

Study R-100

January 11, 2023

Memorandum 2023-6

**Fish and Game Law
(Draft Recommendation)**

At the Commission's¹ November meeting, the Commission directed staff to prepare a revised draft of a final recommendation that had been presented for the Commission's consideration at that meeting.² The revised draft recommendation is attached to this memorandum. If the Commission approves the attached draft, either with or without changes, the staff will work with the Legislature to seek implementing legislation in 2023.

The narrative portion of the attached draft recommendation does not materially differ from the draft recommendation presented to the Commission at the November meeting, other than to omit provisional bracketed language in the last draft that the Commission did not approve for inclusion.

However, the legislative portion of the attached draft recommendation has been expanded. In addition to the proposed revisions included in the previous draft recommendation, this recommendation includes all the proposed revisions included in a supplemental memorandum presented at the November meeting.³

The attached draft recommendation also includes a small number of new proposed revisions, based either on further discussion between staff and the Department of Fish and Wildlife ("DFW"), or on 2022 legislative changes.⁴ **These proposed revisions are the most important revisions for the Commission to review at this time**, as unlike the other proposed revisions in the draft, these revisions have not been previously seen or approved by the Commission.

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). 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.

2. See Memorandum 2022-54.

3. See First Supplement to Memorandum 2022-54.

4. The new proposed revisions are to Fish and Game Code Sections 1913, 4304, 7090, 7852.27, 8040, 8041, 8043, 8045, 8047, 8475, and 12002.2.1.

Unless otherwise indicated, all statutory references in this supplement are to the existing Fish and Game Code.

CHANGES THAT SHOULD NOT BE MADE

Based either on additional discussion with DFW or a subsequent change to existing law, at this time the staff recommends that revision of the following sections *not* be included in a final recommendation in this study:

Section 1602

Section 1855

Section 2081.7

Section 3005

Section 3300

Section 3701

Section 5948

Section 8043.1

Section 8046

Section 12007

Does the Commission approve the attached draft, with or without changes, as a final recommendation to the Legislature in this study?

Respectfully submitted,

Steve Cohen
Staff Counsel

#R-100

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

STAFF DRAFT

RECOMMENDATION

Fish and Game Law: Technical Revisions and Minor
Substantive Improvements (Part 3)

January 2023

California Law Revision Commission
c/o UC Davis School of Law
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SUMMARY OF RECOMMENDATION

This recommendation proposes numerous technical revisions to improve the expression of various Fish and Game Code provisions.

It was prepared pursuant to Resolution Chapter 108 of the Statutes of 2021.

FISH AND GAME CODE CLEAN-UP

1 In 2010, the Legislature directed the Secretary of the Natural Resources Agency
2 to convene a committee to develop and submit a “strategic vision” for the Fish and
3 Game Commission and the Department of Fish and Game (now the Department of
4 Fish and Wildlife).¹ The resulting report recommended, among other things, that the
5 Law Revision Commission be tasked with cleaning up the Fish and Game Code by
6 doing all of the following:

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

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

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

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

19 In order to achieve the greatest degree of improvement to the organization and
20 expression of the Fish and Game Code, the Commission decided to prepare a
21 recommendation that would repeal the existing code and replace it with a new Fish
22 and Wildlife Code. The new code would continue the entire substance of the former
23 code with a more user-friendly organization, without making any significant
24 substantive change to the effect of existing law. In the process of preparing the
25 proposed new code, the Commission would identify technical problems of the type
26 described above (e.g., ambiguity, redundancy, inconsistency) and prepare language
27 to cure them. There were no objections to that general approach and the Department
28 of Fish and Wildlife provided valuable assistance in the early framing of the work.⁴

1. 2010 Cal. Stat. ch. 424.

2. See *California Fish & Wildlife Strategic Vision, Recommendations for Enhancing the State’s Fish and Wildlife Management Agencies*, A13 (April 2012).

3. 2012 Cal. Stat. res. ch. 108.

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

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

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

10 In January 2021, the Fish and Game Commission (“FGC”) and Department of
11 Fish and Wildlife (“DFW”) provided written comments on a large number of the
12 technical revisions that were proposed in the tentative recommendation. This
13 recommendation is substantially informed by that input.

14 In June 2021, the Department of Fish and Wildlife informed the Commission that
15 it would not support the proposed reorganization of the Fish and Wildlife Code. It
16 explained its view that reorganization would be “likely to result in confusion at best,
17 and at worst, a Code that is difficult to use and not supported by the department that
18 is charged with its administration and enforcement.”⁹

19 The Commission considered restructuring its work on organizational
20 improvement, to minimize the transitional costs and other disadvantages that occur
21 when any body of existing statutory law is reorganized. Instead of enacting an
22 entirely new code, the Commission considered preparing a series of targeted
23 reorganization proposals, to improve the organization of disordered parts of the
24 existing Fish and Game Code.¹⁰ That kind of incremental improvement would
25 reduce the transitional disruption, by implementing it in a series of smaller reforms.

26 DFW did not support that alternative approach, making clear that it would not
27 support any Commission work to reorganize the Fish and Game Code. Nor would
28 it provide any assistance, if the Commission were to proceed with such work.¹¹ A

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

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

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

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

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

10. See, e.g., CLRC Staff Memorandum 2022-30, *available at* <http://clrc.ca.gov/pub/2013/MM13-30.pdf>; First Supplement to CLRC Staff Memorandum 2022-30, *available at* <http://clrc.ca.gov/pub/2022/MM22-30s1.pdf>.

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

1 variety of stakeholder groups wrote jointly to endorse DFW’s position.¹² No
2 stakeholder group wrote in support of reorganization.

3 In response to that input, the Commission decided to set aside its efforts to
4 improve the organization of the code. That decision was based on a combination of
5 deference to DFW as the agency charged with administration of the Fish and Game
6 Code¹³ and practical recognition that an effort to improve the organization of the
7 Fish and Game Code would likely fail without the support and assistance of DFW
8 and with coordinated opposition by stakeholder groups.

9 This recommendation proposes technical revisions to existing sections within the
10 Fish and Game Code. It does not recommend any changes to the organization of the
11 Fish and Game Code.

12 A NOTE ON THE DEFINITION OF “FISH”

13 The existing definition of “fish,” which applies to the entire Fish and Game Code,
14 includes animals that are not classified zoologically as fish (i.e., invertebrates and
15 amphibians).¹⁴ Unfortunately, it is not clear that every use of the defined term “fish”
16 is intended to have that broadly defined meaning.¹⁵ Moreover, there is no term that
17 can be used to refer only to animals that are classified zoologically as fish.

18 The Commission recognized these problems very early in its study of Fish and
19 Game law.¹⁶ However, it concluded that it could not address the problem without
20 risking significant substantive change throughout the code, which would violate an
21 express limitation on the Commission’s authority on this topic.¹⁷

22 The term “fish” is used in hundreds of Fish and Game Code sections. The
23 ambiguity described above could exist in any of them. Eliminating that ambiguity
24 would require hundreds of separate statutory interpretation analyses, usually
25 without the benefit of any extrinsic evidence of legislative intent. It seems inevitable
26 that such work would result in inadvertent substantive change.

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

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

14. See Fish & Game Code § 45.

15. Fish and Game Code Section 2 makes Section 45 applicable to the entire code, except where “the provisions or the context otherwise requires....”

16. See CLRC Staff Memorandum 2013-12 *available at* <http://clrc.ca.gov/pub/2013/MM13-12.pdf>.

17. See 2021 Cal. Stat. res. ch. 108 (Commission shall recommend improvements to Fish and Game Code “without making any significant substantive change to the effect of the law.”). The Commission’s decision to leave the definition of “fish” unchanged was supported by the Department of Fish and Wildlife. See CLRC Staff Memorandum 2013-30, Exhibit p. 3 *available at* <http://clrc.ca.gov/pub/2013/MM13-30.pdf>.

1 The question about whether to apply the statutory definition of “fish” recently
2 resurfaced in *Almond Alliance of California v. California Fish and Game*
3 *Commission*.¹⁸ In that case, the Almond Alliance of California challenged a decision
4 of the Fish and Game Commission to apply the California Endangered Species Act
5 (“CESA”) to bees (because CESA expressly applies to “fish” and the general
6 statutory definition of “fish” expressly includes invertebrates). The Court of Appeal
7 held that the definition of “fish” in Section 45 governs CESA. Consequently, CESA
8 applies to invertebrates (including terrestrial invertebrates like bees). The California
9 Supreme Court did not grant review. However, the Chief Justice suggested that it
10 might be appropriate for the Legislature to examine the issue.¹⁹

18. *Almond All. of California v. Fish & Game Comm’n* (2022), 79 Cal.App.5th 337, 366, *review denied* (Sept. 21, 2022), *republished with additional material at* 2022 WL 4374847 (Cal. Ct. App. May 31, 2022), *review denied* (Sept. 21, 2022).

19. *Almond All. of California v. Fish & Game Comm'n*, No. C093542, 2022 WL 4374847, at *18 (Cal. Ct. App. May 31, 2022), *review denied* (Sept. 21, 2022).

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PROPOSED LEGISLATION

FISH AND GAME CODE

1 **Fish & Game Code § 70 (amended). “Resident”**

2 SEC. _____. Section 70 of the Fish and Game Code is amended to read:

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

8 **Comment.** Section 70 is amended to make the section gender neutral.

9 **Fish & Game Code § 308 (amended). Restricted take in District 22**

10 SEC. _____. Section 308 of the Fish and Game Code is amended to read:

11 308. Notwithstanding any other provisions of this code, in District 22 the taking
12 of birds, mammals, fish, ~~amphibia~~ amphibians, or reptiles shall be subject to
13 regulations ~~prescribed~~ adopted, from time to time, by the commission, except that
14 it is unlawful in District 22 to take birds or mammals within one-eighth mile of any
15 gallinaceous guzzler, if the area surrounding it is posted in the manner prescribed
16 by the commission. In the Colorado River, in District 22, the commission may
17 ~~prescribe such~~ adopt regulations in agreement with the proper authorities of the
18 State of Arizona.

19 **Comment.** Section 308 is amended for clarity.

20 **Fish & Game Code § 315.3 (amended). Opening identified waters to take**

21 SEC. _____. Section 315.3 of the Fish and Game Code is amended to read:

22 315.3. The commission may, ~~at any time when facts are presented to the~~
23 ~~commission which were not presented to the commission at the time of its December~~
24 ~~meeting held pursuant to Section 209~~, open any stream, lake, or other inland waters,
25 or portions thereof, to the taking of any species or subspecies of fish for the proper
26 utilization of the fish, for such time as the commission may designate or until such
27 time as new legislation thereon enacted by the Legislature may become effective.

28 **Comment.** Section 315.3 is amended to delete reference to an obsolete procedure.

29 **Fish & Game Code § 355 (amended). Commission regulations relating to Migratory Bird**
30 **Treaty Act**

31 SEC. _____. Section 355 of the Fish and Game Code is amended to read:

32 355. (a) The commission may, annually, adopt regulations pertaining to migratory
33 birds to conform with or to further restrict the rules and regulations prescribed
34 pursuant to the Migratory Bird Treaty Act.

1 (b) Regulations adopted under this section are not subject to Sections 11343.4,
2 11346.1, 11346.4, and 11346.8 of the Government Code.

3 (c) Every regulation of the commission adopted pursuant to this article ~~shall be~~
4 ~~filed with the Secretary of State, and~~ shall become effective upon filing, unless
5 otherwise specified in the regulations.

6 **Comment.** Section 355 is amended to add subdivision designations, and delete superfluous text.
7 See Gov't Code Section 11343 (generally requiring all regulations adopted by a state agency to be
8 filed with the Secretary of State).

9 **Fish & Game Code § 356 (amended). Commission regulations relating to migratory birds**

10 SEC. _____. Section 356 of the Fish and Game Code is amended to read:

11 356. (a) Migratory game birds may be taken in conformity with the federal laws
12 and regulations and the regulations of the commission ~~as provided in Section 355~~
13 ~~adopted pursuant to this article.~~

14 (b) In the event no regulations are prescribed by the proper federal agency, the
15 commission may determine and fix the area or areas, the seasons and hours, the
16 species, the bag and possession limits, and the total number that may be taken during
17 any open season for the taking of migratory game birds, under such ~~rules and~~
18 regulations as the commission may ~~prescribe~~ adopt. Such ~~rules and~~ regulations as
19 the commission may ~~prescribe~~ adopt shall have the same effect as if enacted by the
20 Legislature.

21 **Comment.** Section 356 is amended to clarify the intended meaning of the section. The section
22 is also amended to add subdivision designations.

23 **Fish & Game Code § 398 (amended). Falconry**

24 SEC. _____. Section 398 of the Fish and Game Code is amended to read:

25 398. The base year for determining the inflationary index applied to the fee
26 established by Section 396 shall be the 1984-85 fiscal year, ~~and the base year for~~
27 ~~determining the inflationary index to be applied to the fee established by Section~~
28 ~~397 shall be the 1985-86 fiscal year.~~

29 **Comment.** Section 398 is amended to delete obsolete material.

30 **Fish & Game Code § 456 (amended). Deer management**

31 SEC. _____. Section 456 of the Fish and Game Code is amended to read:

32 456. The department shall biennially report to the Legislature and to the Fish and
33 Game Commission on the progress that is being made toward the restoration and
34 maintenance of California's deer herds. ~~The first report shall be submitted on or~~
35 ~~before October 1, 1989.~~ The report shall include program activities regarding deer
36 habitat, particularly addressing problems dealing with identification and
37 preservation of critical deer habitat areas; the amount of revenue derived from the
38 sale of deer tags during the two previous fiscal years; a list of expenditures during
39 the two previous fiscal years and proposed expenditures during the current fiscal

1 year; and a report of general benefits accrued to the deer resources as a result of the
2 program.

3 **Comment.** Section 456 is amended to delete obsolete material.

4 **Fish & Game Code § 457 (amended). Annual recommendations by department**

5 SEC. _____. Section 457 of the Fish and Game Code is amended to read:

6 457. (a) The Not later than December 15 of each year, the department shall
7 determine prior to December 15 of each year its proposed recommendations to the
8 commission relating to the management of deer, including its recommendations as
9 to whether any antlerless deer hunts should be ordered.

10 (b) The recommendations of the department shall include the all of the following:

11 (1) The number, if any, of antlerless deer that should be taken in units, whether
12 the permits should be either-sex permits, the proposed particular deer management
13 units.

14 (2) Proposed dates for each such any recommended taking, and the .

15 (3) The number of permits proposed for each management unit.

16 (4) Whether the permits should be either-sex permits.

17 **Comment.** Section 457 is amended for clarity, and to add subdivision and paragraph
18 designations.

19 **Fish & Game Code § 458 (amended). Notice of proposed recommendation**

20 SEC. _____. Section 458 of the Fish and Game Code is amended to read:

21 458. (a) The Not later than December 15 of each year, the department not later
22 than December 15 shall notify, by certified mail, provide notice of the details of its
23 proposed recommendations under Section 457 to the board of supervisors of each
24 county affected of the details of its recommendations under Section 457 by a
25 recommendation, by certified mail.

26 (b) The Not later than the February 1 next following the department's notice, the
27 board of supervisors of any affected county may elect to hold a public hearing on
28 one or more of the department's proposed recommendations of the department. Any
29 such hearing shall be held prior to February 1. The director or his or her the
30 director's representative shall attend the hearing all hearings held pursuant to this
31 subdivision.

32 (c) The board of supervisors of any affected county to which this section is
33 applicable may, by resolution, elect not to exercise the rights conferred by this
34 section.

35 (d) This section applies only to the counties of, and to those districts or parts of
36 districts in, Siskiyou, Modoc, Trinity, Shasta, Lassen, Plumas, Sierra, Alpine,
37 Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt,
38 Imperial, Inyo, Lake, Madera, Mariposa, Mendocino, Merced, Mono, Monterey,
39 Napa, Nevada, Orange, Placer, Riverside, San Luis Obispo, Santa Barbara, Santa
40 Clara, Tehama, Tuolumne, Yolo, and Yuba Counties.

1 **Comment.** Section 458 is amended for clarity, to add subdivision designations, and to eliminate
2 gendered pronouns.

3 **Fish & Game Code § 459 (amended). Response to department recommendations**

4 SEC. ____ . Section 459 of the Fish and Game Code is amended to read:

5 459. (a) ~~The~~ Not later than the February 1 next following the department's notice,
6 the board of supervisors of any affected county ~~specified in Section 458 which that~~
7 has held a public hearing pursuant to Section 458 may, ~~not later than February 1,~~ by
8 resolution, object to ~~the~~ one or more proposed recommendations of the department,
9 or may, by resolution, determine that one or more ~~the~~ proposed ~~recommendation~~
10 recommendations should be modified, ~~setting forth and state~~ the necessary
11 modifications modification.

