

## Memorandum 2013-13

**Fish and Game Law: Proposed Division 2. Administration (Parts 1-3)**

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As discussed in Memorandum 2013-11, the staff proposes to divide the recodified Fish and Game Code into 6 Divisions, as follows:

- Division 1. General Provisions
- Division 2. Administration
- Division 3. Inter-Jurisdictional Compacts
- Division 4. Taking of Wildlife
- Division 5. Protection of Wildlife
- Division 6. Miscellaneous Provisions

This memorandum discusses proposed Division 2, which the staff would divide into the following parts:

- Part 1. Fish and Game Commission
- Part 2. Department of Fish and Wildlife
- Part 3. Districts
- Part 4. General License Provisions
- Part 5. Fines and Penalties
- Part 6. Revenue and Accounting
- Part 7. Expenditures
- Part 8. Counties

The attached draft presents proposed Parts 1-3. That content is described and discussed below.

The staff has taken a fairly conservative approach in preparing the attached draft. For the most part, the language used in the draft is drawn from existing law verbatim. Where changes have been made (either to conform to standard legislative drafting practices, update cross-references, or correct clear defects), the changes have been noted in the corresponding Comment (which will be included in any final recommendation). Courts have generally treated

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Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website ([www.clrc.ca.gov](http://www.clrc.ca.gov)). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

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

Commission Comments as evidence of legislative intent, with regard to legislation enacted on the Commission's recommendation.

There are "Staff Notes" following some provisions of the proposed law. Some of the Staff Notes identify issues that will require future attention. Others solicit public comment in response to specific questions posed by the staff. Staff Notes are intended to be temporary and will not be included in any final recommendation.

Unless otherwise indicated, all statutory references in this memorandum are to the Fish and Game Code or to the "proposed" provisions of the attached draft.

## GENERAL CONTENT OF PROPOSED DIVISION 2

The staff's intention is that proposed Division 2 will contain provisions that relate to *general* administration and enforcement of the code.

Provisions that relate to *specific* programs will not be included in proposed Division 2. Instead, those provisions will be located in later divisions of the code, as appropriate to their subject matter.

## PART 1. FISH AND GAME COMMISSION

### Source

The provisions in proposed Part 1 are drawn from Division 1 (commencing with Section 101) of the Fish and Game Code. They include provisions that recognize the existence of the Fish and Game Commission (hereafter, the "FGC"), address a few points relating to the structure and operations of FGC, and establish and regulate the rulemaking power of FGC.

Existing Division 1 also includes a number of provisions that are not included in proposed Part 2:

- Section 105 (marine resources)
- Section 217.5 (disabled accessible fishing areas)
- Sections 302-303 (take of black bears)
- Section 306 (extended season after fire hazard)
- Section 307 (reduced bag limit in light of species scarcity)
- Section 308 (gallinaceous guzzler)
- Section 308.5 (regulation of activity near waterholes)
- Section 310 (designation of salmon spawning areas)

- Section 312 (special permit for take as part of survival training)
- Section 313 (taking of tuna)
- Section 314 (taking in newly stocked areas)
- Section 315 (closing areas to fishing)
- Section 315.3 (opening areas to fishing)
- Section 316 (taking of halibut)
- Section 316.5 (taking of salmon)
- Section 317 (special permit for hunting by veterans)
- Sections 325-330 (special hunting seasons)
- Sections 331-332 (antelope and elk)
- Sections 355-357 (migratory birds)
- Section 375 (California-Arizona Compact)
- Sections 390-393 (reciprocal agreements with adjoining states)
- Sections 395-398 (falconry)
- Sections 400-401 (acceptance of federal acts)
- Sections 450-460 (management of deer)
- Section 500 (damages for poaching and illegal sales)

Those provisions will be located, as appropriate, in later divisions of the proposed code.

### **Rulemaking Generally**

There are a number of provisions that establish FGC's rulemaking authority or that specify procedures to be used when making rules.

The existing code draws a distinction between two groups of rulemaking provisions, which can be described as follows:

- Article 1 (commencing with Section 200) of Chapter 2 of Division 1 of the Fish and Game Code.
- All other rulemaking provisions of the Fish and Game Code.

The distinction between those groups matters because some sections provide special rules that only apply to rules adopted pursuant to Article 1.

For convenience, this memorandum will refer to those two groups as "Article 1 rulemaking" provisions and "non-Article 1 rulemaking" provisions. They are discussed in more detail below.

## **Article 1 Rulemaking**

Some of the provisions of existing Article 1 establish rulemaking authority. In the attached draft, those provisions are collected in proposed Article 1 (commencing with Section 550) of Chapter 2.

Other provisions mandate special procedures for Article 1 regulations. Those provisions are collected in proposed Article 2 (commencing with Section 650) of Chapter 2.

Both groups of provisions are discussed in more detail below.

### *Authority*

The rulemaking authority conferred by Article 1 concerns the regulation of hunting and fishing. The first paragraph of Section 200 (proposed Section 550) provides:

There is hereby delegated to the commission the power to regulate the taking or possession of birds, mammals, fish, amphibia, and reptiles to the extent and in the manner prescribed in this article.

Sections 203 and 205 (proposed Sections 555 and 565) supplement that general authority, by specifying particular types of hunting and fishing regulations that may be adopted (e.g., regulations addressing open and closed seasons, bag limits, possession limits, territorial limits, limits on particular methods of take, limits based on characteristics of the animal taken).

The second paragraph of Section 200 (proposed Section 570(b)) limits FGC's Article 1 rulemaking authority:

No power is delegated to the commission by this article to regulate the taking, possessing, processing, or use of fish, amphibia, kelp, or other aquatic plants for commercial purposes, and no provision of this code relating or applying thereto, nor any regulation of the commission made pursuant to such provision, shall be affected by this article or any regulation made under this article.

Furthermore:

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

See Section 201 (proposed Section 570(a)).

Section 204 (proposed Section 575) expressly limits FGC’s Article 1 rulemaking, by listing specific topics on which FGC has no power to regulate “under this article” (i.e., under Article 1). The effect of Section 204 is discussed more fully below.

### *Procedures*

There are a number of special procedural provisions that, by their terms, only apply to Article 1 rulemaking. They are:

- *Rulemaking meetings.* Regulations adopted under Sections 203 and 205 (proposed Sections 555 and 565) must be developed and adopted at a series of at least three public meetings. The regulations must then be “published and distributed.” See Section 207 (proposed Section 650). Under some circumstances, it appears that FGC can deviate from the normal rulemaking meeting requirements. See Section 220(b) (proposed Section 655).
- *Publication and distribution.* Despite a number of technical reference errors, Section 210 (proposed Section 700) appears to specify the methods by which regulations adopted under Article 1 must be published and distributed. Those requirements are further elaborated in Section 211 (proposed Section 705). See also Section 217.6 (proposed Section 710) (health advisories in regulation pamphlet).
- *Filing with Secretary of State.* Article 1 regulations must be filed with the Secretary of State to be effective. See Section 215 (proposed Section 665).
- *Judicial review.* Article 1 regulations are subject to court review. See Section 218 (proposed Section 670).
- *Effective period.* An Article 1 regulation remains effective for the period that it specifies or until superseded by regulation or statute. See Section 220(a) (proposed Section 680).
- *Authority to supersede statute.* An Article 1 regulation can supersede any code section, if the regulation states that effect expressly and is either “necessary for the protection of fish, wildlife, and other natural resources under the jurisdiction of the commission” or is necessary to avoid an emergency or address an existing emergency. Such a regulation only has effect for 12 months. See Section 219 (proposed Section 675).
- *Continuing effect.* If Article 1 “ceases to be effective,” all regulations adopted pursuant to that article “are continued as statutory enactments and shall have the same force and effect as if enacted by the Legislature.” See Section 250 (proposed Section 685).

## **Non-Article 1 Rulemaking**

There are a number of provisions outside of Article 1 that establish FGC rulemaking authority, while others mandate rulemaking procedures. In the attached draft, those provisions are collected in proposed Chapter 3 (commencing with Section 750). They are discussed in more detail below.

### *Authority*

There are three provisions that are clearly outside of the Article 1 rulemaking authority, because they are not located within Article 1 and do not regulate hunting or fishing:

- Section 108 (proposed Section 750) requires that FGC adopt rules to govern its business practices.
- Section 301 (proposed Section 760) authorizes FGC to adopt regulations governing the disposition of the remains of accidentally killed animals.
- The second paragraph of existing Section 309(a) (proposed Section 755) requires FGC to adopt regulations to provide due process in license or permit revocation or suspension processes.

In addition, there are a number of provisions located outside of Article 1 that grant rulemaking authority relating to matters other than the regulation of hunting and fishing. See, e.g., Section 1907 (native plant protection). It seems clear that those are non-Article 1 rulemaking provisions.

However, there are also some provisions outside of Article 1 that confer authority to regulate specific aspects of hunting or fishing. As discussed below, the staff is unsure whether those provisions are (or should be) considered to be Article 1 rulemaking provisions.

### *Hunting and Fishing Regulations Located Outside Article 1*

The rulemaking authority provided in Article 1 broadly addresses the regulation of hunting and fishing. See Section 200 (proposed Section 550). Arguably, any time the Fish and Game Code authorizes FGC to regulate a specific aspect of hunting or fishing, the regulation is *also* authorized under Section 200. If so, then *any* regulation of hunting and fishing is Article 1 rulemaking.

For example, Section 355 authorizes FGC to adopt regulations governing the take of migratory birds. That specific authority would seem to be subsumed within the general authority granted by Section 200 to regulate the taking of

birds. When FGC adopts regulations under Section 355, is it also acting under Section 200 and therefore subject to the Article 1 procedures? **The staff invites public input on that issue.**

*Regulations Listed in Section 204(a)-(c)*

There is a special case, involving Section 204 (proposed Section 575), that complicates things further. The first paragraph of Section 204 provides that the FGC “has no power *under this article* to make any regulation authorizing or permitting the taking of” specified types of animals. (Emphasis added.)

For example, Section 204(b) provides that FGC has no power under Article 1 to adopt a regulation authorizing the taking of elk. Does that mean that FGC has no rulemaking authority to authorize the taking of elk? Apparently not. As Section 204 *itself acknowledges*, FGC has authority to authorize and regulate elk hunting under Section 332. See proposed Section 575(a)(2).

So what is the effect of Section 204(b)? Perhaps, the point of Section 204(b) is not to proscribe the regulation of elk hunting, but instead to make clear that rulemaking is *not authorized under Article 1* and is therefore not governed by the Article 1 rulemaking provisions. The same may be true for Section 204(a) (taking animals within refuge) and (c) (taking antelope). **The staff invites public comment on whether that is a correct reading of Section 204(a)-(c).** In other words, is the point of Section 204(a)-(c) to exclude the specified topics from the procedural provisions governing Article 1 rulemaking?

*Procedure*

There are two procedural provisions that appear to govern non-Article 1 rulemaking.

The first is Section 240, which provides a special procedure for the adoption of emergency regulations. See proposed Section 805. (By its terms, that provision probably also governs Article 1 rulemaking.)

The second is Section 300, which requires that all non-Article 1 regulations be filed with the Secretary of State. The staff has many questions about that provision. They are set out in the note that follows proposed Section 800.

**Opportunity for Simplification**

It is not completely clear to the staff why the Article 1 distinction exists. If there is a good policy reason for that distinction, then it should be preserved and expressed as clearly as possible (as is done in the attached draft).

But if the distinction is unnecessary or problematic, perhaps it could be omitted or minimized. If so, the rulemaking provisions could be substantially simplified.

There are a number of ways in which simplification might be achieved. Each is discussed below.

*Eliminate Article 1 Distinction Entirely*

The Article 1 distinction could be eliminated entirely. All of the provisions that currently apply only to Article 1 rulemaking could be generalized to apply to all FGC rulemaking.

That approach would achieve significant simplification of the expression of the law and would achieve greater certainty as to what the law requires. In some cases, it might result in slightly greater administrative burdens. For example, the special three-meeting requirement of Section 207 (proposed Section 650) might apply in circumstances where it presently does not.

**The staff invites public comment on the merits of this approach.** As discussed below, there may be good reason to continue to the Article 1 distinction with respect to some provisions. If so, then the narrower approaches discussed below might be more appropriate.

