

## Memorandum 2017-17

**Fish and Game Law: Wildlife Protection**

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In this study, the Commission<sup>1</sup> is developing a proposed recodification of the Fish and Game Code. In its prior work in the study, the Commission has considered preliminary staff drafts of Divisions 1-14 of a proposed Fish and Wildlife Code:

- Division 1. General Provisions
- Division 2. Administration
- Division 3. Law Enforcement
- Division 4. Inter-Jurisdictional Compacts
- Division 5. Native American Tribes [Reserved]
- Division 6. Hunting, Trapping, and Fishing Generally
- Division 7. Wildlife Propagation, Domestication, and Possession
- Division 8. Birds
- Division 9. Mammals
- Division 10. Fish
- Division 11. Invertebrates
- Division 12. Amphibians
- Division 13. Reptiles
- Division 14. Plants

This memorandum presents a preliminary staff draft of two new divisions:

- Division 15. Habitat Conservation and Enhancement
- Division 16. Protected and Managed Areas

Unless otherwise indicated, all statutory references in this memorandum are to the Fish and Game Code or to the “proposed” provisions of the Fish and Wildlife Code.

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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.

## GENERAL APPROACH

Pursuant to the general practice in this study, the staff has taken a fairly conservative approach in preparing the attached draft. For the most part, the language used in the draft is drawn from existing law verbatim. In some cases, the staff has significantly restated an existing section that is awkwardly phrased or difficult to understand. Such restatements are followed by a Staff Note that sets out the existing language of the restated provision and asks for public comment on whether the restatement would cause any problems.

Consistent with the Legislature's direction in this study, the attached draft is not intended to include any significant substantive changes in the effect of the law.<sup>2</sup> In addition, the Commission has adopted a generally conservative approach to technical recodification projects of this type. It will only make a change to existing law if the change would meet all three of the following criteria:

- (1) It is plainly beneficial.
- (2) It does not present a significant risk of unintended consequences (i.e., its effects seem straightforward and circumscribed).
- (3) It is not likely to be controversial.<sup>3</sup>

Those limitations still leave plenty of room for nonsubstantive improvement to the organization and expression of existing law (e.g., grouping related provisions, breaking up overlong sections, restating language that is difficult to understand, eliminating redundant and obsolete language, imposing standard statutory style conventions).

As noted above, there are "Staff Notes" following some provisions of the proposed law. Some of the Staff Notes identify issues that may require future attention. Others solicit public comment in response to specific questions. Staff Notes are intended to be temporary and will not be included in any final recommendation.

## CONTENT

As noted above, the attached draft includes two divisions:

Division 15. Habitat Conservation and Enhancement  
Division 16. Protected and Managed Areas

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2. See 2016 Cal. Stat. ch. res. 150.

3. Minutes (Sept. 2016), p. 6.

The content of those divisions is similar, in that both address the protection and enhancement of wildlife habitat. The general difference between the two divisions is that Division 15 includes provisions that establish governmental *programs* to conserve and enhance habitat, while Division 16 includes provisions that designate specific *areas* for special protection or management.

Some of the decisions about which division should contain a particular set of provisions were close calls. For example, Division 15 establishes a program for restoring the Salton Sea.<sup>4</sup> That could be conceived of as primarily a habitat protection *program* or as a set of protections for a specific *area*. **The staff invites public comment on whether any decision to place content in one division rather than the other would be problematic.**

More specific issues about the content of each division are discussed briefly below.

The attached draft does not include provisions that govern human activity that affects wildlife and wildlife habitat (e.g., the California Endangered Species Act,<sup>5</sup> the Natural Community Conservation Planning Act,<sup>6</sup> mitigation and conservation banking provisions,<sup>7</sup> water obstruction provisions,<sup>8</sup> and pollution provisions<sup>9</sup>). Those sorts of provisions will be presented in a future memorandum.

### **Division 15. Habitat Conservation and Enhancement**

Division 15 contains a number of statutes that are very similar in their operational effect. They each establish a program to conserve and enhance wildlife habitat, with specified goals, operational details, and funding sources.

Ordinarily, those kinds of functional similarities across statutes would provide an opportunity for organizational rationalization. Provisions addressing common components of the various statutes (e.g., goals, department powers, commission regulation, cooperation with other entities) could be grouped together. In general, that kind of organizational consolidation would be helpful to legislators, administrators, and researchers.

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4. Proposed Sections 56900-56945.

5. Sections 2050-2100.

6. Sections 2800-2835.

7. Sections 1775-1799.1.

8. Sections 1600-1616, 5900-6100.

9. Sections 5650-5656.

In this instance, however, the staff has not proposed reorganization across statutory schemes, for two reasons.

First, three of the statutes were enacted by citizen initiative.<sup>10</sup> As Staff Notes following the headings of each of those statutes indicate:

The Commission has generally adopted a very deferential approach to the recodification of provisions added by initiative. Consistent with that approach, the staff has made very minimal changes to the language of this part, mostly relating to section numbering.

Because of that deference, the attached draft makes no changes to the organization of the initiative statutes.

Second, many of the statutes are formally named acts, with short titles (e.g., Wildlife Conservation Law of 1947, Habitat Restoration and Enhancement Act, Native Species Conservation and Enhancement Act). Such naming suggests that the acts were intended to have a separate and distinct existence, as a coherent whole. It also creates a likelihood that the short titles of those acts have been used to refer to those statutes in implementing them. Any regrouping of the content of the named acts runs a risk of disrupting existing expectations and references, which may affect operations, budgeting, and implementing regulations.

For those reasons, the staff decided against reorganizing across the existing boundaries of the separate statutes. This still leaves open significant opportunities for organization improvement *within* the statutes (with the exception of the initiative statutes, which were not internally reorganized).

### **Division 16. Protected and Managed Areas**

When the staff looked for related content in other codes, to assess whether it might make sense to move such content into the Fish and Wildlife Code, it became clear that there is significant subject matter overlap between the Fish and Game Code's provisions that protect and manage wildlife habitat and similar provisions in the Public Resources Code.

For example, the Public Resources Code includes extensive provisions that protect forest lands,<sup>11</sup> manage specified natural areas,<sup>12</sup> establish nature

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10. See Fish and Wildlife Habitat Enhancement Act of 1984 (Proposition 19 (1984); proposed Sections 55500-55660), Wildlife and Natural Areas Conservation Program (Proposition 70 (1988); proposed Sections 55700-55770), California Wildlife Protection Act of 1990 (Proposition 117 (1990); proposed Sections 55800-55905).

11. California Forest Legacy Program Act of 2007, Pub. Res. Code §§ 12200-12276.

conservancies,<sup>13</sup> and protect marine habitat.<sup>14</sup> While some of those provisions involve the Department of Fish and Wildlife as the implementing agency, other provisions involve other agencies (e.g., the Department of Forestry or the California Coastal Commission), multi-agency collaboration, or specially-created entities.

On balance, the staff believes that it would be best to leave the Public Resources Code provisions alone. While there might be merit to a grander-scale reorganization that would encompass both the Fish and Game Code and the Public Resources Code, such an effort seems beyond the scope of the current study.

#### CONCLUSION

As always, the staff invites public comment on the content of the attached draft. Are there any other provisions, in the Fish and Game Code or in any other code, that should be located in the attached draft? The staff would also appreciate receiving comment on whether any of the provisions included in the draft present the kinds of problems with consistency, redundancy, or ambiguity as to program authority or funding sources that the Commission has been tasked with addressing.<sup>15</sup>

Respectfully submitted,

Brian Hebert  
Executive Director

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12. Morro Bay Management Plan, Pub. Res. Code §§ 28000-28007; Suisun Marsh Preservation, Pub. Res. Code §§ 29000-29612; Delta Protection Act of 1992, Pub. Res. Code §§ 29700-29780.

13. Sacramento-San Joaquin Delta Conservancy, Pub. Res. Code §§ 32300-32381; San Joaquin River Conservancy, Pub. Res. Code §§ 32500-32538; Baldwin Hills Conservancy Act, Pub. Res. Code §§ 32550-32580; San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy, Pub. Res. Code §§ 32600-32622; San Diego River Conservancy, Pub. Res. Code §§ 32630-32658; Santa Monica Mountains Conservancy, Pub. Res. Code §§ 33000-33215; Sierra Nevada Conservancy, Pub. Res. Code §§ 33300-33356; Coachella Valley Mountains Conservancy, Pub. Res. Code §§ 33500-33806.

14. See Pub. Res. Code §§ 30960, 35500-35650, 71500-71562.

15. See 2012 Cal. Stat. res. ch. 108.

## FISH AND WILDLIFE CODE

**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, without change. Boldface type is also used to show cross-references to existing provisions that will be included in drafts of other parts of the proposed code. See, e.g., the draft tentative recommendation attached to Memorandum 2017-15. Finally, boldface type is used to highlight references to Fish and Game Districts that will be renamed in another draft. Again, see Memorandum 2017-15. All of those references will be adjusted later in the process.

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

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

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

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

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DIVISION 1. GENERAL PROVISIONS

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PART 2. DEFINITIONS

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**§ 478. “Habitat stronghold”**

478. “Habitat stronghold” means high-quality habitat that supports wildlife in being more resilient to increasing pressures on species due to climate change and land development.

**Comment.** Section 478 generalizes former Fish and Game Code Section 1930.5(f)(1).

**Staff Note.** Proposed Section 478 would generalize the definition of “habitat stronghold,” which currently only applies to Section 1930.5. The term “habitat stronghold” is used without definition in Section 1930. **The staff invites comment on whether applying the definition to that provision would cause any problems.**

**§ 805. “Wildlife corridor”**

805. “Wildlife corridor” means a habitat linkage that joins two or more areas of wildlife habitat, allowing for fish passage or the movement of wildlife from one area to another.

**Comment.** Section 805 generalizes former Fish and Game Code Section 1930.5(f)(2).

**Staff Note.** Proposed Section 805 would generalize the definition of “wildlife corridor,” which currently only applies to Section 1930.5. Provisions that currently use the term “wildlife corridor” without definition include Sections 1850, 1851, 1930, 1932, 1932.5, and 2787. **The staff invites comment on whether applying the definition to such provisions would cause any problems.**

**§ 810. “Wildlife management area”**

810. “Wildlife management area” includes waterfowl management areas, deer ranges, upland game bird management areas, and public shooting grounds.

**Comment.** Section 810 generalizes former Fish and Game Code Sections 1504(d) & 1506(a)(3).

**Staff Note.** Proposed Section 810 would generalize the definition of “wildlife management area,” which currently only applies to Sections 1930.5. Provisions that currently use the term “wildlife management area” without definition include Sections 1530 and 3704. **The staff invites comment on whether applying the definition to such provisions would cause any problems.**

1           DIVISION 15. HABITAT CONSERVATION AND ENHANCEMENT

2                           PART 1. GENERAL PROVISIONS

3                                   TITLE 1. CONSERVATION OF WILDLIFE  
4                                                   RESOURCES

5   **§ 54500. “Wildlife” defined**

6       54500. As used in this title “wildlife” means birds, mammals, and reptiles not  
7   raised in captivity.

8       **Comment.** Section 54500 continues former Fish and Game Code Section 1800 without  
9   substantive change.

10 **§ 54505. Policy**

11       54505. It is hereby declared to be the policy of the state to encourage the  
12   preservation, conservation, and maintenance of wildlife resources under the  
13   jurisdiction and influence of the state. This policy shall include the following  
14   objectives:

15       (a) To maintain sufficient populations of all species of wildlife and the habitat  
16   necessary to achieve the objectives stated in subdivisions (b), (c), and (d).

17       (b) To provide for the beneficial use and enjoyment of wildlife by all citizens of  
18   the state.

19       (c) To perpetuate all species of wildlife for their intrinsic and ecological values,  
20   as well as for their direct benefits to all persons.

21       (d) To provide for aesthetic, educational, and nonappropriative uses of the  
22   various wildlife species.

23       (e) To maintain diversified recreational uses of wildlife, including the sport of  
24   hunting, as proper uses of certain designated species of wildlife, subject to  
25   regulations consistent with the maintenance of healthy, viable wildlife resources,  
26   the public safety, and a quality outdoor experience.

27       (f) To provide for economic contributions to the citizens of the state, through the  
28   recognition that wildlife is a renewable resource of the land by which economic  
29   return can accrue to the citizens of the state, individually and collectively, through  
30   regulated management. That management shall be consistent with the maintenance  
31   of healthy and thriving wildlife resources and the public ownership status of the  
32   wildlife resources.

33       (g) To alleviate economic losses or public health or safety problems caused by  
34   wildlife to the people of the state either individually or collectively. That  
35   resolution shall be in a manner designed to bring the problem within tolerable  
36   limits consistent with economic and public health considerations and the  
37   objectives stated in subdivisions (a), (b), and (c).

1 (h) It is not intended that this policy shall provide any power to regulate natural  
2 resources or commercial or other activities connected therewith, except as  
3 specifically provided by the Legislature.

4 **Comment.** Section 54505 continues former Fish and Game Code Section 1801 without  
5 substantive change.

6 **§ 54510. Department jurisdiction**

7 54510. The department has jurisdiction over the conservation, protection, and  
8 management of fish, wildlife, native plants, and habitat necessary for biologically  
9 sustainable populations of those species. The department, as trustee for fish and  
10 wildlife resources, shall consult with lead and responsible agencies and shall  
11 provide, as available, the requisite biological expertise to review and comment  
12 upon environmental documents and impacts arising from project activities, as  
13 those terms are used in the California Environmental Protection Act (Division 13  
14 (commencing with Section 21000) of the Public Resources Code).

15 **Comment.** Section 54510 continues former Fish and Game Code Section 1802 without  
16 substantive change.

17 **TITLE 2. CONSERVATION OF AQUATIC**  
18 **RESOURCES**

19 **§ 54525. Policy**

20 54525. It is hereby declared to be the policy of the state to encourage the  
21 conservation, maintenance, and utilization of the living resources of the ocean and  
22 other waters under the jurisdiction and influence of the state for the benefit of all  
23 the citizens of the state and to promote the development of local fisheries and  
24 distant-water fisheries based in California in harmony with international law  
25 respecting fishing and the conservation of the living resources of the oceans and  
26 other waters under the jurisdiction and influence of the state. This policy shall  
27 include all of the following objectives:

28 (a) The maintenance of sufficient populations of all species of aquatic organisms  
29 to insure their continued existence.

30 (b) The recognition of the importance of the aesthetic, educational, scientific,  
31 and nonextractive recreational uses of the living resources of the California  
32 Current.

33 (c) The maintenance of a sufficient resource to support a reasonable sport use,  
34 where a species is the object of sport fishing, taking into consideration the  
35 necessity of regulating individual sport fishery bag limits to the quantity that is  
36 sufficient to provide a satisfying sport.

37 (d) The growth of local commercial fisheries, consistent with aesthetic,  
38 educational, scientific, and recreational uses of living resources, the utilization of  
39 unused resources, taking into consideration the necessity of regulating the catch

1 within the limits of maximum sustainable yields, and the development of distant-  
2 water and overseas fishery enterprises.

3 (e) The management, on a basis of adequate scientific information promptly  
4 promulgated for public scrutiny, of the fisheries under the state's jurisdiction, and  
5 the participation in the management of other fisheries in which California  
6 fishermen are engaged, with the objective of maximizing the sustained harvest.

7 (f) The development of commercial aquaculture.

8 **Comment.** Section 54525 continues former Fish and Game Code Section 1700 without  
9 substantive change.

### 10 TITLE 3. DEPARTMENT AUTHORITY

#### 11 § 54550. Habitat improvement

12 54550. (a) The department may expend any funds that may be necessary for the  
13 improvement of property, including nonnavigable lakes and streams, riparian  
14 zones, and upland, in order to restore, rehabilitate, and improve fish and wildlife  
15 habitat. The improvement activities may include, but are not limited to, the  
16 removal of barriers to migration of fish and wildlife and the improvement of  
17 hatching, feeding, resting, and breeding places for wildlife.

18 (b) The department may undertake the services and habitat improvement work  
19 on private, public, and public trust lands without the state acquiring an interest in  
20 the property.

21 **Comment.** Section 54550 continues former Fish and Game Code Section 1501 without  
22 substantive change.

#### 23 § 54555. Contracts for habitat improvement

24 54555. (a) The department may enter into contracts for fish and wildlife habitat  
25 preservation, restoration, and enhancement with public and private entities  
26 whenever the department finds that the contracts will assist in meeting the  
27 department's duty to preserve, protect, and restore fish and wildlife.

28 (b) The department may grant funds for fish and wildlife habitat preservation,  
29 restoration, and enhancement to public agencies, Indian tribes, and nonprofit  
30 entities whenever the department finds that the grants will assist it in meeting its  
31 duty to preserve, protect, and restore fish and wildlife.

32 (c) Contracts authorized under this section are contracts for services and are  
33 governed by Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of  
34 Division 2 of the Public Contract Code. No work under this section is public work  
35 or a public improvement, and is not subject to Chapter 1 (commencing with  
36 Section 1720) of Part 7 of Division 2 of the Labor Code.

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

38 (1) Construction of office, storage, garage, or maintenance buildings.

39 (2) Drilling wells and installation of pumping equipment.

1 (3) Construction of permanent hatchery facilities, including raceways, water  
2 systems, and bird enclosures.

3 (4) Construction of permanent surfaced roadways and bridges.

4 (5) Any project requiring engineered design or certification by a registered  
5 engineer.

6 (6) Any contract, except contracts with public agencies, nonprofit organizations,  
7 or Indian tribes that exceed fifty thousand dollars (\$50,000) in cost, excluding the  
8 cost for gravel, for fish and wildlife habitat preservation, restoration, and  
9 enhancement for any one of the following:

10 (A) Fish screens, weirs, and ladders.

11 (B) Drainage or other watershed improvements.

12 (C) Gravel and rock removal or placement.

13 (D) Irrigation and water distribution systems.

14 (E) Earthwork and grading.

15 (F) Fencing.

16 (G) Planting trees or other habitat vegetation.

17 (H) Construction of temporary storage buildings.

18 **Comment.** Section 54555 continues former Fish and Game Code Section 1501.5 without  
19 substantive change.

## 20 TITLE 4. SIGNIFICANT NATURAL AREAS

### 21 § 54575. Findings and declarations

22 54575. The Legislature finds and declares that:

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

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

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

30 (d) Preserving and connecting high-quality habitat for wildlife can create habitat  
31 strongholds.

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

33 (f) There is an opportunity to provide incentive for private landowners to  
34 maintain and perpetuate significant local natural areas in their natural state.

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

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

39 (i) The department's existing mapping activities and products should be  
40 developed and sustained.

1 (j) The importance of wildlife corridors to assist in adapting to climate change  
2 has been recognized by such groups as the Western Governors' Association,  
3 which unanimously approved a policy to protect wildlife migration corridors and  
4 crucial wildlife habitat in 2007. Individual local, state, and federal agencies have  
5 also adopted policies aimed at protecting wildlife corridors and habitat  
6 connectivity, in order to protect ecosystem health and biodiversity and to improve  
7 the resiliency of wildlife and their habitats to climate change. However, these  
8 efforts could be enhanced through establishment of a statewide policy to protect  
9 important wildlife corridors and habitat linkages where feasible and practicable.

10 **Comment.** Section 54575 continues former Fish and Game Code Section 1930 without  
11 substantive change.

12 **§ 54580. Identification of wildlife corridors**

13 54580. (a) Contingent upon funding being provided by the Wildlife  
14 Conservation Board from moneys available pursuant to Section 75055 of the  
15 Public Resources Code, or from other appropriate bond funds, upon appropriation  
16 by the Legislature, the department shall investigate, study, and identify those areas  
17 in the state that are most essential as wildlife corridors and habitat linkages, as  
18 well as the impacts to those wildlife corridors from climate change, and shall  
19 prioritize vegetative data development in these areas.

20 (b) It is the intent of the Legislature that the Wildlife Conservation Board use  
21 various funds to work with the department to complete a statewide analysis of  
22 wildlife corridors and connectivity to support conservation planning and climate  
23 change adaptation activities.

24 **Comment.** Section 54580 continues former Fish and Game Code Section 1930.5(a)-(b)  
25 without substantive change.

26 **§ 54585. Significant Natural Areas Program**

27 54585. There is hereby established the Significant Natural Areas Program,  
28 which shall be administered by the department. The department, in administering  
29 this program, shall do all of the following:

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

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

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

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

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

7 (f) Ensure recognition of the state’s most significant natural areas, including  
8 those affected by climate change. The department shall, after consultation with  
9 federal, state, and local agencies, education institutions, civic and public interest  
10 organizations, private organizations, landowners, and other private individuals,  
11 identify by means of periodic reports those natural areas deemed to be most  
12 significant.

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

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

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

23 **Comment.** Section 54585 continues former Fish and Game Code Section 1932 without  
24 substantive change.

25  **Staff Note.** Existing Section 1932(b) incorporates the definition of “wildlife” provided in  
26 Section 89.5. That language is not continued here, because the Commission is proposing to  
27 generalize Section 89.5 so that its definition of “wildlife” applies to the entire code.

28 **§ 54590. Vegetation mapping standard**

29 54590. (a) The department shall undertake the development of a vegetation  
30 mapping standard for the state.

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

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

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

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

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

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

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

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

15 **Comment.** Section 54590 continues former Fish and Game Code Section 1940 without  
16 substantive change.

17 **§ 54595. Cooperation with public and private entities**

18 54595. (a) The Legislature further finds and declares that it is the policy of this  
19 state to encourage the cooperation of federal, state, local, and private sectors,  
20 including private organizations and individuals, in efforts to maintain the state's  
21 most significant natural areas.

22 (b) In carrying out its responsibilities pursuant to this title, the department shall  
23 solicit and utilize all relevant results of existing studies and information from local  
24 government, state, and federal agencies, academic institutions, nonprofit  
25 organizations, certified environmental documents, private and public landowners,  
26 and agricultural and rangeland information developed by the Department of  
27 Conservation and agriculture associations.

28 (c) The department shall seek input from representatives of other state agencies,  
29 local government, federal agencies, nongovernmental conservation organizations,  
30 landowners, agriculture, recreation, scientific entities, and industry in determining  
31 essential wildlife corridors and habitat linkages.

32 (d) Private and public landowners shall be given a reasonable opportunity to  
33 review and comment on the wildlife characteristics of their land if it is identified  
34 pursuant to this title. The department shall utilize all relevant information when  
35 developing data sets and associated analytical products pursuant to this title.

36 **Comment.** Subdivision (a) of Section 54595 continues former Fish and Game Code Section  
37 1931 without substantive change.

38 Subdivisions (b)-(d) continue former Fish and Game Code Section 1932.5(a)-(b) without  
39 substantive change.

40 **§ 54600. Voluntary protections**

41 54600. (a) It is the policy of the state to promote the voluntary protection of  
42 wildlife corridors and habitat strongholds in order to enhance the resiliency of

1 wildlife and their habitats to climate change, protect biodiversity, and allow for the  
2 migration and movement of species by providing connectivity between habitat  
3 lands. In order to further these goals, it is the policy of the state to encourage,  
4 wherever feasible and practicable, voluntary steps to protect the functioning of  
5 wildlife corridors through various means, as applicable and to the extent feasible  
6 and practicable, those means may include, but are not limited to:

7 (1) Acquisition or protection of wildlife corridors as open space through  
8 conservation easements.

9 (2) Installing of wildlife-friendly or directional fencing.

10 (3) Siting of mitigation and conservation banks in areas that provide habitat  
11 connectivity for affected fish and wildlife resources.

12 (4) Provision of roadway undercrossings, overpasses, oversized culverts, or  
13 bridges to allow for fish passage and the movement of wildlife between habitat  
14 areas.

15 (b) The fact that a project applicant does not take voluntary steps to protect the  
16 functioning of a wildlife corridor prior to initiating the application process for a  
17 project shall not be grounds for denying a permit or requiring additional mitigation  
18 beyond what would be required to mitigate project impacts under other applicable  
19 laws, including, but not limited to, the California Endangered Species Act  
20 (Chapter 1.5 (commencing with Section 2050) of Division 3) and the California  
21 Environmental Quality Act (Division 13 (commencing with Section 21000) of the  
22 Public Resources Code).

23 (c) The Legislature finds and declares that there are a number of existing efforts,  
24 including, but not limited to, efforts involving working landscapes, that are already  
25 working to achieve the policy described in subdivisions (a) and (b).

26 (d) Subdivisions (a) and (b) shall not be construed to create new regulatory  
27 requirements or modify the requirements of **subparagraphs (B) and (E) of**  
28 **paragraph (4) of subdivision (a) of Section 2820**, or the California  
29 Environmental Quality Act (Division 13 (commencing with Section 21000) of the  
30 Public Resources Code).

31 **Comment.** Section 54600 continues former Fish and Game Code Section 1930.5(c)-(e)  
32 without substantive change.

33 **§ 54605. Disclaimers**

34 54605. (a) This title does not require, mandate, or authorize, under state or  
35 federal law, any state or local planning, zoning, or other land use action or  
36 decision.

37 (b) This title does not alter any legal rights and privileges, under state or federal  
38 law, of ownership or use of privately or publicly owned property.

39 (c) The Legislature finds and declares that the data sets and associated analytical  
40 products required pursuant to this title are for inventory and planning purposes and  
41 may not be suitable to support regulatory actions without additional specificity or  
42 information.

1 (d) No authority or responsibility provided for in this title shall, of itself, change  
2 or prevent the change of the use of any area identified pursuant to the Significant  
3 Natural Areas Program.

4 **Comment.** Subdivisions (a) through (c) of Section 54605 continue former Fish and Game  
5 Code Section 1932.5(c)-(e) without substantive change.

6 Subdivision (d) continues former Fish and Game Code Section 1933 without substantive  
7 change.

8 **PART 2. HABITAT CONSERVATION AND ENHANCEMENT**  
9 **PROGRAMS**

10 **TITLE 1. WILDLIFE CONSERVATION LAW**  
11 **OF 1947**

12 **CHAPTER 1. GENERAL PROVISIONS**

13 **§ 54700. Short title**

14 54700. This title is known and may be cited as the Wildlife Conservation Law of  
15 1947.

16 **Comment.** Section 54700 continues former Fish and Game Code Section 1300 without  
17 substantive change.

18 **§ 54705. Definitions**

19 54705. For the purposes of this title, “board” means the Wildlife Conservation  
20 Board.

21 **Comment.** Section 54705 is new. It is comparable to former Fish and Game Code Sections  
22 1320 and 1361(a).

23 **§ 54710. Policy**

24 54710. The preservation, protection and restoration of wildlife within the state is  
25 an inseparable part of providing adequate recreation for our people in the interest  
26 of public welfare; and it is the policy of the state to acquire and restore to the  
27 highest possible level, and maintain in a state of high productivity, those areas that  
28 can be most successfully used to sustain wildlife and which will provide adequate  
29 and suitable recreation. To carry out these purposes, a single and coordinated  
30 program for the acquisition of lands and facilities suitable for recreational  
31 purposes, and adaptable for conservation, propagation, and utilization of the fish  
32 and game resources of the state, is established.

33 **Comment.** Section 54710 continues former Fish and Game Code Section 1301 without  
34 substantive change.



1 participation is not incompatible with their respective positions as Members of the  
2 Legislature.

3 **Comment.** Section 54765 continues former Fish and Game Code Section 1323 without  
4 substantive change.

5 **§ 54770. Interim investigating committee**

6 54770. For the purposes of this title, the Members of the Legislature shall  
7 constitute an interim investigating committee on the subject of this title and as  
8 such shall have the powers and duties imposed upon an interim investigating  
9 committee by the Joint Rules of the Senate and the Assembly.

10 **Comment.** Section 54770 continues former Fish and Game Code Section 1324 without  
11 substantive change.

12 **Article 2. Powers and Purposes**

13 **§ 54800. Studies**

14 54800. (a) The board shall investigate, study, and determine what areas within  
15 the state are most essential and suitable for wildlife production and preservation,  
16 and will provide suitable recreation.

17 (b) The board shall ascertain and determine what lands within the state are  
18 suitable for game propagation, game refuges, bird refuges, waterfowl refuges,  
19 game farms, fish hatcheries, game management areas, and what streams and lakes  
20 are suitable for, or can be made suitable for, fishing and hunting.

21 (c) In determining which areas are suitable for fishing and hunting, the board, in  
22 consultation with the department, shall take into consideration areas of the state  
23 where public access and opportunity for fishing and hunting are most needed.

24 (d) The board shall ascertain what lands are suitable for providing cover for the  
25 propagation and rearing in a wild state of waterfowl, shore birds, and upland birds,  
26 and the possibilities of acquiring easements on those lands to provide that cover.

27 **Comment.** Subdivisions (a) through (c) of Section 54800 continue former Fish and Game  
28 Code Section 1345 without substantive change.

29 Subdivision (d) continues former Fish and Game Code Section 1346 without substantive  
30 change.

31 **§ 54805. Determination**

32 54805. As a result of its studies, the board shall determine what areas, lands, or  
33 rights in lands or waters should be acquired by the state in order to effectuate a  
34 coordinated and balanced program resulting in the maximum restoration of  
35 wildlife in the state and in the maximum recreational advantages to the people of  
36 the state.

37 **Comment.** Section 54805 continues former Fish and Game Code Section 1347 without  
38 substantive change.

1    **§ 54810. Consideration of greenhouse gas emissions**

2       54810. The board, when it prioritizes the use of available funds for proposed  
3 acquisitions, with regard to the priority of a proposal to acquire forestland, may  
4 consider and take into account the potential of that proposed acquisition to  
5 beneficially reduce or sequester greenhouse gas emissions. The board may use  
6 policies, protocols, or other relevant information developed by the California  
7 Climate Action Registry as a basis for determining a project’s potential to reduce  
8 or sequester greenhouse gas emissions.

9       **Comment.** Section 54810 continues former Fish and Game Code Section 1356 without  
10 substantive change.

11    **§ 54815. Acquisition of property rights**

12       54815. (a)(1) The board shall authorize the acquisition of real property, rights in  
13 real property, water, or water rights as may be necessary to carry out the purposes  
14 of this title.

15       (2) The board may authorize acquisition by the department, but the department  
16 shall not acquire any property pursuant to this subdivision by eminent domain  
17 proceedings except that property as may be necessary to provide access roads or  
18 rights-of-way to areas to be used for fishing the coastal waters of the Pacific  
19 Ocean, and then only if the board of supervisors of the affected county has agreed  
20 by resolution to those proceedings for each parcel of land, and has further agreed  
21 by resolution to maintain the road or right-of-way.

22       (3) The board may authorize acquisition by the State Public Works Board,  
23 which may effect acquisitions pursuant to the Property Acquisition Law, Part 11  
24 (commencing with Section 15850) of Division 3 of Title 2 of the Government  
25 Code.

26       (b) For the purposes of this title and Title 12 (commencing with Section 57700),  
27 the board may authorize the acquisition of interests in real property and water  
28 rights by means of gifts, purchases, leases, easements, the transfer or exchange of  
29 property for other property of like value, transfers of development rights or credits,  
30 and purchases of development rights, conservation easements, and other interests.

31       (c) To further implement this title and Title 12 (commencing with Section  
32 57700), the board may authorize the department to do any of the following:

33       (1) Accept federal grants and receive gifts, donations, subventions, rents,  
34 royalties, and other financial support from public or private sources. Proceeds  
35 received from any of these sources shall be deposited in the Wildlife Restoration  
36 Fund.

37       (2) Notwithstanding any other provision of law, lease, sell, exchange, or  
38 otherwise transfer any real property, interest in real property, or option acquired by  
39 or held under the jurisdiction of the board or the department. Except as provided in  
40 Section 54870, proceeds from transactions entered into pursuant to this paragraph  
41 shall be deposited in the Wildlife Restoration Fund.

1 (3) Lease degraded potential wildlife habitat real property to nonprofit  
2 organizations, local governmental agencies, or state and federal agencies if the  
3 lessee agrees to restore the real property to its highest possible wildlife habitat  
4 value and maintain the real property at that highest possible wildlife habitat value.  
5 If feasible, during the period of lease, the board may require that the real property  
6 be open to the public for compatible recreational opportunities. Proceeds from any  
7 lease or rental and interest thereon shall be deposited in the Wildlife Restoration  
8 Fund.

9 (4) Acquire former wildlife habitat real property, including riparian habitat real  
10 property, restore and sell the real property, or any interest therein, to private  
11 owners, local governmental agencies, or state departments and agencies, or  
12 exchange the property for other real property, if a written and recorded agreement  
13 is first secured to keep and maintain the real property as wildlife habitat in  
14 perpetuity. The agreement shall contain a reversion if the real property sold or  
15 exchanged is not maintained as wildlife habitat. The agreement containing the  
16 reversion shall be set forth in any conveyance transferring any real property,  
17 interest in real property, or option subject to this section. Proceeds from the sales  
18 shall be deposited in the Wildlife Restoration Fund.

19 **Comment.** Section 54815 continues former Fish and Game Code Section 1348 without  
20 substantive change.

21 **§ 54820. Acquisition of property for public access**

22 54820. The board may authorize the acquisition of any lands or rights in land  
23 that may be necessary for the purpose of furnishing public access to lands or  
24 waters open to the public for fishing, hunting and shooting. The board may  
25 authorize that acquisition by the department.

26 **Comment.** Section 54820 continues former Fish and Game Code Section 1354 without  
27 substantive change.

28 **§ 54825. Notice of intent to acquire property**

29 54825. Before the board authorizes the purchase of any land, or any interest  
30 therein, the board shall notify all owners of record of adjacent parcels of land of  
31 the intent of the board to purchase the land. The notice to the adjacent owners of  
32 land and the public notice shall include an explanation of the proposed use of the  
33 land by the department.

34 **Comment.** Section 54825 continues former Fish and Game Code Section 1348.1 without  
35 substantive change.

36 **§ 54830. Purchase price of acquired property**

37 54830. When the board acquires real property, other than by eminent domain,  
38 the purchase price for the real property shall not exceed the fair market value of  
39 the property, as defined in Section 1263.320 of the Code of Civil Procedure. The

1 fair market value shall be set forth in an appraisal that is (a) prepared by a licensed  
2 real estate appraiser, and (b) approved by the Department of General Services.

3 **Comment.** Section 54830 continues former Fish and Game Code Section 1348.2 without  
4 substantive change.

5 **§ 54835. Condemnation of wildlife conservation easement**

6 54835. (a) No governmental entity may condemn any wildlife conservation  
7 easement acquired by a state agency, except as provided in subdivision (b). As  
8 used in this section, the following terms have the following meanings:

9 (1) “Public use” as used in Article 6 (commencing with Section 1240.510) and  
10 Article 7 (commencing with Section 1240.610) of Chapter 3 of Title 7 of Part 3 of  
11 the Code of Civil Procedure means privately owned lands managed for habitat in  
12 public trust.

13 (2) “Wildlife conservation easement” means a recorded conservation easement,  
14 as defined in Section 815.1 of the Civil Code, that exists or will exist for at least  
15 10 years and that is acquired and held by a state agency and administered  
16 primarily for the benefit of wildlife.

17 (b) Prior to the initiation by a governmental entity of condemnation proceedings  
18 against a wildlife conservation easement acquired by a state agency, the  
19 governmental entity shall give notice to the holder of the easement, provide an  
20 opportunity for the holder of the easement to consult with the governmental  
21 agency, provide the holder of the easement the opportunity to state its objections  
22 to the condemnation, and provide a response to the objections. Article 6  
23 (commencing with Section 1240.510) and Article 7 (commencing with Section  
24 1240.610) of Chapter 3 of Title 7 of Part 3 of the Code of Civil Procedure shall  
25 apply to condemnation proceedings initiated by a governmental entity against a  
26 wildlife conservation easement acquired by a state agency. In those proceedings,  
27 the condemning governmental entity shall be required to prove by clear and  
28 convincing evidence that its proposed use satisfies the requirements of Article 6  
29 (commencing with Section 1240.510) or Article 7 (commencing with Section  
30 1240.610) of Chapter 3 of Title 7 of Part 3 of the Code of Civil Procedure.

31 **Comment.** Section 54835 continues former Fish and Game Code Section 1348.3(a)(1), (a)(3),  
32 and (b) without substantive change.

33  **Staff Note.** Existing Section 1348.3(a)(2) incorporates the definition of “wildlife” provided in  
34 Section 89.5. That provision is not continued here, because the Commission is proposing to  
35 generalize Section 89.5 so that its definition of “wildlife” applies to the entire code.

36 **§ 54840. Farm lands**

37 54840. No farm lands may be acquired under the provisions of this title by  
38 proceedings in eminent domain except by specific authorization of the Legislature,  
39 notwithstanding any provision of Section 54815. Nothing in this section shall  
40 apply to any proceedings to acquire farm lands when the owner thereof has  
41 consented to, or requested the institution of, the proceedings.

1       **Comment.** Section 54840 continues former Fish and Game Code Section 1349 without  
2 substantive change.

3       **§ 54845. Receipt of grants, gifts, donations, and other financial support**

4       54845. The department, when authorized by the board, may apply for and accept  
5 federal grants, and receive gifts, donations, and other financial support from public  
6 or private sources to be used for fish and wildlife habitat enhancement, including  
7 riparian habitat restoration projects on real property or waters for which the state  
8 obtains an interest. Funds received from any of those sources shall be deposited in  
9 the Wildlife Restoration Fund.

10       **Comment.** Section 54845 continues former Fish and Game Code Section 1350(b) without  
11 substantive change.

12       **§ 54850. Award of grant or loan**

13       54850. (a) The board may award grants or loans to nonprofit organizations, local  
14 governmental agencies, federal agencies, and state agencies for the purposes of  
15 fish and wildlife habitat restoration, enhancement, management, protection and  
16 improvement of riparian resources, and for development of compatible public  
17 access facilities in the same manner and subject to the same terms and conditions  
18 as prescribed in Section 31116 of the Public Resources Code.

19       (b) Proceeds from repayment of any loans and the interest thereon shall be  
20 deposited in the Wildlife Restoration Fund.

21       **Comment.** Section 54850 continues former Fish and Game Code Section 1350(c) without  
22 substantive change.

23       **§ 54855. Construction of facilities**

24       54855. (a) The department shall, when authorized by the board, construct in  
25 accordance with law any facilities that are suitable for the purpose for which the  
26 real property or rights in real property or water, or water rights were acquired.  
27 Each completed project shall be managed and maintained by the department.

28       (b) The department, with the approval of the board, may enter into agreements  
29 with any other department or agency of this state, any local agency, or nonprofit  
30 organization, to provide for the construction, management, or maintenance of the  
31 facilities authorized by the board, and the other department or agency of this state,  
32 local agency, or nonprofit organization, and each of them may construct, manage,  
33 or maintain those facilities pursuant to the agreement.

34       (c) Work performed by a local agency or nonprofit organization under those  
35 agreements is exempt from Chapter 3 (commencing with Section 14250), of Part 5  
36 of Division 3 of Title 2 of the Government Code. However, nothing in this section,  
37 Section 54845, or Section 54850 shall be construed to exempt any work from Part  
38 7 (commencing with Section 1720) of Division 2 of the Labor Code.

39       **Comment.** Section 54855 continues former Fish and Game Code Section 1350(a) without  
40 substantive change.

1 **☞ Staff note:** Existing Section 1350(a) includes a reference to “Chapter 3 (commencing with  
2 Section 14250), of Part 5 of Division 3 of Title 2 of the Government Code.” The specified chapter  
3 does not commence with Section 14250. It commences with Section 14200. The subject of that  
4 chapters is state employee telecommuting, which seems inapt. **The staff invites comment on**  
5 **how to correct the apparently erroneous cross-reference.**

6 **§ 54860. Purchase of equipment**

7 54860. The board may purchase any boats, aircraft, or equipment that it deems  
8 necessary for the use of the department for the improvement and protection of  
9 marine fisheries.

10 **Comment.** Section 54860 continues former Fish and Game Code Section 1353 without  
11 substantive change.

12 **§ 54865. Public access to recreational areas**

13 54865. Each recreational area shall be so managed and controlled that the public  
14 shall have access to and use of the area for all recreational purposes.

15 **Comment.** Section 54865 continues former Fish and Game Code Section 1351 without  
16 substantive change.

17 **§ 54870. Proceeds from sale or disposition of fish hatchery**

18 54870. The net proceeds of the sale or other disposition of real property used as  
19 a fish hatchery that has been acquired by or is under the jurisdiction of the board  
20 or the department, either in easement or in fee, shall be deposited in the Wildlife  
21 Restoration Fund or the Fish and Game Preservation Fund, as determined by the  
22 board, and shall be available for acquisition, enhancement, restoration, or  
23 construction projects for the benefit of wildlife.

24 **Comment.** Section 54870 continues former Fish and Game Code Section 1355 without  
25 substantive change.

26 **§ 54875. Wildlife Restoration Fund**

27 54875. (a) The money in the Wildlife Restoration Fund, as provided for by  
28 Section 19632 of the Business and Professions Code, is available for expenditure  
29 under any provision of this title.