12 (b) A resolution objecting to, or ~~setting forth~~ stating necessary modifications
13 modification of, ~~the~~ a proposed ~~recommendations~~ recommendation shall be based
14 ~~upon the~~ on testimony and information presented at ~~the~~ a hearing conducted
15 pursuant to subdivision (b) of Section 458, or presented to the board of supervisors
16 at its meeting to consider the resolution.

17 (c) The department shall not recommend to the commission, and the commission
18 shall not authorize, the taking of antlerless deer in ~~a~~ an affected county ~~specified in~~
19 ~~Section 458 if it has received from~~ the board of supervisors of that county submits
20 a resolution objecting to that taking.

21 (d) If a board of supervisors of ~~a~~ an affected county ~~has submitted~~ submits a
22 resolution determining that ~~the~~ department's one or more proposed
23 ~~recommendations~~ on recommendations of the department relating to the taking of
24 antlerless deer should be modified for that county, the department and the
25 commission shall do one of the following:

26 (1) The department shall ~~either~~ so modify its recommendations and the
27 commission shall ~~so~~ modify its orders ~~or the~~ to incorporate the modification
28 determined to be necessary by the county board of supervisors.

29 (2) The department shall not recommend, and the commission shall not authorize,
30 the taking of antlerless deer in that county.

31 **Comment.** Section 459 is amended for clarity, and to add subdivision and paragraph
32 designations.

33 **Fish & Game Code § 460 (amended). Department recommendations relating to deer**
34 **hunting**

35 SEC. ____ . Section 460 of the Fish and Game Code is amended to read:

36 460. (a) Prior to each meeting of the commission at which the commission
37 considers the regulation of deer and takes action pursuant to paragraph (1) of
38 subdivision (a) of Section 255, the department shall recommend to the commission
39 ~~those~~ the deer herd units to be placed under a general deer hunting season.

40 (b) At the same time, the department shall ~~recommend~~ do all of the following:

1 (1) Recommend to the commission, subject to the provisions of Sections 458 and
2 459, whether any antlerless deer should be taken, ~~and in what~~ if so, in which deer
3 herd management units ~~antlerless deer are to be taken~~.

4 (2) If in the judgment of the department there are deer herd management units in
5 which hunting pressure would adversely affect the deer herd, impair the hunting
6 experience, or endanger the public safety, ~~the department shall also~~ recommend to
7 the commission those deer herd management units where hunter numbers should be
8 restricted, and those which should be removed from the general deer hunting season
9 designation. ~~The~~

10 ~~(3) Inform department shall inform~~ the commission of the condition of each deer
11 herd management unit. ~~Upon receipt of the recommendations and information~~
12 ~~required in this section, the commission shall make that material known to the public~~
13 ~~and its determinations regarding proposed regulations. The recommendations of the~~
14 ~~department shall~~

15 (4) Recommend to the commission, in accordance with the provisions of Sections
16 458 and 459, ~~include~~ the number, if any, of antlerless deer that should be taken in
17 deer herd management units, whether the permits should be either-sex permits, the
18 proposed dates for the taking, and the number of permits proposed for each deer
19 herd management unit. ~~At the same time, the department shall recommend~~

20 (5) Recommend to the commission the establishment of any hunter-restricted
21 quota units, if needed, and the number of the quota and manner in which the quota
22 permits should be issued.

23 (c) Upon receipt of the recommendations and information required by this section,
24 the commission shall make that material known to the public, and shall also make
25 known to the public the commission's determinations regarding proposed
26 regulations.

27 **Comment.** Section 460 is amended for clarity.

28 **Fish & Game Code § 711 (amended). Statement of legislative intent regarding funding**

29 SEC. _____. Section 711 of the Fish and Game Code is amended to read:

30 711. (a) It is the intent of the Legislature to ensure adequate funding from
31 appropriate sources for the department. To this end, the Legislature finds and
32 declares that:

33 (1) The costs of nongame fish and wildlife programs shall be provided annually
34 in the Budget Act by appropriating money from the General Fund, through nongame
35 user fees, and sources other than the Fish and Game Preservation Fund to the
36 department for these purposes.

37 (2) The costs of commercial fishing programs shall be provided out of revenues
38 from commercial fishing landing fees, license fees, and other revenues, from
39 reimbursements and federal funds received for commercial fishing programs, and
40 other funds appropriated by the Legislature for this purpose.

41 (3) The costs of hunting and sportfishing programs shall be provided out of
42 hunting and sportfishing revenues and reimbursements and federal funds received

1 for hunting and sportfishing programs, and other funds appropriated by the
2 Legislature for this purpose. These revenues, reimbursements, and federal funds
3 shall not be used to support commercial fishing programs, free hunting and fishing
4 license programs, or nongame fish and wildlife programs.

5 (4) The costs of managing lands managed by the department and the costs of
6 wildlife management programs shall be supplemented out of revenues in the Native
7 Species Conservation and Enhancement Account in the Fish and Game Preservation
8 Fund.

9 (5) Hunting, sportfishing, and sport ocean fishing license fees shall be adjusted
10 annually to an amount equal to that computed pursuant to Section 713. However, a
11 substantial increase in the aggregate of hunting and sportfishing programs shall be
12 reflected by appropriate amendments to the sections of this code that establish the
13 base sport license fee levels. The inflationary index provided in Section 713 shall
14 not be used to accommodate a substantial increase in the aggregate of hunting and
15 sportfishing programs.

16 (6) The costs of a conservation and mitigation banking program, including, but
17 not limited to, costs incurred by the department during its adoption of guidelines
18 for, and the review, approval, establishment, monitoring, and oversight of, banks,
19 shall be reimbursed from revenues of conservation and mitigation bank application
20 fees imposed pursuant to Sections 1798.5, 1798.6, and 1799.

21 (b) The director and the Secretary of the Natural Resources Agency, with the
22 department's annual budget submittal to the Legislature, shall submit a report on the
23 fund condition, including the expenditures and revenue, for all accounts and
24 subaccounts within the Fish and Game Preservation Fund. The department shall also
25 update its cost allocation plan to reflect the costs of program activities.

26 (c) For purposes of this ~~article~~ section, "substantial increase" means an increase
27 in excess of 5 percent of the Fish and Game Preservation Fund portion of the
28 department's current year support budget, excluding cost-of-living increases
29 provided for salaries, staff benefits, and operating expenses.

30 **Comment.** Subdivision (c) of Section 711 is amended to provide greater specificity without
31 changing the substance of the provision.

32 **Fish & Game Code § 711.4 (amended). Exceptions to CEQA filing fee**

33 SEC. ____ . Section 711.4 of the Fish and Game Code is amended to read:

34 711.4. (a) The department shall impose and collect a filing fee in the amount
35 prescribed in subdivision (d) to defray the costs of managing and protecting fish and
36 wildlife trust resources, including, but not limited to, consulting with other public
37 agencies, reviewing environmental documents, recommending mitigation
38 measures, developing monitoring requirements for purposes of the California
39 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
40 Public Resources Code), consulting pursuant to Section 21104.2 of the Public
41 Resources Code, and other activities protecting those trust resources identified in
42 the review pursuant to the California Environmental Quality Act.

1 (b) The filing fees shall be proportional to the cost incurred by the department and
2 shall be annually reviewed and adjustments recommended to the Legislature in an
3 amount necessary to pay the full costs of department programs as specified. The
4 department shall annually adjust the fees pursuant to Section 713.

5 (c)(1) All project applicants and public agencies subject to the California
6 Environmental Quality Act shall pay a filing fee for each proposed project, as
7 specified in subdivision (d).

8 (2) Notwithstanding paragraph (1), a filing fee shall not be paid pursuant to this
9 section if any of the following conditions exist:

10 (A) The project has no effect on fish and wildlife.

11 (B) The project is being undertaken by the department.

12 (C) The project costs are payable by the department from any of the following
13 sources that are held by the department:

14 (i) The Public Resources Account in the Cigarette and Tobacco Products Surtax
15 Fund.

16 (ii) The California Wildlife, Coastal, and Park Land Conservation Fund of 1988.

17 (iii) The Habitat Conservation Fund.

18 (iv) The Fisheries Restoration Account in the Fish and Game Preservation Fund.

19 (v) The Commercial Salmon Stamp Dedicated Subaccount in the Fish and Game
20 Preservation Fund.

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

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

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

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

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

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

34 (2) For a project for which a negative declaration is prepared pursuant to
35 subdivision (c) of Section 21080 of the Public Resources Code, the filing fee is one
36 thousand eight hundred dollars (\$1,800). A local agency collecting the filing fee
37 shall remit the fee to the county clerk at the time of filing a notice of determination
38 pursuant to Section 21152 of the Public Resources Code. A state agency collecting
39 the filing fee shall remit the fee to the Office of Planning and Research at the time
40 of filing a notice of determination pursuant to Section 21108 of the Public Resources
41 Code.

42 (3) For a project with an environmental impact report prepared pursuant to the
43 California Environmental Quality Act, the filing fee is two thousand five hundred

1 dollars (\$2,500). A local agency collecting the filing fee shall remit the fee to the
2 county clerk at the time of filing a notice of determination pursuant to Section 21152
3 of the Public Resources Code. A state agency collecting the filing fee shall remit the
4 fee to the Office of Planning and Research at the time of filing a notice of
5 determination pursuant to Section 21108 of the Public Resources Code.

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

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

12 (1) The county clerk of each county and the Office of Planning and Research shall
13 maintain a record, both electronic and in paper, of all environmental documents
14 received. The record shall include, for each environmental document received, the
15 name of each applicant or lead agency, the document filing number, the project
16 name as approved by the lead agency, and the filing date. The record shall be made
17 available for examination or audit by authorized personnel of the department during
18 normal business hours.

19 (2) The filing fee imposed and collected pursuant to subdivision (d) shall be
20 remitted monthly to the department within 30 days after the end of each month. The
21 remittance shall be accompanied with the information required pursuant to
22 paragraph (1). The amount of fees due shall be reported on forms prescribed and
23 provided by the department.

24 (3) The department shall assess a penalty of 10 percent of the amount of fees due
25 for a failure to remit the amount payable when due. The department may pursue
26 collection of delinquent fees through the Controller's office pursuant to Section
27 12419.5 of the Government Code.

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

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

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

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

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

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

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

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

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

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

14 1055.3. The department may authorize any person other than a commissioner or
15 an officer or employee of the department to issue, as an agent of the department,
16 annual wildlife area passes and native species stamps, and to sell promotional
17 materials and nature study aids pursuant to, and subject to the requirements of, this
18 article. An agent thus authorized may add a handling charge pursuant to
19 ~~subdivisions (f), (g), and (h) of Section 1055 or~~ subdivisions (d), (e), and (f) of
20 Section 1055.1 to the fee prescribed in Article 3 (commencing with Section 1760)
21 of Chapter 7.5 of Division 2 for each annual wildlife area pass or native species
22 stamp issued.

23 **Comment.** Section 1055.3 is amended to delete an obsolete cross-reference to subdivisions of
24 former Section 1055.

25 **Fish & Game Code § 1068 (repealed). Department grant**

26 SEC. ____ . Section 1068 of the Fish and Game Code is repealed.

27 ~~1068. (a) Beginning November 1, 1991, the director shall make a grant in~~
28 ~~installments to a nonprofit organization of sea urchin divers in an amount not to~~
29 ~~exceed four hundred thousand dollars (\$400,000), for the organization to~~
30 ~~accomplish the following purposes:~~

31 ~~(1) To establish a communications network among sea urchin divers, through a~~
32 ~~newsletter and such other means as are deemed necessary and appropriate by the~~
33 ~~organization, providing divers with information on policies, procedures, statutes,~~
34 ~~and regulations affecting the sea urchin fishery, meeting announcements, and for~~
35 ~~other information the department reasonably requests to be transmitted to sea urchin~~
36 ~~divers.~~

37 ~~(2) To establish an education program on the conservation and utilization of sea~~
38 ~~urchins.~~

39 ~~(3) To convene statewide conferences for members of the industry to meet for~~
40 ~~purposes of strengthening the industry and benefiting industry goals.~~

1 ~~The grant shall be paid, upon submission and approval of an annual budget, in~~
2 ~~quarterly installments, in amounts deemed appropriate by the department, upon the~~
3 ~~submission to the department of progress reports which demonstrate the continued~~
4 ~~achievements of the organization toward the intended goals.~~

5 ~~(b) Prior to making the grant, the director shall verify from the nonprofit~~
6 ~~organization's bylaws that it is established for, among other purposes, the~~
7 ~~protection, conservation, enhancement, and promotion of the sea urchin fishery, and~~
8 ~~that its membership, including its board of directors, is composed solely of licensed~~
9 ~~commercial sea urchin divers.~~

10 ~~(c) The grant shall be funded from revenues received pursuant to former~~
11 ~~subdivision (b) of Section 8051.1, as that subdivision read on December 31, 1995.~~
12 ~~If the department determines that the revenue received from former subdivision (b)~~
13 ~~of Section 8051.1, as that subdivision read on December 31, 1995, is not sufficient~~
14 ~~to fund the amount of the grant, including departmental overhead charges which~~
15 ~~shall be recovered from the revenues received pursuant to that former subdivision~~
16 ~~(b) of Section 8051.1, the department shall reduce the amount of the grant~~
17 ~~accordingly. The revenue received pursuant to that former subdivision (b) of Section~~
18 ~~8051.1 shall remain available for funding of the grant program pursuant to this~~
19 ~~subdivision until that revenue is fully encumbered, or the authorized amount of the~~
20 ~~grant program is expended, whichever event is later.~~

21 ~~(d) The revenue received pursuant to former subdivision (b) of Section 8051.1 as~~
22 ~~it read on December 31, 1995, shall first be used to reimburse the department for~~
23 ~~departmental overhead charges incurred in administering the grant.~~

24 **Comment.** Section 1068 is repealed as obsolete.

25 **Fish & Game Code § 1122.5 (amended). Mount Whitney Fish Hatchery**

26 SEC. ____ . Section 1122.5 of the Fish and Game Code is amended to read:

27 1122.5. (a) Notwithstanding any other provision of law, the Director of General
28 Services, with the consent of the department, may lease to the Friends of the Mount
29 Whitney Hatchery, at no cost, and subject to any other terms and conditions that the
30 director deems appropriate, for a term not to exceed 25 years, and with the
31 possibility of renewal, the Mount Whitney Fish Hatchery facilities, or any portion
32 thereof part of the hatchery, situated in the County of Inyo. ~~The leased portion of~~
33 ~~the building~~

34 (b) Any part of the hatchery that is leased pursuant to subdivision (a) shall be used
35 for environmental education purposes and other related activities designed to benefit
36 the hatchery and the community.

37 (c) The lease shall require the Friends of the Mount Whitney Fish Hatchery to
38 permit reasonable public access to the facility hatchery, to obtain and maintain
39 liability insurance for the leased portion of the facility hatchery, and to maintain the
40 leased portion of the facility hatchery at all times. The lease shall provide that any
41 work done on the facility hatchery shall be performed in consultation with the State
42 Office of Historic Preservation. The lease shall also provide that the state, agents of

1 the state, the department, and agents of the department shall be held harmless from,
2 and indemnified against, any liability resulting from the acts or omissions of the
3 Friends of the Mount Whitney Fish Hatchery ~~performed in the course of the lease~~
4 agreement arising out of performance of the lease.

5 **Comment.** Section 1122.5 is amended for clarity, and to add subdivision designations.

6 **Fish & Game Code § 1348.3 (amended). Condemnation of wildlife conservation easement**

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

8 1348.3. (a) No governmental entity may condemn any wildlife conservation
9 easement acquired by a state agency, except as provided in subdivision (b). As used
10 in this section, the following terms have the following meanings:

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

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

16 ~~(3)~~ (2) “Wildlife conservation easement” means a recorded conservation
17 easement, as defined in Section 815.1 of the Civil Code, that exists or will exist for
18 at least 10 years and that is acquired and held by a state agency and administered
19 primarily for the benefit of wildlife.

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

34 **Comment.** Section 1348.3 is amended to delete paragraph (2) of subdivision (a) as superfluous.
35 See Section 89.5 (defining the term “wildlife” generally).