*Eliminate Article 1 Distinction With Regard to Hunting and Fishing Regulations*

If all hunting and fishing regulations are subsumed within the general authority to regulate hunting and fishing granted in Section 200, then there is no need to distinguish between Article 1 hunting and fishing regulations and non-Article 1 hunting and fishing regulations.

To the extent that any Article 1 distinction is preserved, it could instead be based on a distinction between (1) hunting and fishing regulations and (2) all other regulations. In other words, the special Article 1 provisions could be recast to apply to any regulation that governs the “taking or possession of birds, mammals, fish, amphibia, and reptiles.”

This would provide some clarity, but not much in the way of procedural simplification. **The staff invites public comment on the merits of this alternative.**



*Eliminate Article 1 Distinction as to Provisions that Arguably Should be Generalized*

In some cases, it isn't clear why the special procedures that govern Article 1 regulations should not also apply to non-Article 1 regulations. The procedures seem sensible and do not seem unduly burdensome. For example:

- Section 202 (proposed Section 660) exempts Article 1 rulemaking from specified time periods under the Administrative Procedure Act ("APA") rulemaking process.
- Section 203.1 (proposed Section 560) mandates criteria to be used by FGC in developing Article 1 regulations.
- Section 207 (proposed Section 650) requires that Article 1 regulations be developed over a specified course of at least three public meetings.
- Section 210 (proposed Section 700) specifies rules for the dissemination and publication of Article 1 regulations.
- Section 220(a) provides that Article 1 regulations remain in effect until the time specified in the regulation or until superseded by a regulation or statute.

It may be that the provisions discussed above could be generalized so that they apply to all FGC rulemaking (or more narrowly, to all FGC hunting and fishing rulemaking). Such an approach would be simpler and might confer procedural benefits that outweigh any additional burdens. **The staff invites public comment on the merits of this alternative.**

*Eliminate Article 1 Distinction Where it Does Not Clearly Serve Any Purpose*

In some cases, it isn't clear that the Article 1 distinction actually has any meaningful effect. The special rules enacted to govern Article 1 regulations are very similar in substance to general rules that would apply in the absence of the special rules. For example:

- Section 215 (proposed Section 665) requires that Article 1 regulations be filed with the Secretary of State. This is similar to the generally applicable APA filing requirement. See Gov't Code § 11343(a). Moreover, it is similar to Section 300, requiring that all non-Article 1 regulations be filed with the Secretary of State.
- Section 218 (proposed Section 670) provides for court review of Article 1 regulations. Court review of regulations is also provided for in the APA. See Gov't Code § 11350.

It may be that the provisions discussed above are unnecessary and could simply be omitted in reliance on general rulemaking law. **The staff invites public comment on the merits of this alternative.**

*Preserve Article 1 Distinction With Regard to Unusual Provisions*

There are two provisions that regulate Article 1 rulemaking in unusual ways, which should perhaps not be generalized to apply to all FGC regulations:

- Section 219 (proposed Section 675) provides that an Article 1 regulation can *supersede* any provision of the Fish and Game Code, provided that the regulation expressly states that effect and certain specified substantive and procedural requirements are met. The effect of such a regulation is limited to one year. The staff has never before seen a statute providing that an administrative regulation can supersede a statute. The general principle in administrative rulemaking is that regulations must be consistent with statutory law. See Gov't Code §§ 11349(d), 11349.1(a)(4).
- Section 250 (proposed Section 685) provides that an Article 1 regulation *becomes a statute* if the statutory authority for the regulation "ceases to be effective." Section 250 appears to vest statutory lawmaking power in an administrative agency, without any requirement that the agency's regulation be approved by the Legislature or the Governor.

With regard to Section 250, a little history is helpful in understanding its intended effect. Apparently, when Section 250 was first enacted, the Legislature had a recurring practice of placing two-year "sunset" limitations on the statute granting FGC its Article 1 rulemaking authority:

Ever since general regulatory powers were conferred upon the Commission in 1945 (Stats. 1945, ch. 648, p. 1302), the Legislature has limited the duration thereof to a two-year period, terminating on the ninety-first day after final adjournment of each succeeding Regular Session.

44 Ops. Cal. Atty. Gen. 111, 113 (1964). That seems to explain why Section 250 contemplates the possibility that Article 1 might "cease to exist." Apparently, at some point the Legislature decided to stop its practice of sunseting the Article 1 authority. However, for whatever reason, they preserved Section 250. **The staff invites public comment on whether Section 250 continues to serve any useful purpose or can be omitted as obsolete.**

Both of the provisions discussed above grant unusual rulemaking power to FGC, but only as to Article 1 rulemaking. Given the unusual character of those

provisions and uncertainty as to their policy purpose, the staff is hesitant to suggest any change to their effect. If they are preserved, it might be best to leave their scope of application unchanged. **The staff invites public comment on this issue.**

*Eliminate Special Rulemaking Procedures Generally*

The APA provides a complete and coherent body of procedural law governing administrative agency rulemaking. See Gov't Code § 11340 *et seq.* It may be that most of the special rulemaking procedures in the attached draft could be omitted, in reliance on that general law.

That approach would simplify both the law and FGC operations. Special procedures create complications and increase the risk of procedural error (which can lead to litigation and waste). As a general matter, special procedures should be minimized, except where there is a good policy justification for separate treatment.

**The staff invites public comment on whether there is a need for any of the special FGC rulemaking procedures included in the attached draft.** (It is premature to consider whether special procedures relating to specific program areas need to be retained. We will cross that bridge when we come to it.)

*Conclusion*

If the Commission is interested in pursuing one or more of the alternative approaches discussed above, the staff will prepare an implementing draft for consideration at a future meeting.

**Public comment, including comment from FGC and the Department of Fish and Wildlife, would be especially helpful in determining which aspects of existing FGC rulemaking law serve a continuing policy purpose, and which could either be generalized or discontinued in the interests of simplification.**

PART 2. FISH AND WILDLIFE DEPARTMENT

The provisions in proposed Part 2 are drawn from Chapters 1-3 of Division 2 of the Fish and Game Code. Those provisions address the existence, organization, and general powers and duties of the Department of Fish and Wildlife.

Existing Chapter 3 includes some provisions that are not included in proposed Part 2. The omitted provisions relate to specific programs, rather than

general agency administration provisions. The staff intends to locate the omitted provisions in later divisions of the proposed law, as appropriate to their subject matter. The omitted provisions are as follows:

- Section 1000.6 (salmon count)
- Sections 1002-1003 (scientific and propagation permits)
- Section 1014 (fish and wildlife enhancement facilities)
- Section 1016 (oil sump)
- Section 1018 (conservation within specified locale)
- Sections 1120- 1126 (state fish hatcheries)
- Section 1150 (county hatcheries)
- Sections 1170-1175 (private nonprofit hatcheries)
- Sections 1200-1206 (cooperative salmon and steelhead rearing facilities)

Note also that some of the provisions of existing Chapters 2 and 3 will be continued in later parts of proposed Division 2, as follows:

- Provisions governing county game wardens (Sections 875-882) will be located in proposed Part 8.
- Provisions governing general licensing matters (Sections 1050-1110) will be located in proposed Part 4.

### PART 3. DISTRICTS

The provisions in proposed Part 3 are drawn from Division 8 of the Fish and Game Code. Those provisions define the boundaries of the various fish and game districts into which the state is divided. A few minor issues relating to those provisions are discussed below.

#### **Boundary Descriptions Continued Verbatim**

The boundary descriptions are complex and detailed. The staff has not made any attempt to determine whether the boundary descriptions are accurate. **Public comment is invited on any inaccuracies that may exist.** If there are any defects in the boundary descriptions, they could be corrected as part of this study.

**It also occurs to the staff that this might be a good opportunity to modernize the boundary descriptions and make them more readily comprehensible.** If the FGC and Department of Fish and Wildlife see merit in

that suggestion, they should prepare and submit proposed technical revisions to the descriptions.

### **Subdivision Designations**

The most significant changes that the staff has made to the district boundary provisions is to add subdivision designations. This should make the provisions easier to reference and understand. See, e.g., proposed Section 1710.

The staff believes that those revisions would not have any substantive effect.

**Public comment is invited on that issue.**

### **Relocation of Regulatory Provision**

One of the sections defining the boundaries of a district also contains a related regulatory provision. Specifically, the last paragraph of Section 11036 (proposed Section 1880) provides:

Every person, firm, corporation or company who constructs or maintains any dam or other artificial obstruction in any of the waters of said Klamath River Fish and Game District is guilty of a misdemeanor and upon conviction must be fined not less than one thousand dollars (\$1,000) or be imprisoned in the county jail of the county in which the conviction shall be had, not less than 100 days, or by both such fine and imprisonment, and any artificial obstruction constructed, placed or maintained in said district is hereby declared to be a public nuisance.

The attached draft does not include that provision. Instead, it will be located in a future portion of the proposed law (with other provisions regulating waterways).

### **Division Naming Scheme**

One technical aspect of the district provisions tempts the staff to tinker. The existing system for naming and numbering the districts is not consistent as to form. District names are designated using all of the following methods:

- Whole numbers, for example: "District 1." See Section 11001 (proposed Section 1705).
- Fractional numbers, for example: "District 1 3/8." See Section 11002 (proposed Section 1710).
- Decimal numbers, for example: "District 118.5." See Section 11039 (proposed Section 1895).
- Numbers and letters, for example: "District 19A." See Section 11028 (proposed Section 1840).

- Proper names, for example: “Klamath River Fish and Game District.” See Section 11036 (proposed Section 1880).

That naming system could be rationalized, by using one naming method consistently.

If the Commission were to change the district names, it would also need to make technical revisions to adjust any sections that refer to specific districts. See, e.g., Section 308 (governing hunting near gallinaceous guzzlers in District 22).

There would probably be some transitional cost to implementing a new district naming scheme. Administrative references to the existing district names would need to be changed. Persons familiar with the old names would need to learn new ones.

That transitional cost could be reduced somewhat by adding a provision that expressly authorizes reference to districts by either their old or new names. There would then be no legal pressure to promptly replace existing reference materials. For that approach to work, there would need to be no overlap between the new and old names.

**The staff invites public comment on whether the benefits of standardizing the district naming system would outweigh the transitional costs and inconvenience.**

#### CONCLUSION

The attached draft represents an initial attempt to reorganize the Fish and Game Code provisions that relate to (1) the general powers and duties of the Fish and Game Commission, (2) the general powers and duties of the Department of Fish and Wildlife, and (3) the existing fish and game districts.

There may be other provisions that should be located with those materials, but are scattered elsewhere in the code. Over the remainder of this study, if the staff finds any provision that should be located in the general administration provisions, it can be added to the content of proposed Division 1.

The staff invites public comment on any of the issues raised in this memorandum or the attached draft.

In addition, the staff would appreciate comment on whether any of the provisions included in the attached draft present the kinds of problems with consistency, redundancy, or ambiguity as to program authority or funding sources that the Commission has been tasked with addressing. See 2012 Cal. Stat.

res. ch. 108. Because the Commission is new to fish and game law, it is important that subject matter experts assist in identifying such problems as the Commission proceeds through the code.

Respectfully submitted,

Brian Hebert  
Executive Director

## FISH AND WILDLIFE CODE

**Staff Note:** This is a preliminary staff draft of a proposed reorganization of specified provisions of the Fish and Game Code.

Statutory cross-references that cannot yet be adjusted (because the referenced provisions have not yet been reorganized) are set out in boldface type, for later attention.

A draft of an official Commission “Comment” follows each proposed section. Such Comments will be included in any final recommendation. They serve to indicate the source of each section and to describe how it compares with prior law. Courts have routinely held that the Commission’s Comments are evidence of legislative intent with regard to any legislation that implements a Commission recommendation. For guidance on the terminology used in Commission Comments, see the Comment following proposed Section 20 (attached to Memorandum 2013-12).

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

Some provisions of this draft may be followed by a “Staff Note.” Staff Notes are intended to be temporary and will not be part of the Commission’s final recommendation. They serve to flag issues requiring special attention or treatment.