30 (b) All federal moneys made available for projects authorized by the board shall  
31 be deposited in the Wildlife Restoration Fund. Any unexpended balances of the  
32 federal moneys remaining on or after June 30, 1979, in any other fund shall be  
33 transferred to the Wildlife Restoration Fund.

34 (c) Any moneys received in the Wildlife Restoration Fund from leases  
35 authorized pursuant to paragraph (2) or (3) of subdivision (c) of Section 54815  
36 shall be expended, upon appropriation, by the department for the purposes of  
37 managing, maintaining, restoring, or operating lands owned and managed by the  
38 department.

39 **Comment.** Section 54875 continues former Fish and Game Code Section 1352 without  
40 substantive change.

1 **Staff Note.** Existing Section 1352(b) provides:

2 “All federal moneys made available for projects authorized by the board shall be deposited in the  
3 Wildlife Restoration Fund. Any unexpended balances of the federal moneys remaining on or after  
4 June 30, 1979, in any other fund shall be transferred to the Wildlife Restoration Fund.”

5 The second sentence of that subdivision required action in 1979. **The staff invites comment on  
6 whether it can be repealed as obsolete.**

7 **§ 54880. San Francisco Baylands Restoration Program**

8 54880. (a) The San Francisco Baylands Restoration Program Account is hereby  
9 established within the Wildlife Restoration Fund, as provided for by Section  
10 19632 of the Business and Professions Code, for the purpose of acquiring and  
11 restoring wetlands and lands that may be enhanced to support wetlands in the San  
12 Francisco Bay area in order to achieve the objectives of the Baylands Ecosystem  
13 Habitat Goals Report (Goals Report).

14 (b) Funds in the account may be expended by the board to acquire any lands  
15 identified in the Goals Report that are available for acquisition subject to the  
16 following conditions:

17 (1) The purchase price shall not exceed the fair market value of the property, as  
18 determined by an appraisal conducted pursuant to Section 54830. The appraisal  
19 shall also consider and describe all the specific requirements and restrictions of  
20 relevant state and federal laws, including, but not limited to, the McAteer-Petris  
21 Act (Title 7.2 (commencing with Section 66600) of the Government Code),  
22 related to the property value and development potential of lands considered for  
23 acquisition in the shoreline band of the San Francisco Bay area.

24 (2) The board has determined any of the following:

25 (A) Funds are available to implement the recommendations and objectives of the  
26 Goals Report for a significant portion of the property to be acquired by the board.

27 (B) Sufficient funding and authority exists for the long-term maintenance of all  
28 levees and dikes and all other land-use management requirements necessary to  
29 avoid environmental degradation for the property proposed to be acquired by the  
30 board.

31 (C) The property to be acquired by the board has no unique long-term  
32 maintenance requirements or has no land-use management requirements necessary  
33 to avoid environmental degradation.

34 (3) If the board determines to acquire all or a portion of the Cargill property, a  
35 matching federal appropriation for the acquisition of the Cargill property shall be  
36 deposited into an account solely for the acquisition of the Cargill property or a  
37 portion thereof.

38 (4) The board has consulted with the State Coastal Conservancy and determined  
39 that the proposed acquisition is consistent with most of the goals of the San  
40 Francisco Bay Area Conservancy Program, as described in Section 31162 of the  
41 Public Resources Code.

1 (5) The acquisition of the property will not result in any liability to the state for  
2 the cleanup of hazardous materials.

3 (c) “Cargill property,” for purposes of this section, means all property owned by  
4 the Cargill Salt Division that Cargill proposes to sell to the state and federal  
5 governments.

6 **Comment.** Section 54880 continues former Fish and Game Code Section 1352.5 without  
7 substantive change.

8 **§ 54885. Cooperation with federal agencies**

9 54885. The board may act either independently or may cooperate with the  
10 United States Fish and Wildlife Service, Department of Interior, or any other  
11 federal agency in determining any of the questions referred to in this title, or in the  
12 acquisition and construction of any of the projects mentioned in this title.

13 **Comment.** Section 54885 continues former Fish and Game Code Section 1375 without  
14 substantive change.

15 **CHAPTER 3. OAK WOODLANDS CONSERVATION ACT**

16 **Article 1. General Provisions**

17 **§ 54900. Short title**

18 54900. This chapter shall be known, and may be cited, as the Oak Woodlands  
19 Conservation Act.

20 **Comment.** Section 54900 continues former Fish and Game Code Section 1360 without  
21 substantive change.

22 **§ 54905. Definitions**

23 54905. For purposes of this chapter, the following terms have the following  
24 meanings:

25 (a) “Conservation easement” means a conservation easement, as defined in  
26 Section 815.1 of the Civil Code.

27 (b) “Fund” means the Oak Woodlands Conservation Fund.

28 (c) “Land improvement” means restoration or enhancement of biologically  
29 functional oak woodlands habitat.

30 (d) “Local government entity” means any city, county, city and county, district,  
31 or other local government entity, if the entity is otherwise authorized to acquire  
32 and hold title to real property.

33 (e) “Nonprofit organization” means a tax-exempt nonprofit organization that  
34 meets the requirements of subdivision (a) of Section 815.3 of the Civil Code.

35 (f) “Oak” means any species in the genus *Quercus*.

36 (g) “Oak woodlands” means an oak stand with a greater than 10 percent canopy  
37 cover or that may have historically supported greater than 10 percent canopy  
38 cover.

1 (h) “Oak woodlands management plan” means a plan that provides protection  
2 for oak woodlands over time and compensates private landowners for conserving  
3 oak woodlands.

4 (i) “Special oak woodlands habitat elements” means multi- and single-layered  
5 canopy, riparian zones, cavity trees, snags, and downed woody debris.

6 **Comment.** Section 54905 continues former Fish and Game Code Section 1361(b)-(j) without  
7 substantive change. See Section 54705 (“board” defined for purposes of chapter).

8 **§ 54910. Legislative intent**

9 54910. It is the intent of the Legislature that this chapter accomplish all of the  
10 following:

11 (a) Support and encourage voluntary, long-term private stewardship and  
12 conservation of California’s oak woodlands by offering landowners financial  
13 incentives to protect and promote biologically functional oak woodlands over  
14 time.

15 (b) Provide incentives to protect and encourage farming and ranching operations  
16 that are operated in a manner that protects and promotes healthy oak woodlands.

17 (c) Provide incentives for the protection of oak trees providing superior wildlife  
18 values on private lands.

19 (d) Encourage local land use planning that is consistent with the preservation of  
20 oak woodlands, particularly special oak woodlands habitat elements.

21 (e) Provide guidelines for spending the funds allocated for oak woodlands  
22 pursuant to the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal  
23 Protection Bond Act of 2000 (the Villaraigosa-Keeley Act (Chapter 1.692  
24 (commencing with Section 5096.300) of Division 5 of the Public Resources  
25 Code)).

26 (f) Establish a fund for oak woodlands conservation, to which future  
27 appropriations for oak woodlands protection may be made, and specify grant  
28 making guidelines.

29 **Comment.** Section 54910 continues former Fish and Game Code Section 1362 without  
30 substantive change.

31 **§ 54915. Authority to affect local policy or land use decisionmaking**

32 54915. Nothing in this chapter grants any new authority to the board or any  
33 other agency, office, or department to affect local policy or land use  
34 decisionmaking.

35 **Comment.** Section 54915 continues former Fish and Game Code Section 1372 without  
36 substantive change.

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Article 2. Oak Woodlands Conservation Fund

**§ 54925. Fund established**

54925. The Oak Woodlands Conservation Fund is hereby created in the State Treasury. The fund shall be administered by the board. Moneys in the fund may be expended, upon appropriation by the Legislature, for the purposes of this chapter.

**Comment.** Section 54925 continues former Fish and Game Code Section 1363(a) without substantive change.

**§ 54930. Deposits**

54930. Money may be deposited into the Oak Woodlands Conservation Fund from gifts, donations, funds appropriated by the Legislature for the purposes of this chapter, or from federal grants or loans or other sources, and shall be used for the purpose of implementing this chapter, including administrative costs. Funds from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (the Villaraigosa-Keeley Act (Chapter 1.692 (commencing with Section 5096.300) of Division 5 of the Public Resources Code)), but not including funds dedicated as matching funds for the federal Forest Legacy Program, shall be deposited in the fund.

**Comment.** Section 54930 continues former Fish and Game Code Section 1363(b) without substantive change.

**§ 54935. Minimum deposit requirement**

54935. No money may be expended from the fund to adopt guidelines or to administer the fund until at least one million dollars (\$1,000,000) is deposited in the fund.

**Comment.** Section 54935 continues former Fish and Game Code Section 1370 without substantive change.

**§ 54940. Use of funds**

54940. (a) The purposes for which moneys in the fund may be used include all of the following:

(1) Grants for the purchase of oak woodlands conservation easements. Any entity authorized to hold a conservation easement under Section 815.3 of the Civil Code may hold a conservation easement pursuant to this chapter. The holder of the conservation easement shall ensure, on an annual basis, that the conservation easement conditions have been met for that year.

(2) Grants for land improvement.

(3) Cost-sharing incentive payments to private landowners who enter into long-term conservation agreements. An agreement shall include management practices that benefit oak woodlands and promote the economic sustainability of farming and ranching operations.

1 (4) Public education and outreach by local government entities, park and open-  
2 space districts, resource conservation districts, and nonprofit organizations. The  
3 public education and outreach shall identify and communicate the social,  
4 economic, agricultural, and biological benefits of strategies to conserve oak  
5 woodlands habitat values, including watershed protection benefits that reduce soil  
6 erosion, increase streamflows, and increase water retention and sustainable  
7 agricultural operations.

8 (5) Assistance to local government entities, park and open-space districts,  
9 resource conservation districts, and nonprofit organizations for the development  
10 and implementation of oak conservation elements in local general plans.

11 (6) Technical assistance consistent with the purpose of preserving oak  
12 woodlands.

13 (b) Not more than 20 percent of all grants made by the board pursuant to this  
14 chapter may be used for the purposes described in paragraphs (4), (5), and (6) of  
15 subdivision (a). Not less than 80 percent of funds available for grants pursuant to  
16 this chapter shall be expended for the purposes described in paragraphs (1), (2),  
17 and (3) of subdivision (a).

18 (c) Moneys in the fund shall be available to local government entities, park and  
19 open-space districts, resource conservation districts, private landowners, and  
20 nonprofit organizations for the purposes set forth in subdivision (a).

21 **Comment.** Subdivisions (a) and (b) of Section 54940 continue former Fish and Game Code  
22 Section 1363(d)-(e) without substantive change.

23 Subdivision (c) continues former Fish and Game Code Section 1364 without substantive  
24 change.

25 **§ 54945. California Forest Legacy Program**

26 54945. To the extent consistent with the Safe Neighborhood Parks, Clean Water,  
27 Clean Air, and Coastal Protection Bond Act of 2000 (the Villaraigosa-Keeley Act  
28 (Chapter 1.692 (commencing with Section 5096.300) of Division 5 of the Public  
29 Resources Code)), the board may use money designated for the preservation and  
30 restoration of oak woodlands in the Oak Woodlands Conservation Fund for  
31 projects in conjunction with the California Forest Legacy Program (Division 10.5  
32 (commencing with Sec. 12200) of the Public Resources Code)), but only for the  
33 purposes specified in this chapter and only if the following requirements are met:

34 (a) The Department of Forestry and Fire Protection shall make an initial  
35 recommendation to the board.

36 (b) The board may deny any initial recommendation to the Department of  
37 Forestry and Fire Protection. Subsequently, if the department alters an initial  
38 proposal, in a manner that the board determines to be significant, the board may  
39 withdraw its initial approval of the recommendation at any time during the  
40 process.

41 **Comment.** Section 54945 continues former Fish and Game Code Section 1363(c) without  
42 substantive change.

1    **§ 54950. Memorandum of understanding with Department of Forestry and Fire Protection**

2       54950. On or before April 1, 2002, the board and the Department of Forestry  
3 and Fire Protection shall develop a memorandum of understanding regarding the  
4 protection of oak woodlands that does all of the following:

5       (a) If necessary, creates a specific process for working together to use money  
6 from the fund in conjunction with the California Forest Legacy Program Act of  
7 2000 (Division 10.5 (commencing with Section 12200) of the Public Resources  
8 Code).

9       (b) Lists elements a county or city shall include in its oak woodlands  
10 management plan. Items included in the plan shall assist a county or a city to  
11 specify conservation priorities and prevent oak woodlands habitat fragmentation  
12 while minimizing the cost and administrative burden associated with developing  
13 the plan. The elements may include any or all of the following:

14       (1) Tree inventory mapping.

15       (2) Oak canopy retention standards.

16       (3) Oak habitat mitigation measures.

17       (4) A procedure to monitor the effectiveness of the plan and to modify the plan  
18 as necessary.

19       (c) Designates an online repository for oak woodlands management plans that  
20 will be easily accessible to the public and any other state agency involved in oak  
21 woodlands conservation efforts.

22       (d) Discusses the relationship between oak woodlands conservation efforts  
23 under this chapter and efforts by other state agencies to protect oak woodlands,  
24 including efforts to combat sudden oak death, and outlines a plan, as necessary, for  
25 coordinating with these agencies.

26       **Comment.** Section 54950 continues former Fish and Game Code Section 1367 without  
27 substantive change.

28    **§ 54955. Expenditure pursuant to Public Resources Code Section 5096.350(a)(4)**

29       54955. Notwithstanding any other provision of law, this chapter governs the  
30 expenditure of funds for the preservation of oak woodlands pursuant to paragraph  
31 (4) of subdivision (a) of Section 5096.350 of the Public Resources Code.

32       **Comment.** Section 54955 continues former Fish and Game Code Section 1363(f) without  
33 substantive change.

34    **§ 54960. Grant criteria**

35       54960. The board shall develop and adopt guidelines and criteria for awarding  
36 grants that achieve the greatest lasting conservation of oak woodlands. The board  
37 shall develop these guidelines in consultation with the Department of Forestry and  
38 Fire Protection, the Department of Food and Agriculture, the University of  
39 California's Integrated Hardwood Range Management Program, conservation  
40 groups, and farming and ranching associations. As it applies to the award of grants  
41 for the implementation of this chapter, the board criteria shall specify that

1 easement acquisitions that are the most cost-effective in comparison to the actual  
2 resource value of the easement shall be given priority.

3 **Comment.** Section 54960 continues former Fish and Game Code Section 1365 without  
4 substantive change.

5 **§ 54965. Qualification for grant**

6 54965. (a) To qualify for a grant pursuant to this chapter, the county or city in  
7 which the grant money would be spent shall prepare, or demonstrate that it has  
8 already prepared, an oak woodlands management plan that includes a description  
9 of all native oak species located within the county's or city's jurisdiction.

10 (b) To qualify for a grant pursuant to this chapter, the board shall certify that any  
11 proposed easement was not, and is not, required to satisfy a condition imposed  
12 upon the landowner by any lease, permit, license, certificate, or other entitlement  
13 for use issued by one or more public agencies, including, but not limited to, the  
14 mitigation of significant effects on the environment of a project pursuant to an  
15 approved environmental impact report or to mitigate a negative declaration  
16 required pursuant to the California Environmental Quality Act (Division 13  
17 (commencing with Section 21000)) of the Public Resources Code.

18 (c) To qualify for a grant under this chapter, the applicant shall demonstrate that  
19 its proposal provides protection of oak woodlands that is more protective than the  
20 applicable provisions of law in existence on the date of the proposal.

21 (d) A county or city may develop an oak woodlands management plan. A  
22 nonprofit corporation, park and open-space district, resource conservation district,  
23 or other local government entity may apply to the board for funds to develop an  
24 oak woodlands management plan for a county or city, but the county or city shall  
25 maintain ultimate authority to approve the oak woodlands management plan.

26 (e) The process for developing an initial oak woodlands management plan, and  
27 the adoption of significant amendments to a plan, as determined by the county or  
28 city, are subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section  
29 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

30 (f) A proposal by a local government entity, nonprofit corporation, park and  
31 open-space district, private landowner, or resource conservation district for a grant  
32 to be expended for the purposes of this chapter shall be certified by the county or  
33 city as being consistent with the oak woodlands management plan of the county or  
34 city. If the land covered by the proposal is in the jurisdiction of more than one  
35 county or city, each county or city shall certify that the proposal is consistent with  
36 the oak woodlands management plan of each county or city.

37 (g) If two or more entities seek grant funding from the board pursuant to this  
38 chapter for the same jurisdiction, the county or city shall designate which entity  
39 shall lead the efforts to manage oak woodlands habitat in the area.

40 **Comment.** Section 54965 continues former Fish and Game Code Section 1366 without  
41 substantive change.

1    **§ 54970. Use of eminent domain**

2       54970. The board may not approve a grant to a local government entity, park  
3 and open-space district, resource conservation district, or nonprofit organization if  
4 the entity requesting the grant has acquired, or proposes to acquire, an oak  
5 woodlands conservation easement through the use of eminent domain, unless the  
6 owner of the affected lands requests the owner to do so.

7       **Comment.** Section 54970 continues former Fish and Game Code Section 1368 without  
8 substantive change.

9    **§ 54975. Use of grant funds by city or county planning department**

10       54975. (a) A city or county planning department may utilize a grant awarded for  
11 the purposes of this chapter to consult with a citizen advisory committee and  
12 appropriate natural resource specialists in order to report publicly to the city  
13 council or the board of supervisors on the status of the city’s or county’s oak  
14 woodlands.

15       (b) Each city or county planning department that receives a grant for the  
16 purposes of this chapter shall report to the city council or to the board of  
17 supervisors of the county, as appropriate, on the use of those grant funds within  
18 one year from the date the grant is received.

19       **Comment.** Section 54975 continues former Fish and Game Code Section 1369 without  
20 substantive change.

21                   **TITLE 2. HABITAT RESTORATION AND**  
22                   **ENHANCEMENT ACT**

23                   **CHAPTER 1. GENERAL PROVISIONS**

24    **§ 55100. Short title**

25       55100. This title shall be known, and may be cited, as the Habitat Restoration  
26 and Enhancement Act.

27       **Comment.** Section 55100 continues former Fish and Game Code Section 1650 without  
28 substantive change.

29    **§ 55105. Definitions**

30       55105. As used in this title:

31       (a) “Fish passage guidelines” means those guidelines specified in the  
32 department’s California Salmonid Stream Habitat Restoration Manual and the  
33 National Marine Fisheries Service, Southwest Region, Guidelines for Salmonid  
34 Passage at Stream Crossings, and subsequent amendments or updates to either  
35 document.

36       (b) “Habitat restoration or enhancement project” means a project with the  
37 primary purpose of improving fish and wildlife habitat. A habitat restoration or

1 enhancement project shall meet the eligibility requirements for the State Water  
2 Resources Control Board’s Order for Clean Water Act Section 401 General Water  
3 Quality Certification for Small Habitat Restoration Projects, or its current  
4 equivalent at the time the project proponent submits a written request pursuant to  
5 Article 1 (commencing with Section 55200) or Article 3 (commencing with  
6 Section 55300) of Chapter 3. The order or current equivalent may include  
7 programmatic waivers or waste discharge requirements for small habitat  
8 restoration projects.

9 (c) “Project proponent” means a person, public agency, or nonprofit  
10 organization seeking to implement a habitat restoration or enhancement project.

11 (d) “Species recovery plan” means a guidance document prepared by a  
12 government agency that identifies recovery actions, based upon the best scientific  
13 and commercial data available, necessary for the protection and recovery of listed  
14 species.

15 **Comment.** Section 55105 continues former Fish and Game Code Section 1651 without  
16 substantive change.

17 **§ 55110. Effect of title**

18 55110. This title shall not be construed as expanding the scope of projects  
19 requiring a permit, agreement, license, or other approval issued by the department.

20 **Comment.** Section 55110 continues former Fish and Game Code Section 1654(b) without  
21 substantive change.

22 **§ 55115. Report**

23 55115. (a) The department shall submit a report on the implementation of this  
24 title to the Legislature no later than December 31, 2020, which shall include, but  
25 not be limited to, the number, type, and geographical distribution of approved  
26 projects, funding adequacy, and recommendations for changes and improvements  
27 in the program.

28 (b) 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 55115 continues former Fish and Game Code Section 1656 without  
31 substantive change.

32 **§ 55120. Sunset**

33 55120. This title shall remain in effect only until January 1, 2022, and as of that  
34 date is repealed, unless a later enacted statute, that is enacted before January 1,  
35 2022, deletes or extends that date.

36 **Comment.** Section 55120 continues former Fish and Game Code Section 1657 without  
37 substantive change.

1                   CHAPTER 2. HABITAT RESTORATION AND ENHANCEMENT  
2                                           ACCOUNT

3   **§ 55150. Creation**

4       55150. The Habitat Restoration and Enhancement Account is hereby created in  
5 the Fish and Game Preservation Fund.

6       **Comment.** Section 55150 continues former Fish and Game Code Section 1655(a) without  
7 substantive change.

8   **§ 55155. Receipt of funds**

9       55155. The department may enter into an agreement to accept funds from any  
10 public agency, person, business entity, or organization to achieve the purposes of  
11 this title. The department shall deposit any funds so received in the account. The  
12 funds received shall supplement existing resources for department administration  
13 and permitting of projects and programs included in this title.

14       **Comment.** Section 55155 continues former Fish and Game Code Section 1655(b) without  
15 substantive change.

16   **§ 55160. Availability**

17       55160. Moneys in the account shall be available to the department, upon  
18 appropriation by the Legislature, for the purposes of administering and  
19 implementing this title.

20       **Comment.** Section 55160 continues former Fish and Game Code Section 1655(d) without  
21 substantive change.

22                                           CHAPTER 3. PROJECT APPROVAL

23                                           Article 1. Project Not Certified by Water Board

24   **§ 55200. Request to approve project**

25       55200. A project proponent may submit a written request to approve a habitat  
26 restoration or enhancement project to the director pursuant to this article if the  
27 project has not received certification pursuant to the State Water Resources  
28 Control Board's Order for Clean Water Act Section 401 General Water Quality  
29 Certification for Small Habitat Restoration Projects, or its current equivalent at the  
30 time the project proponent submits the written request.

31       **Comment.** Section 55200 continues the first sentence of former Fish and Game Code Section  
32 1652(a) without substantive change.

33   **§ 55205. Content of request**

34       55205. A written request to approve a habitat restoration or enhancement project  
35 pursuant to this article shall contain all of the following:

1 (a) The name, address, title, organization, telephone number, and email address  
2 of the natural person or persons who will be the main point of contact for the  
3 project proponent.

4 (b) A full description of the habitat restoration or enhancement project that  
5 includes the designs and techniques to be used for the project, restoration or  
6 enhancement methods, an estimate of temporary restoration- or enhancement-  
7 related disturbance, project schedule, anticipated activities, and how the project is  
8 expected to result in a net benefit to any affected habitat and species, consistent  
9 with subdivision (d) of Section 55215.

10 (c) An assessment of the project area that provides a description of the existing  
11 flora and fauna and the potential presence of sensitive species or habitat. The  
12 assessment shall include preproject photographs of the project area that include a  
13 descriptive title, date taken, the photographic monitoring point, and photographic  
14 orientation.

15 (d) A geographic description of the project site including maps, land ownership  
16 information, and other relevant location information.

17 (e) A description of the environmental protection measures incorporated into the  
18 project design, so that no potentially significant adverse effects on the  
19 environment, as defined in Section 15382 of Title 14 of the California Code of  
20 Regulations, are likely to occur with application of the specified environmental  
21 protection measures. Environmental protection measures may include, but are not  
22 limited to, appropriate seasonal work limitations, measures to avoid and minimize  
23 impacts to water quality and potentially present species protected by state and  
24 federal law, and the use of qualified professionals for standard preconstruction  
25 surveys where protected species are potentially present.

26 (f) Substantial evidence to support a conclusion that the project meets the  
27 requirements set forth in this article. Substantial evidence shall include references  
28 to relevant design criteria and environmental protection measures found in the  
29 documents specified in subdivision (d) of Section 55215.

30 (g) A certifying statement that the project will comply with the California  
31 Environmental Quality Act (Division 13 (commencing with Section 21000) of the  
32 Public Resources Code), which may include, but not be limited to, the  
33 requirements of Section 15333 of Title 14 of the California Code of Regulations.

34 **Comment.** Section 55205 continues former Fish and Game Code Section 1652(b) without  
35 substantive change.

36 **§ 55210. Application fee**

37 55210. The department shall assess an application fee for a project submitted to  
38 the department pursuant to this article consistent with the fees adopted by the  
39 department pursuant to **Chapter 6 (commencing with Section 1600)**, but the  
40 application fee shall not exceed the reasonable administrative and implementation  
41 costs of the department relating to the project.

1       **Comment.** Section 55210 continues former Fish and Game Code Section 1655(c), as it relates  
2 to this chapter, without substantive change.

3       **§ 55215. Approval**

4       55215. Notwithstanding any other law, within 60 days after receiving a written  
5 request to approve a habitat restoration or enhancement project, the director shall  
6 approve a habitat restoration or enhancement project if the director determines that  
7 the written request includes all of the required information set forth in Section  
8 55205, and the project meets all of the following requirements:

9       (a) The project purpose is voluntary habitat restoration and the project is not  
10 required as mitigation.

11       (b) The project is not part of a regulatory permit for a nonhabitat restoration or  
12 enhancement construction activity, a regulatory settlement, a regulatory  
13 enforcement action, or a court order.

14       (c) The project meets the eligibility requirements of the State Water Resources  
15 Control Board's Order for Clean Water Act Section 401 General Water Quality  
16 Certification for Small Habitat Restoration Projects, or its current equivalent at the  
17 time the project proponent submits the written request, but has not received  
18 certification pursuant to that order or its equivalent.

19       (d) The project is consistent with, or identified in, sources that describe best  
20 available restoration and enhancement methodologies, including one or more of  
21 the following:

22       (1) Federal- and state-listed species recovery plans or published protection  
23 measures, or previously approved department agreements and permits issued for  
24 voluntary habitat restoration or enhancement projects.

25       (2) Department and National Marine Fisheries Service fish screening criteria or  
26 fish passage guidelines.

27       (3) The department's California Salmonid Stream Habitat Restoration Manual.

28       (4) Guidance documents and practice manuals that describe best available  
29 habitat restoration or enhancement methodologies that are utilized or approved by  
30 the department.

31       (e) The project will not result in cumulative adverse environmental impacts that  
32 are significant when viewed in connection with the effects of past, current, or  
33 probable future projects.

34       **Comment.** Section 55215 continues former Fish and Game Code Section 1652(c) without  
35 substantive change.

36       **§ 55220. Denial**

37       55220. If the director determines that the written request does not contain all of  
38 the information required by Section 55205, or fails to meet the requirements set  
39 forth in Section 55215, or both, the director shall deny the written request and  
40 inform the project proponent of the reason or reasons for the denial.

41       **Comment.** Section 55220 continues former Fish and Game Code Section 1652(d) without  
42 substantive change.

1    **§ 55225. Notice of completion**

2       55225. The project proponent shall submit a notice of completion to the  
3 department no later than 30 days after the project approved pursuant to this article  
4 is completed. The notice of completion shall demonstrate that the project has been  
5 carried out in accordance with the project’s description. The notice of completion  
6 shall include a map of the project location, including the final boundaries of the  
7 restoration area or areas and postproject photographs. Each photograph shall  
8 include a descriptive title, date taken, photographic monitoring point, and  
9 photographic orientation.

10    **Comment.** Section 55225 continues former Fish and Game Code Section 1652(e) without  
11 substantive change.

12    **§ 55230. Monitoring report**

13       55230. The project proponent shall submit a monitoring report describing  
14 whether the restoration project is meeting each of the restoration goals stated in  
15 the project application. Each report shall include photographs with a descriptive  
16 title, date taken, photographic monitoring point, and photographic orientation. The  
17 monitoring reports for Section 401 Water Quality Certification or waste discharge  
18 requirements of the State Water Resources Control Board or a regional water  
19 quality control board, or for department or federal voluntary habitat restoration  
20 programs, including, but not limited to, the Fisheries Restoration Grant Program,  
21 may be submitted in lieu of this requirement.

22    **Comment.** Section 55230 continues former Fish and Game Code Section 1652(f) without  
23 substantive change.

24                                           Article 2. Project Certified by Water Board

25    **§ 55300. Request to approve project**

26       55300. A project proponent may submit a written request to approve a habitat  
27 restoration or enhancement project to the director pursuant to this article if the  
28 project has received certification pursuant to the State Water Resources Control  
29 Board’s Order for Clean Water Act Section 401 General Water Quality  
30 Certification for Small Habitat Restoration Projects, or its current equivalent at the  
31 time the project proponent submits the written request.

32    **Comment.** Section 55300 continues former Fish and Game Code Section 1653(a) without  
33 substantive change.

34    **§ 55305. Content of request**

35       55305. A written request to approve a habitat restoration or enhancement project  
36 pursuant to this article shall include all of the following:

- 37       (a) Notice that the project proponent has received a notice of applicability that  
38 indicates that the project is authorized pursuant to the State Water Resources  
39 Control Board’s Order for Clean Water Act Section 401 General Water Quality

1 Certification for Small Habitat Restoration Projects, or its equivalent at the time  
2 the project proponent submits the written request.

3 (b) A copy of the notice of applicability.

4 (c) A copy of the notice of intent provided to the State Water Resources Control  
5 Board or a regional water quality control board.

6 (d) A description of species protection measures incorporated into the project  
7 design, but not already included in the notice of intent, to avoid and minimize  
8 impacts to potentially present species protected by state and federal law, such as  
9 appropriate seasonal work limitations and the use of qualified professionals for  
10 standard preconstruction surveys where protected species are potentially present.

11 (e) The fees required pursuant to Section 55310.

12 **Comment.** Section 55305 continues former Fish and Game Code Section 1653(b) without  
13 substantive change.

14 **§ 55310. Application fee**

15 55310. The department shall assess an application fee for a project submitted to  
16 the department pursuant to this article consistent with the fees adopted by the  
17 department pursuant to **Chapter 6 (commencing with Section 1600)**, but the  
18 application fee shall not exceed the reasonable administrative and implementation  
19 costs of the department relating to the project.

20 **Comment.** Section 55310 continues former Fish and Game Code Section 1655(c), as it relates  
21 to this chapter, without substantive change.

22 **§ 55315. Publication of notice**

23 55315. Upon receipt of the notice specified in subdivision (a) of Section 55305,  
24 the director shall immediately have published in the General Public Interest  
25 Section of the California Regulatory Notice Register the receipt of that notice.

26 **Comment.** Section 55315 continues former Fish and Game Code Section 1653(c) without  
27 substantive change.

28 **§ 55320. Determination of completeness**

29 55320. (a) Within 30 days after the director has received the notice of  
30 applicability described in Section 55305, the director shall determine whether the  
31 written request accompanying the notice of applicability is complete.

32 (b) If the director determines within that 30-day period, based upon substantial  
33 evidence, that the written request is not complete, then the project may be  
34 authorized under Article 1 (commencing with Section 55200).

35 (c) The director shall immediately publish the determination pursuant to  
36 subdivision (a) in the General Public Interest Section of the California Regulatory  
37 Notice Register.

38 **Comment.** Section 55320 continues former Fish and Game Code Section 1653(d)-(f) without  
39 substantive change.



1 The project proponent may provide additional environmental protection measures,  
2 design modifications, or other evidence that the project is consistent with Section  
3 55215 or Section 55305, as applicable, and request that the notice of suspension be  
4 lifted and approval granted.

5 **Comment.** Section 55360 continues former Fish and Game Code Section 1654(c)(2) without  
6 substantive change.

7 **§ 55365. Final decision**

8 55365. The director shall revoke approval or lift the suspension of project  
9 approval within 30 days after receiving the project proponent's objection pursuant  
10 to Section 55360.

11 **Comment.** Section 55365 continues former Fish and Game Code Section 1654(c)(3) without  
12 substantive change.

13 **§ 55370. Liability**

14 55370. Pursuant to Section 818.4 of the Government Code, the department and  
15 any other state agency exercising authority under this article shall not be liable  
16 with regard to any determination or authorization made pursuant to this article.

17 **Comment.** Section 55370 continues former Fish and Game Code Section 1654(d) without  
18 substantive change.

19 TITLE 3. FISH AND WILDLIFE HABITAT  
20 ENHANCEMENT ACT OF 1984

21  **Staff Note.** The Fish and Wildlife Habitat Enhancement Act (existing Sections 2600-2651)  
22 was added by Proposition 19 (1984). The Commission has generally adopted a very deferential  
23 approach to the recodification of provisions added by initiative. Consistent with that approach,  
24 the staff has made very minimal changes to the language of this part, mostly relating to section  
25 numbering.

26 CHAPTER 1. GENERAL PROVISIONS

27 **§ 55500. Short title**

28 55500. This title shall be known and may be cited as the Fish and Wildlife  
29 Habitat Enhancement Act of 1984.

30 **Comment.** Section 55500 continues former Fish and Game Code Section 2600 without  
31 substantive change.

32 **§ 55505. Declaration of purpose**

33 55505. (a) The fundamental requirement for healthy, vigorous populations of  
34 fish and wildlife is habitat. Without adequate habitat, efforts to conserve and  
35 manage fish and wildlife resources will have limited success.

36 (b) Assuring adequate habitat, with the resulting increase in the abundance of  
37 fish and wildlife, confers substantial benefits on the people of California through

1 the opportunities afforded for the use, enjoyment, and appreciation of fish and  
2 wildlife resources, the perpetuation of species of fish and wildlife for their  
3 intrinsic and ecological values, and the enhancement of economic activities based  
4 on these resources.

5 (c) Accordingly, the purpose of this title is to provide the financial means to  
6 correct the most severe deficiencies in fish and wildlife habitat currently found in  
7 California through a program of acquisition, enhancement, and development of  
8 habitat areas that are most in need of proper conservation and management.

9 **Comment.** Section 55505 continues former Fish and Game Code Section 2601 without  
10 substantive change.

11 **§ 55510. Definitions**

12 55510. As used in this title, the following terms have the following meanings:

13 (a) “Acquisition” means the acquisition of any interest in real property.

14 (b) “Coastal zone” means the coastal zone as defined and mapped pursuant to  
15 Section 30103 of the Public Resources Code.

16 (c) “Local public agency” means a city, county, city and county, regional park or  
17 open-space district, recreation and park district, resource conservation district,  
18 association of governments, or joint powers agency whose jurisdiction is wholly or  
19 partially within the coastal zone or in the San Francisco Bay region.

20 **Comment.** Section 55510 continues former Fish and Game Code Section 2602 without  
21 substantive change.

22 **CHAPTER 2. HABITAT ENHANCEMENT PROGRAM**

23 **§ 55525. Appropriation of funds**

24 55525. All money deposited in the Fish and Wildlife Habitat Enhancement Fund  
25 shall be available for appropriation by the Legislature for the following purposes:

26 (a) Forty million dollars (\$40,000,000) for expenditure by the Wildlife  
27 Conservation Board pursuant to the Wildlife Conservation Law of 1947 for the  
28 acquisition, enhancement, or development, or any combination thereof, of lands  
29 located outside the coastal zone for the preservation of resources and the  
30 management of wildlife and fisheries, in accordance with the following schedule:

31 (1) Thirty million dollars (\$30,000,000) for the acquisition, enhancement, or  
32 development, or any combination thereof, of lands for habitat for wildfowl and  
33 other wildlife benefitted by a marsh or aquatic environment.

34 (2) Ten million dollars (\$10,000,000) for the restoration of waterways for the  
35 management of fisheries and the enhancement or development, or both, of habitat  
36 for other wildlife.

37 (b) Five million dollars (\$5,000,000) for expenditure by the Wildlife  
38 Conservation Board pursuant to the Wildlife Conservation Law of 1947 for the  
39 acquisition, enhancement, or development, or any combination thereof, of lands  
40 for habitat for rare, endangered, and fully protected species.

1 (c) Thirty million dollars (\$30,000,000) for expenditure by the State Coastal  
2 Conservancy for the acquisition, enhancement, or development, or any  
3 combination thereof, of marshlands and associated and adjacent lands and the  
4 development of associated facilities and for grants to local public agencies for  
5 those purposes, in accordance with the following schedule:

6 (1) Twenty million dollars (\$20,000,000) for grants by the conservancy to local  
7 public agencies in the coastal zone and in the San Francisco Bay region for the  
8 acquisition, enhancement, or development, or any combination thereof, of  
9 marshlands and adjacent lands for habitat for wildlife benefitted by a marsh or  
10 aquatic environment and the improvement of drainage into wetlands to control or  
11 retard erosion and sedimentation, and biologically and hydrologically associated  
12 upland habitat areas. Of the amount made available pursuant to this paragraph, not  
13 less than five million dollars (\$5,000,000) shall be available for grants for projects  
14 in the San Francisco Bay region.

15 (2) Ten million dollars (\$10,000,000) for expenditure by the conservancy for the  
16 purposes authorized in this subdivision.

17 (d) Ten million dollars (\$10,000,000) for expenditure by the Wildlife  
18 Conservation Board pursuant to the Wildlife Conservation Law of 1947 for the  
19 acquisition, enhancement, or development, or any combination thereof, inside the  
20 coastal zone of marshlands and adjacent lands for habitat for wildlife benefitted by  
21 a marsh or aquatic environment.

22 **Comment.** Section 55525 continues former Fish and Game Code Section 2620 without  
23 substantive change.

24 **§ 55530. Administrative costs of Wildlife Conservation Board**

25 55530. An annual amount, not to exceed one hundred thousand dollars  
26 (\$100,000), may be appropriated from the funds available pursuant to  
27 **subdivisions (a) and (d) of Section 2620** in the 1984–85 through 1989–90 fiscal  
28 years, in a particular amount to be determined in each annual appropriation, to the  
29 Wildlife Conservation Board for expenditure for costs incurred by the board in  
30 administering this title, as provided in this section. The board shall augment, as  
31 needed, any amount appropriated pursuant to this title with an appropriation from  
32 any other funds available to it. This title is not intended, nor shall it be construed,  
33 to authorize the Wildlife Conservation Board or the department to establish any  
34 additional personnel positions.

35 **Comment.** Section 55530 continues former Fish and Game Code Section 2621 without  
36 substantive change.

37 **§ 55535. Administrative costs of State Coastal Conservancy**

38 55535. An annual amount, not to exceed two hundred fifty thousand dollars  
39 (\$250,000), may be appropriated from the funds available pursuant to **subdivision**  
40 **(c) of Section 2620** in the 1984–85 through 1989–90 fiscal years, in a particular  
41 amount to be determined in each annual appropriation, to the State Coastal

1 Conservancy for expenditure for costs incurred by the conservancy in  
2 administering this title.

3 **Comment.** Section 55535 continues former Fish and Game Code Section 2622 without  
4 substantive change.

5 **§ 55540. Limitations**

6 55540. (a) None of the funds appropriated pursuant to this title may be  
7 encumbered for any purpose described in Section 54860.

8 (b) Notwithstanding Sections 31105 and 31106 of the Public Resources Code,  
9 the State Coastal Conservancy and the State Public Works Board may not make  
10 any acquisition pursuant to the power of eminent domain with any funds  
11 appropriated pursuant to this title.

12 **Comment.** Section 55540 continues former Fish and Game Code Section 2623 without  
13 substantive change.

14 **§ 55545. Use of funds for specified lands**

15 55545. Funds available pursuant to **subdivision (b) of Section 2620** may be  
16 encumbered only for lands constituting habitat that is subject to destruction,  
17 drastic modification, or severe curtailment of habitat values.

18 **Comment.** Section 55545 continues former Fish and Game Code Section 2624 without  
19 substantive change.

20 **§ 55550. Limitations on acquisition of title**

21 55550. No acquisition shall be undertaken with funds appropriated pursuant to  
22 **Section 2620** and no grant of funds appropriated pursuant to **subdivision (c) of**  
23 **Section 2620** shall be encumbered until all practical alternatives to direct purchase  
24 of the full fee title have been considered. The Wildlife Conservation Board and the  
25 State Coastal Conservancy shall establish a procedure to assure consideration of  
26 alternatives to direct purchase. These alternatives shall include, but not be limited  
27 to, the following:

28 (a) Opportunities for obtaining the land through exchanges of other publicly  
29 held lands.

30 (b) Tax considerations that may pertain to the contemplated transaction.

31 (c) Utilization of transfers of densities and density bonuses and other available  
32 land use controls.

33 (d) Purchase of less than full fee title.

34 **Comment.** Section 55550 continues former Fish and Game Code Section 2625 without  
35 substantive change.

36 **§ 55555. Further limitations on use of funds**

37 55555. (a) All restoration projects that involve the expenditure of funds  
38 available pursuant to **subdivision (c) of Section 2620** shall be reviewed in  
39 accordance with Section 31208, 31208.5, 31258, or 31258.5 of the Public  
40 Resources Code, as applicable.

1 (b) Funds available pursuant to **subdivision (d) of Section 2620** shall be  
2 encumbered in accordance with priorities of the California Coastal Commission.

