
34 owner shall notify the department at least 10 days in advance of changing the land
35 use to allow for salvage of ~~such~~ that plant. The failure by the department to salvage
36 ~~such~~ that plant within 10 days of notification shall entitle the owner of the land to
37 proceed without regard to this chapter. Submission of a timber harvesting plan
38 pursuant to the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing
39 with Section 4511) of Part 2 of Division 4 of the Public Resources Code) shall
40 constitute notice under this section. Converting from one type of agricultural use, as
41 defined in Section 51201 of the Government Code, to another type of agricultural
42 use shall not constitute a change in land use.

1 **Comment.** ~~Subdivision (e) of Section 1913 is amended to correct an erroneous cross-reference~~
2 ~~two erroneous cross-references, and make other technical corrections.~~

3 **Fish & Game Code § 2021 (amended). Shark fin**

4 SEC. ____ . Section 2021 of the Fish and Game Code is amended to read:

5 2021. (a) As used in this section “shark fin” means the raw, dried, or otherwise
6 processed detached fin, or the raw, dried, or otherwise processed detached tail, of
7 an elasmobranch.

8 (b) Except as otherwise provided in subdivisions ~~(e), (d), and (e)~~ (c) and (d), it
9 shall be unlawful for any person to possess, sell, offer for sale, trade, or distribute a
10 shark fin.

11 (c) Any person who holds a license or permit pursuant to Section 1002 may
12 possess a shark fin or fins consistent with that license or permit.

13 (d) Any person who holds a license or permit issued by the department to take or
14 land sharks for recreational or commercial purposes may possess a shark fin or fins
15 consistent with that license or permit.

16 ~~(e) Before January 1, 2013, any restaurant may possess, sell, offer for sale, trade,~~
17 ~~or distribute a shark fin possessed by that restaurant, as of January 1, 2012, that is~~
18 ~~prepared for consumption.~~

19 **Comment.** Section 2021 is amended to delete obsolete material.

20 **Fish & Game Code § 2074.6 (amended). Department review**

21 SEC. ____ . Section 2074.6 of the Fish and Game Code is amended to read:

22 2074.6. (a) ~~The~~ If the Commission accepts a petition for consideration, the
23 department shall promptly commence a review of the status of the species concerned
24 in the petition.

25 (b) Within 12 months of the date of publication of a notice of acceptance of a
26 petition for consideration pursuant to paragraph (2) of subdivision (e) of Section
27 2074.2, the department shall produce and make publicly available on the
28 department’s Internet Web site a final written peer reviewed report, based upon the
29 best scientific information available to the department, which indicates whether the
30 petitioned action is warranted, which includes a preliminary identification of the
31 habitat that may be essential to the continued existence of the species, and which
32 recommends management activities and other recommendations for recovery of the
33 species.

34 (c) Prior to releasing the final written report, the department shall have a draft
35 status review report prepared and independently peer reviewed, and upon receiving
36 the peer reviewers’ input, shall evaluate and respond in writing to the independent
37 peer review and shall amend the draft status review report as appropriate.

38 (d) The revised report shall be posted on the department’s ~~Internet Web site~~
39 internet website for a minimum of 30 days for public review prior to the hearing
40 scheduled pursuant to Section 2075.

1 (e) The commission may grant an extension of up to six months if the director
2 determines an extension is necessary to complete independent peer review of the
3 report, and to provide a minimum of 30 days for public review of the peer reviewed
4 report prior to the public hearing specified in Section 2075.

5 **Comment.** Subdivision (a) of Section 2074.6 is amended to clarify the application of the section.
6 The section is also amended to add subdivision designations and make a technical change.

7 **Fish & Game Code § 2081.2 (amended). Permit application fee**

8 SEC. _____. Section 2081.2 of the Fish and Game Code is amended to read:

9 2081.2. (a) For purposes of this section, the following terms have the following
10 meanings:

11 (1) “Permit” means any authorization issued by the department pursuant to this
12 article to take a species listed by this chapter as candidate, threatened, or
13 endangered. The term includes a consistency determination pursuant to Section
14 2080.1 and a concurrence determination pursuant to Section 2080.3 or 2080.4.

15 (2) “Permit application” means an application for a permit, an amendment to a
16 permit, or a renewal of a permit. The term includes a consistency determination
17 request pursuant to Section 2080.1 and a concurrence determination request
18 pursuant to Section 2080.3 or 2080.4.

