

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

Pre-Print
RECOMMENDATION

Note: This is a pre-print report. The Law Revision Commission has approved the substance of this report, but minor editorial changes may be made prior to final publication.

Fish and Game Law: Technical Revisions and Minor Substantive Improvements (Part 1)

February 2015

California Law Revision Commission
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NOTE

This report includes an explanatory Comment to each section of the recommended legislation. The Comments are written as if the legislation were already operative, since their primary purpose is to explain the law as it will exist to those who will have occasion to use it after it is operative. The Comments are legislative history and are entitled to substantial weight in construing the statutory provisions. For a discussion of cases addressing the use of Law Revision Commission materials in ascertaining legislative intent, see the Commission's most recent *Annual Report*.

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STATE OF CALIFORNIA

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February 11, 2015

To: The Honorable Edmund G. Brown, Jr.
Governor of California, and
The Legislature of California

The Law Revision Commission is preparing draft legislation to recodify the Fish and Game Code, in order to improve its organization and clarity, remove obsolete or redundant material, and correct technical errors. Because that work will involve the reorganization of the entire code, the recodification legislation will not be ready for presentation to the Legislature until the study is completed.

However, some beneficial changes can be made more quickly. As the larger study proceeds, the Law Revision Commission will make note of technical corrections and minor substantive improvements that can be made to the existing code, without waiting for completion of the entire study. Such improvements will be periodically compiled into recommendations for submission to the Legislature. This recommendation is the first such proposal.

This recommendation was prepared pursuant to Resolution Chapter 63 of the Statutes of 2014.

Respectfully submitted,

Victor King
Chairperson

FISH AND GAME LAW: TECHNICAL REVISIONS AND MINOR SUBSTANTIVE IMPROVEMENTS (PART 1)

BACKGROUND

In 2010, the Legislature directed the Natural Resources Agency to develop and submit a “strategic vision” for the Fish and Game Commission and what is now the Department of Fish and Wildlife.¹

Among other things, the Strategic Vision report recommended that the Law Revision Commission review and recommend “clean-up” of the Fish and Game Code, to “(1) resolve inconsistencies; (2) eliminate redundancies; (3) eliminate unused and outdated code sections; (4) consolidate sections creating parallel systems and processes; and (5) restructure codes to group similar statutes....”²

Based on a draft of the Strategic Vision report, Senator Fran Pavley and Assembly Member Jared Huffman (then Chairs of the Senate Natural Resources and Water Committee and the Assembly Water, Parks, and Wildlife Committee) requested that the Law Revision Commission conduct a comprehensive review of the Fish and Game Code, and recommend changes to the Legislature that would “update, clarify, and improve” the code.³

Authority to conduct such a study was enacted by concurrent resolution in 2012:

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

1. 2010 Cal. Stat. ch. 424 (AB 2376 (Huffman)).

2. *California Fish & Wildlife Strategic Vision, Recommendations for Enhancing the State’s Fish and Wildlife Management Agencies* (April 2012), p. A13 (Law Revision Commission Staff Memorandum 2012–41, Exhibit p. 45).

3. *California Fish & Wildlife Strategic Vision, Recommendations for Enhancing the State’s Fish and Wildlife Management Agencies* (April 2012), pp. 26-27 (Law Revision Commission Staff Memorandum 2012-5, Exhibit pp. 32-33).

....

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

Pursuant to that authority, the Law Revision Commission is analyzing the entire Fish and Game Code for the purpose of preparing recodification legislation that would improve the code's organization and clarity, remove obsolete or redundant material, and correct technical errors. Because that work will involve the reorganization of the entire code, the recodification legislation will not be ready for presentation to the Legislature until the study is completed.

However, some beneficial changes can be made more quickly. As the larger study proceeds, the Law Revision Commission will make note of technical corrections and minor substantive improvements that can be made to the existing code, without waiting for completion of the entire study. Such improvements will be periodically compiled into recommendations for submission to the Legislature. This recommendation is the first such proposal.

The revisions proposed in this recommendation are summarized below.

ANIMAL PARTS

The Fish and Game Code contains express definitions of the terms "bird,"⁵ "mammal,"⁶ and "fish" (which is defined to include amphibians).⁷ In each case, the defined term does not just include a

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

5. Fish & Game Code § 22.

6. Fish & Game Code § 54.

7. Fish & Game Code § 45.

whole animal of the specified type. It also expressly includes *parts* of those animals. This means that the numerous provisions regulating the defined classes of animals also apply to parts of those animals.

That treatment seems most relevant in provisions that regulate the possession or transfer of specified types of animals. In such provisions, the possession or transfer of a whole animal is treated in the same way as part of the animal. This makes policy sense. The regulation of possession or transfer of animals would be ineffective if it could be avoided simply by reducing an animal to parts.

There are three features of the existing code that undermine the general rule that statutory references to animals should be construed to also refer to parts of those animals. They are discussed below.

Superfluous References to “Parts”

Notwithstanding the definitions discussed above, there are a number of provisions of the code that expressly state their application to parts of an animal.⁸ For example, Section 4150 provides (with emphasis added):

All mammals occurring naturally in California which are not game mammals, fully protected mammals, or fur-bearing mammals, are nongame mammals. Nongame mammals *or parts thereof* may not be taken or possessed except as provided in this code or in accordance with regulations adopted by the commission.

8. A review of similar provisions discloses no apparent pattern suggesting when the additional “parts” reference is included in a provision, and when it is not. For example, compare Fish & Game Code § 2001(b) (possession of “fish, reptiles, or amphibians” unlawful, except during specified time period) with Fish & Game Code § 2002 (possession of “bird, mammal, fish, reptile, or amphibian, *or parts thereof*” unlawful, if unlawfully taken) (emphasis added); Fish & Game Code § 2348(a) (package in which birds, mammals, fish, reptiles, or amphibians, *or parts thereof*” transported must meet certain requirements) (emphasis added) with Fish & Game Code § 2349 (except as provided, no “bird, mammal, fish, reptile, or amphibian” may be shipped by parcel post).

That reference to parts of a nongame mammal is superfluous, because every reference to a mammal includes parts of that mammal, pursuant to the governing definition of “mammal.”

Such unnecessary references to “parts” could cause misunderstanding, by creating an inference that provisions that do not expressly refer to parts do not apply to parts.

Omission of Reptiles

There is no statutory definition of “reptile” in the code. Nor is there any other provision expressly stating that a reference to a “reptile” includes a part of a reptile.

That appears to be an inadvertent omission. The Law Revision Commission sees no policy reason to regulate parts of reptiles differently than parts of all other types of regulated animals.

Class-Based Definitions

The definitions discussed above define terms used in referring to broad classes of animals: birds, fish, and mammals. Strictly construed, those definitions do not apply to provisions that do not use the defined words. For example, while a quail is a bird, the statutory definition of the word “bird” does not govern the meaning of the word “quail.” This could create uncertainty as to whether a reference to a quail includes a part of the quail.

That technical interpretation seems at odds with the general policy embodied in the definitions of “bird,” “fish,” and “mammal.” It seems likely that the Legislature intended any reference to a type of bird, fish, or mammal to include a part of the referenced animal.

Recommendation

The Law Revision Commission recommends the enactment of a general rule of construction, providing that a reference to an animal includes a reference to parts of that animal.⁹ For the most part, individual provisions that contain language expressly stating

9. See proposed Fish & Game Code § 80; *cf.* Fish & Game Code § 2.

their application to parts of animals would be revised to delete the unnecessary language.¹⁰ Those revisions would address all of the problems described above, by providing a single clear and comprehensive rule and removing unnecessary language that could cause confusion.

REGULATION OF REPTILES AND AMPHIBIANS

Many provisions in the Fish and Game Code expressly apply to all vertebrates (fish, mammals, birds, amphibians, and reptiles).¹¹

Other provisions of the code apply only to fish, mammals, and birds. They do not apply to reptiles or amphibians.¹² There may be good policy reasons to exclude reptiles and amphibians from those provisions. The Law Revision Commission does not presume otherwise.

10. The Law Revision Commission does not recommend deletion of any statutory reference to an animal part where it appears the animal part is intended to be a distinct subject of regulation. See, e.g., Fish & Game Code §§ 2401 (requiring identification of transported animal parts), 7704(c) (regulating shark parts), 12005 (regulating bear parts). The Law Revision Commission also does not recommend deletion of any statutory reference to a “part thereof” that may include a part of a plant within that reference (e.g., Fish & Game Code §§ 2080, 6700, 10667, 12159), or deletion of a reference in a provision that identifies specific parts of animals (e.g., Fish & Game Code §§ 3087, 3212, 4034, 4304). In each of these instances, the reference may have independent substantive meaning that would not be adequately preserved by substituting the overarching general principle proposed in this recommendation.

In addition, the Commission does not recommend deletion of references to animal parts in selected provisions that form the basis for frequently used jury instructions in criminal prosecutions. See Fish & Game Code §§ 22, 45, 54, 2000, 2002, 7370, and 12012.

11. See, e.g., Fish & Game Code §§ 19, 62, 200, 308, 2000, 2014, 2353, 12162, 13001.

12. See, e.g., Fish & Game Code §§ 855, 1007, 1008, 1502, 1525, 3406, 3407, 4004, 5501, 12003.1.

However, there are also provisions that expressly apply to all vertebrates except either reptiles *or* amphibians.¹³ In most cases, these omissions appear to be inadvertent. In general, the Law Revision Commission sees no policy rationale for excluding reptiles or amphibians from a provision that otherwise applies to all vertebrates.

For example, Section 240(a)(1) allows the Fish and Game Commission to promulgate an emergency regulation “for the immediate conservation, preservation, or protection of birds, mammals, reptiles, or fish.” Similarly, Section 10502(d) allows the Fish and Game Commission to make regulations “for the protection of birds, mammals, fish, amphibia, and marine life within any refuge.” Those provisions omit amphibians and reptiles, respectively. There is no obvious reason why these broad protective provisions would exclude those types of animals.

The Law Revision Commission generally recommends that provisions that apply to all vertebrates, with the exception of either amphibians or reptiles, be revised to apply to all vertebrates.¹⁴

13. See Fish & Game Code §§ 29, 307, 312, 2005(c), 2015, 10502, 10503, 10510, 10513, 10514, 10653, 12300 (omitting reptiles); Fish & Game Code §§ 240(a)(1), 1000, 1003, 2000, 13220 (omitting amphibians).

14. The Law Revision Commission does not recommend adding a reference to amphibians or reptiles in a provision where there appears to be a logical basis for non-inclusion. See, e.g., Fish & Game Code § 96 (referencing “all wild mammals, birds, reptiles, fish, and plants that normally occur in or are associated with salt water”). It is the Law Revision Commission’s understanding that, in general, amphibians are not found in salt water.

DOCUMENT TRANSLATION

Fish and Game Code Section 7 provides:

Whenever any statement or report is required to be made,
it shall be made in the English language.

The Law Revision Commission recommends that the provision be revised to make clear that it does not prohibit the unofficial translation of statements and reports into other languages. Such translations would be in addition to the original English language document.

A similar statute in the Code of Civil Procedure requires written proceedings in a court of justice to be conducted in the English language, but expressly allows for the unofficial translation of certain court documents into other languages.¹⁵

TECHNICAL CORRECTIONS

The Law Revision Commission also recommends revisions to correct technical errors, including cross-reference errors, obsolete agency names, and grammatical errors. Other revisions are recommended to restate confusing language, to make its meaning clearer without changing its substance.

15. Code Civ. Proc. § 185.

PROPOSED LEGISLATION

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PROPOSED LEGISLATION

Fish & Game Code § 7 (amended). Use of English in statements and reports

SEC. ____ . Section 7 of the Fish and Game Code is amended to read:

7. Whenever ~~any~~ a statement or report is required to be made, it shall be made in the English language. Nothing in this section shall prohibit the department from providing an unofficial translation of a statement or report in a language other than English.

Comment. Section 7 is amended to make clear that the section does not preclude unofficial translations.

See also Code. Civ. Proc. § 185; Gov't Code §§ 7290-7299.8 (Dymally-Alatorre Bilingual Services Act).

Fish & Game Code § 22 (amended). “Bird”

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

22. “Bird” means ~~any~~ a wild bird or ~~any part thereof~~ of a wild bird.

Comment. Section 22 is amended to make nonsubstantive stylistic changes.

The reference to a “part” of an animal in this section is superfluous. See Section 80 (reference to animal generally includes part of animal). It is retained solely for clarity, and is not intended to affect the meaning of any other provision of this code that includes or omits a reference to a “part” of an animal.

Fish & Game Code § 27 (amended). “Chumming”

SEC. ____ . Section 27 of the Fish and Game Code is amended to read:

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

Comment. Section 27 is amended to delete a superfluous reference to a “part” of a fish. See Section 80 (reference to animal generally includes part of animal).

Fish & Game Code § 29 (amended). “Closed season”

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

29. “Closed season” means that period of time during which the taking of birds, mammals, fish, ~~or amphibia~~ amphibians, or reptiles is prohibited.

Comment. Section 29 is amended to add reptiles, and to make a nonsubstantive stylistic change.

Fish & Game Code § 45 (amended). “Fish”

SEC. ____. Section 45 of the Fish and Game Code is amended to read:

45. “Fish” means a wild fish, mollusks, crustaceans, invertebrates, or amphibians, including any mollusk, crustacean, invertebrate, amphibian, or part, spawn, or ova thereof ovum of any of those animals.

Comment. Section 45 is amended to make nonsubstantive stylistic changes.

The reference to a “part” of an animal in this section is superfluous. See Section 80 (reference to animal generally includes part of animal). It is retained solely for clarity, and is not intended to affect the meaning of any other provision of this code that includes or omits a reference to a “part” of an animal.

Fish & Game Code § 54 (amended). “Mammal”

SEC. ____. Section 54 of the Fish and Game Code is amended to read:

54. “Mammal” means ~~any~~ a wild or feral mammal, but not any a wild, feral, or undomesticated burro.

Comment. Section 54 is amended to make nonsubstantive stylistic changes.

The reference to a “part” of an animal in this section is superfluous. See Section 80 (reference to animal generally includes part of animal). It is retained solely for clarity, and is not intended to affect the meaning of any other provision of this code that includes or omits a reference to a “part” of an animal.

Fish & Game Code § 57 (amended). “Nonresident”

SEC. _____. Section 57 of the Fish and Game Code is amended to read:

57. “Nonresident” means ~~any~~ a person who ~~has not resided continuously in the State of California for six months immediately prior to the date of his application for a license or permit~~ is not a resident as defined in Section 70.

Comment. Section 57 is amended to reconcile the definition of the term “nonresident” with the definition of the term “resident” in Section 70.

Fish & Game Code § 80 (added). Animal parts

SEC. _____. Section 80 is added to the Fish and Game Code, to read:

80. Unless the provision or context otherwise requires, a provision of this code that applies to a whole animal also applies to a part of the animal.

Comment. Section 80 generalizes an existing rule of construction. See Sections 22 (“bird”), 45 (“fish”), and 54 (“mammal”).

Fish & Game Code § 89.5 (added). “Wildlife”

SEC. _____. Section 89.5 is added to Chapter 1 of Division 0.5 of the Fish and Game Code to read:

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

Comment. Section 89.5 continues a former portion of Section 711.2(a) that defined the term “wildlife.”

See also Section 2 (definitions in Chapter 1 govern the construction of all code provisions and all regulations adopted under the code, unless provision or context otherwise requires).

Fish & Game Code § 210 (amended). Distribution of regulations

SEC. _____. Section 210 of the Fish and Game Code is amended to read:

210. (a) The commission shall provide copies of the regulations added, amended, or repealed pursuant to ~~subdivision (e) of Section 206~~, subdivision (e) of Section 207, ~~and subdivision (d) of Section 208~~ to each county clerk, each district attorney, and each judge of the superior court in the state.

(b) The commission and the department may do anything that is deemed necessary and proper to publicize and distribute regulations so that persons likely to be affected will be informed of them. The failure of the commission to provide any notice of its regulations, other than by filing them in accordance with Section 215, shall not impair the validity of the regulations.