3 (c) Of the total amount available pursuant to **subdivision (d) of Section 2620**,  
4 not more than four million dollars (\$4,000,000) may be encumbered for any single  
5 acquisition project.

6 **Comment.** Section 55555 continues former Fish and Game Code Section 2626 without  
7 substantive change.

8 **§ 55560. Additional limitations on use of funds**

9 55560. (a) Funds granted pursuant to **subdivision (c) of Section 2620** for any  
10 purpose, other than acquisition, shall not be encumbered by the recipient until the  
11 conservancy has entered into an agreement sufficient to protect the public interest  
12 in any improvements constructed pursuant to this title with the entity that exercises  
13 legal control of the real property on which the improvement is constructed.

14 (b) The conservancy shall not disburse any grant until the applicant, or any other  
15 appropriate managing or operating entity, has entered into an agreement with the  
16 conservancy or its designee, or both, sufficient to assure that the property  
17 acquired, enhanced, or developed, and any improvements thereon, shall be  
18 managed and operated for the purpose for which the grant was requested. No use  
19 of the property that is incompatible with that purpose shall ever be permitted.

20 (c) The minimum amount for which an application for an individual project may  
21 be made is fifteen thousand dollars (\$15,000).

22 (d) Every application for a grant shall comply with the California Environmental  
23 Quality Act (Division 13 (commencing with Section 21000) of the Public  
24 Resources Code).

25 (e) Notwithstanding Sections 31207 and 31257 of the Public Resources Code,  
26 funds granted pursuant to **subdivision (c) of Section 2620** may be encumbered  
27 only for the acquisition, enhancement, or development, or any combination  
28 thereof, and the costs incurred by the recipient in planning, preparation of  
29 construction documents, fiscal management and accounting, and supervision of  
30 construction in connection with the project for which the grant was made. All  
31 expenditures made by a recipient of a grant shall be subject to being audited.

32 (f) Funds granted pursuant to **subdivision (c) of Section 2620** shall be available  
33 for encumbrance by the recipient for a period of three years after the date when the  
34 grant became effective.

35 **Comment.** Section 55560 continues former Fish and Game Code Section 2627 without  
36 substantive change.

37 **CHAPTER 3. FISCAL PROVISIONS**

38 **§ 55600. Issuance of bonds**

39 55600. Bonds in the total amount of eighty-five million dollars (\$85,000,000),  
40 or so much thereof as is necessary, may be issued and sold to provide a fund to be

1 used for carrying out the purposes expressed in this title and to be used to  
2 reimburse the General Obligation Bond Expense Revolving Fund pursuant to  
3 Section 16724.5 of the Government Code. The bonds shall, when sold, be and  
4 constitute a valid and binding obligation of the State of California, and the full  
5 faith and credit of the State of California is hereby pledged for the punctual  
6 payment of both principal and interest on the bonds as the principal and interest  
7 become due and payable.

8 **Comment.** Section 55600 continues former Fish and Game Code Section 2640 without  
9 substantive change.

10 **§ 55605. Collection of revenue to pay principle and interest on bonds**

11 55605. There shall be collected each year and in the same manner and at the  
12 same time as other state revenue is collected, in addition to the ordinary revenues  
13 of the state, the sum that is required to pay the principal and interest on the bonds  
14 maturing each year, and it is hereby made the duty of all officers charged by law  
15 with any duty in regard to the collection of the revenue to do and perform each and  
16 every act that shall be necessary to collect that additional sum.

17 **Comment.** Section 55605 continues former Fish and Game Code Section 2641 without  
18 substantive change.

19 **§ 55610. Appropriation from General Fund**

20 55610. There is hereby appropriated from the General Fund in the State  
21 Treasury for the purpose of this title, an amount equal to the following:

22 (a) The sum, annually, that is necessary to pay the principal and interest on  
23 bonds issued and sold pursuant to the provisions of this title, as principal and  
24 interest become due and payable.

25 (b) The sum that is necessary to carry out the provisions of Section 55620,  
26 which sum is appropriated without regard to fiscal years.

27 **Comment.** Section 55610 continues former Fish and Game Code Section 2642 without  
28 substantive change.

29 **§ 55615. Fish and Wildlife Habitat Enhancement Fund**

30 55615. The proceeds of bonds issued and sold pursuant to this title shall be  
31 deposited in the Fish and Wildlife Habitat Enhancement Fund, which is hereby  
32 created. The money in the fund may be expended only for the purposes specified  
33 in this title and only pursuant to appropriation by the Legislature in the manner  
34 prescribed in this title.

35 **Comment.** Section 55615 continues former Fish and Game Code Section 2643 without  
36 substantive change.

37 **§ 55620. Loan from General Fund**

38 55620. For the purposes of carrying out the provisions of this chapter, the  
39 Director of Finance may, pursuant to appropriate authority in each annual Budget  
40 Act, authorize the withdrawal from the General Fund of an amount or amounts not

1 to exceed the amount of the unsold bonds that have been authorized to be sold for  
2 the purpose of carrying out this title. Any amounts withdrawn shall be deposited in  
3 the fund. Any moneys made available under this section shall be returned to the  
4 General Fund from moneys received from the sale of bonds for the purpose of  
5 carrying out the provisions of this title. The withdrawals from the General Fund  
6 shall be returned to the General Fund with interest at the rate that would otherwise  
7 have been earned by those sums in the Pooled Money Investment Fund.

8 **Comment.** Section 55620 continues former Fish and Game Code Section 2644 without  
9 substantive change.

10 **§ 55625. Special treatment of specified bond proceeds**

11 55625. Notwithstanding any other provision of this bond act, or of the State  
12 General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of  
13 Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells  
14 bonds pursuant to this bond act that include a bond counsel opinion to the effect  
15 that the interest on the bonds is excluded from gross income for federal tax  
16 purposes under designated conditions, the Treasurer may maintain separate  
17 accounts for the bond proceeds invested and the investment earnings on those  
18 proceeds, and may use or direct the use of those proceeds or earnings to pay any  
19 rebate, penalty, or other payment required under federal law, or take any other  
20 action with respect to the investment and use of those bond proceeds, as may be  
21 required or desirable under federal law in order to maintain the tax-exempt status  
22 of those bonds and to obtain any other advantage under federal law on behalf of  
23 the funds of this state.

24 **Comment.** Section 55625 continues former Fish and Game Code Section 2644.5 without  
25 substantive change.

26 **§ 55630. Budget bill**

27 55630. (a) All proposed appropriations for the program shall be included in a  
28 section in the Budget Bill for the 1984–85 fiscal year and each succeeding fiscal  
29 year for consideration by the Legislature and shall bear the caption “Fish and  
30 Wildlife Habitat Enhancement Program.” The section shall contain separate items  
31 for each project, each class of projects, or each element of the program for which  
32 an appropriation is made.

33 (b) All appropriations shall be subject to all limitations enacted in the Budget  
34 Act and to all fiscal procedures prescribed by law with respect to the expenditure  
35 of state funds unless expressly exempted from those laws by a statute enacted by  
36 the Legislature. The section in the Budget Act shall contain proposed  
37 appropriations only for the program elements and classes of projects contemplated  
38 by this title, and no funds derived from the bonds authorized by this title may be  
39 expended pursuant to an appropriation not contained in that section of the Budget  
40 Act.

1     **Comment.** Section 55630 continues former Fish and Game Code Section 2645 without  
2 substantive change.

3     **§ 55635. State General Obligation Bond Law**

4     55635. The bonds authorized by this title shall be prepared, executed, issued,  
5 sold, paid, and redeemed as provided in the State General Obligation Bond Law  
6 (Chapter 4 (commencing with Section 16720) of Part 3, Division 4, Title 2 of the  
7 Government Code), and all of the provisions of that law are applicable to the  
8 bonds and to this title and are hereby incorporated in this title as though set forth  
9 in full herein.

10     **Comment.** Section 55635 continues former Fish and Game Code Section 2646 without  
11 substantive change.

12     **§ 55640. Wildlife Habitat Enhancement Program Finance Committee**

13     55640. Solely for the purpose of authorizing the issuance and sale, pursuant to  
14 the State General Obligation Bond Law (Chapter 4 (commencing with Section  
15 16720) of Part 1 of Division 4 of Title 2 of the Government Code), of the bonds  
16 authorized by this title, the Wildlife Habitat Enhancement Program Finance  
17 Committee is hereby created. The committee consists of the Controller, the  
18 Director of Finance, and the Treasurer. For purposes of this title, this committee is  
19 “the committee” as that term is used in the State General Obligation Bond Law,  
20 and the Treasurer shall serve as chair of the committee.

21     **Comment.** Section 55640 continues former Fish and Game Code Section 2647 without  
22 substantive change.

23     **§ 55645. Deposit of premiums and accrued interest**

24     55645. All money deposited in the fund that is derived from premium and  
25 accrued interest on bonds sold shall be reserved in the fund and shall be available  
26 for transfer to the General Fund as a credit to expenditures for bond interest.

27     **Comment.** Section 55645 continues former Fish and Game Code Section 2648 without  
28 substantive change.

29     **§ 55650. Budget appropriation**

30     55650. Commencing with the Budget Bill for the 1995-96 fiscal year, the  
31 balance remaining in the fund may be appropriated by the Legislature for  
32 expenditure, without regard to the maximum amounts allocated to each element of  
33 the program, for any or all elements of the program specified in **Section 2620**, or  
34 any class or classes of projects within those elements that the Legislature deems to  
35 be of the highest priority.

36     **Comment.** Section 55650 continues former Fish and Game Code Section 2649 without  
37 substantive change.

1    **§ 55655. Proceeds of bonds not proceeds of taxes**

2       55655. The Legislature hereby finds and declares that, inasmuch as the proceeds  
3 from the sale of bonds authorized by this title are not “proceeds of taxes” as that  
4 term is used in Article XIII B of the California Constitution, the disbursement of  
5 these proceeds is not subject to the limitations imposed by that article.

6       **Comment.** Section 55655 continues former Fish and Game Code Section 2650 without  
7 substantive change.

8    **§ 55660. Severability**

9       55660. If any provision of this title or the application thereof to any person or  
10 circumstances is held invalid, that invalidity shall not affect other provisions or  
11 applications of the title that can be given effect without the invalid provision or  
12 application, and to this end, the provisions of this title are severable.

13       **Comment.** Section 55660 continues former Fish and Game Code Section 2651 without  
14 substantive change.

15                    **TITLE 4. WILDLIFE AND NATURAL AREAS**  
16                    **CONSERVATION PROGRAM**

17    **Staff Note.** The Wildlife and Natural Areas Conservation Program (existing Sections 2700-  
18 2729) was added by Proposition 70 (1988). The Commission has generally adopted a very  
19 deferential approach to the recodification of provisions added by initiative. Consistent with that  
20 approach, the staff has made very minimal changes to the language of this part, mostly relating to  
21 section numbering.

22                    **CHAPTER 1. GENERAL PROVISIONS**

23    **§ 55700. Short title**

24       55700. This title shall be known and may be cited as the Wildlife and Natural  
25 Areas Conservation Act.

26       **Comment.** Section 55700 continues former Fish and Game Code Section 2700 without  
27 substantive change.

28    **§ 55705. Declaration of purpose**

29       55705. (a) The fundamental requirement for healthy, vigorous populations of  
30 fish and wildlife is habitat. Without adequate habitat, efforts to conserve and  
31 manage fish and wildlife resources will have limited success. Further, California  
32 contains the greatest diversity of wildlife and plant species of virtually any state in  
33 the nation. This rich natural heritage enables Californians to enjoy a great variety  
34 of recreational, aesthetic, ecological, and other uses and benefits of these  
35 biological resources. The public interest is served only by ensuring that these  
36 resources are preserved, protected, and propagated for this and future generations.

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

7 (c) The people of California have vested in the department the principal  
8 responsibility for protecting, conserving, and perpetuating native fish, plants, and  
9 wildlife, including endangered species and game animals, for their aesthetic,  
10 intrinsic, ecological, educational, and economic values. To help accomplish this  
11 goal, the people of California have further established a significant natural areas  
12 program and a natural diversity database in the department, which is charged with  
13 maintaining and perpetuating California’s most significant natural areas for  
14 present and future generations. To ensure the perpetuation of areas containing  
15 uncommon elements of natural diversity and to ensure the continued abundance of  
16 habitat for more common species, especially examples of those that are presently  
17 threatened with destruction, the purchase of land is often necessary.

18 (d) Accordingly, the purpose of this title is to provide the Wildlife Conservation  
19 Board and the department the financial means to correct the most severe  
20 deficiencies in wildlife habitat and in the statewide system of areas designated for  
21 the preservation of California’s natural diversity through a program of acquisition,  
22 enhancement, restoration, and protection of areas that are most in need of proper  
23 conservation.

24 **Comment.** Section 55705 continues former Fish and Game Code Section 2701 without  
25 substantive change.

26 **§ 55710. Definitions**

27 55710. As used in this title, the following terms have the following meanings:

28 (a) “Acquisition” means the acquiring of any interest in real property.

29 (b) “Fund” means the Wildlife and Natural Areas Conservation Fund created  
30 pursuant to Section 55725.

31 (c) “Highly rare” means a worldwide rarity in which any species or natural  
32 community occurs in 50 or fewer locations, irrespective of whether the species or  
33 any species in the community is listed as threatened or endangered or was  
34 previously listed as rare.

35 (d) “Natural community” means a distinct, identifiable, and recurring  
36 association of plants and animals that are ecologically interrelated.

37 (e) “Species” means the fundamental biological unit of plant and animal  
38 classification that comprises a subdivision of a genus, but for the purposes of this  
39 title, “species” also includes the unit of a subspecies.

40 **Comment.** Section 55710 continues former Fish and Game Code Section 2702 without  
41 substantive change.

1

## CHAPTER 2. HABITAT CONSERVATION PROGRAM

2 **§ 55725. Deposits**

3 55725. Moneys available for the purposes of this title pursuant to Chapter 4  
4 (commencing with Section 5930) of Division 5.8 of the Public Resources Code  
5 shall be deposited in the Wildlife and Natural Areas Conservation Fund, which is  
6 hereby created. Money deposited in the fund shall be available for appropriation  
7 by the Legislature to the Wildlife Conservation Board, for expenditure pursuant to  
8 the Wildlife Conservation Law of 1947, for the following programs:

9 (a) Forty-one million dollars (\$41,000,000) for the preservation of highly rare  
10 examples of the state's natural diversity through the acquisition, enhancement,  
11 restoration, or protection, or a combination thereof, of lands supporting  
12 California's unique, fragile, threatened, or endangered plants, animals, and natural  
13 communities.

14 (b) Six million dollars (\$6,000,000) for the acquisition, enhancement,  
15 restoration, or protection, or a combination thereof, of critical habitat areas for  
16 fish, game mammals, and game birds, including, but not limited to, the following  
17 types:

18 (1) Winter deer ranges.

19 (2) Wild trout or steelhead nursery and spawning areas.

20 (3) Significant routes of migration for wildlife.

21 (4) Breeding, nesting, and forage areas for sage grouse and other upland game  
22 birds.

23 For purposes of this subdivision, "enhancement" includes the construction or  
24 development of facilities for furnishing public access to lands or waters open to  
25 the public for fishing, hunting, or shooting.

26 (c) Three million dollars (\$3,000,000) for the acquisition, enhancement,  
27 restoration, or protection, or any combination thereof, of lands providing habitat  
28 for threatened, endangered, or fully protected species, such as the bald eagle, San  
29 Joaquin kit fox, desert tortoise, bighorn sheep, peregrine falcon, and California  
30 condor.

31 **Comment.** Section 55725 continues former Fish and Game Code Section 2720 without  
32 substantive change.

33 **§ 55730. Expenditures**

34 55730. Funds available pursuant to subdivision (a) of Section 55725 shall be  
35 expended to acquire, enhance, restore, or protect lands in California on which any  
36 of the following naturally exists:

37 (a) A unique species or natural community, whose existence at a single location  
38 in California is the only known occurrence in the world of that particular species  
39 or natural community.

1 (b) A species that occurs in only 20 or fewer locations in the world, at least one  
2 of which is in California.

3 (c) A natural community that occurs in only 50 or fewer locations in the world,  
4 at least one of which is in California.

5 (d) An assemblage of three or more highly rare species or natural communities,  
6 or any combination thereof, of which at least one of the species or natural  
7 communities is found only in 20 or fewer locations in the world.

8 **Comment.** Section 55730 continues former Fish and Game Code Section 2721 without  
9 substantive change.

10 **§ 55735. Priorities**

11 55735. (a) Whenever the application of the criteria specified in Section 55730  
12 results in the identification of two or more parcels of land that are essentially  
13 indistinguishable as to their quality, preference shall be given to the parcel on  
14 which exists the species that is more threatened or more endangered.

15 (b) Whenever the application of the criteria specified in Section 55730 results in  
16 the identification of two or more parcels of land that are essentially  
17 indistinguishable as to their quality and the degree of threat to, or endangerment  
18 of, the species existing on them, preference shall be given to the parcel on which  
19 exists the best example of the species. As used in this subdivision, “best example”  
20 means the parcel of land and the wildlife inhabiting it that, in balancing all the  
21 factors present, represents, as determined by the board, the stronger combination  
22 of all of the following: the better condition, higher quality, easier defensibility,  
23 greater likelihood of long-term viability, and the lesser costs to be incurred by the  
24 department in operating and maintaining the parcel.

25 **Comment.** Section 55735 continues former Fish and Game Code Section 2722 without  
26 substantive change.

27 **§ 55740. Limitations on use of funds**

28 55740. (a) Of the total amount available pursuant to subdivision (a) of Section  
29 55725, not more than five million dollars (\$5,000,000) may be encumbered for  
30 any single acquisition project. In enacting this limitation, the people of California  
31 recognize that there are a number of important projects meeting the criteria of this  
32 title but whose acquisition cost would most likely exceed this limitation.  
33 Therefore, in these instances any acquisition cost in excess of this limitation may  
34 be met by a donation by the owner, donations of funds from private sources, or  
35 other funds from state or nonstate sources.

36 (b) The qualification for or allocation of a grant or grants to a local agency under  
37 Section 55725 shall not preclude eligibility for an additional allocation of grant  
38 funds to the same local agency pursuant to Section 55725 of this code or Section  
39 5907 of the Public Resources Code.

40 **Comment.** Section 55740 continues former Fish and Game Code Section 2723 without  
41 substantive change.

1    **§ 55745. Priorities**

2       55745. (a) In choosing among two or more parcels of land to be acquired,  
3    enhanced, restored, or protected with funds available pursuant to subdivision (b)  
4    or (c) of Section 55725, preference shall be given to acquiring, enhancing,  
5    restoring, or protecting the parcel that will result in the least cost to the department  
6    for operating and maintaining the land.

7       (b) Funds available pursuant to subdivisions (b) and (c) of Section 55725 may  
8    be encumbered only for lands that constitute habitat that is subject to destruction,  
9    drastic modification, or significant curtailment of habitat values.

10     **Comment.** Section 55745 continues former Fish and Game Code Section 2724 without  
11    substantive change.

12    **§ 55750. Limitation on use of funds**

13     55750. No funds available pursuant to this title shall be encumbered for any  
14    lands that, due to their degraded character, will not sustain plants or wildlife or  
15    will not afford protection to a natural community on a long-term basis.

16     **Comment.** Section 55750 continues former Fish and Game Code Section 2725 without  
17    substantive change.

18    **§ 55755. Further limitation on use of funds**

19     55755. With respect to any lands that may be acquired, enhanced, restored, or  
20    protected with funds under this title and that could also be eligible for funds under  
21    **Chapter 7 (commencing with Section 2600)**, funds under this title shall not be  
22    encumbered for those lands until it is determined by the Wildlife Conservation  
23    Board that funds are not likely to be available for those lands under that **Chapter**  
24    **7.**

25     **Comment.** Section 55755 continues former Fish and Game Code Section 2726 without  
26    substantive change.

27    **§ 55760. Additional limitation on use of funds**

28     55760. No funds available for appropriation under this title may be encumbered  
29    for any purpose described in Section 54860.

30     **Comment.** Section 55760 continues former Fish and Game Code Section 2727 without  
31    substantive change.

32    **§ 55765. Administrative costs of Wildlife Conservation Board**

33     55765. An annual amount, not to exceed three hundred fifty thousand dollars  
34    (\$350,000) may be appropriated from the fund in the 1988–89 through 1998–99  
35    fiscal years, in an amount to be determined in each annual appropriation, to the  
36    Wildlife Conservation Board for expenditure for costs incurred by the board and  
37    the department in administering this title, including, but not limited to,  
38    preacquisition studies, planning, appraisals, surveys, and closing costs. The  
39    Wildlife Conservation Board and the department may augment, as needed, any  
40    amount thus appropriated with any funds appropriated to it from any other source.

1 **Comment.** Section 55765 continues former Fish and Game Code Section 2728 without  
2 substantive change.

3 **§ 55770. Staffing**

4 55770. (a) For the purpose of administering this title, the Wildlife Conservation  
5 Board and the department shall augment its existing staff, whenever possible, by  
6 contracting for those services necessary for the administration of this title. Any  
7 contract shall, however, be entered into only pursuant to Sections 19130 to 19132,  
8 inclusive, of the Government Code and shall be only for the minimum period  
9 necessary for completion of the particular project or projects for which the  
10 contract was entered into.

11 (b) Due to the limited duration of the program authorized by this title, in the  
12 event some services cannot be provided by contract, any personnel directly hired  
13 by the Wildlife Conservation Board for the administration of this title shall be  
14 hired, to the extent permitted by Article 2 (commencing with Section 19080) of  
15 Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code, as limited-  
16 term appointments.

17 **Comment.** Section 55770 continues former Fish and Game Code Section 2729 without  
18 substantive change.

19 **TITLE 5. CALIFORNIA WILDLIFE PROTECTION**  
20 **ACT OF 1990**

21  **Staff Note.** The California Wildlife Protection Act of 1990 (existing Sections 2780-2799.6)  
22 was added by Proposition 117 (1990). The Commission has generally adopted a very deferential  
23 approach to the recodification of provisions added by initiative. Consistent with that approach,  
24 the staff has made very minimal changes to the language of this part, mostly relating to section  
25 numbering.

26 **CHAPTER 1. GENERAL PROVISIONS**

27 **§ 55800. Findings and declarations**

28 55800. The people of California find and declare all of the following:

29 (a) Protection, enhancement, and restoration of wildlife habitat and fisheries are  
30 vital to maintaining the quality of life in California. As the state's human  
31 population increases, there is an urgent need to protect the rapidly disappearing  
32 wildlife habitats that support California's unique and varied wildlife resources.

33 (b) Much of the state's most important deer winter ranges have been destroyed  
34 in the last 20 years.

35 (c) Critical winter ranges of migratory deer in the Sierra Nevada and Cascade  
36 mountain ranges are increasingly subject to incompatible land uses. In some  
37 counties, over 80 percent of the critical winter ranges fall on these lands. The

1 potential for incompatible land uses on these lands is a major threat to the survival  
2 of many migratory deer herds.

3 (d) Deer, mountain lion, and other wildlife habitat within the Sierra Nevada,  
4 Cascade, Coast Range (including the Santa Lucia Mountains in Monterey County  
5 along the Central Coast), Siskiyou and Klamath Mountains; and the Santa Susana,  
6 Simi Hills, Santa Monica, San Gabriel, San Bernardino, San Jacinto, Santa Ana  
7 and other mountains and foothill areas within southern California, is disappearing  
8 rapidly. Small and often isolated wildlife populations are forced to depend upon  
9 these shrinking habitat areas within the heavily urbanizing areas of this state.  
10 Corridors of natural habitat must be preserved to maintain the genetic integrity of  
11 California's wildlife.

12 (e) This title shall be implemented in the most expeditious manner. All state  
13 officials shall implement this title to the fullest extent of their authority in order to  
14 preserve, maintain, and enhance California's diverse wildlife heritage and the  
15 habitats upon which it depends.

16 **Comment.** Section 55800 continues former Fish and Game Code Section 2780 without  
17 substantive change.

18 **§ 55805. Further findings and declarations**

19 55805. (a) The people of California find and declare that wildlife and fisheries  
20 conservation is in the public interest and that it is necessary to keep certain lands  
21 in open space and natural condition to protect significant environmental values of  
22 wildlife and native plant habitat, riparian and wetland areas, native oak woodlands,  
23 and other open-space lands, and to provide opportunities for the people of  
24 California to appreciate and visit natural environments and enjoy California's  
25 unique and varied fish and wildlife resources.

26 (b) It is the intent of the people, in enacting this title, that additional funds are  
27 needed to protect fish, wildlife, and native plant resources and that the Legislature  
28 should provide those funds through bond acts and other appropriate sources.

29 **Comment.** Section 55805 continues former Fish and Game Code Section 2781 without  
30 substantive change.

31 **CHAPTER 2. CALIFORNIA WILDLIFE PROTECTION**

32 **§ 55825. Definitions**

33 55825. The following definitions govern the construction of this title:

34 (a) "Acquisition" includes but is not limited to, gifts, purchases, leases,  
35 easements, the exercise of eminent domain if expressly authorized, the transfer or  
36 exchange of property for other property of like value, transfers of development  
37 rights or credits, and purchases of development rights and other interests.

38 (b) "Board" means the Wildlife Conservation Board.

39 (c) "Fund" means the Habitat Conservation Fund created by Section 55830.

1 (d) “Local agency” means a city, county, city and county, or a district as defined  
2 in subdivision (b) of Section 5902 of the Public Resources Code.

3 (e) “Riparian habitat” means lands that contain habitat that grows close to and  
4 which depends upon soil moisture from a nearby freshwater source.

5 (f) “Southern California” means the Counties of Imperial, Los Angeles, Orange,  
6 Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura.

7 (g) “Wetlands” means lands that may be covered periodically or permanently  
8 with shallow water and that include saltwater marshes, freshwater marshes, open  
9 or closed brackish water marshes, swamps, mudflats, fens, and vernal pools.

10 **Comment.** Section 55825 continues former Fish and Game Code Section 2785 without  
11 substantive change.

12 **§ 55830. Habitat Conservation Fund**

13 55830. Except as otherwise expressly provided in paragraph (3) of subdivision  
14 (a) of Section 55835, the money in the Habitat Conservation Fund, which is  
15 hereby created, shall be used for the following purposes:

16 (a) The acquisition of habitat, including native oak woodlands, necessary to  
17 protect deer and mountain lions.

18 (b) The acquisition of habitat to protect rare, endangered, threatened, or fully  
19 protected species.

20 (c) The acquisition of habitat to further implement the Habitat Conservation  
21 Program pursuant to Chapter 2 (commencing with Section 55725) of Title 4,  
22 excepting Section 55735 and subdivision (a) of Section 55740, and Sections 55745  
23 and 55770.

24 (d) The acquisition, enhancement, or restoration of wetlands.

25 (e) The acquisition, restoration, or enhancement of aquatic habitat for spawning  
26 and rearing of anadromous salmonids and trout resources.

27 (f) The acquisition, restoration, or enhancement of riparian habitat.

28 **Comment.** Section 55830 continues former Fish and Game Code Section 2786 without  
29 substantive change.

30 **Staff Note.** Existing Section 2786(c) contains an erroneous cross-reference to “Article 2  
31 (commencing with Section 2721).” The reference is erroneous in two ways: (1) The referenced  
32 article begins with Section 2720, not Section 2721. (2) The reference is incomplete. It should  
33 continue with the words “of Chapter 7.5.” Proposed Section 55830 would correct those errors.  
34 **The staff invites comment on whether those corrections would cause any problems.**

35 **§ 55835. Continuous appropriations**

36 55835. Notwithstanding Section 13340 of the Government Code, the money in  
37 the fund is continuously appropriated, without regard to fiscal years, as follows:

38 (a) To the Department of Parks and Recreation, four million five hundred  
39 thousand dollars (\$4,500,000) annually for allocation as follows:

40 (1) One million five hundred thousand dollars (\$1,500,000) for projects that are  
41 located in the Santa Lucia Mountain Range in Monterey County for expenditure

1 by the Department of Parks and Recreation and for grants to the Monterey  
2 Peninsula Regional Park District.

3 (2) One million dollars (\$1,000,000) for acquisitions in, and adjacent to, units of  
4 the state park system.

5 (3) Two million dollars (\$2,000,000) for 50 percent matching grants to local  
6 agencies for projects meeting the purposes specified in Section 55830 and,  
7 additionally, for the acquisition of wildlife corridors and urban trails, nature  
8 interpretation programs, and other programs that bring urban residents into park  
9 and wildlife areas. The grants made pursuant to this subdivision are subject to the  
10 conditions of subdivision (d) of Section 5910, and Sections 5917 and 5919, of the  
11 Public Resources Code, as nearly as may be practicable.

12 (b) To the State Coastal Conservancy, four million dollars (\$4,000,000)  
13 annually.

14 (c) To the Santa Monica Mountains Conservancy, five million dollars  
15 (\$5,000,000) annually for the next 10 fiscal years, commencing with the 1990–91  
16 fiscal year. The money shall be used for the purposes specified in Section 55830  
17 for wildlife habitat, and for related open-space projects, within the Santa Monica  
18 Mountains Zone, the Rim of the Valley Corridor, and the Santa Clarita  
19 Woodlands. Of the total amount appropriated pursuant to this subdivision, not less  
20 than a total of ten million dollars (\$10,000,000) shall be spent within the Santa  
21 Susana Mountains and the Simi Hills, and not less than a total of ten million  
22 dollars (\$10,000,000) shall be spent within the Santa Clarita Woodlands. These  
23 funds shall be expended in accordance with Division 23 (commencing with  
24 Section 33000) of the Public Resources Code during the operative period of this  
25 section as specified in subdivision (f) and in Section 55885. The Legislature may,  
26 by statute, extend the period for expenditure of the funds provided by this  
27 paragraph.

28 (d) To the California Tahoe Conservancy, five hundred thousand dollars  
29 (\$500,000) annually.

30 (e) To the board, the balance of the fund.

31 (f) This section shall become operative on July 1, 1990, and, as of July 1, 2020,  
32 is repealed, unless a later enacted statute, which becomes effective on or before  
33 July 1, 2020, deletes or extends that date.

34 **Comment.** Section 55835 continues former Fish and Game Code Section 2787 without  
35 substantive change.

36 **§ 55840. Continuous appropriations (contingent operation)**

37 55840. (a) Notwithstanding Section 13340 of the Government Code, the money  
38 in the fund is continuously appropriated, without regard to fiscal years, to the  
39 board.

40 (b) This section shall become operative only if, and on the date that, Section  
41 55835 is repealed.

1       **Comment.** Section 55840 continues former Fish and Game Code Section 2788 without  
2 substantive change.

3       **§ 55845. Priorities**

4       55845. In areas where habitats are or may become isolated or fragmented,  
5 preference shall be given by the agencies expending money from the fund to  
6 projects that will serve as corridors linking otherwise separated habitat so that the  
7 genetic integrity of wildlife populations will be maintained.

8       **Comment.** Section 55845 continues former Fish and Game Code Section 2789 without  
9 substantive change.

10       **§ 55850. Expenditure reporting**

11       55850. Each agency receiving money from the fund pursuant to Section 55835  
12 shall report to the board on or before July 1 of each year the amount of money that  
13 was expended and the purposes for which the money was expended. The board  
14 shall prescribe the information in the agencies reports that it determines is  
15 necessary to carry out the requirements of Section 55855.

16       **Comment.** Section 55850 continues former Fish and Game Code Section 2790 without  
17 substantive change.

18       **§ 55855. Expenditure conditions**

19       55855. The board shall expend the money appropriated to it from the fund  
20 subject to the following conditions:

21       (a) Not more than one and one-half (1<sup>1</sup>/<sub>2</sub>) percent shall be expended for  
22 administration of this title.

23       (b) The board shall, to the extent practicable, expend the money in a manner and  
24 for projects so that, within each 24-month period, approximately one-third of the  
25 total expenditures of the money in the fund, including, until July 1, 2020, the  
26 expenditures by the agencies receiving money from the fund pursuant to  
27 subdivisions (a) to (d), inclusive, of Section 55835, are expended for the purposes  
28 specified in subdivision (a) of Section 55830 and approximately two-thirds of the  
29 total expenditures of the money in the fund, including, until July 1, 2020, the  
30 expenditures by the agencies receiving money from the fund pursuant to  
31 subdivisions (a) to (d), inclusive, of Section 55835, are expended for the purposes  
32 specified in subdivisions (b) and (c) of Section 55830.

33       (c) Notwithstanding the requirement for acquisition in subdivisions (a), (b), and  
34 (c) of Section 55830, the board shall, to the extent practicable, expend the money  
35 in the fund in a manner and for projects so that, within each 24-month period,  
36 approximately six million dollars (\$6,000,000) of the money, including, until July  
37 1, 2020, the expenditures by the agencies receiving money from the fund pursuant  
38 to subdivisions (a) to (d), inclusive, of Section 55835, are expended for the  
39 purposes specified in subdivision (d) of Section 55830.

40       (d) Notwithstanding the requirement for acquisition in subdivisions (a), (b), and  
41 (c) of Section 55830, the board shall, to the extent practicable, expend the money

1 in the fund in a manner and for projects so that, within each 24-month period,  
2 approximately six million dollars (\$6,000,000) of the money, including, until July  
3 1, 2020, the expenditures by the agencies receiving money from the fund pursuant  
4 to subdivisions (a) to (d), inclusive, of Section 55835, are expended for the  
5 purposes specified in subdivision (e) and (f) of Section 55830.

6 (e) To the extent practicable, the board shall expend the money appropriated to it  
7 from the fund in a manner and for projects so that, within each 24-month period,  
8 approximately one-half of the total expenditures of the money in the fund,  
9 including, until July 1, 2020, the expenditures by the agencies receiving money  
10 from the fund pursuant to subdivisions (a) to (d), inclusive, of Section 55835, are  
11 expended in northern California and approximately one-half in southern  
12 California.

13 (f) Subject to the other requirements of this section, the board may allocate not  
14 more than two million dollars (\$2,000,000) annually for the purposes of this title  
15 to one or more state agencies created by the Legislature or the people that are  
16 authorized by other provisions of law to expend funds for the purposes of this title.

17 **Comment.** Section 55855 continues former Fish and Game Code Section 2791 without  
18 substantive change.

19 **§ 55860. Inability to make specified expenditures**

20 55860. If any agency designated in Section 55835 ceases to exist, or is otherwise  
21 unable to expend the funds appropriated by Section 55835 to that agency for the  
22 period specified, the board or its successor agency shall expend the same funds for  
23 the same purpose.

24 **Comment.** Section 55860 continues former Fish and Game Code Section 2792 without  
25 substantive change.

26 **§ 55865. Use of conservation corps**

27 55865. The board and any other state or local agency that expends any funds  
28 appropriated from the fund on environmental enhancement, restoration, or  
29 improvement projects shall utilize the services of the California Conservation  
30 Corps and local community conservation corps to the extent practicable.

31 **Comment.** Section 55865 continues former Fish and Game Code Section 2793 without  
32 substantive change.

33 **§ 55870. Management plan**

34 55870. In implementing this title, the state or local agency that manages lands  
35 acquired with funds appropriated from the fund shall prepare, with full public  
36 participation, a management plan for lands that have been acquired, which plan  
37 shall reasonably reduce possible conflicts with neighboring land use and  
38 landowners, including agriculturists. The plans shall comply with the California  
39 Environmental Quality Act (Division 21 (commencing with Section 21000) of the  
40 Public Resources Code).

1       **Comment.** Section 55870 continues former Fish and Game Code Section 2794 without  
2 substantive change.

3       **§ 55875. Unallocated Account in the Cigarette and Tobacco Products Surtax Fund**

4       55875. (a) The Controller shall annually transfer 10 percent of the funds in the  
5 Unallocated Account in the Cigarette and Tobacco Products Surtax Fund to the  
6 Habitat Conservation Fund.

7       (b) No additional allocation of funds from that account shall be made by the  
8 Legislature for purposes of this title or for any other natural resource or  
9 environmental protection program.

10       **Comment.** Section 55875 continues former Fish and Game Code Section 2795 without  
11 substantive change.

12       **§ 55880. Fund transfers**

13       55880. (a) The Controller shall annually transfer the sum of thirty million  
14 dollars (\$30,000,000) from the General Fund to the Habitat Conservation Fund,  
15 less any amount transferred to the Habitat Conservation Fund from, but not limited  
16 to, the following accounts and funds:

17       (1) The Public Resources Account in the Cigarette and Tobacco Products Surtax  
18 Fund to the extent authorized by the Tobacco Tax and Health Protection Act of  
19 1988.

20       (2) The Unallocated Account in the Cigarette and Tobacco Products Surtax  
21 Fund pursuant to subdivision (a) of Section 55875.

22       (3) The California Environmental License Plate Fund.

23       (4) The Endangered and Rare Fish, Wildlife, and Plant Species Conservation  
24 and Enhancement Account in the Fish and Game Preservation Fund.

25       (5) Any other non-General Fund accounts and funds created by the Legislature  
26 or the people for purposes that are consistent with the purposes of this act.

27       (6) Any bond funds that are authorized by the people after July 1, 1990, which  
28 may be used for purposes that are identical to the purposes specified in Section  
29 55830.

30       (7) The Wildlife Restoration Fund.

31       (b) Except for transfers from the Endangered and Rare Fish, Wildlife, and Plant  
32 Species Conservation and Enhancement Account, transfers from the Fish and  
33 Game Preservation Fund are not transfers for purposes of subdivision (a) and shall  
34 not be made to the fund. Transfers of federal, local, or privately donated funds or  
35 transfers from the State Coastal Conservancy Fund pursuant to Section 31011 of  
36 the Public Resources Code to the fund are not transfers for purposes of subdivision  
37 (a).

38       (c) This section does not limit the amount of funds that may be transferred to the  
39 fund or that may be expended for fish and wildlife habitat protection either from  
40 the fund or from any other sources.

1 (d) This section shall become operative on July 1, 1990, shall become  
2 inoperative on June 30, 2020, and, as of January 1, 2021, is repealed, unless a later  
3 enacted statute, which becomes effective before January 1, 2021, deletes or  
4 extends the dates on which it becomes inoperative and is repealed.

5 **Comment.** Section 55880 continues former Fish and Game Code Section 2796 without  
6 substantive change.

7 **§ 55885. Effect of specified provisions**

8 55885. (a) The people find it necessary to acquire, restore, and improve the  
9 rapidly disappearing wildlife habitat of southern California in the quickest and  
10 most efficient manner possible using existing governmental resources. Therefore,  
11 notwithstanding Section 33216 of the Public Resources Code, Division 23  
12 (commencing with Section 33000) of the Public Resources Code shall continue in  
13 effect for the period that funds may be expended pursuant to subdivision (c) of  
14 Section 55835.

15 This subdivision shall not become operative if, prior to June 6, 1990, Section  
16 33216 of the Public Resources Code has been amended to extend the operative  
17 effect of that Division 23 to at least July 1, 1995.

18 (b) If subdivision (a) of this section does not become operative, the controller  
19 shall increase the annual transfer of funds pursuant to subdivision (c) of Section  
20 55835 on a pro rata basis so that the total amount available to the Santa Monica  
21 Mountains Conservancy for purposes of this title pursuant to that subdivision (c) is  
22 fifty million dollars (\$50,000,000). Nothing in this section precludes the  
23 Legislature from extending the time for expenditure of funds pursuant to  
24 subdivision (c) of Section 55835.

25 **Comment.** Section 55885 continues former Fish and Game Code Section 2797 without  
26 substantive change.

27 **Staff Note.** The second paragraph of existing Section 2797(a) establishes an operation  
28 contingency based on whether “prior to June 6, 1990, Section 33216 of the Public Resources  
29 Code has been amended to extend the operative effect of that Division 23 to at least July 1,  
30 1995.” That contingency appears to have been satisfied. In 1990, Section 33216 was amended to  
31 extend the specified sunset date to July 1, 1995. See 1990 Cal. Stat. ch. 216, § 95. Despite the  
32 apparent obsolescence of the operation contingency provision, it has been continued in proposed  
33 Section 55885. This avoids any question of the validity of the deletion of possibly substantive  
34 language that was added by citizen initiative. Section 2797(b) also appears to be obsolete, but is  
35 retained for the same reason.

36 **§ 55890. Land acquisition law**

37 55890. Acquisitions of real property made pursuant to this title shall be done in  
38 compliance with the land acquisition law as existing or as hereafter amended and  
39 as it applies to the agencies designated in Section 55835, and in compliance with  
40 subdivision (a) of Section 5929 of the Public Resources Code.

41 **Comment.** Section 55890 continues former Fish and Game Code Section 2798 without  
42 substantive change.

1    **§ 55895. Application of CEQA**

2    55895. Every expenditure made pursuant to this title shall comply with the  
3 California Environmental Quality Act (Division 13 (commencing with Section  
4 21000) of the Public Resources Code).

5    **Comment.** Section 55895 continues former Fish and Game Code Section 2799 without  
6 substantive change.