The Commission welcomes public comment on any issue relating to the content of this draft. The Commission is particularly interested in comments on any of the following matters:

- (1) Responses to any questions posed in “Staff Notes.”
- (2) Any inconsistency, obsolescence, ambiguity, or problems relating to program authority and funding, whether *within* the provisions of this draft or *between* the provisions of this draft and other provisions of law.
- (3) Provisions that should have been included in this draft but were not (or provisions included in this draft that should have been located elsewhere).
- (4) Technical drafting errors.

Comments should be directed to Brian Hebert at [bhebert@clrc.ca.gov](mailto:bhebert@clrc.ca.gov).

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1

## DIVISION 2. ADMINISTRATION

2

### PART 1. FISH AND GAME COMMISSION

3

#### CHAPTER 1. ORGANIZATION

4

##### **§ 500. Fish and Game Commission**

5

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

6

7

**Comment.** Section 500 continues former Section 101 without change.

8

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

9

10

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

11

12

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

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##### **§ 505. Findings and declarations**

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

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

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

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

39

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

40

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

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

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

8 **Comment.** Section 505 continues former Section 101.5 without change.

9 **§ 510. Officers**

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

12 (b) No president or vice president shall serve more than two consecutive years.

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

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

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

25 **Comment.** Section 510 continues former Section 102 without change.

26 **§ 515. Compensation and expenses**

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

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

35 **Comment.** Section 515 continues former Section 103 without change.

36 **§ 520. Meetings**

37 520. (a) The commission shall hold no fewer than 10 regular meetings per  
38 calendar year, if the commission has adequate funding for related travel, including  
39 funding for department travel. The commission may also hold special meetings or  
40 hearings to receive additional input from the department and the public.

1 (b) The commission shall announce the dates and locations of meetings for the  
2 year by January 1 of that year, or 60 days prior to the first meeting, whichever  
3 comes first. Meeting locations shall be accessible to the public and located  
4 throughout the state, with no more than three regular meetings to be held in  
5 Sacramento per year. To the extent feasible, meetings shall be held in state  
6 facilities. In setting the dates and locations for regular meetings, the commission  
7 shall also consider the following factors:

8 (1) Recommendations of the department.

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

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

12 (c) The commission shall cause the notice of the schedule for regular meetings,  
13 and notice of any change in the date and location of a meeting, to be disseminated  
14 to the public in a manner that will result in broad dissemination, including, but not  
15 limited to, electronic distribution, mailings to interested parties, and publication in  
16 local newspapers of affected communities.

17 **Comment.** Section 520 continues former Section 206 without change.

18 **§ 525. Commission staff**

19 525. The commission may employ a staff, including an executive director, to  
20 assist the commission in conducting its operations, but neither the commission nor  
21 its staff shall have or be given any powers in relation to the administration of the  
22 department.

23 **Comment.** Section 525 continues former Section 104 without change.

24 **§ 530. Code of conduct**

25 530. The commission shall adopt a code of conduct that requires, at a minimum,  
26 that a commissioner adhere to the following principles:

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

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

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

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

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

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

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

4 **Comment.** Section 530 continues former Section 107 without change.

## 5 CHAPTER 2. GENERAL REGULATORY POWERS

### 6 Article 1. Authority

#### 7 § 550. General authority

8 550. There is hereby delegated to the commission the power to regulate the  
9 taking or possession of birds, mammals, fish, amphibia, and reptiles to the extent  
10 and in the manner prescribed in this chapter.

11 **Comment.** Section 550 continues the first paragraph of former Section 200 without change,  
12 except as indicated below:

13 The following nonsubstantive change was made:

- 14 • A reference to “this article” was revised to refer to “this chapter.”

#### 15 § 555. Specific authority relating to birds and mammals

16 555. Any regulation of the commission pursuant to this article relating to  
17 resident game birds, game mammals and furbearing mammals may apply to all or  
18 any areas, districts, or portions thereof, at the discretion of the commission, and  
19 may do any or all of the following as to any or all species or subspecies:

- 20 (a) Establish, extend, shorten, or abolish open seasons and closed seasons.
- 21 (b) Establish, change, or abolish bag limits and possession limits.
- 22 (c) Establish and change areas or territorial limits for their taking.
- 23 (d) Prescribe the manner and the means of taking.
- 24 (e) Establish, change, or abolish restrictions based upon sex, maturity, or other  
25 physical distinctions.

26 **Comment.** Section 555 continues former Section 203 without change.

#### 27 § 560. Factors to be considered

28 560. When adopting regulations pursuant to Section 555, the commission shall  
29 consider populations, habitat, food supplies, the welfare of individual animals, and  
30 other pertinent facts and testimony.

31 **Comment.** Section 560 continues former Section 203.1 without change, except as indicated  
32 below:

33 The following nonsubstantive change was made:

- 34 • A cross-reference to former Section 203 was updated.

35 **Staff Note:** Should proposed Section 560 be broadened to encompass proposed Section 565,  
36 which is very similar to Section 555?

1    **§ 565. Specific authority relating to fish, amphibia, and reptiles**

2    565. Any regulation of the commission pursuant to this article that relates to  
3 fish, amphibia, and reptiles, may apply to all or any areas, districts, or portion  
4 thereof, at the discretion of the commission, and may do any or all of the  
5 following as to any or all species or subspecies:

- 6    (a) Establish, extend, shorten, or abolish open seasons and closed seasons.  
7    (b) Establish, change, or abolish bag limits, possession limits, and size limits.  
8    (c) Establish and change areas or territorial limits for their taking.  
9    (d) Prescribe the manner and the means of taking.

10    **Comment.** Section 565 continues former Section 205 without change, except as indicated  
11 below:

12    The following nonsubstantive change was made:

- 13    •     The word “which” was replaced with “that.”

14    **§ 570. Limitations on regulation of commercial activity**

15    570. (a) Nothing in this article confers upon the commission any power to  
16 regulate any natural resources or commercial or other activity connected  
17 therewith, except as specifically provided.

18    (b) No power is delegated to the commission by this article to regulate the  
19 taking, possessing, processing, or use of fish, amphibia, kelp, or other aquatic  
20 plants for commercial purposes, and no provision of this code relating or applying  
21 thereto, nor any regulation of the commission made pursuant to such provision,  
22 shall be affected by this article or any regulation made under this article.

23    **Comment.** Subdivision (a) of Section 570 continues former Section 201 without substantive  
24 change.

25    Subdivision (b) continues the second paragraph of former Section 200 without substantive  
26 change.

27    **§ 575. Other limitations**

28    575. (a) The commission has no power under this article to make any regulation  
29 authorizing or permitting the taking of:

30    (1) Any bird or mammal in any refuge heretofore or hereafter established by  
31 statute, the taking or possession of which shall be regulated pursuant to Sections  
32 **10500 to 10506, inclusive.**

33    (2) Elk, the taking or possession of which shall be regulated pursuant to **Section**  
34 **332.**

35    (3) Antelope, the taking or possession of which shall be regulated pursuant to  
36 **Section 331.**

37    (4) Any spike buck or spotted fawn. “Spotted fawn” means a young deer born  
38 that year which has spotted pelage. “Spike buck” means a male deer with  
39 unbranched antlers on both sides which are more than three inches in length.

40    (b) Any regulation establishing a season to compensate for closure of an area  
41 due to extreme fire hazard shall be made pursuant to **Section 306.**



1 (c) Any regulation setting a special hunting season for mammals, except deer, or  
2 game birds which have increased in number to such an extent that a surplus exists  
3 or which are damaging property or are overgrazing their range shall be made  
4 pursuant to Section **325**.

5 **Comment.** Section 575 continues former Section 204 without change, except as indicated  
6 below:

7 The following nonsubstantive change was made:

- 8 • The last two paragraphs were designated as subdivisions (b) and (c).

9 **Staff Notes:** (1) Proposed Section 575(a)(4) is different from (a)(1)-(3), in that it does not  
10 refer to a topic that FGC is authorized, in another provision, to regulate. Because of that  
11 difference, it may be that (a)(4) is intended to flatly prohibit FGC from adopting any regulation  
12 that permits the take of spotted fawns and spike bucks. Is that a correct reading of the provision?

13 (2) The staff is unsure of the purpose of proposed Section 575 (b) & (c). Are those provisions  
14 simply “signpost” provisions, alerting readers to the existence of the referenced provision without  
15 establishing any substantive rule? If so, can they be omitted as unnecessary?

16 (3) The cross-references shown in bold above will need to be corrected, once the referenced  
17 material has been renumbered.

## 18 Article 2. Procedures

### 19 § 650. Special rulemaking meetings

20 650. (a) Except for emergency regulations, the commission shall consider and  
21 adopt regulations pursuant to Sections 555 and 565 at a series of no fewer than  
22 three meetings. These meetings may be regular or special meetings that are duly  
23 noticed to the public in accordance with subdivision (c) of Section 520 and the  
24 Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of  
25 Part 1 of Division 3 of Title 2 of the Government Code).

26 (b) At the first meeting, the commission shall receive recommendations for  
27 regulations from its own members and staff, the department, other public agencies,  
28 and the public.

29 (c) At the second meeting, the commission shall devote time for open public  
30 discussion of proposed regulations presented at the first meeting. The department  
31 shall participate in this discussion by reviewing and presenting its findings  
32 regarding each regulation proposed by the public and by responding to objections  
33 raised pertaining to its proposed regulations. After considering the public  
34 discussion, the commission shall announce, prior to adjournment of the meeting,  
35 the regulations it intends to add, amend, or repeal.

36 (d) At the third meeting, the commission may choose to hear additional public  
37 discussion regarding the regulations it intends to adopt. At the meeting or within  
38 20 days after the meeting, the commission shall add, amend, or repeal regulations  
39 relating to any recommendation received at the initial meeting it deems necessary  
40 to preserve, properly utilize, and maintain each species or subspecies.

41 (e) Within 45 days after adoption, the department shall publish and distribute  
42 regulations adopted pursuant to this section.

1 **Comment.** Section 650 continues former Section 207 without change.

2 **§ 655. Rulemaking at meetings generally**

3 655. Notwithstanding this article, the commission may add, amend, or repeal  
4 regulations at any regular or special meeting if facts are presented to the  
5 commission which were not presented at the time the original regulations were  
6 adopted and if the commission determines that those regulations added, amended,  
7 or repealed are necessary to provide proper utilization, protection, or conservation  
8 of fish and wildlife species or subspecies.

9 **Comment.** Section 655 continues former Section 220(b) without change.

10 **Staff Note.** Does Section 220(b) permit FGC to circumvent the requirements of Section 207  
11 (proposed Section 650) whenever new information arises? If not, what is its effect?

12 **§ 660. Exemption from specified rulemaking time periods**

13 660. The commission shall exercise its powers under Article 1 (commencing  
14 with Section 550) by regulations made and promulgated pursuant to this article.  
15 Regulations adopted pursuant to this article shall not be subject to the time periods  
16 for the adoption, amendment, or repeal of regulations prescribed in Sections  
17 11343.4, 11346.4, 11346.8, and 11347.1 of the Government Code.

18 **Comment.** Section 660 continues former Section 202 without change, except as indicated  
19 below:

20 The following nonsubstantive change was made:

- 21 • A reference to “this article” was revised to refer to “Article 1 (commencing with  
22 Section 550).”

23 See also Gov’t Code § 11343.4(b)(4) (exemption from general effective date of regulations).

24 **§ 665. Filing of regulations with Secretary of State**

25 665. Every regulation of the commission made pursuant to Article 1  
26 (commencing with Section 550) shall be filed with the Secretary of State, and shall  
27 become effective at the time specified therein, but not sooner than the date of the  
28 filing.

29 **Comment.** Section 665 continues former Section 215 without change, except as indicated  
30 below:

31 The following nonsubstantive change was made:

- 32 • A reference to “this article” was revised to refer to “Article 1 (commencing with  
33 Section 550).”

34 **§ 670. Court review of regulations**

35 670. Any regulation of the commission made pursuant to Article 1 (commencing  
36 with Section 550) shall be subject to review in accordance with law by any court  
37 of competent jurisdiction.

38 **Comment.** Section 670 continues former Section 218 without change, except as indicated  
39 below:

40 The following nonsubstantive change was made:

- 1       • A reference to “this article” was revised to refer to “Article 1 (commencing with  
2       Section 550).”