19 (3) “Permittee” includes any individual, firm, association, organization,
20 partnership, business, trust, corporation, limited liability company, district, city,
21 county, city and county, town, federal agency, and the state who applies for or who
22 has received a permit pursuant to this article.

23 (4) “Project” has the same meaning as defined in Section 21065 of the Public
24 Resources Code.

25 (5) “Project cost” means the total direct and indirect project expenses that include,
26 but are not limited to, labor, equipment, permanent materials and supplies,
27 subcontracts, overhead, and miscellaneous costs. The term shall not include permit
28 or license expenses or mitigation costs. For purposes of this paragraph, the term
29 “permit” includes, but is not limited to, a permit as defined in paragraph (1).

30 (6) “Voluntary habitat restoration project” means a project that meets both of the
31 following requirements:

32 (A) The project’s primary purpose is voluntary habitat restoration and the project
33 may have other environmental benefits, and the project is not required as mitigation
34 due to a regulatory action.

35 (B) The project is not part of a regulatory settlement, a regulatory enforcement
36 action, or a court order.

37 (b)(1) The department shall collect a permit application fee for processing a
38 permit application submitted pursuant to this article at the time the permit
39 application is submitted to the department. ~~Notwithstanding Section 2098, upon~~
40 Upon appropriation to the department from the Endangered Species Permitting
41 Account, the department shall use the permit application fee to pay for all or a

1 portion of the department's cost of processing permit applications, permit
2 development, and compliance monitoring pursuant to this article.

3 (2) This subdivision does not apply to any of the following:

4 (A) Activities or costs associated with the review of projects, inspection and
5 oversight of projects, and permits necessary to conduct timber operations, as defined
6 in Section 4527 of the Public Resources Code, in accordance with Article 9.5
7 (commencing with Section 4629) of Chapter 8 of Part 2 of Division 4 of the Public
8 Resources Code.

9 (B) Permits or memoranda of understanding authorized by subdivision (a) of
10 Section 2081.

11 (C) Permits for voluntary habitat restoration projects.

12 (c) The department shall assess the permit application fee as follows, subject to
13 subdivision (f):

14 (1) For a project, regardless of estimated project cost, that is subject only to
15 Section 2080.1, 2080.3, or 2080.4, the department shall assess either of the
16 following amounts:

17 (A) Seven thousand five hundred dollars (\$7,500).

18 (B) Six thousand dollars (\$6,000), if the project uses a department-approved
19 conservation or mitigation bank to fulfill mitigation obligations pursuant to this
20 article.

21 (2) For a project where the estimated project cost is less than one hundred
22 thousand dollars (\$100,000), the department shall assess either of the following
23 amounts:

24 (A) Seven thousand five hundred dollars (\$7,500).

25 (B) Six thousand dollars (\$6,000), if the project uses a department-approved
26 conservation or mitigation bank to fulfill mitigation obligations pursuant to this
27 article.

28 (3) For a project where the estimated project cost is one hundred thousand dollars
29 (\$100,000) or more but less than five hundred thousand dollars (\$500,000), the
30 department shall assess either of the following amounts:

31 (A) Fifteen thousand dollars (\$15,000).

32 (B) Twelve thousand dollars (\$12,000), if the project uses a department-approved
33 conservation or mitigation bank to fulfill mitigation obligations pursuant to this
34 article.

35 (4) For a project where the estimated project cost is five hundred thousand dollars
36 (\$500,000) or more, the department shall assess either of the following amounts:

37 (A) Thirty thousand dollars (\$30,000).

38 (B) Twenty-four thousand dollars (\$24,000), if the project uses a department-
39 approved conservation or mitigation bank to fulfill mitigation obligations pursuant
40 to this article.

41 (5) The department shall collect a fee of seven thousand five hundred dollars
42 (\$7,500) for processing permit amendments that the department has determined are
43 minor as defined in regulation or fifteen thousand dollars (\$15,000) for processing

1 permit amendments that the department has determined are major as defined in
2 regulation.

3 (d)(1) If the permit application fee paid pursuant to subdivision (c) is determined
4 by the department to be insufficient to complete permitting work due to the
5 complexity of a project or the potential effects of a project, the department shall
6 collect an additional fee of up to ten thousand dollars (\$10,000) from the permittee
7 to pay for its estimated costs. Upon its determination, the department shall notify
8 the permittee of the reasons why an additional fee is necessary and the estimated
9 amount of the additional fee.