7    **§ 55900. Public access to acquired lands**

8    55900. Reasonable public access to lands acquired in fee with funds made  
9 available pursuant to this title shall be provided except when that access may  
10 interfere with habitat protection.

11   **Comment.** Section 55900 continues former Fish and Game Code Section 2799.5 without  
12 substantive change.

13   **§ 55905. Reappropriation of transferred funds**

14   55905. Only those amounts of money that are transferred to the fund from the  
15 General Fund pursuant to Section 55880 may be reappropriated for purposes of  
16 this title by a two-thirds vote of the Legislature.

17   **Comment.** Section 55905 continues former Fish and Game Code Section 2799.6 without  
18 substantive change.

19                    **TITLE 6. NATIVE SPECIES CONSERVATION**  
20                    **AND ENHANCEMENT**

21                    **CHAPTER 1. GENERAL PROVISIONS**

22    **§ 56000. Short title**

23    56000. This title shall be known and may be cited as the Native Species  
24 Conservation and Enhancement Act.

25    **Comment.** Section 56000 continues former Fish and Game Code Section 1750 without  
26 substantive change.

27    **§ 56005. Findings and declarations**

28    56005. The Legislature finds and declares all of the following:

29    (a) That it is the policy of this state:

30    (1) To maintain sufficient populations of all species of wildlife and native plants  
31 and the habitat necessary to insure their continued existence at the optimum levels  
32 possible to insure the policies stated in paragraphs (2), (3), and (4).

33    (2) To provide for the beneficial use and enjoyment of wildlife and native plants  
34 by all citizens of the state.

35    (3) To perpetuate native plants and all species of wildlife for their intrinsic and  
36 ecological values, as well as for their direct benefits to humans.

1 (4) To provide for aesthetic, educational, and nonappropriative uses of the  
2 various wildlife and native plant species.

3 (b) That the conservation and enhancement of wildlife species that are not the  
4 object of hunting and native plant species is in the general public interest and it is  
5 appropriate that the cost of programs to achieve that conservation and  
6 enhancement, including the biological and botanical research necessary thereto,  
7 and the diffusion of the information resulting therefrom to the public, be borne to  
8 the extent necessary by general public funds.

9 **Comment.** Section 56005 continues former Fish and Game Code Section 1755 without  
10 substantive change.

11 **§ 56010. General policy**

12 56010. (a) The policy set forth in this title is in the public interest without regard  
13 to the economic value or the lack of economic value of wildlife or native plants.

14 (b) It is the policy of the state to require the recreational users of the state's  
15 wildlife resources to support the management of lands managed by the department  
16 and the management of wildlife consistent with **Section 711**.

17 **Comment.** Section 56010 continues former Fish and Game Code Section 1756 without  
18 substantive change.

19 **CHAPTER 2. WILDLIFE AREAS**

20 **§ 56025. Comment by licensed hunters**

21 56025. (a) The department shall annually provide an opportunity for licensed  
22 hunters to comment and make recommendations on the public hunting programs,  
23 including anticipated habitat conditions in the hunting areas on Type A and Type  
24 B Wildlife Areas, as defined under the commission's regulations, through public  
25 meetings or other public outreach.

26 (b) In complying with this section, the department may hold regional meetings  
27 on its hunting programs for several different wildlife areas.

28 **Comment.** Section 56025 continues former Fish and Game Code Section 1758 without  
29 substantive change.

30 **§ 56030. Areas requiring wildlife area pass or license**

31 56030. (a) The director shall designate those particular areas of land managed by  
32 the department at which possession of a valid annual wildlife pass or day use pass  
33 shall be required.

34 (b) No designation shall be effective until a management plan for the area has  
35 been presented at a public meeting and the plan has been approved by the director.

36 (c) No person shall enter the designated area unless that person possesses an  
37 annual wildlife area pass or a day use pass issued pursuant to Section 56080, a  
38 valid hunting license issued pursuant to **Section 3031**, a valid trapping license  
39 issued pursuant to **Section 4006**, or a valid sport fishing license issued pursuant to

1 **Section 7149.05, 7150, or 7151**, or that person is a member of a tour by an  
2 organized youth or school group that has been issued a day use pass.

3 (d) Notwithstanding subdivision (b), possession of a license or pass shall not be  
4 required of any person who:

5 (1) Is passing through the area on a public right-of-way.

6 (2) Possesses authorization by the commission or the department to conduct  
7 scientific or educational research.

8 (3) Is discharging duties in the course of employment, as specified by the  
9 department.

10 (4) Possesses written authorization from the department to enter the area for a  
11 specific purpose.

12 **Comment.** Section 56030 continues former Fish and Game Code Section 1764 without  
13 substantive change.

14 **§ 56035. Violation for entry without pass or license**

15 56035. (a) Notwithstanding **Section 12002**, a violation of Section 56030 is an  
16 infraction, not a misdemeanor, punishable by a fine of not less than one hundred  
17 dollars (\$100) and not more than five hundred dollars (\$500). If a person  
18 convicted of a violation of Section 56030 is granted probation, the court shall  
19 impose as a condition of probation that the person pay at least the minimum fine  
20 prescribed in this subdivision.

21 (b) If a person is convicted of a violation of Section 56030 and produces in court  
22 a valid wildlife area pass, the court may reduce the fine imposed for the violation  
23 of Section 56030 to fifty dollars (\$50).

24 **Comment.** Section 56035 continues former Fish and Game Code Section 12002.5 without  
25 substantive change.

26 **CHAPTER 3. NATIVE SPECIES CONSERVATION AND**  
27 **ENHANCEMENT ACCOUNT**

28 **§ 56050. Creation of account**

29 56050. The department shall maintain within the Fish and Game Preservation  
30 Fund a Native Species Conservation and Enhancement Account, which is hereby  
31 created, to permit separate accountability for the receipt and expenditure of  
32 moneys derived through donation from persons or organizations for the support of  
33 nongame and native plant species conservation and enhancement programs.

34 **Comment.** Section 56050 continues former Fish and Game Code Section 1760 without  
35 substantive change.

36 **§ 56055. Deposit of funds**

37 56055. Whenever the department receives funds from persons or organizations  
38 for the support of nongame and native plant species conservation and  
39 enhancement programs, those funds shall be deposited in the Fish and Game

1 Preservation Fund and credited to the Native Species Conservation and  
2 Enhancement Account.

3 **Comment.** Section 56055 continues former Fish and Game Code Section 1761 without  
4 substantive change.

5 **§ 56060. Donor appreciation**

6 56060. (a) The department shall provide each person or organization making a  
7 contribution of five dollars (\$5) or more for the support of nongame and native  
8 plant species conservation and enhancement programs a suitably prepared  
9 certificate, decal, medallion, or other object of public appreciation signifying the  
10 interest of the person or organization in the conservation and enhancement of  
11 native plant and wildlife species.

12 (b) The commission shall approve the form, nature, and content of any  
13 certificate, decal, medallion or other object proposed for use by the department  
14 pursuant to this section.

15 **Comment.** Section 56060 continues former Fish and Game Code Section 1762 without  
16 substantive change.

17 **§ 56065. Encouraging donations**

18 56065. (a) The department may take all appropriate measures to encourage  
19 donations by individuals, organizations, and public agencies to the Native Species  
20 Conservation and Enhancement Account, including, but not limited to, public  
21 information concerning the status of native plant and wildlife species threatened  
22 by the activities of man.

23 (b) The cost to the department to carry out the provisions of this section may be  
24 charged to the Native Species Conservation and Enhancement Account.

25 **Comment.** Section 56065 continues former Fish and Game Code Section 1763 without  
26 substantive change.

27 **§ 56070. Deposit of fee revenue**

28 56070. (a) The revenues from fees and sales under this chapter and **Section**  
29 **1055.3** shall be deposited in the Native Species Conservation and Enhancement  
30 Account in the Fish and Game Preservation Fund, and shall be available for  
31 appropriation for expenditure in the 1988–89 and subsequent fiscal years in the  
32 following order of priority:

33 (1) Repayment of any loan to the account from the Fish and Game Preservation  
34 Fund. The amounts repaid annually shall be prorated to complete the repayment  
35 with interest on or before July 1, 1993. Interest shall be calculated at the rate  
36 earned by the Surplus Money Investment Fund from the date funds for the loan  
37 were advanced to the date of repayment.

38 (2) The costs of ongoing wildlife management programs incurred at any lands  
39 managed by the department alone or cooperatively with other governmental

1 agencies, irrespective of their designation pursuant to Section 56030, that are not  
2 adequately funded under **subdivision (a) or (c) of Section 711.**

3 (3) The costs of natural history education and recreational programs and  
4 improvements at areas designated pursuant to Section 56030.

5 (4) Augmentation of wildlife management programs and acquisition of  
6 additional lands at areas designated pursuant to Section 56030.

7 (b) Revenues from fees and sales under this chapter and **Section 1055.3** shall be  
8 used to augment and not to replace money appropriated from existing funds  
9 available to the department for the purposes specified in subdivision (a).

10 **Comment.** Section 56070 continues former Fish and Game Code Section 1767.5 without  
11 substantive change.

12 **§ 56075. Legislative finding and declaration**

13 56075. The Legislature finds and declares that the revenues from fees and sales  
14 under this chapter are related to the protection and propagation of fish and game  
15 within the meaning of Section 9 of Article XVI of the California Constitution.

16 **Comment.** Section 56075 continues former Fish and Game Code Section 1768 without  
17 substantive change.

18 **§ 56080. Wildlife area pass**

19 56080. (a) The department may issue an annual wildlife area pass or a day use  
20 pass that authorizes the bearer to enter and use facilities and programs on the  
21 department managed lands subject to Section 56030 for the period of a calendar  
22 year or, if issued after the beginning of the year, for the remainder thereof.

23 (b) The fee for the annual wildlife area pass is ten dollars (\$10). The fee for the  
24 day use pass is two dollars (\$2).

25 (c) The fees shall be adjusted in the calendar years following 1989 in accordance  
26 with **Section 713.**

27 (d) The following persons are exempt from the payment of fees under this  
28 section for an annual wildlife area pass or a day use pass:

29 (1) A person under the age of 16 years.

30 (2) A tour by an organized youth or school group.

31 (e) Any person eligible for a reduced fee or free sportfishing license pursuant to  
32 **Section 7150 or 7151** shall be issued an annual wildlife area pass upon application  
33 therefor and under the same conditions and for the same fee as provided in those  
34 sections.

35 (f) There shall be appropriated in the annual Budget Act from the General Fund,  
36 for transfer to the Native Species Conservation and Enhancement Account, a sum  
37 equal to two dollars (\$2) for each free annual wildlife area pass issued pursuant to  
38 subdivision (e) during the preceding calendar year.

39 **Comment.** Section 56080 continues former Fish and Game Code Section 1765 without  
40 substantive change.

1    **§ 56085. Native species stamp**

2       56085. The department may also offer for sale a native species stamp,  
3 promotional materials, and nature study aids. The fee for a native species stamp is  
4 seven dollars and fifty cents (\$7.50), as adjusted in the calendar years following  
5 1989 in accordance with **Section 713**.

6       **Comment.** Section 56085 continues former Fish and Game Code Section 1766 without  
7 substantive change.

8    **§ 56090. Promotional activity**

9       56090. (a) The department may take all appropriate measures to encourage  
10 persons to obtain annual wildlife area passes and day use passes issued pursuant to  
11 Section 56080, and to promote the sale of native species stamps, promotional  
12 materials, and nature study aids to provide revenue for the support of the  
13 department.

14       (b) The measures may include, but are not limited to, the dissemination of public  
15 information concerning the status of wildlife, fish, and plant species, conservation  
16 activities of the department, and programs and facilities provided by the  
17 department for the enjoyment of the lands managed by the department.

18       **Comment.** Section 56090 continues former Fish and Game Code Section 1769 without  
19 substantive change.

20                   CHAPTER 4. ENDANGERED AND RARE FISH, WILDLIFE, AND  
21                   PLANT SPECIES CONSERVATION AND ENHANCEMENT  
22                   ACCOUNT

23    **§ 56100. Creation of account**

24       56100. The department shall maintain within the Fish and Game Preservation  
25 Fund an Endangered and Rare Fish, Wildlife, and Plant Species Conservation and  
26 Enhancement Account which is hereby created.

27       **Comment.** Section 56100 continues former Fish and Game Code Section 1770 without  
28 substantive change.

29    **§ 56105. Deposit of funds**

30       56105. (a) Whenever the department receives funds from the Treasurer under  
31 **Article 7 (commencing with Section 18520) of Chapter 17 of Part 10 of**  
32 **Division 2 of the Revenue and Taxation Code** for the support of this chapter, the  
33 funds shall be deposited in the Fish and Game Preservation Fund and credited to  
34 the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and  
35 Enhancement Account.

36       (b) These funds are for the support of programs for endangered and rare animals  
37 and native plant species as determined by the commission, related conservation  
38 and enhancement programs, and programs for those species that may be

1 candidates for determination as endangered or rare under the criteria developed by  
2 the commission.

3 (c) The administrative overhead assessment on that portion of funds deposited in  
4 the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and  
5 Enhancement Account expended through contracts shall not exceed 15 percent.

6 **Comment.** Section 56105 continues former Fish and Game Code Section 1771 without  
7 substantive change.

8 **Staff Note.** Existing Section 1771 refers to “Article 7 (commencing with Section 18520) of  
9 Chapter 17 of Part 10 of Division 2.” There is no such article, chapter, or section. **The staff  
10 invites comment on how to correct this erroneous cross-reference.**

11 **§ 56110. Encouraging donations**

12 56110. (a) The department may take all appropriate measures to encourage  
13 donations to this account through the tax return checkoff system provided for in  
14 **Article 7 (commencing with Section 18520) of Chapter 17 of Part 10 of  
15 Division 2 of the Revenue and Taxation Code.**

16 (b) The department may also disseminate information to the public concerning  
17 the status of endangered and rare species. The cost to the department to carry out  
18 the provisions of this section may be charged to this account.

19 **Comment.** Section 56110 continues former Fish and Game Code Section 1772 without  
20 substantive change.

21 **Staff Note.** Existing Section 1772 refers to “Article 7 (commencing with Section 18520) of  
22 Chapter 17 of Part 10 of Division 2.” There is no such article, chapter, or section. **The staff  
23 invites comment on how to correct this erroneous cross-reference.**

24 **TITLE 7. SHARED HABITAT ALLIANCE FOR  
25 RECREATIONAL ENHANCEMENT PROGRAM**

26 **CHAPTER 1. GENERAL PROVISIONS**

27 **§ 56200. Legislative intent**

28 56200. (a) In establishing the Shared Habitat Alliance for Recreational  
29 Enhancement (“SHARE”) program, it is the intent of the Legislature to encourage  
30 private landowners to voluntarily make their land available to the public for  
31 wildlife-dependent recreational activities.

32 (b) The Legislature further encourages private landowners to use any funds  
33 received from the SHARE program for wildlife conservation purposes on their  
34 property.

35 (c) The SHARE program shall be a collaborative effort by all participants to  
36 facilitate wildlife-dependent recreational activities on private land at minimal  
37 expense to the state.

1 (d) The Legislature declares that interested nongovernmental organizations are  
2 the key to developing, planning, and implementing the SHARE program.

3 **Comment.** Section 56200 continues former Fish and Game Code Section 1570 without  
4 substantive change.

5 **§ 56205. Definitions**

6 56205. For purposes of this title, the following definitions apply:

7 (a) “Agreement” includes, but is not limited to, a contract, license, easement,  
8 memorandum of understanding, or lease.

9 (b) “Partnership” means a collaborative effort involving financial or in-kind  
10 contributions by nongovernmental organizations, the department, and other  
11 interested parties working in concert to achieve the goals of the program.

12 (c) “Private landowner” means an owner of any possessory interest in real  
13 property that is suitable for use for wildlife-dependent recreational activities.

14 (d) “Program” means the SHARE program established under this title.

15 (e) “Wildlife-dependent recreational activities” means hunting, fishing, wildlife  
16 observation, conservation education, and related outdoor activities through means  
17 that are consistent with applicable law.

18 **Comment.** Section 56205 continues former Fish and Game Code Section 1571 without  
19 substantive change.

20 **CHAPTER 2. PROGRAM ADMINISTRATION**

21 **§ 56225. Program established**

22 56225. There is hereby established the Shared Habitat Alliance for Recreational  
23 Enhancement (SHARE) program.

24 **Comment.** Section 56225 continues the first sentence of former Fish and Game Code Section  
25 1572(a) without substantive change.

26 **§ 56230. Implementation**

27 56230. The department, in partnership with nonprofit conservation groups and  
28 other interested nongovernmental organizations that seek to increase and enhance  
29 wildlife-dependent recreational opportunities, shall work cooperatively to  
30 implement the program in order to facilitate public access to private lands in a  
31 voluntary and incentive-based manner.

32 **Comment.** Section 56230 continues the second sentence of former Fish and Game Code  
33 Section 1572(a) without substantive change.

34 **§ 56235. Priorities**

35 56235. In determining which lands may be included in the program, the  
36 department shall give priority to those lands with the greatest wildlife habitat  
37 value. To the extent possible, the department shall also include in the program  
38 private lands that permit multiple wildlife-dependent recreational activities, in

1 order to take into consideration the participation of the general public in the  
2 program.

3 **Comment.** Section 56235 continues former Fish and Game Code Section 1573(g) without  
4 substantive change.

5 **§ 56240. Grants and agreements**

6 56240. The department may make grants to, or enter into agreements with,  
7 nonprofit organizations, governmental entities, or any other entities for the use of  
8 the funds described in Section 56255 when the department finds that the  
9 agreements are necessary for carrying out the purposes of this title.

10 **Comment.** Section 56240 continues former Fish and Game Code Section 1572(d) without  
11 substantive change.

12 **§ 56245. Landowner agreements**

13 56245. (a) The department may enter into a voluntary agreement with a private  
14 landowner, including an agreement under which the private landowner is  
15 compensated by the department for public use of the land, to provide public access  
16 for wildlife-dependent recreational activities. Any financial compensation offered  
17 to a private landowner pursuant to this subdivision shall not exceed thirty dollars  
18 (\$30) per acre, or fifty dollars (\$50) per public participant per day, and shall be  
19 commensurate with the quality of the wildlife-dependent recreational opportunities  
20 that are to be provided on the property.

21 (b) The department also may enter into a voluntary agreement with a private  
22 landowner to facilitate access to adjacent public lands or waters, upon approval of  
23 the governmental entity that holds title to the land. This title does not authorize a  
24 private landowner to exclude persons not participating in the SHARE program  
25 from using public land for wildlife-dependent recreational activities.

26 (c) The department may enter into a voluntary agreement with a governmental  
27 entity to provide wildlife-dependent recreational opportunities to the public on  
28 public lands or waters.

29 **Comment.** Section 56245 continues former Fish and Game Code Section 1573(a) without  
30 substantive change.

31 **§ 56250. Limitations on agreements**

32 56250. An agreement executed pursuant to the program shall not authorize the  
33 take of nongame species by public participants in the program. An agreement may  
34 not authorize a private landowner to transfer a hunting or fishing license, stamp, or  
35 tag to another person, unless otherwise authorized by law.

36 **Comment.** Section 56250 continues former Fish and Game Code Section 1573(f) without  
37 substantive change.

38 **§ 56255. Modification or cancellation of agreement**

39 56255. Either the department or a private landowner may, in writing, modify or  
40 cancel an agreement executed under the program, at any time. Upon cancellation

1 or modification of the agreement by either party, the other party shall be  
2 reimbursed for any lost revenues or expenses incurred pursuant to the terms of the  
3 original agreement.

4 **Comment.** Section 56255 continues former Fish and Game Code Section 1573(c) without  
5 substantive change.

6 **§ 56260. Landowner protections and remedies**

7 56260. In addition to any other protection or remedy under law, the protections  
8 and remedies afforded to an owner of an estate or any other interest in real  
9 property under Section 846 of the Civil Code shall apply to a private landowner,  
10 nonprofit organization, or other entity participating in the program.

11 **Comment.** Section 56260 continues former Fish and Game Code Section 1573(d) without  
12 substantive change.

13 **§ 56265. Waiver of liability**

14 56265. The department shall require every person who wants to use land that is  
15 subject to an agreement pursuant to Section 56245, prior to using that land, to sign  
16 a waiver that releases the department or any private group, nonprofit organization,  
17 governmental entity, or other organization involved in administering the program,  
18 and the private landowner, from liability for any injury or damage that arises from,  
19 or is connected with that person's use of the land. Upon request, the department  
20 shall provide a copy of the waiver to any of the parties to the waiver.

21 **Comment.** Section 56265 continues former Fish and Game Code Section 1573(e) without  
22 substantive change.

23 **§ 56270. Regulations**

24 56270. The department shall adopt regulations for the management and control  
25 of wildlife-dependent recreational activities on land that is subject to the program.

26 **Comment.** Section 56270 continues the first sentence of former Fish and Game Code Section  
27 1572(b) without substantive change.

28 **§ 56275. Enforcement**

29 56275. (a) The department may revoke, for up to three years, the public access  
30 privilege granted pursuant to this title, of any person who violates any provision of  
31 this code or regulation adopted pursuant to this code while on any property that is  
32 subject to an agreement under the program.

33 (b) The department shall enforce all applicable regulations established by the  
34 commission or the department on property that is subject to an agreement executed  
35 under the program.

36 **Comment.** Section 56275 continues former Fish and Game Code Section 1574 without  
37 substantive change.



1    **§ 56335. Deposit and expenditure**

2       56335. (a) All funding generated pursuant to Section 56330 from grants, federal  
3 funds, or other sources, where the person or entity providing the funds specifically  
4 designates in writing prior to the time of transmittal of the funds to the department  
5 that the funds are intended solely for the purposes of the program, and any user  
6 fees assessed by the department specifically for the program, shall be deposited in  
7 the SHARE Account in the Fish and Game Preservation Fund.

8       (b) The moneys in the SHARE account, upon appropriation by the Legislature,  
9 shall be available for expenditure by the department solely for programs and  
10 projects to benefit the program and for the direct costs and administrative  
11 overhead incurred solely in carrying out the department's program activities.

12       (c) Funds may also be used for wildlife conservation purposes on lands subject  
13 to an agreement under the program.

14       (d) Administrative overhead shall be limited to the reasonable costs associated  
15 with the direct administration of the program.

16       (e) The department shall maintain internal accountability necessary to ensure  
17 that all restrictions on the expenditure of these funds are met.

18       **Comment.** Section 56335 continues former Fish and Game Code Section 1572(c)(3) without  
19 substantive change.

20    **§ 56340. Reimbursement of other persons and entities**

21       56340. The department may reimburse a nonprofit organization, a private  
22 landowner, or other entity for its costs related to the implementation of the  
23 program.

24       **Comment.** Section 56340 continues former Fish and Game Code Section 1572(f) without  
25 substantive change.

26                    **TITLE 8. ENHANCEMENT AND MANAGEMENT**  
27                    **OF FISH AND WILDLIFE AND THEIR HABITAT**  
28                    **ON PRIVATE LANDS**

29                                **CHAPTER 1. GENERAL PROVISIONS**

30    **§ 56500. Policy**

31       56500. It is the policy of the state actively to ensure the improvement of wildlife  
32 habitat on private land in order to encourage the propagation, utilization, and  
33 conservation of fish and wildlife resources on those lands now and for the future in  
34 cooperation with private landowners. The commission and the department may  
35 develop a private wildlife habitat enhancement and management program for the  
36 implementation of this title.

37       **Comment.** Section 56500 continues former Fish and Game Code Section 3400 without  
38 substantive change.

1

## CHAPTER 2. ESTABLISHMENT AND REGULATION

2 **§ 56525. License to operate wildlife habitat enhancement and management area**

3 56525. The commission may authorize the department to issue revocable,  
4 nontransferable licenses for the operation of wildlife habitat enhancement and  
5 management areas on any private lands it determines are suitable for habitat  
6 enhancement, management, utilization, propagation, and conservation of fish and  
7 wildlife resources of those lands.

8 **Comment.** Section 56525 continues the first sentence of former Fish and Game Code Section  
9 3401(a) without substantive change.

10 **§ 56530. License application**

11 56530. (a) A license for a wildlife habitat enhancement and management area  
12 may be issued to any landholder or combination of landholders upon approval by  
13 the commission of an application submitted by the landholder. As used in this title,  
14 “landholder” means any person who owns, leases, or has a possessory interest in  
15 land.

16 (b) Each license application shall be accompanied by a nonrefundable fee in an  
17 amount established by the commission which, in conjunction with the fees  
18 collected pursuant to Section 56585, is calculated to meet the department’s actual  
19 costs in administering all aspects of the habitat enhancement and management  
20 program. The application shall be accompanied by a wildlife habitat enhancement  
21 and management plan and any other information about the proposed wildlife  
22 habitat enhancement and management area that may be required by the  
23 commission.

24 (c) An application for a license may be submitted by any number of landholders  
25 if all parcels to be included in the wildlife habitat enhancement and management  
26 area are contiguous and, in combination, are of a size suitable for the management  
27 of the species included in the wildlife habitat enhancement and management plan.  
28 The landholders shall designate one landholder who shall represent them in all  
29 dealings with the commission and the department. The designated landholder shall  
30 be responsible for the operation of the wildlife habitat enhancement and  
31 management area.

32 (d) A landholder who does not own the fee to the land may apply for a license  
33 pursuant to this title only if the owner signs the application.

34 **Comment.** Section 56530 continues former Fish and Game Code Section 3402 without  
35 substantive change.

36 **§ 56535. Plan and license**

37 56535. (a) Upon approval of the wildlife habitat enhancement and management  
38 plan, the department shall issue a license, which shall be valid for five calendar  
39 years, authorizing the taking of those species of fish, game birds, and game  
40 mammals designated in the wildlife habitat enhancement and management plan,

1 pursuant to the plan and regulations of the commission for the operation of the  
2 wildlife habitat enhancement and management area.

3 (b) Regulations adopted pursuant to this section may supersede any provision of  
4 this code designated by number in the regulation, but shall do so only to the extent  
5 specifically provided in the regulation.

6 **Comment.** Section 56535 continues former Fish and Game Code Section 3406(a) without  
7 substantive change.

8 **Staff Note.** Existing Section 3406(a) refers to “regulations adopted pursuant to this section.”  
9 That reference to “this section” has been preserved in proposed Section 56535, even though  
10 Section 56535 would not continue the entirety of Section 3406. This appears to be appropriate,  
11 because subdivision (a) of Section 3406 is the only part of that section that seems to authorize  
12 rulemaking. **The staff invites comment on whether the scope of the reference proposed in**  
13 **Section 56535 would cause any problems.**

14 **§ 56540. License revocation**

15 56540. After notice and a hearing, the commission may revoke the license for  
16 any violation of any provision of this code or any regulations adopted pursuant  
17 thereto or for any violation of the terms of the license.

18 **Comment.** Section 56540 continues former Fish and Game Code Section 3404(b) without  
19 substantive change.

20 **§ 56545. Boundary posting**

21 56545. The commission shall require the landowners of a wildlife habitat  
22 enhancement and management area to post all or part of its boundaries with public  
23 land. The commission may require the owners of a wildlife habitat enhancement  
24 and management area to post all or part of its boundaries with private land.

25 **Comment.** Section 56545 continues former Fish and Game Code Section 3403 without  
26 substantive change.

27 **§ 56550. Review and reporting**

28 56550. (a) The activities conducted pursuant to each wildlife habitat  
29 enhancement and management plan shall be reviewed annually by the department  
30 and reviewed by the commission at a public hearing.

31 (b) Each licensee shall annually submit information to the department about past  
32 activities and the activities intended to be conducted in the succeeding year. Any  
33 change to the wildlife habitat enhancement and management plan or the  
34 regulations applicable to the wildlife habitat enhancement and management area  
35 shall be proposed to the commission by the department or the licensee at the  
36 license review hearing.

37 **Comment.** Section 56550 continues former Fish and Game Code Section 3406(c) without  
38 substantive change.



1 (c) The fees for tags and seals shall be established by the commission in  
2 amounts which, in conjunction with fees collected pursuant to Section 56530, are  
3 calculated to meet the actual costs incurred by the department in administering all  
4 aspects of the habitat enhancement and management program.

5 **Comment.** Section 56585 continues former Fish and Game Code Section 3407 without  
6 substantive change.

7 **Staff Note.** Existing Section 3407 refers to “Section 372 of Title 14 of the California Code of  
8 Regulations.” There is no such regulation. **The staff invites comment on how to correct this**  
9 **erroneous reference.**

10 **§ 56590. Take of deer**

11 56590. During the first year of operation of a wildlife habitat enhancement and  
12 management area under a wildlife habitat enhancement and management plan and,  
13 thereafter, until the operator demonstrates habitat enhancement in the area  
14 acceptable to the department, no person shall take, and the plan shall not authorize  
15 the taking, of deer except during the general open season and consistent with the  
16 bag and possession limits for the fish and game district or the zone in which the  
17 wildlife habitat enhancement and management area is located.

18 **Comment.** Section 56590 continues former Fish and Game Code Section 3406(b) without  
19 substantive change.

20 **§ 56595. Hunting during the rut**

21 56595. The commission shall authorize hunting during the rut only in a wildlife  
22 habitat enhancement and management area when that hunting is consistent with  
23 the management plans prepared for that area or herd and does not result in an  
24 overall negative effect on the deer herd population in that area.

25 **Comment.** Section 56595 continues former Fish and Game Code Section 3401(b) without  
26 substantive change.

27 TITLE 9. THE CALIFORNIA WATERFOWL  
28 HABITAT PROGRAM

29 **§ 56700. Contract for conservation of waterfowl and habitat**

30 56700. (a) Subject to appropriation pursuant to Section 56740, the director may  
31 enter into contracts with nonpublic entities that are owners of record, or with  
32 lessees, who have the owners of record execute the contract, of land determined by  
33 the director to be important for the conservation of waterfowl.

34 (b) The contract shall enforceably restrict the use of the land for the  
35 conservation of waterfowl and their habitat consistent with Section 8 of Article  
36 XIII of the California Constitution.

37 **Comment.** Section 56700 continues former Fish and Game Code Section 3460(a) without  
38 substantive change.

1    **§ 56705. Contract term and contents**

2       56705. Each contract shall be for an initial term of 10 years and shall include all  
3 of the following:

4       (a) The designation of the owner of record and any lessee, and the legal  
5 description and the assessor's parcel number of the land subject to the contract.

6       (b) An agreement by the owner and any lessee to restore, enhance, and protect  
7 the waterfowl habitat character of the described land and to carry out a waterfowl  
8 habitat management plan developed with the department.

9       (c) Specification of the amount and date in each year that the payment is to be  
10 made by the department to the owner or lessee, which shall be calculated at the  
11 rate or rates that the director determines to be fair and reasonable in consideration  
12 of the obligations undertaken by the owner or lessee.

13       (d) A requirement that the owner or lessee do either of the following:

14           (1) Refund to the state all payments received under the contract plus interest at  
15 the legal rate, as specified in Section 3289 of the Civil Code, upon the owner's or  
16 lessee's violation of the contract, or any extension thereof, if the director  
17 determines that the violation warrants termination of the contract and the director  
18 terminates the contract.

19           (2) Make refunds or accept payment adjustments that the director determines are  
20 appropriate, not to exceed the total amount paid by the state to the owner or lessee  
21 in the preceding calendar year plus interest at the legal rate, as specified in Section  
22 3289 of the Civil Code, if the director determines that the violation by the owner  
23 or lessee does not warrant termination of the contract.

24       (e) A requirement that the department reduce the amount of any payment to the  
25 owner or lessee under subdivision (c) by an amount equal to the portion of any  
26 payment under the Federal Water Bank Program (16 U.S.C. Sec. 1301 et seq.) that  
27 the department determines to be in compensation for the same obligation  
28 undertaken by the owner under the water bank program.

29       (f) A requirement that the department monitor compliance with the management  
30 plan or contract with the United States Soil Conservation Service or other  
31 appropriate agency, entity, or person to monitor compliance with the management  
32 plan, and that the owner or lessee allows access for the monitoring.

33       (g) Any additional provisions that the director determines are desirable to  
34 effectuate the purposes of the program or to facilitate its administration.

35       **Comment.** Section 56705 continues former Fish and Game Code Section 3461 without  
36 substantive change.

37    **§ 56710. Recordation of contract**

38       56710. (a) Not later than 20 days after the director has entered into a contract  
39 pursuant to this **division**, a copy of the contract particularly describing the subject  
40 habitat as required by subdivision (a) of Section 56705 shall be recorded by the  
41 department in the office of the county recorder in each county in which any  
42 portion of the areas subject to the contract is located. The contract shall be indexed

1 by the recorder in the grantor-grantee index to the name of the owner of record as  
2 grantor and to the department as grantee.

3 (b) Notwithstanding Section 27383 of the Government Code, the department  
4 shall pay the fees for recording and indexing the contract, and the department shall  
5 deduct the amount paid from the amounts due to the owner under the contract.

6 **Comment.** Section 56710 continues former Fish and Game Code Section 3462 without  
7 substantive change.

8 **Staff Note.** Existing Section 3462 refers to any contract entered into by the director pursuant  
9 to “this division.” The division that contains Section 3462 addresses a broad range of subjects  
10 relating to “Birds and Mammals.” Because of the breadth of that reference, the staff wonders if it  
11 is erroneously overbroad. In addition to the contracts authorized under the California Waterfowl  
12 Habitat Program, the following provisions of the division authorize contracting: Sections 3684,  
13 3686, 3702, 3704.5, 3802, 3851, 3853, 3953, 4154. **The staff invites comment on whether**  
14 **Section 3462 should apply to all of those sections, this title only, or some other combination**  
15 **of sections?**

16 **§ 56715. Renewal of contract**

17 56715. (a) The contract shall be automatically renewed in the same manner as  
18 contracts are renewed and extended, or noticed for nonrenewal, under the  
19 Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1 of  
20 Title 5 of the Government Code).

21 (b) Upon the request of the owner or lessee, the director shall reexamine the  
22 payment rate for the contract at five-year intervals, considering the then current  
23 management costs and, with the concurrence of the owner or lessee, make any  
24 needed adjustments in rates for the remainder of the contract term.

25 **Comment.** Section 56715 continues former Fish and Game Code Section 3464 without  
26 substantive change.

27 **§ 56720. Modification of terms**

28 56720. The director and the owner or lessee may mutually agree to modify the  
29 terms and conditions of a contract under this **division** as the director may  
30 determine to be desirable to carry out the purposes of, or to facilitate  
31 administration of, the program.

32 **Comment.** Section 56720 continues former Fish and Game Code Section 3466 without  
33 substantive change.

34 **Staff Note.** Existing Section 3466 refers to any contract entered into by the director pursuant  
35 to “this division.” The division that contains Section 3466 addresses a broad range of subjects  
36 relating to “Birds and Mammals.” Because of the breadth of that reference, the staff wonders if it  
37 is erroneously overbroad. In addition to the contracts authorized under the California Waterfowl  
38 Habitat Program, the following provisions of the division authorize contracting: Sections 3684,  
39 3686, 3702, 3704.5, 3802, 3851, 3853, 3953, 4154. **The staff invites comment on whether**  
40 **Section 3462 should apply to all of those sections, this title only, or some other combination**  
41 **of sections?**

1    **§ 56725. Change in ownership**

2       56725. (a) If during the contract period the owner or lessee is divested of the use  
3 of the waterfowl habitat subject to the contract, the owner or lessee shall notify the  
4 department concurrent with that divestment. Any unearned payment shall  
5 immediately be refunded by the owner or lessee to the department.

6       (b) If the owner or lessee divests himself or herself of the use of the area subject  
7 to a contract by sale or otherwise, the person succeeding to that use is subject to all  
8 of the terms and conditions of the contract.

9       **Comment.** Section 56725 continues former Fish and Game Code Section 3465 without  
10 substantive change.

11    **§ 56730. Priorities**

12       56730. The director shall give priority to contracts that have the greatest  
13 potential for restoring, enhancing, and protecting high quality waterfowl habitat,  
14 especially that which is subject to destruction, drastic modification, or significant  
15 curtailment of habitat values.

16       **Comment.** Section 56730 continues former Fish and Game Code Section 3460(b) without  
17 substantive change.

18    **§ 56735. Application of Public Contract Code**

19       56735. Contracts entered into pursuant to Section 56700 are not subject to Part 2  
20 (commencing with Section 10100) of Division 2 of the Public Contract Code.

21       **Comment.** Section 56735 continues former Fish and Game Code Section 3460(c) without  
22 substantive change.

23    **§ 56740. California Waterfowl Habitat Preservation Account**

24       56740. (a) The California Waterfowl Habitat Preservation Account is hereby  
25 created in the Fish and Game Preservation Fund, and the money in the account  
26 shall be transferred to the Surplus Money Investment Fund for investment  
27 pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Division 4  
28 of Title 2 of the Government Code.

29       (b) The proceeds of the investment deposited in the account shall be available,  
30 upon appropriation by the Legislature, for expenditure pursuant to this title.

31       (c) Not more than 7 percent of the money appropriated from the account for  
32 expenditure in any fiscal year shall be expended in that fiscal year for  
33 administrative costs of the department.

34       **Comment.** Section 56740 continues former Fish and Game Code Section 3467 without  
35 substantive change.

1 TITLE 10. SALTON SEA RESTORATION

2 CHAPTER 1. GENERAL PROVISIONS

3 § 56800. Short title

4 56800. This title shall be known and may be cited as the Salton Sea Restoration  
5 Act.

6 **Comment.** Section 56800 continues former Fish and Game Code Section 2930 without  
7 substantive change.

8 § 56805. Legislative intent

9 56805. It is the intent of the Legislature that the State of California undertake the  
10 restoration of the Salton Sea ecosystem and the permanent protection of the  
11 wildlife dependent on that ecosystem.

12 **Comment.** Section 56805 continues former Fish and Game Code Section 2931(a) without  
13 substantive change.

14 § 56810. Findings and declarations

15 56810. The Legislature finds and declares all of the following:

16 (a) The Salton Sea is California's largest inland water body with beneficial uses  
17 that include fisheries and wildlife habitat and preservation of endangered species,  
18 and is a repository for agricultural drainage.

19 (b) The Salton Sea ecosystem is a critical link on the international Pacific  
20 Flyway and supports over 400 species of birds.

21 (c) The Salton Sea is threatened by increasing salinity and reduced inflows.  
22 These changes increasingly threaten the unparalleled wildlife resources at the sea,  
23 as well as air quality in the region.

24 (d) In cooperation with local governments, nonprofit organizations, private  
25 businesses, and the public, the Salton Sea Authority can help protect wildlife  
26 habitats and endangered species, improve water and air quality, and enhance  
27 recreational opportunities in the region.

28 (e) In restoring the Salton Sea, it is the intent of the Legislature to do all of the  
29 following:

30 (1) Protect and provide long-term conservation of fish and wildlife that are  
31 dependent on the Salton Sea ecosystem.

32 (2) Restore the long-term stable aquatic and shoreline habitat for fish and  
33 wildlife that depend on the Salton Sea.

34 (3) Mitigate air quality impacts from restoration projects using the best available  
35 technology or best available control measures, as determined by the South Coast  
36 Air Quality Management District and the Imperial County Air Pollution Control  
37 District.

38 (4) Protect water quality.

39 (5) Maintain the Salton Sea as a vital link along the Pacific Flyway.

1 (6) Preserve local tribal heritage and cultural values associated with the Salton  
2 Sea.

3 (7) Minimize noxious odors and other water and air quality problems.

4 (8) Coordinate with local, state, and federal agencies that are responsible for air  
5 quality, endangered species, and other environmental mitigation implementation  
6 requirements of the Quantification Settlement Agreement.

7 (9) Enhance economic development opportunities that will provide sustainable  
8 financial improvements benefiting the local environment and the economic quality  
9 of life for communities around the Salton Sea.

10 **Comment.** Section 56810 continues former Fish and Game Code Section 2940 without  
11 substantive change.

12 **§ 56815. Definitions**

13 56815. Unless the context requires otherwise, the definitions set forth in this  
14 section govern the construction of this title.

15 (a) “Agency” means the Natural Resources Agency.

16 (b) “Habitat mosaics” means two or more proximate habitat types, such as  
17 saltwater shoreline abutting riverine deltas and irrigated farmland.

18 (c) “Quantification Settlement Agreement” has the same meaning as defined in  
19 subdivision (a) of Section 1 of Chapter 617 of the Statutes of 2002.

20 (d) “Salton Sea Authority” or “authority” means the joint powers authority  
21 comprised of the County of Imperial, the County of Riverside, the Imperial  
22 Irrigation District, the Coachella Valley Water District, and the Torres Martinez  
23 Desert Cahuilla Indian Tribe.

24 (e) “Secretary” means the Secretary of the Natural Resources Agency.

25 (f) “Vector management” means services that eliminate or reduce the risk of  
26 illness caused by any organism transporting a pathogen.

27 **Comment.** Section 56815 generalizes former Fish and Game Code Section 2941 without  
28 substantive change.