3       **§ 675. Regulation that supersedes statute**

4       675. (a) Any regulation adopted pursuant to Article 1 (commencing with Section  
5       550) may supersede any section of this code designated by number in the  
6       regulation, but shall do so only to the extent specifically provided in the  
7       regulation. A regulation that is adopted pursuant to this section shall be valid only  
8       to the extent that it makes additions, deletions, or changes to this code under one  
9       or both of the following circumstances:

10      (1) The regulation is necessary for the protection of fish, wildlife, and other  
11      natural resources under the jurisdiction of the commission.

12      (2) The commission determines that an emergency exists or will exist unless the  
13      action is taken. An emergency exists if there is an immediate threat to the public  
14      health, safety, and welfare, or to the population or habitat of any species.

15      (b) A regulation that is adopted pursuant to this section shall be supported by  
16      written findings adopted by the commission at the time of the adoption of the  
17      regulation setting forth the basis for the regulation.

18      (c) A regulation adopted pursuant to this section shall remain in effect for not  
19      more than 12 months from its effective date.

20      **Comment.** Section 675 continues former Section 219 without change, except as indicated  
21      below:

22      The following nonsubstantive changes were made:

- 23      • The subdivisions and paragraphs were renumbered.  
24      • In subdivision (a), the words “or both” were added.  
25      • In subdivision (a), a reference to “this article” was revised to refer to “Article 1  
26      (commencing with Section 550).”  
27      • In subdivision (a), the word “which” was changed to “that.”  
28      • In subdivision (b), the word “which” was changed to “that.”

29      **§ 680. Duration of regulations**

30      680. Any regulation of the commission added or amended pursuant to Article 1  
31      (commencing with Section 550) shall remain in effect for the period specified  
32      therein or until superseded by subsequent regulation of the commission or by  
33      statute.

34      **Comment.** Section 680 continues former Section 220(a) without change, except as indicated  
35      below:

36      The following nonsubstantive change was made:

- 37      • A reference to “this article” was revised to refer to “Article 1 (commencing with  
38      Section 550).”

39      **§ 685. Continuation of regulations after Article 1 “ceases to be effective”**

40      685. If Article 1 (commencing with Section 550) ceases to be effective, all  
41      regulations adopted pursuant to that article which are in effect on the day of final  
42      adjournment of the regular session of the Legislature in the year in which the

1 article ceases to have effect are continued as statutory enactments and shall have  
2 the same force and effect as if enacted by the Legislature. Whenever, in any  
3 regulation of the commission continued under this section, a period of time is  
4 designated with reference to a particular year, that period of time is applicable on a  
5 continuing basis in each succeeding year. All regulations of the commission,  
6 insofar as practicable, shall be phrased in general terms to facilitate the operation  
7 of this section.

8 **Comment.** Section 685 continues former Section 250 without change, except as indicated  
9 below:

10 The following nonsubstantive changes were made:

- 11 • A cross-reference to former Sections 200-220 was replaced with a reference to Sections  
12 550-585.
- 13 • The word “such” was omitted.

14 **Staff Notes.** (1) Existing Section 250 refers to Article 1 (commencing with Section 200) of  
15 Chapter 2 of Division 1 of the Fish and Game Code. That article contains provisions granting  
16 rulemaking authority and provisions prescribing rulemaking procedures. In proposed Section 685,  
17 the reference is revised to refer only to the provisions that grant rulemaking authority. The staff  
18 believes that this would be a nonsubstantive change, because existing Section 250 only appears to  
19 be concerned with the possible repeal of the Fish & Game Commission’s rulemaking authority. Is  
20 that assumption correct?

21 (2) Should the rule provided in proposed Section 685 apply only where the entirety of Article 1  
22 “ceases to be effective,” or should the rule operate when any provision of that article becomes  
23 ineffective?

24 (3) Is Section 250 obsolete?

## 25 Article 3. Publication

### 26 § 700. Dissemination of regulations

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

31 (b) The commission and the department may do anything that is deemed  
32 necessary and proper to publicize and distribute regulations so that persons likely  
33 to be affected will be informed of them. The failure of the commission to provide  
34 any notice of its regulations, other than by filing them in accordance with Section  
35 665, shall not impair the validity of the regulations.

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

39 (d) Notwithstanding any other provision of law, the commission and the  
40 department may contract with private entities to print regulations and other  
41 regulatory and public information. Printing contracts authorized by this  
42 subdivision and for which no state funds are expended are not subject to Chapter 2

1 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract  
2 Code, except for Article 2 (commencing with Section 10295) of Chapter 2.

3 **Comment.** Section 700 continues former Section 210 without change, except as indicated  
4 below:

5 The following nonsubstantive change was made:

- 6 • A cross-reference to former Section 215 was updated.

7 **Staff Note.** All of the cross-references in subdivision (a), shown in bold above, appear to be  
8 incorrect. Section 206 does not have (and never had) a subdivision (e). Section 207(e) does not  
9 provide for the addition, amendment, or repeal of regulations. Section 208 does not exist. The  
10 staff requests public comment on how to revise those cross-references to preserve their intended  
11 effect.

12 **§ 705. Advertisements in publications containing regulations**

13 705. (a) Material printed pursuant to subdivision (d) of Section 700 that contains  
14 advertisements shall meet all specifications prescribed by the department. The  
15 printed material shall not contain advertisements for tobacco products, alcohol,  
16 firearms and devices prohibited pursuant to Section 32625 of the Penal Code,  
17 Article 2 (commencing with Section 30600) of Chapter 2 of Division 10 of Title 4  
18 of Part 6 of the Penal Code, or any provision listed in Section 16590 of the Penal  
19 Code, or firearms not authorized by the commission as a legal method of sport-  
20 hunting, political statements, solicitations for membership in organizations, or any  
21 other statement, solicitation, or product advertisement that is in conflict with the  
22 purposes for which the material is produced, as determined by the commission.  
23 The printing contract shall include criteria to ensure that the public information  
24 provided in the publication is easy to reference, read, and understand.

25 (b) Neither the department nor the commission shall contract with private  
26 entities to print the materials described in subdivision (d) of Section 700 if the  
27 letting of those contracts will result in the elimination of civil service positions.

28 **Comment.** Section 705 continues former Section 211 without change, except as indicated  
29 below:

30 The following nonsubstantive change was made:

- 31 • Cross-references to former Section 210 were updated.

32 **§ 710. Publication of health advisories in regulations handbook**

33 710. Commencing with the booklet of sportfishing regulations published in  
34 1987, the booklet shall also contain any human health advisories relating to fish  
35 that are formally issued by the State Department of Health Services or summaries  
36 of those human health advisories. The summaries shall be prepared in consultation  
37 with the State Department of Health Services.

38 **Comment.** Section 710 continues former Section 217.6 without change except as indicated  
39 below:

40 The following nonsubstantive change was made:

- 41 • The word “which” was changed to “that.”

1 CHAPTER 3. OTHER REGULATORY POWER

2 Article 1. Authority

3 **§ 750. Commission practices and processes**

4 750. By July 1, 2013, the commission shall adopt rules to govern the business  
5 practices and processes of the commission.

6 **Comment.** Section 750 continues former Section 108 without change.

7 **§ 755. Due process in revocation or suspension proceedings**

8 755. The commission shall adopt regulations that afford procedural and  
9 substantive due process to any person whose license or permit is subject to  
10 revocation or suspension. Except upon conviction of a violation of this code or a  
11 regulation adopted pursuant to this code relating to the licensed or permitted  
12 activity and notwithstanding any other provision of this code, the commission  
13 shall not revoke or suspend any license or permit until the regulations required by  
14 this section have been adopted and approved by the Office of Administrative Law  
15 pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3  
16 of Title 2 of the Government Code.

17 **Comment.** Section 755 continues the second paragraph of former Section 309(a) without  
18 change.

19 **§ 760. Disposition of accidentally killed birds and mammals**

20 760. The commission may make such regulations as it deems necessary for the  
21 disposition of birds or mammals and parts thereof which are killed accidentally.

22 **Comment.** Section 760 continues former Section 301 without change.

23 Article 2. Procedures

24 **§ 800. Filing of regulations with Secretary of State**

25 800. Any regulation issued under any provision of this code, other than a  
26 provision of Article 1 (commencing with Section 550), shall be filed with the  
27 Secretary of State, as required by Chapter 4 (commencing with Section 11370) of  
28 Part 1 of Division 3 of Title 2 of the Government Code.

29 **Comment.** Section 800 continues former Section 300 without change except as indicated  
30 below:

31 The following nonsubstantive changes were made:

- 32 • A reference to “subsequent provisions of this code” was revised to refer to a provision  
33 of this code “other than a provision of Article 1 (commencing with Section 550).”  
34 • The reference to the Government Code provisions was revised to conform to standard  
35 legislative drafting style.

36 **Staff Notes. (1)** Existing Section 300 provides: “Any regulation issued under any subsequent  
37 provisions of this code shall be filed with the Secretary of State, as required by Chapter 4

1 (commencing with Section 11370), Part 1, Division 3, Title 2, of the Government Code.” In  
2 proposed Section 665, “any subsequent provision” is replaced with “any provision of this code,  
3 other than a provision of Article 1 (commencing with Section 550).” Is that an appropriate  
4 substitution?

5 (2) Section 300 is located in existing "Division 1. Fish and Game Commission." Thus, the  
6 section might only be intended to govern regulations adopted by the FGC (i.e., it does not apply  
7 to regulations adopted by the Department of Fish and Wildlife). However, the section does not  
8 state such a limitation, and Section 4 says that headings "do not affect the meaning" of any  
9 provision of the code. If Section 300 only applies to regulations adopted by the FGC, should that  
10 limitation be stated expressly in proposed Section 800?

11 (3) The reference to “Chapter 4 (commencing with Section 11370) of Part 1 of Division 3 of  
12 Title 2 of the Government Code” appears to be erroneous. The referenced chapter governs  
13 administrative hearings, not rulemaking. It seems likely that the intention was to reference  
14 Chapter 3.5 (commencing with Section 11340), which constitutes the APA rulemaking  
15 provisions. Should the section be revised to refer to Chapter 3.5?

16 (4) It is not clear how Section 300 differs from the requirements of Section 215 (proposed  
17 Section 665), or from the general filing requirement of Government Code Section 11343(a). The  
18 staff invites comment on whether Sections 215 and 300 could be combined, or perhaps simply  
19 omitted as unnecessary.

## 20 § 805. Emergency regulations

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

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

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

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

37 **Comment.** Section 805 continues former Section 240 without change, except as indicated  
38 below:

39 The following nonsubstantive change was made:

- 40 • The words “or both” were added.

1

## CHAPTER 4. INVESTIGATION AND ADJUDICATION

2 **§ 900. Authority to compel testimony and production of evidence**

3 900. The commission or any person appointed by it to conduct a hearing may, in  
4 any investigation or hearing, cause the deposition of witnesses, residing within or  
5 without the state, to be taken in the manner prescribed by law for deposition in  
6 civil actions in the superior courts of this state under Title 4 (commencing with  
7 Section 2016.010) of Part 4 of the Code of Civil Procedure, and may compel the  
8 attendance of witnesses and the production of documents and papers.

9 **Comment.** Section 900 continues the first paragraph of former Section 309(a) without change.

10 **§ 905. Hearings governed by Administrative Procedures Act**

11 905. Any deliberation conducted by the commission, or conducted by any  
12 person appointed by the commission to conduct hearings, is deemed to be a  
13 proceeding required to be conducted pursuant to Chapter 5 (commencing with  
14 Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code or  
15 similar provision, within the meaning of paragraph (3) of subdivision (c) of  
16 Section 11126 of the Government Code.

17 **Comment.** Section 905 continues former Section 309(b) without change.

18

## PART 2. DEPARTMENT OF FISH AND WILDLIFE

19

20

### CHAPTER 1. ORGANIZATION

21 **§ 1000. Department of Fish and Wildlife**

22 1000. (a) There is in the Natural Resources Agency a Department of Fish and  
23 Wildlife administered through the director.

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

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

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

33 **Comment.** Section 1000 continues former Section 700 without change.



1    **§ 1005. Administration and enforcement of code**

2    1005. This code shall be administered and enforced through regulations adopted  
3    only by the department, except as otherwise specifically provided by this code or  
4    where this code requires the commission to adopt regulations.

