

## Memorandum 2013-58

**Fish and Game Law: Cumulative Draft**

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In this study, the Commission<sup>1</sup> is proposing to recodify the entirety of the Fish and Game Code, in order to improve its organization and make minor technical and substantive improvements throughout.

To date, the Commission has completed its review of most of the code-wide elements of the Fish and Game Code, and has proposed that those provisions be restated and reorganized into the following Divisions of the proposed Fish and Wildlife Code:

- Division 1. General Provisions
- Division 2. Administration
- Division 3. Law Enforcement
- Division 4. Inter-Jurisdictional Compacts

This memorandum presents a cumulative draft of those provisions, which incorporates the following changes:

- Changes from the original staff draft that have been approved by the Commission.
- Changes and additions needed to reflect 2013 legislation.
- The deletion of Staff Notes that are no longer needed.
- Minor changes proposed by the staff.

**The Commission should decide whether to approve the attached draft, with or without further changes.**

The memorandum also discusses an issue that the Commission had previously directed the staff to research: whether existing Fish and Game Code provisions relating to the counting of days are compatible with similar provisions in the Code of Civil Procedure.

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

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

Unless otherwise indicated, all statutory references in this memorandum are to the existing Fish and Game Code, or to the provisions of the “proposed” Fish and Wildlife Code. References to the Fish and Game Commission and Department of Fish and Wildlife are shown as “FGC” and “DFW” respectively.

The changes proposed in this memorandum all involve either (1) purely technical revisions, or (2) the addition of a staff note requesting public comment. **The staff intends to treat those matters as “consent” items — i.e., they will be presumed approved without discussion unless a member of the Commission requests discussion.**

#### CHANGES PREVIOUSLY APPROVED BY COMMISSION

In this study, work has been proceeding on two tracks simultaneously. The first track presents drafts of new material, with requests for public comment on specific points. In the second track, the Commission considers any public comment that it has received on the queries posed in the first track material.<sup>2</sup>

Under that approach, the Commission has approved a number of revisions to the draft legislation proposed in the first track.

Where a Commission decision could be implemented verbatim (because the Commission approved specific language), the changes are incorporated in the attached cumulative draft but are not shown in strikeout or underscore. Where implementation of a Commission decision required some staff discretion, the changes are shown with strikeout and underscore in the attached cumulative draft.

#### **Previously Approved Revision of Statutory Text**

The attached draft incorporates the Commission’s previous decisions to revise proposed Sections 50 (continuing existing Section 7),<sup>3</sup> 560 (continuing existing Section 203.1),<sup>4</sup> 1255 (continuing existing Section 1005),<sup>5</sup> 1310 (continuing existing Section 1227),<sup>6</sup> and 1700 through 1895 (continuing existing Section 11000 through 11039).<sup>7</sup>

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2. Minutes (April 2013), p. 12.

3. Minutes (Aug. 2013), p. 5.

4. Minutes (Aug. 2013), p. 5.

5. Minutes (Aug. 2013), p. 5.

6. Minutes (June 2013), p. 16.

7. Minutes (Aug. 2013), p. 5.

## Rulemaking Cross-References

The attached draft incorporates the Commission's previous decision to delete subdivisions (b) and (c) of proposed Section 575 (continuing existing Section 204),<sup>8</sup> with an explanation for the deletion added to the section Comment.

## Terminology

The attached draft incorporates the Commission's previous decision to substitute the phrase "fish and wildlife" throughout the proposed code in place of the phrase "fish and game," except when there appears to be good reason to continue use of the existing terminology.<sup>9</sup> In an instance in which that substitution had not been made in a previously presented draft, it has been made in the attached cumulative draft.<sup>10</sup>

However, pending public comment and further decision by the Commission,<sup>11</sup> the phrase "Fish and Game" has *not* been revised when part of the name of any fund (e.g., the Fish and Game Preservation Fund).<sup>12</sup> Similarly, the phrase was not revised in two provisions that reference the text of historical enactments relating to the "Klamath River Fish and Game District."<sup>13</sup>

The attached draft also incorporates the Commission's previous decision to substitute the phrase "wildlife officer" throughout the proposed code in place of the phrase "fish and game warden."<sup>14</sup> In instances in which that substitution had not been made in a previously presented draft, it has been made in the attached cumulative draft.<sup>15</sup>

## Unlawful Acts

In the "first track" draft of general licensing provisions, the staff noted that one provision, making certain acts unlawful, had application beyond licensing

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8. Minutes (June 2013), p. 15.

9. Memorandum 2013-31, p. 5, Minutes (June. 2013), p. 15-16.

10. See proposed Section 3225 (continuing existing Section 702.1).

11. See Staff Note following proposed Section 2650 (continuing existing Section 13000) in draft of finance provisions presented with Memorandum 2013-50 (on the agenda for the Commission's December meeting).

12. See proposed Sections 200 (continuing existing Section 12), 515 (continuing existing Section 103), 1425 (continuing existing Section 1745(h)-(i)), 1600 (continuing existing Section 1011), 2090 (continuing existing Section 1050.8), 3315 (continuing existing Section 12021).

13. See proposed Section 1880 (continuing existing Section 11036).

14. Minutes (June 2013), p. 16.

15. See proposed Sections 3015 (continuing existing Section 854), 3020 (continuing existing Section 858(b)).

matters and should be relocated.<sup>16</sup> In the cumulative draft, this provision now appears as proposed Section 1650.

## 2013 LEGISLATION

The staff identified two bills enacted in 2013 that relate to the content of proposed Divisions 1 through 4. They are discussed below.

### **Amended Sections**

Sections 206 and 207 (proposed Sections 520 and 650, respectively), were amended by 2013 Cal. Stat. ch. 233 (AB 497 (Chesbro)). The changes made to those sections have been incorporated in the attached draft.

### **New Sections**

#### *Rulemaking*

Section 205.1, which relates to FGC's rulemaking authority, was added by 2013 Cal. Stat. ch. 233 (AB 497 (Chesbro)). That new provision has been added to the cumulative draft as proposed Section 580.

#### *Department-Managed Lands*

Section 1745.1, which relates to the authorized use of department-managed lands, was added by 2013 Cal. Stat. 387 (SB 749 (Wolk)). That new provision has been added to the cumulative draft as proposed Section 1435.

That placement raises a minor issue. As enacted, new Section 1745.1 uses the term "department-managed lands," but is not governed by the existing statutory definition of that term.<sup>17</sup> If the provision is continued in proposed Section 1435, it would then be governed by the statutory definition (which appears to be appropriate).

**A Staff Note following proposed Section 1435 asks for public comment on whether the application of the definition would cause any problematic change in meaning.**

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16. See proposed Section 2250(g) (continuing existing Section 1054(a) and (c)); Memorandum 2013-32.

17. See existing Section 1745(a); proposed Section 1400(a).

## NEW ISSUES

In assembling the attached cumulative draft, the staff saw four new issues, which are discussed below.

### **Additional Enforcement Section**

The staff has located another provision that should probably be included within the general law enforcement material in Division 3: Section 702.1. In the attached draft, that section has been added as proposed Section 3225.

### **Definitions of “Nonresident” and “Resident”**

Proposed Section 240, which would continue existing Section 57 without substantive change, defines the term “nonresident” as follows:

240. “Nonresident” means any person who has not resided continuously in the State of California for six months immediately prior to the date of application for a license or permit.

Proposed Section 280, which would continue existing Section 70 without substantive change, defines the term “resident” as follows:

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

Read literally, the two definitions are not mutually exclusive. A person who was active duty military or enrolled in the Job Corps but had not resided continuously in the state for six months prior to applying for a license or permit would be both a “nonresident” *and* a “resident” under those provisions.

That is a problem, because a person’s status as a resident or nonresident can have a significant legal effect.<sup>18</sup>

It seems clear that existing Section 70 (continued by proposed Section 280) is intended to extend “resident” status to certain groups, regardless of whether a member of that group has resided in California for six months. That specific rule should be preserved.

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18. See, e.g., Sections 2540 (hunting and fishing guide license), 3031 (hunting license), 4006 (trapping license), 4332 (tag for taking deer).

**In the attached cumulative draft, the staff has revised proposed Section 240 to eliminate the overlap, with a Staff Note seeking public comment on the propriety of the change:**

“Nonresident” means any person who is not a resident as defined in Section 280.

### **Lifetime Licenses**

Proposed Section 2305, which would continue existing Sections 1055(i) and 1055.1(g), allows the Department of Fish and Wildlife to designate nonprofit organizations as license agents for the sale of “lifetime licenses.” Such licenses “may be sold by auction or by other methods and are not subject to the fee limitations prescribed in this code.”<sup>19</sup>

The staff has two questions about this provision.

#### *Scope of Exemption*

Proposed Section 2305(b) provides as follows:

A license agent authorized to issue lifetime sport fishing licenses, lifetime hunting licenses, and lifetime sport fishing and hunting licenses under this section is exempt from subdivisions (a) and (c) of Section 2450.

The referenced subdivisions in proposed Sections 2450 require license agents to add a handling charge of a specified amount when issuing a license, and limit the license agent’s compensation to that handling charge.

Read literally, proposed Section 2305(b) would apply that exemption to the *license agent*, rather than the *license*. In other words, a license agent who is authorized to issue lifetime licenses seems to be exempt from the compensation limit when issuing *any* type of license, lifetime or otherwise.

**A Staff Note following proposed Section 2305 seeks public comment on whether that is the intended scope of the exemption.**

#### *Authorization to Sell Lifetime Licenses*

Proposed Section 2305(a) provides that a “nonprofit organization” can be designated as a license agent to sell lifetime licenses. However, it is not clear whether nonprofit organizations are the *only* private entities that can sell lifetime

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19. Section 2305(a).

licenses. Depending on the answer to that question, the section could be restructured and simplified.

**The Staff Note following proposed Section 2305 also seeks public comment on that issue.**

### **Translation of Reports**

The first sentence of proposed Section 50 would continue existing Section 7 (“Whenever any statement or report is required to be made, it shall be made in the English language.”). The Commission previously decided to add a second sentence, which is drawn from Code of Civil Procedure Section 185 (“Nothing in this section shall prohibit the department from providing an unofficial translation of a statement or report in a language other than English.”).<sup>20</sup>

In the cumulative draft, the staff has revised the Comment to Section 50 to include a cross-reference to the Dymally-Alatorre Bilingual Services Act,<sup>21</sup> which in some cases requires that state agencies translate materials into languages other than English. **The staff has also added a Staff Note inviting public comment on whether there is any incompatibility between proposed Section 50 and the Dymally-Alatorre Bilingual Services Act.**

### COUNTING DAYS AND WEEKS

At a prior meeting, the Commission directed the staff to analyze whether existing Fish and Game Code provisions governing the counting of days and weeks are consistent with the Code of Civil Procedure.<sup>22</sup> The analysis involves two distinct issues: (1) whether the existing Fish and Game Code *defines* the term “day” or “week” differently than the Code of Civil Procedure, and (2) whether the Fish and Game Code provides for *counting* days or weeks in a manner different than that required by the Code of Civil Procedure.

#### *Definitions*

The first clause of existing Section 35 of the Fish and Game Code, which would be continued without change by proposed Section 170, defines the term “day” to mean “calendar day.” The second clause of Section 35, which would be

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20. Minutes (Aug. 2013), p. 5.

21. Gov’t Code §§ 7290-7299.8.

22. Minutes (Apr. 2013), p. 12.

continued without change by proposed Section 320, defines the term “week” to mean “calendar week.”

Those definitions are not in conflict with the Code of Civil Procedure, which does not expressly define the terms “day” or “week.”

Moreover, the Fish and Game Code definitions are consistent with case law construing the meaning of the word “day” when used in the Code of Civil Procedure without qualification. See *Iverson v. Superior Court*, 167 Cal. App. 3d 544, 213 Cal. Rptr. 399 (1985); see also *Mamika v. Barca*, 68 Cal. App. 4th 487, 492, 80 Cal. Rptr. 2d 175 (1998) (citing *Iverson, supra*, in interpreting Labor Code Section 203).

Thus, there does not seem to be any conflict between the Fish and Game Code and the Code of Civil Procedure on these points.

### *Counting Days*

The base rules in the Code of Civil Procedure for “counting days” (i.e., calculating the deadline for performing an act that must be performed by a certain date) appear in Sections 12 (counting forward from a triggering event)<sup>23</sup> and 12c (counting backward from a hearing date). Those sections provide as follows:

12. The time in which any act provided by law is to be done is computed by excluding the first day, and including the last, unless the last day is a holiday, and then it is also excluded.

12c. (a) Where any law requires an act to be performed no later than a specified number of days before a hearing date, the last day to perform that act shall be determined by counting backward from the hearing date, excluding the day of the hearing as provided by Section 12.

(b) Any additional days added to the specified number of days because of a particular method of service shall be computed by counting backward from the day determined in accordance with subdivision (a).

By their terms, those sections appear to apply to “any law” or “any act provided by law,” and not just to the Code of Civil Procedure. Thus, they would appear to govern the counting of days under the Fish and Game Code. See also Sections 12a and 13, which provide rules when the last day to perform a required act falls

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23. See, e.g., *Dahms v. Downtown Pomona Property & Business Improvement Dist.*, 174 Cal. App. 4th 708, 714-15, 96 Cal. Rptr. 3d 10 (2009).

on a holiday, and by Sections 10, 12b, and 135, which define what constitutes a “holiday.”

The staff has not found any provision of the Fish and Game Code that specifies how to count a specified number of days. Nor does there appear to be any provision that defines “holiday” for purposes of that code.

However, proposed Section 70 (continuing existing Section 11) does provide a general rule for how to construe a period of time specified by reference to a starting date and ending date (e.g., October 1 to October 30):

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

The staff does not see that as a “day counting” provision, because it is not used to count a specified number of days (e.g., 30 days). Rather, it is used to specify a fixed period of time by reference to the starting and ending dates (e.g., “All species of salmon, except silver salmon, may be taken only between April 15 and September 30.”<sup>24</sup>). **For that reason, the staff sees no conflict between the Code of Civil Procedure and the Fish and Game Code with respect to counting days.**

Respectfully submitted,

Steve Cohen  
Staff Counsel

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24. Section 8210.2.

## 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 Steve Cohen at [scohen@clrc.ca.gov](mailto:scohen@clrc.ca.gov).

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## DIVISION 1. GENERAL PROVISIONS

### 1 CHAPTER 1. PRELIMINARY PROVISIONS

#### 2 § 10. Code title

3 10. This code shall be known as the Fish and Wildlife Code.

4 **Comment.** Section 10 continues former Section 1 without change, except as indicated below:  
5 The following nonsubstantive change is made:

- 6 • The word “Game” is replaced with “Wildlife.”

#### 7 § 15. Application of part

8 15. Unless the provision or context otherwise requires, the provisions of this  
9 chapter govern the construction of this code.

10 **Comment.** Section 15 is new. It is a common general provision in the codes. See, e.g., Prob.  
11 Code § 6.

#### 12 § 20. Restatement and continuation

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

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

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

23 **Comment.** Subdivision (a) of Section 20 continues the first sentence of former Section 3  
24 without change, except as indicated below:

25 The following nonsubstantive change is made:

- 26 • The sentence is restated in the singular.

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

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

29 A number of terms and phrases are used in the Comments to the sections of the Fish and  
30 Wildlife Code to indicate the sources of the sections and to describe how they compare with prior  
31 law. The following discussion is intended to provide guidance in interpreting the terminology  
32 most commonly used in the Comments.

33 (1) *Continues without change.* A new provision “continues” a former provision “without  
34 change” if the two provisions are identical or nearly so. In some cases, there may be insignificant  
35 technical differences, such as where punctuation is changed without a change in meaning. Some  
36 Comments may describe the relationship by simply stating that the Fish and Wildlife Code  
37 provision “continues” or is “the same as” a former provision, or is “the same as” a provision of a  
38 uniform act.

1 (2) *Continues without substantive change.* A new provision “continues” a former provision  
2 “without substantive change” if the substantive law remains the same but the language differs to  
3 an insignificant degree.

4 (3) *Restates without substantive change.* A new provision “restates” a former provision  
5 “without substantive change” if the substantive law remains the same but the language differs to a  
6 significant degree. Some Comments may describe the new provision as being the “same in  
7 substance.”

8 (4) *Exceptions, additions, omissions.* If part of a former provision is “continued” or “restated,”  
9 the Comment may say that the former provision is continued or restated but also note the specific  
10 differences as “exceptions to,” “additions to,” or “omissions from” the former provision.

11 (5) *Generalizes, broadens, restates in general terms.* A new provision may be described as  
12 “generalizing,” “broadening,” or “restating in general terms” a provision of prior law. This  
13 description means that a limited rule has been expanded to cover a broader class of cases.

14 (6) *Supersedes, replaces.* A provision “supersedes” or “replaces” a former provision if the new  
15 provision deals with the same subject as the former provision but treats it in a significantly  
16 different manner.

17 (7) *New.* A provision is described as “new” where it has no direct source in prior statutes.

18 (8) *Drawn from, similar to, consistent with.* A variety of terms are used to indicate a source for  
19 a new provision, typically a source other than California statutes. For example, a provision may  
20 be “drawn from” a uniform act, model code, or the statutes of another state. In these cases, it may  
21 be useful to consult any available commentary or interpretation of the source from which the new  
22 provision is drawn for background information.

23 (9) *Codifies.* A Comment may state that a new provision “codifies” a case-law rule that has not  
24 previously been enacted into statutory law.

25 (10) *Makes clear, clarifies.* A new provision may be described as “making clear” a particular  
26 rule or “clarifying” a rule as a way of emphasizing the rule, particularly if the situation under  
27 prior law was doubtful or contradictory.

28 (11) *Statement in Comment that section is “comparable” to another section.* A Comment may  
29 state that a provision is “comparable” to another provision. If the Comment to a section notes that  
30 another section is “comparable,” that does not mean that the other section is the same or  
31 substantially the same. The statement is included in the Comment so that the statute user is  
32 alerted to the other section and can review the cases under that section for possible use in  
33 interpreting the section containing the statement in the Comment.

34 **§ 25. Transitional provision**

35 25. (a) As used in this section:

36 (1) “New law” means either of the following, as the case may be:

37 (A) The act that enacted this code.

38 (B) The act that makes a change in this code, whether effectuated by  
39 amendment, addition, or repeal of a provision of this code.

40 (2) “Old law” means the applicable law in effect before the operative date of the  
41 new law.

42 (3) “Operative date” means the operative date of the new law.

43 (b) This section governs the application of the new law except to the extent  
44 otherwise expressly provided in the new law.

45 (c) Subject to the limitations provided in this section, the new law applies on the  
46 operative date to all matters governed by the new law, regardless of whether an  
47 event occurred or circumstance existed before, on, or after the operative date,

1 including, but not limited to, commencement of a proceeding, making of an order,  
2 or taking of an action.

3 (d) If a document or paper is filed before the operative date, the contents,  
4 execution, and notice thereof are governed by the old law and not by the new law;  
5 but subsequent proceedings taken after the operative date concerning the  
6 document or paper, including an objection or response, a hearing, an order, or  
7 other matter relating thereto is governed by the new law and not by the old law.

8 (e) If an order is made before the operative date, or an action on an order is  
9 taken before the operative date, the validity of the order or action is governed by  
10 the old law and not by the new law. Nothing in this subdivision precludes  
11 proceedings after the operative date to modify an order made, or alter a course of  
12 action commenced, before the operative date to the extent proceedings for  
13 modification of an order or alteration of a course of action of that type are  
14 otherwise provided in the new law.

15 (f) No person is liable for an action taken before the operative date that was  
16 proper at the time the action was taken, even though the action would be improper  
17 if taken on or after the operative date, and the person has no duty, as a result of the  
18 enactment of the new law, to take any step to alter the course of action or its  
19 consequences.

20 (g) If the new law does not apply to a matter that occurred before the operative  
21 date, the old law continues to govern the matter notwithstanding its repeal or  
22 amendment by the new law.

23 (h) If a party shows, and the court determines, that application of a particular  
24 provision of the new law or of the old law in the manner required by this section  
25 or by the new law would substantially interfere with the effective conduct of the  
26 proceedings or the rights of the parties or other interested persons in connection  
27 with an event that occurred or circumstance that existed before the operative date,  
28 the court may, notwithstanding this section or the new law, apply either the new  
29 law or the old law to the extent reasonably necessary to mitigate the substantial  
30 interference.

31 **Comment.** Section 25 replaces the second sentence of former Fish and Game Code Section 3.

32 Section 25 is similar to Family Code Section 4 and Probate Code Section 3. It provides general  
33 transitional rules applicable to the Fish and Wildlife Code. This section applies both to the act  
34 that enacted the Fish and Wildlife Code and to any later act that changes the code, whether the  
35 change is effectuated by amendment, addition, or repeal of a provision of the code.

36 The rules stated in this section are general provisions that apply absent a special rule stated in a  
37 new law. Special rules may defer or accelerate application of a new law despite the general rules  
38 stated in this section. See subdivision (b).

39 The general rule prescribed in subdivision (c) is that a new law applies immediately on its  
40 operative date to all matters, including pending proceedings. The general rule is qualified by the  
41 exceptions listed in subdivision (d) (contents, execution, and notice of papers and documents are  
42 governed by the law applicable when the paper or document is filed), subdivision (e) (orders are  
43 governed by the law applicable when the order is made, subject to any applicable modification  
44 procedures), and subdivision (f) (acts are governed by the law applicable when the act is done).

45 Where a new law fails to address a matter that occurred before its operative date, subdivision  
46 (g) makes clear that old law continues to govern the matter.

1 Because it is impractical to attempt to deal with all the possible transitional problems that may  
2 arise in the application of a new law to various circumstances, subdivision (h) provides a safety  
3 valve that permits the court to vary the application of the new law where there would otherwise  
4 be a substantial impairment of procedure or justice. This provision is intended to apply only in the  
5 extreme and unusual case, and is not intended to excuse compliance with the basic transitional  
6 provisions simply because of minor inconveniences or minor impacts on expectations or other  
7 interests.

8 In addition to governing other substantive provisions, Section 4 also governs itself. It therefore  
9 becomes operative on the date the Fish and Wildlife Code becomes operative and applies to  
10 provisions enacted and operative before, on, or after that date.

11 **§ 30. Effect of headings**

12 30. Division, part, title, chapter, article, and section headings do not in any  
13 manner affect the scope, meaning, or intent of the provisions of this code.

14 **Comment.** Section 30 continues former Section 4 without change, except as indicated below:  
15 The following nonsubstantive change is made:

- 16 • The word “title” is added.

17 **§ 35. Reference to specified part of code**

18 35. Unless otherwise expressly stated:

19 (a) “Division” means a division of this code.

20 (b) “Part” means a part of the division in which that term occurs.

21 (c) “Title” means a title of the part in which that term occurs.

22 (d) “Chapter” means a chapter of the division, part, or title, as the case may be,  
23 in which that term occurs.

24 (d) “Article” means an article of the chapter in which that term occurs.

25 (e) “Section” means a section of this code.

26 (f) “Subdivision” means a subdivision of the section in which that term occurs.

27 (g) “Paragraph” means a paragraph of the subdivision in which that term occurs.

28 (h) “Subparagraph” means a subparagraph of the paragraph in which that term  
29 occurs.

30 **Comment.** Subdivisions (c) and (d) of Section 35 continue former Section 73 without  
31 substantive change. The other provisions of Section 35 are new. They are similar to Probate Code  
32 Section 8, except that references to “title” have been added.

33 **§ 40. Reference to statute includes amendments and additions**

34 40. Whenever reference is made to any portion of this code or of any other law  
35 of this State, the reference applies to all amendments and additions heretofore or  
36 hereafter made.

37 **Comment.** Section 40 continues former Section 5 without change.

38 **§ 45. Delegation**

39 45. Whenever a power is granted to, or duty is imposed upon, a public officer,  
40 the power may be exercised or the duty may be performed by a deputy of the

1 officer or by a person authorized, pursuant to law, by the officer, unless this code  
2 expressly provides otherwise.

3 **Comment.** Section 45 continues former Section 6 without change.

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

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

9 **Comment.** The first sentence of Section 50 continues former Section 7 without change. The  
10 second sentence is drawn from Code of Civil Procedure Section 185. It authorizes, but does not  
11 require, unofficial translation of statements and reports into languages other than English.

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

13 **Staff Note.** The Commission requests public comment on whether there is any  
14 incompatibility between proposed Section 50 and the Dymally-Alatorre Bilingual Services Act  
15 (Gov't Code §§ 7290-7299.8).

16 **§ 55. Tenses**

17 55. The present tense includes the past and future tenses, and the future, the  
18 present.

19 **Comment.** Section 55 continues former Section 8 without change.

20 **§ 60. Gender**

21 60. The masculine gender includes the feminine and the neuter.

22 **Comment.** Section 60 continues former Section 9 without change.

23 **§ 65. Number**

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

25 **Comment.** Section 65 continues former Section 10 without change.

26 **§ 70. Days**

27 70. Whenever in this code the doing of an act between certain dates or from one  
28 date to another is allowed or prohibited, the period of time thereby indicated  
29 includes both dates specified. The first date specified designates the first day of the  
30 period, and the second day specified designates the last day of the period. No  
31 period of time specified in this code exceeds one year unless otherwise expressly  
32 provided.

33 **Comment.** Section 70 continues former Section 11 without change.

34 **§ 75. Mailed notice**

35 75. Unless otherwise specified by statute, any notice or other written  
36 communication required to be sent to any person by this code or regulations

1 adopted pursuant thereto, is sufficient notice if sent by first-class mail to the last  
2 address furnished to the department by that person.

3 **Comment.** Section 75 continues former Section 13 without change.

4 **§ 80. “Shall” and “may”**

5 80. “Shall” is mandatory and “may” is permissive.

6 **Comment.** Section 80 continues former Section 79 without change.

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

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

10 **Comment.** Section 85 continues former Section 64 without change.

11 **CHAPTER 2. DEFINITIONS**

12 **§ 100. Application of definitions**

13 100. Unless the provisions or the context otherwise requires, the definitions in  
14 this chapter govern the construction of this code and all regulations adopted under  
15 this code.

16 **Comment.** Section 100 continues former Section 2 without substantive change.

17 **§ 105. “Adaptive management”**

18 105. “Adaptive management,” unless otherwise specified in this code, means  
19 management that improves the management of biological resources over time by  
20 using new information gathered through monitoring, evaluation, and other credible  
21 sources as they become available, and adjusts management strategies and practices  
22 to assist in meeting conservation and management goals. Under adaptive  
23 management, program actions are viewed as tools for learning to inform future  
24 actions.

25 **Comment.** Section 105 continues former Section 13.5 without change.

26 **§ 110. “Affix”**

27 110. “Affix” means physically attached to or imprinting an electronic validation  
28 to a license document.

29 **Comment.** Section 110 continues former Section 16 without change.

30 **§ 115. “Anadromous fish”**

31 115. “Anadromous fish” means fish that spawn in fresh water and spend a  
32 portion of their lives in the ocean.

33 **Comment.** Section 115 continues former Section 14 without change, except as indicated  
34 below:

35 The following nonsubstantive change is made:

- 36 • The word “which” is replaced with “that.”

1 § 120. “Angling”

2 120. “Angling” means the taking of, or attempting to take, fish by hook and line  
3 with the line held in the hand, or by hook and line with the line attached to a pole  
4 or rod that is closely attended or held in the hand in a manner that the fish  
5 voluntarily takes the bait or lure in its mouth.

6 **Comment.** Section 120 continues former Section 15 without change, except as indicated  
7 below:

8 The following nonsubstantive changes are made:

- 9 • The word “such” is omitted.
- 10 • The word “which” is replaced with “that.”

11 § 125. “Aquaculture”

12 125. “Aquaculture” means that form of agriculture devoted to the propagation,  
13 cultivation, maintenance, and harvesting of aquatic plants and animals in marine,  
14 brackish, and fresh water. “Aquaculture” does not include species of ornamental  
15 marine or freshwater plants and animals not utilized for human consumption or  
16 bait purposes that are maintained in closed systems for personal, pet industry, or  
17 hobby purposes, however, these species continue to be regulated under **Chapter 2**  
18 **(commencing with Section 2116) of Division 3.**

19 **Comment.** Section 125 continues former Section 17 without change.