29 **Staff Note.** Existing Section 2941 applies, by its terms, to Article 2 (commencing with  
30 Section 2940) of Chapter 13 of Division 3 of the Fish and Game Code. Proposed Section 56815  
31 would generalize the provision slightly, so that it also applies to Article 1 of Chapter 13. **The**  
32 **staff invites comment on whether that change would cause any problems.**

33 **§ 56820. Effect of article**

34 56820. (a) Nothing in this title interferes with or prevents the exercise of  
35 authority by a public agency to carry out its programs, projects, or responsibilities.

36 (b) Nothing in this title affects requirements imposed under any other provision  
37 of law.

38 **Comment.** Section 56820 generalizes former Fish and Game Code Section 2945 without  
39 substantive change.

40 **Staff Note.** Existing Section 2945 applies, by its terms, to Article 2 (commencing with  
41 Section 2940) of Chapter 13 of Division 3 of the Fish and Game Code. Proposed Section 56820

1 would generalize the provision slightly, so that it also applies to Article 1 of Chapter 13. **The**  
2 **staff invites comment on whether that change would cause any problems.**

3 **§ 56825. Quantification Settlement Agreement**

4 56825. Nothing in this title shall alter any state responsibility under the  
5 Quantification Settlement Agreement or the state's authority to carry out any  
6 responsibility under the Quantification Settlement Agreement.

7 **Comment.** Section 56825 generalizes former Fish and Game Code Section 2942(a)(2) without  
8 substantive change.

9  **Staff Note.** Existing Section 2942 applies, by its terms, to Article 2 (commencing with  
10 Section 2940) of Chapter 13 of Division 3 of the Fish and Game Code. Proposed Section 56825  
11 would generalize the provision slightly, so that it also applies to Article 1 of Chapter 13. **The**  
12 **staff invites comment on whether that change would cause any problems.**

13 **CHAPTER 2. FINANCES**

14 **§ 56850. Creation and use of Salton Sea Restoration Fund**

15 56850. (a) There is hereby established the Salton Sea Restoration Fund, which  
16 shall be administered by the director.

17 (b) Money deposited in the fund shall be expended, upon appropriation by the  
18 Legislature, for the following purposes:

19 (1) Environmental and engineering studies related to the restoration of the  
20 Salton Sea and the protection of fish and wildlife dependent on the sea.

21 (2) Implementation of conservation measures necessary to protect the fish and  
22 wildlife species dependent on the Salton Sea, including adaptive management  
23 measurements pursuant to **Section 2081.7**. These conservation measures shall be  
24 limited to the Salton Sea and lower Colorado River ecosystems, including the  
25 Colorado River Delta.

26 (3) Implementation of the preferred Salton Sea restoration alternative.

27 (4) Administrative, technical, and public outreach costs related to the  
28 development and selection of the preferred Salton Sea restoration alternative.

29 **Comment.** Section 56850 continues former Fish and Game Code Section 2932 without  
30 substantive change.

31 **§ 56855. Funds appropriated pursuant to Water Code § 79565**

32 56855. Of the funds appropriated pursuant to Section 79565 of the Water Code,  
33 not less than eight million five hundred thousand dollars (\$8,500,000) shall be  
34 made available for transfer or direct expenditure for acquisition, grants, or other  
35 activities that directly restore the Salton Sea and its transboundary watersheds,  
36 consistent with Section 56850.

37 **Comment.** Section 56855 continues former Fish and Game Code Section 2932.2 without  
38 substantive change.



1 in accordance with that section to be deposited in the Salton Sea Restoration Fund  
2 and other funds made available by the Legislature and the federal government.

3 (b) The preferred alternative shall provide the maximum feasible attainment of  
4 the following objectives:

5 (1) Restoration of long-term stable aquatic and shoreline habitat for the historic  
6 levels and diversity of fish and wildlife that depend on the Salton Sea.

7 (2) Elimination of air quality impacts from the restoration projects.

8 (3) Protection of water quality.

9 **Comment.** Section 56900 continues former Fish and Game Code Section 2931(b)-(c) without  
10 substantive change.

11 **§ 56905. Salton Sea Species Conservation Habitat Project**

12 56905. The department and the Department of Water Resources shall do all of  
13 the following for the Salton Sea Species Conservation Habitat Project:

14 (a) Immediately make available relevant information relating to the factors that  
15 influence the cost and size of the alternatives discussed in the environmental  
16 impact report or environmental impact statement for the species habitat  
17 conservation program.

18 (b) Release all available detail on a final project design immediately, or upon  
19 final determination of a least environmentally damaging preferred alternative by  
20 the United States Army Corps of Engineers. Details of a final project design shall  
21 include location, configuration, size, and cost.

22 (c) Immediately make available project evaluation protocols that include the  
23 following principles of adaptive management:

24 (1) Goals and objectives of the project.

25 (2) The project design and an operations plan.

26 (3) A monitoring plan that will include metrics that identify benefits to the  
27 species.

28 (4) A performance evaluation based on species population identified through  
29 monitoring.

30 (5) A decisionmaking framework to evaluate project performance and guide  
31 operations and management changes.

32 **Comment.** Section 56905 continues former Fish and Game Code Section 2942(a)(3)(B)  
33 without substantive change.

34 **§ 56910. Secretary responsibilities**

35 56910. The secretary, in consultation and coordination with the authority, shall  
36 lead the Salton Sea restoration efforts that shall include all of the following:

37 (a) Early start habitat demonstration projects.

38 (b) Biological investigations relating to the restoration of the Salton Sea.

39 (c) Investigations of water quality, sedimentation, and inflows relating to the  
40 restoration of the Salton Sea.

1 (d) Air quality investigations, in consultation and coordination with local and  
2 regional air quality agencies, relating to the restoration of the Salton Sea.

3 (e) Geotechnical investigations relating to the restoration of the Salton Sea.

4 (f) Financial assistance grant programs to support restoration activities of local  
5 stakeholders.

6 **Comment.** Section 56910 continues former Fish and Game Code Section 2942(a)(1) without  
7 substantive change.

8 **§ 56915. Department of Water Resources restoration efforts**

9 56915. To the extent that funding is appropriated to the department for Salton  
10 Sea restoration activities, the Department of Water Resources, in coordination and  
11 under agreement with the department, may undertake restoration efforts identified  
12 in Sections 56905 and 56910.

13 **Comment.** Section 56915 continues former Fish and Game Code Section 2942(a)(3)(A)  
14 without substantive change.

15 **§ 56920. Department of Water Resources contracts**

16 56920. The Department of Water Resources may contract with water suppliers  
17 to purchase and sell water made available pursuant to Section 1745.02 of the  
18 Water Code to achieve the goals of this title.

19 **Comment.** Section 56920 continues former Fish and Game Code Section 2933 without  
20 substantive change.

21 **§ 56925. Department of Water Resources design-build procurement authority**

22 56925. Notwithstanding any other law, the Department of Water Resources is  
23 authorized to use design-build procurement authority for projects constructed at  
24 the Salton Sea in accordance with Article 6 (commencing with Section 10187) of  
25 Chapter 1 of Part 2 of Division 2 of the Public Contract Code.

26 **Comment.** Section 56925 continues former Fish and Game Code Section 2942(c) without  
27 substantive change.

28 **§ 56930. Feasibility study**

29 56930. The authority may lead a feasibility study, in coordination and under  
30 contract with the secretary, to do the following:

31 (a) Investigate access and utility agreements that may contribute to the future  
32 funding of restoration activities at the Salton Sea.

33 (b) Analyze all feasible funding sources for restoration program components and  
34 activities.

35 (c) Analyze economic development opportunities, including, but not limited to,  
36 renewable energy, biofuels, mineral development, and algae production for the  
37 purposes of identifying new revenue sources for the Salton Sea restoration efforts.

38 (d) Identify state procurement and royalty sharing opportunities.

39 (e) Review existing long-term plans for restoration of the Salton Sea and  
40 recommend to the secretary changes to existing restoration plans. In any review

1 pursuant to this subparagraph, the authority shall consider the impacts of the  
2 restoration plan on air quality, fish and wildlife habitat, water quality, and the  
3 technical and financial feasibility of the restoration plan and shall consider the  
4 impacts on other agencies responsible for air quality, endangered species, and  
5 other environmental mitigation requirements for implementation of the  
6 Quantification Settlement Agreement.

7 **Comment.** Section 56930 continues former Fish and Game Code Section 2942(b)(1) without  
8 substantive change.

9 **§ 56935. Local, publicly derived input**

10 56935. For the purposes of considering local, publicly derived input concerning  
11 habitat objectives and actions, types and levels of public access, and integration of  
12 air quality management and habitat restoration, the secretary shall seek input from  
13 the authority with regard to the following components of restoration of the Salton  
14 Sea:

15 (a) Design opportunities and constraints, including the integration of the habitat,  
16 public access, and air quality management objectives.

17 (b) Public access and recreational components.

18 (c) Opportunities for economic development.

19 (d) Habitat mosaics and location.

20 (e) Vector management and predator control.

21 (f) Feasible financial resources to fund all recommended restoration program  
22 components.

23 **Comment.** Section 56935 continues former Fish and Game Code Section 2943 without  
24 substantive change.

25 **§ 56940. Delay prohibited**

26 56940. No evaluation, study, review, or other activity pursuant to this chapter  
27 shall delay the planning and implementation of ongoing and planned restoration or  
28 mitigation projects, including, but not limited to, the Salton Sea Species  
29 Conservation Habitat Project or other measures pursuant to existing state and  
30 federal programs and agreements.

31 **Comment.** Section 56940 continues former Fish and Game Code Section 2942(b)(2) without  
32 substantive change.

33 **§ 56945. Salton Sea ecosystem**

34 56945. For the purpose of the restoration plan, the Salton Sea ecosystem shall  
35 include, but is not limited to, the Salton Sea, the agricultural lands surrounding the  
36 Salton Sea, and the tributaries and drains within the Imperial and Coachella  
37 Valleys that deliver water to the Salton Sea.

38 **Comment.** Section 56945 continues former Fish and Game Code Section 2931(d) without  
39 substantive change.

1 TITLE 11. INLAND WETLANDS  
2 CONSERVATION PROGRAM

3 CHAPTER 1. DEFINITIONS

4 § 57000. Application

5 57000. Unless the context otherwise requires, the definitions in this chapter  
6 govern the construction of this title.

7 **Comment.** Section 57000 continues former Fish and Game Code Section 1400 without  
8 substantive change.

9 § 57005. “Fund”

10 57005. “Fund” means the Inland Wetlands Conservation Fund, created in the  
11 Wildlife Restoration Fund by Section 57635.

12 **Comment.** Section 57005 continues former Fish and Game Code Section 1401 without  
13 substantive change.

14 § 57510. “Board”

15 57510. “Board” means the Wildlife Conservation Board created by Section  
16 54750.

17 **Comment.** Section 57510 continues former Fish and Game Code Section 1402 without  
18 substantive change.

19 § 57515. “Inland area”

20 57515. “Inland areas” means the entire area of California except lands under the  
21 jurisdiction of the State Coastal Conservancy, lands within the Santa Monica  
22 Mountains Zone, as defined in Section 33105 of the Public Resources Code, and  
23 lands under the jurisdiction of the California Tahoe Conservancy Agency in the  
24 Lake Tahoe region, as defined in Section 66905.5 of the Government Code.

25 **Comment.** Section 57515 continues former Fish and Game Code Section 1403 without  
26 substantive change.

27 § 57520. “Program”

28 57520. “Program” means the Inland Wetlands Conservation Program, as  
29 provided in this title.

30 **Comment.** Section 57520 continues former Fish and Game Code Section 1404 without  
31 substantive change.

32 § 57525. “Nonprofit organization”

33 57525. “Nonprofit organization” means an organization described in subsection  
34 (c) of Section 501 of the Internal Revenue Code of the United States (26 U.S.C.  
35 501(c)).

1     **Comment.** Section 57525 continues former Fish and Game Code Section 1405 without  
2 substantive change.

3                   CHAPTER 2. THE INLAND WETLANDS CONSERVATION  
4                   PROGRAM

5     **§ 57550. Creation**

6     57550. The Inland Wetlands Conservation Program is hereby created in the  
7 board.

8     **Comment.** Section 57550 continues former Fish and Game Code Section 1410 without  
9 substantive change.

10    **§ 57555. Administration**

11    57555. The board shall administer the program.

12    **Comment.** Section 57555 continues the second sentence of former Fish and Game Code  
13 Section 1411(a) without substantive change.

14    **§ 57560. Purpose and goal of program**

15    57560. The purpose and goal of the program is to carry out the programs of the  
16 Central Valley Habitat Joint Venture.

17    **Comment.** Section 57560 continues former Fish and Game Code Section 1411(c) without  
18 substantive change.

19    **§ 57565. Acquisition of interest in land**

20    57565. The board may acquire or accept the gift or dedication of fee title,  
21 easements, leases, development rights, or other interests in lands in inland areas  
22 necessary to carry out the purposes of this title.

23    **Comment.** Section 57565 continues former Fish and Game Code Section 1413 without  
24 substantive change.

25    **§ 57570. Federal surplus land sales**

26    57570. The board shall coordinate its activities in the program with federal  
27 surplus land sales in inland areas.

28    **Comment.** Section 57570 continues former Fish and Game Code Section 1414 without  
29 substantive change.

30    **§ 57575. Land transactions**

31    57575. (a) Notwithstanding any other provision of law, the board may lease,  
32 rent, sell, exchange, or otherwise transfer any land, interest in land, or option  
33 acquired pursuant to this title for the purposes of carrying out the program.

34    (b) The proceeds from any lease, rental, sale, exchange, or transfer of land, or  
35 any interest therein, or option thereon, shall be deposited in the fund.

36    **Comment.** Section 57575 continues former Fish and Game Code Section 1415 without  
37 substantive change.

1    **§ 57580. Grants and loans**

2       57580. (a) The board may make grants or loans to nonprofit organizations, local  
3 governmental agencies, and state departments and agencies for the purpose of  
4 wetland and associated upland habitat acquisition, restoration, or enhancement in  
5 the same manner and subject to the same provisions as prescribed in Section  
6 31116 of the Public Resources Code.

7       (b) Proceeds from repayment of any loans and the interest thereon shall be  
8 deposited in the fund.

9       **Comment.** Section 57580 continues former Fish and Game Code Section 1416 without  
10 substantive change.

11    **§ 57585. Lease of nonwetlands habitat for restoration**

12       57585. (a) The board may lease nonwetlands habitat in need of restoration to  
13 nonprofit organizations, local governmental agencies, and state departments and  
14 agencies under agreements in which the lessee agrees to restore the wetlands to  
15 their highest possible wetland value and maintain the wetlands at that highest  
16 possible wetland value.

17       (b) Proceeds from any lease or rental and interest thereon shall be deposited in  
18 the fund.

19       **Comment.** Section 57585 continues former Fish and Game Code Section 1417 without  
20 substantive change.

21    **§ 57590. Sale of restored habitat**

22       57590. (a) The board may acquire former wetlands and associated upland  
23 habitat, restore those areas, and sell the lands, or any interest therein, to private  
24 owners, local governmental agencies, and state departments and agencies or  
25 exchange them for other land, if an agreement is secured to keep and maintain the  
26 lands as wetlands in perpetuity.

27       (b) The agreement shall contain a reversion if the lands sold or exchanged are  
28 not maintained as wetlands.

29       (c) The agreement containing the reversion shall be set forth in any conveyance  
30 transferring any land, interest in land, or option subject to this section.

31       (d) Proceeds from the sales or exchanges shall be deposited in the fund.

32       **Comment.** Section 57590 continues former Fish and Game Code Section 1418 without  
33 substantive change.

34    **§ 57595. Grant and loan preferences**

35       57595. (a) In reviewing any grant or loan application, preference shall be given  
36 to projects on wetlands that have a secure source of water or are adjacent to  
37 existing wetlands that are protected by public ownership or conservation  
38 easements, or both.

39       (b) The board shall give preference to wintering habitat in the central valley.

40       **Comment.** Section 57595 continues former Fish and Game Code Section 1420 without  
41 substantive change.



1    **§ 57635. Use of funds**

2       57635. The money in the Inland Wetlands Conservation Fund shall be solely  
3 used to carry out the Inland Wetlands Conservation Program, including the  
4 administrative costs of the program.

5       **Comment.** Section 57635 continues the second sentence of former Fish and Game Code  
6 Section 1430 without substantive change.

7    **§ 57640. Continuous appropriation**

8       57640. Notwithstanding Section 13340 of the Government Code, the money in  
9 the fund is continuously appropriated to the board to carry out this title.

10       **Comment.** Section 57640 continues the second sentence of former Fish and Game Code  
11 Section 1431 without substantive change.

12    **§ 57645. Funding**

13       57645. (a) The Inland Wetlands Conservation Program is the program  
14 designated for use of the funds allocated pursuant to subdivision (f) of Section  
15 55855, as enacted by the California Wildlife Protection Act of 1990.

16       (b) The board is the agency designated for receipt of the funds allocated  
17 pursuant to subdivision (f) of Section 55855, as enacted by the California Wildlife  
18 Protection Act of 1990.

19       **Comment.** Subdivision (a) of Section 57645 continues the first sentence of former Fish and  
20 Game Code Section 1411(a) without substantive change.

21       Subdivision (b) continues former Fish and Game Code Section 1411(b).

22    **§ 57650. Acceptance of financial support**

23       57650. The board may apply for and accept federal grants and receive gifts,  
24 donations, subventions, rent, royalties, and other financial support from public and  
25 private sources for the purposes of the program.

26       **Comment.** Section 57650 continues former Fish and Game Code Section 1412 without  
27 substantive change.

28    **§ 57655. Surplus funds**

29       57655. Any funds remaining after an eligible acquisition, restoration, or  
30 enhancement of any project under Chapter 2 (commencing with Section 57550)  
31 shall be returned to the board and shall be deposited in the fund.

32       **Comment.** Section 57655 continues former Fish and Game Code Section 1419 without  
33 substantive change.

1 TITLE 12. CALIFORNIA RIPARIAN HABITAT  
2 CONSERVATION PROGRAM

3 Article 1. General Provisions

4 § 57700. Short title

5 57700. This title shall be known and may be cited as the California Riparian  
6 Habitat Conservation Act.

7 **Comment.** Section 57700 continues former Fish and Game Code Section 1385 without  
8 substantive change.

9 § 57705. Findings and declarations

10 57705. The Legislature finds and declares all of the following:

11 (a) California's rivers, wetlands, and waterways, and the fisheries and wildlife  
12 habitat they provide, are valuable and finite resources that benefit the people of the  
13 state and are threatened with deterioration or degeneration that may endanger the  
14 natural beauty and productivity of these valuable resources.

15 (b) The public interest requires the coordinated protection of rivers and riparian  
16 resources in order to maintain an equilibrium between the natural endowment of,  
17 and manmade alterations to, California's river environment, and in order to  
18 preserve the scenic beauty of these natural resources and the recreational and  
19 economic benefits they provide.

20 (c) By virtue of the special conditions and circumstances of the natural ecology,  
21 the increasing human populations and needs in the state, and the numerous  
22 governmental agencies with an interest in coordinating activities that affect rivers  
23 and riparian habitat resources, there is a need for a coordinated state rivers and  
24 riparian habitat protection program.

25 **Comment.** Section 57705 continues former Fish and Game Code Section 1386 without  
26 substantive change.

27 § 57710. Primary concern

28 57710. The preservation and enhancement of riparian habitat shall be a primary  
29 concern of the board and the department, and of all state agencies whose activities  
30 impact riparian habitat, including the Department of Conservation, the Department  
31 of Parks and Recreation, the Department of Water Resources, the Department of  
32 Forestry and Fire Protection, the State Coastal Conservancy, the California  
33 Conservation Corps, the California Tahoe Conservancy, the Santa Monica  
34 Mountains Conservancy, the California Coastal Commission, the San Francisco  
35 Bay Conservation and Development Commission, and the State Lands  
36 Commission.

37 **Comment.** Section 57710 continues former Fish and Game Code Section 1389 without  
38 substantive change.

1 Article 2. Administration

2 **§ 57725. California Riparian Habitat Conservation Program**

3 57725. (a) The board shall establish and administer, through the department, the  
4 California Riparian Habitat Conservation Program pursuant to this title and Title 1  
5 (commencing with Section 54700).

6 (b) The purpose and goal of the program is to protect, preserve, and restore  
7 riparian habitats throughout the state by the acquisition of interests and rights in  
8 real property and waters to the extent deemed necessary to carry out the purposes  
9 of the program.

10 **Comment.** Section 57725 continues former Fish and Game Code Section 1387 without  
11 substantive change.

12 **§ 57730. Activities**

13 57730. The board, pursuant to this title, shall approve projects to acquire,  
14 preserve, restore, and enhance riparian habitat throughout the state, and coordinate  
15 its activities undertaken pursuant to this program with other resources protection  
16 activities of the board and other state agencies.

17 **Comment.** Section 57730 continues former Fish and Game Code Section 1388 without  
18 substantive change.

19 **§ 57735. Department authority**

20 57735. In order to accomplish the objectives of this title, the board may  
21 authorize the department to do all of the following:

22 (a) Acquire interests in real property and water rights through gift, purchase,  
23 lease, easement, and transfer or exchange of easements, development rights or  
24 credits, and other interests in real property.

25 (b) Coordinate its activities under the program with any governmental program  
26 for surplus real property sales in the state.

27 (c) Award grants and loans to local public agencies, state agencies, federal  
28 agencies, and nonprofit organizations for the purposes of this program.

29 (d) For the purposes of this title, “nonprofit organization” means any private,  
30 nonprofit organization that qualifies for exempt status under Section 501(c)(3) of  
31 the United States Internal Revenue Code of 1986, and has among its principal  
32 charitable purposes the preservation of real property for scientific, historic,  
33 educational, recreational, scenic or open-space values, the protection of the natural  
34 environment, or the preservation and enhancement of fisheries and wildlife or their  
35 habitat.

36 (e) Exercise any authority and comply with requirements contained in Sections  
37 54815 and 54845 through 54855, inclusive, as appropriate, to preserve and  
38 enhance riparian habitat for purposes of this title.

39 **Comment.** Section 57735 continues former Fish and Game Code Section 1390 without  
40 substantive change.





1    **§ 58010. Description of funded projects and programs**

2       58010. The department shall post a brief description of projects or programs  
3 funded by moneys received pursuant to the Federal Aid in Wildlife Restoration  
4 Act on its Internet Web site. The description shall include information about the  
5 budget of each project or program.

6       **Comment.** Section 58010 continues former Fish and Game Code Section 711.1(c) without  
7 substantive change.

8    **§ 58015. Consultation with advisory committees**

9       58015. The department shall consult with any of the advisory committees  
10 established pursuant to **Sections 3684, 3702.1, and 3953** regarding all projects  
11 funded by the Federal Aid in Wildlife Restoration Act that are relevant to the  
12 committee or committees.

13       **Comment.** Section 58015 continues former Fish and Game Code Section 711.1(d) without  
14 substantive change.

15                    **TITLE 2. FISH AND GAME MITIGATION AND**  
16                    **PROTECTION ACCOUNTS**

17    **§ 58050. Establishment of Accounts**

18       58050. There are hereby established, initially in the Special Deposit Fund,  
19 continued in existence by Section 16370 of the Government Code, both of the  
20 following accounts:

21       (a) The Fish and Game Mitigation and Protection Endowment Principal  
22 Account. The department shall deposit in this account the endowment funds  
23 received by the department pursuant to an agreement described in Section 58055  
24 and all earnings generated thereon. The earnings shall be available to the  
25 department, upon appropriation by the Legislature, to fund long-term  
26 management, enhancement, monitoring, and enforcement activities on habitat  
27 lands in a manner consistent with the terms of the underlying agreement.

28       (b) The Fish and Game Mitigation and Protection Expendable Funds Account.  
29 The department shall deposit in this account moneys received pursuant to an  
30 agreement described in Section 58055 that are not endowment funds and that are  
31 designated for expenditure for the purposes described in subdivision (b) of that  
32 section. Notwithstanding Section 13340 of the Government Code, the moneys in  
33 the account established by this subdivision are hereby continuously appropriated  
34 to the department for expenditure without regard to fiscal year, for the purposes  
35 described in this title.

36       **Comment.** Section 58050 continues former Fish and Game Code Section 13014(a) without  
37 substantive change.

1    **§ 58055. Deposits**

2       58055. (a) The department may deposit moneys into the accounts established  
3 pursuant to Section 58050 that it receives pursuant to any of the following, if those  
4 moneys are received for the purposes described in subdivision (b):

5       (1) Agreements or permits pursuant to the Natural Communities Conservation  
6 Planning Act (**Chapter 10 (commencing with Section 2800) of Division 3**).

7       (2) Conservation bank agreements.

8       (3) Habitat conservation implementation agreements.

9       (4) Incidental take permits.

10      (5) Legal or other written settlements.

11      (6) Mitigation agreements.

12      (7) Streambed or lakebed alteration agreements.

13      (8) Trust agreements.

14      (b) The department may deposit the moneys received pursuant to an agreement  
15 described in subdivision (a) in an account established by this title only if it  
16 receives those moneys for at least one of the following purposes:

17      (1) Mitigating the adverse biological impacts of a specific project, activity, spill,  
18 or release.

19      (2) Protecting, conserving, restoring, enhancing, managing, and maintaining  
20 fish, wildlife, native plants, or their habitats.

21      **Comment.** Section 58055 continues former Fish and Game Code Section 13014(b) without  
22 substantive change.

23    **§ 58060. Transfer to another account**

24       58060. (a) While the Fish and Game Mitigation and Protection Endowment  
25 Principal Account and the Fish and Game Mitigation and Protection Expendable  
26 Funds Account are initially established in the Special Deposit Fund within the  
27 Pooled Money Investment Account, the Treasurer's office shall, at the  
28 department's request, transfer these funds from the Pooled Money Investment  
29 Account to another account within the State Treasury system to increase earnings  
30 over time while providing adequate liquidity. If either or both of these accounts  
31 are transferred from the Pooled Money Investment Account, assets in the  
32 transferred account or accounts may be held and invested in any of the  
33 investments identified in Section 16430 of the Government Code, except that the  
34 maturity date of commercial paper may exceed the limits set forth in Section  
35 16430 of the Government Code. These investments shall be made as determined  
36 and directed by the department.

37      (b) To develop and maintain the investment strategy for these accounts, the  
38 department may retain investment advisers deemed acceptable to the Treasurer.

39      **Comment.** Section 58060 continues former Fish and Game Code Section 13014(c)-(d) without  
40 substantive change.

1 TITLE 3. HABITAT MAINTENANCE  
2 ASSESSMENT DISTRICTS

3 § 58075. Short title

4 58075. This title shall be known and may be cited as the Habitat Maintenance  
5 Funding Act.

6 **Comment.** Section 58075 continues former Fish and Game Code Section 2900 without  
7 substantive change.

8 § 58080. Assessment districts

9 58080. (a) A local agency may establish an assessment district pursuant to  
10 Article 3.1 (commencing with Section 50060) of Chapter 1 of Part 1 of Division 1  
11 of Title 5 of the Government Code for the improvement or maintenance of natural  
12 habitat, in a manner consistent with the policies and procedures of this code.  
13 Funds generated pursuant to this title may not be allocated to implement a plan  
14 without the approval of the owner of the land to be improved.

15 (b) A local agency may provide for the long-term maintenance of natural habitat  
16 pursuant to Section 50060.5 of the Government Code only pursuant to a plan for  
17 the conservation of natural habitat approved by the department.

18 **Comment.** Section 58080 continues former Fish and Game Code Section 2901 without  
19 substantive change.

20 DIVISION 16. PROTECTED AND MANAGED AREAS

21 PART 1. REFUGES

22 TITLE 1. REFUGES GENERALLY

23 § 58500. Commission regulation of refuges

24 58500. The commission may:

25 (a) Authorize the department to issue, under any restrictions it deems best,  
26 permits that authorize the person named therein to carry, use, and possess, within a  
27 refuge, firearms, traps, or other contrivances for taking birds, mammals, fish,  
28 amphibians, or reptiles.

29 (b) Except as provided in subdivision (c) of Section 59865, Sections 59705 and  
30 59715, and subdivisions (a) and (b) of Section 59865, authorize the department to  
31 issue permits that authorize the person named therein to take birds, mammals, fish,  
32 amphibians, or reptiles within a refuge.

33 (c) Adopt regulations not in conflict with any law for the protection of birds,  
34 mammals, fish, amphibians, reptiles, or marine life within a refuge.

35 **Comment.** Section 58500 continues former Fish and Game Code Section 10502(b)-(d) without  
36 substantive change.

1    **§ 58505. Commission powers**

2       58505. For the purposes of propagating, feeding, and protecting birds,  
3 mammals, fish, amphibians, and reptiles, the commission may do all of the  
4 following:

5       (a) Accept, on behalf of the state, donations of an interest in land within a  
6 refuge.

7       (b) Accept, on behalf of the state, from a person owning and in possession of  
8 patented land, other than land covered and uncovered by the ordinary daily tide of  
9 the Pacific Ocean, the right to preserve and protect all birds, mammals, fish,  
10 amphibians, and reptiles on the patented land.

11       (c) Accept, on behalf of the state, donations of birds, mammals, fish,  
12 amphibians, and reptiles, and of money given or appropriated. Those donations  
13 shall be used for the purposes for which they are accepted, and, as nearly as may  
14 be, for any purpose indicated by the donor.

15       **Comment.** Section 58505 continues former Fish and Game Code Section 10503(a)-(c) without  
16 substantive change.

17    ☞ **Staff Note.** Existing Section 10503(b) and (c) are not expressly limited to refuge-related  
18 activities. **Should they be? Or are those provisions best understood as expressing general**  
19 **powers of the commission?**

20    **§ 58515. Enforcement**

21       58515. The department and the district attorney, sheriff, and all peace officers of  
22 the county in which any refuge or part thereof is situated, shall enforce all of the  
23 provisions of this code relating to the refuge, and institute and assist in  
24 prosecutions for violations thereof.

25       **Comment.** Section 58515 continues former Fish and Game Code Section 10508 without  
26 substantive change.

27    **§ 58520. Take in refuge**

28       58520. No specification of an open season in any area authorizes the taking of a  
29 bird, mammal, fish, amphibian, or reptile from a refuge within that area from  
30 which the taking is prohibited by this code.

31       **Comment.** Section 58520 continues former Fish and Game Code Section 10510 without  
32 substantive change.

33    **§ 58525. Application of provisions governing Fish and Wildlife District**

34       58525. Except as they may conflict with refuge provisions, the provisions of this  
35 code relating to a particular fish and wildlife district shall apply to each refuge  
36 lying wholly, or in major part, within the boundaries of the district.

37       **Comment.** Section 58525 continues former Fish and Game Code Section 10511 without  
38 substantive change.



1 Article 2. Pacific Grove Marine Gardens Fish Refuge

2 **§ 58625. Description**

3 58625. The following constitutes the Pacific Grove Marine Gardens Fish  
4 Refuge:

5 All that area within the following boundaries as they existed April 1, 1963, not  
6 within the Hopkins Marine Life Refuge: Beginning at the point of intersection of  
7 the southeasterly corporate limit line of the City of Pacific Grove prolonged, and  
8 the line of mean high tide of the Bay of Monterey; thence northwesterly along said  
9 line of mean high tide to Point Pinos and continuing around said point in a  
10 westerly direction and continuing southwesterly along said line of mean high tide  
11 to the intersection with the southwesterly corporate limit line prolonged of said  
12 city; thence N. 70° 45' 00" W. along said southwesterly corporate limit line  
13 prolonged to a point in the Pacific Ocean where the depth of water in said ocean  
14 is sixty (60) feet measured from the level of mean low tide; thence northwesterly  
15 along the line in said ocean which line is at a constant depth of sixty (60) feet  
16 measured from the level of mean low tide to Point Pinos and continuing around  
17 said point in an easterly direction and continuing southeasterly along the line in  
18 said bay which line is at a constant depth of sixty (60) feet measured from the  
19 level of mean low tide, to the intersection with the southeasterly corporate limit  
20 line of said city prolonged; thence S. 58° 57' 45" W. along said southeasterly  
21 corporate limit line prolonged, to the point of beginning.

22 **Comment.** Section 58625 continues former Fish and Game Code Section 10801 without  
23 substantive change.

24 **§ 58630. Take of fish within refuge**

25 58630. (a) In the Pacific Grove Marine Gardens Fish Refuge, fish, other than  
26 mollusks and crustaceans, may be taken under the authority of a sport fishing  
27 license as authorized by this code.

28 (b) Notwithstanding any other provision of this section, holders of scientific  
29 collectors' permits issued by the commission, or students working under their  
30 direction, may take marine life for scientific purposes in this refuge.

31 (c) In this refuge, sardines, mackerel, anchovies, squid and herring may be taken  
32 by ring net, lampara net or bait net as authorized by this code.

33 **Comment.** Section 58630 continues former Fish and Game Code Section 10660 without  
34 substantive change.

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## TITLE 3. GAME REFUGES

### CHAPTER 1. GAME REFUGES GENERALLY

#### **§ 58700. Prohibitions**

58700. Except under a permit or specific authorization, it is unlawful to do any of the following:

(a) To take or possess a bird or mammal in a game refuge.

(b) To use or have in possession in a game refuge, a firearm, BB device as defined in Section 16250 of the Penal Code, crossbow, bow and arrow, or a trap or other contrivance designed to be, or capable of being, used to take birds or mammals, or to discharge a firearm or BB device or to release an arrow or crossbow bolt into a game refuge.

**Comment.** Section 58700 continues former Fish and Game Code Section 10500(a)-(b) without substantive change.

#### **§ 58705. Take from navigable waters**

58705. Nothing in this title shall be construed as prohibiting or preventing a person from taking a bird, mammal, fish, amphibian, or reptile from or on navigable water in a game refuge.

**Comment.** Section 58705 continues former Fish and Game Code Section 10513 without substantive change.

#### **§ 58710. Commission control of mammals and birds**

58710. The commission may exercise control over all mammals and birds in a game refuge.

**Comment.** Section 58710 continues the part of former Fish and Game Code Section 10502(a) that applies to a game refuge without substantive change.

#### **§ 58715. Acquisition of land for game refuge**

58715. (a) For the purposes of propagating, feeding, and protecting birds, mammals, fish, amphibians, and reptiles, the commission may acquire, by purchase, lease, rental, or otherwise, and occupy, develop, maintain, use, and administer land, or land and nonmarine water, or land and nonmarine water rights, suitable for state game farms or game refuges.

(b) Any property acquired for game refuges shall be acquired in the name of the state, and shall, at all times, be subject to any regulations that may be prescribed from time to time by the commission for the occupation, use, operation, protection, and administration of game refuges.

(c) The department shall do all things necessary to secure a valid title in the state to property acquired for a game refuge, but no payment shall be made for the property until the title is satisfactory to the Attorney General and is vested in the state. The acquisition of the property by the state is not prohibited by reason of

1 rights of way, easements, or reservations, which, from their nature, in the opinion  
2 of the department, will in no manner interfere with the use of the property for the  
3 purpose for which it is acquired.

4 **Comment.** Subdivision (a) of Section 58715 continues former Fish and Game Code Section  
5 10503(d) without substantive change.

6 Subdivision (b) continues former Fish and Game Code Section 10504 without substantive  
7 change.

8 Subdivision (c) continues former Fish and Game Code Section 10505 without substantive  
9 change.

10 **§ 58720. Possession of weapon in game refuge**

11 58720. (a) Nothing in this code prohibits the possession of firearms, BB devices  
12 as defined in Section 16250 of the Penal Code, crossbows and bolts, or bows and  
13 arrows by persons when traveling through a game refuge when the firearms are  
14 taken apart or encased and unloaded and the bows are unstrung or stored  
15 separately from any arrow or bolt.

16 (b) When the traveling is done on a route other than a public highway or other  
17 public thoroughfare or right of way, notice shall be given to the department at least  
18 24 hours before that traveling. The notice shall give the name and address of the  
19 person intending to travel through the refuge, the name of the refuge, the  
20 approximate route, and the approximate time when that person intends to travel  
21 through the refuge.

22 **Comment.** Section 58720 continues former Fish and Game Code Section 10506 without  
23 substantive change.

24 **§ 58725. Possession of bird or mammal in game refuge**

25 58725. It is lawful for a person who has given the notice provided for in Section  
26 58720 to transport a bird or mammal through a game refuge, if lawfully taken  
27 outside the refuge, and if the bird or mammal is carried openly and during the time  
28 between one hour before sunrise and one hour after sunset.

29 **Comment.** Section 58725 continues former Fish and Game Code Section 10507 without  
30 substantive change.

31 **§ 58730. Posted notices**

32 58730. The department shall cause to be prepared suitable notices to be posted  
33 under its direction on each game refuge, containing a warning to all persons to  
34 refrain for the period named therein from violations of the provisions of this title  
35 relating to game refuges.

36 **Comment.** Section 58730 continues former Fish and Game Code Section 10512 without  
37 substantive change.

38 **§ 58735. Management and control**

39 58735. All game refuges shall, for all purposes of protecting birds, mammals,  
40 fish, amphibians, or reptiles thereon, be under the control and management of the

1 department, and the officers and employees of the department, all game wardens,  
2 and law enforcement officers may at all times enter in and upon game refuges in  
3 the performance of their duties.

4 **Comment.** Section 58735 continues former Fish and Game Code Section 10514 without  
5 substantive change.

6 **§ 58740. Education and outreach**

7 58740. (a) The department shall undertake appropriate education and outreach  
8 regarding the current location of existing game refuges, agency contacts for  
9 statutory notices in Sections 58720 and 58725, and the potential closure of all state  
10 game refuges, except the California Sea Otter Game Refuge and the Farallon  
11 Islands Game Refuge. The department shall provide an opportunity for public  
12 comment concerning the potential elimination of game refuges. The department  
13 shall provide information about game refuge boundaries, including, but not limited  
14 to, maps available both on the department’s Internet Web site and in hardcopy  
15 format. The department shall also provide Internet Web site contact information  
16 for the public to contact the department in accordance with state law. The  
17 department may conduct regional workshops as it determines to be necessary to  
18 provide public information about the proposed elimination of game refuges.

19 (b) The department, on or before January 1, 2011, shall prepare and submit to  
20 the Legislature a description of the public education and outreach effort  
21 undertaken pursuant to subdivision (a), and a summary of any information  
22 provided by the public that is relevant to the potential closure of all state game  
23 refuges except the California Sea Otter Game Refuge and the Farallon Islands  
24 Game Refuge.

25 **Comment.** Section 58740 continues former Fish and Game Code Section 10844 without  
26 substantive change.

27  **Staff Note.** Existing Section 10844 requires the submission of a report by January 1, 2011.  
28 **Can that provision be discontinued as obsolete?**

29 **CHAPTER 2. SPECIFIC GAME REFUGES**

30 **Article 1. General Provisions**

31 **§ 58800. Described areas**

32 58800. (a) The areas described in this chapter are game refuges.

33 (b) An existing reference to a “Fish and Game District” that is a game refuge  
34 shall be construed to refer to the “Game Refuge” that continues the former district.

35 **Comment.** Subdivision (a) of Section 58800 continues former Fish and Game Code Section  
36 10820 without substantive change.

37 Subdivision (b) is new.

1 **☞ Staff Notes. (1)** In existing law, most of the described game refuges are referred to as “Fish  
2 and Game Districts.” That is the same term that is used to name the districts that subdivide the  
3 state for the purposes of administration and special regulation. See existing Sections 11000-  
4 11039. This dual use of the term “Fish and Game Districts” is potentially confusing.

5 To complicate matters further, the term “fish and game refuge” is specially defined as being  
6 both a fish refuge and a game refuge. Use of the term “*Fish and Game District*” to refer only to  
7 *game* refuges is another potential source of confusion.

8 To avoid this confusion, this draft does not use the term “Fish and Game District” to refer to  
9 the game refuges described below. Instead, they are referred to as “Game Refuges.”

10 That change should be unproblematic. The staff found only one statute and no regulations that  
11 use the term “Fish and Game District” to refer to game refuges. See existing Section 10662. That  
12 section can easily be revised to use the naming convention established in this draft.

13 As a final check against confusion, proposed Section 58800(b) expressly provides that an  
14 existing reference to a “Fish and Game District” that constitutes a game refuge should be  
15 construed as a reference to the “Game Refuge” that continues the referenced **district**.