(c) The department or the license agent may give a copy of the current applicable published regulations to each person issued a license at the time the license is issued.

(d) Notwithstanding any other provision of law, the commission and the department may contract with private entities to print regulations and other regulatory and public information. Printing contracts authorized by this subdivision and for which no state funds are expended are not subject to Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code, except for Article 2 (commencing with Section 10295) of Chapter 2.

Comment. Section 210 is amended to correct obsolete cross-references. See 2006 Cal. Stat. ch. 667.

Fish & Game Code § 240 (amended). Emergency regulation or order of repeal

SEC. ____ . Section 240 of the Fish and Game Code is amended to read:

240. (a) Notwithstanding any other ~~provisions~~ provision of this code, the commission, when promulgating ~~regulations~~ a regulation pursuant to any authority otherwise vested in it by this code, may, after at least one hearing, adopt an emergency regulation or order of repeal pursuant to Section 11346.1 of the Government Code if it makes either of the following findings:

(1) That the adoption of a regulation or order of repeal of a regulation is necessary for the immediate conservation, preservation, or protection of birds, mammals, reptiles, amphibians, or fish, ~~including, but not limited to, any or their nests or eggs thereof.~~

(2) That the adoption of a regulation or order of repeal of a regulation is necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(b) Except as provided herein, ~~any~~ a regulation or order of repeal adopted pursuant to the provisions of this section shall be otherwise subject to review by the Office of Administrative Law conducted pursuant to Article 6 (commencing with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

Comment. Section 240 is amended to add amphibians, and to make nonsubstantive stylistic changes.

The reference to amphibians in this section is superfluous. See Section 45 (“fish” includes amphibians). It is added solely for clarity, and is not intended to affect the meaning of any other provision of this code that includes or omits a reference to amphibians.

Fish & Game Code § 300 (amended). Filing of regulations

SEC. ____ . Section 300 of the Fish and Game Code is amended to read:

300. ~~Any~~ A regulation ~~issued under any subsequent provisions of adopted pursuant to this code~~ shall be filed with the Secretary of State, as required by ~~Chapter 4~~ Chapter 3.5 (commencing with Section ~~11370~~ 11340), of Part 1, of Division 3, of Title 2, of the Government Code.

Comment. Section 300 is amended to correct an erroneous cross-reference, and to make nonsubstantive stylistic changes. This amendment is not intended to have any effect on the application of Fish and Game Code Section 215 or Government Code Section 11343.4.

Fish & Game Code § 301 (amended). Disposition of accidentally killed birds and mammals

SEC. ____ . Section 301 of the Fish and Game Code is amended to read:

301. The commission may ~~make such~~ adopt regulations as that it deems necessary for the disposition of birds or mammals ~~and parts thereof which~~ that are killed accidentally.

Comment. Section 301 is amended to delete a superfluous reference to animal parts. See Section 80 (reference to animal generally includes part of animal).

Section 301 is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 307 (amended). Reduced limits based on scarcity

SEC. ____ . Section 307 of the Fish and Game Code is amended to read:

307. (a) ~~Whenever after due investigation the commission shall find finds~~ that game fish, resident or migratory birds, game or fur-bearing mammals, ~~or amphibia~~ amphibians, or reptiles have decreased in numbers in ~~any areas, districts, or portions thereof an~~ area, district, or portion of an area or district to such an the extent that a scarcity exists, the commission may reduce the daily bag limit and the possession limit on ~~such those~~ those game fish, birds, mammals, ~~or amphibia as~~ amphibians, or reptiles that are in danger of depletion, for ~~such a~~ such a period of time ~~as may be specified that the commission may specify~~, or until ~~such time as~~ such time as new legislation ~~thereon enacted by the Legislature may become~~ addressing the scarcity becomes effective.

(b) ~~Any A~~ A regulation ~~issued under the provisions of adopted~~ pursuant to this section shall be filed with the Secretary of State, and ~~such that~~ that filing shall be deemed a legal notice thereof.

(c) ~~Such~~ The regulation shall be published twice in at least one newspaper of general circulation in ~~any every~~ every county affected by ~~such the~~ the order. The publications shall be separated by a period of not less than one week and not more than two weeks. ~~Such~~ The

regulation shall be posted in such public places in each county as the director may direct.

Comment. Section 307 is amended to add reptiles, add subdivision designations, and make nonsubstantive stylistic changes.

Fish & Game Code § 312 (amended). Survival training course

SEC. ____ . Section 312 of the Fish and Game Code is amended to read:

312. (a) The commission may issue a permit authorizing any member of the armed forces of the United States or any student or faculty member of an elementary or secondary school in the public school system actually assigned to, and participating in, an organized survival training course to take fish, ~~amphibia~~ amphibians, reptiles, birds, or mammals, except rare or endangered species, notwithstanding any other law or regulation, pursuant to the terms and conditions of ~~such that~~ such permit. A permit involving training by the armed forces of the United States shall be issued to the commanding officer of the unit having jurisdiction over the conduct of the survival training course. A permit involving training by an elementary or secondary school in the public school system shall be issued to the governing board or superintendent of the district having jurisdiction over ~~such that~~ such school and the conduct of the survival training course. A permit shall be applicable only to the area established for ~~such that~~ such survival training as designated by the commission in the permit and for the species and numbers designated in the permit.

(b) The commission may revise ~~any conditions~~ a condition of a permit if it finds ~~such~~ such revision is necessary to properly protect the fish, ~~amphibia~~ amphibians, reptiles, birds, or mammals in the area.

(c) The term of ~~such~~ such a permit issued pursuant to subdivision (a) shall be for not more than a calendar year.

(d) A report shall be submitted on the expiration of the permit period specified pursuant to subdivision (c), or as otherwise required by the commission, of all fish, ~~amphibia~~ amphibians, reptiles, birds, or mammals taken during the period covered by the report in each permit area. ~~No~~ A new permit ~~may~~ shall not be issued until ~~such the~~ such report has been submitted and ~~any~~ an existing

permit may be canceled if ~~such~~ a report is not submitted when required by the commission.

(e) ~~No~~ A person engaged in survival training taking ~~fish, amphibians, reptiles, birds, or mammals~~ a fish, amphibian, reptile, bird, or mammal pursuant to ~~such~~ a permit issued under this section ~~may~~ shall not use ~~any~~ a firearm, bow and arrow, steel trap, explosive, chemical, poison, drug, net, or fish tackle, except ~~that~~ hooks or, handlines or, and improvised poles and lines ~~for the taking of~~ may be used to take fish.

Comment. Section 312 is amended to add reptiles.

The section is also amended to add subdivision designations, and make nonsubstantive stylistic changes.

Fish & Game Code § 326 (amended). Required hearing

SEC. ____ . Section 326 of the Fish and Game Code is amended to read:

~~326. Prior to the making of such a regulation the commission at an open meeting shall publicly announce the contents of the proposed regulation and fix a time and place at which a hearing on the proposed order shall be held. The time shall be not less than 21 days from the day of the meeting and the place shall be the county seat of each of the counties affected. Before adopting a regulation pursuant to Section 325, the commission at an open meeting shall publicly announce the contents of the proposed regulation, and fix a time and place for a hearing on the proposed regulation in each county that would be affected by the regulation. The time for each hearing shall be at least 21 days after the announcement, and the place shall be the county seat of the affected county.~~

Comment. Section 326 is amended to improve its clarity without making any substantive change.

Fish & Game Code § 330 (amended). Cooperative hunting areas

SEC. ____ . Section 330 of the Fish and Game Code is amended to read:

330. Cooperative hunting areas, as described in ~~Sections 1570 to 1572~~ Section 1575, may be established in connection with any area opened to hunting under the ~~foregoing~~ provisions of this article.

Comment. Section 330 is amended to correct obsolete cross-references. See 2003 Cal. Stat. ch. 758; 2007 Cal. Stat. ch. 285.

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

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

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

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

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

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

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

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

(3) The officer is providing, or attempting to provide, law enforcement services for the purpose of assisting a member of the ~~Department of Fish and Game~~ department in response to misdemeanor or felony criminal activity, pursuant to the authority of a peace officer as provided in subdivision (e) of Section 830.2

of the Penal Code, or, in the event of an emergency ~~incidents~~ incident or other similar public safety ~~problems~~ problem, whether or not a member of the department is present at the scene of the event.

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

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

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

(b) Notwithstanding any other provision of law, ~~any~~ a person who is acting as a peace officer in this state in the manner described in this section shall be deemed to have met the requirements of Section 1031 of the Government Code and the selection and training standards of the Commission on Peace Officer Standards and Training, if the officer has completed the basic training required for peace officers in his or her state.

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

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

The section is also amended to make nonsubstantive stylistic changes.

**Fish & Game Code § 400 (amended). Assent to Public Law 415,
Seventy-Fifth Congress**

SEC. ____ . Section 400 of the Fish and Game Code is amended to read:

400. The State of California hereby assents to the provisions of the act of Congress entitled “An act to provide that the United States shall aid the states in wildlife-restoration projects, and for other purposes,” approved September 2, 1937 (Public Law 415, ~~Seventy fifth~~ 75th Congress), ~~and the~~. The department, with the approval of the commission, shall perform ~~such any~~ acts ~~as may be necessary to the conduct and establishment of~~ needed to conduct or establish cooperative wildlife-restoration projects, as defined in ~~such that~~ that act of Congress, in compliance with ~~such that~~ that act and rules and regulations ~~promulgated thereunder; adopted under that act,~~ and ~~no~~ funds accruing to the State of California from license fees paid by hunters shall not be diverted for ~~any other purpose a purpose other than the administration of the Department of Fish and Game~~ department and ~~for~~ the protection, propagation, preservation, and investigation of fish and ~~game~~ wildlife.

Comment. Section 400 is amended to correct an obsolete reference to the Department of Fish and Game. See Section 37 (“department” means Department of Fish and Wildlife).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 401 (amended). Assent to Public Law 681, Eighty-First Congress

SEC. ____ . Section 401 of the Fish and Game Code is amended to read:

401. The State of California hereby assents to the provisions of the act of Congress entitled “An act to provide that the United States shall aid the states in fish restoration and management projects, and for other purposes,” approved August 9, 1950 (Public Law 681, ~~Eighty first~~ 81st Congress), ~~and the~~. The department, with the approval of the commission, may perform ~~such any~~ acts ~~as may be necessary to the conduct and establishment of~~ needed to conduct or establish cooperative fish restoration projects, as defined in ~~said that~~ that act of Congress, in compliance with ~~said that~~ that act and rules and regulations ~~promulgated thereunder; adopted under that act,~~ and ~~no~~ funds accruing to the State of California from license fees paid by fishermen shall not be diverted for ~~any other purpose a purpose other than the administration of the~~ purpose other than the administration of the

~~Department of Fish and Game~~ department and for the protection, propagation, preservation, and investigation of fish and ~~game~~ wildlife.

Comment. Section 401 is amended to correct an obsolete reference to the Department of Fish and Game. See Section 37 (“department” means Department of Fish and Wildlife).

The section is also amended to make nonsubstantive stylistic changes.

Heading of Division 2 (commencing with Section 700) (amended).

Department of Fish and Wildlife

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

Division 2. Department of Fish and ~~Game~~ Wildlife

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

Fish & Game Code § 706 (amended). Incorporation of general law on state agencies

SEC. _____. Section 706 of the Fish and Game Code is amended to read:

706. The provisions of Chapter 2 (commencing at Section 11150); ~~of Part 1; of Division 3; of Title 2 of the Government Code shall govern and apply to the conduct of the department in every respect the same as if such provisions were herein set forth at length, and wherever. Whenever~~ in that chapter the term “head of the department” or similar designation occurs, for the purposes of this section it shall mean the director.

Comment. Section 706 is amended to make stylistic changes and improve its clarity, without making any substantive change.

Fish & Game Code § 711.2 (amended). Definitions

SEC. _____. Section 711.2 of the Fish and Game Code is amended to read:

711.2. (a) For purposes of this code, unless the context otherwise requires, ~~“wildlife” means and includes all wild animals, birds, plants, fish, amphibians, reptiles, and related ecological~~

~~communities, including the habitat upon which the wildlife depends for its continued viability and~~ “project” has the same meaning as defined in Section 21065 of the Public Resources Code.

(b) For purposes of this article, “person” includes any individual, firm, association, organization, partnership, business, trust, corporation, limited liability company, company, district, city, county, city and county, town, the state, and any of the agencies of those entities.

Comment. Subdivision (a) of Section 711.2 is amended to relocate the part of the subdivision defining the term “wildlife” to Section 89.5.

Fish & Game Code § 716.3 (amended). Definitions

SEC. _____. Section 716.3 of the Fish and Game Code is amended to read:

716.3. For purposes of this chapter, the following terms have the following meanings:

(a) “Board” means the board of compact administrators established pursuant to Section 716.8.

(b) “Citation” means any summons, complaint, ticket, penalty assessment, or other official document issued to a person by a wildlife officer or other peace officer for a wildlife violation pertaining to sport fishing, hunting, or trapping, which contains an order requiring the person to respond.

(c) “Collateral” means any cash or other security deposited to secure an appearance for trial in connection with the issuance by a wildlife officer or other peace officer of a citation for a wildlife violation.

(d) “Compact manual” is a manual used and adopted by the participating states that prescribes the procedures to be followed in administering the wildlife violator compact in participating states.

(e) “Compliance,” with respect to a citation, means the act of answering a citation through an appearance in a court or tribunal, or through the payment of fines, penalties, costs, and surcharges, if any.

(f) “Conviction” means a conviction, including, but not limited to, any court conviction for an offense related to sport fishing,

hunting, or trapping, that is prohibited by statute, ordinance, or administrative rule or regulation, that involves the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, the payment of a penalty assessment, a plea of nolo contendere, and the imposition of a deferred or suspended sentence by the court.

(g) “Court” means a court of law, including magistrate’s court and the justice of the peace court.

(h) “Home state” means the state of primary residence of a person.

(i) “Issuing state” means the participating state that issues a wildlife citation to the violator.

(j) “License” means any license, permit, entitlement to use, or other public document that conveys to the person to whom it is issued the privilege of sport fishing, hunting, or trapping, that is regulated by statute, ordinance, or administrative rule or regulation of a participating state.

(k) “Licensing authority,” with reference to this state, means the ~~Department of Fish and Game~~ department, which is the state agency authorized by law to issue or approve licenses or permits to sport fish, hunt, or trap.

(l) “Participating state” means any state that enacts legislation to become a member of the wildlife compact.

(m) “Personal recognizance” means an agreement by a person made at the time of issuance of the wildlife citation that the person will comply with the terms of the citation.

(n) “State” means any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Provinces of Canada, and other countries.

(o) “Suspension” means any revocation, denial, or withdrawal of any or all license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by any license for sport fishing, hunting, or trapping.

(p) “Terms of the citation” means those conditions and options expressly stated upon a citation.

(q) “Wildlife” means all species of animals including, but not limited to, mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as “wildlife” and are protected or otherwise regulated by statute, ordinance, or administrative rule or regulation in a participating state. The species included in the definition of “wildlife” vary from state to state and the determination of whether a species is “wildlife” for the purposes of this compact shall be based on the law of the participating state.

(r) “Wildlife law” means any statute, regulation, ordinance, or administrative rule or regulation developed and enacted for the management of wildlife resources and the uses thereof.

(s) “Wildlife officer” means any individual authorized in this state to issue a citation for a wildlife violation.

(t) “Wildlife violation” means the violation of a statute, ordinance, or administrative rule or regulation developed and enacted for the management of wildlife resources and the uses thereof pertaining to sport fishing, hunting, and trapping and for which a prosecution is initiated.

Comment. Subdivision (k) of Section 716.3 is amended to correct an obsolete reference to the Department of Fish and Game. See Section 37 (“department” means Department of Fish and Wildlife).

The reference to “justice of the peace courts” in subdivision (g) is retained, notwithstanding the elimination of such courts in California, based on the existence of such courts in other states that are members of the Interstate Violator Compact.

Fish & Game Code § 853 (amended). Employee deputized to check sport fishing licenses

SEC. ____ . Section 853 of the Fish and Game Code is amended to read:

853. (a) The director may deputize any employee of the department to check persons for licenses required under Section 7145 and to enforce any violation of that section.