20 § 130. “Bag limit”

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

24 **Comment.** Section 130 continues former Section 18 without change.

25 § 135. “Bird”

26 135. “Bird” means any wild bird or any part thereof.

27 **Comment.** Section 135 continues former Section 22 without change.

28 § 140. “Buy”

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

30 **Comment.** Section 140 continues former Section 24 without change.

31 § 145. “Chumming”

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

35 **Comment.** Section 145 continues former Section 27 without change.

1 § 150. “Closed season”

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

4 **Comment.** Section 150 continues former Section 29 without change.

5 § 155. “Commission” and “commissioner”

6 155. “Commission” means the Fish and Game Commission, and  
7 “commissioner” means a member of the Fish and Game Commission.

8 **Comment.** Section 155 continues former Section 30 without change.

9 § 160. “County”

10 160. “County” includes city and county.

11 **Comment.** Section 160 continues former Section 32 without change.

12 § 165. “Credible science”

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

19 **Comment.** Section 165 continues former Section 33 without change, except as indicated  
20 below:

21 The following nonsubstantive change is made:

- 22 • A cross-reference to former Section 13.5 is omitted as unnecessary.

23 § 170. “Day”

24 170. “Day” means calendar day.

25 **Comment.** Section 170 continues the first clause of former Section 35 without change. See  
26 also Section 320 (“week”).

27 § 175. “Department”

28 175. “Department” means the Department of Fish and Wildlife.

29 **Comment.** Section 175 continues former Section 37 without change.

30 § 180. “Director”

31 180. “Director” means the Director of Fish and Wildlife.

32 **Comment.** Section 180 continues former Section 39 without change.

33 § 185. “District”

34 185. “District” means fish and wildlife district.

35 **Comment.** Section 185 continues former Section 41 without change, except as indicated  
36 below:

37 The following nonsubstantive change is made:

- 1       • The word “game” is replaced with “wildlife.”

2       **§ 190. “Ecosystem-based management”**

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

7       **Comment.** Section 190 continues former Section 43 without change, except as indicated  
8 below:

9       The following nonsubstantive change is made:

- 10       • A cross-reference to former Section 33 is omitted as unnecessary.

11       **§ 195. “Fish”**

12       195. “Fish” means wild fish, mollusks, crustaceans, invertebrates, or  
13 amphibians, including any part, spawn, or ova thereof.

14       **Comment.** Section 195 continues former Section 45 without change.

15       **§ 200. “Fish Commission Fund,” “Game Preservation Fund”**

16       200. Wherever the term “Fish Commission Fund” or “Game Preservation Fund”  
17 appears in any law, it means “Fish and Game Preservation Fund.”

18       **Comment.** Section 200 continues former Section 12 without change.

19       **§ 205. “Guide boat”**

20       205. “Guide boat” means a boat or vessel under 25 feet in length, which is used  
21 by a guide, who is licensed under **Chapter 5 (commencing with Section 2535) of**  
22 **Division 3**, in inland waters for any of the following purposes:

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

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

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

27       **Comment.** Section 205 continues former Section 46 without change.

28       **§ 210. “Hook” and related terms**

29       210. “Hook” or “fishhook” means an implement to catch or hold fish or  
30 amphibia. “Single hook” means any hook with one point and with or without a  
31 barb; “double hook” means any hook with two points and with or without barbs;  
32 “treble or triple hook” means any hook with three points and with or without  
33 barbs. “Snag” or “gaff” hooks are hooks with or without handles used to take fish  
34 where the fish does not take the hook voluntarily in its mouth.

35       **Comment.** Section 210 continues former Section 48 without change, except as indicated  
36 below:

37       The following nonsubstantive change is made:

- 38       • The phrase “in such manner that” is replaced with “where.”

1 § 215. “Kelp”

2 215. “Kelp” means kelp or other marine aquatic plants and the seeds thereof.

3 **Comment.** Section 215 continues former Section 51 without change.

4 § 220. “Mammal”

5 220. “Mammal” means any wild or feral mammal or any part thereof, but not  
6 any wild, feral, or undomesticated burro.

7 **Comment.** Section 220 continues former Section 54 without change.

8 § 225. “Marine finfish aquaculture”

9 225. “Marine finfish aquaculture” means the propagation, cultivation, or  
10 maintenance of finfish species in the waters of the Pacific Ocean that are regulated  
11 by this state.

12 **Comment.** Section 225 continues former Section 54.5 without change.

13 § 230. “Mile”

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

18 **Comment.** Section 230 continues former Section 55 without change.

19 § 235. “Net”

20 235. “Net” means any gear made of any kind of twine, thread, string, rope, wire,  
21 wood, or other materials used for the gilling, entangling, trapping, or impounding  
22 of fish.

23 **Comment.** Section 235 continues former Section 56 without change.

24 § 240. “Nonresident”

25 240. “Nonresident” means any person who ~~has not resided continuously in the~~  
26 ~~State of California for six months immediately prior to the date of application for a~~  
27 ~~license or permit is not a resident as defined in Section 280.~~

28 **Comment.** Section 240 ~~continues~~ restates former Section 57 to reconcile the definition of the  
29 term “nonresident” with the definition of the term “resident” in Section 280.

30 ~~The following nonsubstantive change is made:~~

- 31 ~~• The word “his” is omitted before the word “application,” for gender neutrality.~~

32 **Staff Note.** Proposed Section 240 would be revised to eliminate an overlap between the  
33 definition of “nonresident” and the definition of “resident” (in proposed Section 280). **The staff**  
34 **requests public comment on whether the revision would have any problematic effect.**

35 § 245. “Oath”

36 245. “Oath” includes affirmation.

37 **Comment.** Section 245 continues former Section 60 without change.

1 § 250. “Ocean ranching”

2 250. “Ocean ranching” means aquaculture where juvenile anadromous fish are  
3 reared and released into state waters to grow and return to an aquaculture facility  
4 to be harvested commercially.

5 **Comment.** Section 250 continues former Section 61 without change.

6 § 255. “Open season” and “season”

7 255. “Open season” means that period of time during which the taking of birds,  
8 mammals, fish, reptiles, or amphibians is allowed as prescribed in this code and  
9 regulations adopted by the commission. If used to define the period of time during  
10 which take is allowed “season” means “open season.”

11 **Comment.** Section 255 continues former Section 62 without change.

12 § 260. “Person”

13 260. “Person” means any natural person or any partnership, corporation, limited  
14 liability company, trust, or other type of association.

15 **Comment.** Section 260 continues former Section 67 without change.

16 § 265. “Possession limit”

17 265. “Possession limit” means the maximum, in number or amount, of birds,  
18 mammals, fish, reptiles, or amphibians that may be lawfully possessed by one  
19 person.

20 **Comment.** Section 265 continues former Section 19 without change.

21 § 270. “Purchase”

22 270. “Purchase” means “buy” as defined in Section 140.

23 **Comment.** Section 270 continues former Section 68 without change, except as indicated  
24 below:

25 The following nonsubstantive change is made:

- 26 • A cross-reference to former Section 24 is updated.

27 § 275. “Recycled water” or “reclaimed water”

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

30 **Comment.** Section 275 continues former Section 89 without change, except as indicated  
31 below:

32 The following nonsubstantive change is made:

- 33 • The phrase “for the purposes of this code” is omitted.

34 § 280. “Resident”

35 280. “Resident” means any person who has resided continuously in the State of  
36 California for six months or more immediately prior to the date of application for a  
37 license or permit, any person on active military duty with the Armed Forces of the

1 United States or auxiliary branch thereof, or any person enrolled in the Job Corps  
2 established pursuant to Section 2883 of Title 29 of the United States Code.

3 **Comment.** Section 280 continues former Section 70 without change, except as indicated  
4 below:

5 The following nonsubstantive change is made:

- 6 • The word “his” is omitted before the word “application,” for gender neutrality.

7 **§ 285. “Sell”**

8 285. “Sell” includes offer or possess for sale, barter, exchange, or trade.

9 **Comment.** Section 285 continues former Section 75 without change.

10 **§ 290. “Signature” or “subscription”**

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

17 **Comment.** Section 290 continues former Section 81 without change, except as indicated  
18 below:

19 The following nonsubstantive change is made:

- 20 • The word “such” is replaced with “the.”

21 **§ 295. “Slurp gun”**

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

24 **Comment.** Section 295 continues former Section 82 without change.

25 **§ 300. “State”**

26 300. “State” means the State of California, unless applied to the different parts  
27 of the United States. In the latter case, it includes the District of Columbia and the  
28 territories.

29 **Comment.** Section 300 continues former Section 83 without change.

30 **§ 305. “Take”**

31 305. “Take” means hunt, pursue, catch, capture, or kill, or attempt to hunt,  
32 pursue, catch, capture, or kill.

33 **Comment.** Section 305 continues former Section 86 without change.

34 **§ 310. “Transport”**

35 310. “Transport” includes offer or receive for transportation.

36 **Comment.** Section 310 continues former Section 88 without change.

1 § 315. “Waters of the state,” “waters of this state,” and “state waters”

2 315. “Waters of the state,” “waters of this state,” and “state waters” have the  
3 same meaning as “waters of the state” as defined in Section 13050 of the Water  
4 Code.

5 **Comment.** Section 315 continues former Section 89.1 without change.

6 § 320. “Week”

7 320. “Week” means calendar week.

8 **Comment.** Section 320 continues the second clause of former Section 35 without change. See  
9 also Section 170 (“day”).

10 DIVISION 2. ADMINISTRATION

11 PART 1. FISH AND GAME COMMISSION

12 CHAPTER 1. ORGANIZATION

13 § 500. Fish and Game Commission

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

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

17 § 505. Findings and declarations

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

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

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

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

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

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

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

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

8 **Comment.** Section 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~~ eight 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~~ and that complies with the  
17 Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of  
18 Part 1 of Division 3 of Title 2 of the Government Code).

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

20 **Staff Note.** The text of Section 520 has been revised to reflect enactment of 2013 Cal. Stat.  
21 ch. 233 (AB 497 (Chesbro)).

22 **§ 525. Commission staff**

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

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

28 **§ 530. Code of conduct**

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

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

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

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

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

1 (e) A commissioner shall preserve the public’s welfare and the integrity of the  
2 commission, and act to maintain the public’s trust in the commission and the  
3 implementation of its regulations and policies.

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

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

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

## 11 CHAPTER 2. GENERAL REGULATORY POWERS

### 12 Article 1. Authority

#### 13 § 550. General authority

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

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

19 The following nonsubstantive change is made:

- 20 • A reference to “this article” is revised to refer to “this chapter.”

#### 21 § 555. Specific authority relating to fish, amphibia, and reptiles

22 555. Any regulation of the commission pursuant to this article that relates to  
23 fish, amphibia, and reptiles, may apply to all or any areas, districts, or portion  
24 thereof, at the discretion of the commission, and may do any or all of the  
25 following as to any or all species or subspecies:

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

30 **Comment.** Section 555 continues former Section 205 without change, except as indicated  
31 below:

32 The following nonsubstantive change is made:

- 33 • The word “which” is replaced with “that.”

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

35 560. When adopting regulations pursuant to Section 555 or Section 565, the  
36 commission shall consider populations, habitat, food supplies, the welfare of  
37 individual animals, and other pertinent facts and testimony.

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

3 The following substantive change is made:

- 4 • The provision is also made applicable to the adopting of regulations pursuant to Section  
5 565.

6 The following nonsubstantive change is made:

- 7 • A cross-reference to former Section 203 is updated.

8 **§ 565. Specific authority relating to birds and mammals**

9 565. Any regulation of the commission pursuant to this article relating to  
10 resident game birds, game mammals and furbearing mammals may apply to all or  
11 any areas, districts, or portions thereof, at the discretion of the commission, and  
12 may do any or all of the following as to any or all species or subspecies:

- 13 (a) Establish, extend, shorten, or abolish open seasons and closed seasons.
- 14 (b) Establish, change, or abolish bag limits and possession limits.
- 15 (c) Establish and change areas or territorial limits for their taking.
- 16 (d) Prescribe the manner and the means of taking.
- 17 (e) Establish, change, or abolish restrictions based upon sex, maturity, or other  
18 physical distinctions.

19 **Comment.** Section 565 continues former Section 203 without change.

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

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

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

29 **Comment.** Subdivision (a) of Section 570 continues former Section 201 without change.

30 Subdivision (b) continues the second paragraph of former Section 200 without change.

31 **§ 575. Other limitations**

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

34 (1) Any bird or mammal in any refuge heretofore or hereafter established by  
35 statute, the taking or possession of which shall be regulated pursuant to Sections  
36 **10500 to 10506, inclusive.**

37 (2) Elk, the taking or possession of which shall be regulated pursuant to **Section**  
38 **332.**

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

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

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

6 The following nonsubstantive changes are made:

- 7 • The last two paragraphs of the section are deleted as superfluous. See **Sections 306, 325.**
- 8 • The word “which” is replaced with “that.”

9 **§ 580. Conforming of sport fishing regulations to federal regulations**

10 580. (a) The commission may establish by regulation an automatic process to  
11 conform its sport fishing regulations to federal regulations.

12 (b) The department shall provide public notice of any conforming action  
13 implemented pursuant to this section.

14 **Comment.** Section 580 continues former Section 205.1 without change.

15 **Staff Note.** Section 205.1 was added to the Fish and Game Code by 2013 Cal. Stat. ch. 233  
16 (AB 497 (Chesbro)).

17 Article 2. Procedures

18 **§ 650. Special rulemaking meetings**

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

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

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

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

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

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

4 **Staff Note.** The text of Section 650 has been revised to reflect enactment of 2013 Cal. Stat.  
5 ch. 233 (AB 497 (Chesbro)).

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

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

13 **Comment.** Section 655 continues former Section 220(b) without change, except as indicated  
14 below:

15 The following nonsubstantive change is made:

- 16 • The word “which” is replaced with “that.”

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

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

20 660. The commission shall exercise its powers under Article 1 (commencing  
21 with Section 550) by regulations made and promulgated pursuant to this article.  
22 Regulations adopted pursuant to this article shall not be subject to the time periods  
23 for the adoption, amendment, or repeal of regulations prescribed in Sections  
24 11343.4, 11346.4, 11346.8, and 11347.1 of the Government Code.

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

27 The following nonsubstantive change is made:

- 28 • A reference to “this article” is revised to refer to “Article 1 (commencing with Section  
29 550).”

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

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

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

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

38 The following nonsubstantive change is made:

- 39 • A reference to “this article” is revised to refer to “Article 1 (commencing with Section  
40 550).”

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

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

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

7       The following nonsubstantive change is made:

- 8       • A reference to “this article” is revised to refer to “Article 1 (commencing with Section  
9       550).”

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

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

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

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

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

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

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

29       The following nonsubstantive changes are made:

- 30       • The subdivisions and paragraphs are renumbered.  
31       • In subdivision (a), the words “or both” are added.  
32       • In subdivision (a), a reference to “this article” is revised to refer to “Article 1 (commencing  
33 with Section 550).”  
34       • In subdivision (a), the word “which” is changed to “that.”  
35       • In subdivision (b), the word “which” is changed to “that.”

36    **§ 680. Duration of regulations**

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

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

43       The following nonsubstantive change is made:

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

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

685. If Article 1 (commencing with Section 550) ceases to be effective, all regulations adopted pursuant to that article which are in effect on the day of final adjournment of the regular session of the Legislature in the year in which the article ceases to have effect are continued as statutory enactments and shall have the same force and effect as if enacted by the Legislature. Whenever, in any regulation of the commission continued under this section, a period of time is designated with reference to a particular year, that period of time is applicable on a continuing basis in each succeeding year. All regulations of the commission, insofar as practicable, shall be phrased in general terms to facilitate the operation of this section.

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

The following nonsubstantive changes are made:

- A cross-reference to former Sections 200-220 is replaced with a reference to Sections 550-585.
- The word “such” is omitted.

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

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

(3) Is Section 250 obsolete?

Article 3. Publication

**§ 700. Dissemination of regulations**

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

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

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

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

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

12 The following nonsubstantive change is made:

- 13 • A cross-reference to former Section 215 is updated.

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

#### 19 **§ 705. Advertisements in publications containing regulations**

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

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

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

37 The following nonsubstantive change is made:

- 38 • Cross-references to former Section 210 are updated.

#### 39 **§ 710. Publication of health advisories in regulations handbook**

40 710. Commencing with the booklet of sportfishing regulations published in  
41 1987, the booklet shall also contain any human health advisories relating to fish  
42 that are formally issued by the State Department of Health Services or summaries

1 of those human health advisories. The summaries shall be prepared in consultation  
2 with the State Department of Health Services.

3 **Comment.** Section 710 continues former Section 217.6 without change, except as indicated  
4 below:

5 The following nonsubstantive change is made:

- 6 • The word “which” is changed to “that.”

## 7 CHAPTER 3. OTHER REGULATORY POWERS

### 8 Article 1. Authority

#### 9 § 750. Commission practices and processes

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

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

#### 13 § 760. Disposition of accidentally killed birds and mammals

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

16 **Comment.** Section 760 continues former Section 301 without change, except as indicated  
17 below:

18 The following nonsubstantive change is made:

- 19 • The word “which” is replaced with “that.”

### 20 Article 2. Procedures

#### 21 § 800. Filing of regulations with Secretary of State

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

26 **Comment.** Section 800 continues former Section 300 without change except as indicated  
27 below:

28 The following nonsubstantive changes are made:

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

33 **Staff Notes. (1)** Existing Section 300 provides: “Any regulation issued under any subsequent  
34 provisions of this code shall be filed with the Secretary of State, as required by Chapter 4  
35 (commencing with Section 11370), Part 1, Division 3, Title 2, of the Government Code.” In  
36 proposed Section 665, “any subsequent provision” is replaced with “any provision of this code,  
37 other than a provision of Article 1 (commencing with Section 550).” Is that an appropriate  
38 substitution?

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

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

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

## 16 § 805. Emergency regulations

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

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

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

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

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

35 The following nonsubstantive change is made:

- 36 • The words "or both" are added.

## 37 PART 2. DEPARTMENT OF FISH AND WILDLIFE

### 38 CHAPTER 1. ORGANIZATION

#### 39 § 1000. Department of Fish and Wildlife

40 1000. (a) There is in the Natural Resources Agency a Department of Fish and  
41 Wildlife administered through the director.

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

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

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

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

11 **§ 1005. Administration and enforcement of code**

12 1005. This code shall be administered and enforced through regulations adopted  
13 only by the department, except as otherwise specifically provided by this code or  
14 where this code requires the commission to adopt regulations.

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

16 **§ 1010. Commission sets general department policy**

17 1010. General policies for the conduct of the department shall be formulated by  
18 the commission. The director shall be guided by those policies and shall be  
19 responsible to the commission for the administration of the department in  
20 accordance with those policies.

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

22 **§ 1015. Director**

23 1015. The director shall be appointed by the Governor, and receive the annual  
24 salary provided for by Chapter 6 (commencing at Section 11550) of Part 1 of  
25 Division 3 of Title 2 of the Government Code.

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

27 **§ 1020. Deputy director**

28 1020. There shall be one deputy director of the department who shall be a civil  
29 executive officer and shall be appointed by the Governor and serve at the pleasure  
30 of the Governor. The compensation of the deputy director shall be fixed by the  
31 director pursuant to law. The deputy director shall have such duties as shall be  
32 assigned, from time to time, by the director, and shall be responsible to the  
33 director for the performance thereof.

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

35 **§ 1025. Director as appointing power for all department employees**

36 1025. (a) Notwithstanding any other provision of law, the director is the  
37 appointing power of all employees within the department, and all employees in the

1 department are responsible to the director for the proper carrying out of the duties  
2 and responsibilities of their respective positions.

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

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

6 **§ 1030. Incorporation of general law on state agencies**

7 1030. The provisions of Chapter 2 (commencing at Section 11150) of Part 1 of  
8 Division 3 of Title 2 of the Government Code shall govern and apply to the  
9 conduct of the department in every respect. Wherever in that chapter the term  
10 “head of the department” or similar designation occurs, for the purposes of this  
11 section it shall mean the director.

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

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 **§ 1135. Entry onto private land**

27 1135. (a) Notwithstanding any other provision of law, the status of a person as  
28 an employee, agent, or licensee of the department does not confer upon that person  
29 a special right or privilege to knowingly enter private land without the consent of  
30 the owner, a search warrant, or an inspection warrant.

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

36 (c) Subdivision (a) does not apply to a sworn peace officer authorized pursuant  
37 to subdivision (e) of Section 830.2 of the Penal Code or, if necessary for law

1 enforcement purposes, to other departmental personnel accompanying a sworn  
2 peace officer. Subdivision (a) shall not be construed to define or alter any  
3 authority conferred on those peace officers by any other law or court decision.

4 (d) Subdivision (a) does not apply to, or interfere with, the authority of  
5 employees or licensees to enter and inspect land in conformance with Section  
6 4604 of the Public Resources Code.

7 (e) This section is not intended to expand or constrain the authority, if any, of  
8 employees, agents, or licensees of the department to enter private land to conduct  
9 inspections pursuant to **Section 7702** of this code or Section 8670.5, 8670.7, or  
10 8670.10 of the Government Code.

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

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

18 The following nonsubstantive changes are made:

- 19 • Subdivision (a) is revised to correct a grammatical error.
- 20 • Subdivision and paragraph designations have been revised to simplify the section's  
21 structure and add a designation for an undesignated paragraph.

#### 22 **§ 1140. Landowner complaint policy**

23 1140. The department, in cooperation with landowners and landowner  
24 organizations, shall develop a statewide policy and procedure for recording and  
25 processing landowner complaints regarding alleged misconduct by personnel of  
26 the department and a written protocol that ensures compliance with Section 1135.

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

29 The following nonsubstantive changes are made:

- 30 • A reference to former Section 857 is updated.
- 31 • The date on which the policy was to be developed ("on or before January 1, 1995") is  
32 omitted as obsolete.

### 33 **CHAPTER 3. GENERAL POWERS AND DUTIES**

#### 34 **§ 1200. Authority of department to take**

35 1200. Nothing in this code or any other law shall prohibit the department from  
36 taking, for scientific, propagation, public health or safety, prevention or relief of  
37 suffering, or law enforcement purposes, fish, amphibians, reptiles, mammals,  
38 birds, and the nests and eggs thereof, or any other form of plant or animal life.

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

1    **§ 1205. Capture and sale of birds and mammals**

2    1205. The department may capture and sell birds and mammals, at prices to be  
3    fixed by the commission, to persons engaged in the domestication and sale thereof  
4    in this State.

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

6    **§ 1210. Importation, propagation, and distribution of birds, mammals, or fish**

7    1210. The department may import, propagate, and distribute birds, mammals, or  
8    fish.

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

10   **§ 1215. Inspection**

11   1215. The department may inspect the following:

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

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

18   **Comment.** Section 1215 continues former Section 1006 without change, except as indicated  
19   below:

20   The following nonsubstantive change is made:

- 21    • In subdivision (b), the word “which” is replaced with “that.”

22   **§ 1220. Investigation of disease**

23   1220. The department shall investigate all diseases of, and problems relating to,  
24   birds, mammals, or fish, and establish and maintain laboratories to assist in such  
25   investigation.

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

27   **§ 1225. Informal consultative procedures**

28   1225. (a) It is the policy of the state to anticipate and resolve potential conflicts  
29   between the management, conservation, and protection of fish and wildlife  
30   resources and their habitat and private and public activities that may affect them.

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

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

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

- 1 (e) As used in this section, “formal action” means any of the following:  
2 (1) The adoption, amendment, or repeal of any rule, regulation, or order.  
3 (2) Entering into, amending, or canceling an agreement.  
4 (3) The issuance, suspension, or revocation of any permit, license, or other  
5 entitlement.

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

8 The following nonsubstantive changes are made:

- 9 • The word “such” is replaced with “any.”  
10 • The items in subdivision (e) are numbered.

11 **§ 1230. Environmental review**

12 1230. Whenever the department is required, or provided an opportunity, to  
13 assess the adequacy of a project or to provide a detailed environmental impact  
14 statement or similar document pursuant to Public Law 91-190 or Section 21100,  
15 21101, or 21102 of the Public Resources Code, or any other provision of law, it  
16 shall determine the extent to which salmon and steelhead resources will be  
17 protected from damage by the project in question, together with the extent to  
18 which the agency or person preparing the plans for the project has incorporated  
19 therein plans for increasing the salmon or steelhead resources of this state. To the  
20 fullest practicable extent, the department shall advise the commission at one of its  
21 regular scheduled meetings of the state’s comments on the project. In no event  
22 shall more than one regular commission meeting transpire between the time the  
23 department renders comments to the requesting person or agency and the time it  
24 reports its findings to the commission.

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

26 **§ 1235. Strategic planning**

27 1235. (a) The department and the commission shall develop a strategic plan to  
28 implement proposals arising from any of the following:

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

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

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

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

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

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

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

1    **§ 1240. Resource management decisionmaking methods**

2    1240. It is the policy of the state that the department and commission use  
3    ecosystem-based management informed by credible science in all resource  
4    management decisions to the extent feasible. It is further the policy of the state  
5    that scientific professionals at the department and commission, and all resource  
6    management decisions of the department and commission, be governed by a  
7    scientific quality assurance and integrity policy, and follow well-established  
8    standard protocols of the scientific profession, including, but not limited to, the  
9    use of peer review, publication, and science review panels where appropriate.  
10   Resource management decisions of the department and commission should also  
11   incorporate adaptive management to the extent possible.

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

13    **§ 1245. Biological research**

14    1245. The department shall expend any funds as may be necessary for biological  
15    research and field investigation and for the collection and diffusion of such  
16    statistics and information as shall pertain to the conservation, propagation,  
17    protection, and perpetuation of birds and the nests and eggs thereof, and of  
18    mammals, reptiles, and fish.

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

21    The following nonsubstantive change is made:

- 22    • The word “such” is replaced with “any.”

23    **§ 1250. Science institute**

24    1250. (a) The director, in consultation with the Natural Resources Agency, shall  
25    establish a formal program, which may be called the Science Institute, to assist the  
26    department and commission in obtaining independent scientific review, and  
27    recommendations to help inform the scientific work of the department and the  
28    commission. The program shall include one or more ad hoc independent scientific  
29    committees consisting of independent scientists who are scientific experts in their  
30    fields with expertise in biological sciences and with a range of multidisciplinary  
31    expertise pertinent to the work of the department and the commission, and which  
32    may be convened pursuant to this section. The purpose of the program shall be to  
33    assist the department and the commission in obtaining and establishing an  
34    independent and objective view of the scientific issues underlying important  
35    policy decisions.

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

38    (1) Providing independent scientific guidance of the scientific research,  
39    monitoring, and assessment programs that support the department’s and the  
40    commission’s work with fish and wildlife species and their habitats.

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

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

4 (4) Promoting science-based adaptive management.

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

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

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

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

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

23 **§ 1255. Educational displays**

24 1255. For the purpose of exhibiting fish and wildlife educational material at  
25 fairs, hunting shows, or sport fishing shows and making other public displays, and  
26 to make conservation educational materials on fish and wildlife available for any  
27 public use, including fairs, hunting shows, sport fishing shows, schools, and civic  
28 organizations, the department may:

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

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

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

37 The following nonsubstantive changes are made:

- 38 • The term “fish and game” is replaced with “fish and wildlife.”
- 39 • The term “sportsmen’s show” is replaced with references to a “hunting show” and “sport  
40 fishing show.”
- 41 • The word “such” is replaced with “any.”
- 42 • The word “therewith” is replaced with “with those activities.”

1 CHAPTER 4. COORDINATION WITH OTHER ENTITIES

2 **§ 1300. General policy**

3 1300. It is the policy of the State that the department and commission do all of  
4 the following:

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

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

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

17 The following nonsubstantive change is made:

- 18 • The relationship between the introductory clause and subdivisions (a) and (b) is  
19 restructured.

20 **§ 1305. Service agreements**

21 1305. The department may enter into one or more agreements to accept services  
22 from any person, nonprofit organization, or other public or private entity for  
23 purposes relating to conservation programs, projects, and activities by the  
24 department. Under the direction of the department, these services shall supplement  
25 existing staff resources. Agreements for services for the management and  
26 operation of department-managed lands shall be subject to the provisions of  
27 Article 1 (commencing with Section 1400) of Chapter 5.