36 **Fish & Game Code § 1352 (amended). Wildlife restoration fund**

37 SEC. _____. Section 1352 of the Fish and Game Code is amended to read:

38 1352. (a) The money in the Wildlife Restoration Fund, as provided for by Section
39 19632 of the Business and Professions Code, is available for expenditure under any
40 provision of this chapter.

1 (b) All federal moneys made available for projects authorized by the board shall
2 be deposited in the Wildlife Restoration Fund or the Fish and Game Preservation
3 Fund. ~~Any unexpended balances of the federal moneys remaining on or after June~~
4 ~~30, 1979, in any other fund shall be transferred to the Wildlife Restoration Fund or~~
5 ~~the Fish and Game Preservation Fund.~~

6 (c) Any moneys received in the Wildlife Restoration Fund or the Fish and Game
7 Preservation Fund from leases authorized pursuant to paragraph (2) or (3) of
8 subdivision (c) of Section 1348 shall be expended, upon appropriation by the
9 Legislature, by the department for the purposes of managing, maintaining, restoring,
10 or operating lands owned and managed by the department.

11 **Comment.** Subdivision (b) of Section 1352 is amended to delete the second sentence of the
12 subdivision, which is obsolete.

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

14 SEC. _____. Section 1500.5 of the Fish and Game Code is amended to read:

15 1500.5. ~~With respect to exchanging or selling any~~ (a) The following rules govern
16 an exchange or sale of property pursuant to Section 1500, ~~the director, with respect~~
17 ~~to any parcel containing :~~

18 (1) If a parcel contains 15 acres or less, the director shall except and reserve to the
19 state all mineral deposits, ~~as defined in Section 6407 of the Public Resources Code,~~
20 below a depth of 500 feet, without surface rights of entry. ~~As to any parcel~~
21 ~~containing~~

22 (2) If a parcel contains more than 15 acres, the director shall except and reserve
23 to the state all mineral deposits, ~~as defined in Section 6407 of the Public Resources~~
24 ~~Code,~~ together with the right rights to prospect for, mine, and remove the deposits.

25 The
26 ~~—The~~ rights to prospect for, mine, and remove shall be limited to those areas of
27 the property conveyed ~~which~~ that the director, after consultation with the State
28 Lands Commission, determines to be reasonably necessary for the removal of the
29 resources and deposits.

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

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

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

34 **Fish & Game Code § 1605 (amended). Duration and extension of agreement**

35 SEC. _____. Section 1605 of the Fish and Game Code is amended to read:

36 1605. (a)(1) Except as otherwise provided in this section, the term of an agreement
37 shall not exceed five years.

38 (2) Notwithstanding paragraph (1), after the agreement expires, the entity shall
39 remain responsible for implementing any mitigation or other measures specified in
40 the agreement to protect fish and wildlife resources.

1 (b) Any entity may request one extension of a previously-approved agreement, if
2 the entity requests the extension prior to the expiration of its original term. The
3 department shall grant the extension unless it determines that the agreement requires
4 modification because the measures contained in the agreement no longer protect the
5 fish and wildlife resources that the activity may substantially adversely affect. In the
6 event the department makes that determination, the department shall propose
7 measures intended to protect those resources.

8 (c) If the entity disagrees with the department's determination that the agreement
9 requires modification to protect fish and wildlife resources or with the measures
10 proposed by the department, the disagreement shall be resolved pursuant to the
11 procedures described in subdivision (b) of Section 1603.

12 (d) The department may not extend an agreement for more than five years.

13 (e)(1) An original agreement shall remain in effect until the department grants the
14 extension request, or new measures are imposed to protect fish and wildlife
15 resources by agreement or through the arbitration process.

16 (2) Notwithstanding paragraph (1), an original agreement may not remain in
17 effect for more than one year after its expiration date.

18 (f) If the entity fails to submit a request to extend an agreement prior to its
19 expiration, the entity shall submit a new notification before commencing or
20 continuing the activity covered by the agreement.

21 (g) Notwithstanding paragraph (1) of subdivision (a), the department may issue
22 an agreement, that otherwise meets the requirements of this chapter, for a term
23 longer than five years if the following conditions are satisfied:

24 (1) The information the entity provides to the department in its notification meets
25 the requirements of paragraph (1) of subdivision (a) of Section 1602.

26 (2) The entity agrees to provide a status report to the department every four years.
27 The status report shall be delivered to the department no later than 90 days prior to
28 the end of each four-year period, and shall include all of the following information:

29 (A) A copy of the original agreement.

30 (B) The status of the activity covered by the agreement.

31 (C) An evaluation of the success or failure of the measures in the agreement to
32 protect the fish and wildlife resources that the activity may substantially adversely
33 affect.

34 (D) A discussion of any factors that could increase the predicted adverse impacts
35 on fish and wildlife resources, and a description of the resources that may be
36 adversely affected.

37 (3) The department shall review the four-year status report, and conduct an onsite
38 inspection to confirm that the entity is in compliance with the agreement and that
39 the measures in the agreement continue to protect the fish and wildlife resources. If
40 the department determines that the measures in the agreement no longer protect the
41 fish and wildlife resources that are being substantially adversely affected by the
42 activity, the department, in consultation with the entity, and within 45 days of
43 receipt of the report, shall impose one or more new measures to protect the fish and

1 wildlife resources affected by the activity. If requested to do so by the entity, the
2 department shall make available the information upon which it determined the
3 agreement no longer protects the affected fish and wildlife resources. If the entity
4 disagrees with one or more of the new measures, within seven days of receiving the
5 new measures, it shall notify the department, in writing, of the disagreement. The
6 entity and the department shall consult regarding the disagreement. The consultation
7 shall be completed within seven days after the department receives the entity's
8 notice of disagreement. If the department and entity fail to reach agreement, the
9 entity may request, in writing, the appointment of a panel of arbitrators to resolve
10 the disagreement. The panel of arbitrators shall be appointed within 14 days of the
11 completed consultation. The panel of arbitrators shall issue a decision within 14
12 days of the date it is established. All other provisions of subdivision (b) of Section
13 1603 regarding the panel shall apply to any arbitration panel established in
14 accordance with this subdivision. If the entity fails to provide timely status reports
15 as required by this subdivision, the department may suspend or revoke the
16 agreement.

17 (4) The agreement shall authorize department employees to conduct onsite
18 inspections relevant to the agreement, upon reasonable notice. Nothing in this
19 section limits the authority of department employees to inspect private or public
20 sites.

21 (5) Except as provided in paragraph (3), subparagraph (D) of paragraph (4) of
22 subdivision (a) of Section 1602 and the time periods to process agreements specified
23 in this chapter do not apply to agreements issued pursuant to this section.

24 (h) Each region of the department shall log the notifications of activities for which
25 a long-term agreement is being considered pursuant to subdivision (g). The log shall
26 list the date the notification was received by the department, a brief description of
27 the proposed activity, and the location of the activity. Each item shall remain on the
28 log for one year. Upon written request by any person, a regional office shall send
29 the log to that person monthly for one year. A request made pursuant to this
30 ~~paragraph~~ subdivision may be renewed annually.

31 **Comment.** Subdivision (h) of Section 1605 is amended to make a technical correction.

32 **Fish & Game Code § 1608 (amended). Information provided to entity submitting**
33 **notification**

34 SEC. _____. Section 1608 of the Fish and Game Code is amended to read:
35 1608. The department shall provide any entity that submits a notification pursuant
36 to subdivision (a) of Section 1602 with all of the following information:

37 (a) The time period for review of the notification.

38 (b) An explanation of the entity's right to object to any measures proposed by the
39 department.

40 (c) The time period within which objections may be made in writing to the
41 department.

1 (d) The time period within which the department is required to respond, in writing,
2 to the entity's objections.

3 (e) An explanation of the right of the entity to arbitrate any measures in a draft
4 agreement.

5 (f) The procedures and statutory timelines for arbitration, including, but not
6 limited to, information about the payment requirements for arbitrator fees.

7 (g) The current schedule of fees to obtain an agreement.

8 **Comment.** The introductory paragraph of Section 1608 is amended to narrow an overbroad
9 cross-reference.

10 **Fish & Game Code § 1771 (amended). Deposit of funds**

11 SEC. ____. Section 1771 of the Fish and Game Code is amended to read:

12 1771. (a) Whenever the department receives funds from the Treasurer under
13 ~~Article 7 (commencing with Section 18520) of Chapter 17 of Part 10~~ Article 5
14 (commencing with Section 18741) of Chapter 3 of Part 10.2 of Division 2 of the
15 Revenue and Taxation Code for the support of this article, the funds shall be
16 deposited in the Fish and Game Preservation Fund and credited to the Endangered
17 and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account.
18 These funds are for the support of programs for endangered and rare animals and
19 native plant species as determined by the commission, related conservation and
20 enhancement programs, and programs for those species which may be candidates
21 for determination as endangered or rare under the criteria developed by the
22 commission.

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

26 **Comment.** Section 1771 is amended to correct an erroneous cross-reference.

27 **Fish & Game Code § 1772 (amended). Encouraging donations**

28 SEC. ____. Section 1772 of the Fish and Game Code is amended to read:

29 1772. (a) The department may take all appropriate measures to encourage
30 donations to this account through the tax return checkoff system provided for in
31 ~~Article 7 (commencing with Section 18520) of Chapter 17 of Part 10~~ Article 5
32 (commencing with Section 18741) of Chapter 3 of Part 10.2 of Division 2 of the
33 Revenue and Taxation Code.

34 (b) The department may also disseminate information to the public concerning the
35 status of endangered and rare species.

36 (c) The cost to the department to carry out the provisions of this section may be
37 charged to this account.

38 **Comment.** Section 1772 is amended to correct an erroneous cross-reference.

39 The section is also amended to add subdivision designations.

1 **Fish & Game Code § 1798 (amended). Application procedure**

2 SEC. _____. Section 1798 of the Fish and Game Code is amended to read:

3 1798. (a)(1) Any person interested in establishing any bank with the department
4 may elect to submit an optional draft prospectus for review by the department. Any
5 draft prospectus shall be accompanied by a draft prospectus review fee of one
6 thousand five hundred dollars (\$1,500) to fund the reasonable cost of the
7 department's review services. The draft prospectus review, while optional, is
8 intended to identify potential issues early so that the potential bank sponsor may
9 attempt to address those issues prior to initiating the formal review process. The
10 draft prospectus is a brief proposal submitted when scoping the concept of a bank,
11 contemplating pursuing a bank idea, or for those new to the banking process.

12 (2) No later than 30 calendar days after the department receives a draft prospectus
13 and review fee, the department shall make an initial evaluation of the proposed
14 concept and notify the person who submitted the draft prospectus of potential issues
15 identified by the department.

16 (b)(1) Any person seeking to establish a bank with the department shall submit a
17 bank prospectus to the department together with a prospectus review fee of ten
18 thousand dollars (\$10,000) to fund the reasonable cost of the department's review
19 services. If a draft prospectus and the review fee have been submitted pursuant to
20 subdivision (a), then the review fee for the bank prospectus shall be eight thousand
21 five hundred dollars (\$8,500) so as not to exceed a total fee of ten thousand dollars
22 (\$10,000).

23 (2) The bank prospectus shall contain at least all of the following information:

24 (A) The proposed bank name.

25 (B) Contact information, including, but not limited to, the bank sponsor, property
26 owner, and any consultants.

27 (C) A general location map, address, and the size of the proposed bank in acres.

28 (D) A 7.5-minute United States Geological Survey map showing proposed
29 boundaries of the bank.

30 (E) Color aerial photographs that reflect current conditions on the site of the
31 proposed bank and surrounding properties.

32 (F) Description of how the bank will be established and operated, including, but
33 not limited to, proposed ownership arrangements, long-term management strategy,
34 and any phases.

35 (G) Qualifications of bank sponsor.

36 (H) Preliminary natural resources surveys that document biotic and abiotic
37 baseline conditions, including past, current, and adjacent land uses, vegetation
38 types, species information, topography, hydrology, and soil types.

39 (I) Map of proposed bank service areas.

40 (J) Map depicting other conserved lands in the vicinity of the proposed bank.

41 (K) Description of bank objectives that includes how the proposed bank would
42 contribute to connectivity and ecosystem function.

1 (L) A current preliminary report covering the site of the proposed bank that
2 identifies the owner of the fee simple title and shows all liens, easements, and other
3 encumbrances and depicts all relevant property lines, easements, dedications, and
4 other features.

5 (M) A declaration of whether or not the proposed bank site has been or is being
6 used as mitigation, is designated or dedicated for park or open space use, or
7 designated for purposes that may be inconsistent with habitat preservation.

8 (N) Details of any public funding received for acquisition or restoration of, or
9 other purposes related to, the proposed bank site.

10 (c) No later than 30 calendar days after the department receives a bank prospectus
11 and the prospectus review fee, the department shall determine whether or not the
12 prospectus is complete and provide written notice of its determination to the person
13 who submitted the prospectus. If a prospectus is not complete, it may be made
14 complete and resubmitted.

15 (d) If the department determines that the prospectus is complete, then within 90
16 calendar days of that determination, the department shall determine whether or not
17 the prospectus is acceptable and notify the person who submitted the prospectus of
18 the determination. The department may request clarifying information during the
19 prospectus review process.

20 (e)(1) If the department determines that a bank prospectus is acceptable then a
21 bank agreement package may be submitted in accordance with Section 1798.5.

22 (2) If the department determines that a bank prospectus is not acceptable the
23 department shall state the reasons for the determination. The prospectus may be
24 resubmitted in accordance with subdivision (a) or (b) if further consideration is
25 desired. Any resubmittal must be accompanied by payment of a new ~~prospectus~~
26 review fee.

27 (f) The department may adopt and amend guidelines and criteria for the purposes
28 of this section pursuant to subdivision (b) of Section 1799.1.

29 **Comment.** Paragraph (2) of subdivision (e) of Section 1798 is amended for clarity.

30 **Fish & Game Code § 1798.5 (amended). Bank agreement package**

31 SEC. _____. Section 1798.5 of the Fish and Game Code is amended to read:

32 1798.5. (a)(1) If the department determines that a bank prospectus is acceptable
33 pursuant to Section 1798, the person seeking to establish the bank may submit a
34 bank agreement package to the department. Pursuant to subdivision ~~(b)~~ (c) of
35 Section 1799.1, the department may adopt and amend guidelines and criteria for the
36 bank agreement package, including, but not limited to, recommended standard
37 forms for bank enabling instruments or long-term management plan and
38 conservation easements.

39 (2) The bank agreement package shall be consistent with the prospectus and
40 contain at least all of the following information:

41 (A) The draft bank enabling instrument and all exhibits.

1 (B) Drafts of the interim management plan, long-term management plan, bank
2 closure plan, and, if applicable, a development or construction plan for the bank.

3 (C) A draft conservation easement, or if potential state ownership is contemplated
4 by the department, a draft grant deed.

5 (D) A map and written description of the proposed bank service area.

6 (E) A proposed credit ledger and credit release schedule for the bank.

7 (F) A property analysis record or other comparable economic analysis of the
8 funding necessary to support bank maintenance activities, such as monitoring and
9 reporting, in perpetuity.

10 (G) Estimates of financial assurances and proposed forms of security. Proposed
11 forms of security may be either cash or a letter of credit.

12 (H) A phase I environmental site assessment of the site of the proposed bank dated
13 not more than six months prior to the date the bank agreement package is submitted
14 to the department. This assessment shall be performed in accordance with the
15 American Society of Testing and Materials Standard E1527-05 “Standard Practice
16 for Environmental Site Assessments: Phase I Environmental Site Assessment
17 Process” or any successive ASTM standard active at the time of the assessment.

18 (b) The department shall collect a fee of twenty-five thousand dollars (\$25,000)
19 per bank agreement package to fund the cost of the department’s review services.
20 The fee shall be collected at the time the bank agreement package is submitted to
21 the department.

22 (c) Within 30 calendar days following the department’s receipt of a bank
23 agreement package and fee pursuant to subdivision (a), the department shall
24 determine whether or not the package is complete and give written notice of the
25 determination to the person who submitted the package.

26 (1) If the department determines that the bank agreement package is not complete,
27 it may be made complete and resubmitted.

28 (2) If the department determines that the bank agreement package is complete,
29 within 90 calendar days of that determination, the department shall determine
30 whether or not it is acceptable and notify the person who submitted the package of
31 the determination. If the department determines that the bank agreement package is
32 not acceptable, the department shall state the reasons.

33 (d) The department may request clarifying information during the bank agreement
34 review process.