(b) Before a person is deputized pursuant to this section for the first time, the person shall have satisfactorily completed a training course meeting the minimum standards of, and comparable to, the training for “level III reserve” as set forth in the regulations of the Commission on Peace Officer Standards and Training.

(c) ~~Any~~ A person who is deputized for ~~this~~ the limited purpose ~~pursuant to this section, stated in subdivision (a) may shall~~ not enforce any other provision of this code, ~~and is not~~. Being deputized under this section does not make a person a peace officer subject to Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

Comment. Section 853 is amended to add subdivision designations, make stylistic changes, and otherwise improve its clarity, without making any substantive change.

Fish & Game Code § 854 (amended). Minimum age of wildlife officer

SEC. ____ . Section 854 of the Fish and Game Code is amended to read:

854. Notwithstanding Section 18932 of the Government Code, the minimum age limit for appointment to the position of fish and game warden of the ~~Department of Fish and Game~~ department shall be 18 years. ~~Any~~ An examination for the position of warden 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 ~~any a~~ any a warden or ~~the health and safety of others~~ any other person.

Comment. Section 854 is amended to correct an obsolete reference to the Department of Fish and Game. See Section 37 (“department” means Department of Fish and Wildlife).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 857 (amended). Entry onto private land

SEC. ____ . Section 857 of the Fish and Game Code is amended to read:

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

(b)(1) Subdivision (a) does not apply to employees, agents, or licensees of the department in the event of an emergency. For purposes of this section, “emergency” means a sudden, unexpected occurrence, involving a clear and imminent danger demanding immediate action to prevent or mitigate loss of, or damage to, wildlife, wildlife resources, or wildlife habitat.

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

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

(e) This section is not intended to expand or constrain the authority, if any, of employees, agents, or licensees of the department to enter private land to conduct inspections pursuant to Section 7702 of this code or Section 8670.5, 8670.7, or 8670.10 of the Government Code.

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

Comment. Section 857 is amended to correct a grammatical error in subdivision (a), revise subdivision and paragraph designations, and make nonsubstantive stylistic changes.

Fish & Game Code § 1000 (amended). Expenditure of funds

SEC. ____ . Section 1000 of the Fish and Game Code is amended to read:

1000. The department shall expend ~~such~~ funds ~~as may be~~ necessary for biological research and field investigation and for the

collection and diffusion of ~~such~~ statistics and information ~~as shall~~ that pertain to the conservation, propagation, protection, and perpetuation of birds and ~~the~~ their nests and eggs ~~thereof~~, and of mammals, reptiles, amphibians, and fish.

Comment. Section 1000 is amended to add amphibians.

The section is also amended to make nonsubstantive stylistic changes.

The reference to amphibians in this section is superfluous. See Section 45 (“fish” includes amphibians). It is added solely for clarity, and is not intended to affect the meaning of any other provision of this code that includes or omits a reference to amphibians.

Fish & Game Code § 1003 (amended). Transportation pursuant to permit

SEC. ____ . Section 1003 of the Fish and Game Code is amended to read:

1003. Mammals, birds, and ~~the nest~~ their nests and eggs ~~thereof~~, fish and their eggs ~~thereof~~, reptiles, amphibians, mollusks, crustaceans, or any other form of plant or animal life taken under the provisions of ~~such~~ a scientific or propagation permit issued pursuant to Section 1002 may be shipped or transported anywhere within or without the state if prior written approval is obtained from the department and ~~each such~~ the shipment is accompanied by the name, address, and permit number of the person holding the scientific or propagation permit.

Comment. Section 1003 is amended to add amphibians.

The section is also amended to make nonsubstantive stylistic changes.

The reference to amphibians in this section is superfluous. See Section 45 (“fish” includes amphibians). It is added solely for clarity, and is not intended to affect the meaning of any other provision of this code that includes or omits a reference to amphibians.

The amendment of this section is not intended to affect the meaning of any other provision that governs scientific or propagation permits, or transportation of animals taken pursuant to such permits.

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

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

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

Comment. Section 1014 is amended to correct an obsolete reference to the Department of Fish and Game.

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 1053.5 (amended). Hunter education

SEC. _____. Section 1053.5 of the Fish and Game Code is amended to read:

1053.5. Applicants for hunting licenses ~~pursuant to subdivision (a) of Section 1053~~ shall first satisfactorily complete a hunter education equivalency examination and obtain a certificate of equivalency as provided by regulations adopted by the commission, or show proof of completion of a hunter education training course, or show a previous year's hunting license.

Comment. Section 1053.5 is amended to correct an erroneous cross-reference.

Fish & Game Code § 1055.3 (amended). Wildlife area passes and native species stamps

SEC. _____. Section 1055.3 of the Fish and Game Code is amended to read:

1055.3. The department may authorize any person, ~~except other than~~ than a commissioner or an officer or employee of the department, to issue, as an agent of the department, annual wildlife area passes and native species stamps, and to sell promotional materials and nature study aids pursuant to, and subject to the requirements of, this article. ~~Any An~~ An agent thus authorized may add a handling charge pursuant to ~~subdivision (b)~~ subdivisions (f), (g), and (h) of Section 1055 or subdivisions (d), (e), and (f) of Section 1055.1 to

the fee prescribed in Article 3 (commencing with Section 1760) of Chapter 7.5 of Division 2 for each annual wildlife area pass or native species stamp issued.

Comment. Section 1055.3 is amended to correct an erroneous cross-reference.

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 1058 (amended). Preferred claim

SEC. _____. Section 1058 of the Fish and Game Code is amended to read:

1058. In case of an assignment for the benefit of creditors, receivership, or bankruptcy, the state shall have a preferred claim against the license agent's assignee, receiver, or trustee for all moneys owing the state for the issuing of licenses, permits, reservations, tags, and other entitlements as provided in this code and shall not be estopped from asserting that claim by reason of the commingling of funds or otherwise.

Comment. Section 1058 is amended to add an inadvertently omitted word.

Fish & Game Code § 1061 (amended). License voucher

SEC. _____. Section 1061 of the Fish and Game Code is amended to read:

1061. (a) The department may allow a person to purchase a license voucher as a gift for a licensee when the licensee's complete and accurate personal information, as defined in regulation, is not provided by the license buyer at the time of purchase.

(b) A license purchase voucher entitles the holder of the voucher to redeem it for the specific license, permit, tag, or other privilege or entitlement, and license year for which it was purchased.

(c) A license purchase voucher shall expire and be considered void if not redeemed within the license year for which it was purchased.

(d) A license purchase voucher may be issued and redeemed by ~~any~~ a person authorized by the department to issue licenses.

(e) The license agent handling fee, as provided under ~~subdivision (b)~~ subdivisions (d), (e), and (f) of Section 1055.1, shall only apply to the sale of the license purchase voucher.

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

Comment. Section 1061 is amended to correct an erroneous cross-reference.

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

Fish & Game Code § 1227 (amended). Funding agreements

SEC. ____ . Section 1227 of the Fish and Game Code is amended to read:

1227. Notwithstanding any other ~~provision~~ of law, the department may enter into one or more agreements with ~~any~~ a person, nonprofit organization, or other public or private entity, as may be appropriate, to assist the department in its efforts to secure long-term private funding sources for purposes relating to conservation programs, projects, and activities by the department. The authority to enter into ~~agreements for the purposes of an agreement under~~ this section shall include, but not be limited to, ~~for the purposes of securing the authority to secure~~ donations, memberships, corporate and individual sponsorships, and marketing and licensing agreements.

Comment. Section 1227 is amended to improve its clarity without making any substantive change.

Fish & Game Code § 1348.3 (amended). Condemnation

SEC. ____ . Section 1348.3 of the Fish and Game Code is amended to read:

1348.3. (a) No governmental entity may condemn any wildlife conservation easement acquired by a state agency, except as provided in subdivision (b). As used in this section, the following terms have the following meanings:

(1) “Public use” as used in Article 6 (commencing with Section 1240.510) and Article 7 (commencing with Section 1240.610) of

Chapter 3 of Title 7 of Part 3 of the Code of Civil Procedure means privately owned lands managed for habitat in public trust.

(2) “Wildlife” has the same meaning as set forth in Section ~~711.2~~ 89.5.

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

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

Comment. Paragraph (2) of subdivision (a) of Section 1348.3 is amended to update a cross-reference.

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

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

1505. ~~(a) In addition to any other powers vested in the department, it~~ The department may manage, control, and protect

~~such~~ the portions of the following spawning areas ~~which~~ that occupy state-owned lands, to the extent necessary to protect fishlife in these areas. :

~~In the event of any conflict under this section with the action of another department or agency of the state or any other public agency, the action of the Department of Fish and Game taken pursuant to this section shall prevail except for: (a) action of the state or regional water quality control boards in establishing waste discharge requirements, (b) action as required for commerce and navigation, (c) action by public agencies reasonably necessary for bridge crossings, water conservation or utilization, or flood protection projects, including the construction, maintenance, and operation thereof. The exceptions in subdivision (c) shall not extend to the depositing of materials, other than necessary structural materials, in, or the removing of materials from the streambeds in the areas designated in this section, other than as necessary for the installation of structures. These areas are:~~

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

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

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

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

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

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

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

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

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

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

(11) The South Fork Eel River.

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

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

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

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

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

(17) The Van Duzen River, from Yager Creek to the falls 1½ miles above Bloody Run Creek.

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

(19) The Middle Fork Eel River.

(20) The Mattole River.

(21) The Noyo River.

(22) The Big River, Mendocino County.

(23) The Gualala River.

(24) The Garcia River, Mendocino County.

(b) In the event of a conflict between an action of the department pursuant to this section and the action of another department or agency of the state or another public agency, the action of the Department of Fish and Wildlife taken pursuant to this section shall prevail, except in the event of conflict with the following actions:

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

(2) An action required for commerce and navigation.

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

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

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

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

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

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

1930. The Legislature finds and declares that:

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

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

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

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

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

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

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

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

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

Fish & Game Code § 1932 (amended). Program administration

SEC. _____. Section 1932 of the Fish and Game Code is amended to read:

1932. There is hereby established the Significant Natural Areas Program which shall be administered by the department. The department, in administering this program, shall do all of the following:

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

(b) Develop and maintain a spatial data system that identifies those areas in the state that are most essential for maintaining habitat connectivity, including wildlife corridors and habitat linkages. This data should include information essential for evaluating the needs of wildlife species, as defined in Section ~~741.2~~ 89.5, that require habitat connectivity for their long-term conservation, including distribution and movement patterns.

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

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

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

(f) Ensure recognition of the state’s most significant natural areas, including those affected by climate change. The department shall, after consultation with federal, state, and local agencies,

education institutions, civic and public interest organizations, private organizations, landowners, and other private individuals, identify by means of periodic reports those natural areas deemed to be most significant.

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

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

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

Comment. Subdivision (b) of Section 1932 is amended to update a cross-reference.

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

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

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

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

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

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

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

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

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

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

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

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

The section is also amended to correct a grammatical error.

Fish & Game Code § 2000 (amended). Unauthorized take

SEC. _____. Section 2000 of the Fish and Game Code is amended to read:

2000. (a) It is unlawful to take ~~any~~ a bird, mammal, fish, reptile, or amphibian except as provided in this code or ~~regulations made pursuant thereto~~ in a regulation adopted pursuant to this code.

(b) Possession of a bird, mammal, fish, ~~or~~ reptile, amphibian, or parts thereof part of any of those animals, in or on the fields, forests, or waters of this state, or while returning therefrom with fishing or hunting equipment, is prima facie evidence the possessor

took the bird, mammal, fish, ~~or~~ reptile, amphibian, or ~~parts thereof~~ part of that animal.

Comment. Subdivision (b) of Section 2000 is amended to add amphibians.

Section 2000 is also amended to add subdivision designations and make nonsubstantive stylistic changes.

The references to a “part” of an animal in this section are superfluous. See Section 80 (reference to animal generally includes part of animal). They are retained solely for clarity, and are not intended to affect the meaning of any other provision of this code that includes or omits a reference to a “part” of an animal.

The reference to amphibians in this section is superfluous. See Section 45 (“fish” includes amphibians). It is added solely for clarity, and is not intended to affect the meaning of any other provision of this code that includes or omits a reference to amphibians.

Fish & Game Code § 2001 (amended). Season and possession limits

SEC. _____. Section 2001 of the Fish and Game Code is amended to read:

2001. (a) It is unlawful to take ~~mammals, birds, fish, reptiles, and amphibians~~ a mammal, bird, fish, reptile, or amphibian outside of an established ~~seasons~~ season or to exceed ~~any~~ a bag limit or possession limit established in this code or by ~~regulations~~ a regulation adopted by the commission. Violation of ~~any~~ an established season, bag limit, or possession limit may be charged as a violation of this section or of the specific code section or regulation that establishes the season or limit.

(b) ~~Unless otherwise provided, it is unlawful to possess fish, reptiles, or amphibians except during the open season where taken and for 10 days thereafter; and not more than the possession limit thereof may be possessed during the period after the close of the open season.~~ Unless otherwise provided, it is unlawful to possess a fish, reptile, or amphibian, except during the open season where the fish, reptile, or amphibian was taken or during the 10-day period immediately following that open season. A possession limit applicable during the open season applies during that 10-day period.

(c) Except as provided in Section 3080, it is unlawful to possess ~~game birds~~ a game bird or ~~mammals~~ mammal except during the open season where taken.

Comment. Section 2001 is amended to improve its clarity and make stylistic changes, without making any substantive change.

Fish & Game Code § 2002 (amended). Unlawful possession

SEC. ____ . Section 2002 of the Fish and Game Code is amended to read:

2002. It is unlawful to possess ~~any a~~ a bird, mammal, fish, reptile, ~~or~~ amphibian, or ~~parts thereof~~ part of any of those animals, taken in violation of ~~any of the provisions of this code, or of any or~~ regulation made under it adopted pursuant to this code.

Comment. Section 2002 is amended to make nonsubstantive stylistic changes.

The reference to a “part” of an animal in this section is superfluous. See Section 80 (reference to animal generally includes part of animal). It is retained solely for clarity, and is not intended to affect the meaning of any other provision of this code that includes or omits a reference to a “part” of an animal.

Fish & Game Code § 2003 (amended). Reward for taking

SEC. ____ . Section 2003 of the Fish and Game Code is amended to read:

2003. (a) Except as specified in subdivisions (b), (c), and (d), it is unlawful to offer ~~any a~~ a prize or other inducement as a reward for the taking of ~~any a game birds, mammals, fish, reptiles, or amphibians~~ bird, mammal, fish, reptile, or amphibian in an individual contest, tournament, or derby.

(b) The department may issue a permit to ~~any a~~ a person authorizing that person to offer a prize or other inducement as a reward for the taking of ~~any a~~ a game fish, as defined by the commission by regulation, if it finds that there would be no detriment to the resource. The permit is subject to regulations adopted by the commission. The application for the permit shall be accompanied by a fee in the amount determined by the department

as necessary to cover the reasonable administrative costs incurred by the department in issuing the permit. However, the department may waive the permit fee if the contest, tournament, or derby is for persons who are under the age of 16 years, of age or who are physically or mentally challenged, have a physical or mental disability, and the primary purpose of the contest, tournament, or derby is to introduce ~~young those~~ anglers to, or educate them about fishing. All permits for which the fee is waived pursuant to this subdivision shall comply with all other requirements set forth in this section.

(c) This section does not apply to ~~any~~ a person conducting what ~~are~~ is generally known as ~~a frog-jumping contests~~ contest, or, in waters of the Pacific Ocean, what is generally known as a fish contests ~~contest conducted in waters of the Pacific Ocean~~.

(d) This section does not apply to ~~any~~ a person conducting an individual contest, tournament, or derby for the taking of a game birds and mammals bird or mammal, if the total value of all prizes or other inducements is less than five hundred dollars (\$500) for the individual contest, tournament, or derby.

Comment. Section 2003 is amended to improve its clarity and make stylistic changes, without making any substantive change. In subdivision (b), the word “disability” is not used in any defined sense.