10 (2) The additional fee collected pursuant to paragraph (1) shall not exceed an
11 amount that, when added to the fee paid pursuant to subdivision (c), equals thirty-
12 five thousand dollars (\$35,000). The department shall collect the additional fee
13 before a final decision on the permit application by the department.

14 (e)(1) For a permit application submitted to the department pursuant to this article
15 on or after ~~the effective date of this section~~ September 13, 2016, the department
16 shall collect the permit application fee at the time the permit application is
17 submitted. The department shall not deem the permit application complete until it
18 has collected the permit application fee. A permit application submitted or deemed
19 complete before ~~the effective date of this section~~ September 13, 2016, shall not be
20 subject to fees established pursuant to this section.

21 (2) If a permit application is withdrawn within 30 days after paying the permit
22 application fee, the department shall refund any unused portion of the fee to the
23 permittee.

24 (3) If a permit application is withdrawn after 30 days of paying the permit
25 application fee, the department shall not refund any portion of the fee to the
26 permittee.

27 (f)(1) The department shall adjust the fees in this section pursuant to Section 713.

28 (2) The Legislature finds that all revenues generated under this section and used
29 for the purposes for which they were imposed are not subject to Article XIII B of
30 the California Constitution.

31 (3) The department, at least every five years, shall analyze permit application fees
32 pursuant to Section 713 to ensure the appropriate fee amounts are charged.

33 (g) Fees paid to the department pursuant to this section shall be deposited in the
34 Endangered Species Permitting Account, which is hereby established in the Fish
35 and Game Preservation Fund. ~~Notwithstanding Section 2098, funds Funds~~ in the
36 account shall be available to the department, upon appropriation by the Legislature,
37 for the purposes of administering and implementing this chapter, except that fee
38 moneys collected pursuant to this section shall only be used for the purposes of this
39 article.

40 **Comment.** Paragraph (1) of subdivision (e) of Section 2081.2 is amended for clarity.

41 Subdivisions (b) and (g) are amended to delete an obsolete cross-reference.

1 **Fish & Game Code § 2185 (amended). Notification of law enforcement of arriving wild**
2 **animal**

3 SEC. _____. Section 2185 of the Fish and Game Code is amended to read:

4 2185. (a) Any person who transports, receives, or imports into the State state, or
5 transports within the State state, any live wild animal enumerated in or designated
6 pursuant to Section 2118, shall hold said that animal in confinement for inspection
7 and immediately notify the nearest enforcing officer of the animal's arrival thereof.
8 If there is found in any shipment any species not specified in the permit issued under
9 this chapter, or more than the number of any species specified, said those animals
10 shall be refused admittance as provided in Section ~~2188 of this chapter~~ 2189.

11 (b) Notwithstanding Section 2117, for the purposes of this section, “enforcing
12 officer” means the enforcement personnel of the department, the state plant
13 quarantine officers, and county agricultural commissioners.

14 **Comment.** Section 2185 is amended to update an obsolete cross-reference and make other
15 technical corrections.

16 **Fish & Game Code § 3004.5 (amended). Take within California condor range**

17 SEC. _____. Section 3004.5 of the Fish and Game Code, as amended by Section 3
18 of Chapter 469 of the Statutes of 2022, is amended to read:

19 3004.5. (a)(1) Nonlead centerfire rifle and pistol ammunition, as determined by
20 the commission, shall be required when taking big game, as defined in the
21 department’s mammal hunting regulations (~~14 Cal. Code Regs. Section 350 of Title~~
22 14 of the California Code of Regulations), with rifle or pistol, and when taking
23 coyote, within the California condor range.

24 (2) For purposes of this section, “California condor range” means:

25 (A) The department’s deer hunting zone A South, but excluding Santa Cruz,
26 Alameda, Contra Costa, San Mateo, and San Joaquin Counties, areas west of
27 Highway 101 within Santa Clara County, and areas between Highway 5 and
28 Highway 99 within Stanislaus, Merced, Madera, Fresno, Kings, Tulare, and Kern
29 Counties.

30 (B) Areas within deer hunting zones D7, D8, D9, D10, D11, and D13.

31 (3) The requirements of this subdivision shall remain in effect in the California
32 condor range unless and until the more restrictive nonlead prohibitions required
33 pursuant to subdivision (b) are implemented.