35 (e) If the department needs supplemental information during its review of the
36 bank agreement package in order to fully evaluate the proposed bank, the regional
37 manager or departmental equivalent, or a higher level department employee, shall
38 provide the person seeking to establish the bank a written request for the needed
39 information. Upon the department’s receipt of the requested information, a new 90-
40 day period shall begin during which the department shall determine acceptability
41 pursuant to paragraph (2) of subdivision (c). If the department does not receive the
42 requested information within 60 calendar days of the department’s request, the bank
43 agreement package will be deemed unacceptable.

1 (f) If the person seeking to establish the bank proposes changes to the bank
2 agreement package that have not been solicited by the department during its 90-day
3 review period, including, but not limited to, parties, number or type of credits, bank
4 size, number or type of species, credit release schedule, service area, design change,
5 or other changes as identified by the department as necessitating additional review
6 time, the department, acting through the regional manager or department equivalent,
7 or a higher level department employee, shall assess a one-time fee of ten thousand
8 dollars (\$10,000) to cover the reasonable cost of the department's services in
9 reviewing the changes. A new 90-day review period shall begin upon the
10 department's receipt of the proposed changes and the associated review fee, during
11 which it will determine acceptability pursuant to paragraph (2) of subdivision (c).

12 (g) If the department determines that 90 days is insufficient time to complete its
13 review of the bank agreement package for reasons including, but not limited to, the
14 size, location, or complexity of the bank, that the package includes a development
15 or construction plan, complexity of the bank agreement package, or substantial
16 variations from recommended standard forms, the department may extend the 90-
17 day period for reviewing the bank agreement package by an additional 60 calendar
18 days.

19 (h) If the department determines that a bank agreement package is not acceptable,
20 the package may be resubmitted in accordance with subdivision (a) if further
21 consideration is desired. Any resubmittal shall be accompanied by payment of a new
22 bank agreement package review fee.

23 **Comment.** Paragraph (1) of subdivision (a) of Section 1798.5 is amended to correct an erroneous
24 cross-reference.

25 **Fish & Game Code § 1798.6 (amended). Bank amendment**

26 SEC. _____. Section 1798.6 of the Fish and Game Code is amended to read:

27 1798.6. (a) Any person seeking to amend any bank shall submit to the department
28 a complete bank amendment package containing each of the original bank
29 agreement package documents, including any prior amendments, as well as any
30 documents proposed to be amended or that would be affected by the proposed
31 amendment. The department may adopt and amend guidelines and criteria for the
32 bank amendment package pursuant to subdivision ~~(b)~~ (c) of Section 1799.1.

33 (b)(1) Within 30 calendar days following its receipt of a draft bank amendment
34 package and any fee required by subdivision (c), the department shall determine
35 whether or not the package is complete and give written notice of that determination
36 to the person who submitted the package.

37 (2) If the department determines that the bank amendment package is complete,
38 then within 90 calendar days of that determination, the department shall determine
39 whether or not the package is acceptable and notify the person who submitted the
40 package of that determination. If the bank amendment package is determined not to
41 be acceptable, the determination shall state the reasons. The department may request
42 clarifying information during the bank amendment review process. The department

1 may extend the 90-day period for reviewing the bank amendment package by an
2 additional 60 days if the department determines that 90 days is insufficient time to
3 complete its review of a bank amendment package for reasons that may include, but
4 are not limited to, the size, location, or complexity of the bank or bank amendment
5 documents, that the package includes a development plan, or that there are
6 substantial variations from recommended standard forms.

7 (c)(1) The department shall collect a fee of either seven thousand five hundred
8 dollars (\$7,500) or twenty-five thousand dollars (\$25,000) per bank amendment
9 package to fund the reasonable cost of the department's review services. The fee of
10 seven thousand five hundred dollars (\$7,500) is intended to cover the reasonable
11 cost of the department's services in reviewing simple amendments, such as a change
12 in bank name, ownership change, address change, or proposed decrease in the
13 number of credits proposed. The fee of twenty-five thousand dollars (\$25,000) is
14 intended to cover the reasonable cost of the department's services in reviewing all
15 other amendments, including, but not limited to, requests for increase change in
16 service area, or increase in the number of credits. A regional manager or department
17 equivalent, or a higher level department representative employee, shall determine
18 which of the two fees is appropriate and shall provide notification of that
19 determination to the person who submitted the request for bank amendment package
20 pursuant to paragraph (3).

21 (2) An initial fee of seven thousand five hundred dollars (\$7,500) shall be
22 submitted to the department with the bank amendment package.

23 (3) Within 30 calendar days following the department's receipt of a bank
24 amendment package and the initial fee, pursuant to paragraph (2), the department
25 shall determine whether or not the package is complete and give written notice of
26 the determination to the person who submitted it and, if applicable, notice pursuant
27 to paragraph (1) that the person shall remit an additional fee of seventeen thousand
28 five hundred dollars (\$17,500). If noticed by the department, the additional fee of
29 seventeen thousand five hundred dollars (\$17,500) shall be submitted to the
30 department within 30 days of the notice. If the additional fee is not received by this
31 date, the review timelines in this section shall be suspended until the fee is received
32 by the department.

33 (4) If the department determines that the bank amendment package is not
34 complete, the package may be made complete and resubmitted. If the department
35 determines that the bank amendment package is complete, then within 90 calendar
36 days of that determination and the receipt of the additional fee pursuant to paragraph
37 (3), if applicable, the department shall determine whether or not the bank
38 amendment package is acceptable and notify the person who submitted the package
39 of the determination.

40 (d)(1) If the department determines that the bank amendment package is not
41 acceptable the determination shall state the reasons.

42 (2) The department may request clarifying information during the bank
43 amendment review process.

1 (e) If the department needs supplemental information during its review of the
2 bank amendment package in order to fully evaluate the proposed amendment, the
3 regional manager or department equivalent, or a higher level department employee,
4 shall provide the person seeking to amend the bank, in writing, a written request for
5 the needed information. Upon the department's receipt of the requested information,
6 a new 90-day period shall begin during which the department will determine
7 acceptability pursuant to paragraph (4) of subdivision (c). If the department does
8 not receive the requested information within 60 calendar days of the department's
9 request, the bank amendment package shall be deemed unacceptable.

10 (f) If the person seeking to amend the bank proposes changes to the bank
11 amendment package that have not been solicited by the department during its the
12 department's 90-day review period, including, but not limited to, parties, number or
13 type of credits, bank size, number or type of species, credit release schedule, service
14 area, design change, or other changes as identified by the department to require
15 additional review time, the department, acting through the regional manager or
16 department equivalent, or a higher level department employee, shall assess a one-
17 time fee of ten thousand dollars (\$10,000) to cover the reasonable cost of the
18 department's services in reviewing the changes. A new 90-day review period shall
19 begin upon receipt of the proposed changes and the fee, during which the
20 department shall determine acceptability pursuant to paragraph (4) of subdivision
21 (c).

22 (g) If the department determines that 90 days is insufficient time to complete its
23 review of the bank amendment package for reasons, including, but not limited to,
24 the size, location, or complexity of the bank or bank amendment package, that the
25 package includes a development or construction plan, or substantial variations from
26 recommended standard forms, the department may extend the 90-day period for
27 reviewing the bank amendment package by an additional 60 calendar days.

28 (h) If the department determines that a bank amendment package is not
29 acceptable, then the package may be resubmitted in accordance with subdivision (a)
30 if further consideration is desired. Any resubmittal shall be accompanied by
31 payment of all applicable bank amendment package review fees.

32 **Comment.** Subdivision (a) of Section 1798.6 is amended to correct an erroneous cross-reference.

33 **Fish & Game Code § 1909 (amended). Enforcement authority**

34 SEC. ____ . Section 1909 is added to the Fish and Game Code, to read:

35 1909. (a) When any power or authority is given by any provision of this chapter
36 to any person, it may be exercised by any deputy, inspector, or agent duly authorized
37 by ~~such~~ that person.

1 (b) Any person in whom the enforcement of any provision of this chapter is vested
2 has the power of a peace officer as to ~~such~~ the enforcement, ~~which shall include~~ of
3 that provision. This subdivision applies to any state and or federal agencies, ~~and~~ the
4 State of Nevada, the State of Oregon, or the State of Arizona, with which
5 cooperative agreements have been made by the department to enforce any
6 provisions of this chapter.

7 **Comment.** Section 1909 is amended for clarity.

8 The section is also amended to add subdivision designations.

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

10 SEC. _____. Section 1913 is added to the Fish and Game Code, to read:

11 1913. (a) The provisions of this chapter are not intended and shall not be construed
12 as authorizing any public agency to mandate, prescribe, or otherwise regulate
13 agricultural operations or management practices, including the clearing of land for
14 agricultural practices or fire control measures.

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

25 (c) Notwithstanding the provisions of subdivisions (a) and (b) of this section,
26 where the owner of land has been notified by the department pursuant to Section
27 ~~1903.5~~ 1904 that a rare or endangered native plant is growing on such land, the
28 owner shall notify the department at least 10 days in advance of changing the land
29 use to allow for salvage of such plant. The failure by the department to salvage such
30 plant within 10 days of notification shall entitle the owner of the land to proceed
31 without regard to this chapter. Submission of a timber harvesting plan pursuant to
32 the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511 of
33 the Public Resources Code) shall constitute notice under this section. Converting
34 from one type of agricultural use, as defined in Section 51201 of the Government
35 Code, to another type of agricultural use shall not constitute a change in land use.

36 **Comment.** Subdivision (c) of Section 1913 is amended to correct an erroneous cross-reference.

37 **Fish & Game Code § 1930.2 (added). Definitions**

38 SEC. _____. Section 1930.2 is added to the Fish and Game Code, to read:

39 1930.2. For purposes of this chapter, the following terms have the following
40 meanings:

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

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

7 **Comment.** Section 1930.2 is added to generalize application throughout this chapter of
8 definitions previously applicable only to Section 1930.5.

9 **Fish & Game Code § 1930.5 (amended). Habitat strongholds and wildlife corridors**

10 SEC. _____. Section 1930.5 of the Fish and Game Code is amended to read:

11 1930.5. (a) Contingent upon funding being provided by the Wildlife Conservation
12 Board from moneys available pursuant to Section 75055 of the Public Resources
13 Code, or from other appropriate bond funds, upon appropriation by the Legislature,
14 the department shall investigate, study, and identify those areas in the state that are
15 most essential as wildlife corridors and habitat linkages, as well as the impacts to
16 those wildlife corridors from climate change, and shall prioritize vegetative data
17 development in these areas.

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

22 (c)(1) It is the policy of the state to promote the voluntary protection of wildlife
23 corridors and habitat strongholds in order to enhance the resiliency of wildlife and
24 their habitats to climate change, protect biodiversity, and allow for the migration
25 and movement of species by providing connectivity between habitat lands. In order
26 to further these goals, it is the policy of the state to encourage, wherever feasible
27 and practicable, voluntary steps to protect the functioning of wildlife corridors
28 through various means, as applicable and to the extent feasible and practicable,
29 those means may include, but are not limited to:

30 (A) Acquisition or protection of wildlife corridors as open space through
31 conservation easements.

32 (B) Installing of wildlife-friendly or directional fencing.

33 (C) Siting of mitigation and conservation banks in areas that provide habitat
34 connectivity for affected fish and wildlife resources.

35 (D) Provision of roadway undercrossings, overpasses, oversized culverts, or
36 bridges to allow for fish passage and the movement of wildlife between habitat
37 areas.

38 (2) The fact that a project applicant does not take voluntary steps to protect the
39 functioning of a wildlife corridor prior to initiating the application process for a
40 project shall not be grounds for denying a permit or requiring additional mitigation
41 beyond what would be required to mitigate project impacts under other applicable
42 laws, including, but not limited to, the California Endangered Species Act (Chapter

1 1.5 (commencing with Section 2050) of Division 3) and the California
2 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
3 Public Resources Code).

4 (d) The Legislature finds and declares that there are a number of existing efforts,
5 including, but not limited to, efforts involving working landscapes, that are already
6 working to achieve the policy described in subdivision (c).

7 (e) Subdivision (c) shall not be construed to create new regulatory requirements
8 or modify the requirements of subparagraphs (B) and (E) of paragraph (4) of
9 subdivision (a) of Section 2820 ~~of the Fish and Game Code~~, or the California
10 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
11 Public Resources Code).

12 ~~(f) For purposes of this section, the following terms have the following meanings:~~

13 ~~(1) "Habitat stronghold" means high quality habitat that supports wildlife in being~~
14 ~~more resilient to increasing pressures on species due to climate change and land~~
15 ~~development.~~

16 ~~(2) "Wildlife corridor" means a habitat linkage that joins two or more areas of~~
17 ~~wildlife habitat, allowing for fish passage or the movement of wildlife from one area~~
18 ~~to another.~~

19 **Comment.** Section 1930.5 is amended to delete subdivision (f), which set forth definitions that
20 have been generalized to apply throughout the chapter in which Section 1930.5 appears. See
21 Section 1930.2.

22 Subdivision (e) is amended to make a technical change.

23 **Fish & Game Code § 1932 (amended). Condemnation of wildlife conservation easement**

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

25 1932. There is hereby established the Significant Natural Areas Program, which
26 shall be administered by the department. The department, in administering this
27 program, shall do all of the following:

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

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

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

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

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

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

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

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

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

21 **Comment.** Subdivision (b) of Section 1932 is amended to delete the phrase “as defined in
22 Section 89.5” as superfluous. See Section 89.5 (defining the term “wildlife” generally).

23 The introductory paragraph of the section is also amended to correct a technical error.

24 **Fish & Game Code § 2003 (amended). Prize**

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

26 2003. (a) Except as specified in subdivisions (b), (c), (d), and (e), it is unlawful to
27 offer a prize or other inducement as a reward for the taking of a game bird, or the
28 taking of any mammal, fish, reptile, or amphibian, in an individual contest,
29 tournament, or derby.

30 (b) The department may issue a permit to a person authorizing that person to offer
31 a prize or other inducement as a reward for the taking of a game fish, as defined by
32 the commission by regulation, if it finds that there would be no detriment to the
33 resource. The permit is subject to regulations adopted by the commission. The
34 application for the permit shall be accompanied by a fee in the amount determined
35 by the department as necessary to cover the reasonable administrative costs incurred
36 by the department in issuing the permit. However, the department may waive the
37 permit fee if the contest, tournament, or derby is for persons who are under 16 years
38 of age or have a physical or mental disability, and the primary purpose of the contest,
39 tournament, or derby is to introduce those anglers to or educate them about fishing.
40 All permits for which the fee is waived pursuant to this subdivision shall comply
41 with all other requirements set forth in this section.

1 (c) This section does not apply to a person conducting what is generally known as
2 a frog-jumping contest, or, in waters of the Pacific Ocean, what is generally known
3 as a fish contest.

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

8 (e)(1) As used in this subdivision:

9 (A) “Event” means a competition event on lands managed by the department.

10 (B) “Prize compensation” includes prize or purse money, other prizes, goods, or
11 other compensation.

12 (2) The department, for any event that awards prize compensation to competitors
13 in gendered categories, shall require as a condition of a permit pursuant to this
14 section that, for any participant level that receives prize compensation, the prize
15 compensation for each gendered category be identical at each participant level. The
16 department shall not approve a permit for an event that does not comply with this
17 condition.

18 **Comment.** Section 2003 is amended to make clear that (1) the general prohibition in subdivision
19 (a) applies to game birds, as well as all mammals, fish, reptiles and amphibians, and (2) the
20 exception in subdivision (d) applies only to game birds and game mammals.

21 **Fish & Game Code § 2007 (amended). Trap gun**

22 SEC. _____. Section 2007 of the Fish and Game Code is amended to read:

23 2007. (a) It is unlawful to set, place, or cause to be set; or placed, any trap gun.

24 (b) A “trap gun” is a firearm loaded with other than blank cartridges and connected
25 with a string or other contrivance contact with which will cause the firearm to be
26 discharged.

27 **Comment.** Section 2007 is amended for clarity, and to add subdivision designations.

28 **Fish & Game Code § 2014 (amended). Damages**

29 SEC. _____. Section 2014 of the Fish and Game Code is amended to read:

30 2014. (a) It is the policy of this state to conserve its natural resources and to
31 prevent the willful or negligent destruction of birds, mammals, fish, reptiles, or
32 amphibia.

33 (b) The state may recover damages in a civil action against any person or local
34 agency which unlawfully or negligently takes or destroys any bird, mammal, fish,
35 reptile, or amphibian protected by the laws of this state.