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

30 The following nonsubstantive change is made:

- 31 • A cross-reference to former Section 1745 is updated.

32 **§ 1310. Funding agreements**

33 1310. Notwithstanding any other provision of law, the department may enter  
34 into one or more agreements with any person, nonprofit organization, or other  
35 public or private entity, as may be appropriate, to assist the department in its  
36 efforts to secure long-term private funding sources for purposes relating to  
37 conservation programs, projects, and activities by the department. The authority to  
38 enter into agreements under this section shall include, but not be limited to, the  
39 authority to secure donations, memberships, corporate and individual  
40 sponsorships, and marketing and licensing agreements.

41 **Comment.** Section 1310 restates former Section 1227 without substantive change.

1 **§ 1315. Director or designee as officer of Federal Water Pollution Control Act joint powers**  
2 **agreement**

3 1315. (a) The director or one or more of the director’s designees may accept the  
4 office of director or alternate director of an entity established by a joint powers  
5 agreement providing for the establishment and conduct of an areawide waste  
6 management planning process in accordance with the provisions of Section 208 of  
7 the Federal Water Pollution Control Act.

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

11 **Comment.** Subdivision (a) of Section 1315 continues the first sentence of former Section  
12 701.5 without change, except as indicated below:

13 The following nonsubstantive change is made:

- 14 • The word “his” is replaced with “the director’s.”

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

16 **CHAPTER 5. PROPERTY INTERESTS**

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

18 **§ 1400. Definitions**

19 1400. For purposes of this article, the following terms have the following  
20 meanings:

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

24 (b) “Nonconsumptive uses” means compatible uses other than hunting and  
25 fishing.

26 **Comment.** Section 1400 continues former Section 1745(a) without change, except as indicated  
27 below:

28 The following nonsubstantive change is made:

- 29 • The term “section” is replaced with “article.”

30 **§ 1405. Non-profit operation**

31 1405. Department-managed lands shall be operated on a nonprofit basis by the  
32 department.

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

34 **§ 1410. Management and operation contracts**

35 1410. (a) The department may enter into contracts or other agreements for the  
36 management and operation of department-managed lands with nonprofit  
37 conservation groups, recognized under Section 501(c) of the Internal Revenue

1 Code, or resource conservation districts, as described in Chapter 3 (commencing  
2 with Section 9151) of Division 9 of the Public Resources Code.

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

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

12 **Comment.** Section 1410 continues former Section 1745(b)(2) without change, except as  
13 indicated below:

14 The following nonsubstantive changes are made:

- 15 • A subdivision designation is added.
- 16 • The term “paragraph” is replaced with “section.”

#### 17 **§ 1415. Property uses**

18 1415. (a) Multiple recreational use of department-managed lands is desirable  
19 and that use shall be encouraged by the commission. Except for hunting and  
20 fishing purposes, only minimum facilities to permit other forms of multiple  
21 recreational use, such as camping, picnicking, boating, or swimming, shall be  
22 provided.

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

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

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

33 The following nonsubstantive change is made:

- 34 • A cross-reference to former Section 1745(f) is updated.

#### 35 **§ 1420. Use fees and permits**

36 1420. (a) Except as provided in **Section 1765** and subdivision (a) of Section  
37 1425, and to defray the costs associated with multiple use, the commission may  
38 determine and fix the amount of, and the department shall collect, fees for any use  
39 privileges. Only persons holding valid hunting licenses may apply for or obtain  
40 shooting permits for department-managed lands.

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

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

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

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

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

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

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

18 The following nonsubstantive change is made:

- 19 • A cross-reference to former Section 1745(h) is updated.

20 **§ 1425. Failure to obtain permit constitutes infraction**

21 1425. (a) Failure to obtain a permit as required pursuant to this section shall be  
22 an infraction as described in **Section 12002.2.1**. A person in possession of a valid  
23 hunting license, sport fishing license, or trapping license shall be exempt from a  
24 requirement to obtain a permit.

25 (b) The moneys generated pursuant to this section shall be deposited in the  
26 Native Species Conservation and Enhancement Account within the Fish and Game  
27 Preservation Fund, and shall be available, upon appropriation by the Legislature,  
28 to the department for the management and operation of its lands. To the extent that  
29 the department is able to identify the source of the fee revenue collected, the  
30 department shall provide no less than 35 percent of the funds generated pursuant  
31 to this section to the department-managed lands from which the fee revenues were  
32 collected.

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

34 **§ 1430. Free access**

35 1430. The commission and department may continue to allow free access to a  
36 department-managed land if the commission or department finds the best interests  
37 of that area would be served by not fixing a fee for use privileges.

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

1 **§ 1435. Leasing of department-managed lands**

2 1435. (a) Notwithstanding any other provision of this code, the department may  
3 lease department-managed lands for agricultural activities, including, but not  
4 limited to, grazing, where consistent with the purpose for which the lands were  
5 acquired and compatible with the department’s approved management plan for the  
6 area, if available.

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

12 **Comment.** Section 1435 continues former Section 1745.1 without change.

13 **Staff Notes.** (1) Section 1745.1 was added to the Fish and Game Code by 2013 Cal. Stat. ch.  
14 387 (SB 497 (Wolk)).

15 (2) Under existing law, Section 1745.1 is not subject to the definition of “department-managed  
16 lands” provided in Section 1745. The proposed law would change that, as proposed Section 1435  
17 would be governed by the definition in proposed Section 1400. **The staff invites comment on**  
18 **whether that would cause any problematic change in meaning.**

19 Article 2. Other Interests

20 **§ 1450. Management and listing of real property**

21 1450. (a) Subject to an appropriation of funds by the Legislature for that  
22 purpose, for parcels wholly within its jurisdiction acquired on or after January 1,  
23 2002, the department shall prepare draft management plans for public review  
24 within 18 months of the recordation date.

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

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

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

32 **§ 1455. Rights of way**

33 1455. (a) The department may obtain for the State rights of way over private  
34 lands for the purpose of furnishing access for the public to lands or waters open to  
35 public hunting or fishing whenever rights of way are determined by the  
36 commission to be necessary for public use. The rights of way shall not be acquired  
37 by eminent domain proceedings.

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

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

3       The following nonsubstantive changes are made:

- 4       • Subdivision designations are added.
- 5       • The word “such” is deleted throughout.

6       **§ 1460. Sale of grazing permits and disposition of excess vegetation**

7       1460. The department, by and with the approval of the Department of General  
8 Services, may sell grazing permits or otherwise dispose of excess vegetation or  
9 other products, produced on lands acquired by the department.

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

11                                   **CHAPTER 6. INSURANCE AND LIABILITY**

12       **§ 1600. Insurance**

13       1600. (a) The department may procure insurance for any of the following  
14 purposes:

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

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

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

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

25       **§ 1605. Insurance relating to boarding of boats**

26       1605. The department may procure insurance for its employees for injury or  
27 death against the liability of the owner or operator of any vessel boarded by an  
28 employee as an observer.

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

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 **Comment.** Section 1610 continues former Section 1013 without change, except as indicated  
2 below:

3 The following nonsubstantive changes are made:

- 4 • The introductory clause is restated for concision.
- 5 • The word “such” is replaced with “the.”

## 6 CHAPTER 7. UNLAWFUL ACTS

### 7 **§ 1650. Submission of false or misleading information**

8 1650. (a) It is unlawful to submit, or conspire to submit, any false, inaccurate, or  
9 otherwise misleading information on any application or other document offered or  
10 otherwise presented to the department for any purpose, including, but not limited  
11 to, obtaining a license, tag, permit, or other privilege or entitlement pursuant to  
12 this code or regulations adopted pursuant to this code.

13 (b) For purposes of this section, “department” includes any department  
14 employee, license agent, or any person performing the duties of a department  
15 employee or license agent.

16 **Comment.** Section 1650 continues former Section 1054(a) and (c) without change, except as  
17 indicated below.

18 The following nonsubstantive change is made:

- 19 • The words “adopted thereto” are replaced with “adopted pursuant to this code.”

20 **Staff Note.** In Memorandum 2013-32, the staff had recommended locating Section 1054(a)  
21 and (c) in Article 4 of Chapter 1 of Part 4 of the proposed Fish and Wildlife Code. The staff now  
22 believes that the provision is better located in Part 2.

## 23 PART 3. DISTRICTS

### 24 **§ 1700. Fish and Wildlife Districts**

25 1700. (a) For the protection of fish and wildlife, the State of California is  
26 divided into districts to be known and designated as provided in this part.

27 (b) Unless otherwise provided, the townships and ranges specified in this part  
28 are referred to the Mount Diablo base and meridian.

29 **Comment.** Section 1700 continues former Section 11000 without change, except as indicated  
30 below:

31 The following nonsubstantive changes are made:

- 32 • Subdivision designations are added.
- 33 • The word “game” is replaced with “wildlife.”
- 34 • The phrase “fish and game district” is replaced with the defined term “district.” See  
35 Section 185 (“district”).
- 36 • A cross-reference to “this division” is revised to refer to “this part.”

### 37 **§ 1705. District 1705**

38 1705. (a) The following constitutes Fish and Wildlife District 1705:

1 Those portions of the following counties not included in other districts: Shasta,  
2 Tehama, Plumas, Butte, Sierra, Sutter, Yuba, Nevada, Placer, Sacramento,  
3 Madera, Tulare; those portions of San Joaquin County lying east and north of the  
4 east bank of the San Joaquin River and not included in District 1740; those  
5 portions of Stanislaus and Merced Counties lying east of the west bank of the San  
6 Joaquin River; those portions of Fresno County lying east of the west bank of  
7 Fresno Slough, Fish Slough and Summit Lake; those portions of Kings County  
8 lying east of the main power line of the San Joaquin Light and Power Company,  
9 crossing the north line of Kings County in Section 4, T. 18 S., R. 19 E., southerly  
10 to its crossing of State Highway No. 41 between Secs. 21 and 22, T. 21 S., R. 19  
11 E., and east of State Highway No. 41 southerly to its intersection with State  
12 Highway No. 33, and easterly of State Highway No. 33 from said intersection to  
13 the south line of said county in Section 36, T. 24 S., R. 18 E.; those portions of  
14 Kern County lying east of State Highway No. 33 between the northerly line of said  
15 county in Section one (1), T. 25 S., R. 18 E., M. D. B. & M., and the City of Taft  
16 and U. S. Highway No. 399 between the City of Taft and the City of Maricopa,  
17 and lying north of State Highway No. 166 from the City of Maricopa easterly to  
18 the intersection of said highway with U.S. Highway No. 99 in Section twelve (12),  
19 T. 11 N., R. 20 W., S. B. B. & M., and lying east of U.S. Highway No. 99 from the  
20 above-mentioned point of intersection to where the said U.S. highway crosses the  
21 northern boundary line of Los Angeles County, not included in other districts.

22 (b) Any reference to “District 1” shall be construed as a reference to District  
23 1705.

24 **Comment.** Section 1705 continues former Section 11001 without change, except as indicated  
25 below:

26 The following nonsubstantive changes are made:

- 27 • Subdivision designations are added.
- 28 • The district is renamed.
- 29 • A reference to a district by its former name is updated to reflect its new name.
- 30 • Language authorizing reference to the district by its former name is added.

31 **§ 1710. District 1710**

32 1710. (a) The following constitutes Fish and Wildlife District 1710:

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

35 (b) Except as otherwise provided, all of the provisions of this code relating to  
36 District 1705 shall apply to District 1710.

37 (c) Any reference to “District 1 3/8” shall be construed as a reference to District  
38 1710.

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

41 The following nonsubstantive changes are made:

- 42 • Subdivision designations are added.
- 43 • The district is renamed.

- 1 • A reference to a district by its former name is updated to reflect its new name.
- 2 • Language authorizing reference to the district by its former name is added.

3 **§ 1715. District 1715**

4 1715. (a) The following constitutes Fish and Wildlife District 1715:

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

7 (b) Any reference to “District 1 1/2” shall be construed as a reference to District  
8 1715.

9 **Comment.** Section 1715 continues former Section 11003 without change, except as indicated  
10 below:

11 The following nonsubstantive changes are made:

- 12 • Subdivision designations are added.
- 13 • The district is renamed.
- 14 • Language authorizing reference to the district by its former name is added.

15 **§ 1720. District 1720**

16 1720. (a) The following constitutes Fish and Wildlife District 1720:

17 Those portions of the County of Modoc not included in other districts and that  
18 portion of the County of Siskiyou lying east of the Weed-Klamath Falls Highway  
19 between the north line of the County of Siskiyou and the Town of Weed and east  
20 of the Pacific Highway between the Town of Weed and the junction of Pacific  
21 Highway and the McCloud-Fall River Mills Highway and north and east of the  
22 McCloud-Fall River Mills Highway to the Siskiyou and Shasta county line and  
23 that part of Shasta County lying north and east of the McCloud-Fall River Mills  
24 Highway to its junction with the road to Lake Britton at Dickson Flat and east of  
25 that road through Burney Falls State Park to its junction with the Hat Creek-  
26 Lassen Highway at the Redding-Alturas Highway and east of the Hat Creek-  
27 Lassen Highway to Lassen Volcanic National Park and north and east to the north  
28 and east boundary of Lassen Volcanic National Park to its junction with the  
29 Lassen county line. That part of Lassen County north and east of the north and east  
30 boundary of the Lassen Volcanic National Park to its junction with the north line  
31 of District 1875 and east of the east boundary of District 1875 to its junction with  
32 the Lassen-Plumas county line approximately one mile southeast of Coyote Peak  
33 in Sec. 24, T. 28 N., R. 10 E. and north and west of the Plumas-Lassen county line  
34 between the boundary of District 1875 and the Susanville-Taylorville road.

35 (b) Any reference to “District 1 3/4” shall be construed as a reference to District  
36 1720.

37 **Comment.** Section 1720 continues former Section 11004 without change, except as indicated  
38 below:

39 The following nonsubstantive changes are made:

- 40 • Subdivision designations are added.
- 41 • The district is renamed.
- 42 • Reference to districts by their former names are updated to reflect their new names.

- 1       • Language authorizing reference to the district by its former name is added.

2       **§ 1725. District 1725**

3       1725. (a) The following constitutes Fish and Wildlife District 1725:

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

13       (b) Any reference to “District 2” shall be construed as a reference to District  
14       1725.

15       **Comment.** Section 1725 continues former Section 11005 without change, except as indicated  
16       below:

17       The following nonsubstantive changes are made:

- 18       • Subdivision designations are added.  
19       • The district is renamed.  
20       • Language authorizing reference to the district by its former name is added.

21       **§ 1730. District 1730**

22       1730. (a) The following constitutes Fish and Wildlife District 1730:  
23       Lake County and the waters of Clear Lake.

24       (b) Any reference in this code to Clear Lake refers to District 1730.

25       (c) Except as otherwise provided, all of the provisions of this code relating to  
26       District 1725 apply to District 1730.

27       (d) Any reference to “District 2 1/4” shall be construed as a reference to District  
28       1730.

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

31       The following nonsubstantive changes are made:

- 32       • Subdivision designations are added.  
33       • The district is renamed.  
34       • A reference to a district by its former name is updated to reflect its new name.  
35       • Language authorizing reference to the district by its former name is added.

36       **§ 1735. District 1735**

37       1735. (a) The following constitutes Fish and Wildlife District 1735:

38       Those portions of T. 24 N., R. 18 and 19 W.; 23 N., R. 17 and 18 W.; 22 N., R.  
39       17 and 18 W.; 21 N., R. 17 W., west of the summit of the divide between the  
40       Pacific Ocean and the south fork of the Eel River.

1 All of T. 12, 13, 14, 15, 16, 17, 18 N., R. 16 W.; and T. 12, 13, 14, 15, 16, 17,  
2 18, 19 and 20 N., R. 17 W., and T. 17 and 18 N., R. 18 W.

3 All being townships located in western Mendocino County.

4 (b) Any reference to “District 2 1/2” shall be construed as a reference to District  
5 1735.

6 **Comment.** Section 1735 continues former Section 11007 without change, except as indicated  
7 below:

8 The following nonsubstantive changes are made:

- 9 • Subdivision designations are added.
- 10 • The district is renamed.
- 11 • Language authorizing reference to the district by its former name is added.

12 **§ 1740. District 1740**

13 1740. (a) The following constitutes Fish and Wildlife District 1740:

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

17 (b) Any reference to “District 3” shall be construed as a reference to District  
18 1740.

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

21 The following nonsubstantive changes are made:

- 22 • Subdivision designations are added.
- 23 • The district is renamed.
- 24 • A misspelling of the word “districts” is corrected.
- 25 • Language authorizing reference to the district by its former name is added.

26 **§ 1745. District 1745**

27 1745. (a) The following constitutes Fish and Wildlife District 1745:

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

30 (b) Except as otherwise provided all of the provisions of this code applicable to  
31 District 1740 apply to District 1745.

32 (c) Any reference to “District 3 1/2” shall be construed as a reference to District  
33 1745.

34 **Comment.** Section 1745 continues former Section 11009 without change, except as indicated  
35 below:

36 The following nonsubstantive changes are made:

- 37 • Subdivision designations are added.
- 38 • The district is renamed.
- 39 • A reference to a district by its former name is updated to reflect its new name.
- 40 • Language authorizing reference to the district by its former name is added.

41 **§ 1750. District 1750**

42 1750. (a) The following constitutes Fish and Wildlife District 1750:

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

3 (b) Any reference to “District 4” shall be construed as a reference to District  
4 1750.

5 **Comment.** Section 1750 continues former Section 11010 without change, except as indicated  
6 below:

7 The following nonsubstantive changes are made:

- 8 • Subdivision designations are added.
- 9 • The district is renamed.
- 10 • Language authorizing reference to the district by its former name is added.

11 **§ 1755. District 1755**

12 1755. (a) The following constitutes Fish and Wildlife District 1755:

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

14 (b) Except as otherwise provided, all of the provisions of this code applicable to  
15 District 1750 apply to District 1755.

16 (c) Any reference to “District 4 1/8” shall be construed as a reference to District  
17 1755.

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

20 The following nonsubstantive changes are made:

- 21 • Subdivision designations are added.
- 22 • The district is renamed.
- 23 • A reference to a district by its former name is updated to reflect its new name.
- 24 • Language authorizing reference to the district by its former name is added.

25 **§ 1760. District 1760**

26 1760. (a) The following constitutes Fish and Wildlife District 1760:

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

28 (b) Any reference to “District 4 1/2” shall be construed as a reference to District  
29 1760.

30 **Comment.** Section 1760 continues former Section 11012 without change, except as indicated  
31 below:

32 The following nonsubstantive changes are made:

- 33 • Subdivision designations are added.
- 34 • The district is renamed.
- 35 • Language authorizing reference to the district by its former name is added.

36 **§ 1765. District 1765**

37 1765. (a) The following constitutes Fish and Wildlife District 1765:

38 Those portions of the Counties of San Diego and Imperial not included in other  
39 districts.

40 (b) Any reference to “District 4 3/4” shall be construed as a reference to District  
41 1765.

1       **Comment.** Section 1765 continues former Section 11013 without change, except as indicated  
2 below:

3       The following nonsubstantive changes are made:

- 4       • Subdivision designations are added.
- 5       • The district is renamed.
- 6       • Language authorizing reference to the district by its former name is added.

7       **§ 1770. District 1770**

8       1770. (a) The following constitutes Fish and Wildlife District 1770:

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

13       (b) Any reference to “District 6” shall be construed as a reference to District  
14 1770.

15       **Comment.** Section 1770 continues former Section 11014 without change, except as indicated  
16 below:

17       The following nonsubstantive changes are made:

- 18       • Subdivision designations are added.
- 19       • The district is renamed.
- 20       • Language authorizing reference to the district by its former name is added.

21       **§ 1775. District 1775**

22       1775. (a) The following constitutes Fish and Wildlife District 1775:

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

30       (b) Any reference to “District 7” shall be construed as a reference to District  
31 1775.

32       **Comment.** Section 1775 continues former Section 11015 without change, except as indicated  
33 below:

34       The following nonsubstantive changes are made:

- 35       • Subdivision designations are added.
- 36       • The district is renamed.
- 37       • Language authorizing reference to the district by its former name is added.

38       **§ 1780. District 1780**

39       1780. (a) The following constitutes Fish and Wildlife District 1780:

40       The waters and tidelands to high-water mark of Humboldt Bay lying north of a  
41 straight line running east from the center of apron at the approach of the south

1 jetty at the entrance of Humboldt Bay to the east shore line of the bay including  
2 the entrance of Humboldt Bay not included in District 1775, and excluding all  
3 rivers, streams, and sloughs emptying into the bay.

4 (b) Any reference to “District 8” shall be construed as a reference to District  
5 1780.

6 **Comment.** Section 1780 continues former Section 11016 without change, except as indicated  
7 below:

8 The following nonsubstantive changes are made:

- 9 • Subdivision designations are added.
- 10 • The district is renamed.
- 11 • A reference to a district by its former name is updated to reflect its new name.
- 12 • Language authorizing reference to the district by its former name is added.

13 **§ 1785. District 1785**

14 1785. (a) The following constitutes Fish and Wildlife District 1785:

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

19 (b) Any reference to “District 9” shall be construed as a reference to District  
20 1785.

21 **Comment.** Section 1785 continues former Section 11017 without change, except as indicated  
22 below:

23 The following nonsubstantive changes are made:

- 24 • Subdivision designations are added.
- 25 • The district is renamed.
- 26 • Language authorizing reference to the district by its former name is added.

27 **§ 1790. District 1790**

28 1790. (a) The following constitutes Fish and Wildlife District 1790:

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

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

41 (c) Any reference to “District 10” shall be construed as a reference to District  
42 1790.

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

3       The following nonsubstantive changes are made:

- 4       • Subdivision designations are added.
- 5       • The district is renamed.
- 6       • Language authorizing reference to the district by its former name is added.

7       **§ 1800. District 1800**

8       1800. (a) The following constitutes Fish and Wildlife District 1800:

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

17       (b) Any reference to “District 11” shall be construed as a reference to District  
18 1800.

19       **Comment.** Section 1800 continues former Section 11019 without change, except as indicated  
20 below:

21       The following nonsubstantive changes are made:

- 22       • Subdivision designations are added.
- 23       • The district is renamed.
- 24       • Language authorizing reference to the district by its former name is added.

25       **§ 1810. District 1810**

26       1810. (a) The following constitutes Fish and Wildlife District 1810:

27       The waters and tidelands of San Francisco Bay to high-water mark not included  
28 in Districts 1800 and 1815, the waters and tidelands to high-water mark of San  
29 Leandro Bay, Oakland Creek or estuary, San Antonio Creek in Alameda County,  
30 Raccoon Straits, and San Pablo Bay, and the Carquinez Straits to the Carquinez  
31 Bridge, and all lands and waters included within the exterior boundaries of these  
32 districts and excluding all tributary sloughs, creeks, bays, rivers, and overflowed  
33 areas not specifically described herein.

34       (b) Any reference to “District 12” shall be construed as a reference to District  
35 1810.

36       **Comment.** Section 1810 continues former Section 11020 without change, except as indicated  
37 below:

38       The following nonsubstantive changes are made:

- 39       • Subdivision designations are added.
- 40       • The district is renamed.
- 41       • A misspelling of the word “raccoon” is corrected.
- 42       • Reference to districts by their former names are updated to reflect their new names.
- 43       • Language authorizing reference to the district by its former name is added.

1    **§ 1815. District 1815**

2    1815. (a) The following constitutes Fish and Wildlife District 1815:

3    The waters and tidelands to high-water mark of San Francisco Bay lying to the  
4    south of a line drawn between the Ferry Building at the foot of Market Street in  
5    San Francisco and the mouth of the Oakland Creek or estuary in Alameda County,  
6    excluding all streams, sloughs, and lagoons.

7    (b) Any reference to “District 13” shall be construed as a reference to District  
8    1815.

9    **Comment.** Section 1815 continues former Section 11022 without change, except as indicated  
10   below:

11   The following nonsubstantive changes are made:

- 12    • Subdivision designations are added.
- 13    • The district is renamed.
- 14    • Language authorizing reference to the district by its former name is added.

15    **§ 1820. District 1820**

16    1820. (a) The following constitutes Fish and Wildlife District 1820:

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

20    (b) Any reference to “District 16” shall be construed as a reference to District  
21    1820.

22    **Comment.** Section 1820 continues former Section 11024 without change, except as indicated  
23   below:

24   The following nonsubstantive changes are made:

- 25    • Subdivision designations are added.
- 26    • The district is renamed.
- 27    • Language authorizing reference to the district by its former name is added.

28    **§ 1825. District 1825**

29    1825. (a) The following constitutes Fish and Wildlife District 1825:

30    The waters and tidelands to high-water mark of Monterey Bay and the Pacific  
31    Ocean, lying between a line extending west from Pigeon Point Lighthouse and a  
32    line extending west from Yankee Point, Carmel Highlands in Monterey County,  
33    excluding the areas included in District 1820, and excluding all rivers, creeks,  
34    sloughs and lagoons emptying into the Pacific Ocean and Monterey Bay within the  
35    boundaries thus defined.

36    (b) Any reference to “District 17” shall be construed as a reference to District  
37    1825.

38    **Comment.** Section 1825 continues former Section 11025 without change, except as indicated  
39   below:

40   The following nonsubstantive changes are made:

- 41    • Subdivision designations are added.
- 42    • The district is renamed.

- 1 • A reference to a district by its former name is updated to reflect its new name.
- 2 • Language authorizing reference to the district by its former name is added.

3 **§ 1830. District 1830**

4 1830. (a) The following constitutes Fish and Wildlife District 1830:

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

11 (b) Any reference to “District 18” shall be construed as a reference to District  
12 1830.

13 **Comment.** Section 1830 continues former Section 11026 without change, except as indicated  
14 below:

15 The following nonsubstantive changes are made:

- 16 • Subdivision designations are added.
- 17 • The district is renamed.
- 18 • Language authorizing reference to the district by its former name is added.

19 **§ 1835. District 1835**

20 1835. (a) The following constitutes Fish and Wildlife District 1835:

21 The ocean waters of the State and tidelands to high-water mark, and islands off  
22 the coast and waters adjacent thereto, lying southerly of Fish and Wildlife District  
23 1830, and northerly of a westerly extension of the boundary line between the  
24 Republic of Mexico and San Diego County, excepting Districts 1840, 1845, 1850,  
25 1855, and 1860, and excluding all rivers, streams, sloughs, lagoons, and bays.

26 (b) Any reference to “District 19” shall be construed as a reference to District  
27 1835.

28 **Comment.** Section 1835 continues former Section 11027 without change, except as indicated  
29 below:

30 The following nonsubstantive changes are made:

- 31 • Subdivision designations are added.
- 32 • The district is renamed.
- 33 • Reference to districts by their former names are updated to reflect their new names.
- 34 • Language authorizing reference to the district by its former name is added.

35 **§ 1840. District 1840**

36 1840. (a) The following constitutes Fish and Wildlife District 1840:

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

40 (b) Any reference to “District 19A” shall be construed as a reference to District  
41 1840.

1       **Comment.** Section 1840 continues former Section 11028 without change, except as indicated  
2 below:

3       The following nonsubstantive changes are made:

- 4       • Subdivision designations are added.
- 5       • The district is renamed.
- 6       • Language authorizing reference to the district by its former name is added.

7       **§ 1845. District 1845**

8       1845. (a) The following constitutes Fish and Wildlife District 1845:

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

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

15       (b) Except as otherwise provided, all of the provisions of this code applicable to  
16 Districts 1750 and 1755 apply to District 1845.

17       (c) Any reference to “District 19B” shall be construed as a reference to District  
18 1845.

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

21       The following nonsubstantive changes are made:

- 22       • Subdivision designations are added.
- 23       • The district is renamed.
- 24       • Reference to districts by their former names are updated to reflect their new names.
- 25       • Language authorizing reference to the district by its former name is added.

26       **§ 1850. District 1850**

27       1850. (a) The following constitutes Fish and Wildlife District 1850:

28       Santa Catalina Island and the portion of the state waters within three nautical  
29 miles of the island’s coast line on the northerly, easterly, and southerly side of the  
30 island, lying between a line extending three nautical miles west magnetically from  
31 the extreme westerly end of Santa Catalina Island to a line extending three nautical  
32 miles southwest magnetically from the most southerly promontory of China Point.