Fish & Game Code § 2005 (amended). Lights

SEC. _____. Section 2005 of the Fish and Game Code is amended to read:

2005. (a) Except as otherwise authorized by this section, it is unlawful to use an artificial light to assist in the taking of a game birds bird, game mammals mammal, or game fish, ~~except that this section shall not apply to sport fishing in ocean waters or other waters where night fishing is permitted if the lights are not used on or as part of the fishing tackle, commercial fishing, nor to the taking of mammals, the taking of which is governed by Article 2 (commencing with Section 4180) of Chapter 3 of Part 3 of Division 4.~~

(b) It is unlawful for ~~any person, or~~ one or more persons, to throw or cast the rays of ~~any~~ a spotlight, headlight, or other

artificial light on ~~any~~ a highway or in ~~any~~ a field, woodland, or forest where game mammals, fur-bearing mammals, or nongame mammals are commonly found, or upon ~~any~~ a game mammal, fur-bearing mammal, or nongame mammal, while having in his or her possession or under his or her control ~~any~~ a firearm or weapon with which that mammal could be killed, even though the mammal is not killed, injured, shot at, or otherwise pursued.

~~(c) It is unlawful to use or possess at any time any infrared or similar light used in connection with an electronic viewing device or any night vision equipment, optical devices, including, but not limited to, binoculars or scopes, that use light amplifying circuits that are electrical or battery powered, to assist in the taking of birds, mammals, amphibians, or fish.~~

(c) It is unlawful to use or possess night vision equipment to assist in the taking of a bird, mammal, amphibian, reptile, or fish. For purposes of this subdivision, "night vision equipment" includes, but is not limited to, the following:

(1) An infrared or similar light, used in connection with an electronic viewing device.

(2) An optical device, including, but not limited to, binoculars or a scope, that uses electrical or battery powered light amplifying circuits.

~~(d) The provisions of this section do not apply to any of the following:~~

~~(1) The use of a hand held flashlight no larger, nor emitting more light, than a two cell, three volt flashlight, provided that light is not affixed in any way to a weapon, or to the use of a lamp or lantern that does not cast a directional beam of light.~~

~~(2) Headlights of a motor vehicle operated in a usual manner where there is no attempt or intent to locate a game mammal, fur-bearing mammal, or nongame mammal.~~

~~(3) To the owner, or his or her employee, of land devoted to the agricultural industry while on that land, or land controlled by such an owner and in connection with the agricultural industry.~~

~~(4) To those other uses as the commission may authorize by regulation.~~

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

(1) Sport fishing in ocean waters, or other waters where night fishing is permitted, if an artificial light is not used on or as part of the fishing tackle.

(2) Commercial fishing.

(3) The taking of mammals governed by Article 2 (commencing with Section 4180) of Chapter 3 of Part 3 of Division 4.

(4) The use of a hand-held flashlight that is no larger and emits no more light than a two-cell, three-volt flashlight, and is not affixed to a weapon.

(5) The use of a lamp or lantern that does not cast a directional beam of light.

(6) Headlights of a motor vehicle that are operated in a usual manner and without attempt or intent to locate a game mammal, fur-bearing mammal, or nongame mammal.

(7) An owner of land devoted to the agricultural industry, or the owner's employee, while on that land.

(8) An owner of land devoted to the agricultural industry, or the owner's employee, while on land controlled by the owner in connection with the agricultural industry.

(9) Other uses as the commission may authorize by regulation.

(e) A person shall not be arrested for violation of this section except by a peace officer.

Comment. Subdivision (c) of Section 2005 is amended to add reptiles.

Section 2005 is further amended to improve its clarity and make stylistic changes, without making any substantive change.

Fish & Game Code § 2010 (amended). Prohibited shotguns

SEC. ____ . Section 2010 of the Fish and Game Code is amended to read:

2010. (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 any a mammal or bird. ~~However, the commission may, after public hearing, adopt regulations relative to the ammunition capacity of shotguns for taking mammals or birds that are further restrictive or that it determines may be needed to conform to federal law.~~

~~Shotguns that have~~ (b) A shotgun that has been modified with the insertion of a plug ~~are~~ 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 2010 is amended to add subdivision designations and improve its clarity, without making any substantive change.

Fish & Game Code § 2013 (amended). Possession of animals taken out of state

SEC. ____ . Section 2013 of the Fish and Game Code is amended to read:

2013. Unless otherwise provided, the provisions of this code relating to the possession of birds, mammals, fish, reptiles, ~~amphibia, or parts thereof~~ or amphibians apply to birds, mammals, fish, reptiles, ~~amphibia, or parts thereof~~ or amphibians taken either in or outside of this state.

Comment. Section 2013 is amended to delete superfluous references to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 2015 (amended). Possession in restaurant

SEC. ____ . Section 2015 of the Fish and Game Code is amended to read:

2015. ~~It~~ (a) Except as otherwise provided in this section, it is unlawful to possess ~~any~~ a bird, mammal, fish, ~~or~~ amphibian, or reptile, ~~which that~~ that may not be legally sold, in ~~any~~ a restaurant or other eating establishment ~~unless the possession is by the person who lawfully took or otherwise legally possessed the bird, mammal, fish, or amphibian or is by a person preparing the bird, mammal, fish or amphibian for consumption by the person who~~

~~lawfully took or possessed it, or such person and others, and the person who took or possessed it is present on the premises.~~

~~This section does not apply to birds, mammals, fish or amphibia in a restaurant or other eating establishment which are tagged with a signed statement of the name and address of the person who took them, the date taken, and the total number and kind of birds, mammals, fish or amphibia.~~

(b) This section does not apply to any of the following:

(1) A person who lawfully took or otherwise legally possessed the bird, mammal, fish, amphibian, or reptile.

(2) A person preparing the bird, mammal, fish, amphibian, or reptile for consumption by the person who lawfully took or possessed it, or by that person and others, if the person who took or possessed it is present on the premises.

(3) A bird, mammal, fish, amphibian, or reptile tagged with a signed statement of the person who took the bird, mammal, fish, amphibian, or reptile, stating that person's name and address, the date taken, and the total number and kind taken.

Comment. Section 2015 is amended to add reptiles.

The section is also amended to add subdivision and paragraph designations and otherwise improve its clarity, without making any substantive change.

Fish & Game Code § 2016 (amended). Unlawful entry onto land

SEC. ____ . Section 2016 of the Fish and Game Code is amended to read:

~~2016. It is unlawful to enter any lands under cultivation or enclosed by a fence, belonging to, or occupied by, another, or to enter any uncultivated or unenclosed lands, including lands temporarily inundated by waters flowing outside the established banks of a river, stream, slough, or other waterway, where signs forbidding trespass or hunting, or both, are displayed at intervals not less than three to the mile along all exterior boundaries and at all roads and trails entering those lands, for the purpose of discharging any firearm or taking or destroying any mammal or bird, including any waterfowl, on those lands without having first obtained written permission from the owner, or his or her agent, or~~

~~the person in lawful possession of, those lands. Signs may be of any size and wording that will fairly advise persons about to enter the land that the use of the land is so restricted.~~

It is unlawful to enter land for the purpose of discharging a firearm or taking or destroying a mammal or bird, including waterfowl, on that land, without having first obtained written permission from the owner, the owner's agent, or the person in lawful possession of that land, if either of the following is true:

(a) The land belongs to or is occupied by another person and is either under cultivation or enclosed by a fence.

(b) There are signs of any size and wording forbidding trespass or hunting or both displayed along all exterior boundaries of the land, at intervals not less than three to the mile, and at all roads and trails entering the land, including land temporarily inundated by water flowing outside the established banks of a river, stream, slough, or other waterway, which fairly advise a person about to enter the land that the use of the land is so restricted.

Comment. Section 2016 is amended to add subdivision designations and otherwise improve its clarity, without making any substantive change.

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

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

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

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

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

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

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

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

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

(1) The department has implemented the mitigation action and determined that the action has resulted in the protection, restoration, or enhancement of the habitat of one or more species

that are proposed to be covered by the Desert Renewable Energy Conservation Plan, and that are located in the planning area, and, based upon that determination, can be used, for purposes of paragraph (2) of subdivision (b) of Section 2081, to fully mitigate for the impacts of the take of those species from one or more projects that meet the requirement of subdivision (b).

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

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

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

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

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

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

(B) A cost estimate for each action, whether on public or private land, using total cost accounting, including, as applicable, land

acquisition costs, conservation easement costs, monitoring costs, transaction costs, restoration costs, the amount of a perpetual endowment account for land management or easement stewardship costs by the department or other management entity, and administrative costs.

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

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

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

(2) With respect to the Energy Commission, in the case of an applicant seeking certification for a solar thermal or geothermal powerplant pursuant to Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code, or a lead agency, as defined in Section 21067 of the Public Resources Code, in the case of an applicant seeking approval of a renewable energy powerplant not subject to the Energy Commission's jurisdiction, the sole effect of a mitigation action described in subdivision (c), and paid for through the deposit of fees as described in Section 2099, is to relieve an applicant of the obligation to directly take actions that are taken instead by the department or its contractor or designee pursuant to subdivision (b) to meet the applicant's

obligations with respect to mitigating the powerplant's impacts to species and habitat. The mitigation action and deposit of fees shall not relieve the applicant of any other obligation, or the Energy Commission or the lead agency of any of its existing requirements of Division 13 (commencing with Section 21000) of, or the requirements of Chapter 6 (commencing with Section 25500) of Division 15 of, the Public Resources Code to analyze, avoid, minimize, or mitigate impacts to species and habitat, or make the findings required by those statutes.

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

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

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

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

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

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

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

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 2348 (amended). Packaging of transported animals

SEC. ____ . Section 2348 of the Fish and Game Code is amended to read:

2348. (a) ~~Any package in which birds, mammals, fish, reptiles, or amphibians, or parts thereof, are offered for transportation to, or~~

~~are transported or received for transportation by, a common carrier or his or her agent shall bear the name and address of the shipper and of the consignee and an accurate description of the numbers and kinds of birds, mammals, fish, reptiles, or amphibians contained therein clearly and conspicuously marked on the outside thereof.~~

The outside of a package offered to or received by a common carrier or the carrier's agent for transportation, or transported by a common carrier or agent, that contains a bird, mammal, fish, reptile, or amphibian, shall clearly and conspicuously indicate the following:

- (1) The name and address of the shipper.
- (2) The name and address of the consignee.
- (3) The number and kind of bird, mammal, fish, reptile, and amphibian contained in the package.

(b) Licensed commercial fishermen and licensed commercial fish dealers are subject to all of the provisions of this section, except that commercial shipments of fish may be indicated by total net weight of each species instead of by numbers.

Comment. Section 2348 is amended to delete a superfluous reference to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to add paragraph designations and otherwise improve its clarity, without making any substantive change.

Fish & Game Code § 2350 (amended). Export of deer or game bird

SEC. ____ . Section 2350 of the Fish and Game Code is amended to read:

2350. It is unlawful to transport or carry a deer or game bird out of this State ~~state any deer or game bird, or parts thereof~~, except by the holder of a nonresident hunting license or under a written permit issued by the department.

Comment. Section 2350 is amended to delete a superfluous reference to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 2363 (amended). Import of striped bass, sturgeon, or shad

SEC. _____. Section 2363 of the Fish and Game Code is amended to read:

2363. Striped bass, sturgeon, or shad ~~or parts thereof~~ legally taken in another state, ~~which that~~ that permits the sale of that fish, may be imported into ~~the~~ this state under regulations of the commission. Before the commission adopts any regulation pursuant to this section, a public hearing shall be held in the San Francisco or Sacramento area.

Comment. Section 2363 is amended to delete a superfluous reference to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 2400 (amended). Transportation of dead birds and mammals

SEC. _____. Section 2400 of the Fish and Game Code is amended to read:

2400. (a) ~~Common carriers~~ A common carrier may transport at ~~any time~~ the carcasses ~~or parts thereof~~ carcass of a dead domesticated game ~~birds and mammals~~ bird or mammal tagged with a domesticated game breeder's tag as provided in Article 1 (commencing with Section 3200), of Chapter 2, of Part 1, of Division 4.

~~In addition, a~~ (b) A tag or label shall be affixed to every package containing such carcass or part, which shall a carcass transported pursuant to subdivision (a), which shall state all of the following:

~~(a) (1) Give the~~ The names of the person to whom the game breeder's license was issued, of the person by whom such game was killed the person who killed the game bird or mammal, of the person to whom such game the game bird or mammal is consigned, and of the person by whom such game was tagged who tagged the game bird or mammal.

~~(b) Give the~~ (2) The number of carcasses or portions thereof contained in the package.

~~(e) State that~~ (3) That the game birds or mammals were killed and tagged in accordance with the provisions of Article 1 (commencing with Section 3200), of Chapter 2, of Part 1, of Division 4.

Comment. Section 2400 is amended to delete superfluous references to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to revise subdivision designations, and make nonsubstantive stylistic changes.

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

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

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

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

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

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

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

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

The section is also amended to correct a spelling error, and make nonsubstantive stylistic changes.

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

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

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

(b) Due to the limited duration of the program authorized by this chapter, in the event some services cannot be provided by contract, any personnel directly hired by the Wildlife Conservation Board

for the administration of this chapter shall be hired, to the extent permitted by Article 2 (commencing with Section 19080) of Chapter 6 5 of Part 2 of Division 5 of Title 2 of the Government Code, as limited-term appointments.

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

The section is also amended to correct a cross-reference.

Fish & Game Code § 2805 (amended). Definitions

SEC. _____. Section 2805 of the Fish and Game Code is amended to read:

2805. The definitions in this section govern the construction of this chapter:

(a) “Adaptive management” means to use the results of new information gathered through the monitoring program of the plan and from other sources to adjust management strategies and practices to assist in providing for the conservation of covered species.

(b) “Candidate species” has the same meaning as defined in Section 2068.

(c) “Changed circumstances” are reasonably foreseeable circumstances that could affect a covered species or geographic area covered by the plan.

(d) “Conserve,” “conserving,” and “conservation” mean to use, and the use of, methods and procedures within the plan area that are necessary to bring any covered species to the point at which the measures provided pursuant to Chapter 1.5 (commencing with Section 2050) are not necessary, and for covered species that are not listed pursuant to Chapter 1.5 (commencing with Section 2050), to maintain or enhance the condition of a species so that listing pursuant to Chapter 1.5 (commencing with Section 2050) will not become necessary.

(e) “Covered species” means those species, both listed pursuant to Chapter 1.5 (commencing with Section 2050) and nonlisted, conserved and managed under an approved natural community conservation plan and that may be authorized for take.

Notwithstanding Sections 3511, 4700, 5050, or 5515, fully protected species may be covered species pursuant to this subdivision, and taking of fully protected species may be authorized pursuant to Section 2835 for any fully protected species conserved and managed as a covered species under an approved natural community conservation plan.

(f) “Department assurance” means the department’s commitment pursuant to subdivision (f) of Section 2820.

(g) “Monitoring program” means a program within an approved natural community conservation plan that provides periodic evaluations of monitoring results to assess the adequacy of the mitigation and conservation strategies or activities and to provide information to direct the adaptive management program. The monitoring program shall, to the extent practicable, also be used to meet the monitoring requirements of Section 21081.6 of the Public Resources Code. A monitoring program includes all of the following:

(1) Surveys to determine the status of biological resources addressed by the plan, including covered species.

(2) Periodic accountings and assessment of authorized take.

(3) Progress reports on all of the following matters:

(A) Establishment of habitat reserves or other measures that provide equivalent conservation of covered species and providing funding where applicable.

(B) Compliance with the plan and the implementation agreement by the wildlife agencies, local governments, and landowners who have responsibilities under the plan.

(C) Measurements to determine if mitigation and conservation measures are being implemented roughly proportional in time and extent to the impact on habitat or covered species authorized under the plan.

(D) Evaluation of the effectiveness of the plan in meeting the conservation objectives of the plan.

(E) Maps of land use changes in the plan area that may affect habitat values or covered species.

(4) A schedule for conducting monitoring activities.