36 ~~(b)~~ (c) The measure of damages is the amount ~~which~~ that will compensate for all
37 the detriment proximately caused by the taking or destruction of the birds,
38 mammals, fish, reptiles, or amphibia.

39 ~~(c)~~ (d) An action to recover damages under this section shall be brought in the
40 name of the people of the state, in a court of competent jurisdiction in the county in
41 which the cause of action arose. The State Water Resources Control Board shall be

1 notified of, and may join in, any action brought under this section when the activities
2 alleged to have caused the destruction of any bird, mammal, fish, reptile, or
3 amphibian may involve either the unlawful discharge of pollutants into the waters
4 of the state or other violation of Division 7 (commencing with Section 13000) of
5 the Water Code.

6 ~~(d)~~ (e) This section does not apply to ~~persons or local agencies engaged in~~
7 ~~agricultural pest control, to the destruction of fish in irrigation canals or works or~~
8 ~~irrigation drainages, or to the destruction of birds or mammals killed while~~
9 ~~damaging crops as provided by law~~ any of the following:

10 (1) Persons or local agencies engaged in agricultural pest control.

11 (2) The destruction of fish in irrigation canals or works, or irrigation drainages.

12 (3) The lawful destruction of a bird or mammal killed while damaging crops.

13 ~~(e)~~ (f) No damages may be recovered against a local agency pursuant to this
14 section if civil or administrative penalties are assessed against the local agency for
15 the same detriment pursuant to Division 7 (commencing with Section 13000) of the
16 Water Code.

17 ~~(f)~~ (g) Any recovery or settlement of money damages, including, but not limited
18 to, civil penalties, arising out of any civil action filed and maintained by the Attorney
19 General in the enforcement of this section shall be deposited by the department in
20 the subaccounts of the Fish and Wildlife Pollution Account in the Fish and Game
21 Preservation Fund as specified in Section 13011.

22 ~~(g)~~ (h) For purposes of this section, “local agency” includes any city, county, city
23 and county, district, public authority, or other political subdivision.

24 **Comment.** The second paragraph of subdivision (a) of Section 2014 is amended to designate it
25 as subdivision (b). All of the subdivisions that follow are redesignated to reflect that change.

26 Newly designated subdivision (c) is amended to make clear that the measure of damages for
27 unlawful or negligent take or destruction can include the detriment caused by taking, even if the
28 animal is not destroyed.

29 Newly designated subdivision (e) is amended to eliminate an ambiguous use of the phrase “as
30 provided by law.”

31 Newly designated subdivision (f) is amended to make clear that the provision applies to both
32 judicial and administrative penalties.

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

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

35 2021. (a) As used in this section “shark fin” means the raw, dried, or otherwise
36 processed detached fin, or the raw, dried, or otherwise processed detached tail, of
37 an elasmobranch.

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

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

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

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

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

8 **Fish & Game Code § 2021.5 (amended). Shark fin**

9 SEC. _____. Section 2021.5 of the Fish and Game Code is amended to read:

10 2021.5. (a) Notwithstanding Section 2021, all of the following provisions apply:

11 (1) Any person who holds a license or permit issued by the department to take or
12 land sharks for recreational or commercial purposes may possess, including for
13 purposes of consumption or taxidermy, or may donate to a person licensed or
14 permitted pursuant to Section 1002, a shark fin or fins consistent with that license
15 or permit.

16 ~~(2) Before July 1, 2013, any person may possess, sell, offer for sale, trade, or~~
17 ~~distribute a shark fin possessed by that person, as of January 1, 2012.~~

18 ~~(3) Nothing in Section 2021 prohibits the sale or possession of a shark carcass,~~
19 ~~skin, or fin for taxidermy purposes pursuant to Section 3087.~~

20 (b)(1) The Ocean Protection Council shall submit an annual report to the
21 Legislature that lists any shark species that have been independently certified to
22 meet internationally accepted standards for sustainable seafood, as defined in
23 Section 35550 of the Public Resources Code, and adopted by the Ocean Protection
24 Council pursuant to Section 35617 of the Public Resources Code, including chain
25 of custody standards.

26 (2) A report to be submitted pursuant to paragraph (1) shall be submitted in
27 compliance with Section 9795 of the Government Code.

28 **Comment.** Section 2021.5 is amended to delete obsolete material.

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

30 SEC. _____. Section 2074.6 of the Fish and Game Code is amended to read:

31 2074.6. (a) ~~The~~ If the Commission accepts a petition for consideration, the
32 department shall promptly commence a review of the status of the species concerned
33 in the petition.

34 (b) Within 12 months of the date of publication of a notice of acceptance of a
35 petition for consideration pursuant to paragraph (2) of subdivision (e) of Section
36 2074.2, the department shall produce and make publicly available on the
37 department's Internet Web site a final written peer reviewed report, based upon the
38 best scientific information available to the department, which indicates whether the
39 petitioned action is warranted, which includes a preliminary identification of the
40 habitat that may be essential to the continued existence of the species, and which

1 recommends management activities and other recommendations for recovery of the
2 species.

3 (c) Prior to releasing the final written report, the department shall have a draft
4 status review report prepared and independently peer reviewed, and upon receiving
5 the peer reviewers' input, shall evaluate and respond in writing to the independent
6 peer review and shall amend the draft status review report as appropriate.

7 (d) The revised report shall be posted on the department's Internet Web site for a
8 minimum of 30 days for public review prior to the hearing scheduled pursuant to
9 Section 2075.

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

14 **Comment.** Subdivision (a) of Section 2074.6 is amended to clarify the application of the section.
15 The section is also amended to add subdivision designations.

16 **Fish & Game Code § 2074.8 (amended). Scope of inquiry**

17 SEC. _____. Section 2074.8 of the Fish and Game Code is amended to read:

18 2074.8. (a) This article does not impose any duty or obligation for, or otherwise
19 require, the commission or the department to undertake independent studies or other
20 assessments of any species when reviewing a petition and its attendant documents
21 and comments. ~~However, the department shall seek independent scientific peer
22 review of the department's status report.~~

23 (b) The director may approve an extension of time for completion of the status
24 report if necessary for the purposes of obtaining independent peer review pursuant
25 to Section 2074.6.

26 **Comment.** Section 2074.8 is amended to delete a redundant provision. See Section 2074.6.
27 The section is also amended to add subdivision designations.

28 **Fish & Game Code § 2076 (amended). Unlawful activity in District 10**

29 SEC. _____. Section 2076 of the Fish and Game Code is amended to read:

30 2076. Any finding pursuant to this ~~section~~ article is subject to judicial review
31 under Section 1094.5 of the Code of Civil Procedure.

32 **Comment.** Section 2076 is amended to correct an erroneous cross-reference.

33 **Fish & Game Code § 2080.3 (amended). Enhancement of survival permit**

34 SEC. _____. Section 2080.3 of the Fish and Game Code is amended to read:

35 2080.3. (a) Notwithstanding any other provision of this chapter, if any person
36 obtains from the Secretary of Commerce an enhancement of survival permit
37 pursuant to Section 1539(a)(1)(A) of Title 16 of the United States Code that
38 authorizes the taking of spring run Chinook salmon (*Oncorhynchus tshawytscha*) in
39 order to establish or maintain an experimental population in the San Joaquin River
40 pursuant to subsection (j) of that section and the San Joaquin River Restoration

1 Settlement Act (Part I of Subtitle A of Title X of Public Law 111-11), no further
2 authorization or approval is necessary under this chapter for that person to take that
3 species as identified in, and in accordance with, the enhancement of survival permit,
4 if all of the following requirements are met:

5 (1) That person shall notify the director in writing that the person has received an
6 enhancement of survival permit and include in the notification a copy of the permit.

7 (2) Upon receipt of the notice specified in paragraph (1) ~~of subdivision (e)~~, the
8 director shall immediately have the notice published in the General Public Interest
9 section of the California Regulatory Notice Register.

10 (3) Within 30 days after the director has received the notice specified in paragraph
11 (1), the director shall determine whether the enhancement of survival permit will
12 further the conservation of the species. As used in this paragraph, “conservation”
13 has the same meaning as defined in Section 2061.

14 (4) The director shall immediately have the determination pursuant to paragraph
15 (3) published in the General Public Interest section of the California Regulatory
16 Notice Register.

17 (b) The timing and extent of a take authorization under this section shall be limited
18 to the terms in the federal enhancement of survival permit and shall expire upon the
19 expiration of the federal permit.

20 (c) This section shall remain in effect only until the effective date of an
21 amendment to Section 1539 of Title 16 of the United States Code that alters the
22 requirements for issuing an enhancement of survival permit, as applicable, and as
23 of that date is repealed, unless a later enacted statute, that is chaptered before the
24 date this section is repealed, deletes or extends that date.

25 **Comment.** Paragraph (2) of subdivision (a) of Section 2080.3 is amended to correct an erroneous
26 cross-reference.

27 Subdivision (c) is also amended to make a technical correction.

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

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

30 2081.2. (a) For purposes of this section, the following terms have the following
31 meanings:

32 (1) “Permit” means any authorization issued by the department pursuant to this
33 article to take a species listed by this chapter as candidate, threatened, or
34 endangered. The term includes a consistency determination pursuant to Section
35 2080.1 and a concurrence determination pursuant to Section 2080.3 or 2080.4.

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

40 (3) “Permittee” includes any individual, firm, association, organization,
41 partnership, business, trust, corporation, limited liability company, district, city,

1 county, city and county, town, federal agency, and the state who applies for or who
2 has received a permit pursuant to this article.

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

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

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

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

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

17 (b)(1) The department shall collect a permit application fee for processing a
18 permit application submitted pursuant to this article at the time the permit
19 application is submitted to the department. Notwithstanding Section 2098, upon
20 appropriation to the department from the Endangered Species Permitting Account,
21 the department shall use the permit application fee to pay for all or a portion of the
22 department’s cost of processing permit applications, permit development, and
23 compliance monitoring pursuant to this article.

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

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

30 (B) Permits or memoranda of understanding authorized by subdivision (a) of
31 Section 2081.

32 (C) Permits for voluntary habitat restoration projects.

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

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

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

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

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

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

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

8 (3) For a project where the estimated project cost is one hundred thousand dollars
9 (\$100,000) or more but less than five hundred thousand dollars (\$500,000), the
10 department shall assess either of the following amounts:

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

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

15 (4) For a project where the estimated project cost is five hundred thousand dollars
16 (\$500,000) or more, the department shall assess either of the following amounts:

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

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

21 (5) The department shall collect a fee of seven thousand five hundred dollars
22 (\$7,500) for processing permit amendments that the department has determined are
23 minor as defined in regulation or fifteen thousand dollars (\$15,000) for processing
24 permit amendments that the department has determined are major as defined in
25 regulation.

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

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

37 (e)(1) For a permit application submitted to the department pursuant to this article
38 on or after ~~the effective date of this section~~ September 13, 2016, the department
39 shall collect the permit application fee at the time the permit application is
40 submitted. The department shall not deem the permit application complete until it
41 has collected the permit application fee. A permit application submitted or deemed
42 complete before ~~the effective date of this section~~ September 13, 2016, shall not be
43 subject to fees established pursuant to this section.

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

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

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

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

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

13 (g) Fees paid to the department pursuant to this section shall be deposited in the
14 Endangered Species Permitting Account, which is hereby established in the Fish
15 and Game Preservation Fund. Notwithstanding Section 2098, funds in the account
16 shall be available to the department, upon appropriation by the Legislature, for the
17 purposes of administering and implementing this chapter, except that fee moneys
18 collected pursuant to this section shall only be used for the purposes of this article.

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

20 **Fish & Game Code § 2086 (amended). Voluntary programs**

21 SEC. _____. Section 2086 of the Fish and Game Code is amended to read:

22 2086. (a) The department, in cooperation with the Department of Food and
23 Agriculture, agricultural commissioners, extension agents, farmers, ranchers, and
24 other agricultural experts, shall adopt regulations that authorize locally designed
25 voluntary programs for routine and ongoing agricultural activities on farms or
26 ranches that encourage habitat for candidate, threatened, and endangered species,
27 and wildlife generally. Agricultural commissioners, extension agents, farmers,
28 ranchers, or other agricultural experts, in cooperation with conservation groups, may
29 propose those programs to the department. ~~The department shall propose regulations~~
30 ~~for those programs not later than July 1, 1998.~~

31 (b) Programs authorized under subdivision (a) shall do all of the following:

32 (1) Include management practices that will, to the maximum extent practicable,
33 avoid and minimize take of candidate, endangered, and threatened species, while
34 encouraging the enhancement of habitat.

35 (2) Be supported by the best available scientific information for both agricultural
36 and conservation practices.

37 (3) Be consistent with the policies and goals of this chapter.

38 (4) Be designed to provide sufficient flexibility to maximize participation and to
39 gain the maximum wildlife benefits without compromising the economics of
40 agricultural operations.

1 (5) Include terms and conditions to allow farmers or ranchers to cease
2 participation in a program without penalty. The terms and conditions shall include
3 reasonable measures to minimize take during withdrawal from the program.

4 (c) Any taking of candidate, threatened, or endangered species incidental to
5 routine and ongoing agricultural activities that occurs while the management
6 practices specified by paragraph (1) of subdivision (b) are followed, is not
7 prohibited by this chapter.

8 (d)(1) The department shall automatically renew the authorization for these
9 voluntary programs every five years, unless the Legislature amends or repeals this
10 section in which case the program shall be revised to conform to this section.

11 (2) Commencing in 2000, and every five years thereafter, the department shall
12 post a report regarding the effect of the programs on its Internet Web site. The
13 department shall consult with the Department of Food and Agriculture in evaluating
14 the programs and preparing the report. The report shall address factors such as the
15 temporary and permanent acreage benefiting from the programs, include an estimate
16 of the amount of land upon which routine and ongoing agricultural activities are
17 conducted, provide examples of farmer and rancher cooperation, and include
18 recommendations to improve the voluntary participation by farmers and ranchers.

19 (e) If the authorization for these programs is not renewed or is modified under
20 subdivision (d), persons participating in the program shall be allowed to cease
21 participating in the program in accordance with the terms and conditions specified
22 in paragraph (5) of subdivision (b), without penalty.

23 (f)(1) The department may approve an application submitted by an agricultural-
24 based nonprofit organization or other entity registered as a California nonprofit
25 organization to initiate and undertake public education and outreach activities that
26 promote the achievement of the objectives of this chapter. An application submitted
27 pursuant to this subdivision shall include the following:

28 (A) The name and contact information of the participating organization.

29 (B) A brief description of the planned outreach activities.

30 (C) An end date for the outreach activities.

31 (2) The department may require a participating organization to submit, for
32 approval by the department, educational materials and outreach materials that are
33 disseminated to the public in furtherance of this subdivision.

34 (3) A participating organization shall file an annual report with the department
35 before the end of each calendar year during the time period specified in the
36 application. The report shall include, but is not limited to, the following:

37 (A) Complete information on the activities conducted by the participating
38 organization in the prior year, including a description of all means of
39 communicating to the public and agricultural community, including personal visits,
40 electronic communications, organized meetings, or other means.

41 (B) A compilation of responses from the public and members of the agricultural
42 community that will assist the participating organization and the department to
43 modify or improve public education and outreach activities on an ongoing basis.

1 (C) An assessment of the existing knowledge within the agricultural community
2 of programs and prohibitions under this chapter and a review of outreach activities
3 that could be used to adapt and improve future outreach efforts.

4 (D) Information on a farm or ranch that has expressed interest in participating in
5 a voluntary program pursuant to this section or the safe harbor agreement program
6 contained in Article 3.7 (commencing with Section 2089.2). This provision does not
7 require the annual report to include the identification to the department of an
8 individual, farm, or ranch.

9 **Comment.** Subdivision (a) of Section 2086 is amended to delete an obsolete deadline for the
10 proposal of specified regulations.

11 **Fish & Game Code § 2124 (amended). License requirement**

12 SEC. _____. Section 2124 of the Fish and Game Code is amended to read:

13 2124. (a) The department may reimburse eligible local entities, pursuant to a
14 memorandum of understanding entered into pursuant to this section, for costs
15 incurred by the eligible local entities in the administration and enforcement of any
16 provision concerning the possession of, handling of, care for, or holding facilities
17 provided for, a wild animal enumerated in or designated pursuant to Section 2118.

18 (b) The department may enter into memorandums of understanding with eligible
19 local entities for the administration and enforcement of any provision concerning
20 the possession of, handling of, care for, or holding facilities provided for, a wild
21 animal enumerated in or designated pursuant to Section 2118.