5    **Comment.** Section 1005 continues former Section 702 without change.

6    **§ 1010. Commission sets general department policy**

7    1010. General policies for the conduct of the department shall be formulated by  
8    the commission. The director shall be guided by those policies and shall be  
9    responsible to the commission for the administration of the department in  
10   accordance with those policies.

11   **Comment.** Section 1010 continues former Section 703(a) without change.

12   **§ 1015. Director**

13   1015. The director shall be appointed by the Governor, and receive the annual  
14   salary provided for by Chapter 6 (commencing at Section 11550) of Part 1 of  
15   Division 3 of Title 2 of the Government Code.

16   **Comment.** Section 1015 continues former Section 701 without change.

17   **§ 1020. Deputy director.**

18   1020. There shall be one deputy director of the department who shall be a civil  
19   executive officer and shall be appointed by the Governor and serve at the pleasure  
20   of the Governor. The compensation of the deputy director shall be fixed by the  
21   director pursuant to law. The deputy director shall have such duties as shall be  
22   assigned, from time to time, by the director, and shall be responsible to the  
23   director for the performance thereof.

24   **Comment.** Section 1020 continues former Section 701.3 without change.

25   **§ 1025. Director as appointing power for all department employees**

26   1025. (a) Notwithstanding any other provision of law, the director is the  
27   appointing power of all employees within the department, and all employees in the  
28   department are responsible to the director for the proper carrying out of the duties  
29   and responsibilities of their respective positions.

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

32   **Comment.** Section 1025 continues former Section 704 without change.

33   **§ 1030. Incorporation of general law on state agencies**

34   1030. The provisions of Chapter 2 (commencing at Section 11150) of Part 1 of  
35   Division 3 of Title 2 of the Government Code shall govern and apply to the  
36   conduct of the department in every respect. Wherever in that chapter the term  
37   “head of the department” or similar designation occurs, for the purposes of this  
38   section it shall mean the director.

1 **Comment.** Section 1030 restates the substance of former Section 706.

2 **Staff Notes.** (1) Section 706 provides:

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

8 The staff invites comment on whether that provision is necessary. The referenced provisions  
9 apply, by their own terms, to all state agencies.

10 (2) Proposed Section 1030 would restate the substance of Section 706 in simpler and more  
11 modern terms. The staff invites comment on whether those revisions would have any substantive  
12 effect.

13 **CHAPTER 2. DEPARTMENT EMPLOYEES**

14 **§ 1100. Appointment of employees**

15 1100. The director shall, from time to time, employ or appoint, with or without  
16 pay, such deputies, clerks, assistants, and other employees as the department may  
17 need to discharge in proper manner the duties imposed upon it by law.

18 **Comment.** Section 1100 continues former Section 850 without change.

19 **§ 1105. Legal defense of officers and deputies**

20 1105. It is the duty of the attorney for the department to act as counsel in  
21 defense of any officer or deputy of the department in any suit for damages brought  
22 against the officer or deputy on account of injuries to persons or property alleged  
23 to have been received as a result of the negligence or misconduct of the officer or  
24 deputy occurring while the officer or deputy was performing his official duties.

25 **Comment.** Section 1105 continues former Section 707 without change.

26 **§ 1110. Deputy as peace officer**

27 1110. A deputy appointed to enforce the provisions of this code is a peace  
28 officer. The deputy has all the powers and authority conferred by law upon peace  
29 officers listed in Section 830.6 of the Penal Code to make arrests for violations of  
30 this code, and may serve all processes and notices throughout the state.

31 **Comment.** Section 1110 continues former Section 851 without change.

32 **§ 1115. Deputized law enforcement officer as peace officer**

33 1115. (a) Every employee of the department designated by the director as a  
34 deputized law enforcement officer is a peace officer as provided by Section 830.2  
35 of the Penal Code. The authority of that peace officer extends to any place in the  
36 state as to a public offense committed or which offense there is probable cause to  
37 believe has been committed within the state.

1 (b) Every peace officer described in this section, before the date that he or she is  
2 first deputized by the department, shall have satisfactorily completed the basic  
3 course as set forth in the regulations of the Commission on Peace Officer  
4 Standards and Training.

5 (c) Every peace officer described in this section shall be required to complete  
6 regular training courses as required by the Commission on Peace Officer  
7 Standards and Training.

8 **Comment.** Section 1115 continues former Section 856 without change, except as indicated  
9 below:


10 The following nonsubstantive change was made:

- 11 • The first sentence was singularized.

12 **§ 1120. Employee deputized to check sport fishing licenses**

13 1120. The director may deputize any employee of the department to check  
14 persons for licenses required under **Section 7145** and to enforce any violation of  
15 that section. Before a person is deputized pursuant to this section for the first  
16 time, the person shall have satisfactorily completed a training course meeting the  
17 minimum standards of, and comparable to, the training for “level III reserve” as  
18 set forth in the regulations of the Commission on Peace Officer Standards and  
19 Training. Any person, who is deputized for this limited purpose pursuant to this  
20 section, may not enforce any other provision of this code, and is not a peace  
21 officer subject to Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2  
22 of the Penal Code.

23 **Comment.** Section 1120 continues former Section 853 without change.

24  **Staff Note:** The cross-reference shown in bold above will need to be corrected, once the  
25 referenced material has been renumbered.


26 **§ 1125. Minimum age of warden**

27 1125. Notwithstanding Section 18932 of the Government Code, the minimum  
28 age limit for appointment to the position of fish and game warden of the  
29 Department of Fish and Wildlife shall be 18 years. Any examination for the  
30 position of warden shall require a demonstration of the physical ability to  
31 effectively carry out the duties and responsibilities of the position in a manner that  
32 would not inordinately endanger the health or safety of any warden or the health  
33 and safety of others.

34 **Comment.** Section 1125 continues former Section 854 without change, except as indicated  
35 below:

36 The following nonsubstantive change was made:

- 37 • The word “game” was replaced with “wildlife.”

38  **Staff Note:** The title of “fish and game warden” could be changed to reflect the renaming of  
39 the department. Possible alternative names are “fish and wildlife warden,” “wildlife warden,” or  
40 simply “warden.” There would be some administrative cost to making such a change, as well as  
41 possible concerns about the loss of tradition or dignity of the office. The staff recommends  
42 against making any change absent clear guidance from the department.

1    **§ 1130. Employee expenditures to procure evidence**

2       1130. (a) Regularly employed law enforcement officers of the department may,  
3 when authorized by the director, expend such sums as authorized for the purchase  
4 of fish, birds, or mammals as evidence, or for expenditures related to the  
5 procurement of such evidence, or for expenditures made to investigate other  
6 violations of this code without divulging the identity of the employee.

7       (b) The sums so expended shall be repaid to the law enforcement officer making  
8 the expenditure upon claims approved by the director. The claims, when  
9 approved, shall be paid out of the funds appropriated or made available by law for  
10 the support of the department.

11       **Comment.** Section 1130 continues former Section 855 without change, except as indicated  
12 below:

13       The following nonsubstantive change was made:

- 14       •       Subdivision designations were added.

15    **§ 1135. Entry onto private land**

16       1135. (a) Notwithstanding any other provision of law, the status of a person as  
17 an employee, agent, or licensee of the department does not confer upon that person  
18 a special right or privilege to knowingly enter private land without the consent of  
19 the owner, a search warrant, or an inspection warrant.

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

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

30       (d) Subdivision (a) does not apply to, or interfere with, the authority of  
31 employees or licensees to enter and inspect land in conformance with Section  
32 4604 of the Public Resources Code.

33       (e) This section is not intended to expand or constrain the authority, if any, of  
34 employees, agents, or licensees of the department to enter private land to conduct  
35 inspections pursuant to **Section 7702** of this code or Section 8670.5, 8670.7, or  
36 8670.10 of the Government Code.

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

1 **Comment.** Section 1135 continues former Section 857 without change, except as indicated  
2 below:

3 The following nonsubstantive changes were made:

- 4 • Subdivision (a) was revised to make clear that an “inspection warrant” is sufficient  
5 grounds for entry.
- 6 • Subdivision and paragraph designations have been revised to simplify the section’s  
7 structure and add a designation for an undesignated paragraph.

8 **Staff Notes:** (1) Existing Section 857(a) provides: “Notwithstanding any other provision of  
9 law, the status of a person as an employee, agent, or licensee of the department does not confer  
10 upon that person a special right or privilege to knowingly enter private land without either the  
11 consent of the owner or a search warrant, an inspection warrant.” Proposed Section 1135(a)  
12 restates the grounds for entry, to improve the construction of the sentence. The staff invites  
13 comment on whether that revision would cause any substantive change.

14 (2) The cross-reference shown in bold above will need to be corrected, once the referenced  
15 material has been renumbered.

16 **§ 1140. Landowner complaint policy**

17 1140. The department, in cooperation with landowners and landowner  
18 organizations, shall develop a statewide policy and procedure for recording and  
19 processing landowner complaints regarding alleged misconduct by personnel of  
20 the department and a written protocol that ensures compliance with **Section 1135**.

21 **Comment.** Section 1140 continues former Section 858(a) without change, except as indicated  
22 below:

23 The following nonsubstantive changes were made:

- 24 • A reference to former Section 857 was updated.
- 25 • The date on which the policy was to be developed (“on or before January 1, 1995”) was  
26 omitted as obsolete.

27 **§ 1145. Emblems**

28 1145. The department shall designate official fish and game warden emblems  
29 and their placement. The department shall prohibit personnel of the department  
30 who are not peace officers from wearing any patch, badge, bar, or other indicia of  
31 peace officer status. The selection and configuration of official fish and game  
32 warden emblems shall be established by the department in cooperation with  
33 California game wardens to ensure that the public is readily able to distinguish  
34 game wardens from personnel who are not peace officers.

35 **Comment.** Section 1145 continues former Section 858(b) without change except as indicated  
36 below:

37 The following nonsubstantive change was made:

- 38 • The date on which the department was required to act (“on or before January 1, 1995”)  
39 was omitted as obsolete.

1

## CHAPTER 3. GENERAL POWERS AND DUTIES

2 **§ 1200. Authority of department to take**

3 1200. Nothing in this code or any other law shall prohibit the department from  
4 taking, for scientific, propagation, public health or safety, prevention or relief of  
5 suffering, or law enforcement purposes, fish, amphibians, reptiles, mammals,  
6 birds, and the nests and eggs thereof, or any other form of plant or animal life.

7 **Comment.** Section 1200 continues former Section 1001 without change.

8 **§ 1205. Capture and sale of birds and mammals**

9 1205. The department may capture and sell birds and mammals, at prices to be  
10 fixed by the commission, to persons engaged in the domestication and sale thereof  
11 in this State.

12 **Comment.** Section 1205 continues former Section 1004 without change.

13 **§ 1210. Importation, propagation, and distribution of birds, mammals, or fish**

14 1210. The department may import, propagate, and distribute birds, mammals, or  
15 fish.

16 **Comment.** Section 1210 continues former Section 1007 without change.

17 **§ 1215. Inspection**

18 1215. The department may inspect the following:

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

23 (b) All boxes and packages containing birds, mammals, fish, reptiles, or  
24 amphibia which are held for transportation by any common carrier.

25 **Comment.** Section 1215 continues former Section 1006 without change.

26 **§ 1220. Investigation of disease**

27 1220. The department shall investigate all diseases of, and problems relating to,  
28 birds, mammals, or fish, and establish and maintain laboratories to assist in such  
29 investigation.

30 **Comment.** Section 1220 continues former Section 1008 without change.

31 **§ 1225. Informal consultative procedures**

32 1225. (a) It is the policy of the state to anticipate and resolve potential conflicts  
33 between the management, conservation, and protection of fish and wildlife  
34 resources and their habitat and private and public activities that may affect them.

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

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

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

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

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

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

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

13 **Comment.** Section 1225 continues former Section 1017 without change, except as indicated  
14 below:

15 The following nonsubstantive changes were made:

- 16 • The word “such” was replaced with “any.”
- 17 • The items in subdivision (e) were numbered.