(h) “Natural community conservation plan” or “plan” means the plan prepared pursuant to a planning agreement entered into in accordance with Section 2810. The plan shall identify and provide for those measures necessary to conserve and manage natural biological diversity within the plan area while allowing compatible and appropriate economic development, growth, and other human uses.

(i) “Person” has the same meaning as defined in Section 711.2.

(j)(1) “Plan participant,” prior to approval of a natural community conservation plan and execution of an implementation agreement, means a signatory to the planning agreement.

(2) Upon approval of a natural community conservation plan and execution of an implementation agreement, “plan participant” means the permittees and any local agency that is a signatory to the implementing agreement.

(k) “Unforeseen circumstances” means changes affecting one or more species, habitat, natural community, or the geographic area covered by a conservation plan that could not reasonably have been anticipated at the time of plan development, and that result in a substantial adverse change in the status of one or more covered species.

(l) “Wildlife” has the same meaning as defined in Section ~~711.2~~ 89.5.

(m) “Wildlife agencies” means the department and one or both of the following:

- (1) United States Fish and Wildlife Service.
- (2) National Marine Fisheries Service.

Comment. Subdivision (l) of Section 2805 is amended to update a cross-reference.

Fish & Game Code § 3003 (amended). Remote use of computer or other device

SEC. ____ . Section 3003 of the Fish and Game Code is amended to read:

3003. (a) It is unlawful for ~~any~~ a person to shoot, shoot at, or kill ~~any~~ a bird or mammal with ~~any~~ a gun or other device accessed via an Internet connection in this state.

(b) It is ~~further~~ unlawful for ~~any~~ a person, firm, corporation, partnership, limited liability company, association, or other business entity to do either of the following:

(1) Own or operate a shooting range, site, or gallery located in the state for ~~purposes of the~~ the purpose of online shooting or spearing of ~~any~~ a bird or mammal.

(2) Create, maintain, or utilize an Internet Web site, ~~or a~~ or other service or business ~~via any other means, from any location within the state~~ in this state, for ~~purposes of the~~ the purpose of online shooting or spearing of ~~any~~ a bird or mammal ~~for the purposes of this section.~~

(c) It is unlawful to possess or confine ~~any~~ a bird or mammal in furtherance of an activity prohibited by this section.

(d) It is unlawful for ~~any~~ a person in this state to import into, or export from, this state ~~any~~ a bird or mammal, ~~or any part thereof~~, that is killed by ~~any~~ a device accessed via an Internet connection.

(e) ~~Any~~ A bird or mammal, ~~or any part thereof~~, that is possessed in violation of this section shall be subject to seizure by the department.

(f) For the purposes of this section, “online shooting or spearing” means the use of a computer or ~~any~~ other device, equipment, software, or technology, to remotely control the aiming and discharge of ~~any~~ a weapon, including, but not limited to, ~~any~~ a firearm, bow and arrow, spear, slingshot, harpoon, or ~~any~~ other projectile device.

Comment. Section 3003 is amended to delete superfluous references to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 3004 (amended). Use of weapon near occupied building or public way

SEC. ____ . Section 3004 of the Fish and Game Code is amended to read:

3004. (a) It is unlawful for ~~any~~ a person, other than the owner, person in possession of the premises, or a person having the

express permission of the owner or person in possession of the premises, ~~to hunt or to discharge while hunting, any firearm or other deadly weapon within 150 yards of any occupied dwelling house, residence, or other building or any barn or other outbuilding used in connection therewith~~ while within 150 yards of an occupied dwelling house, residence, or other building, or within 150 yards of a barn or other outbuilding used in connection with an occupied dwelling house, residence, or other building, to either hunt or discharge a firearm or other deadly weapon while hunting. The 150-yard area is a “safety zone.”

(b) It is unlawful for ~~any~~ a person to intentionally discharge ~~any~~ a firearm or release ~~any~~ an arrow or crossbow bolt over or across ~~any~~ a public road or other established way open to the public in an unsafe and reckless manner.

Comment. Subdivision (a) of Section 3004 is amended to improve its clarity, without making any substantive change.

Fish & Game Code § 3006 (amended). Deer, elk, or bear

SEC. _____. Section 3006 of the Fish and Game Code is amended to read:

3006. Except as authorized under a domesticated game breeder’s license, ~~any~~ a deer, elk, or bear kept in captivity may be killed only with the approval of the department, and ~~under such regulations as pursuant to any regulation that the commission may prescribe adopt.~~ The carcass, or any part thereof, of any such mammal of a deer, elk, or bear kept in captivity may not be sold, and shall be disposed of in such manner as directed by the department may direct.

Comment. Section 3006 is amended to delete a superfluous reference to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 3007 (amended). Required license or entitlement

SEC. _____. Section 3007 of the Fish and Game Code is amended to read:

~~3007. Except as provided in this code or regulations adopted pursuant thereto, every person who takes any bird or mammal shall procure a license or entitlement therefor. Except as provided in this code or regulations adopted pursuant to this code, it is unlawful to take a bird or mammal without a license or entitlement to do so.~~

Comment. Section 3007 is amended to improve its clarity, without making any substantive change.

Fish & Game Code § 3033 (amended). Disabled veteran or recovering service member

SEC. ____ . Section 3033 of the Fish and Game Code is amended to read:

~~3033. (a) The department shall, upon application and payment of a fee, issue a reduced fee hunting license, that authorizes the licensee to take any bird or mammal as otherwise authorized pursuant to this code and regulations adopted pursuant thereto, to a disabled veteran, as defined in subdivision (b), or to a recovering service member, as defined in subdivision (c), who has not been convicted of any violation of this code. The base license fee for a reduced fee hunting license shall be four dollars (\$4) for the hunting license year beginning on July 1, 1995, and, for the following years, this license fee may be annually reviewed and adjusted in accordance with Section 713.~~

~~(b) “Disabled veteran” means a person having a 50 percent or greater service connected disability and an honorable discharge from military service. The person shall be eligible upon presentation of proof of an honorable discharge from military service and proof of the disability. Proof of the disability shall be by certification from the United States Department of Veterans Affairs or by presentation of a license issued pursuant to this section in the preceding license year.~~

~~(c) “Recovering service member” means a member of the military who meets the definition of “recovering service member” in Section 1602(7) of the federal National Defense Authorization Act for Fiscal Year 2008 (Public Law 110 181). A person shall be eligible for a reduced fee hunting license pursuant to this~~

~~subdivision upon the submission of a letter, online or in hardcopy, to the department from that person's commanding officer or from a military medical doctor stating that the person is a recovering service member.~~

(a) Pursuant to this section, the department shall issue to a disabled veteran or recovering service member who has not been convicted of a violation of this code a reduced fee hunting license that authorizes the licensee to take a bird or mammal as authorized by this code and regulations adopted pursuant to this code.

(b) The base license fee for a reduced fee hunting license shall be four dollars (\$4) for the hunting license year beginning on July 1, 1995, and, for the following years, this license fee may be annually reviewed and adjusted in accordance with Section 713.

(c) For the purposes of this section, the following terms have the following meanings:

(1) "Disabled veteran" means a person having a 50 percent or greater service-connected disability and an honorable discharge from military service.

(2) "Recovering service member" means a member of the military who meets the definition of "recovering service member" in Section 1602(7) of the federal National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181).

(d) A person applying for a reduced fee hunting license shall submit to the department adequate documentation for the department to determine whether the person is, in fact, eligible for a reduced fee hunting license. The department shall not issue a reduced fee hunting license to ~~any~~ a person unless it is satisfied that the person has provided adequate documentation of eligibility for that license.

(e) A disabled veteran must submit the following documentation:

(1) Proof of an honorable discharge from military service.

(2) Proof of the disability described in paragraph (1) of subdivision (c), either by certification from the United States Department of Veterans Affairs or by presentation of a license issued pursuant to this section in the preceding license year.

(f) A recovering service member shall submit a letter to the department stating that the person is a recovering service member as defined in subdivision (d), from either that person's commanding officer or a military medical doctor. The letter may be submitted either in hard copy form or online.

Comment. Section 3033 is amended to improve its clarity, without making any substantive change.

Fish & Game Code § 3039 (amended). Purchase or sale of birds or mammals

SEC. ____ . Section 3039 of the Fish and Game Code is amended to read:

3039. (a) Except as otherwise provided in this section ~~and Sections, Section 3087 and, Section 4303, or any other another~~ provision of this code, or ~~regulations~~ a regulation adopted pursuant ~~thereto~~ to a provision of this code, it is unlawful to sell or purchase ~~any species of a bird or mammal or part thereof~~ found in the wild in California.

(b) Products or handicraft items made from furbearing mammals and nongame mammals, ~~their carcass or parts thereof~~, lawfully taken under the authority of a trapping license, may be purchased or sold at any time.

(c) Shed antlers, or antlers taken from domestically reared animals that have been manufactured into products or handicraft items, or that have been cut into blocks or units which are to be handcrafted or manufactured into those articles may be purchased or sold at any time. However, complete antlers, whole heads with antlers, antlers that are mounted for display, or antlers in velvet may not be sold or purchased at any time, except as authorized by Section 3087.

(d) Notwithstanding Section 3504, inedible parts of domestically raised game birds may be sold or purchased at any time.

(e) ~~Any~~ A person who illegally takes any bird or mammal for profit or for personal gain by engaging in ~~any~~ an activity authorized by this section is subject to civil liability pursuant to Section 2582.

Comment. Section 3039 is amended to delete superfluous references to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 3051 (amended). Hunter instruction

SEC. ____. Section 3051 of the Fish and Game Code is amended to read:

3051. (a) The department shall provide for a course of instruction in hunter education, principles of conservation, and sportsmanship, and for this purpose may cooperate with any reputable association or organization having as one of its objectives the promotion of hunter safety, principles of conservation, and sportsmanship.

(b) The department may designate as a hunter education instructor any person found by it to be competent to give instruction in the courses required in this article. ~~A person so appointed shall give that course of instruction, and, upon completion thereof, shall issue to the person instructed a certificate of completion as provided by the department in hunter safety, principles of conservation, and sportsmanship.~~

(c) A hunter education instructor shall issue a certificate of completion as provided by the department to a person who completes a course of instruction in hunter safety, principles of conservation, and sportsmanship.

~~(e)~~ (d) The department shall prescribe a minimum level of skill and knowledge to be required of all hunter education instructors, and may limit the number of students per instructor in all required classes.

~~(d)~~ (e) The department may revoke the certificate of ~~any~~ an instructor when, in the opinion of the department, it is in the best interest of the state to do so.

~~(e)(1)~~ (f) In order to recruit and retain hunter education instructors, the department shall offer special hunting opportunities to qualified hunter education instructors by providing a limited number of existing tags and other hunting opportunities. The

department may provide these tags and hunting opportunities through any of the following methods:

~~(A)~~ (1) The private lands management program described in Article 5 (commencing with Section 3400) of Chapter 2.

~~(B)~~ (2) The Shared Habitat Alliance for Recreational Enhancement (SHARE) program described in Article 3 (commencing with Section 1570) of Chapter 5 of Division 2.

~~(C)~~ (3) Entering into cooperative agreements with federal, state, and local agencies that hold title to, or administer, lands or waters.

~~(D)~~ (4) Entering into cooperative agreements with landowners or tenants seeking depredation permits for game mammals as described in Section 4188.

~~(E)~~ (5) Authorizing a maximum of 15 tags from the annual tag quota, as determined by the department.

(2) (g) The department shall determine eligibility criteria for hunter education instructors seeking the hunting opportunities offered pursuant to this subdivision (f). ~~The department shall select hunter education instructors who meet these criteria for opportunities pursuant to this subdivision only by random drawing. The department shall offer hunting opportunities to eligible hunter education instructors only by random drawing.~~

~~(F)~~ (h) The department may adopt regulations to implement this section.

Comment. Section 3051 is amended to improve its clarity, revise subdivision designations, delete paragraph designations, and make other stylistic changes without making any substantive change.

Fish & Game Code § 3052 (amended). Fees and expenses

SEC. ____ . Section 3052 of the Fish and Game Code is amended to read:

3052. ~~No fee shall be charged for the instructor's service, however, a fee to cover the cost of giving such instructions may be charged each person participating and receiving such instructions. A record of such expenses shall be kept for inspection by the department. Such expenses may include, but not be limited to, such items as range fees, ammunition and transportation of students.~~

A person receiving instruction from a hunter education instructor shall not be charged a fee for service provided by the instructor, but may be charged a fee to cover the costs incurred by the instructor in teaching the class. A record of these costs shall be kept for inspection by the department. Costs may include, but are not limited to, range fees, ammunition, and transportation of students.

Comment. Section 3052 is amended to improve its clarity, without making any substantive change.

Fish & Game Code § 3080 (amended). Possession in excess of possession limit

SEC. ____ . Section 3080 of the Fish and Game Code is amended to read:

3080. (a) For the purposes of this section, “donor intermediary” means a recipient who receives a game bird or mammal from a donor to give to a charitable organization or charitable entity. ~~A donor intermediary possessing game birds or mammals during a period other than the open season shall have the documentation described in paragraph (2) or (3) of subdivision (b). There is no required format for the documentation. Any written documentation containing the required information shall be deemed to comply with this section.~~

~~(b) The possession limit of any game bird or mammal may be possessed during a period other than the open season if one of the following conditions apply:~~

~~(1) The person has in his or her possession a hunting license and validated tag or tags for the species possessed, or copies of the license and tag or tags. The license and tag or tags shall have been issued to that person for the current or immediate past license year.~~

~~(2) The person received the game bird or mammal from a person described in paragraph (1), and the recipient has a photocopy of the donor’s hunting license and the applicable validated tag or tags that has been signed and dated by the donor confirming the donation. The photocopied license and tag or tags shall be from the current or immediate past license year.~~

~~(3) The person received the game bird or mammal from a person described in paragraph (1), and the recipient has a signed and dated document confirming the donation that includes the donor's name, address, hunting license number, and applicable tag numbers for the species possessed. The license and tag or tags shall be for the current or immediate past license year.~~

(b) A person may possess a game bird or mammal during a period other than the open season for that game bird or mammal, up to the possession limit allowed for that game bird or mammal during the open season, in any of the following circumstances:

(1) The person possesses a hunting license and a validated tag or tags for the species possessed, or a copy of the license and tag or tags. The license and tag or tags shall have been issued to that person for the current or immediate past license year.

(2) The person is a donor intermediary who received the game bird or mammal from a donor described in paragraph (1), has a written confirmation of the donation that is signed and dated by the donor, and a photocopy of the donor's hunting license and the applicable validated tag or tags from the current or immediate past license year.

(3) The person is a donor intermediary who received the game bird or mammal from a donor described in paragraph (1), has a written confirmation of the donation signed and dated by the donor, which includes the donor's name, address, hunting license number, and applicable tag numbers for the species possessed. The license and tag or tags shall be for the current or immediate past license year.

(c) The documentation required by subdivision (b) shall be made available to the department as described in Section 2012. There is no required format for the documentation. Any written documentation containing the required information shall be deemed to comply with this section. ~~Charitable organizations or charitable entities~~ A charitable organization or charitable entity receiving and distributing ~~game birds or mammals~~ a game bird or mammal for a charitable or humane ~~purposes~~, purpose shall

maintain the documentation described in paragraph (2) or (3) of subdivision (b) for one year from the date of disposal.

(d) This section does not authorize the possession ~~of game birds or carcasses or parts~~ of a game bird ~~or carcass~~ contrary to regulations ~~issued~~ adopted pursuant to the federal Migratory Bird Treaty Act (16 U.S.C. Sec. 703 et seq.).

(e) On or before January 1, 2015, and subject to the requirements of subdivision (d), the commission shall recommend legislation or adopt regulations to clarify when a possession limit is not violated by processing into food lawfully taken game birds or mammals.

Comment. Subdivision (d) of Section 3080 is amended to delete superfluous references to animal parts. See Section 80 (reference to animal generally includes part of animal).

Section 3080 is also amended to improve its clarity and make stylistic changes, without making any substantive change.