22 (c) The commission shall adopt regulations that establish specific criteria an
23 eligible local entity shall meet in order to qualify as an eligible local entity.

24 (d) For the purposes of this division, “eligible local entity” means a county, local
25 animal control officer, local humane society official, educational institution, or
26 trained private individual that enters into a memorandum of understanding with the
27 department pursuant to this section.

28 **Comment.** Subdivisions (a) and (b) of Section 2124 are amended to conform to statutory
29 language used in other code sections referring to animals listed in Section 2118. See Sections 2123,
30 2185, 2190.

31 **Fish & Game Code § 2125 (amended). Civil penalty**

32 SEC. _____. Section 2125 of the Fish and Game Code is amended to read:

33 2125. (a) In addition to any other penalty provided by law, any person who
34 violates this chapter or any regulations implementing this chapter, is subject to a
35 civil penalty of not less than five hundred dollars (\$500) nor more than ten thousand
36 dollars (\$10,000) for each violation. Except as otherwise provided, any violation of
37 this chapter or of any regulations implementing this chapter is a misdemeanor
38 punishable by imprisonment in a county jail for not more than six months, or by a
39 fine of not more than one thousand dollars (\$1,000).

40 (b) The Attorney General, or the city attorney of the city or the district attorney or
41 county counsel of the county in which a violation of this article occurs, may bring a
42 civil action to recover the civil penalty in subdivision (a) and the costs of seizing

1 and holding the animal ~~listed in~~ enumerated in or designated pursuant to Section
2 2118, except to the extent that those costs have already been collected as provided
3 by subdivision (d). The civil action shall be brought in the county in which the
4 violation occurs and any penalty imposed shall be transferred to the Controller for
5 deposit in the Fish and Game Preservation Fund in accordance with Section 13001.

6 (c) In an action brought under this section, in addition to the penalty specified in
7 subdivision (a), the reasonable costs of investigation, reasonable attorney's fees, and
8 reasonable expert witness' fees may also be recovered and those amounts shall be
9 credited to the same operating funds as those from which the expenditures for those
10 purposes were derived.

11 (d)(1) If an animal is confiscated because the animal was kept in contravention of
12 this chapter or any implementing regulations, the person claiming the animal shall
13 pay to the department or the new custodian of the animal an amount sufficient to
14 cover all reasonable expenses expected to be incurred in caring for and providing
15 for the animal for at least 30 days, including, but not limited to, the estimated cost
16 of food, medical care, and housing.

17 (2) If the person claiming the animal fails to comply with the terms of ~~his or her~~
18 their permit and to regain possession of the animal by the expiration of the first 30-
19 day period, the department may euthanize the animal or place the animal with an
20 appropriate wild animal facility at the end of the 30 days, unless the person claiming
21 the animal pays all reasonable costs of caring for the animal for a second 30-day
22 period before the expiration of the first 30-day period. If the permittee is still not in
23 compliance with the terms of the permit at the end of the second 30-day period, the
24 department may euthanize the animal or place the animal in an appropriate wild
25 animal facility.

26 (3) The amount of the payments described in paragraphs (1) and (2) shall be
27 determined by the department, and shall be based on the current reasonable costs to
28 feed, provide medical care for, and house the animal. If the person claiming the
29 animal complies with the terms of ~~his or her~~ their permit and regains possession of
30 the animal, any unused portion of the payments required pursuant to paragraphs (1)
31 and (2) shall be returned to the person claiming the animal no later than 90 days
32 after the date on which the person regains possession of the animal.

33 **Comment.** Subdivision (b) of Section 2125 is amended to conform to statutory language used
34 in other code sections referring to animals listed in Section 2118. See Sections 2123, 2185, 2190.

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

36 **Fish & Game Code § 2126 (amended). Prohibited take**

37 SEC. ____ . Section 2126 of the Fish and Game Code is amended to read:

38 2126. (a) Except as otherwise authorized by this code or regulations made
39 pursuant thereto, it is unlawful for any person to take any mammal ~~as identified by~~
40 enumerated in or designated pursuant to Section 2118.

41 (b) This section does not prohibit the euthanasia of a mammal as appropriately
42 directed by a licensed veterinarian or animal health technician.

1 **Comment.** Subdivision (a) of Section 2126 is amended to conform to statutory language used in
2 other code sections referring to animals listed in Section 2118. See Sections 2123, 2185, 2190.

3 **Fish & Game Code § 2127 (amended). Eligible local entity**

4 SEC. _____. Section 2127 of the Fish and Game Code is amended to read:

5 2127. (a) The department may reimburse eligible local entities, pursuant to a
6 memorandum of understanding entered into pursuant to this section, for costs
7 incurred by the eligible local entities in the administration and enforcement of any
8 provision concerning the possession of, handling of, care for, or holding facilities
9 provided for, a wild animal enumerated in or designated pursuant to Section 2118.

10 (b) The department may enter into memorandums of understanding with eligible
11 local entities for the administration and enforcement of any provision concerning
12 the possession of, handling of, care for, or holding facilities provided for, a wild
13 animal enumerated in or designated pursuant to Section 2118.

14 (c) The commission shall adopt regulations that establish specific criteria an
15 eligible local entity shall meet in order to qualify as an eligible local entity.

16 (d) For the purposes of this division, “eligible local entity” means a county, local
17 animal control officer, local humane society official, educational institution, or
18 trained private individual that enters into a memorandum of understanding with the
19 department pursuant to this section.

20 **Comment.** Subdivisions (a) and (b) of Section 2127 are amended to conform to statutory
21 language used in other code sections referring to animals listed in Section 2118. See Sections 2123,
22 2185, 2190.

23 **Fish & Game Code § 2150.3 (amended). Advisory committee**

24 SEC. _____. Section 2150.3 of the Fish and Game Code is amended to read:

25 2150.3. (a) The director shall appoint a committee to advise the director on the
26 humane care and treatment of wild animals.

27 (b) The committee shall make recommendations to the director for the
28 establishment of standards of performance for administration and enforcement,
29 which shall include, but are not limited to, requiring that the eligible local entity
30 possess a knowledge of humane wild animal training methods.

31 (c) The committee shall make recommendations to the director as to the frequency
32 of inspections necessary for the enforcement and administration of any provision
33 concerning the possession of, handling of, care for, or holding facilities provided
34 for, a wild animal enumerated in or designated pursuant to Section 2118.

35 (d) The committee shall advise and assist the director in entering into
36 memorandums of understanding with eligible local entities and in determining
37 whether the memorandums of understanding meet the requirements of this chapter.

38 **Comment.** Subdivision (c) of Section 2150.3 is amended to conform to statutory language used
39 in other code sections referring to animals listed in Section 2118. See Sections 2123, 2185, 2190.

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

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

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

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

14 **Comment.** Section 2185 is amended to update an obsolete cross-reference.

15 **Fish & Game Code § 2356 (amended). Transport of trout**

16 SEC. _____. Section 2356 of the Fish and Game Code is amended to read:

17 2356. (a) It is unlawful ~~at any time~~ to offer for shipment, ship, ~~or~~ receive for
18 shipment, or transport from this state, any trout taken in the waters of this state,
19 except ~~that the~~ as provided in subdivision (b).

20 (b) The following persons may personally transport from this state not more than
21 one daily bag limit of trout:

22 (1) The holder of a nonresident ~~angling sport fishing~~ license, ~~or any~~ .

23 (2) A person on active military duty with the armed forces of the United States ~~or~~
24 ~~on active military duty with an auxiliary branch thereof~~ who possesses a valid
25 angling license, ~~may personally transport from this state not more than one daily~~
26 ~~bag limit of trout.~~

27 (3) A person on active military duty with an auxiliary branch of the armed forces
28 of the United States who possesses a valid angling license.

29 **Comment.** Section 2356 is amended for clarity.

30 The section is also amended to add subdivision designations.

31 **Fish & Game Code § 2359 (amended). Striped bass**

32 SEC. _____. Section 2359 of the Fish and Game Code is amended to read:

33 2359. Except as provided in Section 2363, ~~no~~ striped bass may be transported or
34 carried out of or into this state, ~~except striped bass taken from the Colorado River~~
35 ~~by sportfishing licensees to the extent and in the manner following~~ only as follows:

36 (a) A resident of California, or the holder of a valid nonresident California
37 sportfishing license, lawfully taking ~~such fish on the waters~~ striped bass from the
38 Colorado River or from the Arizona shore of ~~the~~ that river, may transport or carry
39 ~~such fish~~ the fish taken into California.

40 (b) A resident of Arizona, or the holder of a valid nonresident Arizona
41 sportfishing license, lawfully taking ~~such fish on the waters~~ striped bass from the

1 Colorado River or from the California shore of ~~the~~ that river, may transport or carry
2 ~~such fish~~ the fish taken into Arizona.

3 **Comment.** Section 2359 is amended for clarity.

4 **Fish & Game Code § 2541 (amended). Surety bond**

5 SEC. _____. Section 2541 of the Fish and Game Code is amended to read:

6 2541. Each applicant for a guide license shall submit proof of having obtained a
7 surety bond in the amount of not less than one thousand dollars (\$1,000) ~~which shall~~
8 ~~insure,~~ conditioned on faithful performance of the guide and his or her the guide's
9 agents or employees in fulfilling their responsibilities to their clients. No guide
10 license shall be issued to any applicant who does not submit proof of having a bond
11 ~~which that~~ is valid for the term of the license.

12 **Comment.** Section 2541 is amended to delete obsolete material and make nonsubstantive
13 technical changes.

14 **Fish & Game Code § 2576 (amended). Prohibitions**

15 SEC. _____. Section 2576 of the Fish and Game Code is amended to read:

16 2576. It is unlawful to knowingly capture for sale, transport for sale or sell wild
17 rodents, except as provided in Article ~~1.5~~ 1 (commencing with Section 1000) of
18 Chapter 3 of Division 2.

19 **Comment.** Section 2576 is amended to update a cross-reference to an article that was
20 renumbered.

21 **Fish & Game Code § 2582 (amended). Administrative penalties for specified conduct**

22 SEC. _____. Section 2582 of the Fish and Game Code is amended to read:

23 2582. (a) The department may impose ~~civil liability~~ an administrative penalty
24 upon any person pursuant to this chapter for any of the following acts done for profit
25 or personal gain:

26 (1) Unlawfully export, import, transport, sell, possess, receive, acquire, or
27 purchase, or unlawfully assist, conspire, or aid in the importing, exporting,
28 transporting, sale, possession, receiving, acquisition, or purchasing of, any bird,
29 mammal, amphibian, reptile, or fish which are taken or possessed in violation of this
30 code or the regulations adopted pursuant to this code.

31 (2) Unlawfully export, import, transport, sell, possess, receive, acquire, or
32 purchase, or unlawfully assist, conspire, or aid in the importing, exporting,
33 transporting, sale, possession, receiving, acquisition, or purchasing of any plants,
34 insects, or other species listed pursuant to the California Endangered Species Act
35 (Chapter 1.5 (commencing with Section 2050)), which are taken or possessed in
36 violation of this code or the regulations adopted pursuant to this code.

37 (3) Unlawfully export, import, transport, sell, possess, receive, acquire, or
38 purchase any bird, mammal, amphibian, reptile, or fish, or any endangered or
39 threatened species, or any fully protected bird, mammal, or fish which has been

1 taken, possessed, transported, or sold in violation of this code or the regulations
2 adopted pursuant to this code.

3 (4) Unlawfully possess any bird, mammal, amphibian, reptile, or fish, or any
4 endangered or threatened species, or any fully protected bird, mammal, or fish
5 which has been taken, possessed, transported, or sold in violation of this code or any
6 regulations adopted pursuant to this code within the maritime and territorial
7 jurisdiction of the state or within the portions of the special maritime jurisdiction of
8 the United States upon which the State of California exercises concurrent
9 jurisdiction, either by statute, deputation, or by contract with the United States.

10 (5) Having exported, imported, transported, sold, purchased, or received any bird,
11 mammal, amphibian, reptile, or fish, or any endangered or threatened species, or
12 any fully protected bird, mammal, or fish, unlawfully make or submit any false
13 record, account, label, or identification thereof.

14 (6) Attempt to commit any unlawful act, or unlawfully attempt to commit any act,
15 described in paragraphs (1) to (5), inclusive.

16 (b) The department may impose ~~civil liability~~ an administrative penalty upon any
17 person pursuant to this chapter for unlawfully exporting, importing, possessing,
18 receiving, or transporting in interstate commerce any container or package
19 containing any bird, mammal, amphibian, reptile, or fish, or any endangered or
20 threatened species, or any fully protected bird, mammal, or fish unless the container
21 or package has previously been plainly marked, labeled, or tagged in accordance
22 with this code and the regulations adopted pursuant to this code.

23 (c) The department may impose ~~civil liability~~ an administrative penalty upon any
24 person pursuant to this chapter for any unlawful failure or refusal to maintain any
25 records or paperwork as required by this code.

26 **Comment.** Section 2582 is amended to replace references to “civil liability” with references to
27 “an administrative penalty.” This is a nonsubstantive clarification.

28 **Fish & Game Code § 2583 (amended). Administrative penalties relating to endangered,
29 threatened, or fully protected animals**

30 SEC. ____ . Section 2583 of the Fish and Game Code is amended to read:

31 2583. (a) Except as provided in subdivision (b), any person who violates this code
32 or any regulation adopted to carry out this code, and, with the exercise of due care,
33 should have known that the birds, mammals, amphibians, reptiles, or fish, or the
34 endangered or threatened species, or the fully protected birds, mammals, or fish
35 were taken, possessed, transported, imported, received, purchased, acquired, or sold
36 in violation of, or in a manner unlawful under, this code, may be assessed a ~~civil~~ an
37 administrative penalty. The ~~civil~~ administrative penalty imposed under this chapter
38 by the department shall not be more than ten thousand dollars (\$10,000) for each
39 bird, mammal, amphibian, reptile, or fish, or for each endangered or threatened
40 species, or each fully protected bird, mammal, or fish unlawfully taken, possessed,
41 transported, imported, received, purchased, acquired, or sold. This ~~civil~~

1 administrative penalty may be in addition to any other penalty, civil or criminal,
2 provided in this code or otherwise by law.

3 (b) No ~~civil~~ administrative penalties shall be imposed under this chapter until the
4 guidelines for the imposition of the penalties are adopted by the commission
5 pursuant to Section 500.

6 **Comment.** Section 2583 is amended to replace references to a “civil penalty” with references to
7 an “administrative penalty.” This is a nonsubstantive clarification.

8 **Fish & Game Code § 2584 (amended). Procedure for imposition of administrative penalty**

9 SEC. ____ . Section 2584 of the Fish and Game Code is amended to read:

10 2584. (a) Upon an actionable violation, the department shall consult, as to the
11 appropriate civil or criminal remedy, with the district attorney in the jurisdiction
12 where the violation was alleged to have occurred. Before proceeding with a civil
13 action, the department shall seek the concurrence of the Attorney General.

14 ~~(b) The director shall appoint a qualified referee or hearing board, composed of~~
15 ~~one or any combination of the following persons:~~

16 ~~(1) A qualified hearing officer, as defined in subdivision (a) of Section 2580.~~

17 ~~(2) A retired judge of the superior court who is knowledgeable in fish and wildlife~~
18 ~~law.~~

19 ~~(3) A qualified neutral referee, appointed upon petition to the Superior Court in~~
20 ~~which the violation was alleged to have occurred.~~

21 ~~(e)~~ The director, after investigation of the facts and circumstances, may issue a
22 complaint to any person on whom a ~~civil~~ an administrative penalty may be imposed
23 pursuant to Section 2582 or 2583. The complaint shall allege the acts or failures to
24 act that constitute a basis for a ~~civil~~ an administrative penalty and the amount of the
25 proposed ~~civil~~ administrative penalty. The complaint shall be served by personal
26 service or certified mail and shall inform the person so served that a hearing shall
27 be conducted within 60 days after the person has been served, unless the person
28 waives the right to a hearing. If the person waives the right to a hearing, the
29 department shall issue an order setting ~~liability~~ the penalty in the amount proposed
30 in the complaint. If the person has waived the right to a hearing or if the department
31 and the person have entered into a settlement agreement, the order shall be final.

32 (c) If the director issues a complaint pursuant to subdivision (a), the director shall
33 appoint a qualified referee or hearing board, composed of one or any combination
34 of the following persons:

35 (1) A qualified hearing officer, as defined in subdivision (a) of Section 2580.

36 (2) A retired judge of the superior court who is knowledgeable in fish and wildlife
37 law.

38 (3) A qualified neutral referee, appointed upon petition to the superior court in
39 which the violation was alleged to have occurred.