34 (b) Except as provided in subdivision (j), and as soon as is practicable as
35 implemented by the commission pursuant to subdivision (i), but by no later than
36 July 1, 2019, nonlead ammunition, as determined by the commission, shall be
37 required when taking all wildlife, including game mammals, game birds, nongame
38 birds, and nongame mammals, with any firearm.

39 (c)(1) The commission shall maintain, by regulation, a public process to certify
40 ammunition as nonlead ammunition, and shall define, by regulation, nonlead
41 ammunition as including only ammunition in which there is no lead content,

1 excluding the presence of trace amounts of lead. The commission shall establish and
2 annually update a list of certified ammunition.

3 (2) The list of certified ammunition shall include, but not be limited to, any
4 federally approved nontoxic shotgun ammunition.

5 (d)(1) To the extent that funding is available, the commission shall establish a
6 process that will provide hunters with nonlead ammunition at no or reduced charge.
7 The process shall provide that the offer for nonlead ammunition at no or reduced
8 charge may be redeemed through a coupon sent to a permit holder with the
9 appropriate permit tag. If available funding is not sufficient to provide nonlead
10 ammunition at no charge, the commission shall set the value of the reduced charge
11 coupon at the maximum value possible through available funding, up to the average
12 cost within this state for nonlead ammunition, as determined by the commission.

13 (2) The nonlead ammunition coupon program described in paragraph (1) shall be
14 implemented only to the extent that sufficient funding, as determined by the
15 Department of Finance, is obtained from local, federal, public, or other nonstate
16 sources in order to implement the program.

17 ~~(3) If the nonlead ammunition coupon program is implemented, the commission~~
18 ~~shall issue a report on the usage and redemption rates of ammunition coupons. The~~
19 ~~report shall cover calendar years 2008, 2009, and 2012. Each report shall be issued~~
20 ~~by June of the following year.~~

21 ~~(e) The commission shall issue a report on the levels of lead found in California~~
22 ~~condors. This report shall cover calendar years 2008, 2009, and 2012. Each report~~
23 ~~shall be issued by June of the following year.~~

24 ~~(f) (e)~~ The department shall notify those hunters who may be affected by this
25 section.

26 ~~(g) (f)~~ A person who violates any provision of this section is guilty of an infraction
27 punishable by a fine of five hundred dollars (\$500). A second or subsequent offense
28 shall be punishable by a fine of not less than one thousand dollars (\$1,000) or more
29 than five thousand dollars (\$5,000).

30 ~~(h) (g)~~ This section does not apply to government officials or their agents when
31 carrying out a statutory duty required by law.

32 ~~(i) (h)~~ The commission shall promulgate regulations by July 1, 2015, that phase
33 in the requirements of this section. The requirements of this section shall be fully
34 implemented statewide by no later than July 1, 2019. If any of the requirements of
35 this section can be implemented practicably, in whole or in part, in advance of July
36 1, 2019, the commission shall implement those requirements. The commission shall
37 not reduce or eliminate any existing regulatory restrictions on the use of lead
38 ammunition in the California condor range unless or until the additional
39 requirements for use of nonlead ammunition as required by this section are
40 implemented.

41 ~~(j) (i)~~(1) The prohibition in subdivision (b) shall be temporarily suspended for a
42 specific hunting season and caliber upon a finding by the director that nonlead
43 ammunition of a specific caliber is not commercially available from any

1 manufacturer because of federal prohibitions relating to armor-piercing ammunition
2 pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United
3 States Code.

4 (2) Notwithstanding a suspension pursuant to paragraph (1), nonlead ammunition
5 shall be used when taking big game mammals, nongame birds, or nongame
6 mammals in the California condor range, ~~as defined in subdivision (a).~~

7 ~~(k)~~ (j) This section shall remain in effect only until July 1, 2024, and as of that
8 date is repealed.

9 **Comment.** Paragraph (3) of subdivision (d) of Section 3004.5, and subdivision (e) ~~of Section~~
10 ~~3004.5~~, are deleted as obsolete.