Fish & Game Code § 3240.5 (amended). Commercial hunting club license

SEC. ____ . Section 3240.5 of the Fish and Game Code is amended to read:

3240.5. (a) ~~As used in this article, “property” means a number of contiguous legal parcels held by an owner or a combination of owners and held out for a common purpose.~~

(b) ~~A person, including, but not limited to, a renter or lessee, in possession or control of property on or with respect to which a fee for the privilege of taking birds or mammals is imposed or collected, or on or with respect to which a fee for any type of entry or use permit that includes the privilege of taking birds or mammals on the property is imposed or collected, is maintaining a commercial hunting club if birds or mammals are taken on the property, and shall procure a “commercial hunting club license” before birds or mammals are taken.~~

(c) ~~This article does not apply if the property meets any of the following conditions:~~

(1) ~~The landowner, or the renter or lessee, of the property receives less than one hundred dollars (\$100) per entrant and receives less than a total of one thousand dollars (\$1,000) between~~

~~July 1 and the following June 30 for permission, entry access, or use fees that include the privilege of hunting on the property in his or her possession or control. The department may adjust the threshold amounts established in this paragraph pursuant to Section 713.~~

~~(2) The property is used by a hunting club or program licensed under regulations adopted pursuant to this code.~~

~~(3) The property is used for an officially sanctioned field trial event pursuant to regulations adopted pursuant to this code.~~

~~(4) The property is used in conjunction with the Shared Habitat Alliance for Recreational Enhancement (SHARE) program under Article 3 (commencing with Section 1570) of Chapter 5 of Division 2.~~

~~(5) A domesticated game bird hunting club licensed under Article 3 (commencing with Section 3270) operates on the property.~~

~~(6) A domesticated migratory game bird shooting area licensed under Article 4 (commencing with Section 3300) operates on the property.~~

~~(7) The property is used in conjunction with the private wildlife habitat enhancement and management program under Article 5 (commencing with Section 3400).~~

~~(8) The property is subject to a recorded state, federal, or nonprofit wildlife conservation or agricultural easement or any property enrolled in a habitat protection or enhancement program under this code, including, but not limited to, Article 7 (commencing with Section 3460).~~

~~(a) For purposes of this article, the following terms have the following meanings:~~

~~(1) "Commercial hunting club" means property with respect to which a fee is imposed or collected for either of the following:~~

~~(A) Taking or attempting to take birds or mammals on the property.~~

~~(B) A type of entry or use permit that includes permission to take birds or mammals on the property.~~

(2) “Property” means a number of contiguous legal parcels owned by one or more owners and held out for a common purpose.

(b) A person, including, but not limited to, an owner, renter, or lessee, who is in possession or control of a commercial hunting club, shall procure a commercial hunting club license before a bird or mammal may be taken on the property.

(c) This article does not apply under any of the following circumstances:

(1) The fees described in paragraph (1) of subdivision (a) that are received by the owner, renter, or lessee of the property are less than one hundred dollars (\$100) per entrant and total less than one thousand dollars (\$1,000) between July 1 and the following June 30. Pursuant to Section 713, the department may adjust the threshold amounts established in this paragraph.

(2) The property is used in conjunction with the Shared Habitat Alliance for Recreational Enhancement (SHARE) program under Article 3 (commencing with Section 1570) of Chapter 5 of Division 2.

(3) A domesticated game bird hunting club licensed under Article 3 (commencing with Section 3270) operates on the property.

(4) A domesticated migratory game bird shooting area licensed under Article 4 (commencing with Section 3300) operates on the property.

(5) The property is used by a hunting club or program licensed under regulations adopted pursuant to this code.

(6) The property is used in conjunction with the private wildlife habitat enhancement and management program under Article 5 (commencing with Section 3400).

(7) The property is used for an officially sanctioned field trial event pursuant to regulations adopted pursuant to this code.

(8) The property is subject to a recorded state, federal, or nonprofit wildlife conservation or agricultural easement or is enrolled in a habitat protection or enhancement program under this code, including, but not limited to, Article 7 (commencing with Section 3460).

~~(d) This article does not apply to a landowner who rents or leases his or her property to the commercial hunting club and is not involved in the operation of the club, if the club is licensed in accordance with this article. This chapter does not apply to an owner of property that is rented or leased to a commercial hunting club, if the owner is not involved in the operation of the club and the club is licensed in accordance with this chapter.~~

Comment. Section 3240.5 is amended to improve its clarity, without making any substantive change.

Fish & Game Code § 3243.5 (amended). Transfer of license

SEC. ____ . Section 3243.5 of the Fish and Game Code is amended to read:

~~3243.5. The commission may transfer a license to land owned or controlled by the licensee, other than that land specified in the original application, located in the same county as the original land, without any additional fee, if it finds the new land is suitable for the purposes of the license and such a transfer is not in conflict with the public interest. The commission may transfer a commercial hunting club license to other land owned or controlled by the licensee, in the same county as the originally licensed land, without an additional fee, if the commission finds the new land suitable for the purposes of the license and the transfer does not conflict with the public interest.~~

Comment. Section 3243.5 is amended to improve its clarity, without making any substantive change.

Fish & Game Code § 3504 (amended). Sale or purchase of birds

SEC. ____ . Section 3504 of the Fish and Game Code is amended to read:

3504. Subject to the provisions of this code permitting the sale of domestically raised game birds, it is unlawful to sell or purchase any a game bird or nongame bird ~~or part thereof~~.

Comment. Section 3504 is amended to delete a superfluous reference to animal parts. See Section 80 (reference to animal generally includes part of animal).

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

Fish & Game Code § 3511 (amended). Fully protected birds

SEC. ____ . Section 3511 of the Fish and Game Code is amended to read:

3511. (a)(1) Except as provided in this section, Section 2081.7, or 2835, a fully protected bird ~~birds or parts thereof~~ bird may not be taken or possessed at any time. No provision of this code or ~~any~~ other law shall be construed to authorize the issuance of ~~permits or licenses~~ a permit or license to take ~~any~~ a fully protected bird, and no ~~permits or licenses heretofore~~ permit or license previously issued shall have any force or effect for that purpose. However, the department may authorize the taking of ~~those species~~ a fully protected bird for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species, and may authorize the live capture and relocation of ~~those species~~ a fully protected bird pursuant to a permit for the protection of livestock. ~~Prior to~~ Before authorizing the take of ~~any of those species~~ a fully protected bird, 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 e-mail 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 ~~any~~ relevant information and comments on the proposed authorization.

(2) As used in this subdivision, “scientific research” does not include ~~any actions~~ an action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

(3) ~~Legally~~ A legally imported fully protected ~~birds or parts thereof~~ bird may be possessed under a permit issued by the department.

(b) The following are fully protected birds:

- (1) American peregrine falcon (*Falco peregrinus anatum*).
- (2) Brown pelican.
- (3) California black rail (*Laterallus jamaicensis coturniculus*).
- (4) California clapper rail (*Rallus longirostris obsoletus*).
- (5) California condor (*Gymnogyps californianus*).
- (6) California least tern (*Sterna albifrons browni*).
- (7) Golden eagle.
- (8) Greater sandhill crane (*Grus canadensis tabida*).
- (9) Light-footed clapper rail (*Rallus longirostris levipes*).
- (10) Southern bald eagle (*Haliaeetus leucocephalus leucocephalus*).
- (11) Trumpeter swan (*Cygnus buccinator*).
- (12) White-tailed kite (*Elanus leucurus*).
- (13) Yuma clapper rail (*Rallus longirostris yumanensis*).

Comment. Section 3511 is amended to delete superfluous references to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 4150 (amended). Taking or possessing nongame mammals

SEC. ____ . Section 4150 of the Fish and Game Code is amended to read:

4150. ~~All mammals~~ A mammal occurring naturally in California ~~which that are is~~ not a game ~~mammals mammal~~, fully protected ~~mammals mammal~~, or fur-bearing ~~mammals mammal~~, ~~are is a~~ nongame ~~mammals mammal~~. ~~Nongame mammals or parts thereof~~ A nongame mammal may not be taken or possessed except as provided in this code or in accordance with regulations adopted by the commission.

Comment. Section 4150 is amended to delete a superfluous reference to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 4155 (amended). Trap, sale, or export of bobcat

SEC. _____. Section 4155 of the Fish and Game Code is amended to read:

4155. (a) Beginning January 1, 2014, it shall be unlawful to trap ~~any a~~ bobcat, or attempt to do so, or to sell or export ~~any a~~ bobcat ~~or part of any 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.

(b)(1) 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.

(2) 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.

(3) The commission shall delineate the boundaries of an area in which bobcat trapping is prohibited pursuant to paragraph (1) or (2) using readily identifiable features, such as highways or other major roads, such as those delineated for Joshua Tree National Park in subdivision (a).

(c) The prohibition on the trapping of bobcats in the areas designated pursuant to subdivisions (a) and (b) shall not apply to the taking of ~~any a~~ bobcat by ~~employees~~ an employee of the department acting in an official capacity, to a taking in accordance

with the conditions of a scientific, educational, or propagation permit pursuant to Section 1002 by the holder of that permit, or to the lawful taking of ~~bobcats~~ a bobcat found to be injuring crops or other property, pursuant to Section 4152, ~~or other provisions~~ another provision of this code, or ~~regulations~~ a regulation adopted pursuant to this code.

(d) Notwithstanding Section 2016 or any other ~~provisions~~ provision of this code, on and after January 1, 2014, it shall be unlawful to trap ~~any~~ a bobcat, or attempt to do so, on ~~any~~ private land not belonging to the trapper without the express written consent of the owner of that property. The placing or possession of ~~any~~ a trap or the possession of a bobcat ~~or part thereof~~ on ~~any~~ land is prima facie evidence of a violation of this subdivision.

(e) Consistent with the requirements of subdivision (c) of Section 4006, the commission shall set trapping license fees and associated fees, including, but not limited to, shipping tags required pursuant to Section 479 of Chapter 6 of Subdivision 2 of Division 1 of Title 14 of the California Code of Regulations, for the 2014–15 season, and any subsequent seasons in which bobcat trapping is allowed, at the levels necessary to fully recover all reasonable administrative and implementation costs of the department and the commission associated with the trapping of bobcats in the state, including, but not limited to, enforcement costs.

(f) This section does not limit the ability of the department or the commission to impose additional requirements, restrictions, or prohibitions related to the taking of bobcats, including a complete prohibition on the trapping of bobcats pursuant to this code.

Comment. Section 4155 is amended to delete superfluous references to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 4700 (amended). Fully protected mammals

SEC. ____ . Section 4700 of the Fish and Game Code is amended to read:

4700. (a)(1) Except as provided in this section, Section 2081.7, or Section 2835, a fully protected ~~mammals or parts thereof~~ mammal may not be taken or possessed at any time. No provision of this code or ~~any~~ other law shall be construed to authorize the issuance of ~~permits or licenses~~ a permit or license to take ~~any~~ a fully protected mammal, and no ~~permits or licenses heretofore~~ permit or license previously issued shall have any force or effect for that purpose. However, the department may authorize the taking of ~~those species~~ a fully protected mammal for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species. ~~Prior to~~ Before authorizing the take of ~~any of those species~~ a fully protected mammal, 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 e-mail 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 ~~any~~ relevant information and comments on the proposed authorization.

(2) As used in this subdivision, “scientific research” does not include ~~any an~~ actions action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

(3) ~~Legally~~ A legally imported fully protected ~~mammals or parts thereof~~ mammal may be possessed under a permit issued by the department.

(b) The following are fully protected mammals:

(1) Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*).

(2) Bighorn sheep (*Ovis canadensis*), except Nelson bighorn sheep (subspecies *Ovis canadensis nelsoni*) as provided by subdivision (b) of Section 4902.

(3) Northern elephant seal (*Mirounga angustirostris*).

(4) Guadalupe fur seal (*Arctocephalus townsendi*).

- (5) Ring-tailed cat (genus *Bassariscus*).
- (6) Pacific right whale (*Eubalaena sieboldi*).
- (7) Salt-marsh harvest mouse (*Reithrodontomys raviventris*).
- (8) Southern sea otter (*Enhydra lutris nereis*).
- (9) Wolverine (*Gulo luscus*).

Comment. Section 4700 is amended to delete superfluous references to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 4800 (amended). Mountain lions

SEC. ____ . Section 4800 of the Fish and Game Code is amended to read:

4800. (a) The mountain lion (genus *Puma*) is a specially protected mammal under the laws of this state.

(b)(1) It is unlawful to take, injure, possess, transport, import, or sell ~~any a~~ a mountain lion or ~~any part of a~~ product thereof of a mountain lion, except as specifically provided in this chapter or in Chapter 2 (commencing with Section 2116) of Division 3.

(2) This chapter does not prohibit the sale or possession of ~~any a~~ a mountain lion or ~~any part of a~~ product thereof of a mountain lion, when the owner can demonstrate that the mountain lion, or ~~part of~~ product thereof of a mountain lion, was in the person's possession on June 6, 1990.

(3) This chapter does not prohibit the possession of a mountain lion carcass or ~~any part of a~~ product of a mountain lion carcass, if all of the following requirements are met:

(A) The carcass or carcass ~~part of~~ product is prepared or being prepared for display, exhibition, or storage, for a bona fide scientific or educational purpose, at a nonprofit museum or government-owned facility generally open to the public or at an educational institution, including a public or private postsecondary institution.

(B) The mountain lion was taken in California consistent with the requirements of this chapter and any other applicable law.

(C) The department has authorized the possession of the carcass or carcass ~~part or~~ product for the purposes of this paragraph.

(c) ~~Any~~ A violation of this section is a misdemeanor punishable by imprisonment in the 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. 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.

(d) Section 219 does not apply to this chapter. Neither the commission nor the department shall adopt any regulation that conflicts with or supersedes ~~any of the provisions~~ a provision of this chapter.

Comment. Section 4800 is amended to delete superfluous references to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 4810 (amended). Mountain lion research project

SEC. ____ . Section 4810 of the Fish and Game Code is amended to read:

4810. (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 1002 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 1002.

(c) The department may authorize ~~permitholders~~ a permitholder to pursue, capture, temporarily possess, temporarily injure, mark, ~~attach to or surgically implant a monitoring or recognition devices~~ device in; or attach such a device to, provide veterinary care to, and transport, ~~a mountain lions, lion or any part of~~ a product of a mountain lion.

(d) In addition to the requirements in Section 1002, 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 ~~any~~ 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, ~~a mountain lions or parts and products thereof~~ lion or a product of a mountain lion ~~, and the attaching.~~

(2) ~~Attaching to or surgically implanting~~ monitoring or recognition devices to, surgically implanting those devices in, or markings in, and providing marking, animals affected by the research project.

(3) Providing veterinary care as required for the health, safety, and humane treatment of; animals affected by the research project.

~~(2)~~ (4) The recording of the adverse effects of authorized research procedures on mountain lions and other wildlife.

~~(3)~~ (5) The qualifications of onsite personnel necessary for carrying out authorized research procedures. A permit applicant shall submit verifiable documentation demonstrating that at least

one onsite staff person has at least one year of experience in proposed research methods that involve activities described in subdivision (c).

~~(4)~~ (6) Annual and final reports to the department.

(f) The department shall notify the public at least 30 days prior to the issuance of a permit, and, upon request, shall make available to the public copies of the permit and annual and final reports.

(g) The department shall handle ~~any~~ mortality or permanent injury to a mountain lion as a result of research authorized pursuant to this section in a manner consistent with the reporting and processing requirements imposed in Section 4807.

Comment. Section 4810 is amended to delete superfluous references to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 5000 (amended). Tortoises

SEC. ____ . Section 5000 of the Fish and Game Code is amended to read:

5000. It is unlawful to sell, purchase, harm, take, possess, ~~or~~ transport ~~any tortoise (Gopherus) or parts thereof, or to shoot any a~~ projectile at, a tortoise (Gopherus). This section does not apply to the taking of ~~any~~ a tortoise when authorized by the department.

Comment. Section 5000 is amended to delete a superfluous reference to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 5002 (amended). Permit allowing possession of tortoise

SEC. ____ . Section 5002 of the Fish and Game Code is amended to read:

5002. The department may issue permits, subject to ~~such~~ any terms and conditions ~~as prescribed by the commission~~ as prescribed by the commission ~~may prescribe~~, authorizing the possession of ~~any a~~ tortoise (Gopherus) or ~~any part or product thereof~~ of a tortoise by an educational or scientific institution or a public zoological garden.