40 (d) Any hearing required under this section shall be conducted by a the appointed
41 referee or hearing board according to the procedures specified in Sections 11507 to
42 11517, inclusive, of the Government Code, except as otherwise provided in this

1 section. In making a determination, the ~~hearing officer~~ appointed referee or hearing
2 board may consider the records of the department in the matter, the complaint, and
3 any new facts brought to the ~~officer's~~ attention of the referee or hearing board by
4 ~~that~~ the person served with the complaint. The ~~hearing officer~~ appointed referee or
5 hearing board shall be the sole trier of fact as to the existence of a basis for liability
6 under Section 2582 or 2583. The ~~hearing officer~~ appointed referee or hearing board
7 shall make the determination of the facts of the case and shall prepare and submit
8 the proposed decision, including a recommended penalty assessment, to the director
9 for the director's review and assistance in the penalty assessment process. The
10 proposed decision is a public record and shall be served upon the person. The
11 director may approve the proposed decision in its entirety, or the director may
12 reduce the proposed penalty and adopt the balance of the proposed decision.

13 (e) The director may assess the ~~civil~~ recommended administrative penalty, ~~and~~
14 ~~may~~ reduce the amount of the recommended penalty, or not impose any ~~assessment,~~
15 ~~of civil penalties~~ administrative penalty, based upon the nature, circumstances,
16 extent, and gravity of the prohibited acts alleged, and the degree of culpability of
17 the violator; ~~or~~ the director may enter into a settlement agreement with the person
18 served with the complaint in the best interests of the state or confirm the amount of
19 civil administrative penalties contained in the complaint. If the director reduces the
20 amount of the civil administrative penalty, does not impose the civil administrative
21 penalty, or enters into a settlement agreement, the director shall seek the
22 recommendation of the ~~hearing officer~~ appointed referee or hearing board and enter
23 into the records of the case the reasons for that action, including the ~~hearing officer's~~
24 recommendation of the appointed referee or hearing board. The decision of the
25 director assessing the civil administrative penalty is final. ~~The proposed decision is~~
26 ~~a public record and shall be served upon the person. The director may approve the~~
27 ~~proposed decision in its entirety, or the director may reduce the proposed penalty~~
28 ~~and adopt the balance of the proposed decision.~~

29 (f) Upon the final assessment of the civil administrative penalty, the department
30 shall issue an order setting the amount of the civil administrative penalty to be
31 imposed. An order setting ~~civil liability~~ the amount of an administrative penalty
32 under this section becomes effective and final upon the issuance ~~thereof~~ of the order,
33 and payment shall be made within 30 days of issuance. Copies of the order shall be
34 served by personal service or by certified mail upon the person served with the
35 complaint and upon other persons who appeared before the director and requested
36 a copy. Copies of the order shall be provided to any person within 10 days of receipt
37 of a written request from that person.

38 (g) Within 30 days after service of a copy of an order setting the amount of the
39 civil administrative penalty, any person so served may file with the superior court a
40 petition for a writ of mandate for review of the order. In all proceedings pursuant to
41 this subdivision, the court shall exercise its independent judgment on the evidence
42 in the whole record. The filing of a petition for a writ of mandate shall not stay any
43 other civil or criminal action.

1 (h) The records of the case, after all appeals are final, are public records, as
2 defined in Section 7920.530 of the Government Code.

3 **Comment.** Section 2584 is amended to replace references to a “civil penalty” or “civil liability”
4 with references to an “administrative penalty,” and make other nonsubstantive clarifications.

5 **Fish & Game Code § 2585 (amended). Forfeiture not precluded by penalty**

6 SEC. _____. Section 2585 of the Fish and Game Code is amended to read:

7 2585. The ~~civil~~ administrative penalties imposed under this chapter are in addition
8 to any forfeiture of equipment pursuant to Section 12157 or forfeiture of birds,
9 mammals, amphibia, reptiles, or fish pursuant to Section 12159.

10 **Comment.** Section 2585 is amended to replace a reference to “civil penalties” with a reference
11 to “administrative penalties.” This is a nonsubstantive clarification.

12 **Fish & Game Code § 2586 (amended). Reward**

13 SEC. _____. Section 2586 of the Fish and Game Code is amended to read:

14 2586. (a) The director may pay a reward from any funds available for that purpose
15 to any person who furnished information which led to an arrest, a criminal
16 conviction, an order of assessment of a ~~civil~~ an administrative penalty, or for
17 forfeiture of property for any violation of this code or any regulation adopted
18 pursuant to this code. The amount of reward, if any, shall be designated by the
19 director with the advice of the CalTIP Award Board.

20 (b) This chapter does not apply to any action brought to recover damages under
21 Section 2014.

22 **Comment.** Section 2586 is amended to replace a reference to a “civil penalty” with a reference
23 to an “administrative penalty.” This is a nonsubstantive clarification.

24 **Fish & Game Code § 2587 (amended). Enforcement of penalty**

25 SEC. _____. Section 2587 of the Fish and Game Code is amended to read:

26 2587. (a) Notwithstanding Section 12511 of the Government Code, the
27 department may retain or appoint legal counsel to prepare and prosecute civil
28 actions under this chapter.

29 (b) Any action to recover ~~civil~~ administrative penalties imposed under this chapter
30 shall be commenced within three years after discovery of the commission of the
31 offense.

32 **Comment.** Section 2587 is amended to replace a reference to “civil penalties” with a reference
33 to “administrative penalties.” This is a nonsubstantive clarification.

34 **Fish & Game Code § 2588 (amended). Deposit of penalties and revenue**

35 SEC. _____. Section 2588 of the Fish and Game Code is amended to read:

36 2588. All ~~civil~~ administrative penalties and revenues from forfeitures collected
37 pursuant to this chapter shall be deposited in the Fish and Game Preservation Fund.

38 **Comment.** Section 2588 is amended to replace a reference to a reference to “civil penalties”
39 with a reference to “administrative penalties.” This is a nonsubstantive clarification.

1 **Fish & Game Code § 2854 (amended). Workgroup actions**

2 SEC. _____. Section 2854 of the Fish and Game Code is amended to read:

3 2854. The ~~workgroup~~ State Interagency Marine Managed Areas Workgroup shall,
4 after appropriate consultation with members of the public, determine future actions
5 for implementing the recommendations of its final report.

6 **Comment.** Section 2854 is amended to identify a workgroup referenced in the section.

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

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

10 3004.5. (a)(1) Nonlead centerfire rifle and pistol ammunition, as determined by
11 the commission, shall be required when taking big game, as defined in the
12 department’s mammal hunting regulations (14 Cal. Code Regs. 350), with rifle or
13 pistol, and when taking coyote, within the California condor range.

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

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

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

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

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

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

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

36 (d)(1) To the extent that funding is available, the commission shall establish a
37 process that will provide hunters with nonlead ammunition at no or reduced charge.
38 The process shall provide that the offer for nonlead ammunition at no or reduced
39 charge may be redeemed through a coupon sent to a permit holder with the
40 appropriate permit tag. If available funding is not sufficient to provide nonlead
41 ammunition at no charge, the commission shall set the value of the reduced charge

1 coupon at the maximum value possible through available funding, up to the average
2 cost within this state for nonlead ammunition, as determined by the commission.

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

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

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

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

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

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

22 ~~(i)~~ (h) The commission shall promulgate regulations by July 1, 2015, that phase
23 in the requirements of this section. The requirements of this section shall be fully
24 implemented statewide by no later than July 1, 2019. If any of the requirements of
25 this section can be implemented practicably, in whole or in part, in advance of July
26 1, 2019, the commission shall implement those requirements. The commission shall
27 not reduce or eliminate any existing regulatory restrictions on the use of lead
28 ammunition in California condor range unless or until the additional requirements
29 for use of nonlead ammunition as required by this section are implemented.

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

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

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

41 **Comment.** Paragraph (3) of subdivision (d) of Section 3004.5, and subdivision (e) of Section
42 3004.5, are deleted as obsolete.

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

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

4 3004.5. (a)(1) Nonlead centerfire rifle and pistol ammunition, as determined by
5 the commission, shall be required when taking big game, as defined in the
6 department's mammal hunting regulations (14 Cal. Code Regs. 350), with rifle or
7 pistol, and when taking coyote, within the California condor range.

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

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

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

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

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

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

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

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

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

42 ~~(3) If the nonlead ammunition coupon program is implemented, the commission~~
43 ~~shall issue a report on the usage and redemption rates of ammunition coupons. The~~

1 ~~report shall cover calendar years 2008, 2009, and 2012. Each report shall be issued~~
2 ~~by June of the following year.~~

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

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

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

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

14 ~~(i) (h)~~ The commission shall promulgate regulations by July 1, 2015, that phase
15 in the requirements of this section. The requirements of this section shall be fully
16 implemented statewide by no later than July 1, 2019. If any of the requirements of
17 this section can be implemented practicably, in whole or in part, in advance of July
18 1, 2019, the commission shall implement those requirements. The commission shall
19 not reduce or eliminate any existing regulatory restrictions on the use of lead
20 ammunition in California condor range unless or until the additional requirements
21 for use of nonlead ammunition as required by this section are implemented.

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

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

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

33 **Comment.** Paragraph (3) of subdivision (d) of Section 3004.5, and subdivision (e) of Section
34 3004.5, are deleted as obsolete.

35 **Fish & Game Code § 3049 (amended). Legislative declaration**

36 SEC. ____ . Section 3049 of the Fish and Game Code is amended to read:

37 3049. (a) It is the intent of the Legislature in enacting this article to ensure the
38 health and safety of its citizens engaged in activities requiring the use of hunting
39 implements.

40 (b) The Legislature finds and declares that individuals who engage in hunting
41 should possess an adequate understanding of hunter safety practices, principles of
42 conservation, and sportsmanship positive sporting behavior.

1 (c) It is also the intent of the Legislature that persons so engaged be mindful of
2 their responsibilities to others, toward wildlife, and toward their natural
3 environment. The department shall take all steps necessary to carry out the
4 provisions of this article.

5 **Comment.** Section 3049 is amended to make the section gender neutral, and add subdivision
6 designations.

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

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

9 3051. (a) The department shall provide for a course of instruction in hunter
10 education, principles of conservation, and ~~sportsmanship~~ positive sporting behavior,
11 and for this purpose may cooperate with any reputable association or organization
12 having as one of its objectives the promotion of hunter safety, principles of
13 conservation, and ~~sportsmanship~~ positive sporting behavior.

14 (b) The department may designate as a hunter education instructor any person
15 found by it to be competent to give instruction in the courses required in this article.

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

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

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

25 (f) In order to recruit and retain hunter education instructors, the department shall
26 offer special hunting opportunities to qualified hunter education instructors by
27 providing a limited number of existing tags and other hunting opportunities. The
28 department may provide these tags and hunting opportunities through any of the
29 following methods:

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

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

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

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

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

41 (g) The department shall determine eligibility criteria for hunter education
42 instructors seeking the hunting opportunities offered pursuant to subdivision (f). The

1 department shall offer hunting opportunities to eligible hunter education instructors
2 only by random drawing.

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

4 **Comment.** Section 3051 is amended to make the section gender neutral.

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

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

7 3200. Any person engaged in raising or importing, or who keeps in captivity, in
8 this state domesticated game birds or domesticated game mammals which normally
9 exist in the wild in this state shall procure a domesticated game breeder's license if
10 the birds or mammals are kept more than 30 days after acquisition. No license is,
11 however, required of any of the following:

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

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

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

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

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

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

23 **Fish & Game Code § 3270 (amended). Game bird club**

24 SEC. _____. Section 3270 of the Fish and Game Code is amended to read:

25 3270. ~~(a)~~ In order to provide additional hunting by stocking domestically
26 propagated game birds, and to permit the taking of game birds under conditions that
27 will not conflict with the public interest, any person who owns or controls the
28 hunting rights on a tract of land may apply to the department for a game bird club
29 license authorizing the taking of game birds upon that land in accordance with the
30 regulations of the commission for the administration, including the implementation
31 and enforcement, of this section.

32 ~~(b) This section shall become operative on July 1, 1995.~~

33 **Comment.** Section 3270 is amended to delete obsolete material.

34 **Fish & Game Code § 3407 (amended). Marking of animal taken in area**

35 SEC. _____. Section 3407 of the Fish and Game Code is amended to read:

36 3407. (a) The commission may require that any fish, bird, or mammal taken in a
37 wildlife habitat enhancement and management area licensed pursuant to this article
38 be marked for identification with a distinctive tag or seal issued by the department
39 prior to being removed from the area.

1 (b) A deer tag shall be countersigned by a person who is authorized to countersign
2 deer tags pursuant to Section 372 708.6 of Title 14 of the California Code of
3 Regulations.

4 (c) Any fish, bird, or mammal so identified may be possessed and transported at
5 any time during the period for which the tag or seal is valid.

6 (d) The fees for tags and seals shall be established by the commission in amounts
7 which, in conjunction with fees collected pursuant to Section 3402, are calculated
8 to meet the actual costs incurred by the department in administering all aspects of
9 the habitat enhancement and management program.

10 **Comment.** Section 3407 is amended to correct an erroneous cross-reference.

11 The section is also amended to add subdivision designations.

12 **Fish & Game Code § 3462 (amended). Recordation of contract**

13 SEC. ____ . Section 3462 of the Fish and Game Code is amended to read:

14 3462. (a) Not later than 20 days after the director has entered into a contract
15 pursuant to this ~~division~~ article, a copy of the contract particularly describing the
16 subject habitat as required by subdivision (a) of Section 3461 shall be recorded by
17 the department in the office of the county recorder in each county in which any
18 portion of the areas subject to the contract is located. The contract shall be indexed
19 by the recorder in the grantor-grantee index to the name of the owner of record as
20 grantor and to the department as grantee.

21 (b) Notwithstanding Section 27383 of the Government Code, the department shall
22 pay the fees for recording and indexing the contract, and the department shall deduct
23 the amount paid from the amounts due to the owner under the contract.

24 **Comment.** Section 3462 is amended to correct an erroneous cross-reference.

25 **Fish & Game Code § 3466 (amended). Modification of terms**

26 SEC. ____ . Section 3466 of the Fish and Game Code is amended to read:

27 3466. The director and the owner or lessee may mutually agree to modify the
28 terms and conditions of a contract under this ~~division~~ article as the director may
29 determine to be desirable to carry out the purposes of, or to facilitate administration
30 of, the program.

31 **Comment.** Section 3466 is amended to correct an erroneous cross-reference.

32 **Fish & Game Code § 3500 (amended). Upland game bird**

33 SEC. ____ . Section 3500 of the Fish and Game Code is amended to read:

34 3500. (a) Resident game birds are as follows:

35 (1) Doves of the genus *Streptopelia*, including, but not limited to, spotted doves,
36 ringed turtledoves, and Eurasian collared-doves.

37 (2) California quail and varieties thereof.

38 (3) Gambel's or desert quail.

39 (4) Mountain quail and varieties thereof.

40 (5) Sooty or blue grouse and varieties thereof.

- 1 (6) Ruffed grouse.
- 2 (7) Sage hens or sage grouse.
- 3 (8) Hungarian partridges.
- 4 (9) Red-legged partridges including the chukar and other varieties.
- 5 (10) Ring-necked pheasants and varieties thereof.
- 6 (11) Wild turkeys of the order Galliformes.
- 7 (12) White-tailed ptarmigan.
- 8 (b) Migratory game birds are as follows:
- 9 (1) Ducks and geese.
- 10 (2) Coots and gallinules.
- 11 (3) Jacksnipe.
- 12 (4) Western mourning doves.
- 13 (5) White-winged doves.
- 14 (6) Band-tailed pigeons.
- 15 (c) References in this code to “game birds” means both resident game birds and
- 16 migratory game birds.

17 **Comment.** Subdivision (a) of Section 3500 is amended to include the white-tailed ptarmigan as
18 a resident game bird. This is consistent with existing law and practice. See Section 3683(a)(8)
19 (“resident game bird” includes white tailed ptarmigan). See also 14 Cal. Code Reg. §§ 257, 313
20 (white-tailed ptarmigan regulated as upland game bird).

21 **Fish & Game Code § 3680 (amended). Pigeon**

22 SEC. _____. Section 3680 of the Fish and Game Code is amended to read:

23 3680. ~~Any (a) Except as provided in subdivision (b), any person, other than the~~
24 ~~owner thereof, who at any time, by any means or in any manner, purposely takes~~
25 ~~any racing pigeon that at the time of taking is currently registered with a recognized~~
26 ~~organization; is guilty of a misdemeanor. However, the~~

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

28 (1) The taking of a registered racing pigeon by its owner.