### 18 § 1230. Environmental review

19 1230. Whenever the department is required, or provided an opportunity, to  
20 assess the adequacy of a project or to provide a detailed environmental impact  
21 statement or similar document pursuant to Public Law 91-190 or Section 21100,  
22 21101, or 21102 of the Public Resources Code, or any other provision of law, it  
23 shall determine the extent to which salmon and steelhead resources will be  
24 protected from damage by the project in question, together with the extent to  
25 which the agency or person preparing the plans for the project has incorporated  
26 therein plans for increasing the salmon or steelhead resources of this state. To the  
27 fullest practicable extent, the department shall advise the commission at one of its  
28 regular scheduled meetings of the state’s comments on the project. In no event  
29 shall more than one regular commission meeting transpire between the time the  
30 department renders comments to the requesting person or agency and the time it  
31 reports its findings to the commission.

32 **Comment.** Section 1230 continues former Section 1015 without change.

### 33 § 1235. Strategic planning

34 1235. (a) The department and the commission shall develop a strategic plan to  
35 implement proposals arising from any of the following:

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

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

39 (3) The department’s own proposals for reform.

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

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

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

5 **Comment.** Section 1235 continues former Section 1020 without change.

6 **§ 1240. Resource management decisionmaking methods**

7 1240. It is the policy of the state that the department and commission use  
8 ecosystem-based management informed by credible science in all resource  
9 management decisions to the extent feasible. It is further the policy of the state  
10 that scientific professionals at the department and commission, and all resource  
11 management decisions of the department and commission, be governed by a  
12 scientific quality assurance and integrity policy, and follow well-established  
13 standard protocols of the scientific profession, including, but not limited to, the  
14 use of peer review, publication, and science review panels where appropriate.  
15 Resource management decisions of the department and commission should also  
16 incorporate adaptive management to the extent possible.

17 **Comment.** Section 1240 continues former Section 703.3 without change.

18 **§ 1245. Biological research**

19 1245. The department shall expend any funds as may be necessary for biological  
20 research and field investigation and for the collection and diffusion of such  
21 statistics and information as shall pertain to the conservation, propagation,  
22 protection, and perpetuation of birds and the nests and eggs thereof, and of  
23 mammals, reptiles, and fish.

24 **Comment.** Section 1245 continues former Section 1000 without change, except as indicated  
25 below:

26 The following nonsubstantive change was made:

- 27 • The word “such” was replaced with “any.”

28 **§ 1250. Science institute**

29 1250. (a) The director, in consultation with the Natural Resources Agency, shall  
30 establish a formal program, which may be called the Science Institute, to assist the  
31 department and commission in obtaining independent scientific review, and  
32 recommendations to help inform the scientific work of the department and the  
33 commission. The program shall include one or more ad hoc independent scientific  
34 committees consisting of independent scientists who are scientific experts in their  
35 fields with expertise in biological sciences and with a range of multidisciplinary  
36 expertise pertinent to the work of the department and the commission, and which  
37 may be convened pursuant to this section. The purpose of the program shall be to  
38 assist the department and the commission in obtaining and establishing an  
39 independent and objective view of the scientific issues underlying important  
40 policy decisions.



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

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

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

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

9 (4) Promoting science-based adaptive management.


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

11 (c) The department may consult with members of the ad hoc scientific  
12 committees to assist the department in identifying other independent scientific  
13 experts with specialized expertise as needed for independent peer review of  
14 department reports, including, but not limited to, status review reports prepared for  
15 purposes of informing decisions on petitions for listing of species under the  
16 California Endangered Species Act (**Chapter 1.5 (commencing with Section**  
17 **2050) of Division 3**).

18 (d) The department shall consult with independent scientific advisors to develop  
19 and revise as necessary a scientific integrity policy to guide the work of the  
20 department and the commission. The scientific integrity policy may include, but is  
21 not necessarily limited to, an ethical code of conduct for department scientists,  
22 standards for independent peer review, and other best practices for ensuring  
23 scientific integrity and public confidence in department and commission work  
24 products and decisions.

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

27 **Comment.** Section 1250 continues former Section 715 without change.

28  **Staff Note:** The cross-reference shown in bold above will need to be corrected, once the  
29 referenced material has been renumbered.

30 **§ 1255. Educational displays**

31 1255. For the purpose of exhibiting fish and game educational material at fairs  
32 or sportsmen's shows and making other public displays, and to make conservation  
33 educational materials on fish and game available for any public use, including  
34 fairs, sportsmen's shows, schools, and civic organizations, the department may:

35 (a) Accept on behalf of the State donations of money and services from any  
36 person to defray any expenses that may be incurred by the department in  
37 connection with those activities.

38 (b) Charge admissions or make a charge for the use of any departmental material  
39 or exhibits to be used in a fair, sportsmen's show, or by a civic organization.

40 **Comment.** Section 1255 continues former Section 1005 without change, except as indicated  
41 below:

42 The following nonsubstantive changes were made:

- The word “such” was replaced with “any.”
- The word “therewith” was replaced with “with those activities.”

**Staff Notes:** (1) Should the references to “fish and game” in proposed Section 1255 be revised to refer to “fish and wildlife?”  
(2) Is there an appropriate gender-neutral replacement for the term “sportsmen’s show?”

## CHAPTER 4. COORDINATION WITH OTHER ENTITIES

### § 1300. General policy

1300. It is the policy of the State that the department and commission do all of the following:

(a) Seek to create, foster, and actively participate in effective partnerships and collaborations with other agencies and stakeholders to achieve shared goals and to better integrate fish and wildlife resource conservation and management with the natural resource management responsibilities of other agencies.

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

**Comment.** Section 1300 continues former Section 703.5 without change, except as indicated below:

The following nonsubstantive changes were made:

- The word “State” was capitalized.
- The relationship between the introductory clause and subdivisions (a) and (b) was restructured.

### § 1305. Service agreements

1305. The department may enter into one or more agreements to accept services from any person, nonprofit organization, or other public or private entity for purposes relating to conservation programs, projects, and activities by the department. Under the direction of the department, these services shall supplement existing staff resources. Agreements for services for the management and operation of department-managed lands shall be subject to the provisions of Article 1 (commencing with Section 1400) of Chapter 5.

**Comment.** Section 1305 continues former Section 1226(b) without change, except as indicated below:

The following nonsubstantive change was made:

- A cross-reference to former Section 1745 was updated.

### § 1310. Funding agreements

1310. Notwithstanding any other provision of law, the department may enter into one or more agreements with any person, nonprofit organization, or other

1 public or private entity, as may be appropriate, to assist the department in its  
2 efforts to secure long-term private funding sources for purposes relating to  
3 conservation programs, projects, and activities by the department. The authority to  
4 enter into agreements for the purposes of this section shall include, but not be  
5 limited to, for the purposes of securing donations, memberships, corporate and  
6 individual sponsorships, and marketing and licensing agreements.

7 **Comment.** Section 1310 continues former Section 1227 without change.

8 **Staff Note.** The last sentence of proposed Section 1310 is phrased awkwardly. If the sentence  
9 were rephrased as below, would there be any change to its substantive meaning?

10 “The authority to enter into agreements under this section shall include, but not be limited to,  
11 the authority to secure donations, memberships, corporate and individual sponsorships, and  
12 marketing and licensing agreements.”

13 **§ 1315. Director or designee as officer of Federal Water Pollution Control Act joint powers**  
14 **agreement**

15 1315. (a) The director or one or more of the director’s designees may accept the  
16 office of director or alternate director of an entity established by a joint powers  
17 agreement providing for the establishment and conduct of an areawide waste  
18 management planning process in accordance with the provisions of Section 208 of  
19 the Federal Water Pollution Control Act.

20 (b) The office of director or alternate director of a joint powers entity described  
21 in subdivision (a) is deemed to be compatible with the office and employment of  
22 the director and the director’s designees.

23 **Comment.** Subdivision (a) of Section 1315 continues the first sentence of former Section  
24 701.5 without change, except as indicated below:

25 The following nonsubstantive change was made:

- 26 • The word “his” was replaced with “the director’s.”

27 Subdivision (b) restates the substance of the second sentence of former Section 701.5.

28 **Staff Note.** The last sentence of Section 701.5 reads: “The office of director or alternate  
29 director of a joint powers entity is deemed compatible with the office of director and the office or  
30 employment of such persons as the director may so designate to serve such an entity established  
31 by a joint powers agreement.” Proposed Section 1015(b) restates that sentence in an attempt to  
32 make its meaning clearer, without changing its substance. Is that restatement appropriate?

33 **CHAPTER 5. PROPERTY INTERESTS**

34 **Article 1. Department-Managed Lands**

35 **§ 1400. Definitions**

36 1400. For purposes of this article, the following terms have the following  
37 meanings:

1 (a) “Department-managed lands” includes lands, or lands and water, acquired  
2 for public shooting grounds, state marine (estuarine) recreational management  
3 areas, ecological reserves, and wildlife management areas.

4 (b) “Nonconsumptive uses” means compatible uses other than hunting and  
5 fishing.

6 **Comment.** Section 1400 continues former Section 1745(a) without substantive change.

7 **§ 1405. Non-profit operation**

8 1405. Department-managed lands shall be operated on a nonprofit basis by the  
9 department.

10 **Comment.** Section 1405 continues former Section 1745(b)(1) without change.

11 **§ 1410. Management and operation contracts**

12 1410. The department may enter into contracts or other agreements for the  
13 management and operation of department-managed lands with nonprofit  
14 conservation groups, recognized under Section 501(c) of the Internal Revenue  
15 Code, or resource conservation districts, as described in Chapter 3 (commencing  
16 with Section 9151) of Division 9 of the Public Resources Code.

17 (a) The contracts or other agreements authorized pursuant to this paragraph are  
18 not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public  
19 Contract Code or Article 6 (commencing with Section 999) of Chapter 6 of  
20 Division 4 of the Military and Veterans Code.

21 (b) The contracts or other agreements authorized pursuant to this paragraph shall  
22 adhere to the goals and objectives included in an approved management plan and  
23 shall be consistent with the purpose for which the lands were acquired and  
24 managed by the department. Any changes to the management plan shall be subject  
25 to public review and comment.

26 **Comment.** Section 1410 continues former Section 1745(b)(2) without change.

27 **§ 1415. Property uses**

28 1415. (a) Multiple recreational use of department-managed lands is desirable  
29 and that use shall be encouraged by the commission. Except for hunting and  
30 fishing purposes, only minimum facilities to permit other forms of multiple  
31 recreational use, such as camping, picnicking, boating, or swimming, shall be  
32 provided.

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

37 (c) Public uses of department-managed lands not described in subdivision (a) or  
38 (b), or subdivision (b) of 1420, shall be authorized by regulations adopted by the  
39 commission. The commission may require the purchase of a special use permit for  
40 these other uses.

1       **Comment.** Section 1415 continues former Section 1745(c)-(d) without change, except as  
2 indicated below:

3       The following nonsubstantive change was made:

- 4       •     A cross-reference to former Section 1745(f) was updated.

5       **§ 1420. Use fees and permits**

6       1420. (a) Except as provided in **Section 1765** and subdivision (a) of Section  
7 1425, and to defray the costs associated with multiple use, the commission may  
8 determine and fix the amount of, and the department shall collect, fees for any use  
9 privileges. Only persons holding valid hunting licenses may apply for or obtain  
10 shooting permits for department-managed lands.

11       (b) Commencing January 1, 2015, the department shall require the purchase of  
12 an entry permit for nonconsumptive uses of department-managed lands if the  
13 department finds that it is practical and would be cost effective for the state to  
14 collect entry permit fees.

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

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

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

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

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

26       **Comment.** Section 1420 continues former Section 1745(e)-(g) without change, except as  
27 indicated below:

28       The following nonsubstantive change was made:

- 29       •     A cross-reference to former Section 1745(h) was updated.

30       **Staff Note:** The cross-reference shown in bold above will need to be corrected, once the  
31 referenced material has been renumbered.

32       **§ 1425. Failure to obtain permit constitutes infraction**

33       1425. (a) Failure to obtain a permit as required pursuant to this section shall be  
34 an infraction as described in **Section 12002.2.1**. A person in possession of a valid  
35 hunting license, sport fishing license, or trapping license shall be exempt from a  
36 requirement to obtain a permit.