11 The section is also amended to make other technical changes.

12 **Fish & Game Code § 3004.5 (amended). Take within California condor range**

13 SEC. ____ . Section 3004.5 of the Fish and Game Code, as added by Section 4 of
14 Chapter 469 of the Statutes of 2022, is amended to read:

15 3004.5. (a)(1) Nonlead centerfire rifle and pistol ammunition, as determined by
16 the commission, shall be required when taking big game, as defined in the
17 department's mammal hunting regulations (~~14 Cal. Code Regs. Section 350 of Title~~
18 14 of the California Code of Regulations), with rifle or pistol, and when taking
19 coyote, within the California condor range.

20 (2) For purposes of this section, "California condor range" means:

21 (A) The department's deer hunting zone A South, but excluding Santa Cruz,
22 Alameda, Contra Costa, San Mateo, and San Joaquin Counties, areas west of
23 Highway 101 within Santa Clara County, and areas between Highway 5 and
24 Highway 99 within Stanislaus, Merced, Madera, Fresno, Kings, Tulare, and Kern
25 Counties.

26 (B) Areas within deer hunting zones D7, D8, D9, D10, D11, and D13.

27 (3) The requirements of this subdivision shall remain in effect in the California
28 condor range unless and until the more restrictive nonlead prohibitions required
29 pursuant to subdivision (b) are implemented.

30 (b) Except as provided in subdivision (j), and as soon as is practicable as
31 implemented by the commission pursuant to subdivision (i), but by no later than
32 July 1, 2019, nonlead ammunition, as determined by the commission, shall be
33 required when taking all wildlife, including game mammals, exotic game mammals,
34 game birds, nongame birds, and nongame mammals, with any firearm.

35 (c)(1) The commission shall maintain, by regulation, a public process to certify
36 ammunition as nonlead ammunition, and shall define, by regulation, nonlead
37 ammunition as including only ammunition in which there is no lead content,
38 excluding the presence of trace amounts of lead. The commission shall establish and
39 annually update a list of certified ammunition.

40 (2) The list of certified ammunition shall include, but not be limited to, any
41 federally approved nontoxic shotgun ammunition.

1 (d)(1) To the extent that funding is available, the commission shall establish a
2 process that will provide hunters with nonlead ammunition at no or reduced charge.
3 The process shall provide that the offer for nonlead ammunition at no or reduced
4 charge may be redeemed through a coupon sent to a permit holder with the
5 appropriate permit tag. If available funding is not sufficient to provide nonlead
6 ammunition at no charge, the commission shall set the value of the reduced charge
7 coupon at the maximum value possible through available funding, up to the average
8 cost within this state for nonlead ammunition, as determined by the commission.

9 (2) The nonlead ammunition coupon program described in paragraph (1) shall be
10 implemented only to the extent that sufficient funding, as determined by the
11 Department of Finance, is obtained from local, federal, public, or other nonstate
12 sources in order to implement the program.

13 ~~(3) If the nonlead ammunition coupon program is implemented, the commission~~
14 ~~shall issue a report on the usage and redemption rates of ammunition coupons. The~~
15 ~~report shall cover calendar years 2008, 2009, and 2012. Each report shall be issued~~
16 ~~by June of the following year.~~

17 ~~(e) The commission shall issue a report on the levels of lead found in California~~
18 ~~condors. This report shall cover calendar years 2008, 2009, and 2012. Each report~~
19 ~~shall be issued by June of the following year.~~

20 ~~(f) (e)~~ The department shall notify those hunters who may be affected by this
21 section.

22 ~~(g) (f)~~ A person who violates any provision of this section is guilty of an infraction
23 punishable by a fine of five hundred dollars (\$500). A second or subsequent offense
24 shall be punishable by a fine of not less than one thousand dollars (\$1,000) or more
25 than five thousand dollars (\$5,000).

26 ~~(h) (g)~~ This section does not apply to government officials or their agents when
27 carrying out a statutory duty required by law.

28 ~~(i) (h)~~ The commission shall promulgate regulations by July 1, 2015, that phase
29 in the requirements of this section. The requirements of this section shall be fully
30 implemented statewide by no later than July 1, 2019. If any of the requirements of
31 this section can be implemented practicably, in whole or in part, in advance of July
32 1, 2019, the commission shall implement those requirements. The commission shall
33 not reduce or eliminate any existing regulatory restrictions on the use of lead
34 ammunition in the California condor range unless or until the additional
35 requirements for use of nonlead ammunition as required by this section are
36 implemented.