16 **The staff invites comment on whether any of the changes noted above would be  
17 problematic.**

18 **(2)** If it would be beneficial to give the game refuges descriptive names, rather than the bare  
19 alphanumeric designators that they currently have, now would be a convenient time to do so. **The  
20 staff invites comment on that point.**

## 21 Article 2. Game Refuge 1C

### 22 § 58825. Description

23 58825. The following constitutes Game Refuge 1C: All that area within the  
24 County of Modoc within the following boundaries:

25 Beginning at the boundary of the Modoc National Forest on the east side of Sec.  
26 28, T. 42 N., R. 14 E., where Parker Creek crosses the national forest boundary  
27 and following thence Parker Creek and the South Fork of Parker Creek to the  
28 summit of the Warner Mountains; thence southerly along the summit of the  
29 Warner Mountains to the headwaters of Mill Creek; thence following course of  
30 Mill Creek to Mill Creek Ranger Station and Mill Creek stock corrals in  
31 approximately Sec. 15, T. 40 N., R. 15 E. (unsurveyed); thence along road from  
32 Mill Creek Ranger Station and stock corrals running north of Cantrell’s sawmill to  
33 Bowman Ranch, thence along same road to the Modoc National Forest boundary  
34 on the center line of Sec. 33, T. 41 N., R. 14 E.; thence north along said national  
35 forest boundary to Parker Creek, the point of beginning.

36 **Comment.** Section 58825 continues former Fish and Game Code Section 10821 without  
37 substantive change. The refuge described in this section was formerly known as “Fish and Game  
38 District 1C.”

## 39 Article 3. Game Refuge 1F

### 40 § 58850. Description

41 58850. The following constitutes Game Refuge 1F: All that area within the  
42 County of Lassen within the following boundaries:

1 Beginning at the fork of the Puls Camp Road and the Poison Lake-Harvey  
2 Valley Road near the quarter section corner between Secs. 33 and 34, T. 33 N., R.  
3 8 E.; thence northerly following the westerly side of said road by Dixie Springs  
4 and Puls Camp in Sec. 33, T. 34 N., R. 8 E., to Shroder Lake in Sec. 19, T. 34 N.,  
5 R. 8 E.; thence southwesterly about one mile to the junction of said Puls Camp  
6 Road and the Little Valley Road in Sec. 24, T. 34 N., R. 7 E.; thence northwesterly  
7 following the southerly side of said Little Valley Road to its junction with the  
8 Blacks Lake Road; thence westerly following the southerly side of said Blacks  
9 Lake Road to the Eldridge place in Sec. 13, T. 34 N., R. 6 E.; thence southerly  
10 following the easterly side of said road to Jelly Camp in Sec. 25, T. 34 N., R. 6 E.;  
11 thence southeasterly following the easterly side of the Susanville-Pittville Road to  
12 junction of the Poison Lake-Harvey Valley Road; thence easterly following the  
13 northerly side of said Poison Lake-Harvey Valley Road to the point of beginning.

14 **Comment.** Section 58850 continues former Fish and Game Code Section 10822 without  
15 substantive change. The refuge described in this section was formerly known as “Fish and Game  
16 District 1F.”

#### 17 Article 4. Game Refuge 1G

##### 18 § 58875. Description

19 58875. The following constitutes Game Refuge 1G: All that area within the  
20 County of Tehama within the following boundaries:

21 Beginning at a point where Deer Creek crosses the west township line of T. 25  
22 N., R. 2 E.; thence north along said township line and along the west township line  
23 of T. 26 N., R. 2 E. to its intersection with Boatgunwale Creek; thence down  
24 Boatgunwale Creek to Mill Creek; thence up Mill Creek to the Ponderosa Truck  
25 Trail; thence following the Ponderosa Truck Trail to its intersection with South  
26 Antelope Creek; thence up South Antelope Creek to mouth of the North Fork of  
27 South Antelope Creek; thence up the North Fork to its source; thence following  
28 Manzanita Cut Trail to the South Fork of Rock Gulch Creek; thence down Rock  
29 Gulch Creek to its intersection with the Old Butte Meadows-Round Valley Trail;  
30 thence following the Old Butte Meadows-Round Valley Trail to its intersection  
31 with the Deer Creek Highway, thence down the Deer Creek Highway to its  
32 westerly crossing of Deer Creek, thence down Deer Creek to point of beginning.

33 **Comment.** Section 58875 continues former Fish and Game Code Section 10823 without  
34 substantive change. The refuge described in this section was formerly known as “Fish and Game  
35 District 1G.”

#### 36 Article 5. Game Refuge 1H

##### 37 § 58900. Description

38 58900. The following constitutes Game Refuge 1H: All that area within the  
39 County of Plumas within the following boundaries:

1 Beginning at a point on the Western Pacific Railway known as Quincy Junction;  
2 thence following northerly the westerly side of the Old Road to Taylorsville;  
3 thence westerly along the southerly side of the County Road 207 to its intersection  
4 with the Western Pacific Railway from Crescent Mills to Keddie; thence  
5 southwesterly and southerly along these tracks to Keddie; thence southerly and  
6 southeasterly along main Western Pacific tracks from Keddie to Quincy Junction  
7 to the point of beginning.

8 **Comment.** Section 58900 continues former Fish and Game Code Section 10824 without  
9 substantive change. The refuge described in this section was formerly known as “Fish and Game  
10 District 1H.”

## 11 Article 6. Game Refuge 1I

### 12 § 58925. Description

13 58925. The following constitutes Game Refuge 1I: All that area within the  
14 County of Placer within the following boundaries:

15 Beginning at a point in Sec. 17, T. 14 N., R. 14 E., M.D.M., where the French  
16 House-Big Meadows Road intersects the South Fork of Long Canyon Creek;  
17 thence following southwesterly along said road to its intersection with the French  
18 Meadows-Georgetown Road near the section line between Secs. 22 and 23, T. 14  
19 N., R. 13 E., thence southwesterly along the French Meadows-Georgetown Road  
20 where it intersects an unnamed tributary to the North Fork of Long Canyon Creek  
21 near the section line between Secs. 22 and 27, T. 14 N., R. 13 E.; thence  
22 northwesterly along said tributary to French House Site (near the center of Sec. 22,  
23 T. 14 N., R. 13 E.); thence northwesterly along the French House-Red Star Mine  
24 Jeep Road in Secs. 22 and 15, T. 14 N., R. 13 E., to its intersection with the  
25 Middle Fork of the American River, in Sec. 15, T. 14 N., R. 13 E.; thence  
26 northeasterly along the Middle Fork of the American River, to its intersection with  
27 the southern boundary of Sec. 35, T. 15 N., R. 13 E., thence due north on a line  
28 through the center of Sec. 35 to an intersection with the summit of Red Star Ridge  
29 in Sec. 26, T. 15 N., R. 13 E. (this being the divide between Duncan Creek and the  
30 Middle Fork of the American River); thence northeasterly following the summit of  
31 Red Star Ridge to a point in Sec. 4, T. 15 N., R. 14 E. where said ridge intersects  
32 the main Foresthill Divide between the North Fork of the American River and the  
33 Middle Fork of the American River; thence easterly along the summit of said  
34 divide to Needle Peak; thence southerly following the summit of the divide to Mt.  
35 Mildred; thence southwesterly following the summit of the divide between Gray  
36 Horse Creek and the Middle Fork of the American River to its intersection with  
37 the Big Meadows-Gray Horse Valley Trail (near the middle of Sec. 5, T. 14 N., R.  
38 14 E.); thence following said trail to the South Fork of Long Canyon Creek (near  
39 the middle of Sec. 9, T. 14 N., R. 14 E.); thence southwesterly down the South  
40 Fork Long Canyon Creek to the point of beginning.



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## Article 9. Game Refuge 1P

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### § 59000. Description

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59000. The following constitutes Game Refuge 1P: All that area within the County of Plumas, within the following boundaries:

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Beginning at the junction of the Milford-Beckwourth Road and the Last Chance-Doyle Road, thence following the easterly side of said Milford-Beckwourth Road to its junction with the Dixie Valley-Frenchman's Cove Road; thence following the easterly side of the Dixie Valley-Frenchman's Cove Road to its junction with the Little Last Chance Road; thence following the westerly side of the Little Last Chance Road to its junction with the Last Chance-Doyle Road; thence following the westerly side of the Last Chance-Doyle Road to the place of beginning.

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**Comment.** Section 59000 continues former Fish and Game Code Section 10828 without substantive change. The refuge described in this section was formerly known as "Fish and Game District 1P."

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## Article 10. Game Refuge 1R

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### § 59025. Description

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59025. The following constitutes Game Refuge 1R: All that area within the County of Tuolumne within the following boundaries:

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Beginning at the junction of the North Fork of the Stanislaus River and the Middle Fork of the Stanislaus River; thence easterly following the northerly bank of said Middle Fork of the Stanislaus River to the mouth of the Shu-fly Creek, approximately in Sec. 9, T. 5 N., R. 18 E.; thence northerly following the westerly bank of said creek to its junction with Whit's Basin Creek; thence westerly following the southerly and westerly bank of said Whit's Basin Creek to its junction with the Sands Meadow Trail in Sec. 36, T. 6 N., R. 17 E.; thence northwesterly following said Sands Meadow Trail to its junction with the Government Truck Trail in Sec. 23, T. 6 N., R. 17 E.; thence westerly following said Truck Trail to Liberty Hill; thence following said Government Truck Trail westerly and southerly to its junction with the Boards Crossing-Beaver Creek Camp Road; thence northerly following said Boards Crossing-Beaver Creek Camp Road to Boards Crossing on the North Fork of the Stanislaus River; thence downstream following the easterly bank of said North Fork of the Stanislaus River to the point of beginning.

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**Comment.** Section 59025 continues former Fish and Game Code Section 10829 without substantive change. The refuge described in this section was formerly known as "Fish and Game District 1R."

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Article 11. Game Refuge 1S

**§ 59050. Description**

59050. The following constitutes Game Refuge 1S: All that area lying within the County of Lassen within the following boundaries:

Beginning at the old Haydenhill Post Office in the approximate center of Sec. 36, T. 37 N., R. 9 E.; thence following westerly along the old Juniper Road through Windmill Flat to the junction of the Summit Spring Road near Meyers Spring; thence south through Lost Valley along the Lost Valley-Dixie Valley Road to the junction of the Dixie Valley-Grasshopper Road; thence east to the junction of the old Haydenhill-Slate Creek Road located approximately in Sec. 24, T. 35 N., R. 9 E.; thence north along the Haydenhill-Slate Creek Road to the place of beginning.

**Comment.** Section 59050 continues former Fish and Game Code Section 10830 without substantive change. The refuge described in this section was formerly known as “Fish and Game District 1S.”

Article 12. Game Refuge 1V

**§ 59075. Description**

59075. The following constitutes Game Refuge 1V: all that area within the County of Plumas within the following boundaries:

Beginning at the intersection of U. S. Alternate 40 Highway and U. S. Forest Service Road 24N12; thence following northerly the easterly side of U. S. Forest Service Road 24N12 to its intersection with U. S. Forest Service Road 24N10; thence easterly following the southerly side of U. S. Forest Service Road 24N10 to its intersection with U. S. Forest Service Road 24N07 (Relocated); thence easterly following the southerly side of U. S. Forest Service Road 24N07 (Relocated) to its intersection with U. S. Forest Service Road 25N08; thence southerly on the westerly side of U. S. Forest Service Road 25N08 to its intersection with U. S. Alternate 40 Highway; thence westerly along the northerly side of U. S. Alternate 40 Highway to the point of beginning.

**Comment.** Section 59075 continues former Fish and Game Code Section 10831 without substantive change. The refuge described in this section was formerly known as “Fish and Game District 1V.”

Article 13. Game Refuge 2A

**§ 59100. Description**

59100. The following constitutes Game Refuge 2A: All that area within the Counties of Mendocino, Lake, and Glenn within the following boundaries:

Beginning at the summit of Hull Mountain in Mendocino County, in the southwest corner of Sec. 2, T. 19 N., R. 10 W.; thence in a northeasterly direction

1 down Hull Creek (sometimes known as Red Rock Creek) to its junction with Sand  
2 Creek; thence southeasterly down Sand Creek to its junction with Corbin Creek,  
3 thence in an easterly direction up Corbin Creek to Sec. 36, T. 20 N., R. 8 W.;  
4 thence in a southerly direction up a ravine to the Pacific Crest Road (24N02) on  
5 the summit of the Coast Range Mountains in Sec. 12, T. 19 N., R. 8 W.; thence  
6 southwesterly along the Pacific Crest Road (24N02) to Low Gap, where the  
7 Bloody Rock trail crosses the summit in Sec. 27, T. 19 N., R. 8 W.; thence in a  
8 westerly direction down the Bloody Rock trail and Cold Creek to South Eel River  
9 in Sec. 26, T. 19 N., R. 9 W.; thence down the river to the mouth of a ravine in the  
10 SE <sup>1</sup>/<sub>4</sub> of Sec. 27, T. 19 N., R. 9 W.; thence in a northwesterly direction up the  
11 ravine through Secs. 27 and 28 to the summit of Boardman Ridge; thence in a  
12 northwesterly direction up Boardman Ridge to the summit of Hull Mountain to the  
13 point of beginning.

14 **Comment.** Section 59100 continues former Fish and Game Code Section 10832 without  
15 substantive change. The refuge described in this section was formerly known as “Fish and Game  
16 District 2A.”

17 Article 14. Game Refuge 3F

18 § 59125. Description

19 59125. The following constitutes Game Refuge 3F: All that area within the  
20 County of Contra Costa described as follows:

21 All of Secs. 29, 30, 31 and 32, T. 1 N., R. 1 E.; all of Secs. 5, 6, 7 and 8, T. 1 S.,  
22 R. 1 E.; all of Secs. 25, 26, 35 and 36 of T. 1 N., R. 1 W.; all of Secs. 1, 2, 11 and  
23 12 of T. 1 S., R. 1 W.

24 **Comment.** Section 59125 continues former Fish and Game Code Section 10835 without  
25 substantive change. The refuge described in this section was formerly known as “Fish and Game  
26 District 3F.”

27 Article 15. Game Refuge 3G

28 § 59150. Description

29 59150. The following constitutes Game Refuge 3G:

30 All those lands of the Leland Stanford Junior University within the Counties of  
31 San Mateo and Santa Clara, and consisting of lots numbers 1 to 33, inclusive; that  
32 portion of lots 35 and 42 lying outside of the town limits of the town of Mayfield;  
33 lots 36, 43, 46 to 75, inclusive; 80 to 86, inclusive; 89 to 98, inclusive, as shown  
34 on the map entitled “map of the lands of the Leland Stanford Junior University at  
35 or near the site of the university in the Counties of Santa Clara and San Mateo, by  
36 A. T. and F. A. Herrmann of Herrmann Bros.,” dated November, 1908, recorded  
37 in the Office of the County Recorder of the County of Santa Clara.

38 **Comment.** Section 59150 continues former Fish and Game Code Section 10836 without  
39 substantive change. The refuge described in this section was formerly known as “Fish and Game  
40 District 3G.”

Article 16. Game Refuge 4D

§ 59175. Description

59175. The following constitutes Game Refuge 4D: All that area within the County of Riverside described as follows:

Beginning at the intersection of State Highway 74 and Highway 111 in Section 20, T. 5 S., R. 6 E., S.B.B. & M.;

Thence northwesterly on State Highway 111 to its intersection with the south bank of the Palm Canyon wash and the east boundary of Section 25, T. 4 S., R. 4 E., S.B.B. & M.;

Thence southwesterly and southerly along east bank of Palm Canyon wash through said Section 25, Sections 36 and 35, T. 4 S., R. 4 E., S.B.B. & M. and Sections 2, 11, 14, 23, 25 and 36, T. 5 S., R. 4 E., S.B.B. & M.;

Thence continuing along the east bank of said Palm Canyon wash through Sections 1, 12, 13, T. 6 S., R. 4 E., and continuing through Sections 18, 19, 30 and 31, T. 6 S., R. 5 E., to a point of intersection with Omstott Creek;

Thence along the north bank Omstott Creek through Section 31, T. 6 S., R. 5 E., and continuing through Sections 5, 4, 9, 10, T. 7 S., R. 5 E., to the north line of said State Highway 74;

Thence easterly along north line of said Highway 74 to a point of intersection with the north line Section 12, T. 7 S., R. 5 E.;

Thence east along north line of said Section 12 to the northeast corner of said Section 12;

Thence south along the easterly boundary of Sections 12, 13, 24, 25 and 36, T. 7 S., R. 5 E.; and the easterly boundary of Section 1, T. 8 S., R. 5 E., to the point of intersection with the southwesterly corner of Section 31, T. 7 S., R. 6 E.;

Thence east and along the southerly boundary of said Section 31 and Sections 32, 33, 34 and 35, to the southeast corner of Section 36, T. 7 S., R. 6 E.;

Thence north along the easterly boundary of Sections 36, 25, 24, 13 and 12 to the northeast corner of Section 1, T. 7 S., R. 6 E.;

Thence west along the north line of said Section 1 to the southeast corner of Section 36, T. 6 S., R. 6 E.;

Thence north along the east line of said Section 36, Sections 25, 24 and 13 to the southwest corner of Section 7, T. 6 S., R. 7 E.;

Thence east along the south line of said Section 7 to the southeast corner thereof;

Thence north along the east line of said Section 7 and Section 6 of said T. 6 S., R. 7 E., to the northeast corner of said Section 6;

Thence west along the north line of said Section 6 of said T. 6 S., R. 7 E. to Marshall Street;

Thence north along Marshall Street and on the  $\frac{1}{4}$  Section line of Sections 31 and 30, T. 5 S., R. 7 E. to Highway 111;

Thence westerly along Highway 111 to the point of beginning.



1 Thence southeasterly along the crest of the divide between the waters flowing  
2 west into the San Jacinto River and the waters flowing east into Coachella Valley  
3 to a point on the south boundary of Sec. 24 in T. 5 S., R. 3 E., S. B. B. & M.;

4 Thence east on said south line of Sec. 24 to the southeast corner thereof. Thence  
5 north on the range line to the point of beginning.

6 **Comment.** Section 59200 continues former Fish and Game Code Section 10838 without  
7 substantive change. The refuge described in this section was formerly known as “Fish and Game  
8 District 4G.”

9 Article 18. California Sea Otter Game Refuge

10 **§ 59225. Description**

11 59225. The California Sea Otter Game Refuge consists of and includes the  
12 following:

13 All that portion of Monterey and San Luis Obispo Counties between Carmel  
14 River on the north and Santa Rosa Creek on the south, lying west of the Monterey-  
15 Cambria Pines Highway, also known as California Highway No. 1.

16 **Comment.** Section 59225 continues former Fish and Game Code Section 10840 without  
17 substantive change.

18 **§ 59230. Privately owned land**

19 59230. In the California Sea Otter Game Refuge, the lawful occupant of  
20 privately owned land, or the employees of a lawful occupant, may possess  
21 firearms and traps and may take on the privately owned land any nonprotected  
22 bird or mammal, and no permit is required for that taking.

23 **Comment.** Section 59230 continues former Fish and Game Code Section 10659 without  
24 substantive change.

25 Article 19. Farallon Islands Game Refuge

26 **§ 59250. Description**

27 59250. The following constitutes the Farallon Islands Game Refuge: the  
28 Southeast Farallons, including Maintop Island, Middle Farallon, the North  
29 Farallons, Noonday Rock, and the waters lying around each island within one  
30 nautical mile from the coastline of each island.

31 **Comment.** Section 59250 continues the first paragraph of former Fish and Game Code Section  
32 10843 without substantive change.

33 **§ 59255. Regulated activity**

34 59255. (a) Section 58705 shall have no application in the Farrallon Islands  
35 Game Refuge. Fishermen, however, may not take any seal or sea lion while in this  
36 refuge, notwithstanding the provisions of **Section 4500 or 4500.5.**

1 (b) Notwithstanding the provisions of Section 58700, persons on commercial  
2 vessels may possess unloaded firearms when traveling through the navigable  
3 waters of this refuge.

4 **Comment.** Section 59255 continues the second paragraph of former Fish and Game Code  
5 Section 10843 without substantive change.

## 6 Article 20. Johnsville Game Refuge

### 7 § 59275. Description

8 59275. The following constitutes the Johnsville Game Refuge: All that area  
9 within the County of Plumas within the following boundaries:

10 Beginning at the North  $\frac{1}{4}$  corner of Section 24, T. 22 N., R. 11 E., M. D. M.;  
11 thence North 89° 39' 25" East 334.93 feet; thence South 0° 08' 47" East 418.08  
12 feet; thence South 89° 48' 44" West 167.37 feet; thence South 0° 09' 33" East  
13 668.15 feet; thence South 89° 59' 48" West 496.21 feet; thence South 0° 09' 15"  
14 East 83.34 feet; thence South 89° 58' 24" West 164.51 feet; thence South 0° 08'  
15 41" East 83.31 feet; thence South 89° 59' 14" West 82.26 feet; thence South 0°  
16 08' 24" East 83.29 feet; thence North 89° 59' 55" West 82.26 feet; thence South  
17 0° 03' 55" East 83.09 feet; thence North 89° 51' 34" West 82.43 feet; thence  
18 South 0° 03' 58" East 83.05 feet; thence North 89° 50' 14" West 82.42 feet;  
19 thence South 0° 03' 30" East 331.95 feet; thence North 89° 46' 07" West 329.53  
20 feet; thence North 0° 03' 37" West 331.59 feet; thence South 89° 49' 39" East  
21 164.68 feet; thence North 0° 04' 08" West 165.91 feet; thence North 0° 04' 47"  
22 West 498.64 feet; thence South 89° 57' 00" West 164.57 feet; thence North 0° 04'  
23 11" West 184.90 feet; thence North 69° 21' 49" East 175.25 feet; thence North 0°  
24 05' 22" West 584.25 feet; thence North 89° 43' 00" East 985.90 feet to the point  
25 of beginning.

26 **Comment.** Section 59275 continues former Fish and Game Code Section 10842 without  
27 substantive change. The refuge described in this section was formerly known as "Fish and Game  
28 District 1K."

### 29 § 59280. Firearms and other devices

30 59280. (a) Notwithstanding any provision of law to the contrary, in the  
31 Johnsville Game Refuge it shall be unlawful for any person to discharge a firearm  
32 or other device capable of killing or injuring any animal.

33 (b) However, it shall not be unlawful for the lawful occupants of privately  
34 owned lands or the employees of those occupants to possess firearms or other  
35 devices capable of killing or injuring an animal without a permit.

36 **Comment.** Section 59280 continues the first paragraph of former Fish and Game Code Section  
37 10665 without substantive change.



1 Avenue, westerly and southerly, to the corner common to ranches E, F, and A, as  
2 said ranches are delineated on the Tamalpais Land and Water Company's map No.  
3 3; thence southwesterly along the southeasterly boundary lines of ranches E, L,  
4 and K, as shown on the said last-mentioned map, to the shore of the Pacific Ocean;  
5 thence northwesterly along the shore of the Pacific Ocean and across the easterly  
6 end of the Bolinas sandspit, and along the easterly shore of inner Bolinas Bay, to  
7 the point of beginning, excepting from the area of said Mount Tamalpais Game  
8 Refuge all lands lying within incorporated areas.

9 **Comment.** Section 59300 continues former Fish and Game Code Section 10833 without  
10 substantive change. The refuge described in this section was formerly known as "Fish and Game  
11 District 2B."

12 **§ 59305. Take by private land owner**

13 59305. In Mt. Tamalpais Game Refuge, the lawful occupant of privately owned  
14 land, or the employees of that occupant, may take on those lands, predatory, or  
15 destructive birds and mammals that are not protected or fostered by any of the  
16 laws of this state, and are not required to obtain permits for that taking.

17 **Comment.** Section 59305 continues former Fish and Game Code Section 10650 without  
18 substantive change.

19 **§ 59310. Firearm use by high school militia**

20 59310. In the Mt. Tamalpais Game Refuge firearms may be possessed and used  
21 by members of any high school militia while on the grounds of the high school at  
22 which time they may be enrolled.

23 **Comment.** Section 59310 continues former Fish and Game Code Section 10651 without  
24 substantive change.

25 **§ 59315. Special rules on take**

26 59315. (a) In the Mt. Tamalpais Game Refuge, no threatened, endangered, or  
27 fully-protected birds or mammals may be taken under any permit issued by the  
28 department.

29 (b) Except for wild pigs, it is unlawful to take any bird or mammal under a  
30 permit issued by the department unless the person possessing the permit is  
31 accompanied by a member of the commission, a deputy of the department, or a  
32 sheriff or deputy sheriff of Marin County.

33 **Comment.** Section 59315 continues former Fish and Game Code Section 10652 without  
34 substantive change.

35 **Article 22. Preston School of Industry Game Refuge**

36 **§ 59350. Description**

37 59350. The Preston School of Industry Game Refuge consists of and includes  
38 the following:

1 The Preston School of Industry Reservoir, which is situated on land occupied by  
2 the Preston School of Industry, Ione, Amador County.

3 **Comment.** Section 59350 continues former Fish and Game Code Section 10841 without  
4 substantive change.

5 TITLE 4. FISH AND GAME REFUGES

6 CHAPTER 1. FISH AND GAME REFUGES GENERALLY

7 **§ 59400. Fish and game refuge is both a fish refuge and game refuge**

8 59400. Any refuge designated as a “fish and game refuge” shall be considered,  
9 for the purposes of this part, as both a game refuge and a fish refuge.

10 **Comment.** Section 59400 continues former Fish and Game Code Section 10509 without  
11 substantive change.

12 CHAPTER 2. SPECIFIC FISH AND GAME REFUGES

13 Article 1. General Provisions

14 **§ 59425. Described areas**

15 59425. The areas described in this chapter are fish and game refuges.

16 **Comment.** Section 59425 continues former Fish and Game Code Section 10770 without  
17 substantive change.

18 Article 2. San Francisco Fish and Game Refuge

19 **§ 59450. Description**

20 59450. The following constitutes and shall be designated the San Francisco Fish  
21 and Game Refuge: All that area within the County of San Mateo, within the  
22 following boundaries:

23 Beginning at a point on the westerly side of the Skyline Boulevard where said  
24 line crosses the fence line between the properties of the San Francisco Water  
25 Department and the Jersey farm, thence following southerly the westerly line of  
26 the Skyline Boulevard to the northerly line of the property of the Panama Realty  
27 Company, thence following in a generally southerly direction the easterly line of  
28 the property of the San Francisco Water Department to the center of the Canada  
29 Road, thence due west to the westerly line of said Canada Road, thence southerly  
30 along the westerly line of said road to the southerly line of the property of the San  
31 Francisco Water Department, thence westerly following the southerly line of the  
32 San Francisco Water Department to the Skyline Boulevard, thence northerly  
33 following the easterly line of the Skyline Boulevard to its intersection with the  
34 easterly line of the Carry E. Bridge property, thence following northerly the

1 easterly line of the said Carry E. Bridge property to its intersection with the  
2 easterly line of the Skyline Boulevard, thence northerly following the easterly line  
3 of the said Skyline Boulevard to the Half Moon Bay Road, thence crossing the  
4 said Skyline Boulevard and said Half Moon Bay Road to the westerly line of the  
5 property of the San Francisco Water Department on the northerly side of said Half  
6 Moon Bay Road, thence following the westerly line of the San Francisco Water  
7 Department in a generally northwesterly direction to the point of beginning.

8 **Comment.** Section 59450 continues former Fish and Game Code Section 10771 without  
9 substantive change.

10 **§ 59455. Transport of animals**

11 59455. In the San Francisco Fish and Game Refuge, birds, mammals, fish,  
12 amphibians, and reptiles legally possessed may be carried openly by persons  
13 traveling through the refuge on public roads, between one-half hour before sunrise  
14 and one-half hour after sunset.

15 **Comment.** Section 59455 continues former Fish and Game Code Section 10653 without  
16 substantive change.

17 **Staff Note.** Existing Section 10653 refers to the “San Francisco Game Refuge.” There is no  
18 game refuge with that name. However, there is a “San Francisco Fish and Game Refuge” (which,  
19 by law, is treated as both a fish refuge and game refuge). It seems probable that Section 10653  
20 was intended to apply to the San Francisco Fish and Game Refuge. In proposed Section 59455,  
21 the provision is revised and located accordingly. **The staff invites comment on whether that**  
22 **would cause any problems.**

23 **§ 59460. Use of land for water supply purposes**

24 59460. Nothing in this part prevents the full use of the land included in the San  
25 Francisco Fish and Game Refuge for water supply purposes, nor prohibits any  
26 authorized employee of the San Francisco water department from carrying out any  
27 reasonable measures that may be necessary for the protection of the water supply  
28 or the prevention of pollution of the streams or reservoirs.

29 **Comment.** Section 59460 continues former Fish and Game Code Section 10654 without  
30 substantive

31 **Staff Note.** Existing Section 10654 refers to the “San Francisco Game Refuge.” There is no  
32 game refuge with that name. However, there is a “San Francisco Fish and Game Refuge” (which,  
33 by law, is treated as both a fish refuge and game refuge). It seems probable that Section 10654  
34 was intended to apply to the San Francisco Fish and Game Refuge. In proposed Section 59460,  
35 the provision is revised and located accordingly. **The staff invites comment on whether that**  
36 **would cause any problems.**

1 TITLE 5. WATERFOWL REFUGES

2 CHAPTER 1. WATERFOWL REFUGES GENERALLY

3 § 59500. Prohibition

4 59500. Except under a permit or specific authorization, it is unlawful to take or  
5 possess a bird, discharge a firearm or BB device, or release an arrow or crossbow  
6 bolt, within or into a waterfowl refuge.

7 **Comment.** Section 59500 continues former Fish and Game Code Section 10500(d) without  
8 substantive change.

9 CHAPTER 2. SPECIFIC WATERFOWL REFUGES

10 Article 1. General Provisions

11 § 59525. Described areas

12 59525. The areas described in this chapter are waterfowl refuges.

13 **Comment.** Section 59525 continues former Fish and Game Code Section 10860 without  
14 substantive change.

15 Article 2. San Leandro Waterfowl Refuge

16 § 59550. Description

17 59550. The following constitutes a waterfowl refuge and shall be designated the  
18 San Leandro Waterfowl Refuge: All the area within the County of Alameda,  
19 within the following boundaries:

20 Beginning at the Bay Farm Island Bridge, in Alameda, thence in a southerly  
21 direction, following the levee on westerly side of San Leandro Bay to the  
22 Hagenburger Road, thence in a northeasterly direction along said Hagenburger  
23 Road to a point where the Pacific Gas and Electric tower line crosses said  
24 Hagenburger Road, thence following said Pacific Gas and Electric tower line to  
25 the Pacific Gas and Electric substation at the foot of Fiftieth Avenue in Oakland,  
26 thence in a westerly direction along the high tide line of San Leandro Bay to the  
27 point of beginning.

28 **Comment.** Section 59550 continues former Fish and Game Code Section 10861 without  
29 substantive change.

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TITLE 6. MARINE LIFE REFUGES

CHAPTER 1. MARINE LIFE REFUGES GENERALLY

**§ 59600. Prohibition**

59600. Except under a permit or specific authorization, it is unlawful to take or possess an invertebrate or specimen of marine plant life in a marine life refuge.

**Comment.** Section 59600 continues former Fish and Game Code Section 10500(f) without substantive change.

CHAPTER 2. SPECIFIC MARINE LIFE REFUGES

Article 1. General Provisions

**§ 59625. Described areas**

59625. The areas described in this chapter are marine life refuges.

**Comment.** Section 59625 continues former Fish and Game Code Section 10900 without substantive change.

Article 2. Bodega Marine Life Refuge

**§ 59650. Description**

59650. The following constitutes a marine life refuge and shall be designated the Bodega Marine Life Refuge:

That portion of **District 10** consisting of that certain parcel of land bounded by the line of Mean High Tide of the Pacific Ocean lying between the northern boundary extended northwesterly and the southern boundary extended southwesterly of the lands of the Regents of the University of California according to the final order of condemnation in Case No. 47,617 in the Superior Court of the State of California in and for the County of Sonoma, recorded in Book 1930, at pages 656 and 659, inclusive, Official Records, Sonoma County, California, and extending into and including the state waters of the State of California for a distance of a thousand feet into the Pacific Ocean from the line of Mean High Tide.

**Comment.** Section 59650 continues former Fish and Game Code Section 10903 without substantive change.

**§ 59655. Director**

59655. (a) The director may appoint the Director of the Bodega Marine Life Refuge.

(b) The Director of the Bodega Marine Life Refuge may authorize any person to enter the Bodega Marine Life Refuge for the purpose of taking fish, invertebrates,

1 or marine plants for scientific study and to take or possess fish, invertebrates, or  
2 marine plants for scientific study.

3 (c) The Director of the Bodega Marine Life Refuge may authorize any person to  
4 anchor a vessel in the Bodega Marine Life Refuge for the purpose of scientific  
5 study.

6 **Comment.** Section 59655 continues former Fish and Game Code Section 10502.7 without  
7 substantive change.

8 **§ 59670. Prohibitions**

9 59670. (a) Except as expressly provided in this part, it is unlawful to enter the  
10 Bodega Marine Life Refuge for the purpose of taking or possessing any fish,  
11 marine invertebrate, or marine plant, or to take or possess any fish, marine  
12 invertebrate, or marine plant in the Bodega Marine Life Refuge.

13 (b) Except as permitted by federal law or emergency caused by hazardous  
14 weather, it is unlawful to anchor or moor a vessel in the Bodega Marine Life  
15 Refuge without authorization by the Director of the Bodega Marine Life Refuge  
16 pursuant to Section 59655.

17 (c) This section does not prohibit or restrict navigation in the Bodega Marine  
18 Life Refuge pursuant to federal law.

19 **Comment.** Section 59670 continues former Fish and Game Code Section 10656 without  
20 substantive change.

21 **§ 59675. University of California**

22 59675. In the Bodega Marine Life Refuge, licensees of the Regents of the  
23 University of California and all officers, employees, and students of that university  
24 may take, for scientific purposes, any invertebrate or specimen of marine plant life  
25 without a permit from the department.

26 **Comment.** Section 59675 continues former Fish and Game Code Section 10661 without  
27 substantive change.

28 **Article 3. Catalina Marine Science Center Marine Life Refuge**

29 **§ 59700. Description**

30 59700. The following constitutes a marine life refuge and shall be designated the  
31 Catalina Marine Science Center Marine Life Refuge:

32 All that area bounded on the south and southeast by the mean high tide line and  
33 by the present seaward boundary of the lease to tide and submerged lands now  
34 held by the University of Southern California from the State Lands Commission  
35 (No. 3692.1 Public Resources Code Series) and extending from a point on the  
36 mean high tide line at 33° 26' 39" North Latitude 118° 29' 19" West Longitude,  
37 thence to 33° 26' 50" North Latitude 118° 29' 08" West Longitude, thence to 33°  
38 26' 57.5" North Latitude 118° 28' 33.5" West Longitude, thence to 33° 26' 55"

1 North Latitude 118° 28' 32" West Longitude, and thence to a point on the mean  
2 high tide line at 33° 26' 53.5" North Latitude 118° 28' 35" West Longitude.

3 **Comment.** Section 59700 continues former Fish and Game Code Section 10932 without  
4 substantive change.

5 **§ 59705. Director**

6 59705. (a) The director may appoint the Director of the Catalina Marine Science  
7 Center Marine Life Refuge.

8 (b) The Director of the Catalina Marine Science Center Marine Life Refuge may  
9 authorize any person to enter the Catalina Marine Science Center Marine Life  
10 Refuge for the purpose of taking fish or marine plants under the conditions that the  
11 department determines necessary for the protection and propagation of fish and  
12 wildlife and related scientific purposes in that refuge.

13 (c) The Director of the Catalina Marine Science Center Marine Life Refuge,  
14 upon recommendation of the Director of the Catalina Marine Science Center, may  
15 authorize any person involved in oceanographic and scientific research in and  
16 around Santa Catalina Island to anchor or moor a vessel in the Catalina Marine  
17 Science Center Marine Life Refuge.

18 **Comment.** Section 59705 continues former Fish and Game Code Section 10502.8 without  
19 substantive change.

20 **§ 59710. Prohibitions**

21 59710. (a) Except as expressly provided in this part, it is unlawful to enter the  
22 Catalina Marine Science Center Marine Life Refuge for the purpose of taking or  
23 possessing any fish or marine plants or to take or possess any fish or marine plants  
24 in the Catalina Marine Science Center Marine Life Refuge.

25 (b) Except as permitted by federal law or emergency caused by hazardous  
26 weather, it is unlawful to anchor or moor a vessel in the Catalina Marine Science  
27 Center Marine Life Refuge without authorization by the Director of the Catalina  
28 Marine Science Center Marine Life Refuge pursuant to Section 59705.

29 (c) Section 59715 and this section do not prohibit or restrict navigation in the  
30 Catalina Marine Science Center Marine Life Refuge pursuant to federal law.

31 **Comment.** Section 59710 continues former Fish and Game Code Section 10655.5 without  
32 substantive change.

33 **§ 59715. Exceptions to prohibitions**

34 59715. (a) A person involved in oceanographic and scientific research in and  
35 around Santa Catalina Island may be authorized by the Director of the Catalina  
36 Marine Science Center Marine Life Refuge to enter the Catalina Marine Science  
37 Center Marine Life Refuge and to anchor or moor a vessel therein.

38 (b) The Director of the Catalina Marine Science Center Marine Life Refuge, or  
39 any person that the Director of the Catalina Marine Science Center Marine Life  
40 Refuge has authorized under Section 59705, may take, for scientific purposes, any

1 fish or specimen of marine plant life under the conditions prescribed by the  
2 department under Section 59705.

3 **Comment.** Section 59715 continues former Fish and Game Code Section 10655 without  
4 substantive change.

5 Article 4. City of Encinitas Marine Life Refuge

6 **§ 59750. Description**

7 59750. The land and ocean waters within the following boundaries constitute the  
8 City of Encinitas Marine Life Refuge:

9 All those submerged lands lying between the mean high tide line in the City of  
10 Encinitas, County of San Diego, State of California, and a line which is 600 feet  
11 westerly of and parallel and concentric with that mean high tide line and lying  
12 southerly of the westerly prolongation of the northerly right-of-way line of “D”  
13 Street as shown on Map No. 148, in the City of Encinitas, County of San Diego,  
14 State of California, filed in the office of the County Recorder of San Diego  
15 County, and lying northerly of the following described line:

16 Beginning at the southeasterly corner of Lot N in Block 3 of Resubdivision of  
17 Sea Cliff Villa, in the City of Encinitas, County of San Diego, State of California,  
18 filed in the San Diego County Recorder’s office, December 10, 1914; thence  
19 southwesterly along the southwesterly prolongation of the southeasterly line of  
20 said Lot N, South 36°36’30” west, to a point on that line which is 600 feet  
21 westerly of and parallel and concentric with the mean high tide line.

22 **Comment.** Section 59750 continues former Fish and Game Code Section 10913 without  
23 substantive change.

24 Article 5. Dana Point Marine Life Refuge

25 **§ 59775. Description**

26 59775. The following constitutes a marine life refuge and shall be designated as  
27 the Dana Point Marine Life Refuge:

28 That portion of **District 19** consisting of land and ocean waters bounded by a  
29 line commencing at Station 70 of the mean high tide line as shown on Document  
30 Number 25208 recorded in Book 7651, page 69 of Official Records on file in the  
31 Office of County Recorder of Orange County; thence along the mean high tide  
32 line westerly and northerly 3500 feet more or less to intersection with a line which  
33 is 2440 feet south of and parallel to the north line of Fractional Section 21, R. 8  
34 W., T. 8 S., S.B.M.’; thence west 1200 feet; thence southerly and easterly 1200  
35 feet from and parallel to the shore line to an intersection with a line which bears S  
36 40° 00’ E. from said Station 70; thence N 40° 00’ W. 1200 feet more or less to the  
37 point of beginning.

38 **Comment.** Section 59775 continues former Fish and Game Code Section 10907 without  
39 substantive change.

1    **§ 59780. Director**

2    59780. (a) The director may appoint a Director of the Dana Point Marine Life  
3    Refuge.

4    (b) Except as otherwise provided in this section, no state funds, including, but  
5    not limited to, the Fish and Game Preservation Fund, shall be used to pay the  
6    compensation or expenses of the Director of the Dana Point Marine Life Refuge.  
7    A city, county, or special district may use any funds, including state funds  
8    appropriated to the city, county, or special district, to pay the compensation and  
9    expenses of the director and a public postsecondary educational institution may  
10   use private or state funds to pay the compensation and expenses of the director.

11   (c) The Director of the Dana Point Marine Life Refuge may issue a permit  
12   authorizing any person to enter the Dana Point Marine Life Refuge for the purpose  
13   of taking fish or marine plants under the conditions that the department determines  
14   to be necessary for the protection and propagation of fish and wildlife and related  
15   scientific purposes in that refuge.

16   (d) The Director of the Dana Point Marine Life Refuge shall erect and maintain  
17   signs identifying the boundaries of the Dana Point Marine Life Refuge. The signs  
18   shall contain notification regarding the permit requirements of the refuge. The  
19   signs shall specify that an access permit shall be obtained from the Director of the  
20   Dana Point Marine Life Refuge and a scientific collector's permit from the  
21   department in order to take any fish or specimen of marine plant life.

22    **Comment.** Section 59780 continues former Fish and Game Code Section 10502.6 without  
23   substantive change.