37       (b) The moneys generated pursuant to this section shall be deposited in the  
38 Native Species Conservation and Enhancement Account within the Fish and Game  
39 Preservation Fund, and shall be available, upon appropriation by the Legislature,  
40 to the department for the management and operation of its lands. To the extent that  
41 the department is able to identify the source of the fee revenue collected, the  
42 department shall provide no less than 35 percent of the funds generated pursuant

1 to this section to the department-managed lands from which the fee revenues were  
2 collected.

3 **Comment.** Section 1425 continues former Section 1745(h)-(i) without change.

4 **Staff Note:** The cross-reference shown in bold above will need to be corrected, once the  
5 referenced material has been renumbered.

6 **§ 1430. Free access**

7 1430. The commission and department may continue to allow free access to a  
8 department-managed land if the commission or department finds the best interests  
9 of that area would be served by not fixing a fee for use privileges.

10 **Comment.** Section 1430 continues former Section 1745(j) without change.

11 **Article 2. Other Interests**

12 **§ 1450. Management and listing of real property**

13 1450. (a) Subject to an appropriation of funds by the Legislature for that  
14 purpose, for parcels wholly within its jurisdiction acquired on or after January 1,  
15 2002, the department shall prepare draft management plans for public review  
16 within 18 months of the recordation date.

17 (b)(1) On or before February 1 of each year, the department shall submit a list of  
18 lands acquired during the previous two fiscal years and the status of the  
19 management plans for each acquisition to the fiscal committees of each house of  
20 the Legislature.

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

23 **Comment.** Section 1450 continues former Section 1019 without change.

24 **§ 1455. Rights of way**

25 1455. (a) The department may obtain for the State rights of way over private  
26 lands for the purpose of furnishing access for the public to lands or waters open to  
27 public hunting or fishing whenever rights of way are determined by the  
28 commission to be necessary for public use. The rights of way shall not be acquired  
29 by eminent domain proceedings.

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

33 **Comment.** Section 1455 continues former Section 1009 without change, except as indicated  
34 below:

35 The following nonsubstantive changes were made:

- 36 • Subdivision designations were added.  
37 • The word “such” was deleted throughout.

1    **§ 1460. Sale of grazing permits and disposition of excess vegetation**

2    1460. The department, by and with the approval of the Department of General  
3    Services, may sell grazing permits or otherwise dispose of excess vegetation or  
4    other products, produced on lands acquired by the department.

5    **Comment.** Section 1460 continues former Section 1010 without change.

6                                    **CHAPTER 6. INSURANCE AND LIABILITY**

7    **§ 1600. Insurance**

8    1600. (a) The department may procure insurance for any of the following  
9    purposes:

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

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

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

19    **Comment.** Section 1600 continues former Section 1011 without change.

20    **§ 1605. Insurance relating to boarding of boats**

21    1605. The department may procure insurance for its employees for injury or  
22    death against the liability of the owner or operator of any vessel boarded by an  
23    employee as an observer.

24    **Comment.** Section 1605 continues former Section 1012 without change.

25    ☞ **Staff Notes:** (1) Should Section 1012 (proposed Section 1605) be incorporated into Section  
26    1011(a) (proposed Section 1600(a))?

27    (2) As the law currently reads, there is an inference that the insurance authorized under Section  
28    1012 may not be charged against the Fish and Game Preservation Fund. Is that inference  
29    appropriate? Should it be continued?

30    **§ 1610. Indemnification relating to fish screen, ladder, weir, or trap**

31    1610. In any lease, easement, or right-of-way in which the department leases  
32    real property or obtains a grant of easement or right-of-way in real property for the  
33    purpose of constructing, operating, or maintaining a fish screen, fish ladder,  
34    fishweir, or fishtrap, the department may agree to indemnify and hold harmless the  
35    lessor or grantor by reason of the uses authorized by the lease, easement, or right-  
36    of-way. Insurance may be purchased by the Department of General Services to  
37    protect the department against loss or expense arising out of the lease, easement,  
38    or right-of-way.





1 § 1710. District 1 3/8

2 1710. (a) The following constitutes Fish and Game District 1 3/8:


3 Those portions of the following counties not included in other districts: Alpine,  
4 El Dorado, Amador, Calaveras, Tuolumne and Mariposa.

5 (b) Except as otherwise provided, all of the provisions of this code relating to  
6 District 1 shall apply to District 1 3/8.

7 **Comment.** Section 1710 continues former Section 11002 without substantive change, except  
8 as indicated below:

9 The following nonsubstantive change was made:

- 10 • Subdivisions were added.

11  **Staff Note:** Subdivision designations were added to Section 11002 to clarify the relationship  
12 of its unnumbered paragraphs.

13 § 1715. District 1 1/2

14 1715. The following constitutes Fish and Game District 1 1/2:

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

17 **Comment.** Section 1715 continues former Section 11003 without change.

18 § 1720. District 1 3/4

19 1720. The following constitutes Fish and Game District 1 3/4:

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

38 **Comment.** Section 1720 continues former Section 11004 without change.

39 § 1725. District 2

40 1725. The following constitutes Fish and Game District 2:

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

10 **Comment.** Section 1725 continues former Section 11005 without change.

11 **§ 1730. District 2 1/4**

12 1730. (a) The following constitutes Fish and Game District 2 1/4:  
13 Lake County and the waters of Clear Lake.

14 (b) Any reference in this code to Clear Lake refers to District 2 1/4.

15 (c) Except as otherwise provided, all of the provisions of this code relating to  
16 District 2 apply to District 2 1/4.

17 **Comment.** Section 1730 continues former Section 11006 without change, except as indicated  
18 below:

19 The following nonsubstantive change was made:

- 20 • Subdivisions were added.

21 **Staff Note:** Subdivision designations were added to Section 11006 to clarify the relationship  
22 of its unnumbered paragraphs.

23 **§ 1735. District 2 1/2**

24 1735. The following constitutes Fish and Game District 2 1/2:

25 Those portions of T. 24 N., R. 18 and 19 W.; 23 N., R. 17 and 18 W.; 22 N., R.  
26 17 and 18 W.; 21 N., R. 17 W., west of the summit of the divide between the  
27 Pacific Ocean and the south fork of the Eel River.

28 All of T. 12, 13, 14, 15, 16, 17, 18 N., R. 16 W.; and T. 12, 13, 14, 15, 16, 17,  
29 18, 19 and 20 N., R. 17 W., and T. 17 and 18 N., R. 18 W.

30 All being townships located in western Mendocino County.

31 **Comment.** Section 1735 continues former Section 11007 without change.

32 **Staff Note:** The staff finds the relationship between the unnumbered paragraphs in Section  
33 11007 unclear and requests input on how that relationship might be clarified.

34 **§ 1740. District 3**

35 1740. The following constitutes Fish and Game District 3:

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

39 **Comment.** Section 1740 continues former Section 11008 without change, except as indicated  
40 below:

1 The following nonsubstantive change was made:

- 2 • A misspelling of the word “districts” is corrected.

3 **§ 1745. District 3 1/2**

4 1745. The following constitutes Fish and Game District 3 1/2:

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

7 Except as otherwise provided all of the provisions of this code applicable to  
8 District 3 apply to District 3 1/2.

9 **Comment.** Section 1745 continues former Section 11009 without change.

10 **§ 1750. District 4**

11 1750. The following constitutes Fish and Game District 4:

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

14 **Comment.** Section 1750 continues former Section 11010 without change.

15 **§ 1755. District 4 1/8**

16 1755. (a) The following constitutes Fish and Game District 4 1/8:

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

18 (b) Except as otherwise provided, all of the provisions of this code applicable to  
19 District 4 apply to District 4 1/8.

20 **Comment.** Section 1755 continues former Section 11011 without change, except as indicated  
21 below:

22 The following nonsubstantive change was made:

- 23 • Subdivisions were added.

24 **Staff Note:** Subdivision designations were added to Section 11006 to clarify the relationship  
25 of its unnumbered paragraphs.

26 **§ 1760. District 4 1/2**

27 1760. The following constitutes Fish and Game District 4 1/2:

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

29 **Comment.** Section 1760 continues former Section 11012 without change.

30 **§ 1765. District 4 3/4**

31 1765. The following constitutes Fish and Game District 4 3/4:

32 Those portions of the Counties of San Diego and Imperial not included in other  
33 districts.

34 **Comment.** Section 1765 continues former Section 11013 without change.

35 **§ 1770. District 6**

36 1770. The following constitutes Fish and Game District 6:

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

5 **Comment.** Section 1770 continues former Section 11014 without change.

6 **§ 1775. District 7**

7 1775. The following constitutes Fish and Game District 7:

8 The ocean waters and tidelands of the State to high-water mark between a line  
9 extending due west from the west end of the north jetty at the entrance of  
10 Humboldt Bay and the southern boundary of Mendocino County, excluding the  
11 ocean waters between the north and south jetties at the entrance of Humboldt Bay  
12 from the westerly end of each of said jetties in the Pacific Ocean to their  
13 respective aprons on the shores of Humboldt Bay, and also excluding all sloughs,  
14 streams, and lagoons.

15 **Comment.** Section 1775 continues former Section 11015 without change.

16 **§ 1780. District 8**

17 1780. The following constitutes Fish and Game District 8:

18 The waters and tidelands to high-water mark of Humboldt Bay lying north of a  
19 straight line running east from the center of apron at the approach of the south  
20 jetty at the entrance of Humboldt Bay to the east shore line of the bay including  
21 the entrance of Humboldt Bay not included in District 7, and excluding all rivers,  
22 streams, and sloughs emptying into the bay.

23 **Comment.** Section 1780 continues former Section 11016 without change.

24 **§ 1785. District 9**

25 1785. The following constitutes Fish and Game District 9:

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

30 **Comment.** Section 1785 continues former Section 11017 without change.

31 **§ 1790. District 10**

32 1790. (a) The following constitutes Fish and Game District 10:

33 The ocean waters and the tidelands of the State to high-water mark lying  
34 between the southern boundary of Mendocino County and a line extending west  
35 from the Pigeon Point lighthouse in San Mateo County, including the waters of  
36 Tomales Bay to a line drawn from the mouth of the unnamed creek approximately  
37 1500 feet north of Tomasini Point southwesterly 218° magnetic to the mouth of the  
38 unnamed creek at Shell Beach, and excluding Bodega Lagoon and all that portion  
39 of Bolinas Bay lying inside of Bolinas bar, that portion of San Francisco Bay lying

1 east of a line drawn from Point Bonita to Point Lobos and all rivers, streams, and  
2 lagoons.

3 (b) The amendment of this section by the Legislature at the 1963 Regular  
4 Session has no effect on the cultivation of oysters by persons licensed under  
5 **Article 4 (commencing with Section 6480), Chapter 5, Part 1, Division 6.**

6 **Comment.** Section 1790 continues former Section 11018 without change, except as indicated  
7 below:

8 The following nonsubstantive change was made:

- 9 • Subdivisions were added.

10 **Staff Notes:** (1) Subdivision designations were added to Section 11018 to clarify the  
11 relationship of its unnumbered paragraphs. The staff invites input on whether the changes are  
12 appropriate.

13 (2) The cross-reference shown in bold above will need to be corrected, once the referenced  
14 material has been renumbered.

15 **§ 1800. District 11**

16 1800. The following constitutes Fish and Game District 11:

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

25 **Comment.** Section 1800 continues former Section 11019 without change.

26 **§ 1810. District 12**

27 1810. The following constitutes Fish and Game District 12:

28 The waters and tidelands of San Francisco Bay to high-water mark not included  
29 in Districts 11 and 13, the waters and tidelands to high-water mark of San Leandro  
30 Bay, Oakland Creek or estuary, San Antonio Creek in Alameda County, Racoon  
31 Straits, and San Pablo Bay, and the Carquinez Straits to the Carquinez Bridge, and  
32 all lands and waters included within the exterior boundaries of these districts and  
33 excluding all tributary sloughs, creeks, bays, rivers, and overflowed areas not  
34 specifically described herein.

35 **Comment.** Section 1810 continues former Section 11020 without change.

36 **§ 1815. District 13**

37 1815. The following constitutes Fish and Game District 13:

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

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

3 **Comment.** Section 1815 continues former Section 11022 without change.