37 ~~(j) (i)(1)~~ The prohibition in subdivision (b) shall be temporarily suspended for a
38 specific hunting season and caliber upon a finding by the director that nonlead
39 ammunition of a specific caliber is not commercially available from any
40 manufacturer because of federal prohibitions relating to armor-piercing ammunition
41 pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United
42 States Code.

(2) Notwithstanding a suspension pursuant to paragraph (1), nonlead ammunition shall be used when taking big game mammals, exotic game mammals, nongame birds, or nongame mammals in the California condor range, ~~as defined in subdivision (a).~~

~~(k)~~ (j) This section shall become operative on July 1, 2024.

Comment. Paragraph (3) of subdivision (d) of Section 3004.5, and subdivision (e) ~~of Section 3004.5~~, are deleted as obsolete.

The section is also amended to make other technical changes.

Fish & Game Code § 3200 (amended). License requirement

SEC. _____. Section 3200 of the Fish and Game Code is amended to read:

3200. Any person engaged in raising or importing, or who keeps in captivity, in this state domesticated game birds or domesticated game mammals which normally exist in the wild in this state shall procure a domesticated game breeder's license if the birds or mammals are kept more than 30 days after acquisition. No license is, however, required of any of the following:

(a) Licensed pheasant clubs, ~~except to the extent provided in Section 3283.~~

(b) Licensed domesticated migratory game bird shooting areas as defined in Article 4 (commencing with Section 3300) of Chapter 2 of Part 1 of Division 4.

(c) Keepers of hotels, restaurants, boardinghouses, or clubs serving the meat of those birds or mammals for actual consumption on the premises.

(d) Retail meat dealers selling ~~such that~~ meat to customers for actual consumption.

(e) Public zoological gardens possessing those birds or mammals for exhibition purposes or for the purpose of disposing of the birds or mammals by sale, exchange, or donation to other public zoological gardens.

Comment. Subdivision (a) of Section 3200 is amended to delete a cross-reference to a repealed code section.

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

Fish & Game Code § 3961 (amended). Seizure or dispatch generally

SEC. _____. Section 3961 of the Fish and Game Code is amended to read:

3961. (a) Whenever an employee of the department is not present to carry out the provisions of Section 3960 with respect to any dog inflicting injury or immediately threatening to inflict injury to any deer, elk, or prong-horned antelope during the closed season for these mammals, any property owner, lessee, person holding a permit for the purpose of grazing livestock, or ~~his or her~~ their employee, may seize or dispatch the dog if it is found on ~~his or her~~ their land or premises without the permission of the person who is in immediate possession of the land. If the dog has on it any readily visible identification tag or license tag as prescribed by Section 30951 of the Food and Agricultural Code, and the dog is found in the act of immediately threatening to injure deer, elk, or prong-horned antelope, the dog may only be dispatched under this section if the dog has, and the owner has been notified that the dog has, previously threatened any of these species.

1 (b) No action, civil or criminal, shall be maintained for a dog lawfully seized or
2 dispatched pursuant to this ~~article~~ section.

3 (c) The owner of a dog shall be notified within 72 hours of the seizure or
4 dispatching of that dog under this section if it had the identification tag or license
5 tag which is required pursuant to Section 30951 of the Food and Agricultural Code.

6 **Comment.** Section 3961 is amended to fix an incorrect cross-reference, add subdivision
7 designations, and make the section gender neutral.

8 **Fish & Game Code § 4180.1 (amended). Immature depredator mammal in den**

9 SEC. ____ . Section 4180.1 of the Fish and Game Code is amended to read:

10 4180.1. (a) It is unlawful to ~~use snares, hooks, or~~ do either of the following to an
11 immature depredator mammal while it is in its den:

12 (1) ~~Use a snare, hook, or~~ barbed wire to remove the mammal from the den, or .

13 (2) ~~Use fire to kill the mammal in the den, any immature depredator mammal.~~

14 (b) Nothing in this section shall prohibit the use of fire-ignited gas cartridges or
15 other products registered or permitted under the Federal Insecticide, Fungicide, and
16 Rodenticide, and Fungicide Act (7 U.S.C. ~~435~~ 136 et seq.).

17 **Comment.** Section 4180.1 is amended for clarity, and to correct and update an erroneous
18 reference.

19 The section is also amended to add subdivision and paragraph designations.

20 **Fish & Game Code § 4181.1 (amended). Protection of property**

21 SEC. ____ . Section 4181.1 of the Fish and Game Code is amended to read:

22 4181.1. (a) Any bear that is encountered while in the act of inflicting injury to,
23 molesting, or killing, livestock may be taken immediately by the owner of the
24 livestock or the owner's employee if the taking is reported no later than the next
25 working day to the department and the carcass is made available to the department.