24    **§ 59785. Take**

25    59785. (a) In the Dana Point Marine Life Refuge below the intertidal zone, the  
26    following fish, mollusks, and crustaceans may be taken under the authority of a  
27    sportfishing license as authorized by this code: abalone (subject to the moratorium  
28    imposed under **Section 5521**), lobster, rockfish (*Scorpaenidae*), greenling, ling  
29    cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass,  
30    barred sand bass, sargo, croaker, queenfish, corbina, white seabass, opaleye,  
31    halfmoon, surfperch (*Embiotocidae*), blacksmith, barracuda, sheephead, bonito,  
32    California halibut, sole, turbot, and sanddab.

33    (b) All other fish and forms of aquatic life are protected and may not be taken  
34    without a written permit from the department.

35    (c) Fin fish shall be taken only by hook and line or by spearfishing gear.

36    **Comment.** Section 59785 continues former Fish and Game Code Section 10667(a) without  
37    substantive change.

38    **§ 59790. Entry prohibition**

39    59790. Except as expressly provided in this article, it is unlawful to enter the  
40    intertidal zone in the Dana Point Marine Life Refuge for the purpose of taking or  
41    possessing, or to take or possess, any species of fish, plant, or invertebrate, or part

1 thereof, to use or have in possession any contrivance designed to be used for  
2 catching fish, to disturb any native plant, fish, wildlife, aquatic organism, or to  
3 take or disturb any natural geological feature.

4 **Comment.** Section 59790 generalizes the first sentence of former Fish and Game Code Section  
5 10667(b) without substantive change.

6 **Staff Note.** Existing Section 10667(b) refers to “this section.” Proposed Section 59790 would  
7 broaden that provision to refer to “this article.” This would include Section 10502.6 within the  
8 scope of the reference. **The staff invites comment on whether that change would cause any**  
9 **problem.**

10 **§ 59795. Exceptions to prohibitions**

11 59795. (a) Section 59790 does not prohibit persons from entering the intertidal  
12 zone for the purpose of entertainment, recreation, and education while having a  
13 minimum impact on the intertidal environment and the living organisms therein.  
14 For this purpose, minimum impact includes foot traffic, general observation of  
15 organisms in their environment with immediate replacement of any unattached  
16 organisms to their natural location after temporary lifting for examination, and  
17 photography. Minimum impact does not include removal of attached organisms  
18 from their environment, gathering of fishing bait, littering, collecting rocks and  
19 shells, or turning rocks or other acts destructive to the environment.

20 (b) Notwithstanding Sections 59785 and 59790, the Director of the Dana Point  
21 Marine Life Refuge, or any person, who has a scientific collector’s permit from  
22 the department, to whom the Director of the Dana Point Marine Life Refuge has  
23 issued a permit pursuant to Section 59780, may take, for scientific purposes, any  
24 fish or specimen of marine plant life under the conditions prescribed by the  
25 department pursuant to Section 59780.

26 (c) This article does not prohibit the entry of state and local law enforcement  
27 officers, fire suppression agencies, and employees of the department in the  
28 performance of their official duties.

29 (d) This article does not prohibit or restrict navigation in the Dana Point Marine  
30 Life Refuge pursuant to federal law.

31 **Comment.** Subdivision (a) of Section 59795 continues the second through fourth sentences of  
32 former Fish and Game Code Section 10667(b) without substantive change.

33 Subdivision (b) continues former Fish and Game Code Section 10667(d).

34 Subdivision (c) continues the first sentence of former Fish and Game Code Section 10667(e).

35 Subdivision (d) continues the second sentence of former Fish and Game Code Section  
36 10667(e).

37 **Staff Note.** Existing Section 10667(e) refers twice to “this section.” Proposed Section  
38 59795(c) and (d) would broaden that language to refer to “this article.” This would include  
39 Section 10502.6 within the scope of the references. **The staff invites comment on whether that**  
40 **change would cause any problem.**



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Article 7. Hopkins Marine Life Refuge

**§ 59850. Description**

59850. That portion of **District 16** consisting of the land and ocean waters within the following boundaries constitutes a marine life refuge and shall be designated the Hopkins Marine Life Refuge:

Beginning at the point of intersection of the southeasterly corporate limit line of the City of Pacific Grove prolonged, and the line of highest tide of the Bay of Monterey; thence northwesterly along said line of highest tide to the intersection with the northerly extension of the west side of Third Street in said city; thence northerly to a point in said bay where the depth of water is 60 feet measured from the level of mean low tide; thence southeasterly along the line in said bay which line is at a constant depth of 60 feet measured from the level of mean low tide to the intersection with the southeasterly corporate limit line of said city prolonged; thence S. 58° 57' 45" W. along said southeasterly corporate limit line prolonged to the point of beginning.

**Comment.** Section 59850 continues former Fish and Game Code Section 10901 without substantive change.

**§ 59855. Director**

59855. The director may appoint the Director of the Hopkins Marine Life Refuge.

**Comment.** Section 59855 continues the first sentence of former Fish and Game Code Section 10502.5 without substantive change.

**§ 59860. Special prohibition**

59860. Except as expressly provided in this part, it is unlawful to enter the Hopkins Marine Life Refuge for the purpose of taking or possessing any fish or marine plants or to take or possess any fish or marine plants in the Hopkins Marine Life Refuge.

**Comment.** Section 59860 continues the first sentence of former Fish and Game Code Section 10657.5 without substantive change.

**§ 59865. Exceptions to prohibition**

59865. (a) A person may be permitted by the Director of the Hopkins Marine Life Refuge to enter the Hopkins Marine Life Refuge under a permit.

(b) The Director of the Hopkins Marine Life Refuge, or any person to whom the Director of the Hopkins Marine Life Refuge has issued a permit under subdivision (c) of Section 59865, may take, for scientific purposes, any fish or specimen of marine plant life under the conditions prescribed by the department under subdivision (c) of Section 59865.

(c) The Director of the Hopkins Marine Life Refuge may issue a permit to any person under which the person may enter the Hopkins Marine Life Refuge for the

1 purpose of taking fish or marine plants under the conditions that the department  
2 determines necessary for the protection and propagation of fish and wildlife and  
3 related scientific purposes in that refuge.

4 (d) This section and Section 59860 do not prohibit or restrict navigation in the  
5 Hopkins Marine Life Refuge pursuant to federal law.

6 **Comment.** Subdivisions (a) and (b) of Section 59865 continues former Fish and Game Code  
7 Section 10657 without substantive change.

8 Subdivision (c) continues the second sentence of former Fish and Game Code Section 10502.5  
9 without substantive change.

10 Subdivision (d) continues the second sentence of former Fish and Game Code Section 10657.5  
11 without substantive change.

## 12 Article 8. Irvine Coast Marine Life Refuge

### 13 § 59900. Description

14 59900. The following constitutes a marine life refuge and shall be designated as  
15 the Irvine Coast Marine Life Refuge:

16 That portion of California state tide and submerged lands adjoining the Newport  
17 Beach Marine Life Refuge as described in Section 59975 and bounded by a line  
18 beginning at the intersection of the southwesterly extension of lot 141, Tract No.  
19 3357 as shown on a map recorded in Book 107, Page 1 of Miscellaneous Maps on  
20 file in the office of the County Recorder, Orange County and the Line of Ordinary  
21 High Tide; thence, southeasterly along the Line of Ordinary High Tide  
22 approximately 20,000 feet to its intersection with the southwesterly extension of  
23 the northwesterly boundary line of the City of Laguna Beach; thence,  
24 southwesterly along such southwesterly extension 600 feet; thence, northwesterly  
25 along a line parallel to and 600 feet southwesterly of the Line of Ordinary High  
26 Tide to the southwesterly extension of said lot 141; thence, northeasterly 600 feet  
27 along such southwesterly extension to the point of beginning.

28 **Comment.** Section 59900 continues former Fish and Game Code Section 10912 without  
29 substantive change.

### 30 § 59905. Take of fish in refuge

31 59905. (a) In the Irvine Coast Marine Life Refuge, the following fish, mollusks,  
32 and crustaceans may be taken under the authority of a sportfishing license as  
33 authorized by this code: abalone, lobster, rockfish (Scorpaenidae), greenling, ling  
34 cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass,  
35 barred sand bass, sargo, croaker, queenfish, corbina, white seabass, opaleye,  
36 halfmoon, surfperch (Embiotocidae), blacksmith, barracuda, sheephead, bonito,  
37 California halibut, sole, turbot, and sanddab.

38 (b) Fin fish shall be taken only by hook and line or by spearfishing gear.

39 (c) All other fish and forms of aquatic life are protected and may not be taken  
40 without a written permit from the department.



1 monkeyface eel, rock eel, white croaker, halibut, cabezon (*Scorpaenichthys*  
2 *marmoratus*), kelp greenling (*Hexagrammos decagrammus*), and smelt (*Osmeridae*  
3 and *Antherinidae*).

4 (b) No fish listed in subdivision (a) that has fins may be taken except by hook  
5 and line or by spearfishing.

6 (c) All other fish and forms of aquatic life are protected and may not be taken  
7 without a written permit from the department.

8 **Comment.** Section 59930 continues former Fish and Game Code Section 10666 without  
9 substantive change.

## 10 Article 10. Laguna Beach Marine Life Refuge

### 11 § 59950. Description

12 59950. The following constitutes a marine life refuge and shall be designated as  
13 the Laguna Beach Marine Life Refuge:

14 That portion of **District 19** consisting of that certain parcel of land bounded by a  
15 line commencing at the mean high tide of the Pacific Ocean lying on the northern  
16 boundary of the City of Laguna Beach and running for a distance of 600 feet into  
17 the Pacific Ocean along that boundary, and thence generally southeastward and  
18 generally parallel to the shoreline at a distance of approximately 600 feet to the  
19 northern boundary of the South Laguna Beach Marine Life Refuge, and thence  
20 generally northeastward for a distance of approximately 700 feet to the mean high  
21 tide, and thence generally northwestward along the line of mean high tide to the  
22 point of beginning.

23 **Comment.** Section 59950 continues former Fish and Game Code Section 10904 without  
24 substantive change.

### 25 § 59955. Take of fish in refuge

26 59955. (a) In the Laguna Beach Marine Life Refuge, the following fish,  
27 mollusks, and crustaceans may be taken under the authority of a sportfishing  
28 license as authorized by this code: abalone, lobster, rockfish (*Scorpaenidae*),  
29 greenling, ling cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted  
30 sand bass, barred sand bass, sargo, croaker, queenfish, corbina, white seabass,  
31 opaleye, halfmoon, surfperch (*Embiotocidae*), blacksmith, barracuda, sheephead,  
32 bonito, California halibut, sole, turbot, and sanddab.

33 (b) Fin fish shall be taken only by hook and line or by spearfishing gear.

34 (c) All other fish and forms of aquatic life are protected and may not be taken  
35 without a written permit from the department.

36 **Comment.** Section 59955 continues former Fish and Game Code Section 10664, as it relates to  
37 the Laguna Beach Marine Refuge without substantive change.

1 Article 11. Newport Beach Marine Life Refuge

2 **§ 59975. Description**

3 59975. The following constitutes a marine life refuge and shall be designated as  
4 the Newport Beach Marine Life Refuge:

5 That portion of **District 19** consisting of that certain parcel of land bounded by  
6 the line of Mean High Tide of the Pacific Ocean between the eastern boundary of  
7 the City of Newport Beach and Poppy Avenue in the City of Newport Beach, and  
8 extending into and including the state waters of the State of California for a  
9 distance of two hundred feet into the Pacific Ocean from the line of Mean High  
10 Tide.

11 **Comment.** Section 59975 continues former Fish and Game Code Section 10905 without  
12 substantive change.

13 **§ 59980. Take of fish in refuge**

14 59980. (a) In the Newport Beach Marine Life Refuge, the following fish,  
15 mollusks, and crustaceans may be taken under the authority of a sportfishing  
16 license as authorized by this code: abalone, lobster, rockfish (*Scorpaenidae*),  
17 greenling, ling cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted  
18 sand bass, barred sand bass, sargo, croaker, queenfish, corbina, white seabass,  
19 opaleye, halfmoon, surfperch (*Embiotocidae*), blacksmith, barracuda, sheephead,  
20 bonito, California halibut, sole, turbot, and sanddab.

21 (b) Fin fish shall be taken only by hook and line or by spearfishing gear.

22 (c) All other fish and forms of aquatic life are protected and may not be taken  
23 without a written permit from the department.

24 **Comment.** Section 59980 continues former Fish and Game Code Section 10664, as it relates to  
25 the Newport Beach Marine Refuge without substantive change.

26 Article 12. Niguel Marine Life Refuge

27 **§ 60000. Description**

28 60000. The following constitutes a marine life refuge and shall be designated as  
29 the Niguel Marine Life Refuge: That portion of California state tide and  
30 submerged lands bounded by a line commencing at a point which is the  
31 intersection of the line of mean high tide and a line which is 2,440 feet south of  
32 and parallel to the north line of Fractional Section 21, R.8W., T.8S., S.B.M., such  
33 point also being on the north boundary of the Dana Point Marine Life Refuge,  
34 thence along the mean high tide line northerly and westerly 12,000 feet more or  
35 less to its intersection with the westerly prolongation of the most northerly  
36 boundary line of lot 101 of "Three Arches Palisades No. 1" as shown on a map  
37 filed in book 3, page 3, Records of Surveys in the Office of the County Recorder,  
38 Orange County; thence, S. 89° 54' W. 1,200 feet from such point of intersection  
39 along the westerly prolongation of such northerly boundary line; thence, south and

1 west, and east parallel to and 1,200 feet from the line of mean high tide to a point  
2 on the north line of Dana Point Marine Life Refuge and also being 1,200 feet west  
3 of the point of beginning; thence, east 1,200 feet along the northerly boundary of  
4 Dana Point Marine Life Refuge to the point of beginning.

5 **Comment.** Section 60000 continues former Fish and Game Code Section 10911 without  
6 substantive change.

7 **§ 60005. Take of fish in refuge**

8 60005. (a) In the Niguel Marine Life Refuge, the following fish, mollusks, and  
9 crustaceans may be taken under the authority of a sportfishing license as  
10 authorized by this code: abalone, lobster, rockfish (Scorpaenidae), greenling, ling  
11 cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass,  
12 barred sand bass, sargo, croaker, queenfish, corbina, white seabass, opaleye,  
13 halfmoon, surfperch (Embiotocidae), blacksmith, barracuda, sheephead, bonito,  
14 California halibut, sole, turbot, and sanddab.

15 (b) Fin fish shall be taken only by hook and line or by spearfishing gear.

16 (c) All other fish and forms of aquatic life are protected and may not be taken  
17 without a written permit from the department.

18 **Comment.** Section 60005 continues former Fish and Game Code Section 10664, as it relates to  
19 the Niguel Marine Refuge without substantive change.

20 **Article 13. Point Fermin Marine Life Refuge**

21 **§ 60025. Description**

22 60025. The following constitutes a marine life refuge and shall be designated as  
23 the Point Fermin Marine Life Refuge:

24 That portion of **District 19** consisting of land and ocean waters bounded by the  
25 line of mean high tide of the Pacific Ocean extending into and including the state  
26 waters of the State of California for a distance of 600 feet below low-tide mark, in  
27 the San Pedro area of the City of Los Angeles in an area generally parallel to the  
28 shoreline lying between the easterly extension of 40th Street, westerly to the  
29 southerly extension of Gaffey Street at Point Fermin.

30 **Comment.** Section 60025 continues former Fish and Game Code Section 10910 without  
31 substantive change.

32 **§ 60030. Take of fish in refuge**

33 60030. (a) In the Point Fermin Marine Life Refuge, the following fish, mollusks,  
34 and crustaceans may be taken under the authority of a sportfishing license as  
35 authorized by this code: abalone, lobster, rockfish (Scorpaenidae), greenling, ling  
36 cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass,  
37 barred sand bass, sargo, croaker, queenfish, corbina, white seabass, opaleye,  
38 halfmoon, surfperch (Embiotocidae), blacksmith, barracuda, sheephead, bonito,  
39 California halibut, sole, turbot, and sanddab.

- 1 (b) Fin fish shall be taken only by hook and line or by spearfishing gear.
- 2 (c) All other fish and forms of aquatic life are protected and may not be taken
- 3 without a written permit from the department.
- 4 **Comment.** Section 60030 continues former Fish and Game Code Section 10664, as it relates to
- 5 the Point Fermin Marine Refuge without substantive change.

6 Article 14. San Diego Marine Life Refuge

7 **§ 60050. Description**

8 60050. The following constitutes a marine life refuge and shall be designated the  
9 San Diego Marine Life Refuge:

10 That portion of **District 19** consisting of that certain strip of land lying between  
11 the westerly edge of Pueblo Lot No. 1298 of the pueblo lands of the City of San  
12 Diego, according to the official map of said pueblo lands as made by James  
13 Pascoe, and filed in the Office of the County Recorder of said County of San  
14 Diego, and the lowest tide line opposite to and west of said pueblo lot, which said  
15 strip of land is bounded on the north by the northerly boundary line of said pueblo  
16 lot extended westerly and on the south by the southerly boundary line of said  
17 pueblo lot extended westerly; together with the state waters of the State of  
18 California adjacent thereto, being those state waters which lie between said  
19 extended northerly and southerly boundaries of said pueblo lot and extend  
20 westerly from said lowest low tide line for a distance of 1,000 feet.

21 **Comment.** Section 60050 continues former Fish and Game Code Section 10902 without  
22 substantive change.

23 **§ 60055. University of California**

24 60055. In the San Diego Marine Life Refuge, licensees of the Regents of the  
25 University of California and all officers, employees, and students of such  
26 university may take, for scientific purposes, any invertebrate or specimen of  
27 marine plant life without a permit from the department.

28 **Comment.** Section 60055 continues former Fish and Game Code Section 10658 without  
29 substantive change.

30 Article 15. South Laguna Beach Marine Life Refuge

31 **§ 60075. Description**

32 60075. The following constitutes a marine life refuge and shall be designated as  
33 the South Laguna Beach Marine Life Refuge:

34 That portion of **District 19** consisting of land and ocean waters bounded by a  
35 line commencing at the intersection of the line of mean high tide of the Pacific  
36 Ocean and a line which bears South 48° 50' 00" West from the most westerly  
37 point of Lot 75 of Tract No. 702, as that tract is shown on a map recorded in Book  
38 21, pages 1 to 3, Miscellaneous Maps, on file in the Office of the County Recorder

1 of Orange County; thence running South 48° 50' 00" West approximately 600 feet  
2 to the minus 20 foot mean lower low water contour; thence southeasterly and  
3 generally parallel to the shoreline to the northerly boundary of the Niguel Marine  
4 Life Refuge; thence North 35° 57' 06" East to the line of mean high tide of the  
5 Pacific Ocean; thence northwesterly along the line of mean high tide of the Pacific  
6 Ocean to the point of beginning.

7 **Comment.** Section 60075 continues former Fish and Game Code Section 10906 without  
8 substantive change.

9 **§ 60080. Take of fish in refuge**

10 60080. (a) In the South Laguna Beach Marine Life Refuge, the following fish,  
11 mollusks, and crustaceans may be taken under the authority of a sportfishing  
12 license as authorized by this code: abalone, lobster, rockfish (Scorpaenidae),  
13 greenling, ling cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted  
14 sand bass, barred sand bass, sargo, croaker, queenfish, corbina, white seabass,  
15 opaleye, halfmoon, surfperch (Embiotocidae), blacksmith, barracuda, sheephead,  
16 bonito, California halibut, sole, turbot, and sanddab.

17 (b) Fin fish shall be taken only by hook and line or by spearfishing gear.

18 (c) All other fish and forms of aquatic life are protected and may not be taken  
19 without a written permit from the department.

20 **Comment.** Section 60080 continues former Fish and Game Code Section 10664, as it relates to  
21 the South Laguna Beach Marine Refuge without substantive change.

22 **TITLE 7. QUAIL REFUGES**

23 **CHAPTER 1. QUAIL REFUGES GENERALLY**

24 **§ 60200. Prohibition**

25 60200. Except under a permit or specific authorization, it is unlawful to take or  
26 possess a quail in a quail refuge.

27 **Comment.** Section 60200 continues former Fish and Game Code Section 10500(e) without  
28 substantive change.

29 **CHAPTER 2. SPECIFIC QUAIL REFUGES**

30 **Article 1. General Provisions**

31 **§ 60225. Described areas**

32 60225. The areas described in this chapter are quail refuges.

33 **Comment.** Section 60225 continues former Fish and Game Code Section 10880 without  
34 substantive change.

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## Article 2. Bolinas Quail Refuge

### § 60250. Description

60250. The following constitutes a quail refuge and shall be designated the Bolinas Quail Refuge: All that area within the County of Marin, within the following boundaries:

Beginning at a point on the southeasterly line of the lands of Ludwig B. Freudenthal, as the same is described in Book 158 of official records on page 261, of Marin County records, and at a point which is 20 feet above mean high tide of the Pacific Ocean, and running thence northeasterly and northwesterly along the southeasterly line of said Ludwig B. Freudenthal tract to a point on the southerly line of the “Mesa Road,” thence northeasterly and along the southerly line of Mesa Road to the westerly line of the road leading from the Town of Bolinas to Sausalito, thence southeasterly and along the southerly line of the county road leading through the Town of Bolinas to the landing wharf at the entrance of Bolinas Bay, and 20 feet above mean high tide, thence southwesterly, westerly and northwesterly along a line which is 20 feet above mean high tide to the point of beginning.

**Comment.** Section 60250 continues former Fish and Game Code Section 10881 without substantive change.

## TITLE 8. CLAM REFUGES

### CHAPTER 1. CLAM REFUGES GENERALLY

### § 60300. Prohibition

60300. Except under a permit or specific authorization, it is unlawful to take or possess a clam or an instrument or apparatus capable of being used to dig clams in a clam refuge.

**Comment.** Section 60300 continues former Fish and Game Code Section 10500(g) without substantive change.

### CHAPTER 2. SPECIFIC CLAM REFUGES

### § 60325. Pismo clam bearing beaches

60325. (a) The commission may close for the taking of clams not less than eight land miles of pismo clam bearing beaches within San Luis Obispo County as a clam refuge, but not more than 50 percent of any individual pismo clam bearing beach or beaches may be so closed at any time. The commission may from time to time vary the location of the closed and open portions of those beaches.

(b) Before the commission closes, opens, or varies the location of the closed and open portions of pismo clam bearing beaches, one or more members of the

1 commission shall hold a public hearing in the county to be affected, notice of  
2 which has been published at least once in a newspaper of general circulation,  
3 printed, and published in that county. The commission may determine which  
4 newspaper will be most likely to give notice to the inhabitants of the county, and  
5 its determination shall be final and conclusive. The commission may authorize any  
6 employee of the department in its place to hold the hearings, in which event a copy  
7 of a transcript of all proceedings taken or had at the hearing shall be furnished to  
8 each commissioner at least five days before any regulation is made by the  
9 commission.

10 **Comment.** Section 60325 continues former Fish and Game Code Section 10711 without  
11 substantive change.

## 12 PART 2. MARINE LIFE PROTECTION ACT

### 13 TITLE 1. GENERAL PROVISIONS

#### 14 § 60400. Short title

15 60400. This part shall be known and may be cited as the Marine Life Protection  
16 Act.

17 **Comment.** Section 60400 continues former Fish and Game Code Section 2850 without  
18 substantive change.

#### 19 § 60405. Legislative findings and declarations

20 60405. The Legislature finds and declares all of the following:

21 (a) California's marine protected areas (MPAs) were established on a piecemeal  
22 basis rather than according to a coherent plan and sound scientific guidelines.  
23 Many of these MPAs lack clearly defined purposes, effective management  
24 measures and enforcement. As a result, the array of MPAs creates the illusion of  
25 protection while falling far short of its potential to protect and conserve living  
26 marine life and habitat.

27 (b) California's extraordinary marine biological diversity is a vital asset to the  
28 state and nation. The diversity of species and ecosystems found in the state's  
29 ocean waters is important to public health and well-being, ecological health, and  
30 ocean-dependent industry.

31 (c) Coastal development, water pollution, and other human activities threaten the  
32 health of marine habitat and the biological diversity found in California's ocean  
33 waters. New technologies and demands have encouraged the expansion of fishing  
34 and other activities to formerly inaccessible marine areas that once recharged  
35 nearby fisheries. As a result, ecosystems throughout the state's ocean waters are  
36 being altered, often at a rapid rate.

37 (d) Fish and other sea life are a sustainable resource, and fishing is an important  
38 community asset. MPAs and sound fishery management are complementary  
39 components of a comprehensive effort to sustain marine habitats and fisheries.

1 (e) Understanding of the impacts of human activities and the processes required  
2 to sustain the abundance and diversity of marine life is limited. The designation of  
3 certain areas as sea life reserves can help expand our knowledge by providing  
4 baseline information and improving our understanding of ecosystems where  
5 minimal disturbance occurs.

6 (f) Marine life reserves are an essential element of an MPA system because they  
7 protect habitat and ecosystems, conserve biological diversity, provide a sanctuary  
8 for fish and other sea life, enhance recreational and educational opportunities,  
9 provide a reference point against which scientists can measure changes elsewhere  
10 in the marine environment, and may help rebuild depleted fisheries.

11 (g) Despite the demonstrated value of marine life reserves, only 14 of the  
12 220,000 square miles of combined state and federal ocean water off California, or  
13 six-thousandths of 1 percent, are set aside as genuine no take areas.

14 (h) For all of the above reasons, it is necessary to modify the existing collection  
15 of MPAs to ensure that they are designed and managed according to clear,  
16 conservation-based goals and guidelines that take full advantage of the multiple  
17 benefits that can be derived from the establishment of marine life reserves.

18 **Comment.** Section 60405 continues former Fish and Game Code Section 2851 without  
19 substantive change.

20 **§ 60410. Definitions**

21 60410. The following definitions govern the construction of this part:

22 (a) “Adaptive management,” with regard to marine protected areas, means a  
23 management policy that seeks to improve management of biological resources,  
24 particularly in areas of scientific uncertainty, by viewing program actions as tools  
25 for learning. Actions shall be designed so that, even if they fail, they will provide  
26 useful information for future actions, and monitoring and evaluation shall be  
27 emphasized so that the interaction of different elements within marine systems  
28 may be better understood.

29 (b) “Biogeographical regions” refers to the following oceanic or near shore  
30 areas, seaward from the mean high tide line or the mouth of coastal rivers, with  
31 distinctive biological characteristics, unless the team establishes an alternative set  
32 of boundaries:

33 (1) The area extending south from Point Conception.

34 (2) The area between Point Conception and Point Arena.

35 (3) The area extending north from Point Arena.

36 (c) “Marine protected area” or “MPA” means a named, discrete geographic  
37 marine or estuarine area seaward of the mean high tide line or the mouth of a  
38 coastal river, including any area of intertidal or subtidal terrain, together with its  
39 overlying water and associated flora and fauna that has been designated by law,  
40 administrative action, or voter initiative to protect or conserve marine life and  
41 habitat. An MPA includes marine life reserves and other areas that allow for  
42 specified commercial and recreational activities, including fishing for certain

1 species but not others, fishing with certain practices but not others, and kelp  
2 harvesting, provided that these activities are consistent with the objectives of the  
3 area and the goals and guidelines of this part. MPAs are primarily intended to  
4 protect or conserve marine life and habitat, and are therefore a subset of marine  
5 managed areas (MMAs), which are broader groups of named, discrete geographic  
6 areas along the coast that protect, conserve, or otherwise manage a variety of  
7 resources and uses, including living marine resources, cultural and historical  
8 resources, and recreational opportunities.

9 (d) “Marine life reserve,” for the purposes of this part, means a marine protected  
10 area in which all extractive activities, including the taking of marine species, and,  
11 at the discretion of the commission and within the authority of the commission,  
12 other activities that upset the natural ecological functions of the area, are  
13 prohibited. While, to the extent feasible, the area shall be open to the public for  
14 managed enjoyment and study, the area shall be maintained to the extent  
15 practicable in an undisturbed and unpolluted state.

16 (e) “Team” means the master plan team convened pursuant to subdivision (b) of  
17 Section 2855.

18 **Comment.** Subdivisions (a) through (d) of Section 60410 continue former Fish and Game  
19 Code Section 2852 without substantive change.

20 Subdivision (e) is new.

#### 21 § 60415. Ocean Protection Council authority

22 60415. Notwithstanding any other law and consistent with the authority granted  
23 under Section 60450, commencing on July 1, 2013, the Ocean Protection Council  
24 shall assume responsibility for the direction of policy of marine protected areas  
25 (MPAs).

26 **Comment.** Section 60415 continues former Fish and Game Code Section 2850.5 without  
27 substantive change.

#### 28 § 60420. Consultation with United States Navy

29 60420. The department shall confer as necessary with the United States Navy  
30 regarding issues related to its activities.

31 **Comment.** Section 60420 continues former Fish and Game Code Section 2863 without  
32 substantive change.

## 33 TITLE 2. PROTECTIONS

#### 34 § 60450. Take of fish in MPA or marine life reserve

35 60450. (a) The commission may regulate commercial and recreational fishing  
36 and any other taking of marine species in MPAs.

37 (b) Notwithstanding any other provision of this code, the taking of a marine  
38 species in a marine life reserve is prohibited for any purpose, including  
39 recreational and commercial fishing, except that the commission may authorize

1 the taking of a marine species for scientific purposes, consistent with the purposes  
2 of this part, under a scientific collecting permit issued by the department.

3 **Comment.** Section 60450 continues former Fish and Game Code Section 2860 without  
4 substantive change.

5 **§ 60455. Impact analysis**

6 60455. The department, in evaluating proposed projects with potential adverse  
7 impacts on marine life and habitat in MPAs, shall highlight those impacts in its  
8 analysis and comments related to the project and shall recommend measures to  
9 avoid or fully mitigate any impacts that are inconsistent with the goals and  
10 guidelines of this part or the objectives of the MPA.

11 **Comment.** Section 60455 continues former Fish and Game Code Section 2862 without  
12 substantive change.

13 TITLE 3. MARINE LIFE PROTECTION  
14 PROGRAM

15 **§ 60475. Marine Life Protection Program**

16 60475. (a) The Legislature finds and declares that there is a need to reexamine  
17 and redesign California's MPA system to increase its coherence and its  
18 effectiveness at protecting the state's marine life, habitat, and ecosystems.

19 (b) To improve the design and management of that system, the commission,  
20 pursuant to Section 60520, shall adopt a Marine Life Protection Program, which  
21 shall have all of the following goals:

22 (1) To protect the natural diversity and abundance of marine life, and the  
23 structure, function, and integrity of marine ecosystems.

24 (2) To help sustain, conserve, and protect marine life populations, including  
25 those of economic value, and rebuild those that are depleted.

26 (3) To improve recreational, educational, and study opportunities provided by  
27 marine ecosystems that are subject to minimal human disturbance, and to manage  
28 these uses in a manner consistent with protecting biodiversity.

29 (4) To protect marine natural heritage, including protection of representative and  
30 unique marine life habitats in California waters for their intrinsic value.

31 (5) To ensure that California's MPAs have clearly defined objectives, effective  
32 management measures, and adequate enforcement, and are based on sound  
33 scientific guidelines.

34 (6) To ensure that the state's MPAs are designed and managed, to the extent  
35 possible, as a network.

36 **Comment.** Section 60475 continues former Fish and Game Code Section 2853(a)-(b) without  
37 substantive change.



1 (B) Five to seven members who shall be scientists, one of whom may have  
2 expertise in the economics and culture of California coastal communities.

3 (C) One member, appointed from a list prepared by Sea Grant marine advisers,  
4 who shall have direct expertise with ocean habitat and sea life in California marine  
5 waters.

6 (4) The master plan shall be prepared with the advice, assistance, and  
7 involvement of participants in the various fisheries and their representatives,  
8 marine conservationists, marine scientists, and other interested persons. In  
9 preparing the master plan, the department shall confer, to the extent feasible, with  
10 the commission, the Pacific Fishery Management Council, the National Marine  
11 Fisheries Service, the United States Navy, the United States Geological Survey's  
12 national biological survey, staff from national marine sanctuaries off California,  
13 Sea Grant researchers, marine advisers, and national parks personnel.

14 (5) The department may engage other experts to contribute to the master plan,  
15 including scientists, geographic information system (GIS) experts, and commercial  
16 and recreational fishermen, divers, and other individuals knowledgeable about the  
17 state's underwater ecosystems, the history of fishing effort or MPA management,  
18 or other relevant subjects.

19 (c) The department and team, in carrying out this part, shall take into account  
20 relevant information from local communities, and shall solicit comments and  
21 advice for the master plan from interested parties on issues including, but not  
22 necessarily limited to, each of the following:

23 (1) Practical information on the marine environment and the relevant history of  
24 fishing and other resources use, areas where fishing is currently prohibited, and  
25 water pollution in the state's coastal waters.

26 (2) Socioeconomic and environmental impacts of various alternatives.

27 (3) Design of monitoring and evaluation activities.

28 (4) Methods to encourage public participation in the stewardship of the state's  
29 MPAs.

30 **Comment.** Section 60500 continues former Fish and Game Code Section 2855 without  
31 substantive change.

32 **§ 60505. Content of master plan**

33 60505. (a) The department and team shall use the best readily available  
34 scientific information in preparing the master plan adopted pursuant to Section  
35 60500, and shall organize the location-specific contents, where feasible, by  
36 biogeographical region. In preparing the plan, the department and team shall use  
37 and build upon the findings of the Sea Grant survey of protected areas in  
38 California waters, which is entitled "California's Marine Protected Areas," the  
39 report of the State Interagency Marine Managed Areas Workgroup, the  
40 Department of Parks and Recreation's planning information and documents  
41 regarding existing and potential underwater parks and reserves, maps and other

1 information from the department's marine nearshore ecosystem mapping project,  
2 and other relevant planning and scientific materials.

3 (b) The master plan shall include all of the following components:

4 (1) Recommendations for the extent and types of habitat that should be  
5 represented in the MPA system and in marine life reserves. Habitat types  
6 described on maps shall include, to the extent possible using existing information,  
7 rocky reefs, intertidal zones, sandy or soft ocean bottoms, underwater pinnacles,  
8 sea mounts, kelp forests, submarine canyons, and seagrass beds.

9 (2) An identification of select species or groups of species likely to benefit from  
10 MPAs, and the extent of their marine habitat, with special attention to marine  
11 breeding and spawning grounds, and available information on oceanographic  
12 features, including current patterns, upwelling zones, and other factors that  
13 significantly affect the distribution of those fish or shellfish and their larvae.

14 (3) Recommendations to augment or modify the guidelines in subdivision (c) of  
15 Section 60525, if necessary to ensure that the guidelines reflect the most up-to-  
16 date science, including, for example, recommendations regarding the minimum  
17 size of individual marine life reserves needed to accomplish the various goals set  
18 forth in Sections 60475 and 60480.

19 (4) Recommended alternative networks of MPAs, including marine life reserves  
20 in each biogeographical region that are capable of achieving the goals in Sections  
21 60475 and 60480 and designed according to the guidelines in subdivision (c) of  
22 Section 2857.

23 (5) A simplified classification system, which shall be consistent with the goals  
24 of Sections 60475 and 60480 and the guidelines in subdivision (c) of Section  
25 60525, and which may include protections for specific habitats or species, if no  
26 system that meets these specifications has already been developed.

27 (6) Recommendations for a preferred siting alternative for a network of MPAs  
28 that is consistent with the goals in Sections 60475 and 60480 and the guidelines in  
29 subdivision (c) of Section 60525.

30 (7) An analysis of the state's current MPAs, based on the preferred siting  
31 alternative, and recommendations as to whether any specific MPAs should be  
32 consolidated, expanded, abolished, reclassified, or managed differently so that,  
33 taken as a group, the MPAs best achieve the goals of Sections 60475 and 60480  
34 and conform to the guidelines in subdivision (c) of Section 60525.

35 (8) Recommendations for monitoring, research, and evaluation in selected areas  
36 of the preferred alternative, including existing and long-established MPAs, to  
37 assist in adaptive management of the MPA network, taking into account existing  
38 and planned research and evaluation efforts.

39 (9) Recommendations for management and enforcement measures for the  
40 preferred alternative that apply systemwide or to specific types of sites and that  
41 would achieve the goals of this part.

1 (10) Recommendations for improving the effectiveness of enforcement  
2 practices, including, to the extent practicable, the increased use of advanced  
3 technology surveillance systems.

4 (11) Recommendations for funding sources to ensure all MPA management  
5 activities are carried out and the Marine Life Protection Program is implemented.

6 (c) The team shall, as necessary, identify and define additional appropriate  
7 components of the master plan as soon as possible after enactment of this section.

8 **Comment.** Section 60505 continues former Fish and Game Code Section 2856 without  
9 substantive change.

10 **§ 60510. Workgroup actions**

11 60510. The workgroup shall, after appropriate consultation with members of the  
12 public, determine future actions for implementing the recommendations of its final  
13 report.

14 **Comment.** Section 60510 continues former Fish and Game Code Section 2854 without  
15 substantive change.

16  **Staff Note.** Existing Section 2854 uses the term “workgroup” without any prior use of the  
17 term in nearby provisions. Consequently, it’s meaning is not clear. Does the provision refer to the  
18 “State Interagency Marine Managed Areas Workgroup” that is mentioned in Section 2856?  
19 **The staff invites Comment on how to clarify the meaning of Section 2854.**

20 **§ 60515. Peer review**

21 60515. The department shall establish a process for external peer review of the  
22 scientific basis for the master plan prepared pursuant to Section 60500. The peer  
23 review process may be based, to the extent practicable, on the peer review process  
24 described in **Section 7062**.

25 **Comment.** Section 60515 continues former Fish and Game Code Section 2858 without  
26 substantive change.

27 **§ 60520. Adoption of master plan**

28 60520. (a) On or before January 1, 2005, the department shall submit to the  
29 commission a draft of the master plan prepared pursuant to this part.

30 (b) On or before April 1, 2005, after public review, not less than three public  
31 meetings, and appropriate modifications of the draft plan, the department shall  
32 submit a proposed final master plan to the commission.

33 (c) On or before December 1, 2005, the commission shall adopt a final master  
34 plan and a Marine Life Protection Program with regulations based on the plan and  
35 shall implement the program, to the extent funds are available. The commission’s  
36 adoption of the plan and a program based on the plan shall not trigger an  
37 additional review under the California Environmental Quality Act (Division 13  
38 commencing with Section 21000) of the Public Resources Code).

39 (d) The commission shall hold at least two public hearings on the master plan  
40 and the Marine Life Protection Program prior to adopting the plan and program.

1 The commission may adopt the plan and the program immediately following the  
2 second public hearing or at any duly noticed subsequent meeting.

3 (e) Upon the commission's adoption of the program, the commission shall  
4 submit the master plan and program description, including marine life reserve and  
5 other MPA designations, to the Joint Committee on Fisheries and Aquaculture for  
6 review and comment.

7 (f) Upon receipt of the plan, the joint committee shall have 60 days to review the  
8 plan and to submit written recommendations to the commission regarding the plan  
9 and program. The joint committee shall only submit a recommendation to the  
10 commission if a majority of the members agree to that recommendation. The  
11 commission shall consider all recommendations submitted by the joint committee,  
12 and may amend the program to incorporate the recommendations. If the  
13 commission does not incorporate any recommendations submitted by the joint  
14 committee, the commission shall set forth, in writing, its reasons for not  
15 incorporating that recommendation.

16 **Comment.** Section 60520 continues former Fish and Game Code Section 2859 without  
17 substantive change.

18 **Staff Note.** Existing Section 2859 sets deadlines for the preparation and adoption of a master  
19 plan that are more than 10 years in the past. **The staff invites comment on whether any part of**  
20 **Section 2859 should be repealed as obsolete.**

21 **§ 60525. MPA siting**

22 60525. (a) On or before July 1, 2001, the department shall convene, in each  
23 biogeographical region and to the extent practicable near major working harbors,  
24 siting workshops, composed of interested parties, to review the alternatives for  
25 MPA networks and to provide advice on a preferred siting alternative. The  
26 department and team shall develop a preferred siting alternative that incorporates  
27 information and views provided by people who live in the area and other  
28 interested parties, including economic information, to the extent possible while  
29 maintaining consistency with the goals of Sections 60475 and 60480 and  
30 guidelines in subdivision (c) of this section.

31 (b) The preferred alternative may include MPAs that will achieve either or both  
32 of the following objectives:

33 (1) Protection of habitat by prohibiting potentially damaging fishing practices or  
34 other activities that upset the natural ecological functions of the area.

35 (2) Enhancement of a particular species or group of species, by prohibiting or  
36 restricting fishing for that species or group within the MPA boundary.

37 (c) The preferred siting alternative shall include MPA networks with an  
38 improved marine life reserve component, and shall be designed according to each  
39 of the following guidelines:

40 (1) Each MPA shall have identified goals and objectives. Individual MPAs may  
41 serve varied primary purposes while collectively achieving the overall goals and  
42 guidelines of this part.