Comment. Section 5002 is amended to delete a superfluous reference to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 5050 (amended). Fully protected reptiles and amphibians

SEC. ____ . Section 5050 of the Fish and Game Code is amended to read:

5050. (a)(1) Except as provided in this section, Section 2081.7, Section 2081.9, or Section 2835, a fully protected ~~reptiles and amphibians or parts thereof~~ reptile or amphibian may not be taken or possessed at any time. No provision of this code or ~~any~~ other law shall be construed to authorize the issuance of ~~permits or licenses~~ a permit or license to take ~~any~~ a fully protected reptile or amphibian, and no ~~permits or licenses heretofore~~ permit or license previously issued shall have any force or effect for that purpose. However, the department may authorize the taking of ~~those species~~ a fully protected reptile or amphibian for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species. ~~Prior to~~ Before authorizing the take of ~~any of those species~~ a fully protected reptile or amphibian, 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 ~~any~~ relevant information and comments on the proposed authorization.

(2) As used in this subdivision, “scientific research” does not include ~~any actions~~ an action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

(3) ~~Legally~~ A legally imported fully protected ~~reptiles or amphibians or parts thereof~~ reptile or amphibian may be possessed under a permit issued by the department.

(b) The following are fully protected reptiles and amphibians:

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

(2) San Francisco garter snake (*Thamnophis sirtalis tetrataenia*).

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

(4) Limestone salamander (*Hydromantes brunus*).

(5) Black toad (*Bufo boreas exsul*).

Comment. Section 5050 is amended to delete superfluous references to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 5515 (amended). Fully protected fish

SEC. ____ . Section 5515 of the Fish and Game Code is amended to read:

5515. (a)(1) Except as provided in this section, Section 2081.7, or Section 2835, a fully protected fish ~~or parts thereof~~ may not be taken or possessed at any time. No provision of this code or ~~any~~ other law shall be construed to authorize the issuance of ~~permits or licenses~~ a permit or license to take ~~any~~ a fully protected fish, and no ~~permits or licenses heretofore~~ permit or license previously issued shall have any force or effect for that purpose. However, the department may authorize the taking of ~~those species~~ a fully protected fish for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species. ~~Prior to~~ Before authorizing the take of ~~any of those species~~ 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 e-mail 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 ~~any~~ relevant information and comments on the proposed authorization.

(2) As used in this subdivision, “scientific research” does not include ~~any actions~~ an action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

(3) ~~Legally~~ A legally imported fully protected fish ~~or parts thereof~~ may be possessed under a permit issued by the department.

(b) The following are fully protected fish:

- (1) Colorado River squawfish (*Ptychocheilus lucius*).
- (2) Thicktail chub (*Gila crassicauda*).
- (3) Mohave chub (*Gila mohavensis*).
- (4) Lost River sucker (*Catostomus luxatus*).
- (5) Modoc sucker (*Catostomus microps*).
- (6) Shortnose sucker (*Chasmistes brevirostris*).
- (7) Humpback sucker (*Xyrauchen texanus*).
- (8) Owens River pupfish (*Cyprinodon radiosus*).
- (9) Unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*).
- (10) Rough sculpin (*Cottus asperimus*).

Comment. Section 5515 is amended to delete superfluous references to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) Funds provided by the Legislature since 1978 to further the protection and increase of the fisheries of the state have been administered by the ~~Department of Fish and Game~~ department in a successful program of contracts with local government and nonprofit agencies and private groups in ways that have attracted substantial citizen effort.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Fish & Game Code § 7370 (amended). Sturgeon

SEC. ____ . Section 7370 of the Fish and Game Code is amended to read:

7370. (a) It is unlawful to take or possess for commercial purposes, buy or sell, or to offer to buy or sell, ~~any~~ a whole sturgeon, or ~~any part thereof of a sturgeon~~, including, but not limited to, its eggs, except as follows:

(1) A sturgeon, ~~or parts thereof~~ part of a sturgeon, or sturgeon eggs that is taken or possessed by, and is the cultured progeny of, an aquaculturist who is registered under Section 15101, may be bought or sold ~~or purchased~~ subject to regulations of the commission.

(2) A sturgeon, ~~or parts thereof~~ part of a sturgeon, or sturgeon eggs that is taken commercially in another state that permits the sale of ~~the fish~~ sturgeon, and lawfully imported under Section 2363, may be possessed, bought, or sold, ~~or purchased~~.

(3) Sturgeon, or ~~parts thereof~~ part of a sturgeon, taken pursuant to a sport fishing license, that is processed in accordance with Section 7230.

(b) For purposes of this section, it is prima facie evidence that a sturgeon, ~~or parts thereof~~ or part of a sturgeon, is possessed for commercial purposes, if the possession ~~of sturgeon~~ is more than two times the sport bag limit.

Comment. Section 7370 is amended to make nonsubstantive stylistic changes.

The references to a “part” of an animal in this section are superfluous. See Section 80 (reference to animal generally includes part of animal). They are retained solely for clarity, and are not intended to affect the meaning of any other provision of this code that includes or omits a reference to a “part” of an animal.

Fish & Game Code § 7704 (amended). Waste or reduction of fish or sharks

SEC. _____. Section 7704 of the Fish and Game Code is amended to read:

7704. (a) It is unlawful to cause or permit ~~any~~ deterioration or waste of ~~any~~ a fish taken in the waters of this state, or brought into this state, or to take, receive or agree to receive more fish than can be used without deterioration, waste, or spoilage.

(b) Except as permitted by this code, it is unlawful to use ~~any~~ a fish, ~~or part thereof~~, except fish offal, in a reduction plant or by a reduction process.

(c) Except as permitted by this code or by regulation of the commission, it is unlawful to sell, purchase, deliver for a commercial ~~purposes~~ purpose, or possess on any commercial fishing vessel registered pursuant to Section 7881, ~~any~~ a shark fin or ~~shark~~ tail or ~~portion thereof~~ part of a shark fin or tail that has been removed from the carcass. However, a thresher shark ~~tails and fins~~ fin or tail that ~~have~~ has been removed from the carcass and whose original shape ~~remain~~ remains unaltered may be possessed on a registered commercial fishing vessel if the ~~corresponding carcass is in possession for each tail and fin~~ carcass corresponding to the fin or tail is also possessed.

Comment. Section 7704 is amended to delete a superfluous reference to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 7856 (amended). Fish on commercial fishing vessel

SEC. _____. Section 7856 of the Fish and Game Code is amended to read:

7856. Notwithstanding any other provision of this division, except as provided in subdivision (f) and except when prohibited by federal law, fish may be prepared for human consumption aboard a commercial fishing vessel only under the following conditions:

(a) The fish are taken under all existing commercial fishing laws and regulations and, except as provided in subdivision (f), the fish is of a species and size that can be lawfully taken under sportfishing regulations in the area where taken and are taken incidental to normal commercial fishing operations.

(b) The fish is separated from other fish and stored with other foodstuff for consumption by the crew and passengers aboard the vessel.

(c) The fish, ~~or parts thereof~~, shall not be bought, sold, offered for sale, transferred to ~~any other~~ another person, landed, brought ashore, or used for ~~any~~ a purpose ~~except for other than~~ consumption by the crew and passengers.

(d)(1) All fish shall be maintained in ~~such~~ a condition that the species can be determined, and the size or weight can be determined if a size or weight limit applies, until the fish is prepared for immediate consumption.

(2) If the fish is filleted, a patch of skin shall be retained on each fillet as prescribed by the commission in the sportfishing regulations until the fish is prepared for immediate consumption.

(3) Fillets from fish possessed under sportfishing regulations shall be of the minimum length prescribed by commission regulations.

(e) ~~No~~ A fish ~~which that~~ may be possessed under sportfishing regulations ~~may~~ shall not be possessed in excess of the sport bag limit for each crew member and passenger on board the vessel.

(f) Notwithstanding other provisions of this section, kelp bass, sand bass, spotted bass, yellowfin croaker, spotfin croaker, California corbina, and marlin, shall not be possessed aboard a commercial fishing vessel while that vessel is on a commercial fishing trip. Lobster, salmon, or abalone shall not be possessed aboard a commercial fishing vessel while that vessel is on a commercial fishing trip for preparation for human consumption pursuant to this section unless that lobster, salmon, or abalone is taken and possessed in compliance with all applicable laws pertaining to commercial fishing methods of take, licenses, permits, and size limits. Sturgeon or striped bass shall not be

possessed aboard a commercial fishing vessel. ~~No~~ A person shall not take or possess ~~any~~ a fish on a commercial fishing vessel under a sportfishing license while that vessel is engaged in a commercial fishing activity, including going to or from an area where fish are taken for commercial purposes.

Comment. Section 7856 is amended to delete a superfluous reference to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

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

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

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

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

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

Comment. Section 7880 is amended to update obsolete references to the Division of Boating and Waterways, and to the Department of Fish and Game. See Section 37 (“department” means Department of Fish and Wildlife).

The section is also amended to make nonsubstantive stylistic changes.

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

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

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

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

The section is also amended to make nonsubstantive stylistic changes.

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

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

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

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

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 8281 (amended). Crab

SEC. _____. Section 8281 of the Fish and Game Code is amended to read:

8281. Crab meat and frozen ~~whole crabs or parts thereof, which are crab~~ taken during the open season; may be possessed, transported, and sold at any time, subject to the regulations of the commission. The cost of inspection and marking, under the regulations of the commission, shall be paid by the owner or seller of ~~such crab meat, crabs, or parts thereof~~ the crab or crab meat.

Comment. Section 8281 is amended to delete superfluous references to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 8371 (amended). Striped bass and salmon

SEC. _____. Section 8371 of the Fish and Game Code is amended to read:

8371. Striped bass ~~or and~~ salmon, ~~or parts thereof~~, may be sold or offered for sale only under the following conditions:

(a) If the striped bass, ~~or parts thereof~~, is taken or possessed by, and is the cultured progeny of, an aquaculturist who is registered under Section 15101, that striped bass may be sold or purchased subject to regulations of the commission.

(b) If the striped bass, ~~or parts thereof~~, is taken legally in another state that permits the sale of that fish and if the fish is lawfully imported under Section 2363, the striped bass, ~~or parts thereof~~, may be possessed, sold, or purchased.

(c) If the salmon, ~~or parts thereof~~, is taken legally in another state that permits the sale of salmon, and is lawfully imported consistent with Section 2361, the salmon, ~~or parts thereof~~, may be possessed, sold, or purchased.

(d) If the salmon, ~~or parts thereof~~, is taken in accordance with Article 4 (commencing with Section 8210.2), the salmon, ~~or parts thereof~~, may be possessed, sold, or purchased.

Comment. Section 8371 is amended to delete superfluous references to animal parts. See Section 80 (reference to animal generally includes part of animal).

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

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

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

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

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

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

The section is also amended to make nonsubstantive stylistic changes.

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

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

8563. (a) Except as provided in subdivision (b), the permittee shall be aboard the vessel and shall be in possession of a valid drift

gill net shark and swordfish permit when engaged in operations authorized by the permit.

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

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

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 10500 (amended). Prohibited actions

SEC. ____ . Section 10500 of the Fish and Game Code is amended to read:

10500. Except under a permit or specific authorization, it is unlawful to do any of the following:

(a) To take or possess ~~any~~ a bird or mammal, ~~or part thereof~~, in ~~any~~ a game refuge.

(b) To use or have in possession in a game refuge, ~~any~~ a firearm, BB device as defined in Section 16250 of the Penal Code, crossbow, bow and arrow, or ~~any~~ a trap or other contrivance designed to be, or capable of being, used to take birds or mammals,

or to discharge ~~any~~ a firearm or BB device or to release ~~any~~ an arrow or crossbow bolt into ~~any~~ a game refuge.

(c) To take or possess ~~any species of a~~ fish or amphibian, ~~or part thereof,~~ in ~~any~~ a fish refuge, or to use or have in possession in that refuge ~~any~~ a contrivance designed to be used for catching fish.

(d) To take or possess ~~any~~ a bird ~~in,~~ or to discharge ~~any~~ a firearm or BB device, or to release ~~any~~ an arrow or crossbow bolt, within or into, ~~any~~ a waterfowl refuge.

(e) To take or possess ~~any~~ a quail in a quail refuge.

(f) To take or possess ~~any~~ an invertebrate or specimen of marine plant life in a marine life refuge.

(g) To take or possess ~~any~~ a clam ~~in a clam refuge or to possess in such a refuge~~ ~~any~~ or an instrument or apparatus capable of being used to dig clams in a clam refuge.

Comment. Section 10500 is amended to delete superfluous references to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 10502 (amended). Powers of Commission

SEC. _____. Section 10502 of the Fish and Game Code is amended to read:

10502. The commission may:

(a) Exercise control over all mammals and birds in ~~any~~ a game refuge, and exercise control over all fish in ~~any~~ a fish refuge.

(b) Authorize the department to issue, under ~~such~~ any restrictions ~~as it may deem it deems~~ best, permits ~~which~~ that authorize the person named therein to carry, use, and possess, within ~~any~~ a refuge, firearms, traps or other contrivances for taking birds, mammals, fish, ~~or amphibia~~ amphibians, or reptiles.

(c) Except as provided in Sections 10502.5, 10502.8, 10655, and 10657, authorize the department to issue permits ~~which shall~~ that authorize the person named therein to take birds, mammals, fish, ~~and amphibia~~ amphibians, or reptiles within ~~any~~ a refuge.

(d) ~~Make~~ Adopt additional regulations not in conflict with any law for the protection of birds, mammals, fish, ~~amphibia~~ amphibians, reptiles, and or marine life within ~~any~~ a refuge.

Comment. Section 10502 is amended to add reptiles.

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 10503 (amended). Donations, grants, and acquisition

SEC. _____. Section 10503 of the Fish and Game Code is amended to read:

10503. For the purposes of propagating, feeding, and protecting birds, mammals, fish, ~~and amphibia~~ amphibians, and reptiles, the commission may do all of the following:

(a) Accept, on behalf of the state, donations of ~~any~~ an interest in ~~lands~~ land within ~~any~~ a refuge.

(b) Accept, on behalf of the state, from ~~any~~ a person owning and in possession of patented ~~lands~~ land, ~~except lands that are 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, ~~and amphibia~~ amphibians, and reptiles on the patented ~~lands~~ land.

(c) Accept, on behalf of the state, donations of birds, mammals, fish, ~~and amphibia~~ 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.

(d) Acquire, by purchase, lease, rental, or otherwise, and occupy, develop, maintain, use, and administer land, or land and nonmarine water, or land and nonmarine water rights, suitable for state game farms or game refuges.

Comment. Section 10503 is amended to add reptiles.

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 10507 (amended). Open transport

SEC. _____. Section 10507 of the Fish and Game Code is amended to read:

10507. It is lawful for ~~any~~ a person who has given the notice provided for in Section 10506 to transport ~~any~~ a bird or mammal, ~~or part thereof~~, through a game refuge, if lawfully taken outside the refuge, and if the bird or mammal ~~or part thereof~~ is carried openly and during the time between one hour before sunrise and one hour after sunset.

Comment. Section 10507 is amended to delete superfluous references to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 10510 (amended). Effect of open season

SEC. _____. Section 10510 of the Fish and Game Code is amended to read:

10510. No specification of an open season in any area authorizes the taking of ~~any~~ a bird, mammal, fish ~~or amphibia~~, amphibian, or reptile from ~~any~~ a refuge within that area from which the taking is ~~elsewhere in this code~~ prohibited by this code.

Comment. Section 10510 is amended to add reptiles.

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 10513 (amended). Navigable water

SEC. _____. Section 10513 of the Fish and Game Code is amended to read:

10513. Nothing in this chapter shall be construed as prohibiting or preventing ~~any~~ a person from taking ~~birds, mammals~~ a bird, mammal, fish, or amphibia amphibian, or reptile from or on navigable water in ~~any~~ a state game refuge.

Comment. Section 10513 is amended to add reptiles.