26 (b) Notwithstanding Section 4652, any wild pig that is encountered while in the
27 act of inflicting injury to, molesting, pursuing, worrying, or killing livestock or
28 damaging or destroying, or threatening to immediately damage or destroy, land or
29 other property, including, but not limited to, rare, threatened, or endangered native
30 plants, wildlife, or aquatic species, may be taken immediately by the owner of the
31 livestock, land, or property or the owner's agent or employee, or by an agent or
32 employee of any federal, state, county, or city entity when acting in ~~his or her~~ their
33 official capacity. The person taking the wild pig shall report the taking no later than
34 the next working day to the department and shall make the carcass available to the
35 department. Unless otherwise directed by the department and notwithstanding
36 Section 4657, the person taking a wild pig pursuant to this subdivision, or to whom
37 the carcass of a wild pig taken pursuant to this subdivision is transferred pursuant
38 to subdivision (c), may possess the carcass of the wild pig. The person in possession
39 of the carcass shall make use of the carcass, which may include an arrangement for
40 the transfer of the carcass to another person or entity, such as a nonprofit
41 organization, without compensation. The person who arranges this transfer shall be
42 deemed to be in compliance with Section 4304. ~~A violation of this subdivision is~~

1 ~~punishable pursuant to Section 12000.~~ It is the intent of the Legislature that nothing
2 in this subdivision shall be interpreted to authorize a person to take wild pigs
3 pursuant to this subdivision in violation of a state statute or regulation or a local
4 zoning or other ordinance that is adopted pursuant to other provisions of law and
5 that restricts the discharge of firearms.

6 (c) The department shall make a record of each report made pursuant to
7 subdivision (a) or (b) and may have an employee of the department investigate the
8 taking or cause the taking to be investigated. The person taking a wild pig shall
9 provide information as deemed necessary by the department. Upon completion of
10 the investigation, the investigator may, upon a finding that the requirements of this
11 section have been met with respect to the particular bear or wild pig taken under
12 subdivision (a) or (b), issue a written statement to the person confirming that the
13 requirements of this section have been met. The person who took the wild pig may
14 transfer the carcass to another person without compensation.

15 (d) Notwithstanding Section 4763, any part of any bear lawfully possessed
16 pursuant to this section is subject to Section 4758.

17 (e) Nothing in this section prohibits federal, state, or county trappers from killing
18 or trapping bears when the bears are killing or molesting livestock, but no iron-
19 jawed or steel-jawed or any type of metal-jawed trap shall be used to take the bear,
20 and no person, including employees of the state, federal, or county government,
21 shall take bear with iron-jawed or steel-jawed or any type of metal-jawed traps.

22 **Comment.** Subdivision (b) of Section 4181.1 is amended to delete a superfluous sentence.

23 The section is also amended to make it gender neutral.

24 **Fish & Game Code § 4181.5 (amended). Permit to take deer**

25 SEC. ____ . Section 4181.5 of the Fish and Game Code is amended to read:

26 4181.5. (a) Any owner or tenant of land or property that is being damaged or
27 destroyed or is in immediate danger of being damaged or destroyed by deer may
28 apply to the department for a permit to kill those deer. The department, upon
29 satisfactory evidence of ~~that~~ actual or immediately threatened damage or
30 destruction, ~~actual or immediately threatened~~, shall, pursuant to regulations adopted
31 by the commission, issue a revocable permit for the taking and disposition of those
32 deer, for a designated period not to exceed 60 days ~~under regulations promulgated~~
33 ~~by the commission~~.

34 (b) The regulations of the commission shall include provisions concerning the
35 type of weapons to be used to kill the deer. The weapons shall be those as will ensure
36 humane killing, but the regulations of the commission shall provide for the use of a
37 sufficient variety of weapons to permit the designation of particular types to be used
38 in any particular locality commensurate with the need to protect persons and
39 property. Firearms using .22-caliber rimfire cartridges may be used only when
40 authorized by the director or ~~his~~ the director's designee. No pistols shall be used.

41 (c) The caliber and type of weapon to be used by each permittee shall be specified
42 in each permit by the issuing officer who shall take into consideration the location