33       (b) Any reference to “District 20” shall be construed as a reference to District  
34 1850.

35       **Comment.** Section 1850 continues former Section 11030 without change, except as indicated  
36 below:

37       The following nonsubstantive changes are made:

- 38       • Subdivision designations are added.
- 39       • The district is renamed.
- 40       • Language authorizing reference to the district by its former name is added.

41       **§ 1855. District 1855**

42       1855. (a) The following constitutes Fish and Wildlife District 1855:

1 The waters lying around Santa Catalina Island, within three nautical miles of the  
2 coast line of the island, which are not included in District 1850.

3 (b) Any reference to “District 20A” shall be construed as a reference to District  
4 1855.

5 **Comment.** Section 1855 continues former Section 11031 without change, except as indicated  
6 below:

7 The following nonsubstantive changes are made:

- 8 • Subdivision designations are added.
- 9 • The district is renamed.
- 10 • A reference to a district by its former name is updated to reflect its new name.
- 11 • Language authorizing reference to the district by its former name is added.

12 **§ 1860. District 1860**

13 1860. (a) The following constitutes Fish and Wildlife District 1860:

14 The waters and tidelands to high water mark of San Diego Bay lying inside of a  
15 straight line drawn from the southerly extremity of Point Loma to the offshore end  
16 of the San Diego breakwater.

17 (b) Any reference to “District 21” shall be construed as a reference to District  
18 1860.

19 **Comment.** Section 1860 continues former Section 11032 without change, except as indicated  
20 below:

21 The following nonsubstantive changes are made:

- 22 • Subdivision designations are added.
- 23 • The district is renamed.
- 24 • Language authorizing reference to the district by its former name is added.
- 25 • A typographical error is corrected.

26 **§ 1865. District 1865**

27 1865. (a) The following constitutes Fish and Wildlife District 1865:

28 All of Imperial County and those portions of Riverside and San Bernardino  
29 Counties lying south and east of the following line: Starting at the intersection of  
30 Highway 99 with the north boundary of Imperial County, thence north along that  
31 highway to the intersection with Highway 60 and 70; thence east along Highway  
32 60 and 70 to its intersection with the Cottonwood Springs Road in Sec. 9, T. 6 S.,  
33 R. 11 E.; thence north along that road and the Mecca Dale Road to Amboy; thence  
34 east along Highway 66 to the intersection with Highway 95; thence north along  
35 Highway 95 to the California-Nevada boundary.

36 (b) Any reference to “District 22” shall be construed as a reference to District  
37 1865.

38 **Comment.** Section 1865 continues former Section 11033 without change, except as indicated  
39 below:

40 The following nonsubstantive changes are made:

- 41 • Subdivision designations are added.
- 42 • The district is renamed.
- 43 • Language authorizing reference to the district by its former name is added.

1    **§ 1870. District 1870**

2       1870. (a) The following constitutes Fish and Wildlife District 1870:

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

20      (b) Any reference to “District 23” shall be construed as a reference to District  
21      1870.

22      **Comment.** Section 1870 continues former Section 11034 without change, except as indicated  
23      below:

24      The following nonsubstantive changes are made:

- 25          • Subdivision designations are added.
- 26          • The district is renamed.
- 27          • Language authorizing reference to the district by its former name is added.

28    **§ 1875. District 1875**

29       1875. (a) The following constitutes Fish and Wildlife District 1875:

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

33      (b) Any reference to “District 25” shall be construed as a reference to District  
34      1875.

35      **Comment.** Section 1875 continues former Section 11035 without change, except as indicated  
36      below:

37      The following nonsubstantive changes are made:

- 38          • Subdivision designations are added.
- 39          • The district is renamed.
- 40          • Language authorizing reference to the district by its former name is added.

41    **§ 1880. District 1880**

42       1880. (a) The following constitutes Fish and Wildlife District 1880:

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  
5 of the Klamath River and the waters thereof, following its meanderings from  
6 the confluence of the Klamath River and the Shasta River in the County of  
7 Siskiyou to the mouth of the Klamath River in Del Norte County.

8 (b) Any reference to the “Klamath River” district shall be construed as a  
9 reference to District 1880.

10 **Comment.** Section 1880 continues the first three paragraphs of former Section 11036 without  
11 change, except as indicated below:

12 The following nonsubstantive changes are made:

- 13 • Subdivision designations are added.
- 14 • The district is renamed.
- 15 • Language authorizing reference to the district by its former name is added.

16 **§ 1885. District 1885**

17 1885. (a) The following constitutes Fish and Wildlife District 1885:

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

23 (b) Any reference to the “Trinity and Klamath River” district shall be construed  
24 as a reference to District 1885.

25 **Comment.** Section 1885 continues former Section 11037 without change, except as indicated  
26 below:

27 The following nonsubstantive changes are made:

- 28 • Subdivision designations are added.
- 29 • The district is renamed.
- 30 • Language authorizing reference to the district by its former name is added.

31 **§ 1890. District 1890**

32 1890. (a) The following constitutes Fish and Wildlife District 1890:

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

34 Beginning at the south side of the pier at San Simeon thence westerly three  
35 miles, thence southerly to a point three miles west of the southern boundary of the  
36 state park at Cambria in San Luis Obispo County, thence easterly to the southwest  
37 point of the state park at Cambria.

38 (b) All of the provisions relating to District 1830 shall apply to District 1890.

39 (c) Any reference to “District 118” shall be construed as a reference to District  
40 1890.

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

3       The following nonsubstantive changes are made:

- 4       • Subdivision designations are added.
- 5       • The district is renamed.
- 6       • A reference to a district by its former name is updated to reflect its new name.
- 7       • Language authorizing reference to the district by its former name is added.

8       **§ 1895. District 1895**

9       1895. (a) The following constitutes Fish and Wildlife District 1895:

10       The ocean and tidelands to high-water mark, not included in other districts,  
11 excluding all rivers, streams, sloughs, and lagoons, bounded by a line beginning at  
12 the intersection of the common boundary of Monterey and San Luis Obispo  
13 Counties with the mean high-water mark, thence due west two miles to a point,  
14 thence by a line following the coast line and parallel to it southerly to a point two  
15 miles south of the intersection of the common boundary of Santa Barbara and  
16 Ventura Counties with the mean high-water mark, thence north to the intersection  
17 of the common boundary of Santa Barbara and Ventura Counties with the mean  
18 high-water mark.

19       (b) Except as otherwise provided, all of the provisions relating to District 1830  
20 shall apply to District 1895.

21       (c) Any reference to “District 118.5” shall be construed as a reference to District  
22 1895.

23       **Comment.** Section 1895 continues former Section 11039 without change, except as indicated  
24 below:

25       The following nonsubstantive changes are made:

- 26       • Subdivision designations are added.
- 27       • The district is renamed.
- 28       • A reference to a district by its former name is updated to reflect its new name.
- 29       • Language authorizing reference to the district by its former name is added.

30                                   **PART 4. GENERAL LICENSE PROVISIONS**

31                                                           **CHAPTER 1. LICENSES GENERALLY**

32                                                                                   **Article 1. Form and Validity**

33       **§ 2000. “License” defined**

34       2000. For the purposes of this part, “license” includes any license, permit, tag,  
35 reservation, or other entitlement authorized by this code.

36       **Comment.** Section 2000 is new. It is added for drafting convenience.

1 **§ 2005. Form**

2 2005. (a) Except as provided in subdivision (b), the commission shall determine  
3 the form of all of the following:

- 4 (1) A license.
- 5 (2) The method of carrying and displaying a license.
- 6 (3) The application for a license.
- 7 (4) Any contrivance to be used in connection with a license.

8 (b) For programs where the department has fee-setting authority, the department  
9 has the authority described in subdivision (a).

10 **Comment.** Section 2005 restates the substance of former Section 1050(b).

11 **Staff Note.** Proposed Section 2005 is intended to restate Section 1050(b) to improve its  
12 clarity, without changing its substantive effect. The existing provision reads as follows:

13 “The commission shall determine the form of all licenses, permits, tags, reservations, and other  
14 entitlements and the method of carrying and displaying all licenses, and may require and  
15 prescribe the form of applications therefor and the form of any contrivance to be used in  
16 connection therewith, except for those programs where the department has fee-setting authority,  
17 in which case the department shall retain that authority.”

18 **The staff requests public comment on whether the proposed restatement would cause any**  
19 **substantive change in the meaning of the provision.**

20 **§ 2010. Licenses uniquely numbered**

21 2010. Licenses of each class shall be uniquely numbered. Every license shall  
22 contain its expiration date and the fee for which it is issued. If no fee is either  
23 required by this code or established by the commission pursuant to Section 2200,  
24 the license shall so indicate.

25 **Comment.** Section 2010 continues former Section 1051 without change, except as indicated  
26 below.

27 The following nonsubstantive change is made:

- 28 • A cross-reference to former Section 1050 is revised to refer to the provision that continues  
29 that section.

30 **§ 2015. Validity**

31 2015. A license is not valid until it is filled out completely and accurately and  
32 the fee authorized or identified in statute or regulation for the license is received  
33 and paid to the department or its agent. It is the responsibility of the user to ensure  
34 that the license is filled out completely and accurately.

35 **Comment.** Section 2015 continues former Section 1050.1 without change, except as indicated  
36 below.

37 The following nonsubstantive change is made:

- 38 • The defined term “license” is substituted for an equivalent phrase. See Section 2000.

39 **§ 2020. Validity of stamp**

40 2020. Any stamp issued pursuant to this part is not valid unless affixed to the  
41 appropriate license document.

1 **Comment.** Section 2020 continues former Section 1052.5 without change, except as indicated  
2 below.

3 The following nonsubstantive change is made:

- 4 • A cross-reference to “this article” is revised to refer to “this part.”

## 5 Article 2. Issuance

### 6 § 2050. Issuance

7 2050. All licenses shall be prepared and issued by the department.

8 **Comment.** Section 2050 continues former Section 1050(a) without change, except as indicated  
9 below.

10 The following nonsubstantive change is made:

- 11 • The defined term “license” is substituted for an equivalent phrase. See Section 2000.

### 12 § 2055. Terms and conditions of issuance

13 2055. (a) Except as provided in subdivision (b), the commission shall prescribe  
14 the terms and conditions under which a license or application is issued.

15 (b) For programs where the department has fee-setting authority, the department  
16 has the authority described in subdivision (a).

17 (c) The department shall issue a license or application in accordance with the  
18 terms and conditions prescribed pursuant to this section and with the applicable  
19 provisions of law.

20 **Comment.** Section 2055 restates the substance of Section 1050(c). The last sentence of Section  
21 1050(c) is deleted as superfluous. See proposed Sections 2050 (duty of department to issue  
22 license), 2055(a)-(b) (terms under which license can be issued).

23  **Staff Notes.** (1) Proposed Section 2055 is intended to restate Section 1050(c) to improve its  
24 clarity, without changing its substantive effect. The existing provision reads as follows:

25 “Whenever this code provides for a permit, license, tag, reservation, application, or other  
26 entitlement, the commission, in accordance with the provision, shall prescribe the terms and  
27 conditions under which the permit, license, tag, reservation, application, or other entitlement shall  
28 be issued, except for those programs where the department has fee-setting authority, in which  
29 case the department shall retain that authority. The department shall issue the permit, license, tag,  
30 reservation, application, or other entitlement in accordance therewith and with the applicable  
31 provisions of law.”

32 **The staff requests public comment on whether the proposed restatement would cause any  
33 substantive change in the meaning of the provision.**

34 (2) Proposed Section 2055(c) appears to be superfluous. See proposed Sections 2050 (duty of  
35 department to issue license), 2055(a)-(b) (terms under which license can be issued). **Can  
36 proposed Section 2055(c) be deleted?**

### 37 § 2060. Applicant information confidential

38 2060. (a) Except as otherwise provided in this section, the names and addresses  
39 contained in records submitted and retained by the department for the purpose of  
40 obtaining recreational fishing and hunting licenses are confidential and are not  
41 public records.

1 (b) Notwithstanding any other provision of law, the department may release the  
2 confidential information described in subdivision (a) under the following  
3 circumstances:

4 (1) To an agent or authorized family member of the person to whom the  
5 information pertains.

6 (2) To an officer or employee of another governmental agency when necessary  
7 for the performance of his or her official duties.

8 (3) In accordance with Section 4170.

9 (4) Pursuant to a court order.

10 **Comment.** Section 2060 continues former Section 1050.6 without change, except as indicated  
11 below.

12 The following nonsubstantive change is made:

- 13 • A cross-reference to former Section 391 is revised to refer to the provision that continues  
14 that section.

15 **§ 2065. Proof of statements or facts**

16 2065. (a) The department may require the applicant for a license or other  
17 privilege to show proof of the statements or facts required for the issuance of the  
18 license or other privilege.

19 (b) For purposes of this section, “department” includes any department  
20 employee, license agent, or any person performing the duties of a department  
21 employee or license agent.

22 **Comment.** Section 2065 continues former Section 1054(b)-(c) without change, except as  
23 indicated below.

24 The following nonsubstantive change is made:

- 25 • The defined term “license” is substituted for equivalent phrases throughout. See Section  
26 2000.

27 **§ 2070. Temporary document**

28 2070. Notwithstanding any other provision of this code, the department may  
29 issue a temporary document that allows the holder of a license purchased through  
30 the Internet to enjoy the privileges of the license for a period not to exceed 30  
31 calendar days from the date of purchase.

32 **Comment.** Section 2070 continues former Section 1050.3 without change, except as indicated  
33 below.

34 The following nonsubstantive change is made:

- 35 • The defined term “license” is substituted for an equivalent phrase. See Section 2000.

36 **§ 2075. Limitation on number of licenses issued to one person**

37 2075. A person shall not obtain more than one license of the same class, or more  
38 than the number of tags authorized by statute or regulation for the same license  
39 year, except under one of the following conditions:

40 (a) Nonresident hunting licenses issued pursuant to **paragraphs (4) and (5) of**  
41 **subdivision (a) of Section 3031**, and short-term sport fishing licenses issued

1 pursuant to **paragraphs (3), (4), and (5) of subdivision (a) of Section 7149**, and  
2 **paragraphs (3), (4), and (5) of subdivision (a) of Section 7149.05**.

3 (b) The loss or destruction of an unexpired license, except a stamp or  
4 endorsement, provided that all of the following requirements are met:

5 (1) The applicant certifies the loss or destruction of the license by signed  
6 affidavit.

7 (2) There is proof, as determined by the department, that the original license was  
8 issued.

9 (3) The applicant pays a base fee of five dollars (\$5). The base fee shall be  
10 adjusted annually pursuant to Section 2210, not to exceed the fee for the original  
11 entitlement. The adjustment shall apply to the hunting license years commencing  
12 on or after July 1, 1996, and the fishing license years commencing on or after  
13 January 1, 1996.

14 (c) The loss or destruction of a stamp or endorsement imprinted on a base  
15 license that was issued through the Automated License Data System, on payment  
16 of a base fee of three dollars (\$3) for each stamp or endorsement replaced on any  
17 base license document. The base fee shall be adjusted annually pursuant to Section  
18 2210, not to exceed the fee for the original entitlement. The base fee shall apply to  
19 the 2011 license year.

20 **Comment.** Subdivision (a) of Section 2075 continues former Sections 1053(a)(1) and  
21 1053.1(a)(1) without change, except as indicated below.

22 The following nonsubstantive change is made:

- 23 • The defined term “license” is substituted for an equivalent phrase. See Section 2000.

24 Subdivision (b) restates the substance of former Sections 1053(a)(2) and 1053.1(a)(2). A cross-  
25 reference to former Section 713 is revised to refer to the provision that continues that section.

26 Subdivision (c) restates the substance of former Section 1053.1(a)(3) and (b). A cross-reference  
27 to former Section 713 is revised to refer to the provision that continues that section.

28 **Staff Notes.** (1) Section 1053 applies only to licenses that *are not* issued through ALDS.  
29 Section 1053.1 applies only to licenses *that are* issued through ALDS. Proposed Section 2075(a)-  
30 (b) includes material that is common to both of those sections.

31 (2) Proposed Section 2075(c) includes material that only applies to licenses that are issued  
32 through ALDS. It states that limited application expressly.

33 (3) Proposed Section 2075(b)-(c) are intended to restate Section 1053.1(a)(2)-(3) to improve  
34 the clarity of those provisions, without changing their substantive effect. The existing provisions  
35 read as follows:

36 “(2) The loss or destruction of an unexpired license, tag, permit, reservation, or other  
37 entitlement, except a stamp or endorsement, as certified by the applicant’s signed affidavit and  
38 proof, as determined by the department, that the original license, tag, permit, reservation, or other  
39 entitlement was issued, and payment of a base fee of five dollars (\$5). The base fee shall be  
40 adjusted annually pursuant to **Section 713**, not to exceed the fee for the original entitlement, as  
41 follows:

42 (A) The adjustment shall apply to the hunting license years commencing on or after July 1,  
43 1996.

44 (B) The adjustment shall apply to the fishing license years commencing on or after January 1,  
45 1996.

(3) The loss or destruction of a stamp or endorsement imprinted on a base license and payment of a base fee of three dollars (\$3) for each stamp or endorsement replaced on any base license document, adjusted annually pursuant to **Section 713**, not to exceed the fee for the original entitlement. The base fee in this paragraph shall apply to the 2011 license year.”

**The staff requests public comment on whether the proposed restatement would cause any substantive change in the meaning of the provisions.**

#### § 2080. Hunter education

2080. Applicants for hunting licenses shall first satisfactorily complete a hunter education equivalency examination and obtain a certificate of equivalency as provided by regulations adopted by the commission, or show proof of completion of a hunter education training course, or show a previous year’s hunting license.

**Comment.** Section 2080 continues former Section 1053.5 without change, except as indicated below.

The following nonsubstantive change is made:

- An erroneous cross-reference to Section 1053(a) is not continued.

**Staff note:** By its terms, Section 1053.5 governs application for a hunting license “pursuant to subdivision (a) of Section 1053.” That cross-reference appears to be erroneous. Section 1053(a) limits the number of licenses that a person may be issued in a year. It is not authority for granting hunting licenses. **The staff invites public comment on whether the deletion of the cross-reference would cause any substantive problems.**

#### § 2085. License voucher

2085. (a) The department may allow a person to purchase a license voucher as a gift for a licensee when the licensee’s complete and accurate personal information, as defined in regulation, is not provided by the license buyer at the time of purchase.

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

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

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

(e) The license agent handling fee, as provided under Section 2450, shall only apply to the sale of the license purchase voucher.

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

**Comment.** Section 2085 continues former Section 1061 without change, except as indicated below.

The following nonsubstantive change is made:

- An erroneous cross-reference to former Section 1055.1(b) is corrected.

1    **§ 2090. Issuance of commemorative licenses for fundraising purposes**

2       2090. (a) The department may issue collectible, commemorative licenses to any  
3 person for purposes of promoting and supporting licensed hunting, fishing, and  
4 resource conservation, subject to all of the following:

5       (1) A commemorative license may be designed and produced as the department  
6 may determine and shall be clearly marked and identified as a commemorative  
7 license, rendering it invalid for the take of any mammal, bird, fish, reptile, or  
8 amphibian.

9       (2) A commemorative license shall not confer any rights, privileges, or other  
10 entitlements to any person purchasing or in possession of such a license.

11       (3) Subdivisions (a) and (b) of Section 2075, subdivision (a) of Section 2250,  
12 **Article 2 (commencing with Section 3031) of Chapter 1 of Part 1 of Division 4,**  
13 **and Article 3 (commencing with Section 7145) of Chapter 1 of Part 2 of**  
14 **Division 6** do not apply to the purchase of a commemorative license. A  
15 commemorative license shall not qualify as evidence required in **subdivision (a)**  
16 **of Section 3050.**

17       (b) All funds derived from the sale of commemorative licenses shall be  
18 deposited in the Fish and Game Preservation Fund.

19       **Comment.** Section 2090 continues former Section 1050.8 without change, except as indicated  
20 below.

21       The following nonsubstantive change is made:

- 22       • Cross-references to former Sections 1052 and 1053 are revised to refer to the provisions  
23       that continue those sections.

24    **§ 2095. Issuance of hunting tags for fundraising purposes**

25       2095. (a) The department shall establish, and keep current, written policies and  
26 procedures relating to the application process and the award of hunting tags for  
27 fundraising purposes, as authorized pursuant to **subdivision (c) of Section 331,**  
28 **subdivision (d) of Section 332, Section 4334, or subdivision (d) of Section**  
29 **4902.**

30       (b) The policies and procedures shall include, but need not be limited to, all of  
31 the following:

32       (1) The application process and criteria.

33       (2) A standard application format.

34       (3) An appeal process.

35       (4) A requirement that all applications shall remain sealed until on or after a  
36 filing date specified by the department.

37       (c) The department shall make the policies and procedures available to  
38 interested parties 30 days before their implementation and shall receive and  
39 consider any related recommendations.

40       (d) The department shall not require a minimum tag sale price, except as  
41 otherwise provided in this code.

1 (e) It is the intent of the Legislature that the department develop policies and  
2 procedures that seek to maximize both the revenues received by the department  
3 and participation by qualified nonprofit organizations making application to sell  
4 the tags as sellers of the tags.

5 **Comment.** Section 2095 continues former Section 1054.8 without change.

### 6 Article 3. Fees

#### 7 § 2200. Commission authority to set or change license fees

8 2200. (a) In any of the following circumstances, the commission may, by  
9 regulation, establish or change the amount of a fee for an application or for the  
10 issuance of a license:

11 (1) This code does not specify whether the fee is to be collected.

12 (2) This code does not specify the amount of the fee.

13 (3) This code does not prohibit, by express reference to this section, the  
14 commission from adjusting a statutorily imposed fee.

15 (b) Fees established by the commission shall be in an amount sufficient to  
16 recover all reasonable administrative and implementation costs of the department  
17 and commission relating to the program with regard to which the fee is paid. The  
18 commission may establish a fee structure that provides for the phasing in of new  
19 fees leading up to full cost recovery for the department and commission, provided  
20 that full cost recovery is achieved within five years of the establishment of the fee.

21 (c) The commission may change the amount of a fee in accordance with Section  
22 2210.

23 (d) This section does not apply to fees set by the department pursuant to Section  
24 2205.

25 **Comment.** Section 2200 restates the substance of former Section 1050(d). A cross-reference to  
26 former Section 713 is revised to refer to the provision that continues that section.

27 **Staff Note.** Proposed Section 2100 is intended to restate Section 1050(d) to improve its  
28 clarity, without changing its substantive effect. The existing provision reads as follows:

29 “Except for fees set by the department pursuant to subdivision (e), whenever this code does not  
30 specify whether a fee is to be collected, or does not specify the amount of a fee to be collected, or  
31 does not expressly prohibit the adjustment of statutorily imposed fees by the commission by  
32 reference to this section for the issuance of any license, tag, permit, application, reservation, or  
33 other entitlement, the commission may establish a fee or the amount thereof by regulation. The  
34 commission may also provide for the change in the amount of the fee in accordance with Section  
35 713. Fees established by the commission shall be in an amount sufficient to recover all reasonable  
36 administrative and implementation costs of the department and commission relating to the  
37 program with regard to which the fee is paid. The commission may establish a fee structure that  
38 provides for the phasing in of new fees leading up to full cost recovery for the department and  
39 commission, provided that full cost recovery is achieved within five years of the establishment of  
40 the fee.”

41 **The staff requests public comment on whether the proposed restatement would cause any**  
42 **substantive change in the meaning of the provision.**

1 § 2205. Department authority to set or change fees

2 2205. (a) The department may, by regulation, establish fees and adjust  
3 statutorily imposed fees for the filings, permits, determinations, or other  
4 department actions described in **Sections 711.4, 1002, and 1609.**

5 (b) The department may change the amount of a fee in accordance with Section  
6 2210.

7 (c) Fees established by the department shall be in an amount sufficient to  
8 recover all reasonable administrative and implementation costs of the department  
9 relating to the program with regard to which the fee is paid. The department may  
10 establish a fee structure that provides for the phasing in of new fees leading up to  
11 full cost recovery for the department, provided that full cost recovery is achieved  
12 within five years of the establishment of the fee.

13 **Comment.** Section 2205 restates the substance of former Section 1050(e). A cross-reference to  
14 former Section 713 is revised to refer to the provision that continues that section.

15 **Staff Notes. (1)** It is not clear that the fees authorized in proposed Section 2205(a) are  
16 “license” fees. The programs referenced in that provision relate to department programs, not to  
17 private licensed hunting and fishing. See Section 711.4 (planning and environmental review  
18 activities), 1002 (scientific research and student permits), 1609 (lake or streambed alteration  
19 agreement). **Should this provision be located elsewhere (with other general revenue  
20 provisions)?**

21 **(2)** Proposed Section 2205 is intended to restate Section 1050(e) to improve its clarity, without  
22 changing its substantive effect. The existing provision reads as follows:

23 “The department may establish fees and may adjust statutorily imposed fees by regulation for the  
24 filings, permits, determinations, or other department actions described in Section 711.4, 1002, or  
25 1609. The department also may provide for the change in the amount of the fee in accordance  
26 with Section 713. Fees established by the department shall be in an amount sufficient to recover  
27 all reasonable administrative and implementation costs of the department relating to the program  
28 with regard to which the fee is paid. The department may establish a fee structure that provides  
29 for the phasing in of new fees leading up to full cost recovery for the department, provided that  
30 full cost recovery is achieved within five years of the establishment of the fee.”

31 **The staff requests public comment on whether the proposed restatement would cause any  
32 substantive change in the meaning of the provision.**

33 § 2210. Annual increase or decrease

34 2210. (a) The changes in the Implicit Price Deflator for State and Local  
35 Government Purchases of Goods and Services, as published by the United States  
36 Department of Commerce, shall be used as the index to determine an annual rate  
37 of increase or decrease in the fees for licenses issued by the department.

38 (b)(1) The department shall determine the change in the Implicit Price Deflator  
39 for State and Local Government Purchases of Goods and Services, as published by  
40 the United States Department of Commerce, for the quarter ending March 31 of  
41 the current year compared to the quarter ending March 31 of the previous year.  
42 The relative amount of the change shall be multiplied by the current fee for each  
43 license issued by the department.

1 (2) The product shall be rounded to the nearest twenty-five cents (\$0.25), and  
2 the resulting amount shall be added to the fee for the current year. The resulting  
3 amount shall be the fee for the license year beginning on or after January 1 of the  
4 next succeeding calendar year for the license that is adjusted under this section.

5 (c) Notwithstanding any other provision of law, the department may recalculate  
6 the current fees charged for each license issued by the department, to determine  
7 that all appropriate indexing has been included in the current fees. This section  
8 shall apply to all licenses that have not been increased each year since the base  
9 year of the 1985–86 fiscal year.

10 (d) The commission, with respect to any license issued by the commission shall  
11 comply with subdivisions (a) to (c), inclusive.

12 (e) The calculations provided for in this section shall be reported to the  
13 Legislature with the Governor’s Budget Bill.

14 (f) The Legislature finds that all revenues generated by fees for licenses,  
15 computed under this section and used for the purposes for which they were  
16 imposed, are not subject to Article XIII B of the California Constitution.

17 (g) The department and the commission, at least every five years, shall analyze  
18 all fees for licenses issued by it to ensure the appropriate fee amount is charged.  
19 Where appropriate, the department shall recommend to the Legislature or the  
20 commission that fees established by the commission or the Legislature be adjusted  
21 to ensure that those fees are appropriate.

22 **Comment.** Section 2210 continues former Section 713 without change, except as indicated  
23 below.

24 The following nonsubstantive change is made:

- 25 • The defined term “license” is substituted for an equivalent phrase. See Section 2000.

26 **§ 2215. Application fee**

27 2215. (a) Whenever this code provides for a license, the commission or  
28 department, as applicable, may establish a nonrefundable application fee, not to  
29 exceed the lesser of (1) seven dollars and fifty cents (\$7.50) or (2) an amount  
30 sufficient to pay the department’s costs for issuing the license.

31 (b) The commission or department, as applicable, may adjust the application fee  
32 in accordance with Section 2210.

33 **Comment.** Section 2215 restates the substance of former Section 1050(f), except as indicated  
34 below.

35 The following nonsubstantive change is made:

- 36 • A cross-reference to former Section 713 is revised to refer to the provision that continues  
37 that section.