1 (2) Marine life reserves in each bioregion shall encompass a representative  
2 variety of marine habitat types and communities, across a range of depths and  
3 environmental conditions.

4 (3) Similar types of marine habitats and communities shall be replicated, to the  
5 extent possible, in more than one marine life reserve in each biogeographical  
6 region.

7 (4) Marine life reserves shall be designed, to the extent practicable, to ensure  
8 that activities that upset the natural ecological functions of the area are avoided.

9 (5) The MPA network and individual MPAs shall be of adequate size, number,  
10 type of protection, and location to ensure that each MPA meets its objectives and  
11 that the network as a whole meets the goals and guidelines of this part.

12 (d) The department and team, in developing the preferred siting alternative, shall  
13 take into account the existence and location of commercial kelp beds.

14 (e) The department and team may provide recommendations for phasing in the  
15 new MPAs in the preferred siting alternative.

16 **Comment.** Section 60525 continues former Fish and Game Code Section 2857 without  
17 substantive change.

18 **Staff Note.** Existing Section 2857(a) sets a deadline for certain actions that is more than 15  
19 years in the past. **The staff invites comment on whether any part of Section 2857 should be**  
20 **repealed as obsolete.**

21 **§ 60530. Petitions of interested persons**

22 60530. The commission shall, annually until the master plan is adopted and  
23 thereafter at least every three years, receive, consider, and promptly act upon  
24 petitions from any interested party, to add, delete, or modify MPAs, favoring those  
25 petitions that are compatible with the goals and guidelines of this part.

26 **Comment.** Section 60530 continues former Fish and Game Code Section 2861(a) without  
27 substantive change.

28 **§ 60535. Other authority**

29 60535. (a) Nothing in this part restricts any existing authority of the department  
30 or the commission to make changes to improve the management or design of  
31 existing MPAs or designate new MPAs prior to the completion of the master plan.

32 (b) The commission may abbreviate the master plan process to account for  
33 equivalent activities that have taken place before enactment of this part, providing  
34 that those activities are consistent with this part.

35 **Comment.** Section 60535 continues former Fish and Game Code Section 2861(b) without  
36 substantive change.

37 **PART 3. MARINE MANAGED AREAS**

1    **§ 60550. Designation, deletion, or modification of marine recreational management areas**

2       60550. (a) The commission may designate, delete, or modify state marine  
3 recreational management areas established by the commission for hunting  
4 purposes, state marine reserves, and state marine conservation areas, as delineated  
5 in subdivision (a) of Section 36725 of the Public Resources Code.

6       (b) The commission shall consult with, and secure concurrence from, the State  
7 Park and Recreation Commission prior to modifying or deleting marine reserves  
8 and marine conservation areas designated by the State Park and Recreation  
9 Commission. The commission shall not delete or modify state marine recreational  
10 management areas designated by the State Park and Recreation Commission.

11       **Comment.** Section 60550 continues former Fish and Game Code Section 1590 without  
12 substantive change.

13    **§ 60555. Marine Managed Areas Improvement Act**

14       60555. (a) The Marine Managed Areas Improvement Act (Chapter 7  
15 (commencing with Section 36600) of Division 27 of the Public Resources Code)  
16 establishes a uniform classification system for state marine managed areas and is  
17 incorporated herein by reference. Any proposals for marine protected areas made  
18 after January 1, 2002, shall follow the guidelines set forth in that act. Pursuant to  
19 Section 36750 of the Public Resources Code, all marine protected areas in  
20 existence and not reclassified in accordance with the Marine Life Protection Act  
21 (Part 2 (commencing with Section 60400)) on January 1, 2002, shall be  
22 reclassified by the State Interagency Coordinating Committee established pursuant  
23 to Section 36800 of the Public Resources Code into one of the following  
24 classifications:

- 25       (1) State marine reserve.
- 26       (2) State marine park.
- 27       (3) State marine conservation area.

28       (b) State marine recreational management areas established by the commission  
29 for hunting purposes, state marine reserves, and state marine conservation areas  
30 shall be designated, deleted, or modified by the commission pursuant to that act.  
31 The restrictions and allowable uses applicable to those areas are as set forth in that  
32 act.

33       **Comment.** Section 60555 continues former Fish and Game Code Section 1591 without  
34 substantive change.

35                    **PART 4. WILDLIFE MANAGEMENT AREAS, GAME FARMS, AND**  
36                                    **PUBLIC SHOOTING GROUNDS**

1 TITLE 1. GENERAL PROVISIONS

2 § 60600. Department powers

3 60600. For the purposes of propagating, feeding and protecting birds, mammals,  
4 and fish, and establishing wildlife management areas or public shooting grounds  
5 the department, with the approval of the commission, may do all of the following:

6 (a) Accept, on behalf of the state, donations of birds, mammals, and fish, and of  
7 money given or appropriated. Those donations shall be used for the purposes for  
8 which they are accepted, and, as nearly as may be, for any purpose indicated by  
9 the donor.

10 (b) Acquire, by purchase, lease, rental or otherwise, and occupy, develop,  
11 maintain, use and administer, land, or land and nonmarine water, or land and  
12 nonmarine water rights, suitable for state game farms, wildlife management areas,  
13 or public shooting grounds.

14 **Comment.** Section 60600 continues former Fish and Game Code Section 1525 without  
15 substantive change.

16 § 60605. State ownership and regulation

17 60605. Any property acquired for wildlife management areas or public shooting  
18 grounds shall be acquired in the name of the state, and shall, at all times, be  
19 subject to any rules and regulations that may be prescribed from time to time by  
20 the commission for the occupation, use, operation, protection, and administration  
21 of the property as wildlife management areas or public shooting grounds.

22 **Comment.** Section 60605 continues former Fish and Game Code Section 1526 without  
23 substantive change.

24 § 60610. Acquired property

25 60610. (a) The department shall do all things necessary to secure a valid title in  
26 the state to the property acquired for wildlife management areas or public shooting  
27 grounds but no payment shall be made therefor until the title is satisfactory to the  
28 Attorney General, and is vested in the state.

29 (b) The acquisition of the property by the state is not prohibited by reason of  
30 rights of way, easements, or reservations that, from their nature, in the opinion of  
31 the department, will in no manner interfere with the use of the property for the  
32 purpose for which it is acquired.

33 **Comment.** Section 60610 continues former Fish and Game Code Section 1527 without  
34 substantive change.

35 TITLE 2. PROTECTIONS

36 § 60625. Unlawful entry upon wildlife management area or public shooting ground

37 60625. Except in accordance with the regulations of the commission, it is  
38 unlawful to enter upon any wildlife management areas or public shooting grounds

1 established under the provisions of this part, or to take therein any bird or the nest  
2 or eggs thereof, or any mammal.

3 **Comment.** Section 60625 continues the first paragraph of former Fish and Game Code Section  
4 1530 without substantive change.

5 **§ 60630. Regulation of take in public shooting ground**

6 60630. (a) The taking of birds and mammals on public shooting grounds shall be  
7 regulated by the commission by regulation as provided in this section.

8 (b) Prior to a regulation pursuant to this section, the commission shall, at an  
9 open meeting of the commission, publicly announce the contents of the regulation  
10 it proposes to make and at the same time specify a subsequent open meeting to be  
11 held not less than 30 days thereafter at which it will take final action on the  
12 proposed regulation.

13 **Comment.** Section 60630 continues the second paragraph of former Fish and Game Code  
14 Section 1530 without substantive change.

15 **TITLE 3 . OPERATION**

16 **§ 60650. Acquired lands to operate on nonprofit basis**

17 60650. Lands, or lands and water, acquired for public shooting grounds, state  
18 marine (estuarine) recreational management areas, or wildlife management areas  
19 shall be operated on a nonprofit basis by the department.

20 **Comment.** Section 60650 continues the first sentence of former Fish and Game Code Section  
21 1528 without substantive change.

22 **§ 60655. Multiple recreational use**

23 60655. Multiple recreational use of wildlife management areas is desirable and  
24 that use shall be encouraged by the commission.

25 **Comment.** Section 60655 continues the second sentence of former Fish and Game Code  
26 Section 1528 without substantive change.

27 **§ 60660. Facilities**

28 60660. Except for hunting and fishing purposes, only minimum facilities to  
29 permit other forms of multiple recreational use, such as camping, picnicking,  
30 boating, or swimming, shall be provided.

31 **Comment.** Section 60660 continues the third sentence of former Fish and Game Code Section  
32 1528 without substantive change.

33 **§ 60665. Fees for use privileges**

34 60665. Except as provided in Section 56080, and to defray the costs associated  
35 with multiple use, the commission may determine and fix the amount of, and the  
36 department shall collect, fees for any use privileges. However, tours by organized  
37 youth and school groups are exempt from the payment of those fees.

1       **Comment.** Section 60665 continues the fourth sentence of former Fish and Game Code  
2 Section 1528 without substantive change.

3       **§ 60670. Shooting permits**

4       60670. Only persons holding valid hunting licenses may apply for or obtain  
5 shooting permits for public shooting grounds, state marine (estuarine) recreational  
6 management areas, or wildlife management areas.

7       **Comment.** Section 60670 continues the fifth sentence of former Fish and Game Code Section  
8 1528 without substantive change.

9       **§ 60675. Output of state game farm**

10       60675. The output of any state game farm shall be distributed on public lands or  
11 where the department determines that the output will receive adequate protection  
12 and be most likely to thrive and multiply.

13       **Comment.** Section 60675 continues former Fish and Game Code Section 1529 without  
14 substantive change.

15       **§ 60680. Payments to offset local taxes and assessments**

16       60680. (a) When income is derived directly from real property acquired and  
17 operated by the state as a wildlife management area, and regardless of whether  
18 income is derived from property acquired after October 1, 1949, the department  
19 may pay annually to the county in which the property is located an amount equal  
20 to the county taxes levied upon the property at the time title to the property was  
21 transferred to the state. The department may also pay the assessments levied upon  
22 the property by any irrigation, drainage, or reclamation district.

23       (b) Any delinquent penalties or interest applicable to any of those assessments  
24 made before September 9, 1953, are hereby canceled and shall be waived.

25       (c) Payments provided by this section shall only be made from funds that are  
26 appropriated to the department for the purposes of this section.

27       (d) Any payment made under this section shall be made on or before December  
28 10 of each year, with the exception of newly acquired property for which  
29 payments shall be made pursuant to subdivision (e).

30       (e) Any payments made for the purposes of this section shall be made within one  
31 year of the date title to the property was transferred to the state, or within 90 days  
32 from the date of designation as a wildlife management area, whichever occurs  
33 first, prorated for the balance of the year from the date of designation as a wildlife  
34 management area to the 30th day of June following the date of designation as a  
35 wildlife management area, and, thereafter, payments shall be made on or before  
36 December 10 of each year.

37       (f) Notwithstanding any other law, payments provided under this section shall  
38 not be allocated to a school district, a community college district, or a county  
39 superintendent of schools.

40       **Comment.** Section 60680 continues former Fish and Game Code Section 1504(a)-(c), (e)-(g)  
41 without substantive change.

1 § 60685. Mosquitos

2 60685. (a) For purposes of this section, the following definitions apply:

3 (1) “Managed wetland habitat” means artificially irrigated and intensively  
4 managed wetland habitat administered primarily for the benefit of waterfowl and  
5 other wetland-dependent species.

6 (2) “Best management practices” means management strategies jointly  
7 developed by the department, the State Department of Public Health, and  
8 mosquito abatement and vector control districts, in consultation with the Central  
9 Valley Habitat Joint Venture, for the ecological control of mosquitoes on managed  
10 wetland habitat.

11 (3) “Mosquito abatement and vector control district” has the same meaning as  
12 “district,” as that term is defined in subdivision (f) of Section 2002 of the Health  
13 and Safety Code.

14 (b) A mosquito abatement and vector control district whose district boundaries  
15 include one or more wildlife management areas or a mosquito abatement and  
16 vector control district in which vectors and vectorborne diseases from a wildlife  
17 management area may enter the district shall periodically, or at least semiannually,  
18 notify the department of those areas that are of concern due to the potential for  
19 high mosquito populations that may incur associated mosquito control costs.

20 (c)(1) To reduce mosquito production at those wildlife management areas  
21 described in subdivision (b), the department shall consult with local mosquito  
22 abatement and vector control districts to identify those areas within wildlife  
23 management areas having the highest need for additional mosquito reduction  
24 through the implementation of best management practices.

25 (2) If the wetland occupies land outside the jurisdictional boundaries of a  
26 mosquito abatement and vector control district, the department may consult with  
27 the State Department of Public Health to determine which best management  
28 practices can be implemented in the absence of an organized local mosquito  
29 control program.

30 (d) This section does not affect existing authority of a mosquito abatement and  
31 vector control district under Section 2040 of the Health and Safety Code.

32 **Comment.** Section 60685 continues former Fish and Game Code Section 1506 without  
33 substantive change, except that Section 1506(a)(3) is continued in Section 810.

34  **Staff Note.** Existing Section 1506(b)(3) provides: “‘Mosquito abatement and vector control  
35 district’ has the same meaning as set forth in subdivision (f) of Section 2002 of the Health and  
36 Safety Code.” Health and Safety Code Section 2002(f) does not define the term “mosquito  
37 abatement and vector control district.” Instead, it defines the term “district” to mean: “any  
38 mosquito abatement and vector control district created pursuant to this chapter or any of its  
39 statutory predecessors.” Proposed Section 60685(a)(3) has been revised to more accurately reflect  
40 the effect of Health and Safety Code Section 2002(f). **The staff invites comment on whether  
41 that revision would cause any problems.**

42 PART 5. WILDLIFE AREAS, RANGES, AND RESERVES

1 **§ 60700. Exchange or sale of property within specified areas**

2 60700. (a) The department may, with the approval of the commission and the  
3 Department of General Services, take any of the following actions with regard to  
4 the areas listed in subdivision (d):

5 (1) Exchange any property lying within the boundaries of a listed area for  
6 property that is within or contiguous to that area.

7 (2) Sell any property within the boundaries of a listed area and use the proceeds  
8 to acquire property that is within or contiguous to that area.

9 (b) No exchange or sale of property authorized in subdivision (a) shall  
10 materially reduce the total area of any area listed in subdivision (d).

11 (c) A copy of each deed of conveyance executed and delivered by the  
12 department, and of each deed conveying lands to the state, pursuant to this section  
13 shall be delivered to the State Lands Commission.

14 (d) The provisions of this section apply to all of the following areas:

15 (1) The Doyle Deer Winter Range, located in Lassen County.

16 (2) The Tehama Deer Winter Range, located in Tehama County.

17 (3) The Honey Lake Waterfowl Management Area, located in Lassen County.

18 (4) The Imperial Waterfowl Management Area, located in Imperial County.

19 (5) The Mendota Waterfowl Management Area, located in Fresno County.

20 (6) The San Jacinto Wildlife Area, located in Riverside County.

21 (7) The Lakes Earl/Talawa Wildlife Area, located in Del Norte County.

22 (8) The Santa Rosa Mountains Bighorn Sheep Reserve, located in Riverside  
23 County.

24 (9) The Camp Cady Wildlife Area, located in San Bernardino County.

25 (10) The Butte Valley Wildlife Area, located in Siskiyou County.

26 (11) The Ash Creek Wildlife Area, located in Lassen and Modoc Counties.

27 (12) The Moss Landing Wildlife Area, located in Monterey County.

28 **Comment.** Section 60700 restates former Fish and Game Code Section 1500 without  
29 substantive change.

30 **Staff Note.** Proposed Section 60700(a)-(c) would restate the first paragraph of existing  
31 Section 1500 to improve its clarity, without changing its substantive effect. The existing  
32 provision reads as follows:

33 “The department may, with the approval of the commission and the Department of General  
34 Services, exchange any portion of the property lying within the boundaries of any area or range  
35 referred to in this section for any property within or contiguous to such area or range or may sell  
36 any portion of the property within such boundaries and with the proceeds thereof acquire any  
37 property within or contiguous to such area or range; provided, that no exchange or sale of  
38 property authorized in this section shall materially reduce the total area of any range or area  
39 referred to in this section. A copy of each deed of conveyance executed and delivered by the  
40 department, and of each deed conveying lands to the state, pursuant to this section shall be  
41 delivered to the State Lands Commission.”

42 **The staff invites comment on whether that restatement would cause any problems.**

1 **§ 60705. Mineral rights**

2 60705. (a) The following rules govern an exchange or sale of property pursuant  
3 to Section 60700:

4 (1) If a parcel contains 15 acres or less, the director shall except and reserve to  
5 the state all mineral deposits below a depth of 500 feet, without surface rights of  
6 entry.

7 (2) If a parcel contains more than 15 acres, the director shall except and reserve  
8 to the state all mineral deposits together with the right to prospect for, mine, and  
9 remove the deposits. The rights to prospect for, mine, and remove shall be limited  
10 to those areas of the property conveyed that the director, after consultation with  
11 the State Lands Commission, determines to be reasonably necessary for the  
12 removal of the resources and deposits.

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

15 **Comment.** Section 60705 restates former Fish and Game Code Section 1500.5 without  
16 substantive change.

17  **Staff Note.** Proposed Section 60705 would restate existing Section 1500.5 to improve its  
18 clarity, without changing its substantive effect. The existing provision reads as follows:

19 “With respect to exchanging or selling any property pursuant to Section 1500, the director, with  
20 respect to any parcel containing 15 acres or less, shall except and reserve to the state all mineral  
21 deposits, as defined in Section 6407 of the Public Resources Code, below a depth of 500 feet,  
22 without surface rights of entry. As to any parcel containing more than 15 acres, the director shall  
23 except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public  
24 Resources Code, together with the right to prospect for, mine, and remove the deposits.”

25 **The staff invites comment on whether that restatement would cause any problems.**

26 **§ 60710. Apiculture in wildlife area**

27 60710. (a) The department shall do both of the following:

28 (1) Consider authorizing apiculture on department-managed wildlife areas,  
29 where deemed appropriate by the department.

30 (2) Determine, when developing or amending its land management plans, the  
31 following:

32 (A) If the department-managed wildlife areas, or any portion of the those areas,  
33 are suitable for apiculture and whether apiculture is consistent with the  
34 management goals and objectives for those areas on a temporary, seasonal, or  
35 long-term basis.

36 (B) If the administration of apiculture on department-managed wildlife areas,  
37 where deemed appropriate by the department, is meeting the management goals  
38 and objectives for those areas.

39 (C) The appropriate fee and lease rent to be assessed for conducting apiculture  
40 on department-managed wildlife areas. The amount of the fee shall be sufficient to  
41 recover, but not exceed, all reasonable administrative and implementation costs of

1 the department. The lease rent shall take into account whether the lease is a  
2 nonexclusive use of the land.

3 (b) The department, in implementing this section, may consult with apiculture  
4 experts, including, but not limited to, the Department of Food and Agriculture, the  
5 University of California, other academic or professional experts, and interested  
6 stakeholders, when considering authorizing apiculture on department-managed  
7 wildlife areas consistent with the respective management goals and objectives for  
8 those areas.

9 (c) Moneys collected for conducting apiculture on department-managed wildlife  
10 areas pursuant to subparagraph (C) of paragraph (2) of subdivision (a) shall be  
11 deposited by the department into the Wildlife Restoration Fund and, upon  
12 appropriation by the Legislature, be used to support the management,  
13 maintenance, restoration, and operation of department-managed wildlife areas.

14 (d) The department may authorize the temporary placement of beehives on  
15 department-managed wildlife areas through simple lease or permit agreements  
16 specifying appropriate conditions. These agreements are not subject to competitive  
17 bidding requirements.

18 (e) The department may continue any authorization for apiculture on  
19 department-managed areas that it granted before January 1, 2015, without taking  
20 further action.

21 **Comment.** Section 60710 continues former Fish and Game Code Section 1745.2 without  
22 substantive change.

23 **§ 60715. Lower Sherman Island**

24 60715. (a) The department, upon request of the leaseholder, shall extend any  
25 existing lease for a recreational homesite on Lower Sherman Island to the holder  
26 of any lease of lands under the control of the department, under the following  
27 conditions:

28 (1) The existing lease is between the department and an individual person,  
29 partnership, or any affiliated group of two or more persons.

30 (2) Subject to subdivision (e), the lease may be extended for the natural life of  
31 the person who is the leaseholder on January 1, 1991. With respect to any lease to  
32 an affiliated group or an association of persons, the lease shall expire upon the  
33 death of the last individual who is a leaseholder on January 1, 1991.

34 (3) The lease, or any interest therein, may not be transferred, bequeathed,  
35 hypothecated, encumbered, sublet, assigned, sold, alienated, exchanged, or  
36 otherwise changed to the benefit of another party. The leaseholder shall annually  
37 certify to the department that he or she has not transferred, bequeathed,  
38 hypothecated, encumbered, sublet, assigned, sold, alienated, or exchanged the  
39 lease for consideration or by gift, or otherwise.

40 (4) If a lease is violated or breached by the leaseholder at any time during the  
41 life of the leaseholder, the lease may be terminated by the department within 30  
42 days of the receipt by the department of actual or constructive notice of the breach.

1 (b) All leases entered into pursuant to this section shall include the following:

2 (1) A requirement for public access to navigable waters adjacent to the lease  
3 properties.

4 (2) A provision prohibiting the introduction and cultivation of exotic plant  
5 species and requiring existing exotic plant species to be removed according to a  
6 plan developed by the department.

7 (3) A provision establishing the right of the department and county employees to  
8 inspect the property for the purposes of monitoring and enforcing the conditions of  
9 the lease.

10 (4) A provision requiring the lessee, within 60 days after the lease is extended,  
11 and annually thereafter, to provide the department with proof that (A) the lessee  
12 will remove the buildings and all ancillary structures and facilities necessary to  
13 return the area to a natural condition, or (B) the lessee has made arrangements for  
14 the removal of the buildings and all ancillary structures and facilities necessary to  
15 return the area to a natural condition, upon termination of the lease.

16 (c) The department shall develop a plan for the removal of nonnative plants  
17 from the island. The plan shall include, at a minimum, the following:

18 (1) The type and location of nonnative plants.

19 (2) The relative threat that these plants pose to the natural environment of the  
20 island.

21 (3) A time schedule for the leaseholders to remove the nonnative plants within  
22 200 yards of the leaseholders' structures.

23 (d) Proceeds from the leases of lands under the control of the department on  
24 Lower Sherman Island shall be deposited in the Fish and Game Preservation Fund  
25 and used for the purpose of enforcing and monitoring those lease terms and  
26 managing the Lower Sherman Island Wildlife area.

27 (e) The department shall, on or before July 31, 1991, and annually thereafter,  
28 review all leases of land subject to subdivision (a) under the control of the  
29 department and, as soon as possible, charge the fair market rate on those leases of  
30 land.

31 **Comment.** Section 60715 continues former Fish and Game Code Section 1526.4 without  
32 substantive change.

33 **§ 60720. Fish and wildlife enhancement facilities**

34 60720. If the Department of Parks and Recreation contracts with the federal  
35 government pursuant to Public Law 89-161 for the administration of recreation  
36 development or fish and wildlife enhancement facilities, as authorized by Section  
37 5006.6 of the Public Resources Code, the Department of Fish and Wildlife is  
38 authorized to operate, maintain, and replace those facilities designated as fish and  
39 wildlife enhancement facilities and to assume all costs of that operation,  
40 maintenance, and replacement, subject to appropriation of funds by the  
41 Legislature.



1    **§ 60765. Regulation of ecological reserves**

2       60765. The commission may adopt regulations for the occupation, utilization,  
3    operation, protection, enhancement, maintenance, and administration of ecological  
4    reserves.

5       **Comment.** Section 60765 continues the fourth sentence of former Fish and Game Code  
6    Section 1580 without substantive change.

7    **§ 60770. Ownership and regulation of property**

8       60770. Any property acquired in fee for ecological reserves shall be acquired in  
9    the name of the state, and shall, at all times, be subject to any rules and regulations  
10   that may be prescribed from time to time by the commission for the occupation,  
11   use, operation, protection, and administration of the property as ecological  
12   reserves.

13       **Comment.** Section 60770 continues former Fish and Game Code Section 1581 without  
14   substantive change.

15   **§ 60775. Valid title to acquired property**

16       60775. The department shall do all things necessary to secure a valid title in the  
17   state to the property acquired in fee for ecological reserves but no payment shall  
18   be made therefor until the title is vested in and satisfactory to the state. No such  
19   land will be acquired by eminent domain.

20       **Comment.** Section 60775 continues former Fish and Game Code Section 1582 without  
21   substantive change.

22   **§ 60780. Prohibited entry**

23       60780. Except in accordance with the regulations of the commission it is  
24   unlawful to enter upon any ecological reserves established under the provisions of  
25   this part, or to take therein any bird or the nest or eggs thereof, or any mammal,  
26   fish, mollusk, crustacean, amphibian, reptile or any other form of plant or animal  
27   life.

28       **Comment.** Section 60780 continues former Fish and Game Code Section 1583 without  
29   substantive change.

30   **§ 60785. Facilities and programs**

31       60785. (a) Notwithstanding Section 60750, which sets forth the primary  
32   purposes of ecological reserves, the department may construct facilities and  
33   conduct programs in ecological reserves it selects to provide natural history  
34   education and recreation if those facilities and programs are compatible with the  
35   protection of the biological resources of the reserve.

36       (b) As provided in Sections 56030 and 56080, the department may control  
37   access, use, and collect fees for selected ecological reserves.

38       **Comment.** Section 60785 continues former Fish and Game Code Section 1585 without  
39   substantive change.

1    **§ 60790. Ecological reserves not wildlife management areas**

2       60790. The ecological reserves shall not be classified as wildlife management  
3 areas pursuant to Section 60680 and shall be exempt from Section 60680.

4       **Comment.** Section 60790 continues the fifth sentence of former Fish and Game Code Section  
5 1580 without substantive change.

6                           **TITLE 2. SPECIFIC ECOLOGICAL RESERVES**

7    **§ 60850. Upper Newport Bay Ecological Reserve Maintenance and Preservation Fund**

8       60850. (a) The Upper Newport Bay Ecological Reserve Maintenance and  
9 Preservation Fund is hereby created in the State Treasury.

10      (b) Notwithstanding Section 13340 of the Government Code, the money in the  
11 fund is continuously appropriated, without regard to fiscal years, to the department  
12 for purposes related to the maintenance and preservation of the Upper Newport  
13 Bay Ecological Reserve.

14      **Comment.** Section 60850 continues former Fish and Game Code Section 1586 without  
15 substantive change.

16    **§ 60855. Magnesia Spring Ecological Reserve**

17      60855. (a) The Mirage Trail within the Magnesia Spring Ecological Reserve  
18 shall be open nine months of the year during the months of May to January,  
19 inclusive, and closed for three months during the months of February to April,  
20 inclusive, to recreational hiking if the commission determines that all of the  
21 following conditions are met:

22      (1) Local public agencies or other nonstate entities will assume complete  
23 financial responsibility for the following as determined to be necessary by the  
24 commission:

25      (A) Fencing to dissuade hikers from traversing beyond the trail and into  
26 sensitive Peninsular bighorn sheep habitat.

27      (B) Signage and educational materials to educate hikers about Peninsular  
28 bighorn sheep.

29      (2) A single entity has been designated to fulfill the financial arrangements and  
30 other terms and conditions determined by the commission to be necessary  
31 pursuant to paragraph (1).

32      (3) The entity designated pursuant to paragraph (2) has committed to expend at  
33 least one hundred thousand dollars (\$100,000) by January 1, 2018, to monitor the  
34 Peninsular bighorn sheep, consistent with the Coachella Valley Multiple Species  
35 Habitat Conservation Plan.

36      (b) This section shall remain in effect only until January 1, 2018, and as of that  
37 date is repealed, unless a later enacted statute, that is enacted before January 1,  
38 2018, deletes or extends that date.

39      **Comment.** Section 60855 continues former Fish and Game Code Section 1587 without  
40 substantive change.



1 (2) An action required for commerce and navigation.

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

8 (c) The director shall disapprove a stream alteration of a prime salmon or  
9 steelhead spawning area on land of which ownership has not been legally  
10 determined, when in the director's opinion the alteration would prove deleterious  
11 to fishlife.

12 **Comment.** Section 60900 continues former Fish and Game Code Section 1505 without  
13 substantive change.

## 14 PART 8. WILDERNESS AREAS

### 15 § 60950. Vehicle prohibition

16 60950. It is unlawful for any person other than a legally constituted peace officer  
17 or officer or employee of the Forest Service of the United States Department of  
18 Agriculture, the department, or of the Department of Forestry and Fire Protection,  
19 or county fish and game wardens or their duly authorized representatives, to travel  
20 by motor boat, automobile, motorcycle, or other type of motorized vehicle, or,  
21 except for emergencies and for rescue and aerial search for rescue purposes, to  
22 land an airplane, helicopter, or similar equipment, within the boundaries of a  
23 primitive, wilderness, or wild area closed to the above modes of travel as  
24 established by a duly authorized officer of the Forest Service of the United States  
25 Department of Agriculture and recorded in the office of the Regional Headquarters  
26 of the Pacific-Southwest Region of the Forest Service of the United States  
27 Department of Agriculture and with the department.

28 **Comment.** Section 60950 continues former Fish and Game Code Section 10740 without  
29 substantive change.

### 30 § 60955. Exception to vehicle prohibition

31 60955. (a) Except as provided in subdivision (b), nothing in this part prohibits  
32 access to a road or trail, in an area described in Section 60950, by a person who is  
33 accessing the road or trail in order to reach land that the person lawfully possesses.  
34 A person who may lawfully access a road or trail pursuant to this subdivision may  
35 authorize another person to do the same.

36 (b) Notwithstanding subdivision (a), none of the motorized vehicles or aircraft  
37 mentioned in Section 60950 may be used by any person as a means of gaining  
38 access to the wilderness areas for the purpose of hunting or fishing. Nor shall  
39 anyone who lawfully enters a wilderness area with a motorized vehicle or aircraft

1 fish or hunt while within that area after having entered with a motorized vehicle or  
2 aircraft.

3 **Comment.** Section 60955 restates former Fish and Game Code Section 10741 without  
4 substantive change.

5 **☞ Staff Note.** Proposed Section 60955 would restate Existing Section 10741 to improve its  
6 clarity, without changing its substantive effect. The existing provision reads as follows:

7 “ Nothing in this article shall be construed as prohibiting access over any road or trail in any such  
8 area to any land to which any person is entitled to possession by such person or any person  
9 authorized by him to use such road or trail as a means of access to the land; provided, that none of  
10 the motorized vehicles or aircraft mentioned in Section 10740 shall be used by any person as a  
11 means of gaining access to the wilderness areas for the purpose of hunting or fishing. Nor shall  
12 anyone having a lawful right to enter a wilderness area with a motorized vehicle or aircraft fish or  
13 hunt while within the area after having entered the area with a motorized vehicle or aircraft.”

14 **The staff invites comment on whether the proposed restatement would cause any problems.**

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## 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>
711.1(a)	58000	1375	54885
711.1(b)	58005	1385	57700
711.1(c)	58010	1386	57705
711.1(d)	58015	1387	57725
1014	60720	1388	57730
1300	54700	1389	57710
1301	54710	1390	57735
1320	54750	1391	57740
1321	54755	1400	57000
1322	54760	1401	57005
1323	54765	1402	57510
1324	54770	1403	57515
1345	54800(a)-(c)	1404	57520
1346	54800(d)	1405	57525
1347	54805	1410	57550
1348	54815	1411(a), 1st sent.	57645(a)
1348.1	54825	1411(a), 2d sent.	57555
1348.2	54830	1411(b)	57645(b)
1348.3(a)(2)	Omitted	1411(c)	57560
1348.3(a)(1), (a)(3), (b)	54835	1412	57650
1349	54840	1413	57565
1350(a)	54855	1414	57570
1350(b)	54845	1415	57575
1350(c)	54850	1416	57580
1351	54865	1417	57585
1352	54875	1418	57590
1352.5	54880	1419	57655
1353	54860	1420	57595
1354	54820	1421	57600
1355	54870	1422	57605
1356	54810	1430	57625
1360	54900	1430	57635
1361(a)	Omitted	1431, 1st sent.	57630
1361(b)-(j)	54905	1431, 2d sent.	57640
1362	54910	1500	60700
1363(a)	54925	1500.5	60705
1363(b)	54930	1501	54550
1363(c)	54945	1501.5	54555
1363(d)-(e)	54940(a)-(b)	1504(a)-(c), (e)-(g)	60680
1363(f)	54955	1504(d)	810
1364	54940(c)	1505	60900
1365	54960	1506 (except (a)(3)).	60685
1366	54965	1506(a)(3)	810
1367	54950	1525	60600
1368	54970	1526	60605
1369	54975	1526.4	60715
1370	54935	1527	60610
1372	54915	1528, 1st sent.	60650

1528, 2d sent.....	60655	1654(c)(2).....	55360
1528, 3d sent.....	60660	1654(c)(3).....	55365
1528, 4th sent.....	60665	1654(d).....	55370
1528, 5th sent.....	60670	1655(a).....	55150
1529.....	60675	1655(b).....	55155
1530, 1st para.....	60625	1655(c).....	55210, 55310
1530, 2d para.....	60630	1655(d).....	55160
1570.....	56200	1656.....	55115
1571.....	56205	1657.....	55120
1572(a), 1st sent.....	56225	1700.....	54525
1572(a), 2d sent.....	56230	1745.2.....	60710
1572(b), 1st sent.....	56270	1750.....	56000
1572(b), 2d sent.....	56285	1755.....	56005
1572(c)(1).....	56325	1756.....	56010
1572(c)(2).....	56330	1758.....	56025
1572(c)(3).....	56335	1760.....	56050
1572(d).....	56240	1761.....	56055
1572(e).....	56290	1762.....	56060
1572(f).....	56340	1763.....	56065
1573(a).....	56245	1764.....	56030
1573(b).....	56280	1765.....	56080
1573(c).....	56255	1766.....	56085
1573(d).....	56260	1767.5.....	56070
1573(e).....	56265	1768.....	56075
1573(f).....	56250	1769.....	56090
1573(g).....	56235	1770.....	56100
1574.....	56275	1771.....	56105
1580, 1st sent.....	60750	1772.....	56110
1580, 2d & 3d sent.....	60760	1800.....	54500
1580, 4th sent.....	60765	1801.....	54505
1580, 5th sent.....	60790	1802.....	54510
1581.....	60770	1930.....	54575
1582.....	60775	1930.5(a)-(b).....	54580
1583.....	60780	1930.5(c)-(e).....	54600
1584.....	60755	1930.5(f)(1).....	478
1585.....	60785	1930.5(f)(2).....	805
1586.....	60850	1931.....	54595(a)
1587.....	60855	1932.....	54585
1590.....	60550	1932.5(a)-(b).....	54595(b)-(d)
1591.....	60555	1932.5(c)-(e).....	54605(a)-(c)
1650.....	55100	1933.....	54605(d)
1651.....	55105	1940.....	54590
1652(a).....	55200	2003.5.....	57775
1652(b).....	55205	2003.6.....	57780
1652(c).....	55215	2600.....	55500
1652(d).....	55220	2601.....	55505
1652(e).....	55225	2602.....	55510
1652(f).....	55230	2620.....	55525
1653(a).....	55300	2621.....	55530
1653(b).....	55305	2622.....	55535
1653(c).....	55315	2623.....	55540
1653(d)-(f).....	55320	2624.....	55545
1653(g).....	55325	2625.....	55550
1654(a).....	55350	2626.....	55555
1654(b).....	55110	2627.....	55560
1654(c)(1).....	55355	2640.....	55600

2641 .....	55605	2860 .....	60450
2642 .....	55610	2861(a) .....	60530
2643 .....	55615	2861(b) .....	60535
2644 .....	55620	2862 .....	60455
2644.5 .....	55625	2863 .....	60420
2645 .....	55630	2900 .....	58075
2646 .....	55635	2901 .....	58080
2647 .....	55640	2930 .....	56800
2648 .....	55645	2931(a) .....	56805
2649 .....	55650	2931(b)-(c) .....	56900
2650 .....	55655	2931(d) .....	56945
2651 .....	55660	2932 .....	56850
2700 .....	55700	2932.2 .....	56855
2701 .....	55705	2932.3 .....	56860
2702 .....	55710	2932.5 .....	56865
2720 .....	55725	2933 .....	56920
2721 .....	55730	2940 .....	56810
2722 .....	55735	2941 .....	56815
2723 .....	55740	2942(a)(1) .....	56910
2724 .....	55745	2942(a)(2) .....	56825
2725 .....	55750	2942(a)(3)(A) .....	56915
2726 .....	55755	2942(a)(3)(B) .....	56905
2727 .....	55760	2942(b)(1) .....	56930
2728 .....	55765	2942(b)(2) .....	56940
2729 .....	55770	2942(c) .....	56925
2780 .....	55800	2943 .....	56935
2781 .....	55805	2945 .....	56820
2785 .....	55825	3400 .....	56500
2786 .....	55830	3401(a), 1st sent. ....	56525
2787 .....	55835	3401(a), 2d sent. ....	56575
2788 .....	55840	3401(a), 3d sent. ....	56580
2789 .....	55845	3401(b) .....	56595
2790 .....	55850	3402 .....	56530
2791 .....	55855	3403 .....	56545
2792 .....	55860	3404(a) .....	56555
2793 .....	55865	3404(b) .....	56540
2794 .....	55870	3406(a) .....	56535
2795 .....	55875	3406(b) .....	56590
2796 .....	55880	3406(c) .....	56550
2797 .....	55885	3407 .....	56585
2798 .....	55890	3408 .....	56560
2799 .....	55895	3460(a) .....	56700
2799.5 .....	55900	3460(b) .....	56730
2799.6 .....	55905	3460(c) .....	56735
2850 .....	60400	3461 .....	56705
2850.5 .....	60415	3462 .....	56710
2851 .....	60405	3464 .....	56715
2852 .....	60410(a)-(d)	3465 .....	56725
2853(a)-(b) .....	60475	3466 .....	56720
2853(c) .....	60480	3467 .....	56740
2854 .....	60510	10500(a)-(b) .....	58700
2855 .....	60500	10500(c) .....	58550
2856 .....	60505	10500(d) .....	59500
2857 .....	60525	10500(e) .....	60200
2858 .....	60515	10500(f) .....	59600
2859 .....	60520	10500(g) .....	60300

10501.5 .....	58530	10741 .....	60955
10502(a) .....	58555, 58710	10770 .....	59425
10502(b)-(d) .....	58500	10771 .....	59450
10502.5, 1st sent. ....	59855	10801 .....	58625
10502.5, 2d sent. ....	59865(c)	10820 .....	58800(a)
10502.6 .....	59780	10821 .....	58825
10502.7 .....	59655	10822 .....	58850
10502.8 .....	59705	10823 .....	58875
10503(a)-(c) .....	58505	10824 .....	58900
10503(d) .....	58715(a)	10825 .....	58925
10504 .....	58715(b)	10826 .....	58950
10505 .....	58715(c)	10827 .....	58975
10506 .....	58720	10828 .....	59000
10507 .....	58725	10829 .....	59025
10508 .....	58515	10830 .....	59050
10509 .....	59400	10831 .....	59075
10510 .....	58520	10832 .....	59100
10511 .....	58525	10833 .....	59300
10512 .....	58730	10835 .....	59125
10513 .....	58705	10836 .....	59150
10514 .....	58735	10837 .....	59175
10650 .....	59305	10838 .....	59200
10651 .....	59310	10840 .....	59225
10652 .....	59315	10841 .....	59350
10653 .....	59455	10842 .....	59275
10654 .....	59460	10843, 1st para. ....	59250
10655 .....	59715	10843, 2d para. ....	59255
10655.5 .....	59710	10844 .....	58740
10656 .....	59670	10860 .....	59525
10657 .....	59865(a)-(b)	10861 .....	59550
10657.5, 1st sent. ....	59860	10880 .....	60225
10657.5, 2d sent. ....	59865(d)	10881 .....	60250
10658 .....	60055	10900 .....	59625
10659 .....	59230	10901 .....	59850
10660 .....	58630	10902 .....	60050
10661 .....	59675	10903 .....	59650
10662 .....	59180(a)	10904 .....	59950
10663 .....	59180(b)	10905 .....	59975
10664 .....	59830, 59905, 59955, 59980, 60005, 60030, 60080	10906 .....	60075
10665, 1st para. ....	59280	10907 .....	59775
10665, 2d para. ....	59285	10908 .....	59825
10666 .....	59930	10909 .....	59925
10667(a) .....	59785	10910 .....	60025
10667(b), 1st sent. ....	59790	10911 .....	60000
10667(b), 2d-4th sent. ....	59795(a)	10912 .....	59900
10667(c) .....	59800	10913 .....	59750
10667(d) .....	59795(b)	10932 .....	59700
10667(e), 1st sent. ....	59795(c)	12002.5 .....	56035
10667(e), 2d sent. ....	59795(d)	13014(a) .....	58050
10711 .....	60325	13014(b) .....	58055
10740 .....	60950	13014(c)-(d) .....	58060