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 10514 (amended). Department control and management

SEC. _____. Section 10514 of the Fish and Game Code is amended to read:

10514. All state game refuges shall, for all purposes of protecting birds, mammals, fish, ~~or amphibia~~ amphibians, or reptiles thereon, be under the control and management of the department, and the officers and employees of the department, all game wardens, and law enforcement officers may at all times enter in and upon ~~such~~ state game refuges in the performance of their duties.

Comment. Section 10514 is amended to add reptiles.

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 10653 (amended). San Francisco Game Refuge

SEC. _____. Section 10653 of the Fish and Game Code is amended to read:

10653. In the San Francisco Game Refuge, birds, mammals, fish, ~~and amphibia~~ amphibians, and reptiles legally possessed may be carried openly by persons traveling through the refuge on public roads, between one-half hour before sunrise and one-half hour after sunset.

Comment. Section 10653 is amended to add reptiles.

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

Fish & Game Code § 11020 (amended). Fish and Game District 12

SEC. _____. Section 11020 of the Fish and Game Code is amended to read:

11020. The following constitutes Fish and Game District 12:

The waters and tidelands of San Francisco Bay to high-water mark not included in Districts 11 and 13, the waters and tidelands to high-water mark of San Leandro Bay, Oakland Creek or estuary, San Antonio Creek in Alameda County, ~~Raccoon Straits~~ Raccoon Strait, ~~and~~ San Pablo Bay, ~~and~~ the Carquinez ~~Straits~~ Strait to the Carquinez Bridge, and all lands and waters included within the exterior boundaries of these districts and excluding all tributary sloughs, creeks, bays, rivers, and overflowed areas not specifically described herein.

Comment. Section 11020 is amended to reflect the official names of two waterways, and make nonsubstantive stylistic changes.

Fish & Game Code § 11032 (amended). Fish and Game District 21

SEC. _____. Section 11032 of the Fish and Game Code is amended to read:

11032. The following constitutes Fish and Game District 21:

The waters and tidelands to high water mark of San Diego Bay lying inside of a straight line drawn from the ~~southernly~~ southerly extremity of Point Loma to the offshore end of the San Diego breakwater.

Comment. Section 11032 is amended to correct a typographical error.

Fish & Game Code § 12002.9 (amended). Additional license suspension

SEC. _____. Section 12002.9 of the Fish and Game Code is amended to read:

12002.9. In addition to any other penalty prescribed in this code, the license issued pursuant to Sections 8032 to 8036, inclusive, to ~~any~~ a person who is convicted of a violation of Section 7121, 7364, 7370, 8372, or 8373 shall be suspended for not less than seven days nor more than 30 days. Each day ~~any~~ a fish of the species designated in any of those sections, ~~or any part thereof,~~ is unlawfully possessed and each unlawful transaction involving the purchase or sale of ~~any~~ a fish of those species, ~~or any part thereof,~~ by a wholesale fish dealer is a separate violation.

Comment. Section 12002.9 is amended to delete superfluous references to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 12012 (amended). Punishment for illegal action

SEC. _____. Section 12012 of the Fish and Game Code is amended to read:

12012. (a) ~~Any~~ A person who illegally takes, possesses, imports, exports, sells, purchases, barter, trades, or exchanges ~~any amphibian,~~ a bird, fish, mammal, ~~or~~ reptile, amphibian, or part ~~thereof~~ of any of those animals, for profit or personal gain, is guilty of a misdemeanor punishable by 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 by both that fine and imprisonment.

(b) If a person is convicted of a second or subsequent violation of subdivision (a), that person shall be punished by a fine of not less than ten thousand dollars (\$10,000); nor more than fifty thousand dollars (\$50,000), or imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

(c) If a second or subsequent violation of subdivision (a) also involves a violation of Section 8685.5, 8685.6, 8685.7, or 8688 that is punishable by subdivision (b) of Section 12004, the offense shall be punishable by a fine of not more than fifty thousand dollars (\$50,000), or by imprisonment pursuant to subdivision (b) of Section 12004, or by both that fine and imprisonment.

(d) Notwithstanding Section 802 of the Penal Code, prosecution of an offense punishable under this section shall be commenced within three years after commission of the offense.

(e) This section does not apply to fish taken pursuant to a commercial fishing license issued pursuant to Section 7852, or fish sold pursuant to a commercial fish business license issued in accordance with Article 7 (commencing with Section 8030) of Chapter 1 of Part 3 of Division 6.

(f) This section does not supersede Section 12005 or 12009.

(g)(1) Moneys equivalent to 50 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.

(2) 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 13003. 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. Section 12012 is amended to make nonsubstantive stylistic changes.

The reference to a “part” of an animal in this section is superfluous. See Section 80 (reference to animal generally includes part of animal). It is retained in this section solely for clarity, and is not intended to affect the meaning of any other provision of this code that includes or omits a reference to a “part” of an animal.

Fish & Game Code § 12013.3 (amended). Punishment for action involving specific animals

SEC. ____ . Section 12013.3 of the Fish and Game Code is amended to read:

12013.3. (a) Notwithstanding Section 12002, 12003.2, 12008, or 12008.5, the punishment for ~~any~~ a person who knowingly violated and has been convicted 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), and where the violation involved a wild turkey, a fine of not less than two thousand dollars (\$2,000); nor more than five thousand dollars (\$5,000), or imprisonment in the county jail for not more than one year, or both that fine and imprisonment:

(1) Section 2001, if the person took an animal outside the established season.

(2) Section 2005.

(3) Section 257.5 of Title 14 of the California Code of Regulations.

(4) Section 4304.

(5) Section 4330.

(6) Section 1054.2, 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, bighorn sheep, and wild turkeys ~~or parts thereof~~.

(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 3953 and shall be used for the big game management purposes described in that section.

(d) All revenue from fines imposed pursuant to this section for wild turkey violations shall be deposited in the Upland Game Bird Account established in Section 3684 and shall be used for the upland game bird conservation purposes described in that section.

(e) 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 13003. 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 13103.

Comment. Subdivision (b) of Section 12013.3 is amended to delete a superfluous reference to animal parts. See Section 80 (reference to animal generally includes part of animal).

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

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

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

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

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

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 12155 (amended). Punishment for third and subsequent convictions

SEC. _____. Section 12155 of the Fish and Game Code is amended to read:

12155. (a) Upon the third conviction of ~~any~~ a person of a violation of ~~any~~ a provision of this code or regulation adopted pursuant ~~thereto~~ to this code relating to the taking or possession of ~~birds or mammals, or parts thereof,~~ a bird or mammal in ~~any~~ a five-year period, and upon ~~any~~ a conviction subsequent to the three convictions during a five-year period, that person shall be prohibited from taking ~~any birds or mammals~~ a bird or mammal in the state for three years from the date of the last conviction. The commission shall revoke ~~the~~ a hunting license of ~~the person who is a person~~ prohibited from taking ~~birds or mammals~~ a bird or mammal in this state, ~~if he or she has one,~~ for the period of prohibition.

(b) It shall be unlawful for ~~any~~ a person to obtain, or attempt to obtain, a hunting license during a period of prohibition.

Comment. Section 12155 is amended to delete a superfluous reference to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to add subdivision designations and make nonsubstantive stylistic changes.

Fish & Game Code § 12162 (amended). Sale or donation of seized take

SEC. _____. Section 12162 of the Fish and Game Code is amended to read:

12162. ~~Any seizure of any birds, mammals, fish, reptiles, or amphibia or parts thereof made~~ A bird, mammal, fish, reptile, or amphibian seized under circumstances ~~wherein~~ in which it cannot be determined who took, possessed, sold, imported, or transported ~~them~~ the bird, mammal, fish, reptile, or amphibian contrary to law may be sold or donated to a state, county, city, city and county, or ~~any~~ charitable institution.

Comment. Section 12162 is amended to delete a superfluous reference to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 12163 (amended). Purchase of seized take

SEC. _____. Section 12163 of the Fish and Game Code is amended to read:

12163. ~~Any~~ A person who purchases birds, mammals, fish, reptiles, or ~~amphibia~~, amphibians ~~or parts thereof~~, from the department pursuant to the preceding sections shall, upon delivery ~~to him~~, pay to the department, for deposit in the Fish and Game Preservation Fund, the prevailing market price for legal birds, mammals, fish, reptiles, or ~~amphibia~~ amphibians in effect on the date of seizure.

Comment. Section 12163 is amended to delete a superfluous reference to animal parts. See Section 80 (reference to animal generally includes part of animal).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 12164 (amended). Confiscation and disposal of bird or mammal

SEC. _____. Section 12164 of the Fish and Game Code is amended to read:

12164. The court before whom ~~any~~ a person has been convicted of trespassing under Section 602 of the Penal Code shall, in addition to any other fine or forfeiture imposed, confiscate any bird or mammal ~~or parts thereof~~ taken while trespassing, and shall dispose of the bird or mammal ~~or parts thereof~~ to a charitable institution or cause it to be destroyed if unfit for human consumption.

Comment. Section 12164 is amended to delete superfluous references to animal parts. See Section 80 (reference to animal generally includes part of animal).

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

Fish & Game Code § 12300 (amended). California Indians

SEC. ____ . Section 12300 of the Fish and Game Code is amended to read:

12300. ~~Irrespective of~~ (a) Notwithstanding any other provision of law, the provisions of this code are not applicable to California Indians whose names are inscribed upon the tribal rolls, while on the reservation of ~~such that~~ tribe and under those circumstances in this ~~State~~ state where the code was not applicable to them immediately ~~prior to~~ before the effective date of Public Law 280, Chapter 505, First Session, 1953, 83d Congress of the United States.

(b) No ~~such~~ Indian described in subdivision (a) shall be prosecuted for the violation of ~~any a~~ provision of this code occurring in the places and under the circumstances ~~hereinabove referred to~~ described in subdivision (a). Nothing in this section, however, prohibits or restricts the prosecution of ~~any an~~ Indian for the violation of ~~any a~~ provision of this code prohibiting the sale of ~~any a~~ bird, mammal, fish, ~~or amphibia~~ amphibian, or reptile.

Comment. Subdivision (b) of Section 12300 is amended to add reptiles.

The section is also amended to add subdivision designations and make nonsubstantive stylistic changes.

Fish & Game Code § 13200 (amended). Accounting method

SEC. ____ . Section 13200 of the Fish and Game Code is amended to read:

13200. The department shall account for revenues and expenditures of the money in the Fish and Game Preservation ~~Account~~ Fund in a manner consistent with the laws and applicable policies governing state departments generally for each activity or program in which the department is engaged.

Comment. Section 13200 is amended to conform an incorrect reference to the “Fish and Game Preservation Account” to refer to the “Fish and Game Preservation Fund.”

Fish & Game Code § 13220 (amended). Fish and Game Preservation Fund

SEC. _____. Section 13220 of the Fish and Game Code is amended to read:

13220. Except as provided in Section 13230, the money in the Fish and Game Preservation Fund, commencing with the 2005–06 fiscal year, is available for expenditure, upon appropriation by the Legislature, for all of the following purposes:

(a) To the department for payment of refunds of sums determined by it to have been erroneously deposited in the fund, including, but not limited to, money received or collected in payment of fees, licenses, permits, taxes, fines, forfeitures, or services.

(b) To the department for expenditure in accordance with law for the payment of all necessary expenses incurred in carrying out this code and any other laws for the protection and preservation of birds, mammals, reptiles, amphibians, and fish.

(c) To the commission for expenditure in accordance with law for the payment of the compensation and expenses of the commissioners and employees of the commission.

Comment. Subdivision (b) of Section 13220 is amended to add amphibians.

The reference to amphibians in this section is superfluous. See Section 45 (“fish” includes amphibians). It is added solely for clarity, and is not intended to affect the meaning of any other provision of this code that includes or omits a reference to amphibians.

Fish & Game Code § 14102 (amended). Compensation

SEC. _____. Section 14102 of the Fish and Game Code is amended to read:

14102. Each commissioner who is not also a state officer shall receive ~~ten one hundred~~ dollars ~~(\$10)~~ (\$100) for each day of ~~actual service performed in carrying out his~~ performing official duties pursuant to the ~~directions~~ direction of the commission, and each commissioner shall receive ~~his~~ actual and necessary travel expenses incurred in ~~the performance of his~~ performing official duties ~~in~~ on behalf of the commission.

Comment. Section 14102 is amended to correct a reference to an obsolete per diem allowance. See Gov't Code § 11564.5.

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 16500 (amended). Findings

SEC. ____ . Section 16500 of the Fish and Game Code is amended to read:

16500. The Legislature finds:

(a) Jurisdiction over the protection and development of natural resources, especially the fish resource, is of great importance to both the State of California and California Indian tribes.

(b) To California Indian tribes, control over their minerals, lands, water, wildlife, and other resources within Indian country is crucial to their economic self-sufficiency and the preservation of their heritage. On the other hand, the State of California is concerned about protecting and developing its resources; protecting, restoring, and developing its commercial and recreational salmon fisheries; ensuring public access to its waterways; and protecting the environment within its borders.

(c) More than any other issue confronting the State of California and California Indian tribes, the regulation of natural resources, especially fish, transcends political boundaries.

(d) In many cases, the State of California and California Indian tribes have differed in their respective views of the nature and extent of state versus tribal jurisdiction in areas where Indians have historically fished. Despite these frequent and often bitter disputes, both the state and the tribes seek, as their mutual goal, the protection and preservation of the fish resource. This division is an attempt to provide a legal mechanism, other than protracted and expensive litigation over unresolved legal issues, for achieving that mutual goal on the Klamath River.

(e) ~~That the Department of Fish and Game~~ The department has exercised jurisdiction over the Klamath River from the mouth of the river through the Yurok Reservation and the Hoopa Valley Reservation, but ~~that~~ the Bureau of Indian Affairs and the Indian tribes thereon have also asserted jurisdiction over that river. The

river itself lies within a disputed area and proper management of the resource presents, therefore, unique and difficult problems in the exercise of fishing practices by all ~~users~~ user groups.

(f) Although commercial fishing may not be a traditional practice of the tribes existing along the Klamath River within the boundaries of the land of the Yurok Reservation and the Hoopa Valley Reservation, nevertheless, the ~~Department of Fish and Game~~ department has historically supported the concept of tribal fishing, including a tribal commercial fishing industry where the industry is consistent with the need to preserve the species, sound management, and where ~~such~~ that usage would not adversely effect other user groups, including sportfishing and the ocean commercial fishery.

(g) ~~That a~~ A commercial fishery existed on the Klamath River in the late 19th century and early 20th century, in which the Indian tribes existing along the river participated, but ~~that the~~ commercial fishing was abolished in 1933 with the passage of the predecessor to Section 8434, and, further, that salmon resources have declined historically due to past water developmental policies and timber harvesting practices. With a reduced number of fish available, special laws are needed to protect those resources and allocate them fairly among the various user groups.

(h) This division is not only enacted to provide the legal mechanism described above, but is also intended to encourage cooperative agreements to allow protection of the resource among all of the user groups. In so doing, the Legislature recognizes the unique status of the Klamath River and the fishing therein.

Comment. Section 16500 is amended to update obsolete references to the Department of Fish and Game. See Section 37 (“department” means Department of Fish and Wildlife).

The section is also amended to make nonsubstantive stylistic changes.

Fish & Game Code § 16520 (amended). “Klamath Fishery Management Council”

SEC. ____ . Section 16520 of the Fish and Game Code is amended to read:

16520. “Klamath Fishery Management Council” means that council created pursuant to Section ~~46055~~ 460ss-2 of Title 16 of the United States Code ~~which~~ that is composed of one representative each from the department, the Pacific Fishery Management Council, National Marine Fisheries Service, Department of the Interior, Oregon Department of Fish and Wildlife, ~~California Department of Fish and Game~~, the Hoopa Valley Business Council, non-Hoopa Indians, the California commercial salmon fishing industry, the Oregon commercial salmon fishing industry, the Klamath River in-river sportfishing community, and the California offshore recreational fishing industry.

Comment. Section 16520 is amended to update an obsolete reference to the Department of Fish and Game. See Section 37 (“department” means Department of Fish and Wildlife).

The section is also amended to correct a cross-reference and make nonsubstantive stylistic changes.