38 **Staff Notes.** (1) Proposed Section 2215 is intended to restate Section 1050(f) to improve its  
39 clarity, without changing its substantive effect. The existing provision reads as follows:

40 “Whenever this code provides for a license, tag, permit, reservation, or other entitlement, the  
41 commission or department, as applicable, may establish a nonrefundable application fee, not to  
42 exceed seven dollars and fifty cents (\$7.50) sufficient to pay the department’s costs for issuing

1 the license, tag, permit, reservation, or other entitlement and may adjust the application fee in  
2 accordance with Section 713.”

3 **The staff requests public comment on whether the proposed restatement would cause any**  
4 **substantive change in the meaning of the provision.**

5 (2) Under the existing provision, it is not clear how the two limits on the fee amount operate.  
6 Proposed Section 2115 would provide that the fee cannot exceed the *lesser* of the two specified  
7 amounts. **The staff requests public comment on whether that is an appropriate resolution of**  
8 **the ambiguity.**

9 **§ 2220. Credit card payment**

10 2220. The department may accept a credit card charge as a method of payment.  
11 Any contract executed by the department with credit card issuers or draft  
12 purchasers shall be consistent with Section 6159 of the Government Code.  
13 Notwithstanding Title 1.3 (commencing with Section 1747) of Part 4 of Division 3  
14 of the Civil Code, the department may impose a surcharge in an amount to cover  
15 the cost of providing the credit card service, including reimbursement for any fee  
16 or discount charged by the credit card issuer.

17 **Comment.** Section 2220 continues former Section 1050.5 without change.

18 Article 4. Unlawful Acts

19 **§ 2250. Unlawful acts**

20 2250. It is unlawful for any person to do any of the following:

21 (a) Transfer any license.

22 (b) Use or possess any license that was not lawfully issued to the user or  
23 possessor thereof or that was obtained by fraud, deceit, or the use of a fake or  
24 counterfeit application form.

25 (c) Use or possess any fake or counterfeit license, permit application form, band,  
26 or seal, made or used for the purpose of evading any of the provisions of this code,  
27 or regulations adopted pursuant to this code.

28 (d) Predate, fail to date, or alter any date of any license.

29 (e) Postdate the date of application or the date of issuance of the license. This  
30 subdivision does not apply to the date that a license is valid.

31 (f) Alter, mutilate, deface, duplicate, or counterfeit any license, permit  
32 application form, band, or seal, or entries thereon, to evade the provisions of this  
33 code, or any regulations adopted pursuant to this code.

34 **Comment.** Section 2250 continues former Section 1052 without change, except as indicated  
35 below.

36 The following nonsubstantive changes are made:

- 37 • The defined term “license” is substituted for equivalent phrases throughout. See Section  
38 2000.  
39 • In subdivisions (c) and (f), the words “pursuant thereto” are replaced with “pursuant to this  
40 code.”

1 CHAPTER 2. LICENSE AGENTS

2 Article 1. Authorized License Agent

3 § 2300. Application and approval generally

4 2300. (a) Any person, except a commissioner, officer, or employee of the  
5 department, may submit an application to the department to be a license agent to  
6 issue licenses.

7 (b) A person shall only be authorized to be a license agent to issue licenses,  
8 upon the written approval of the department.

9 **Comment.** Section 2300 continues former Sections 1055(a)-(b) and 1055.1(a)-(b) without  
10 change, except as indicated below.

11 The following nonsubstantive changes are made:

- 12 • The defined term “license” is substituted for equivalent phrases throughout. See Section  
13 2000.
- 14 • Minor stylistic revisions are made to reconcile nonsubstantive differences between the  
15 source provisions.

16 § 2305. License agent for sale of lifetime licenses

17 2305. (a) The department may designate a nonprofit organization, organized  
18 pursuant to the laws of this state, or the California chapter of a nonprofit  
19 organization, organized pursuant to the laws of another state, as a license agent for  
20 the sale of lifetime licenses issued pursuant to **Sections 714, 3031.2, and 7149.2.**  
21 These licenses may be sold by auction or by other methods and are not subject to  
22 the fee limitations prescribed in this code.

23 (b) A license agent authorized to issue lifetime sport fishing licenses, lifetime  
24 hunting licenses, and lifetime sport fishing and hunting licenses under this section  
25 is exempt from subdivisions (a) and (c) of Section 2450.

26 (c) The license agent shall remit to the department the fees from the sale of  
27 lifetime licenses, as defined in **Sections 714, 3031.2, and 7149.2.**

28 **Comment.** Section 2305 continues former Sections 1055(i) and 1055.1(g) without change,  
29 except as indicated below.

30 The following nonsubstantive changes are made:

- 31 • Subdivision designations are added.
- 32 • Cross-references to former Sections 1055(f) & (h) and 1055.1(d) and (f) are revised to refer  
33 to the provisions that continue those sections.
- 34 • In subdivision (b), the word “subdivision” is replaced with “section.”
- 35 • In subdivision (b), the words “an agent” are replaced with “a license agent.”
- 36 • In subdivision (b), the term “lifetime sportsman’s license” is replaced with “lifetime sport  
37 fishing and hunting license.”

38 **Staff Notes.** (1) Does the exemption in proposed Section 2305(b) apply to any type of license  
39 sold by a license agent authorized to sell lifetime licenses under that section? Or does the  
40 exemption only apply to lifetime licenses sold by such a license agent?

41 (2) Are “nonprofit organizations” the only persons who can act as license agents for the sale of  
42 lifetime licenses?

1 § 2310. Wildlife area passes and native species stamps

2 2310. The department may authorize any person, except a commissioner or an  
3 officer or employee of the department, to issue, as an agent of the department,  
4 annual wildlife area passes and native species stamps, and to sell promotional  
5 materials and nature study aids pursuant to, and subject to the requirements of, this  
6 article. Any agent thus authorized may add a handling charge pursuant to Section  
7 2450 to the fee prescribed in **Article 3 (commencing with Section 1760) of**  
8 **Chapter 7.5 of Division 2** for each annual wildlife area pass or native species  
9 stamp issued.

10 **Comment.** Section 2310 continues former Section 1055.3 without change, except as indicated  
11 below:

12 The following nonsubstantive change is made:

- 13 • An erroneous cross-reference to former Section 1055(b) is corrected.

14 **Staff Notes.** (1) Section 1055.3 contains a reference to the handling fee authorized “pursuant  
15 to subdivision (b) of Section 1055.” That reference appears to be erroneous. The handling fee is  
16 authorized in Section 1055(f). Proposed Section 2310 would correct that error.

17 (2) Although Section 1055.3 *is not* limited to non-ALDS sales, the referenced handling fee  
18 provision *is* limited to non-ALDS sales. That creates an ambiguity as to whether wildlife area  
19 passes and native species stamps may be sold through ALDS, and if so, whether the license agent  
20 is entitled to a handling fee. The staff believes that the implied limitation is probably  
21 unintentional. Proposed Section 2310 would not continue it. **Is that approach appropriate?**

22 § 2315. Limitation on delivery

23 2315. (a) Licenses may only be provided to authorized license agents that are in  
24 compliance with all laws, regulations, and policies governing the sale and  
25 reporting of licenses.

26 (b) This section does not apply to licenses issued through the Automated  
27 License Data System.

28 **Comment.** Section 2315 continues former Section 1055(e) and (l) without change, except as  
29 indicated below.

30 The following nonsubstantive change is made:

- 31 • The defined term “license” is substituted for equivalent phrases throughout. See Section  
32 2000.

33 **Staff Note.** Existing Section 1055(e) is expressly inapplicable to licenses issued through  
34 ALDS. The staff does not see a policy justification for exempting ALDS license agents from the  
35 limitation provided in Section 1055(e). **Should the provision be generalized so that it applies**  
36 **to all license agents?**

37 Article 2. Consignment

38 § 2350. Consignment

39 2350. The department may consign licenses to authorized license agents.

40 **Comment.** Section 2350 continues former Section 1055(c) without change, except as indicated  
41 below.

1 The following nonsubstantive change is made:

- 2 • The defined term “license” is substituted for an equivalent phrase. See Section 2000.

3 **§ 2355. Issuance**

4 2355. At any single business location, a license agent shall issue all items from a  
5 single book before commencing to issue licenses of the same series from another  
6 book.

7 **Comment.** Section 2355 continues former Section 1055(j) without change, except as indicated  
8 below.

9 The following nonsubstantive change is made:

- 10 • The defined term “license” is substituted for an equivalent phrase. See Section 2000.

11 **§ 2360. Return of unissued licenses**

12 2360. (a) License agents shall return all unissued and expired licenses to the  
13 department within 20 days following the last day of the license year.

14 (b) Any unissued and expired license that is not returned within 60 days  
15 following the last day of the license year shall be billed to the license agent.  
16 Licenses may be returned for credit after the 60 days. However, the license agent  
17 shall pay interest and penalties on any sold licenses, as prescribed in subdivision  
18 (b) of Section 2460.

19 (c) No credit may be allowed after six months following the last day of the  
20 license year.

21 **Comment.** Section 2360 continues former Section 1055(k), without change, except as  
22 indicated below.

23 The following nonsubstantive changes are made:

- 24 • Subdivision designations are added.  
25 • The defined term “license” is substituted for equivalent phrases throughout. See Section  
26 2000.  
27 • Subdivision (b) is divided into two sentences.  
28 • A cross-reference to former Section 1059 is revised to refer to the provision that continues  
29 that section.  
30 • Language limiting the provision to licenses sold on consignment is not continued. The  
31 substance of that limiting language is continued in Section 2370.

32 **§ 2365. Remittance**

33 2365. (a) Except as provided in subdivision (b) or in Section 2455, each  
34 authorized license agent shall remit to the department the fees prescribed in this  
35 code or in regulations adopted pursuant to this code for all licenses issued in each  
36 calendar month not later than 20 days following the last day of that calendar  
37 month. The transmittal of the fees to the department shall be accompanied with an  
38 accounting report on forms provided by the department of all licenses issued  
39 during the preceding month.

40 (b) A license agent is not required to remit the fees for a book of licenses in any  
41 month if, on the last day of the preceding month, all items in that single book  
42 provided for issuance at a single business location are not issued or expired. If,

1 however, all items in that book are issued or expired, the license agent shall remit  
2 the fees for that book and transmit the accounting report in accordance with the  
3 requirements of this section.

4 (c) Except as provided in Section 2455, any fee remittance and accounting  
5 report not transmitted to the department within 30 days following the last day of  
6 each calendar month is delinquent, and fees due are subject to interest and  
7 penalties prescribed in subdivision (b) of Section 2460. Interest and penalties shall  
8 be computed beginning 21 days following the last day of the calendar month in  
9 which the fees were collected.

10 **Comment.** Section 2365 continues former Section 1055.5(a), (b) & (d) without change, except  
11 as indicated below.

12 The following nonsubstantive changes are made:

- 13 • The defined term “license” is substituted for equivalent phrases throughout. See Section  
14 2000.
- 15 • Cross-references to former Sections 1055.5(c) and 1059 are revised to refer to the  
16 provisions that continue those sections.

17 **Staff Notes.** (1) Under Section 1055(d), a license agent who pre-pays for licenses is not  
18 governed by Section 1055.5(a) or (d). By its own terms, Section 1055.5 does not apply to a  
19 license agent who uses ALDS. See Section 1055.5(e). Consequently, it appears to be appropriate  
20 to limit the application of Section 1055.5(a) and (d) to consignment sales, as is done in this draft.  
21 See proposed Section 2370.

22 (2) There is nothing that expressly exempts prepayment sales from subdivision (b) of Section  
23 1055.5. However, Section 1055.5(b) appears to provide an exception to Section 1055.5(a). Given  
24 that prepayment sales are exempt from 1055.5(a), it would seem to follow that such sales are not  
25 governed by 1055.5(b). That is the approach taken in this draft. See proposed Section 2370. **The  
26 staff invites public comment on whether that is a correct approach.**

27 **§ 2370. Application of article**

28 2370. This article applies only to licenses issued pursuant to Section 2350. This  
29 article does not apply to licenses issued through the Automated License Data  
30 System.

31 **Comment.** Section 2370 continues former Sections 1055(l) and 1055.5(e) without substantive  
32 change.

33 **Article 3. Prepayment**

34 **§ 2400. Provision of licenses**

35 2400. (a) The department may provide licenses to authorized license agents and  
36 shall collect prior to delivery an amount equal to the fees for all licenses that are  
37 provided.

38 (b) Any licenses provided pursuant to this section that remain unissued at the  
39 end of the license year may be returned to the department for refund or credit, or a  
40 combination thereof within six months of the item expiration date. No credit may  
41 be allowed after six months following the last day of the license year.

1 **Comment.** Section 2400 continues former Section 1055(d) without change, except as indicated  
2 below.

3 The following nonsubstantive changes are made:

- 4 • The defined term “license” is substituted for equivalent phrases throughout. See Section  
5 2000.
- 6 • Subdivision designations are added.
- 7 • The language exempting license agents from former Sections 1055.5(a) & (d), 1056, 1057,  
8 and 1059 is not continued. The substantive effect of that exemption is continued in  
9 Sections 2370, 2460(c), 2465(b), 2475.

10 **§ 2405. Issuance**

11 2405. At any single business location, a license agent shall issue all items from a  
12 single book before commencing to issue licenses of the same series from another  
13 book.

14 **Comment.** Section 2405 continues former Section 1055(j) without change, except as indicated  
15 below.

16 The following nonsubstantive change is made:

- 17 • The defined term “license” is substituted for an equivalent phrase. See Section 2000.

18 **§ 2410. Application of article**

19 2410. This article does not apply to licenses issued through the Automated  
20 License Data System.

21 **Comment.** Section 2410 continues former Sections 1055(l) without substantive change.

22 Article 4. Automated License Data System

23 **§ 2425. Provision of licenses**

24 2425. (a) The department may provide licenses to authorized license agents and  
25 shall collect, prior to delivery, an amount equal to the fees for all licenses, permits,  
26 reservations, tags and other entitlements provided.

27 (b) Any licenses provided pursuant to this subdivision that remain unissued at  
28 the end of the license year may be returned to the department for refund or credit,  
29 or a combination thereof, within six months of the item expiration date. No credit  
30 may be allowed after six months following the last day of the license year.

31 **Comment.** Section 2425 continues former Section 1055.1(c) without change, except as  
32 indicated below.

33 The following nonsubstantive changes are made:

- 34 • The defined term “license” is substituted for equivalent phrases throughout. See Section  
35 2000.
- 36 • Subdivision designations are added.
- 37 • The language exempting license agents from former Sections 1055.5(a) & (e), 1056, 1057,  
38 and 1059 is not continued. The substantive effect of that exemption is continued in  
39 Sections 2370, 2460(c), 2465(b), 2475.

40 **Staff Note. (1)** Section 1055.1(c) was modeled after language in Section 1055(d), which  
41 describes license agents who prepay the Department of Fish and Wildlife for physical licenses  
42 and then sell them to the public. As a result of that origin, the language does not do a very good

1 job of describing the ALDS system. **The staff invites public comment on whether proposed**  
2 **Section 2425(a) could be restated for greater accuracy.**

3 (2) The staff's understanding is that ALDS is a print-on-demand system. Licenses are only  
4 printed when they have been purchased. Consequently, it is not clear that proposed Section  
5 2425(b) has any meaningful application. The inclusion of that provision in Section 1055.1(c) may  
6 have been inadvertent. **The staff requests public comment on whether the provision should be**  
7 **deleted as unnecessary.**

8 (3) Similarly, existing Section 1055.1(c) provides express exemptions an ALDS license agent  
9 who pays for licenses "prior to delivery." The staff's understanding is that ALDS sales are never  
10 pre-paid. Instead, charges for ALDS license sales are logged and electronic transfers are made  
11 periodically, after the fact. **The staff requests public comment on whether the exemptions in**  
12 **Section 1055.1(c) apply to ALDS sales.**

13  
14 **§ 2430. Remittance**

15 2430. (a) Except as provided in subdivision (b), each license agent authorized  
16 pursuant to Section 2425 shall remit to the department the fees prescribed in this  
17 code or in regulations adopted pursuant to this code for all licenses by electronic  
18 means, such as electronic fund transfer. In order to facilitate the prompt remittance  
19 of revenues, the department is authorized to withdraw funds from the bank  
20 account of the license agent, including adjustments, by electronic transfer. License  
21 agents shall ensure that the total fees required for all licenses necessary to perform  
22 the electronic transfer are available on the date specified by the license agent  
23 contract.

24 (b) A license agent shall report to the department on or before the end of the  
25 next business day of the department any losses of fees received from the issuing of  
26 licenses.

27 (c) Except as provided in subdivision (b), any fees not transmitted or made  
28 available to the department within seven days following the due date as specified  
29 by the department are delinquent, and delinquent fees are subject to interest and  
30 penalties prescribed in subdivision (b) of Section 2460. Interest and penalties shall  
31 be computed beginning one day following the due date as specified by the  
32 department.

33 **Comment.** Section 2430 continues former Section 1055.6(a), (b) & (d) without change, except  
34 as indicated below.

35 The following nonsubstantive changes are made:

- 36 • The defined term "license" is substituted for equivalent phrases throughout. See Section  
37 2000.
- 38 • Cross-references to former Sections 1055.1 and 1059(b) are revised to refer to the  
39 provisions that continue those sections.

40 **§ 2435. Application of article**

41 2435. This article applies only to licenses issued through the Automated License  
42 Data System.

1 **Comment.** Section 2435 continues former Sections 1055.1(h) and 1055.6(e) without  
2 substantive change.

## 3 Article 5. General Financial Provisions

### 4 § 2450. Handling charge

5 2450. (a) Authorized license agents shall add a handling charge to the fees  
6 prescribed in this code or in regulations adopted pursuant to this code for licenses  
7 issued by the license agent in an amount that is five percent of the face value of  
8 the item rounded to the nearest five cents (\$0.05).

9 (b) The handling charge added pursuant to subdivision (a) shall be incorporated  
10 into the total amount collected for issuing any license, but the handling charge  
11 shall not be included when determining license fees in accordance with Section  
12 2210. License agents may issue any license for any amount up to 10 percent less  
13 than the fee prescribed in this code or in regulations adopted pursuant to this code.  
14 The license agent shall remit to the department the full amount of the fees as  
15 prescribed in this code or in regulations adopted pursuant to this code for all  
16 licenses issued.

17 (c) The handling charge in subdivision (a) is the license agent's only  
18 compensation for services. The license agent shall not be entitled to any other  
19 additional fee or charge for issuing licenses authorized pursuant to this part.

20 **Comment.** Section 2450 continues former Sections 1055(f)-(h) and 1055.1(d)-(f) without  
21 change, except as indicated below.

22 The following nonsubstantive changes are made:

- 23 • The defined term “license” is substituted for equivalent phrases throughout. See Section  
24 2000.
- 25 • Minor stylistic revisions are made to reconcile nonsubstantive differences between the  
26 source provisions.
- 27 • Cross-references to former Sections 1055(f) and 1055.1(d) are revised to refer to the  
28 provision that continues those subdivisions.
- 29 • In subdivision (b), a cross-reference to former Section 713 is revised to refer to the  
30 provision that continues that section.
- 31 • In subdivision (c), a reference to “this section” is replaced with a reference to “this part.”

### 32 § 2455. Colorado River special use stamp or validation

33 2455. Notwithstanding subdivision (c) of Section 2450, a license agent may  
34 retain not more than fifteen cents (\$0.15) of the fee received for each Colorado  
35 River special use stamp or validation issued pursuant to **Section 7180.1**, as  
36 compensation for services. The license agent shall remit to the department the fees  
37 prescribed by **Section 7180.1**, less any amounts retained under this section, for all  
38 Colorado River special use validations issued. The license agent shall remit the net  
39 fees as prescribed in Section 2365 or 2430.

40 **Comment.** Section 2455 continues the substance of former Sections 1055.5(c) and 1055.6(c)  
41 without change. Cross-references to former Sections 1055.5(a) and 1055.6(a) are revised to refer  
42 to the provisions that continue those sections.

1    **§ 2460. Failure to account**

2    2460. (a) The failure or refusal of any license agent to account for licenses or  
3 any fees received from their issuance as required by Section 2365 or 2430 or upon  
4 demand by an authorized representative of the department is a misdemeanor.

5    (b) In addition to subdivision (a), any license agent who fails to remit fees to the  
6 department on or before the date required by Section 2365 or 2430 shall pay  
7 interest and penalties prescribed for sales and use taxes and, except as otherwise  
8 provided in this code, the department shall collect amounts owing under the  
9 procedures prescribed for sales and use taxes provided in Chapter 5 (commencing  
10 with Section 6451) and Chapter 6 (commencing with Section 6701) of Part 1 of  
11 Division 2 of the Revenue and Taxation Code, insofar as they may be applicable,  
12 and for those purposes, “board” means the department.

13    (c) This section does not apply to a license agent who issues licenses under  
14 Section 2400.

15    **Comment.** Subdivisions (a) and (b) of Section 2460 continue former Section 1059 without  
16 change, except as indicated below.

17    The following nonsubstantive change is made:

- 18       • Cross-references to former Sections 1055.5 and 1055.6 are revised to refer to the  
19       provisions that continue those sections.

20    Subdivision (c) continues part of the substance of former Section 1055(d).

21    **§ 2465. Separate accounting required**

22    2465. (a) All license money shall be accounted for separately from other funds  
23 of a license agent, and shall at all times belong to the state.

24    (b) This section does not apply to a license agent who issues licenses under  
25 Section 2400.

26    **Comment.** Subdivision (a) of Section 2465 continues former Section 1057 without change.

27    Subdivision (b) continues part of the substance of former Section 1055(d).

28    **§ 2470. Returned check**

29    2470. Any person authorized pursuant to Section 2300 who submits a check or  
30 money order for payment of licenses that is returned unpaid by the bank or  
31 financial institution it was drawn upon shall be required to pay a fee of thirty  
32 dollars (\$30), plus any penalty and interest charges, as defined in Section 2460.

33    **Comment.** Section 2470 continues former Section 1055.4 without change, except as indicated  
34 below.

35    The following nonsubstantive changes are made:

- 36       • The defined term “license” is substituted for an equivalent phrase. See Section 2000.  
37       • Cross-references to former Sections 1055 and 1059 are revised to refer to the provisions  
38       that continue those sections.

39    **§ 2475. Bond**

40    2475. (a) Authorized license agents who receive licenses, permits, reservations,  
41 tags, and other entitlements pursuant to Section 2350 may be required to execute,

1 in favor of the department, a bond, payable to the department, in a sum determined  
2 by the department. The bond shall secure the accurate accounting and payment to  
3 the department of the funds collected and the performance of the duties imposed  
4 upon the license agent by this article.

5 (b) Any license agent who fails to transmit the fees or accounting reports  
6 required by Section 2365 or 2430 not later than 60 days following the due date as  
7 specified by the department may be required to provide a bond pursuant to  
8 subdivision (a) in order to continue as a license agent.

9 **Comment.** Section 2475 continues former Section 1056 without change, except as indicated  
10 below.

11 The following nonsubstantive change is made:

- 12 • Cross-references to former Sections 1055(c), 1055.5, and 1055.6 are revised to refer to the  
13 provisions that continue those sections.

14 **§ 2480. Preferred claim**

15 2480. In case of an assignment for the benefit of creditors, receivership, or  
16 bankruptcy, the state shall have a preferred claim against the license agent's  
17 assignee, receiver, or trustee for all moneys owing the state for the issuing of  
18 licenses as provided in this code and shall not be estopped from asserting that  
19 claim by reason of the commingling of funds or otherwise.

20 **Comment.** Section 2480 continues former Section 1058 without change, except as indicated  
21 below.

22 The following nonsubstantive changes are made:

- 23 • The defined term "license" is substituted for an equivalent phrase. See Section 2000.  
24 • The phrase "license assignee" is changed to "license agent's assignee."

25 **§ 2485. Lost or destroyed licenses**

26 2485. (a) The department may accept from any authorized license agent an  
27 affidavit for settlement on its account in lieu of licenses that have been lost or  
28 destroyed if the license agent meets the following criteria:

29 (1) Reports any losses of licenses to the department on or before the end of the  
30 next business day of the department.

31 (2) Submits the following items to the department not more than 20 days  
32 following the last day of the calendar month in which the items were lost or  
33 destroyed:

34 (A) An accounting report listing all licenses that were lost or destroyed.

35 (B) A signed and notarized affidavit that shows the value and type of the  
36 licenses, their serial numbers, and the causes of loss or destruction.

37 (b) This section does not apply to licenses that are issued through the Automated  
38 License Data System.

39 **Comment.** Section 2485 continues former Section 1060 without change, except as indicated  
40 below.

41 The following nonsubstantive change is made:

- 42 • The defined term "license" is substituted for an equivalent phrase. See Section 2000.

1 **☞ Staff Note.** It is not clear why Section 1060 does not apply to ALDS sales. While it is less  
2 likely that a license printed on demand will be lost, it seems possible that the printing process  
3 could destroy a license. If so, does the license agent have no recourse? **Should proposed Section**  
4 **2485(b) be deleted?**

5 **§ 2490. Report to Department of Finance**

6 2490. The department shall transmit monthly to the Department of Finance, for  
7 review, a summary report of the fee remittances and accounting reports received  
8 under Section 2365 and a delinquency report containing the name and address of  
9 any person who failed or refused to fully comply with Section 2365. The summary  
10 fee remittance and accounting report and the delinquency report shall be  
11 transmitted to the Department of Finance not later than 45 days following the last  
12 day of the calendar month for which the fee remittances and accounting reports  
13 were due under Section 2365.

14 **Comment.** Section 2490 continues former Section 1070 without change, except as indicated  
15 below.

16 The following nonsubstantive change is made:

- 17 • Cross-references to former Sections 1055.5 are revised to refer to the provision that  
18 continues that section.

19 **PART 5. GENERAL FINANCIAL PROVISIONS**

20 [Reserved]

21 **DIVISION 3. LAW ENFORCEMENT**

22 **PART 1. PERSONNEL**

23 **CHAPTER 1. DEPARTMENT**

24 **§ 3000. Deputy as peace officer**

25 3000. A deputy appointed to enforce the provisions of this code is a peace  
26 officer. The deputy has all the powers and authority conferred by law upon peace  
27 officers listed in Section 830.6 of the Penal Code to make arrests for violations of  
28 this code, and may serve all processes and notices throughout the state.

29 **Comment.** Section 3000 continues former Section 851 without change.

30 **§ 3005. Deputized law enforcement officer as peace officer**

31 3005. (a) Every employee of the department designated by the director as a  
32 deputized law enforcement officer is a peace officer as provided by Section 830.2  
33 of the Penal Code. The authority of that peace officer extends to any place in the  
34 state as to a public offense committed or which offense there is probable cause to  
35 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 3005 continues former Section 856 without change, except as indicated  
9 below:

10 The following nonsubstantive change is made:

- 11 • The first sentence is singularized.

12 **§ 3010. Employee deputized to check sport fishing licenses**

13 3010. (a) 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.

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

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

24 **Comment.** Section 3010 continues former Section 853 without change, except as indicated  
25 below:

26 The following nonsubstantive changes are made:

- 27 • The section is divided into subdivisions.
- 28 • Subdivision (c) is restated for clarity.

29 **Staff Notes.** (1) In Memorandum 2013-13, the staff had recommended locating Section 853  
30 in Chapter 2 of Part 2 of Division 2 of the proposed Fish and Wildlife Code. The staff now  
31 believes that the provision is better located in Division 3.

32 (2) Proposed Section 3010(c) is intended to restate the last sentence of Section 853 to improve  
33 its clarity, without changing its substantive effect. The existing provision reads as follows:

34 “Any person, who is deputized for this limited purpose pursuant to this section, may not enforce  
35 any other provision of this code, and is not a peace officer subject to Chapter 4.5 (commencing  
36 with Section 830) of Title 3 of Part 2 of the Penal Code.”

37 The restated provision would also make clear that a person who is already a peace officer does  
38 not lose that status as a result of being deputized under this section.

39 **The staff requests public comment on whether the proposed restatement would cause any**  
40 **substantive change in the meaning of the provision.**



1    **§ 3105. Removal of county wildlife officer**

2    3105. The board of supervisors may by a majority vote of its members remove  
3    the county wildlife officer at any time.