4 **§ 1820. District 16**

5 1820. The following constitutes Fish and Game District 16:

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

9 **Comment.** Section 1820 continues former Section 11024 without change.

10 **§ 1825. District 17**

11 1825. The following constitutes Fish and Game District 17:

12 The waters and tidelands to high-water mark of Monterey Bay and the Pacific  
13 Ocean, lying between a line extending west from Pigeon Point Lighthouse and a  
14 line extending west from Yankee Point, Carmel Highlands in Monterey County,  
15 excluding the areas included in District 16, and excluding all rivers, creeks,  
16 sloughs and lagoons emptying into the Pacific Ocean and Monterey Bay within the  
17 boundaries thus defined.

18 **Comment.** Section 1825 continues former Section 11025 without change.

19 **§ 1830. District 18**

20 1830. The following constitutes Fish and Game District 18:

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

27 **Comment.** Section 1830 continues former Section 11026 without change.

28 **§ 1835. District 19**

29 1835. The following constitutes Fish and Game District 19:

30 The ocean waters of the State and tidelands to high-water mark, and islands off  
31 the coast and waters adjacent thereto, lying southerly of Fish and Game District  
32 18, and northerly of a westerly extension of the boundary line between the  
33 Republic of Mexico and San Diego County, excepting Districts 19A, 19B, 20,  
34 20A, and 21, and excluding all rivers, streams, sloughs, lagoons, and bays.

35 **Comment.** Section 1835 continues former Section 11027 without change.

36 **§ 1840. District 19A**

37 1840. The following constitutes Fish and Game District 19A:

1 The ocean waters and tidelands to high-water mark lying between the southerly  
2 extremity of Malibu Point and the westerly extremity of Rocky Point (Palos  
3 Verdes Point), excluding all rivers, streams and lagoons.

4 **Comment.** Section 1840 continues former Section 11028 without change.

5 **§ 1845. District 19B**

6 1845. (a) The following constitutes Fish and Game District 19B:

7 The ocean waters and tidelands to high-water mark northerly of the following  
8 line:

9 Beginning at the west end of the San Pedro Breakwater, thence in an extended  
10 line following the axis of said San Pedro Breakwater, the middle breakwater and  
11 the Long Beach Breakwater to the east end of the latter, thence to the outer end of  
12 the west jetty of Anaheim Bay.

13 (b) Except as otherwise provided, all of the provisions of this code applicable to  
14 Districts 4 and 4 1/8 apply to District 19B.

15 **Comment.** Section 1845 continues former Section 11029 without change, except as indicated  
16 below:

17 The following nonsubstantive change was made:

- 18 • Subdivisions were added.

19 **Staff Note:** Subdivision designations were added to Section 11029 to clarify the relationship  
20 of its unnumbered paragraphs. The staff invites input on whether the changes are appropriate.

21 **§ 1850. District 20**

22 1850. The following constitutes Fish and Game District 20:

23 Santa Catalina Island and the portion of the state waters within three nautical  
24 miles of the island's coast line on the northerly, easterly, and southerly side of the  
25 island, lying between a line extending three nautical miles west magnetically from  
26 the extreme westerly end of Santa Catalina Island to a line extending three nautical  
27 miles southwest magnetically from the most southerly promontory of China Point.

28 **Comment.** Section 1850 continues former Section 11030 without change.

29 **§ 1855. District 20A**

30 1855. The following constitutes Fish and Game District 20A:

31 The waters lying around Santa Catalina Island, within three nautical miles of the  
32 coast line of the island, which are not included in District 20.

33 **Comment.** Section 1855 continues former Section 11031 without change.

34 **§ 1860. District 21**

35 1860. The following constitutes Fish and Game District 21:

36 The waters and tidelands to high water mark of San Diego Bay lying inside of a  
37 straight line drawn from the southernly extremity of Point Loma to the offshore  
38 end of the San Diego breakwater.

39 **Comment.** Section 1860 continues former Section 11032 without change.

1    **§ 1865. District 22**

2       1865. The following constitutes Fish and Game District 22:

3       All of Imperial County and those portions of Riverside and San Bernardino  
4       Counties lying south and east of the following line: Starting at the intersection of  
5       Highway 99 with the north boundary of Imperial County, thence north along that  
6       highway to the intersection with Highway 60 and 70; thence east along Highway  
7       60 and 70 to its intersection with the Cottonwood Springs Road in Sec. 9, T. 6 S.,  
8       R. 11 E.; thence north along that road and the Mecca Dale Road to Amboy; thence  
9       east along Highway 66 to the intersection with Highway 95; thence north along  
10      Highway 95 to the California-Nevada boundary.

11      **Comment.** Section 1865 continues former Section 11033 without change.

12    **§ 1870. District 23**

13      1870. The following constitutes Fish and Game District 23:

14      The lands and waters lying within the drainage area of Rubicon and Little  
15      Rubicon Rivers above their confluence in Sec. 13, T. 13 N., R. 13 E.; all lands and  
16      waters lying within the drainage area of the South Fork of the American River and  
17      all its tributaries above Chili Bar Bridge on the Placerville-Georgetown Highway;  
18      all of the lands and waters lying within the drainage area of Webber Creek above  
19      the Mother Lode Highway between El Dorado and Placerville; the waters of Lake  
20      Tahoe and the Truckee River, and all streams flowing into that lake and river, and  
21      all lands and waters within the drainage basin of that lake and river lying within  
22      this State; the waters of Silver Lake, Twin Lakes, Twin Lake, Blue Lakes,  
23      Meadow Lake, Wood Lake, Winnemucca Lake and Scott's Lake, Burnside Lake,  
24      the Carson River, the West Fork of the Carson River, Willow Creek and  
25      Markleeville Creek and all tributaries of those streams and all streams flowing into  
26      those lakes and all lands and waters lying within the drainage basin of those lakes,  
27      rivers and streams within this State; all the waters of the Cosumnes River and its  
28      tributaries, and all lakes lying within the watershed of that river and tributaries  
29      above the bridge on the Mother Lode Highway between Plymouth and Nashville,  
30      all being within the Counties of Alpine, Amador, and El Dorado.

31      **Comment.** Section 1870 continues former Section 11034 without change.

32    **§ 1875. District 25**

33      1875. The following constitutes Fish and Game District 25:

34      The waters of Lake Almanor and all streams flowing into that lake and all lands  
35      lying within the drainage basin of those streams and lake, all being within the  
36      Counties of Plumas and Lassen.

37      **Comment.** Section 1875 continues former Section 11035 without change.

38    **§ 1880. Klamath River Fish and Game District**


39      1880. The following constitutes the Klamath River Fish and Game District:



1 The waters of the Klamath River as described in the initiative act to create the  
2 Klamath River Fish and Game District, approved by the electors on November 4,  
3 1924, which initiative act provides:

4 The Klamath River Fish and Game District is hereby created and shall consist of  
5 the Klamath River and the waters thereof, following its meanderings from the  
6 confluence of the Klamath River and the Shasta River in the County of Siskiyou to  
7 the mouth of the Klamath River in Del Norte County.

8 **Comment.** Section 1880 continues the first three paragraphs of former Section 11036 without  
9 change.

10  **Staff Note:** The last unnumbered paragraph of Section 11306 will be located in the Part  
11 containing penalty provisions.

12 **§ 1885. Trinity and Klamath River Fish and Game District**

13 1885. The following constitutes the Trinity and Klamath River Fish and Game  
14 District:

15 The Klamath River and the waters thereof, following its meanderings from the  
16 mouth of the Klamath River in Del Norte County to its confluence with the  
17 Salmon River, and also the Trinity River and the waters thereof, following its  
18 meanderings from its confluence with the Klamath River in the County of  
19 Humboldt to its confluence with the south fork of the said Trinity River.

20 **Comment.** Section 1885 continues former Section 11037 without change.

21 **§ 1890. District 118**

22 1890. (a) The following constitutes Fish and Game District 118:

23 The ocean waters and tidelands lying within the following boundaries:


24 Beginning at the south side of the pier at San Simeon thence westerly three  
25 miles, thence southerly to a point three miles west of the southern boundary of the  
26 state park at Cambria in San Luis Obispo County, thence easterly to the southwest  
27 point of the state park at Cambria.

28 (b) All of the provisions relating to District 18 shall apply to District 118.

29 **Comment.** Section 1890 continues former Section 11038 without change, except as indicated  
30 below:

31 The following nonsubstantive change was made:

- 32 • Subdivisions were added.

33  **Staff Note:** Subdivision designations were added to Section 11038 to clarify the relationship  
34 of its unnumbered paragraphs.

35 **§ 1895. District 118.5**


36 1895. (a) The following constitutes Fish and Game District 118.5:

37 The ocean and tidelands to high-water mark, not included in other districts,  
38 excluding all rivers, streams, sloughs, and lagoons, bounded by a line beginning at  
39 the intersection of the common boundary of Monterey and San Luis Obispo  
40 Counties with the mean high-water mark, thence due west two miles to a point,

1 thence by a line following the coast line and parallel to it southerly to a point two  
2 miles south of the intersection of the common boundary of Santa Barbara and  
3 Ventura Counties with the mean high-water mark, thence north to the intersection  
4 of the common boundary of Santa Barbara and Ventura Counties with the mean  
5 high-water mark.

6 (b) Except as otherwise provided, all of the provisions relating to District 18  
7 shall apply to District 118.5.

8 **Comment.** Section 1895 continues former Section 11039 without change.

9  **Staff Note:** Subdivision designations were added to Section 11039 to clarify the relationship  
10 of its unnumbered paragraphs.



## DISPOSITION OF FORMER LAW

The table below shows the relationship between each provision of the existing Fish and Game Code and the corresponding provision of the proposed law (if any).

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
101 .....	500	851 .....	1110
102 .....	510	853 .....	1120
1020 .....	1235	854 .....	1125
103 .....	515	855 .....	1130
104 .....	525	856 .....	1115
107 .....	530	857 .....	1135
108 .....	750	858(a) .....	1140
1227 .....	1310	858(b) .....	1145
200 .....	550	1000 .....	1245
200 (2d para.) .....	570(b)	1001 .....	1200
201 .....	570(a)	1004 .....	1205
202 .....	660	1005 .....	1255
203 .....	555	1006 .....	1215
203.1 .....	560	1007 .....	1210
204 .....	575	1008 .....	1220
205 .....	565	1009 .....	1455
206 .....	520	1010 .....	1460
207 .....	650	1011 .....	1600
210 .....	700	1012 .....	1605
211 .....	705	1013 .....	1610
215 .....	665	1015 .....	1230
217.6 .....	710	1017 .....	1225
218 .....	670	1019 .....	1450
219 .....	675	1226(b) .....	1305
220(a) .....	680	1745(a) .....	1400
220(b) .....	655	1745(b)(1) .....	1405
240 .....	805	1745(b)(2) .....	1410
250 .....	685	1745(c)-(d) .....	1415
300 .....	800	1745(e)-(g) .....	1420
301 .....	760	1745(h)-(i) .....	1425
309(a) (1st para.) .....	900	1745(j) .....	1430
309(a) (2d para.) .....	755	11000 .....	1700
309(b) .....	905	11001 .....	1705
700 .....	1000	11002 .....	1710
701 .....	1015	11003 .....	1715
701.3 .....	1020	11004 .....	1720
701.5 (1st sent.) .....	1315(a)	11005 .....	1725
701.5 (2d sent.) .....	1315(b)	11006 .....	1730
702 .....	1005	11007 .....	1735
703.3 .....	1240	11008 .....	1740
703.5 .....	1300	11009 .....	1745
703(a) .....	1010	11010 .....	1750
704 .....	1025	11011 .....	1755
706 .....	1030	11012 .....	1760
707 .....	1105	11013 .....	1765
715 .....	1250	11014 .....	1770
850 .....	1100	11015 .....	1775

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
11016 .....	1780	11029 .....	1845
11017 .....	1785	11030 .....	1850
11018 .....	1790	11031 .....	1855
11019 .....	1800	11032 .....	1860
11020 .....	1810	11033 .....	1865
11022 .....	1815	11034 .....	1870
11024 .....	1820	11035 .....	1875
11025 .....	1825	11036 .....	1880
11026 .....	1830	11037 .....	1885
11027 .....	1835	11038 .....	1890
11028 .....	1840	11039 .....	1895