4    **Comment.** Section 3105 continues former Section 877 without change, except as indicated  
5    below:

6    The following nonsubstantive changes are made:

- 7       • The word “warden” is replaced with “county wildlife officer.”
- 8       • The word “board” is replaced with “board of supervisors.”

9    **§ 3110. Salary**

10   3110. The board of supervisors shall fix the salary to be paid and the expenses to  
11   be allowed the county wildlife officer, which salary and expenses shall be paid  
12   from the county treasury.

13   **Comment.** Section 3110 continues former Section 876 without change, except as indicated  
14   below:

15   The following nonsubstantive change is made:

- 16       • The term “fish and game warden” is replaced with “wildlife officer.”

17   **§ 3115. Authority**

18   3115. The county wildlife officer shall enforce the state laws relating to the  
19   protection of fish and wildlife. The wildlife officer has the powers and authority  
20   conferred by law upon peace officers listed in Section 830.6 of the Penal Code.

21   **Comment.** Section 3115 continues former Section 878 without change, except as indicated  
22   below:

23   The following nonsubstantive changes are made:

- 24       • The term “fish and game warden” is replaced with “wildlife officer.”
- 25       • The term “fish and game” is replaced with “fish and wildlife.”

26   **§ 3120. Quarterly activity report**

27   3120. The county wildlife officer shall report quarterly to the board of  
28   supervisors, giving a detailed statement of all arrests made, convictions had, and  
29   fines collected, and a general statement in regard to the management of the office  
30   of county wildlife officer. A copy of the detailed statement shall, at the same time,  
31   be filed with the department.

32   **Comment.** Section 3120 continues former Section 879 without change, except as indicated  
33   below:

34   The following nonsubstantive changes are made:

- 35       • The term “fish and game warden” is replaced with “wildlife officer.”
- 36       • The words “his office” are replaced with “the office of county wildlife officer.”
- 37       • The word “such” is replaced with “the.”

38   **§ 3125. Appointment of deputy**

39   3125. The board of supervisors of each county may, in its discretion, appoint a  
40   deputy wildlife officer, to serve at the pleasure of the board.

1 **Comment.** Section 3125 continues former Section 880 without change, except as indicated  
2 below:

3 The following nonsubstantive change is made:

- 4 • The term “fish and game warden” is replaced with “wildlife officer.”

5 **§ 3130. Deputy powers, duties, salary, and expenses**

6 3130. The deputy shall have the powers, perform the duties, receive the salary,  
7 and be entitled to expenses, as the board of supervisors provides.

8 **Comment.** Section 3130 continues former Section 881 without substantive change, except as  
9 indicated below:

10 The following nonsubstantive change is made:

- 11 • The word “board” is replaced with “board of supervisors.”

12 **§ 3135. Source of payment of deputy salary and expenses**

13 3135. The salary and expenses of a deputy county wildlife officer shall be paid  
14 from the county treasury.

15 **Comment.** Section 3135 continues former Section 882 without change, except as indicated  
16 below:

17 The following nonsubstantive change is made:

- 18 • The term “fish and game warden” is replaced with “wildlife officer.”

19 **PART 2. GENERAL PROCEDURES**

20 **§ 3200. Employee expenditure to procure evidence**

21 3200. (a) Regularly employed law enforcement officers of the department may,  
22 when authorized by the director, expend sums authorized for the purchase of fish,  
23 birds, or mammals as evidence, or for expenditures related to the procurement of  
24 those types of evidence, or for expenditures made to investigate other violations of  
25 this code, without divulging the identity of the employee.

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

30 **Comment.** Section 3200 continues former Section 855 without change, except as indicated  
31 below:

32 The following nonsubstantive changes are made:

- 33 • Subdivision designations are added.
- 34 • The words “such sums as” are replaced with “sums.”
- 35 • The words “such evidence” are replaced with “those types of evidence.”
- 36 • A comma is added after “this code.”

37 **§ 3205. Due process in revocation or suspension proceedings**

38 3205. The commission shall adopt regulations that afford procedural and  
39 substantive due process to any person whose license or permit is subject to

1 revocation or suspension. Except upon conviction of a violation of this code or a  
2 regulation adopted pursuant to this code relating to the licensed or permitted  
3 activity and notwithstanding any other provision of this code, the commission  
4 shall not revoke or suspend any license or permit until the regulations required by  
5 this section have been adopted and approved by the Office of Administrative Law  
6 pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3  
7 of Title 2 of the Government Code.

8 **Comment.** Section 3205 continues the second and third sentences of former Section 309(a)  
9 without change.

10 **§ 3210. Authority to compel testimony and production of evidence**

11 3210. The commission or any person appointed by it to conduct a hearing may,  
12 in any investigation or hearing, cause the deposition of witnesses, residing within  
13 or without the state, to be taken in the manner prescribed by law for deposition in  
14 civil actions in the superior courts of this state under Title 4 (commencing with  
15 Section 2016.010) of Part 4 of the Code of Civil Procedure, and may compel the  
16 attendance of witnesses and the production of documents and papers.

17 **Comment.** Section 3210 continues the first sentence of former Section 309(a) without change.

18 **§ 3215. Hearings governed by Administrative Procedures Act**

19 3215. Any deliberation conducted by the commission, or conducted by any  
20 person appointed by the commission to conduct hearings, is deemed to be a  
21 proceeding required to be conducted pursuant to Chapter 5 (commencing with  
22 Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code or  
23 similar provision, within the meaning of paragraph (3) of subdivision (c) of  
24 Section 11126 of the Government Code.

25 **Comment.** Section 3215 continues former Section 309(b) without change.

26 **§ 3220. Environmental crimes task force**

27 3220. (a) The Legislature finds and declares that:

28 (1) Poaching violations and other violations of the Fish and Wildlife Code have  
29 been increasing, and these violations have a detrimental impact on fish and  
30 wildlife and their habitats, which are held in trust by the state for the benefit of the  
31 people of the state.

32 (2) In order to deter illegal poaching and other violations that adversely impact  
33 fish and wildlife, it is important that the department coordinate with other law  
34 enforcement entities and the courts to facilitate effective enforcement and  
35 prosecution of these offenses.

36 (b) The department, to the extent feasible and subject to available resources,  
37 shall establish and coordinate an environmental crimes task force. The task force  
38 should involve the participation of the department's Office of General Counsel  
39 working with each of the department's law enforcement districts. The task force  
40 may include coordination with representatives from the California District

1 Attorneys' Association, the Judicial Council, the Attorney General's office, and  
2 the University of California. Objectives of the task force may include, but are not  
3 limited to, providing training, education, and outreach to prosecutors and the  
4 courts on Fish and Wildlife Code violations and providing other assistance as  
5 appropriate in the prosecution of environmental crimes.

6 **Comment.** Section 3220 continues former Section 12028 without change, except as indicated  
7 below:

8 The following nonsubstantive changes are made:

- 9 • The term "Fish and Game Code" is replaced with "Fish and Wildlife Code."
- 10 • The introductory clause and former subdivisions (a) and (b) are redesignated as subdivision  
11 (a)(1)-(2).
- 12 • Former subdivision (c) is redesignated as subdivision (b).

13 **Staff Note.** In Section 12028, the three paragraphs that follow the introductory clause are all  
14 designated as subdivisions. This suggests that each of the three subdivisions states legislative  
15 findings and declarations. In fact, the last paragraph appears to be a substantive mandate, rather  
16 than a finding or declaration. In proposed Section 3215 the last paragraph is designated as a  
17 separate subdivision, which is not subordinate to the introductory clause. **The staff invites public  
18 comment on whether that change is appropriate.**

19 **§ 3225. Electronic management of citations**

20 3225. (a) The department, on or before January 1, 2016, shall prepare and  
21 submit to the relevant policy and fiscal committees of the Legislature a feasibility  
22 study report on an electronic system to manage citations issued by fish and  
23 wildlife wardens, exchange information on citations with the courts, and transfer  
24 data on court dispositions to the Automated License Data System.

25 (b)(1) Pursuant to Section 10231.5 of the Government Code, the requirement for  
26 submitting a report pursuant to subdivision (a) shall become inoperative on  
27 January 1, 2017.

28 (2) A report to be submitted pursuant to subdivision (a) shall be submitted in  
29 compliance with Section 9795 of the Government Code.

30 **Comment.** Section 3225 continues former Section 702.1 without change, except as indicated  
31 below:

32 The following nonsubstantive change is made:

- 33 • The term "fish and game" is replaced with "fish and wildlife."

34 **PART 3. GENERAL PENALTIES**

35 **§ 3300. Misdemeanor as default criminal penalty**

36 3300. (a) Except as expressly provided otherwise in this code, any violation of  
37 this code, or of any rule, regulation, or order made or adopted under this code, is a  
38 misdemeanor.

39 (b) Unless otherwise provided, the punishment for a violation of this code that is  
40 a misdemeanor is a fine of not more than one thousand dollars (\$1,000),

1 imprisonment in the county jail for not more than six months, or by both that fine  
2 and imprisonment.

3 **Comment.** Subdivision (a) of Section 3300 continues former Section 12000(a) without change.  
4 Subdivision (b) continues former Section 12002(a) without change.

5 **Staff Note.** The introductory clauses in Section 12000(a) and 12002(a) are slightly different  
6 in scope. It seems likely that the difference was inadvertent, in which case it would be appropriate  
7 to conform the two provisions. **The staff requests public comment on whether the stricter**  
8 **introductory clause in subdivision (a) of proposed Section 3300 should also be used in**  
9 **subdivision (b) of that provision.**

10 **§ 3305. Failure to appear or pay fine**

11 3305. (a) A license, tag, stamp, reservation, permit, or other entitlement or  
12 privilege issued pursuant to this code to a defendant who fails to appear at a court  
13 hearing for a violation of this code, or who fails to pay a fine imposed pursuant to  
14 this code, shall be immediately suspended or revoked. The license, tag, stamp,  
15 reservation, permit, or other entitlement or privilege shall not be reinstated or  
16 renewed, and no other license, tag, stamp, reservation, permit, or other entitlement  
17 or privilege shall be issued to that person pursuant to this code, until the court  
18 proceeding is completed or the fine is paid.

19 (b) This subdivision does not apply to any violation of Section 2250,  
20 subdivisions (a) or (b) of Section 2460, **1170, 5650, 5653.9, 6454, 6650, or**  
21 **6653.5.**

22 **Comment.** Section 3305 continues former Section 12002(d) without change, except as  
23 indicated below:

24 The following nonsubstantive changes are made:

- 25 • Paragraphs are redesignated as subdivisions.
- 26 • Cross-references to former Sections 1052 and 1059 are revised to refer to the provisions  
27 that continues those sections.

28 **§ 3310. Violation of promise to appear**

29 3310. Any person willfully violating a written promise to appear in court or  
30 before a person authorized to receive a deposit of bail is guilty of a misdemeanor  
31 regardless of the disposition of the charge upon which the person was originally  
32 arrested.

33 **Comment.** Section 3310 continues former Section 12020 without change, except as indicated  
34 below:

35 The following nonsubstantive change is made:

- 36 • The words “his” and “he” are replaced with gender-neutral terms.

37 **Staff Note.** In context, it seems likely that Section 12020 only applies to a person charged  
38 with a violation of the Fish and Game Code (or an implementing regulation). However, the  
39 section does not state that limitation expressly. **Should it?**

1 **§ 3315. Additional penalty**

2 3315. (a) In addition to any assessment, fine, penalty, or forfeiture imposed  
3 pursuant to any other provision of law, an additional penalty of fifteen dollars  
4 (\$15) shall be added to any fine, penalty, or forfeiture imposed under this code for  
5 a violation of this code or a regulation adopted pursuant thereto. However, no  
6 more than one additional penalty may be imposed in a single proceeding. The  
7 revenue from this penalty shall be transferred to, and deposited in, the Fish and  
8 Game Preservation Fund and used exclusively for the purposes of Section 2805.

9 (b) Subdivision (a) does not apply to a violation punishable pursuant to  
10 **subdivision (b) of Section 12002.1, subdivision (b) of Section 12002.2**, or any  
11 regulation relating to the wearing or display of a fishing license.

12 **Comment.** Section 3315 continues former Section 12021 without change, except as indicated  
13 below:

14 The following nonsubstantive changes are made:

- 15 • The word “such” is omitted from the phrase “one such additional penalty.”
- 16 • A cross-reference to former Section 13006 is revised to refer to the provision that  
17 continues that section.

18 **§ 3320. Administrative penalty**

19 3320. After the expiration of the time period to appeal an administrative penalty  
20 imposed pursuant to **Section 2301, 2302, 2582, or 2583**, or any other provision of  
21 this code, the department may apply to the clerk of the appropriate court for a  
22 judgment to collect the administrative civil penalty. The application, including a  
23 certified copy of the order imposing the civil penalty, a hearing officer’s decision,  
24 if any, or a settlement agreement, if any, shall constitute a sufficient showing to  
25 warrant issuance of the judgment. The court clerk shall enter the judgment  
26 immediately in conformity with the application. The judgment so entered has the  
27 same force and effect as, and is subject to all the provisions of law relating to, a  
28 judgment in a civil action, and may be enforced in the same manner as any other  
29 judgment of the court in which it is entered.

30 **Comment.** Section 3320 continues former Section 12014 without change.

31 **Staff Note.** The sections listed in the first sentence of Section 12014 (i.e., Sections 2301,  
32 2302, 2582, and 2583) are not the only sections of the code that authorize the imposition of civil  
33 penalties. See, e.g., Section 1615. Given that the section also applies to “any other provision of  
34 this code,” it is not clear why those sections are specifically listed. **The staff invites comments**  
35 **on whether “Section 2301, 2302, 2582, or 2583, or any other” should be replaced with “a.”**  
36 **That would seem to more clearly state the broad application of the section.**

37 **PART 4. CALIFORNIA INDIANS**

38 **§ 3400. Exemptions from enforcement**

39 3400. (a) Notwithstanding any other provision of law, the provisions of this code  
40 are not applicable to California Indians whose names are inscribed upon the tribal

1 rolls, while on the reservation of the tribe and under those circumstances in this  
2 State where the code was not applicable to them immediately prior to the effective  
3 date of Public Law 280, Chapter 505, First Session, 1953, 83d Congress of the  
4 United States.

5 (b) No person described in subdivision (a) shall be prosecuted for the violation  
6 of any provision of this code occurring in the places and under the circumstances  
7 referred to in subdivision (a). Nothing in this section, however, prohibits or  
8 restricts the prosecution of any Indian for the violation of any provision of this  
9 code prohibiting the sale of any bird, mammal, fish, or amphibia.

10 **Comment.** Section 3400 continues former Section 12300 without change, except as indicated  
11 below:

12 The following nonsubstantive changes are made:

- 13 • Subdivision designations are added.
- 14 • The words “irrespective of” are replaced with “notwithstanding.”
- 15 • The words “such tribe” is replaced with “the tribe.”
- 16 • The words “No such Indian” are replaced with “No person described in subdivision (a).”
- 17 • The words “hereinabove referred to” are replaced with “referred to in subdivision (a).”

## 18 DIVISION 4. INTER-JURISDICTIONAL COMPACTS

### 19 PART 1. UNITED STATES

#### 20 CHAPTER 1. ACCEPTANCE OF FEDERAL ACTS

##### 21 § 4000. Assent to Public Law 415, Seventy-Fifth Congress

22 4000. The State of California hereby assents to the provisions of the act of  
23 Congress entitled “An act to provide that the United States shall aid the states in  
24 wildlife–restoration projects, and for other purposes,” approved September 2, 1937  
25 (Public Law 415, Seventy-fifth Congress), and the department, with the approval  
26 of the commission, shall perform any acts as may be necessary to the conduct and  
27 establishment of cooperative wildlife–restoration projects, as defined in that act of  
28 Congress, in compliance with that act and rules and regulations promulgated  
29 thereunder; and no funds accruing to the State of California from license fees paid  
30 by hunters shall be diverted for any other purpose than the administration of the  
31 Department of Fish and Wildlife and for the protection, propagation, preservation,  
32 and investigation of fish and wildlife.

33 **Comment.** Section 4000 continues former Section 400 without change, except as indicated  
34 below:

35 The following nonsubstantive changes are made:

- 36 • The words “such acts” are replaced with “any acts.”
- 37 • The words “such act” are replaced with “that act.”
- 38 • The phrase “fish and game” is replaced with “fish and wildlife.”

1    **§ 4005. Assent to Public Law 681, Eighty–First Congress**

2    4005. The State of California hereby assents to the provisions of the act of  
3 Congress entitled “An act to provide that the United States shall aid the states in  
4 fish restoration and management projects, and for other purposes,” approved  
5 August 9, 1950 (Public Law 681, Eighty–first Congress), and the department, with  
6 the approval of the commission, may perform any acts as may be necessary to the  
7 conduct and establishment of cooperative fish restoration projects, as defined in  
8 said act of Congress, in compliance with said act and rules and regulations  
9 promulgated thereunder; and no funds accruing to the State of California from  
10 license fees paid by fishermen shall be diverted for any other purpose than the  
11 administration of the Department of Fish and Wildlife and for the protection,  
12 propagation, preservation, and investigation of fish and wildlife.

13    **Comment.** Section 4005 continues former Section 401 without change, except as indicated  
14 below:

15    The following nonsubstantive changes are made:

- 16       • The words “such acts” are replaced with “any acts.”
- 17       • The phrase “fish and game” is replaced with “fish and wildlife.”

18                    **CHAPTER 2. MANAGEMENT OF FISH AND WILDLIFE ON MILITARY LANDS**

19    **§ 4050. Statement of policy**

20    4050. It is the policy of the state to actively encourage the biologically sound  
21 management of fish and other wildlife resources on lands administered by the  
22 United States Department of Defense. The department may develop a program to  
23 implement this chapter in cooperation with the military services.

24    **Comment.** Section 4050 continues former Section 3450 without change, except as indicated  
25 below:

26    The following nonsubstantive change is made:

- 27       • The words “this article” are replaced with “this chapter.”

28    **§ 4055. Coordination and cooperation with military services**

29    4055. The department may coordinate and cooperate with all branches of the  
30 United States military service, Department of Defense, for the purpose of  
31 developing fish and wildlife management plans and programs on military  
32 installations. The plans and programs shall be designed to provide biologically  
33 optimum levels of fish and wildlife resource management and use compatible with  
34 the primary military use of those lands. Military lands involved in programs  
35 developed pursuant to this chapter shall not be available to the general public  
36 without the consent of the military service administering the lands.

37    **Comment.** Section 4055 continues former Section 3451 without change, except as indicated  
38 below:

39    The following nonsubstantive change is made:

- 40       • The words “this article” are replaced with “this chapter.”



- 1 • The words “such areas” are replaced with “areas.”
- 2 • The words “as the United States” are replaced with “that the United States.”
- 3 • The words “such Act” are replaced with “the Act.”
- 4 • The words “such full and complete jurisdiction and authority over all such areas as are not
- 5 incompatible” are replaced with “full and complete jurisdiction and authority over any
- 6 areas that is not incompatible.”
- 7 • The words “within such areas” are replaced with “within those areas.”
- 8 • The words “control of such areas” are replaced with “control of those areas.”

9 **§ 4080. Consent of concerned county**

10 4080. Prior to approval by the commission under Section 4075, the legislative  
11 body of the county concerned shall have given its written consent to the  
12 commission for the proposed acquisition.

13 **Comment.** Section 4080 continues former Section 10681 without change, except as indicated  
14 below:

15 The following nonsubstantive change is made:

- 16 • The words “such approval by the commission” are replaced with “approval by the
- 17 commission under Section 4075.”

18 **§ 4085. Insufficient payments from United States to county**

19 4085. (a) If in any year, on lands hereafter acquired, the in lieu payments from  
20 the United States to the county, pursuant to the provisions of law, do not equal the  
21 taxes assessed on a given project, the department shall pay from income derived  
22 from hunting privileges on the project an amount equal to the balance of the taxes  
23 on the entire project.

24 (b) For the purposes of this section, the taxes on a given project are the assessed  
25 taxes on the project at the time of acquisition, plus any subsequent increases that  
26 may accrue from general county increases in the tax rates, but not subject to re-  
27 evaluation of the project properties after the time of acquisition.

28 **Comment.** Section 4085 continues former Section 10682 without change, except as indicated  
29 below:

30 The following nonsubstantive changes are made:

- 31 • Subdivision designations are added.
- 32 • The words “such project” are replaced with “the project.”

33 **Staff Note.** In the first sentence, the phrase “pursuant to the provisions of law” is ambiguous.  
34 It could refer to the Migratory Bird Conservation Act, this chapter, or both. There is no appellate  
35 decision construing the provision. **The staff requests public input on how to correctly resolve**  
36 **the ambiguity.**

37 **§ 4090. Federal compliance with state law**

38 4090. The consent of the State to the acquisition by the United States of land,  
39 water, or land and water for migratory bird reservations in accordance with this  
40 chapter, is subject to the condition that the United States conform to the laws of  
41 the State relating to the acquisition, control, use, and distribution of water with  
42 respect to the land acquired.

1       **Comment.** Section 4090 continues former Section 10683 without change, except as indicated  
2 below:

3       The following nonsubstantive change is made:

- 4       • The words “this article” are replaced with “this chapter.”

5       **§ 4095. Conditions on continuing consent**

6       4095. The consent contained in Section 4075 continues only so long as the  
7 property continues to belong to the United States and is held by it in accordance  
8 and in compliance with each and all of the conditions and reservations as  
9 prescribed in this chapter, and is used for the purposes for which it was acquired.

10       **Comment.** Section 4095 continues former Section 10684 without change, except as indicated  
11 below:

12       The following nonsubstantive changes are made:

- 13       • The words “this article” are replaced with “this chapter.”
- 14       • A cross-reference to former Section 10680 is updated.

15       **§ 4100. Additional consent**

16       4100. With the approval of the commission, the people of the State, through  
17 their legislative authority, also consent to the declaration, withdrawal, or  
18 determination of any part of any national forest or power site, and do further  
19 consent to the condemnation of any lands lying and being below an elevation  
20 known and described as minus 230-foot elevation below sea level, as a migratory  
21 bird reservation under the provisions of the act of Congress cited in Section 4075.

22       **Comment.** Section 4100 continues former Section 10685 without change, except as indicated  
23 below:

24       The following nonsubstantive change is made:

- 25       • A cross-reference to former Section 10680 is updated.

26                   **PART 2. STATES AND OTHER JURISDICTIONS**

27                   **CHAPTER 1. RECIPROCAL AGREEMENTS WITH ADJOINING STATES**

28       **§ 4150. Reciprocal sport fishing license agreements**

29       4150. The commission, subject to the approval of the Attorney General, may  
30 enter into reciprocal agreements with corresponding state or county official  
31 agencies of adjoining states pertaining to the establishment of a basis whereby  
32 valid sport fishing licenses issued by the parties to the reciprocal agreements may  
33 be used by their licensees within the jurisdiction of either, in accordance with the  
34 terms of the agreements.

35       **Comment.** Section 4150 continues former Section 390 without change, except as indicated  
36 below:

37       The following nonsubstantive change is made:

- 38       • The words “such agreements” are replaced with “the agreements.”

1 **§ 4155. Reciprocal operational agreement with law enforcement**

2 4155. (a) The director, or a designated representative, may enter into reciprocal  
3 operational agreements with authorized representatives of any Oregon, Nevada, or  
4 Arizona state law enforcement agency, including, but not limited to, the Oregon  
5 State Police, the Nevada Department of Wildlife, and the Arizona Game and Fish  
6 Department, to promote expeditious and effective law enforcement service to the  
7 public, and assistance between the members of the department and those agencies,  
8 in areas adjacent to the borders of this state and each of the adjoining states  
9 pursuant to Section 4110.

10 (b) The reciprocal operational agreement shall be in writing and may cover the  
11 reciprocal exchange of law enforcement services, resources, facilities, and any  
12 other necessary and proper matters between the department and the respective  
13 agency.

14 (c) Any agreement shall specify all of the following:

15 (1) The involved departments, divisions, or units of the agencies.

16 (2) The duration and purpose of the agreement.

17 (3) Responsibility for damages.

18 (4) The method of financing any joint or cooperative undertaking.

19 (5) The methods to be employed to terminate an agreement.

20 (d) The director may establish operational procedures in implementation of any  
21 reciprocal operational agreement that are necessary to achieve the purposes of the  
22 agreement.

23 **Comment.** Section 4155 continues former Section 392 without change, except as indicated  
24 below:

25 The following nonsubstantive change is made:

- 26 • A cross-reference to former Section 393 is updated.

27 **§ 4160. Status of law enforcement officers of adjoining states**

28 4160. (a) Any regularly employed law enforcement officer of an Oregon,  
29 Nevada, or Arizona state law enforcement agency, including, but not limited to,  
30 the Oregon State Police, the Nevada Department of Wildlife, or the Arizona Game  
31 and Fish Department, is a peace officer in this state if all of the following  
32 conditions are met:

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

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

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

41 (B) In response to a reasonable belief that emergency law enforcement services  
42 are necessary for the preservation of life, and a request for services by a member

1 of the department is impractical to obtain under the circumstances. In those  
2 situations, the officer shall obtain authorization as soon as practical.

3 (3) The officer is providing, or attempting to provide, law enforcement services  
4 for the purpose of assisting a member of the department in response to  
5 misdemeanor or felony criminal activity, pursuant to the authority of a peace  
6 officer as provided in subdivision (e) of Section 830.2 of the Penal Code, or, in the  
7 event of emergency incidents or other similar public safety problems, whether or  
8 not a member of the department is present at the scene of the event.

9 (4) An agreement pursuant to Section 4105 is in effect between the department  
10 and the agency of the adjoining state employing the officer, the officer acts in  
11 accordance with that agreement, and the agreement specifies that the officer and  
12 employing agency of the adjoining state shall be subject to the same civil  
13 immunities and liabilities as a peace officer and his or her employing agency in  
14 this state.

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

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

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

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

28 **Comment.** Section 4160 continues former Section 393 without change, except as indicated  
29 below:

30 The following nonsubstantive changes are made:

- 31 • A cross-reference to former Section 392 is updated.
- 32 • The term “Department of Fish and Game” is replaced with “department.”

## 33 CHAPTER 2. INFORMATION RELEASE

### 34 § 4170. Release of information to other jurisdictions

35 4170. The department may exchange or release to any appropriate federal, state,  
36 or local agency or agencies in other states, for purposes of law enforcement, any  
37 information collected or maintained by the department under any provision of this  
38 code or any regulation adopted pursuant to this code.

39 **Comment.** Section 4170 continues former Section 391 without change.

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CHAPTER 2. CALIFORNIA-ARIZONA COMPACT

**§ 4175. California-Arizona Compact authorized**

4175. (a) The commission may negotiate the terms of a compact between the States of Arizona and California with any appropriate officials of the State of Arizona in relation to reciprocal privileges and licenses for hunting and fishing by residents of one of the states within the territorial jurisdiction of the other. The negotiations shall include, but shall not be limited to, provisions relating to sport fishing and the hunting of migratory waterfowl in, on, or along the Colorado River.

(b) It is the primary purpose of this section to provide a method whereby the hunting and fishing opportunities afforded by the Colorado River may be mutually enjoyed by the residents of the States of Arizona and California despite the difficulties and inconveniences that result from the fact that the boundary line between the States of Arizona and California is the middle of the channel of the Colorado River.

**Comment.** Section 4175 continues former Section 375 without change, except as indicated below:

The following nonsubstantive change is made:

- Subdivision designations are added.

CHAPTER 3. WILDLIFE VIOLATOR COMPACT

Article 1. General Provisions

**§ 4200. Enactment of Wildlife Violator Compact**

4200. The Wildlife Violator Compact is hereby enacted into law and entered into with all other participating states.

**Comment.** Section 4200 continues former Section 716 without change.

**§ 4205. Statement of policy**

4205. It is the policy of this state in entering into the compact to do all of the following:

(a) Promote compliance with the statutes, ordinances, and administrative rules and regulations relating to the management of wildlife resources in this state.

(b) Recognize the suspension of wildlife license privileges of any person whose license privileges have been suspended by a participating state and treat that suspension as if it had occurred in the licensee’s home state if the violation that resulted in the suspension could have been the basis for suspension in the home state.

(c) Allow a violator, except as provided in subdivision (b) of Section 4400, to accept a wildlife citation and, without delay or detention, proceed on his or her

1 way whether or not the violator is a resident of the state in which the citation was  
2 issued, if the violator’s home state is a party to this compact.

3 (d) Report to the appropriate participating states, as provided in the compact  
4 manual, any conviction recorded against any person whose home state was not the  
5 issuing state.

6 (e) Allow the home state to recognize and treat convictions recorded against its  
7 residents, if those convictions occurred in a participating state, as though they had  
8 occurred in the home state.

9 (f) Extend cooperation to its fullest extent among the participating states for  
10 enforcing compliance with the terms of a wildlife citation issued in one  
11 participating state to a resident of another participating state.

12 (g) Maximize effective use of law enforcement personnel and information.

13 (h) Assist court systems in the efficient disposition of wildlife violations.

14 **Comment.** Section 4205 continues former Section 716.1 without change, except as indicated  
15 below:

16 The following nonsubstantive change is made:

- 17 • A cross-reference to former Section 716.4 is updated.

#### 18 § 4210. Purposes of chapter

19 4210. The purposes of this chapter include both of the following:

20 (a) To provide a means by which participating states may join in a reciprocal  
21 program to effectuate the policies enumerated in Section 4205 in a uniform and  
22 orderly manner.

23 (b) To provide for the fair and impartial treatment of wildlife violators operating  
24 within participating states in recognition of the violator’s right to due process and  
25 the sovereign status of the participating states.

26 **Comment.** Section 4210 continues former Section 716.2 without change, except as indicated  
27 below:

28 The following nonsubstantive change is made:

- 29 • A cross-reference to former Section 716.1 is updated.

## 30 Article 2. Definitions

#### 31 § 4250. Application of article

32 4250. The definitions in this article govern the construction of this chapter.

33 **Comment.** Section 4250 restates the introductory clause of former Section 716.3 without  
34 substantive change.

#### 35 § 4255. “Board”

36 4255. “Board” means the board of compact administrators established pursuant  
37 to Section 4500.

38 **Comment.** Section 4255 continues former Section 716.3(a) without change, except as  
39 indicated below:

40 The following nonsubstantive change is made:

- 1       • A cross-reference to former Section 716.8 is updated.

2   **§ 4260. “Citation”**

3       4260. “Citation” means any summons, complaint, ticket, penalty assessment, or  
4 other official document issued to a person by a wildlife officer or other peace  
5 officer for a wildlife violation pertaining to sport fishing, hunting, or trapping,  
6 which contains an order requiring the person to respond.

7       **Comment.** Section 4260 continues former Section 716.3(b) without change.

8   **§ 4265. “Collateral”**

9       4265. “Collateral” means any cash or other security deposited to secure an  
10 appearance for trial in connection with the issuance by a wildlife officer or other  
11 peace officer of a citation for a wildlife violation.

12       **Comment.** Section 4265 continues former Section 716.3(c) without change.

13   **§ 4270. “Compact manual”**

14       4270. “Compact manual” is a manual used and adopted by the participating  
15 states that prescribes the procedures to be followed in administering the wildlife  
16 violator compact in participating states.

17       **Comment.** Section 4270 continues former Section 716.3(d) without change.

18   **§ 4275. “Compliance”**

19       4275. “Compliance,” with respect to a citation, means the act of answering a  
20 citation through an appearance in a court or tribunal, or through the payment of  
21 fines, penalties, costs, and surcharges, if any.

22       **Comment.** Section 4275 continues former Section 716.3(e) without change.

23   **§ 4280. “Conviction”**

24       4280. “Conviction” means a conviction, including, but not limited to, any court  
25 conviction for an offense related to sport fishing, hunting, or trapping, that is  
26 prohibited by statute, ordinance, or administrative rule or regulation, that involves  
27 the forfeiture of any bail, bond, or other security deposited to secure appearance  
28 by a person charged with having committed an offense, the payment of a penalty  
29 assessment, a plea of nolo contendere, and the imposition of a deferred or  
30 suspended sentence by the court.

31       **Comment.** Section 4280 continues former Section 716.3(f) without change, except as indicated  
32 below:

33       The following nonsubstantive change is made:

- 34       • The words “any such offense” are replaced with “an offense.”

35   **§ 4285. “Court”**

36       4285. “Court” means a court of law, including magistrate’s court and the justice  
37 of the peace court.

1       **Comment.** Section 4285 continues former Section 716.3(g) without change.

2       **§ 4290. “Home state”**

3       4290. “Home state” means the state of primary residence of a person.

4       **Comment.** Section 4290 continues former Section 716.3(h) without change.

5       **§ 4295. “Issuing state”**

6       4295. “Issuing state” means the participating state that issues a wildlife citation  
7 to the violator.

8       **Comment.** Section 4295 continues former Section 716.3(i) without change.

9       **§ 4300. “License”**

10       4300. “License” means any license, permit, entitlement to use, or other public  
11 document that conveys to the person to whom it is issued the privilege of sport  
12 fishing, hunting, or trapping, that is regulated by statute, ordinance, or  
13 administrative rule or regulation of a participating state.

14       **Comment.** Section 4300 continues former Section 716.3(j) without change.

15       **§ 4305. “Licensing authority”**

16       4305. “Licensing authority,” with reference to this state, means the department,  
17 which is the state agency authorized by law to issue or approve licenses or permits  
18 to sport fish, hunt, or trap.

19       **Comment.** Section 4305 continues former Section 716.3(k) without change, except as  
20 indicated below:

21       The following nonsubstantive change is made:

- 22       • The term “Department of Fish and Game ” is replaced with “department.”

23       **§ 4310. “Participating state”**

24       4310. “Participating state” means any state that enacts legislation to become a  
25 member of the wildlife compact.

26       **Comment.** Section 4310 continues former Section 716.3(l) without change.

27       **§ 4315. “Personal recognizance”**

28       4315. “Personal recognizance” means an agreement by a person made at the  
29 time of issuance of the wildlife citation that the person will comply with the terms  
30 of the citation.

31       **Comment.** Section 4315 continues former Section 716.3(m) without change.

32       **§ 4320. “State”**

33       4320. “State” means any state, territory, or possession of the United States, the  
34 District of Columbia, the Commonwealth of Puerto Rico, the Provinces of Canada,  
35 and other countries.

36       **Comment.** Section 4320 continues former Section 716.3(n) without change.

1    **§ 4325. “Suspension”**

2    4325. “Suspension” means any revocation, denial, or withdrawal of any or all  
3 license privileges, including the privilege to apply for, purchase, or exercise the  
4 benefits conferred by any license for sport fishing, hunting, or trapping.

5    **Comment.** Section 4325 continues former Section 716.3(o) without change.

6    **§ 4330. “Terms of the citation”**

7    4330. “Terms of the citation” means those conditions and options expressly  
8 stated upon a citation.

9    **Comment.** Section 4330 continues former Section 716.3(p) without change.

10   **§ 4335. “Wildlife”**

11   4335. “Wildlife” means all species of animals including, but not limited to,  
12 mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are  
13 defined as “wildlife” and are protected or otherwise regulated by statute,  
14 ordinance, or administrative rule or regulation in a participating state. The species  
15 included in the definition of “wildlife” vary from state to state and the  
16 determination of whether a species is “wildlife” for the purposes of this compact  
17 shall be based on the law of the participating state.

18   **Comment.** Section 4335 continues former Section 716.3(q) without change.

19   **§ 4340. “Wildlife law”**

20   4340. “Wildlife law” means any statute, regulation, ordinance, or administrative  
21 rule or regulation developed and enacted for the management of wildlife resources  
22 and the uses thereof.

23   **Comment.** Section 4340 continues former Section 716.3(r) without change.

24   **§ 4345. “Wildlife officer”**

25   4345. “Wildlife officer” means any individual authorized in this state to issue a  
26 citation for a wildlife violation.

27   **Comment.** Section 4345 continues former Section 716.3(s) without change.

28   **§ 4350. “Wildlife violation”**

29   4350. “Wildlife violation” means the violation of a statute, ordinance, or  
30 administrative rule or regulation developed and enacted for the management of  
31 wildlife resources and the uses thereof pertaining to sport fishing, hunting, and  
32 trapping and for which a prosecution is initiated.

33   **Comment.** Section 4350 continues former Section 716.3(t) without change.

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### Article 3. Issuing State Violation Procedures

2 **§ 4400. Issuance of citation**

3 4400. (a) Notwithstanding any other provision of law, when issuing a citation  
4 for a wildlife violation for purposes of this chapter, a wildlife officer of the issuing  
5 state may issue a citation to any person whose primary residence is in a  
6 participating state in the same manner as though the person were a resident of the  
7 issuing state, and shall not require that person to post collateral to secure  
8 appearance, except as provided in subdivision (b), if the officer receives the  
9 personal recognizance of the person that he or she will comply with the terms of  
10 the citation.

11 (b) Personal recognizance is acceptable unless prohibited by ordinance of a city  
12 or county, the policy of the issuing agency, a procedure or regulation, or by the  
13 compact manual, and only if the violator provides adequate proof of identification  
14 to the wildlife officer.

15 (c) Upon conviction or failure of a person to comply with the terms of a wildlife  
16 citation, the appropriate wildlife officer shall report the conviction or failure to  
17 comply to the licensing authority of the participating state in which the wildlife  
18 citation was issued. The report shall be made in accordance with procedures  
19 specified by the issuing state, and shall contain information as prescribed in the  
20 compact manual.

21 (d) Upon receipt of the report of conviction or noncompliance pursuant to  
22 subdivision (c), the licensing authority of the issuing state shall transmit to the  
23 licensing authority of the home state of the violator the information in the form  
24 and content prescribed in the compact manual.

25 **Comment.** Section 4400 continues former Section 716.4 without change.

26

### Article 4. Home State Procedures

27 **§ 4425. Action by home state**

28 4425. (a) Upon receipt of a report from the licensing authority of the issuing  
29 state reporting the failure of a violator to comply with the terms of a citation, the  
30 licensing authority shall notify the violator and shall initiate a suspension action.  
31 The licensing authority shall suspend the violator's license privileges, in  
32 accordance with the requirements of due process, until satisfactory evidence of  
33 compliance with the terms of the wildlife citation has been furnished to the  
34 licensing authority.

35 (b) Upon receipt of a report of conviction from the licensing authority of the  
36 issuing state, the licensing authority of the home state may enter that conviction in  
37 its records and may treat the conviction as though it occurred in the home state for  
38 the purposes of the suspension of license privileges, if the violation that resulted in  
39 the conviction would constitute a wildlife violation in the home state.

1 (c) The licensing authority of the home state shall maintain a record of actions  
2 taken and shall make reports to issuing states as provided in the compact manual.

3 **Comment.** Section 4425 continues former Section 716.5 without change.

#### 4 Article 5. Reciprocal Recognition of Suspension

##### 5 **§ 4450. Recognition of suspension in other state**

6 4450. (a) As a participating member of the wildlife violator compact, the  
7 licensing authority of this state may recognize the suspension of license privileges  
8 of any person by any participating state if both of the following occur:

9 (1) The violation that resulted in the conviction would constitute a wildlife  
10 violation in this state.

11 (2) The conviction that resulted in the suspension could have been the basis for  
12 suspension under the statutes, ordinances, or administrative rules or regulations of  
13 this state.

14 (b) The licensing authority shall communicate suspension information to other  
15 participating states in the form and content prescribed by the compact manual.

16 **Comment.** Section 4450 continues former Section 716.6 without change.

#### 17 Article 6. Applicability of Other Laws

##### 18 **§ 4475. Right of participating state to apply its own laws**

19 4475. Except as expressly required by this chapter, this chapter shall not be  
20 construed to affect the right of any participating state to apply any of its statutes,  
21 ordinances, or administrative rules or regulations relating to license privileges to  
22 any person or circumstance, or to invalidate or prevent any agreement or other  
23 cooperative arrangement between a participating state and a nonparticipating state,  
24 concerning wildlife law enforcement.

25 **Comment.** Section 4475 continues former Section 716.7 without change.

#### 26 Article 7. Compact Administrator Procedures

##### 27 **§ 4500. Establishment, duties, and powers**

28 4500. (a)(1) A board of compact administrators is hereby established to serve as  
29 a governing body for the resolution of all matters relating to the operation of this  
30 compact. The board shall be composed of one member from each of the  
31 participating states to be known as the compact administrator.

32 (2) A compact administrator of any participating state may provide for the  
33 discharge of his or her duties and the performance of his or her functions as a  
34 board member by an alternate, designated by that member. An alternate is not  
35 entitled to serve unless written notification of his or her identity is provided to the  
36 board.

1 (3) The compact administrator for this state shall be appointed by the director  
2 and shall serve, and be subject to removal, in accordance with the laws of this  
3 state.

4 (b) Each member of the board is entitled to one vote. No action of the board  
5 shall be binding unless taken at a meeting at which a majority of the membership  
6 of the board vote in favor thereof. Action by the board may only be taken at a  
7 meeting at which a majority of the membership of the board is present.

8 (c) The board shall elect annually from its membership a chairperson and vice  
9 chairperson.

10 (d) The board shall adopt bylaws, not inconsistent with this compact, and may  
11 amend and rescind the bylaws.

12 (e) The board may accept for any of its purposes and functions under this  
13 compact any donation and grant of money, equipment, supplies, materials, and  
14 services, conditional or otherwise, from any state, the United States, or any  
15 governmental agency, and may receive, utilize, and dispose thereof.

16 (f) The board may contract with, or accept services or personnel from, any  
17 governmental or intergovernmental agency, individual, firm, or corporation,  
18 including any private nonprofit organization or institution.

19 (g) The board shall formulate all necessary procedures and develop uniform  
20 forms and documents for administering this compact. All procedures and forms  
21 adopted pursuant to board action shall be contained in a compact manual.

22 **Comment.** Section 4500 continues former Section 716.8 without change.

## 23 Article 8. Entry Into Compact and Withdrawal

### 24 § 4525. Application of compact

25 4525. (a) This chapter shall become effective when it is adopted in substantially  
26 similar form by this state and one or more other states, subject to the following  
27 conditions:

28 (1) The entry into the compact shall be made by resolution executed and ratified  
29 by authorized officials of the applying state and submitted to the chairperson of  
30 the board of contract administrators.

31 (2) The resolution shall substantially be in the form and content as provided in  
32 the compact manual, and shall include all of the following:

33 (A) A citation of the authority authorizing the state to become a party to this  
34 compact.

35 (B) An agreement to comply with the terms and provisions of this compact.

36 (C) An agreement that the state entering into the compact agrees to participate  
37 with all participating states in the compact.

38 (b) The effective date of entry into the compact shall be specified by the  
39 applying state but shall not be less than 60 days after notice has been given by  
40 either the chairperson or secretary of the board to each participating state that the  
41 resolution from the applying state has been received.

1 (c) A participating state may withdraw from participation in this compact by  
2 giving written notice to the compact administrator of each participating state. The  
3 withdrawal shall not become effective until 90 days from the date on which the  
4 written notice of withdrawal is sent to each participating state. The withdrawal of  
5 any state shall not affect the validity of this compact as to the remaining  
6 participating states.

7 **Comment.** Section 4525 continues former Section 716.9 without change, except as indicated  
8 below:

9 The following nonsubstantive change is made:

- 10 • The words “at such time as” are replaced with “when.”

## 11 Article 9. Amendments to the Compact

### 12 § 4550. Amendment

13 4550. (a) This compact may be amended periodically. Amendments shall be  
14 presented in resolution form to the chairperson of the board, and shall be initiated  
15 by one or more participating states.

16 (b) The adoption of an amendment requires endorsement by all participating  
17 states and becomes effective 30 days after the date of the last endorsement.

18 (c) The failure of any participating state to respond to the appropriate authority  
19 within 60 days after receipt of a proposed amendment constitutes endorsement  
20 thereof.

21 **Comment.** Section 4550 continues former Section 717 without change.

## 22 Article 10. Construction and Severability

### 23 § 4575. Liberal construction

24 4575. This compact shall be liberally construed to effectuate its purposes.

25 **Comment.** Section 4575 continues former Section 717.1 without change.

### 26 § 4580. Severability

27 4580. The provisions of this chapter are severable. If any provision of this  
28 chapter or its application is held invalid or contrary to the constitution of any  
29 participating state or of the United States, that invalidity shall not affect other  
30 provisions or applications that can be given effect without the invalid provision or  
31 application.

32 **Comment.** Section 4580 continues former Section 717.2 without change.

1

## CHAPTER 4. PACIFIC MARINE FISHERIES COMPACT

2

### Article 1. The Compact

3 **§ 4600. Authority to execute compact**

4 4600. The Governor is hereby authorized and directed to execute a compact on  
5 behalf of this state with any or all of the States of Alaska, Idaho, Oregon and  
6 Washington for the purpose of cooperating with those states in the formation of a  
7 Pacific States Marine Fisheries Commission.

8 **Comment.** Section 4600 continues former Section 14000 without change.

9 **§ 4605. Form and content of compact**

10 4605. The form and contents of the Pacific Marine Fisheries Compact shall be  
11 substantially as provided in this section and the effect of its provisions shall be  
12 interpreted and administered in conformity with the provisions of this chapter:

13 PACIFIC MARINE FISHERIES COMPACT

14 The contracting states do hereby agree as follows:

15 Article I

16 The purposes of this compact are and shall be to promote the better utilization of  
17 fisheries, marine, shell and anadromous, which are of mutual concern, and to  
18 develop a joint program of protection and prevention of physical waste of those  
19 fisheries in all of those areas of the Pacific Ocean over which the compacting  
20 states jointly or separately now have or may hereafter acquire jurisdiction.

21 Nothing herein contained shall be construed so as to authorize the compacting  
22 states or any of them to limit the production of fish or fish products for the purpose  
23 of establishing or fixing the prices thereof or creating and perpetuating a  
24 monopoly.

25 Article II

26 This agreement shall become operative immediately as to those states executing  
27 it in the form that is in accordance with the laws of the executing state and when  
28 the Congress has given its consent.

29 Article III

30 Each state joining herein shall appoint, as determined by state statutes, one or  
31 more representatives to a commission hereby constituted and designated as the  
32 Pacific States Marine Fisheries Commission, of whom one shall be the

1 administrative or other officer of the agency of that state charged with the  
2 conservation of the fisheries resources to which this compact pertains. This  
3 commission shall be invested with the powers and duties set forth herein.

4 The term of each commissioner of the Pacific States Marine Fisheries  
5 Commission shall be four years. A commissioner shall hold office until a  
6 successor shall be appointed and qualified but the successor's term shall expire  
7 four years from legal date of expiration of the term of the predecessor. Vacancies  
8 occurring in the office of a commissioner from any reason or cause shall be filled  
9 for the unexpired term, or a commissioner may be removed from office, as  
10 provided by the statutes of the state concerned. Each commissioner may delegate  
11 in writing from time to time, to a deputy, the power to be present and participate,  
12 including voting as a representative or substitute, at any meeting of or hearing by  
13 or other proceeding of the commission.

14 Voting powers under this compact shall be limited to one vote for each state  
15 regardless of the number of representatives.

#### 16 Article IV

17 The duty of the said commission shall be to make inquiry and ascertain from  
18 time to time any methods, practices, circumstances and conditions as may be  
19 disclosed for bringing about the conservation and the prevention of the depletion  
20 and physical waste of the fisheries, marine, shell, and anadromous in all of those  
21 areas of the Pacific Ocean over which the states signatory to this compact jointly  
22 or separately now have or may hereafter acquire jurisdiction. The commission  
23 shall have power to recommend the coordination of the exercise of the police  
24 powers of the several states within their respective jurisdictions and said  
25 conservation zones to promote the preservation of those fisheries and their  
26 protection against overfishing, waste, depletion or any abuse whatsoever and to  
27 assure a continuing yield from the fisheries resources of the signatory parties  
28 hereto.

29 To that end the commission shall draft and, after consultation with the advisory  
30 committee hereinafter authorized, recommend to the governors and legislative  
31 branches of the various signatory states hereto legislation dealing with the  
32 conservation of the marine, shell, and anadromous fisheries in all of those areas of  
33 the Pacific Ocean over which the states signatory to this compact jointly or  
34 separately now have or may hereafter acquire jurisdiction. The commission shall,  
35 more than one month prior to any regular meeting of the legislative branch in any  
36 state signatory hereto, present to the governor of that state its recommendations  
37 relating to enactments by the legislative branch of that state in furthering the  
38 intents and purposes of this compact.

39 The commission shall consult with and advise the pertinent administrative  
40 agencies in the signatory states with regard to problems connected with the

1 fisheries and recommend the adoption of any regulations that it deems advisable  
2 and which lie within the jurisdiction of the agencies.

3 The commission shall have power to recommend to the states signatory hereto  
4 the stocking of the waters of the states with marine, shell or anadromous fish and  
5 fish eggs or joint stocking by some or all of the states and when two or more of the  
6 said states shall jointly stock waters the commission shall act as the coordinating  
7 agency for the stocking.

8 Article V

9 The commission shall elect from its number a chairperson and a vice  
10 chairperson and shall appoint and at its pleasure remove or discharge any officers  
11 and employees as may be required to carry the provisions of this compact into  
12 effect and shall fix and determine their duties, qualifications and compensation.  
13 Said commission shall adopt rules and regulations for the conduct of its business.  
14 It may establish and maintain one or more offices for the transaction of its  
15 business and may meet at any time or place within the territorial limits of the  
16 signatory states but must meet at least once a year.

17 Article VI

18 No action shall be taken by the commission except by the affirmative vote of a  
19 majority of the whole number of compacting states represented at any meeting. No  
20 recommendation shall be made by the commission in regard to any species of fish  
21 except by the vote of a majority of the compacting states which have an interest in  
22 the species.

23 Article VII

24 The fisheries research agencies of the signatory states shall act in collaboration  
25 as the official research agency of the Pacific States Marine Fisheries Commission.

26 An advisory committee to be representative of the commercial fishers,  
27 commercial fishing industry and any other interests of each state as the  
28 commission deems advisable shall be established by the commission as soon as  
29 practicable for the purpose of advising the commission upon any  
30 recommendations as it may desire to make.

31 Article VIII

32 Nothing in this compact shall be construed to limit the powers of any state or to  
33 repeal or prevent the enactment of any legislation or the enforcement of any  
34 requirement by any state imposing additional conditions and restrictions to  
35 conserve its fisheries.

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## Article IX

Continued absence of representation or of any representative on the commission from any state party hereto, shall be brought to the attention of the governor thereof.

## Article X

The states agree to make available annual funds for the support of the commission on the following basis:

Eighty percent of the annual budget shall be shared equally by those member states having as a boundary the Pacific Ocean. Not less than 5 percent of the annual budget shall be contributed by any other member state. The balance of the annual budget shall be shared by those member states having as a boundary the Pacific Ocean, in proportion to the primary market value of the products of their commercial fisheries on the basis of the latest five-year catch records.

The annual contribution of each member state shall be figured to the nearest one hundred dollars (\$100).

## Article XI

This compact shall continue in force and remain binding upon each state until renounced by it. Renunciation of this compact must be preceded by sending six months' notice in writing of intention to withdraw from the compact to the other parties hereto.

## Article XII

Hawaii or any other state having rivers or streams tributary to the Pacific Ocean may become a contracting state by enactment of the Pacific Marine Fisheries Compact. Upon admission of any new state to the compact, the purposes of the compact and the duties of the commission shall extend to the development of joint programs for the conservation, protection and prevention of physical waste of fisheries in which the contracting states are mutually concerned and to all waters of the newly admitted state necessary to develop the programs.

This compact shall become effective upon its enactment by the states signatory to this compact and upon ratification by Congress by virtue of the authority vested in it under Article 1, Section 10, of the Constitution of the United States.

**Comment.** Section 4605 continues former Section 14001 without change, except as indicated below:

The following nonsubstantive changes are made:

- The words “this division” are replaced with “this chapter.”
- In Article I, the words “such fisheries” are replaced with “those fisheries.”
- In Article III, the words “such state” are replaced with “that state,” the words “his successor” are replaced with “a successor,” the words “his predecessor” are replaced with “the predecessor,” the words “such successor’s” are replaced with “the successor’s,” the

1 words “such commissioner” are replaced with “a commissioner,” the words “such officers”  
2 are replaced with “any officers,” and the words “his representative” are replaced with “a  
3 representative.”

- 4 • In Article IV, the words “such methods” are replaced with “any methods,” the words “such  
5 state” are replaced with “that state,” the words “such regulations as” are replaced with “any  
6 regulations that,” the words “such agencies” are replaced with “the agencies,” the words  
7 “such states” are replaced with “the states,” and the words “such stocking” are replaced  
8 with “the stocking.”
- 9 • In Article V, the words “chairman” and “vice chairman” are replaced with “chairperson”  
10 and “vice chairperson,” respectively.
- 11 • In Article VI, the words “such species” are replaced with “the species.”
- 12 • In Article VII, the word “fishermen” is replaced with “fishers,” the words “such other  
13 interests” are replaced with “any other interests,” and the words “such recommendations”  
14 are replaced with “any recommendations.”
- 15 • In Article XII, the words “such programs” are replaced with “the programs.”

16 **§ 4610. Operation of compact**

17 4610. Participation by this State in this compact shall continue until the  
18 Legislature otherwise provides by law. Notice of intention to withdraw from the  
19 compact shall be executed and transmitted by the Governor after the Legislature  
20 provides by law for discontinuance of participation therein by this State.

21 **Comment.** Section 4610 continues former Section 14002 without change, except as indicated  
22 below:

23 The following nonsubstantive change is made:

- 24 • The words “such compact” are replaced with “the compact.”

25 **Article 2. The Commission**

26 **§ 4625. Members**

27 4625. In furtherance of the provisions contained in the compact there shall be  
28 three members of the Pacific States Marine Fisheries Commission from the State  
29 of California, appointed by the Governor by and with the advice and consent of  
30 the Senate. One commissioner shall be the administrative or other officer of the  
31 department or agency of this state charged with the conservation of its marine  
32 fisheries resources. Another commissioner shall be a Member of the Legislature of  
33 this state who is a member of a committee on interstate cooperation of the  
34 Legislature. Another member shall be a citizen of this state who shall have wide  
35 knowledge of and interest in the marine fisheries problem.

36 **Comment.** Section 4625 continues former Section 14100 without change, except as indicated  
37 below:

38 The following nonsubstantive changes are made:

- 39 • The word “such” is omitted.
- 40 • The final sentence is divided into three sentences.
- 41 • The words “said Legislature” are replaced with “Legislature.”

1    **§ 4630. Term**

2    4630. The term of each commissioner shall be four years. A commissioner shall  
3 hold office until a successor shall be appointed and qualified but the successor’s  
4 term shall expire four years from the legal date of expiration of the term of the  
5 predecessor. Any commissioner may be removed from office by the Governor  
6 upon charges and after a hearing. The term of any commissioner who ceases to  
7 hold the qualifications required shall terminate when a successor may be duly  
8 appointed. Vacancies occurring in the office of a commissioner from any reason or  
9 cause shall be filled for the unexpired term in the same manner as for a full term  
10 appointment.

11    **Comment.** Section 4630 continues former Section 14101 without change, except as indicated  
12 below:

13    The following nonsubstantive changes are made:

- 14       • The words “his successor” are replaced with “a successor.”
- 15       • The words “such successor’s” are replaced with “the successor’s.”
- 16       • The words “his predecessor” are replaced with “the predecessor.”

17    **§ 4635. Compensation**

18    4635. Each commissioner who is not also a state officer shall receive one  
19 hundred dollars (\$100) for each day of actual service performed in carrying out  
20 official duties pursuant to the directions of the commission, and each  
21 commissioner shall receive actual and necessary travel expenses incurred in the  
22 performance of official duties in behalf of the commission.

23    **Comment.** Section 4635 continues former Section 14102 without change, except as indicated  
24 below:

25    The following nonsubstantive changes are made:

- 26       • The words “his official” are replaced with “official.”
- 27       • The words “his actual” are replaced with “actual.”
- 28       • The \$10 per diem allowance is increased to \$100, pursuant to Government Code Section  
29       11564.5.

30    **Staff Note.** Section 14102 provides for a per diem of \$10. That provision appears to be  
31 obsolete. See Gov’t Code § 11564.5 (default per diem is \$100, notwithstanding any other  
32 provision of law). Proposed Section 4635 provides for the \$100 per diem provided under the  
33 Government Code. **The staff invites public comment on whether this revision would be**  
34 **consistent with existing practice.**

35    **§ 4640. Performance**

36    4640. All officers of the State are authorized and directed to do all things falling  
37 within their respective provinces and jurisdiction necessary or incidental to the  
38 carrying out of the compact in every particular. The policy of this State is to  
39 perform and carry out the compact and to accomplish the purposes thereof. All  
40 officers, bureaus, departments, and persons of and in the State Government or  
41 administration of the State are hereby authorized and directed at convenient times  
42 and upon request of the commission to furnish the commission with information

1 and data possessed by them and to aid the commission by any means lying within  
2 their legal rights.

3 **Comment.** Section 4640 continues former Section 14103 without change, except as indicated  
4 below:

5 The following nonsubstantive change is made:

- 6 • A comma is added after “departments.”

7 **§ 4645. Annual report**

8 4645. The commission shall keep accurate accounts of its activities and shall  
9 report to the Governor and the Legislature on or before the thirty–first day of  
10 December in each year, setting forth in detail the transactions conducted by it  
11 during that calendar year and shall make recommendations for any legislative  
12 action deemed by it advisable, including amendments to the statutes that may be  
13 necessary to carry out the intent and purposes of the compact between the  
14 signatory states.

15 **Comment.** Section 4645 continues former Section 14104 without change, except as indicated  
16 below:

17 The following nonsubstantive change is made:

- 18 • The word “which” is replaced with “that.”

19 **§ 4650. Execution of compact**

20 4650. When the Governor on behalf of the State executes the compact, the  
21 Governor shall sign under a recital that the compact is executed pursuant to the  
22 provisions thereof, subject to the limitations and qualifications contained in the  
23 sections of this chapter in aid and furtherance thereof.

24 **Comment.** Section 4650 continues former Section 14105 without change, except as indicated  
25 below:

26 The following nonsubstantive changes are made:

- 27 • The words “such compact” are replaced with “the compact.”
- 28 • The word “he” is replaced with “the Governor.”
- 29 • The words “attach his signature thereto” are replaced with “sign.”
- 30 • The words “this division” are replaced with “this chapter.”

31 **PART 3. TRIBAL GOVERNMENTS**

32 **CHAPTER 1. STATE-TRIBAL AGREEMENTS GOVERNING INDIAN FISHING**

33 **Article 1. Legislative Findings**

34 **§ 4700. Findings**

35 4700. The Legislature finds:

1 (a) Jurisdiction over the protection and development of natural resources,  
2 especially the fish resource, is of great importance to both the State of California  
3 and California Indian tribes.

4 (b) To California Indian tribes, control over their minerals, lands, water,  
5 wildlife, and other resources is crucial to their economic self-sufficiency and the  
6 preservation of their heritage. On the other hand, the State of California is  
7 concerned about protecting and developing its resources; protecting, restoring, and  
8 developing its commercial and recreational salmon fisheries; ensuring public  
9 access to its waterways; and protecting the environment within its borders.

10 (c) More than any other issue confronting the State of California and California  
11 Indian tribes, the regulation of natural resources, especially fish, transcends  
12 political boundaries.

13 (d) In many cases, the State of California and California Indian tribes have  
14 differed in their respective views of the nature and extent of state versus tribal  
15 jurisdiction in areas where Indians have historically fished. Despite these frequent  
16 and often bitter disputes, both the state and the tribes seek, as their mutual goal,  
17 the protection and preservation of the fish resource. This chapter is an attempt to  
18 provide a legal mechanism, other than protracted and expensive litigation over  
19 unresolved legal issues, for achieving that mutual goal.

20 (e) This chapter creates a pilot project that will involve and encourage the efforts  
21 of the State of California and the Covelo Indian Community of the Round Valley  
22 Indian Reservation to reach a mutual agreement regarding the legal framework for  
23 the exercise of Indian subsistence fishing in the boundary streams of the historic  
24 1873 Round Valley Indian Reservation. It is hoped that this pilot project, if  
25 successful, will provide the incentive for enactment of broader legislation that  
26 would authorize similar negotiated agreements with other California Indian tribes.

27 **Comment.** Section 4700 continues former Section 16000 without change, except as indicated  
28 below:

29 The following nonsubstantive change is made:

- 30 • The words “this division” are replaced with “this chapter.”

31 **Article 2. Definitions**

32 **§ 4710. Application**

33 4710. The definition in this article shall govern the construction of this chapter.

34 **Comment.** Section 4710 continues former Section 16001 without change except as indicated  
35 below:

36 The following nonsubstantive change is made:

- 37 • The words “this chapter” are replaced with “this article.”  
38 • The words “this division” are replaced with “this chapter.”

1    **§ 4715. “Covelo Indian Community”**

2       4715. “Covelo Indian Community” means the confederated tribes of the Round  
3 Valley Indian Reservation located in Mendocino County, California, recognized as  
4 an Indian tribe by the Secretary of the Interior.

5       **Comment.** Section 4715 continues former Section 16002 without change.

6    **§ 4720. “Take”**

7       4720. “Take” means pursue, catch, capture, or kill, or attempt to pursue, catch,  
8 capture, or kill.

9       **Comment.** Section 4720 continues former Section 16003 without change.

10    **☞ Staff Note.** The definition in Section 16003 is nearly identical to the definition in Section 86,  
11 which applies to the entire code (Section 86 adds the word “hunt” to the list of verbs used in the  
12 definition). **Can Section 16003 be omitted in reliance on Section 86?**

13    **§ 4725. “Traditional Indian fishing practice”**

14       4725. “Traditional Indian fishing practice” means a mode, method, or way of  
15 taking fish that is recognized in the customs and traditions of the Covelo Indian  
16 Community.

17       **Comment.** Section 4725 continues former Section 16004 without change.

18    **§ 4730. “Historic 1873 Round Valley Indian Reservation”**

19       4730. “Historic 1873 Round Valley Indian Reservation” means the reservation  
20 described and set aside by Congress for the Covelo Indian Community in the Act  
21 of March 3, 1873 (17 Stat. 633).

22       **Comment.** Section 4730 continues former Section 16005 without change.

23                                   Article 3. Negotiation and Approval of Agreement

24    **§ 4750. Agreement**

25       4750. Subject to the approval of the commission, the department may enter into  
26 a mutual agreement or compact with the Covelo Indian Community respecting  
27 jurisdiction and authority to regulate traditional Indian subsistence fishing  
28 practices in the boundary streams of the historic 1873 Round Valley Indian  
29 Reservation.

30       **Comment.** Section 4750 continues former Section 16006 without change.

31    **§ 4755. Commission review**

32       4755. Any agreement or compact entered into pursuant to Section 4750 shall be  
33 submitted by the department to the commission for review and approval.

34       **Comment.** Section 4755 continues former Section 16007 without change, except as indicated  
35 below:

36       The following nonsubstantive change is made:

- 37       • A cross-reference to Section 16006 is updated.

1    **§ 4760. Commission approval**

2       4760. Any agreement or compact entered into pursuant to Section 4750 shall not  
3    be effective until they are approved by the commission. The commission may  
4    consider and approve an agreement or compact at any of its regular or special  
5    meetings.

6       **Comment.** Section 4760 continues former Section 16008 without change, except as indicated  
7    below:

8       The following nonsubstantive change is made:

- 9
  - A cross-reference to Section 16006 is updated.

10   **§ 4765. Commission meeting**

11       4765. The commission shall give notice of the time and place of any meeting at  
12    which the approval of an agreement or compact entered into under this chapter  
13    will be considered by publishing prior notice in any publication issued by the  
14    Resources Agency or the department after determining the time and place of the  
15    meeting. The commission shall make copies of the proposed agreement or  
16    compact available to the public on request and the notice shall contain a statement  
17    to that effect. All meetings required by this section shall be open to the public.

18       **Comment.** Section 4765 continues former Section 16009 without change, except as indicated  
19    below:

20       The following nonsubstantive change is made:

- 21
  - The words “this division” are replaced with “this chapter.”

22                                    Article 4. Enforceability of an Agreement or Compact

23   **§ 4775. Enforcement**

24       4775. Any agreement or compact entered into pursuant to this chapter shall be  
25    enforceable by the parties only to the extent and in the forum or forums provided  
26    for under the terms of the agreement or compact.

27       **Comment.** Section 4775 continues former Section 16010 without change, except as indicated  
28    below:

29       The following nonsubstantive change is made:

- 30
  - The words “this division” are replaced with “this chapter.”

31   **§ 4780. Regulations**

32       4780. The department may promulgate regulations consistent with the  
33    provisions of any agreement or compact entered into pursuant to Section 4750.  
34    The application and enforcement of those regulations shall be in accordance with  
35    the express provisions of the agreement or compact.

36       **Comment.** Section 4780 continues former Section 16011 without change except as indicated  
37    below:

38       The following nonsubstantive change is made:

- 39
  - A cross-reference to Section 16006 is updated.

1                   CHAPTER 2. STATE-TRIBAL AGREEMENTS GOVERNING INDIAN  
2                   FISHING ON THE KLAMATH RIVER

3                   Article 1. Legislative Findings

4   **§ 4800. Findings**

5       4800. The Legislature finds:

6       (a) Jurisdiction over the protection and development of natural resources,  
7 especially the fish resource, is of great importance to both the State of California  
8 and California Indian tribes.

9       (b) To California Indian tribes, control over their minerals, lands, water,  
10 wildlife, and other resources within Indian country is crucial to their economic  
11 self-sufficiency and the preservation of their heritage. On the other hand, the State  
12 of California is concerned about protecting and developing its resources;  
13 protecting, restoring, and developing its commercial and recreational salmon  
14 fisheries; ensuring public access to its waterways; and protecting the environment  
15 within its borders.

16       (c) More than any other issue confronting the State of California and California  
17 Indian tribes, the regulation of natural resources, especially fish, transcends  
18 political boundaries.

19       (d) In many cases, the State of California and California Indian tribes have  
20 differed in their respective views of the nature and extent of state versus tribal  
21 jurisdiction in areas where Indians have historically fished. Despite these frequent  
22 and often bitter disputes, both the state and the tribes seek, as their mutual goal,  
23 the protection and preservation of the fish resource. This chapter is an attempt to  
24 provide a legal mechanism, other than protracted and expensive litigation over  
25 unresolved legal issues, for achieving that mutual goal on the Klamath River.

26       (e) The Department of Fish and Wildlife has exercised jurisdiction over the  
27 Klamath River from the mouth of the river through the Yurok Reservation and the  
28 Hoopa Valley Reservation, but the Bureau of Indian Affairs and the Indian tribes  
29 thereon have also asserted jurisdiction over that river. The river itself lies within a  
30 disputed area and proper management of the resource presents, therefore, unique  
31 and difficult problems in the exercise of fishing practices by all users groups.

32       (f) Although commercial fishing may not be a traditional practice of the tribes  
33 existing along the Klamath River within the boundaries of the land of the Yurok  
34 Reservation and the Hoopa Valley Reservation, nevertheless, the Department of  
35 Fish and Wildlife has historically supported the concept of tribal fishing, including  
36 a tribal commercial fishing industry where the industry is consistent with the need  
37 to preserve the species, sound management, and where that usage would not  
38 adversely effect other user groups, including sportfishing and the ocean  
39 commercial fishery.

1 (g) A commercial fishery existed on the Klamath River in the late 19th century  
2 and early 20th century, in which the Indian tribes existing along the river  
3 participated, but the commercial fishing was abolished in 1933 with the passage of  
4 the predecessor to **Section 8434**, and, further, salmon resources have declined  
5 historically due to past water developmental policies and timber harvesting  
6 practices. With a reduced number of fish available, special laws are needed to  
7 protect those resources and allocate them fairly among the various user groups.

8 (h) This chapter is not only enacted to provide the legal mechanism described  
9 above, but is also intended to encourage cooperative agreements to allow  
10 protection of the resource among all of the user groups. In so doing, the  
11 Legislature recognizes the unique status of the Klamath River and the fishing  
12 therein.

13 **Comment.** Section 4800 continues former Section 16500 without change, except as indicated  
14 below:

15 The following nonsubstantive changes are made:

- 16 • The words “this division” are replaced with “this chapter.”
- 17 • The term “Department of Fish and Game” is replaced with “Department of Fish and  
18 Wildlife.”
- 19 • The words “such usage” are replaced with “that usage.”
- 20 • Throughout subdivisions (e) and (g), the word “that” is omitted.

## 21 Article 2. Definitions

### 22 § 4810. Application

23 4810. The definition in this article shall govern the construction of this chapter.

24 **Comment.** Section 4810 continues former Section 16510 without change, except as indicated  
25 below:

26 The following nonsubstantive changes are made:

- 27 • The words “this chapter” are replaced with “this article.”
- 28 • The words “this division” are replaced with “this chapter.”

### 29 § 4815. “Ceremonial or religious purposes”

30 4815. “Ceremonial or religious purposes” means fish taken by qualified Indian  
31 tribal members of the Klamath River Indian Tribes for recognized religious or  
32 ceremonial activities, which activities are consistent with the customs and  
33 traditions of the particular tribe in the Klamath River Indian Tribes.

34 **Comment.** Section 4815 continues former Section 16517 without change.

### 35 § 4820. “Commercial fishing”

36 4820. “Commercial fishing” means the taking of fish by qualified Indian tribal  
37 members of the Klamath River Indian Tribes, for sale or to be offered for sale  
38 within California.

39 **Comment.** Section 4820 continues former Section 16518 without change.

1    **§ 4825. “Disputed area”**

2       4825. “Disputed area” means that part of the Klamath River or Trinity River  
3 where jurisdiction to regulate Indian fishing is asserted by both the State of  
4 California and by one or more of the Indian tribes in the Klamath River Indian  
5 Tribes or by the United States government acting as trustee therefor.

6       **Comment.** Section 4825 continues former Section 16515 without change.

7    **§ 4830. “Klamath Fishery Management Council”**

8       4830. “Klamath Fishery Management Council” means that council created  
9 pursuant to Section 46055 of Title 16 of the United States Code that is composed  
10 of one representative each from the Pacific Fishery Management Council,  
11 National Marine Fisheries Service, Department of the Interior, Oregon Department  
12 of Fish and Wildlife, California Department of Fish and Wildlife, the Hoopa  
13 Valley Business Council, non-Hoopa Indians, the California commercial salmon  
14 fishing industry, the Oregon commercial salmon fishing industry, the Klamath  
15 River in-river sportfishing community, and the California offshore recreational  
16 fishing industry.

17       **Comment.** Section 4830 continues former Section 16520 without change, except as indicated  
18 below:

19       The following nonsubstantive change is made:

- 20       • The term “Department of Fish and Game” is replaced with “Department of Fish and  
21       Wildlife.”
- 22       • The word “which” is replaced with “that.”

23    **§ 4835. “Klamath River Indian Tribes”**

24       4835. “Klamath River Indian Tribes” means those tribes existing within the  
25 boundaries of the Yurok Reservation and the Hoopa Valley Reservation, located in  
26 Humboldt and Del Norte Counties in California, which tribes are recognized as  
27 Indian tribes by the Secretary of the Interior.

28       **Comment.** Section 4835 continues former Section 16511 without change.

29    **§ 4840. “Subsistence purposes”**

30       4840. “Subsistence purposes” means fish or game taken by qualified Indian  
31 tribal members of the Klamath River Indian Tribes for personal consumption by  
32 the tribal members or their immediate families.

33       **Comment.** Section 4840 continues former Section 16516 without change.

34    **§ 4845. “Take”**

35       4845. “Take” means pursue, catch, capture, or kill, or attempt to pursue, catch,  
36 capture, or kill.

37       **Comment.** Section 4845 continues former Section 16512 without change.

1 **☞ Staff Note.** The definition in Section 16152 is nearly identical to the definition in Section 86,  
2 which applies to the entire code (Section 86 adds the word “hunt” to the list of verbs used in the  
3 definition). **Can Section 16152 be omitted in reliance on Section 86?**

4 **§ 4850. “Traditional Indian fishing practice”**

5 4850. “Traditional Indian fishing practice” means a mode, method, or way of  
6 taking fish that is recognized in the customs and traditions of the Klamath River  
7 Indian Tribes.

8 **Comment.** Section 4850 continues former Section 16513 without change.

9 **§ 4855. “Yurok Reservation”**

10 4855. “Yurok Reservation” means the land extending one mile in width on each  
11 side of the Klamath River from the mouth of the Klamath River to the confluence  
12 of the Trinity and Klamath Rivers. “Hoopa Valley Reservations” means those  
13 lands lying within the Hoopa Square.

14 **Comment.** Section 4855 continues former Section 16514 without change.

15 **Article 3. Negotiation and Approval of Agreement**

16 **§ 4875. Agreement authorized**

17 4875. The director may enter into a mutual agreement or compact with the  
18 Hoopa Valley Business Council regarding the taking of fish from the Trinity River  
19 within the exterior boundaries of the Hoopa Valley Reservation or with the Yurok  
20 Tribe, or the Bureau of Indian Affairs acting as trustee for the Yurok Indians,  
21 regarding the taking of fish from the Klamath River within the exterior boundaries  
22 of the Yurok Reservation.

23 **Comment.** Section 4875 continues former Section 16530 without change.

24 **§ 4880. Negotiations**

25 4880. Negotiations shall take place following the completion each year of the  
26 salmon allocation agreement recommended by the Klamath Fishery Management  
27 Council, and subsequently adopted by the Pacific Fishery Management Council  
28 and the United States Department of Commerce. Any agreement or compact under  
29 this chapter shall reflect those allocations.

30 **Comment.** Section 4880 continues former Section 16531 without change, except as indicated  
31 below:

32 The following nonsubstantive change is made:

- 33 • The words “this division” are replaced with “this chapter.”

34 **§ 4885. Commercial sale of salmon**

35 4885. Notwithstanding **Sections 8434, 8685.5, 8685.6, and 8685.7**, the compact  
36 or agreement may include provisions for commercial sales of salmon allocated to  
37 qualified Indian members of the Klamath River Indian Tribes and that the salmon

1 may be taken by traditional Indian methods, including, but not limited to, use of  
2 gill nets, if the agreement or compact includes provisions for all of the following:

3 (a) Separating the salmon taken for commercial purposes from the salmon taken  
4 for subsistence use, which may include tagging or marking of the salmon to be  
5 sold.

6 (b) Limiting the number of the salmon to be sold.

7 (c) A portion of the sales to benefit the members or programs of the Klamath  
8 River Indian Tribes in accordance with the wishes of the tribes or the Bureau of  
9 Indian Affairs acting on behalf of the tribes as trustee.

10 **Comment.** Section 4885 continues former Section 16532 without change.

#### 11 Article 4. Enforceability of an Agreement or Compact

##### 12 § 4900. Enforcement

13 4900. Any agreement or compact entered into pursuant to this chapter shall be  
14 enforceable by the parties only to the extent and in the form or forms provided for  
15 under the terms of the agreement or compact.

16 **Comment.** Section 4900 continues former Section 16540 without change, except as indicated  
17 below:

18 The following nonsubstantive change is made:

- 19 • The words “this division” are replaced with “this chapter.”

##### 20 § 4905. Regulations

21 4905. The department may adopt regulations consistent with the provisions of  
22 any agreement or compact entered into pursuant to Section 4875 or 4880. The  
23 application and enforcement of those regulations shall be in accordance with the  
24 express provisions of the agreement or compact.

25 **Comment.** Section 4905 continues former Section 16541 without change, except as indicated  
26 below:

27 The following nonsubstantive change is made:

- 28 • Cross-references to former Sections 16530 and 16531 are updated.

## 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>
1 .....	10	67 .....	260
2 .....	100	68 .....	270
3 (1st sent.) .....	20(a)	70 .....	280
3 (2d sent.) .....	omitted, but see 25	73 .....	35(c)-(d)
4 .....	30	75 .....	285
5 .....	40	79 .....	80
6 .....	45	81 .....	290
7 .....	50	82 .....	295
8 .....	55	83 .....	300
9 .....	60	86 .....	305
10 .....	65	88 .....	310
11 .....	70	89 .....	275
12 .....	200	89.1 .....	315
13 .....	75	101 .....	500
13.5 .....	105	101.5 .....	505
14 .....	115	102 .....	510
15 .....	120	103 .....	515
16 .....	110	104 .....	525
17 .....	125	107 .....	530
18 .....	130	108 .....	750
19 .....	265	200 (1st para.) .....	550
22 .....	135	200 (2d para.) .....	570(b)
24 .....	140	201 .....	570(a)
27 .....	145	202 .....	660
29 .....	150	203 .....	565
30 .....	155	203.1 .....	560
32 .....	160	204 .....	575
33 .....	165	205 .....	555
35 (1st cl.) .....	170	205.1 .....	580
35 (2d cl.) .....	320	206 .....	520
37 .....	175	207 .....	650
39 .....	180	210 .....	700
41 .....	185	211 .....	705
43 .....	190	215 .....	665
45 .....	195	217.6 .....	710
46 .....	205	218 .....	670
48 .....	210	219 .....	675
51 .....	215	220(a) .....	680
54 .....	220	220(b) .....	655
54.5 .....	225	240 .....	805
55 .....	230	250 .....	685
56 .....	235	300 .....	800
57 .....	240	301 .....	760
60 .....	245	309(a) (1st sent.) .....	3210
61 .....	250	309(a) (2d and 3rd sent.) .....	3205
62 .....	255	309(b) .....	3215
64 .....	85	375 .....	4175

390 .....	4150	717 .....	4550
391 .....	4170	717.1 .....	4575
392 .....	4155	717.2 .....	4580
393 .....	4160	850 .....	1100
400 .....	4000	851 .....	3000
401 .....	4005	853 .....	3010
700 .....	1000	854 .....	3015
701 .....	1015	855 .....	3200
701.3 .....	1020	856 .....	3005
701.5 .....	1315	857 .....	1135
702 .....	1005	858(a) .....	1140
702.1 .....	3225	858(b) .....	3020
703(a) .....	1010	859 .....	2740
703.3 .....	1240	860 .....	2750
703.5 .....	1300	875 .....	3100
704 .....	1025	876 .....	3110
706 .....	1030	877 .....	3105
707 .....	1105	878 .....	3115
710 .....	2600	879 .....	3120
710.5 .....	2605	880 .....	3125
710.7 .....	2610	881 .....	3130
711 .....	2615	882 .....	3135
712 .....	2620	1000 .....	1245
712.5 .....	2735	1001 .....	1200
713 .....	2210	1004 .....	1205
715 .....	1250	1005 .....	1255
716 .....	4200	1006 .....	1215
716.1 .....	4205	1007 .....	1210
716.2 .....	4210	1008 .....	1220
716.3, 1st cl. ....	4250	1009 .....	1455
716.3(a) .....	4255	1010 .....	1460
716.3(b) .....	4260	1011 .....	1600
716.3(c) .....	4265	1012 .....	1605
716.3(d) .....	4270	1013 .....	1610
716.3(e) .....	4275	1015 .....	1230
716.3(f) .....	4280	1017 .....	1225
716.3(g) .....	4285	1019 .....	1450
716.3(h) .....	4290	1020 .....	1235
716.3(i) .....	4295	1050(a) .....	2050
716.3(j) .....	4300	1050(b) .....	2005
716.3(k) .....	4305	1050(c) .....	2055
716.3(l) .....	4310	1050(d) .....	2200
716.3(m) .....	4315	1050(e) .....	2205
716.3(n) .....	4320	1050(f) .....	2215
716.3(o) .....	4325	1050.1 .....	2015
716.3(p) .....	4330	1050.3 .....	2070
716.3(q) .....	4335	1050.5 .....	2220
716.3(r) .....	4340	1050.6 .....	2060
716.3(s) .....	4345	1050.8 .....	2090
716.3(t) .....	4350	1051 .....	2010
716.4 .....	4400	1052 .....	2250
716.5 .....	4425	1052.5 .....	2020
716.6 .....	4450	1053(a)(1) .....	2075(a)
716.7 .....	4475	1053(a)(2) .....	2075(b)
716.8 .....	4500	1053(a)(3)-(b) .....	2075(c)
716.9 .....	4525	1053.1(a)(1) .....	2075(a)

1053.1(a)(2) .....	2075(b)	10683 .....	4090
1053.1(a)(3), (b).....	2075(c)	10684 .....	4095
1053.5 .....	2080	10685 .....	4100
1054(a), (c) .....	1650	11000 .....	1700
1054(b), (c) .....	2065	11001 .....	1705
1054.8 .....	2095	11002 .....	1710
1055(a)-(b) .....	2300	11003 .....	1715
1055(c) .....	2350	11004 .....	1720
1055(d)(1st sent.) .....	2400(a)	11005 .....	1725
1055(d)(2nd sent.).....	omitted (but see 2460(c),	11006 .....	1730
.....	2370, 2460(c), 2465(b), 2475)	11007 .....	1735
1055(d)(3rd-4th sent.) .....	2400(b)	11008 .....	1740
1055(e), (l) .....	2315	11009 .....	1745
1055(f)-(h) .....	2450	11010 .....	1750
1055(i).....	2305	11011 .....	1755
1055(j).....	2355, 2405	11012 .....	1760
1055(k).....	2360	11013 .....	1765
1055(l) .....	2370, 2410	11014 .....	1770
1055.1(a)-(b) .....	2300	11015 .....	1775
1055.1(c).....	2425	11016 .....	1780
1055.1(d)-(f) .....	2450	11017 .....	1785
1055.1(g).....	2305	11018 .....	1790
1055.1(h).....	2435	11019 .....	1800
1055.3 .....	2310	11020 .....	1810
1055.4 .....	2470	11022 .....	1815
1055.5(a), (b), (d).....	2365	11024 .....	1820
1055.5(c).....	2455	11025 .....	1825
1055.5 (e).....	2370	11026 .....	1830
1055.6(a), (b), (d).....	2430	11027 .....	1835
1055.6(c).....	2455	11028 .....	1840
1056 .....	2475	11029 .....	1845
1057 .....	2465(a)	11030 .....	1850
1058 .....	2480	11031 .....	1855
1059 .....	2460(a)-(b)	11032 .....	1860
1060 .....	2485	11033 .....	1865
1061 .....	2085	11034 .....	1870
1070 .....	2490	11035 .....	1875
1225 .....	2725	11036 (1st-3rd paras.) .....	1880
1226(a).....	2730	11037 .....	1885
1226(b).....	1305	11038 .....	1890
1227 .....	1310	11039 .....	1895
1745(a).....	1400	12000(a) .....	3300(a)
1745(b)(1) .....	1405	12002(a) .....	3300(b)
1745(b)(2).....	1410	12002(d) .....	3305
1745(c)-(d).....	1415	12014 .....	3320
1745(e)-(g).....	1420	12020 .....	3310
1745(h)-(i).....	1425	12021 .....	3315
1745(j).....	1430	12028 .....	3220
1745.1 .....	1435	12300 .....	3400
3450 .....	4050	13000 .....	2650
3451 .....	4055	13001(a) .....	2700
3452 .....	4060	13001(b) .....	2810
3453 .....	4065	13001.5.....	2655
10680 .....	4075	13002 .....	2705
10681 .....	4080	13003 .....	2710
10682 .....	4085	13006 .....	2805

13100 .....	2850	16005 .....	4730
13101 .....	2855	16006 .....	4750
13102 .....	2860	16007 .....	4755
13103 .....	2865	16008 .....	4760
13104 .....	2870	16009 .....	4765
13200 .....	2660	16010 .....	4775
13201 .....	2665	16011 .....	4780
13202 .....	2670	16500 .....	4800
13203 .....	2675	16510 .....	4810
13220 .....	2800	16511 .....	4835
14000 .....	4600	16512 .....	4845
14001 .....	4605	16513 .....	4850
14002 .....	4610	16514 .....	4855
14100 .....	4625	16515 .....	4825
14101 .....	4630	16516 .....	4840
14102 .....	4635	16517 .....	4815
14103 .....	4640	16518 .....	4820
14104 .....	4645	16520 .....	4830
14105 .....	4650	16530 .....	4875
16000 .....	4700	16531 .....	4880
16001 .....	4710	16532 .....	4885
16002 .....	4715	16540 .....	4900
16003 .....	4720	16541 .....	4905
16004 .....	4725		