29 (2) The incidental take of a registered racing pigeons with the pigeon while
30 shooting or taking of a wild band-tailed pigeons pigeon or a domestic pigeons
31 pigeon (Columba livia), is not a violation of this section.

32 **Comment.** Section 3680 is amended for clarity, and to add subdivision designations.

33 **Fish & Game Code § 3681 (amended). Take of duck or goose in District 8 and 9**

34 SEC. _____. Section 3681 of the Fish and Game Code is amended to read:

35 3681. (a) In Districts 8 and 9, it is unlawful to take ducks or geese in any manner
36 a duck or goose below the incoming or outgoing tidewater’s edge, or from any blind,
37 boat, floating device, island, islet, or exposed tidal flat except .

38 (b) Subdivision (a) does not apply on Saturdays, Sundays, Wednesdays, holidays,
39 and the opening and closing days during the prescribed open season except that .

40 (c) Notwithstanding subdivision (a), the use of boats is permitted to retrieve
41 crippled or dead birds.

1 **Comment.** Section 3681 is amended for clarity. The section is also amended to add subdivision
2 designations.

3 **Fish & Game Code § 3700.1 (amended). Required validation**

4 SEC. _____. Section 3700.1 of the Fish and Game Code is amended to read:

5 3700.1. (a) It is unlawful for any person, except a person licensed pursuant to
6 paragraph (2) of subdivision (a) of Section 3031, to take ~~any migratory game bird,~~
7 ~~except jacksnipe, coots, gallinules, western mourning doves, white-winged doves,~~
8 ~~and band-tailed pigeons,~~ a duck or goose without first procuring a state duck hunting
9 validation as provided in subdivision (b), and having that validation in their
10 possession while taking those birds.

11 (b)(1) State duck hunting validations shall be sold for a fee of ten dollars (\$10),
12 as adjusted pursuant to Section 713, by the department and by license agents, who
13 are authorized by the department pursuant to Section 1055.1, in the same manner as
14 hunting licenses.

15 (2) In addition to the fee imposed pursuant to paragraph (1), a fee of ten dollars
16 (\$10) is hereby imposed to obtain a state duck hunting validation, as adjusted
17 pursuant to Section 713.

18 **Comment.** Subdivision (a) of Section 3700.1 is amended to simplify without substantive change
19 a reference to the migratory game birds subject to the subdivision.

20 **Fish & Game Code § 3702.5 (amended). Duck stamp**

21 SEC. _____. Section 3702.5 of the Fish and Game Code is amended to read:

22 3702.5. The department may permit individual artists to sell a limited number of
23 prints of duck stamp related artwork or posters.

24 ~~This section shall become operative on July 1, 1993.~~

25 **Comment.** Section 3702.5 is amended to delete obsolete material.

26 **Fish & Game Code § 3704 (amended). Duck stamp fee**

27 SEC. _____. Section 3704 of the Fish and Game Code is amended to read:

28 3704. Two dollars and twenty-five cents (\$2.25) of the amount collected by the
29 department for each state duck stamp sold shall be allocated by the commission for
30 the purposes of the North American Waterfowl Management Plan in those areas of
31 Canada from which come substantial numbers of waterfowl migrating to, or
32 through, California. These funds shall be matched with federal or private funds
33 available for that purpose. The available balance of the funds shall be used for any
34 project authorized pursuant to Section 3702 in California. However, any lands
35 acquired in California with those funds shall be open to waterfowl hunting as a
36 public shooting ground or wildlife management area.

37 ~~This section shall become operative on July 1, 1993.~~

38 **Comment.** Section 3704 is amended to delete obsolete material.

1 **Fish & Game Code § 3704.5 (amended). Waterfowl projects**

2 SEC. _____. Section 3704.5 of the Fish and Game Code is amended to read:

3 3704.5. Waterfowl projects authorized pursuant to Sections 3702 and 3460 are
4 not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public
5 Contract Code or Article 6 (commencing with Section 999) of Chapter 6 of Division
6 4 of the Military and Veterans Code. With the approval of the entity in control of
7 property affected by a project, the department may make grants to, or enter into
8 contracts with, nonprofit organizations for the accomplishment of those projects, or
9 the department may reimburse the controlling entity for its costs of accomplishing
10 the project.

11 ~~This section shall become operative on July 1, 1993.~~

12 **Comment.** Section 3704.5 is amended to delete obsolete material.

13 **Fish & Game Code § 3801 (amended). Take or possession of English sparrow or starling**

14 SEC. _____. Section 3801 of the Fish and Game Code is amended to read:

15 3801. (a) Except as provided in Section 3000 and this section, the following
16 nongame birds may be taken or possessed at any time:

17 (1) English sparrow (*Passer domesticus*).

18 (2) Starling (*Sturnus vulgaris*).

19 (b) Notwithstanding Section 3007 or any other provision of this code or
20 regulations made pursuant thereto regulation adopted pursuant to this code requiring
21 the possession of a hunting license, a landowner or lessee, or an agent of either in
22 immediate possession of written authority from the landowner or lessee, shall not
23 be required to obtain a hunting license or a depredation permit to take ~~the following~~
24 nongame birds a nongame bird listed in subdivision (a) on land owned or leased by
25 the landowner or lessee. ~~Hunters otherwise~~

26 (c) All other persons taking the following nongame birds a nongame bird listed in
27 subdivision (a) shall be licensed pursuant to Section 3007. ~~The following nongame~~
28 ~~birds taken in compliance with this section may be taken and possessed by any~~
29 ~~person at any time, except as provided in Section 3000:~~

30 (a) ~~English sparrows (*Passer domesticus*).~~

31 (b) ~~Starlings (*Sturnus vulgaris*).~~

32 **Comment.** Section 3801 is amended for clarity. The section is also amended to add subdivision
33 designations.

34 **Fish & Game Code § 3801.6 (amended). Possession of parts of nongame bird**

35 SEC. _____. Section 3801.6 of the Fish and Game Code is amended to read:

36 3801.6. (a) Except as otherwise provided in this code or regulations ~~made~~
37 pursuant thereto adopted pursuant to this code, it is unlawful to possess the carcass,
38 skin, or parts other part of any nongame bird. The feathers, carcass, skin, or parts of
39 any nongame bird possessed by any person in violation of any of the provisions of
40 this code shall be seized by the department and delivered to a California Native

1 American tribal government or a scientific or educational institution, used by the
2 department, or destroyed.

3 (b)(1) It shall be an affirmative defense to a violation of this section if the
4 possessor of feathers, carcass, skin, or ~~parts~~ other part of a nongame bird legally
5 acquired the feathers, carcass, skin, or ~~parts~~ other part, possesses them for tribal,
6 cultural, or spiritual purposes, and satisfies either of the following criteria:

7 (A) The possessor is an enrolled member of a federally recognized Native
8 American tribe or nonfederally recognized California Native American tribe listed
9 on the California Tribal Consultation List maintained by the Native American
10 Heritage Commission ~~who~~ and has, in ~~his or her~~ their immediate possession, valid
11 tribal identification or other irrefutable proof of current enrollment.

12 (B) The possessor has a certificate of degree of Indian blood issued by the United
13 States Bureau of Indian Affairs in ~~his or her~~ their immediate possession.

14 (2) Nothing in this section allows any person to sell the feathers, carcass, skin, or
15 other part of a nongame bird ~~feathers, carcasses, skins, or parts. Native Americans~~
16 ~~meeting the~~ .

17 (3) A Native American satisfying the criteria that would constitute an affirmative
18 defense requirements under paragraph (1) may salvage dead nongame birds so long
19 as the person salvaging ~~these birds~~ the nongame bird does not possess, nor is in the
20 company of any person who possesses, a firearm, BB device as defined in Section
21 16250 of the Penal Code, trap, snare, net archery equipment, device capable of
22 discharging a projectile, or any apparatus designed to take ~~birds~~ a bird.

23 (4) Salvaging shall not take place by any person involved in the take of the
24 nongame bird to be salvaged, any person present at the time of the take, or by any
25 person who received related information originating from any person present at the
26 time of the take of the nongame bird.

27 (5) Salvaging pursuant to this subdivision shall not take place if a bird has been
28 struck with any thrown or discharged projectile, or trapped, netted, caught, or
29 snared.

30 (c) Notwithstanding subdivisions (a) and (b), ~~any~~ an officer deputized pursuant to
31 this code may interrupt ~~any~~ an ongoing salvaging of a dead nongame ~~carcasses,~~
32 ~~feathers, skins, or parts~~ bird carcass, feathers, skin, or part if, in the officer's
33 judgment, the activity causes a public disruption, safety hazard, or is detrimental to
34 the ability of the department to prevent a possible violation of this section. ~~The~~ In
35 that event, the officer may seize ~~any of the salvaged feathers, carcasses, skins, or~~
36 ~~parts and has the option of returning them~~ the carcass, feathers, skin, or part being
37 salvaged, or may return the carcass, feathers, skin, or part to the general location
38 from where they were it had been salvaged.

39 **Comment.** Section 3801.6 is amended to clarify the intended meaning of the section.

40 **Fish & Game Code § 3960 (amended). Use of dog to pursue specified mammals**

41 SEC. _____. Section 3960 of the Fish and Game Code is amended to read:

42 3960. (a) As used in this section:

1 (1) “Pursue” means pursue, run, or chase.

2 (2) “Bear” means any black bear (*Ursus americanus*) found in the wild in this
3 state.

4 (b) It is unlawful to permit or allow any dog to pursue any big game mammal
5 during the closed season on that mammal, to pursue any fully protected, rare, or
6 endangered mammal at any time, to pursue any bear or bobcat at any time, or to
7 pursue any mammal in a game refuge or ecological reserve if hunting within that
8 refuge or ecological reserve is unlawful.

9 (c) ~~(1)~~ The department may take any of the following actions:

10 ~~(A)~~ (1) Capture any dog not under the reasonable control of its owner or handler,
11 when that uncontrolled dog is pursuing, in violation of this section, any of the
12 following mammals:

13 (A) A big game mammal, any .

14 (B) A bear or bobcat, or any .

15 (C) A fully protected, rare, or endangered mammal.

16 ~~(B)~~ (2) Capture or dispatch any dog inflicting injury or immediately threatening
17 to inflict injury to any of the following mammals, under the specified conditions:

18 (A) A big game mammal, during the closed season on that mammal, and the
19 department may capture or dispatch any dog inflicting injury or immediately
20 threatening to inflict injury on any .

21 (B) A bear or bobcat, at any time, or any .

22 (C) A fully protected, rare, or endangered mammal, at any time.

23 ~~(C)~~ Capture or dispatch any dog inflicting injury or immediately threatening to
24 inflict injury to any

25 (D) A mammal in a game refuge or ecological reserve, if hunting within that
26 refuge or ecological reserve is unlawful.

27 ~~(2)~~ (d) No criminal or civil liability shall accrue to any department employee as a
28 result of enforcement of this section.

29 ~~(3)~~ (e) This section does not apply to the use of dogs to pursue bears or bobcats
30 by federal, state, or local law enforcement officers, or their agents or employees,
31 when carrying out official duties as required by law.

32 ~~(4)~~ Owners of dogs with (f) If a dog captured or dispatched pursuant to this section
33 has identification, that have been captured or dispatched, its owner shall be notified
34 within 72 hours after capture or dispatch.

35 **Comment.** Section 3960 is amended to clarify the intended meaning of the section.

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

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

38 3961. Whenever an employee of the department is not present to carry out the
39 provisions of Section 3960 with respect to any dog inflicting injury or immediately
40 threatening to inflict injury to any deer, elk, or prong-horned antelope during the
41 closed season for these mammals, any property owner, lessee, person holding a
42 permit for the purpose of grazing livestock, or ~~his or her~~ their employee, may seize

1 or dispatch the dog if it is found on ~~his or her~~ their land or premises without the
2 permission of the person who is in immediate possession of the land. If the dog has
3 on it any readily visible identification tag or license tag as prescribed by Section
4 30951 of the Food and Agricultural Code, and the dog is found in the act of
5 immediately threatening to injure deer, elk, or prong-horned antelope, the dog may
6 only be dispatched under this section if the dog has, and the owner has been notified
7 that the dog has, previously threatened any of these species.

8 No action, civil or criminal, shall be maintained for a dog lawfully seized or
9 dispatched pursuant to this ~~article~~ section.

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

13 **Comment.** Section 3961 is amended to fix an incorrect cross-reference, and make the section
14 gender neutral.

15 **Fish & Game Code § 4004 (amended). Trapping restrictions**

16 SEC. _____. Section 4004 of the Fish and Game Code is amended to read:

17 4004. It is unlawful to do any of the following:

18 (a) Use a steel-jawed leghold trap, or use any trap with saw-toothed or spiked
19 jaws.

20 (b) Set or maintain ~~traps~~ a trap that ~~do~~ does not bear a number or other identifying
21 mark ~~registered to the department or, in the case of federal, state, county, or city~~
22 ~~agency, bear the name of that agency, except that traps as provided in this~~
23 subdivision. If the trap is set pursuant to Section 4152 or 4180, it shall bear an
24 identifying mark in a manner specified by the department. In all other cases, the trap
25 shall bear a number or other identifying mark registered to the department, or, in the
26 case of federal, state, county, or city agency, bear the name of that agency. No
27 registration fee shall be charged pursuant to this subdivision.

28 (c) Fail to visit and remove all animals from traps at least once daily. If the
29 trapping is done pursuant to Section 4152 or 4180, the inspection and removal shall
30 be done by the person who sets the trap ~~or~~, the owner of the land where the trap is
31 set, or an agent of either.

32 (d)(1) Use a conibear trap that is larger than 6 inches by 6 inches, unless partially
33 or wholly submerged in water. ~~Unless prohibited by the department as a permit~~
34 ~~condition~~

35 (2) Notwithstanding paragraph (1), a lawfully set conibear trap that is 10 inches
36 by 10 inches or less may be set pursuant to subdivision (g) of Section 465.5 of Title
37 14 of the California Code of Regulations, unless prohibited by the department as a
38 permit condition.

39 (e) When any conibear trap is set on publicly owned land or land expressly open
40 to public use, fail to post signs at ~~every~~ each entrance and exit to the property
41 indicating the presence of conibear traps and at least four additional signs ~~posted~~
42 within a radius of 50 feet of ~~the~~ each trap, one in each cardinal direction, with

1 lettering that is a minimum of three inches high stating: “Danger! Traps Set For
2 Wildlife. Keep Out.” Signs required to be posted by this subdivision shall be
3 maintained and checked daily.

4 (f) Kill any trapped mammal in accordance with this section by intentional
5 drowning, injection with any chemical not sold for the purpose of euthanizing
6 animals, or thoracic compression, commonly known as chest crushing. This
7 subdivision ~~shall not be construed to prohibit~~ does not apply to the use of a lawfully
8 set conibear traps trap that is set partially or wholly submerged in water ~~for to trap~~
9 beaver or muskrat, or the use of a lawfully set colony traps trap that is set in water
10 ~~for to trap~~ muskrat.

11 **Comment.** Section 4004 is amended for clarity.

12 **Fish & Game Code § 4154 (amended). Agreements relating to control of harmful nongame**
13 **mammals**

14 SEC. _____. Section 4154 of the Fish and Game Code is amended to read:

15 4154. (a) The department may enter into cooperative contracts with the United
16 States Fish and Wildlife Service in the Department of the Interior ~~in relation to the~~
17 ~~control of nongame mammals and for that the purpose of controlling or eradicating~~
18 any nongame mammal, and may expend any money made available to the
19 department for ~~expenditure for the control or eradication of nongame mammals that~~
20 purpose.

21 (b) This section does not apply to bobcats.

22 **Comment.** Section 4154 is amended for clarity.

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

24 SEC. _____. Section 4180.1 of the Fish and Game Code is amended to read:

25 4180.1. (a) It is unlawful to use snares, hooks, or do either of the following to an
26 immature depredator mammal while it is in its den:

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

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

29 (b) Nothing in this section shall prohibit the use of fire-ignited gas cartridges or
30 other products registered or permitted under the Federal Insecticide, Rodenticide,
31 and Fungicide Act (7 U.S.C. ~~135~~ 136 et seq.).

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

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

34 **Fish & Game Code § 4180.2 (added). “Wild pigs”**

35 SEC. _____. Section 4180.2 is added to the Fish and Game Code, to read:

36 4180.2. As used in this article, “wild pigs” has the meaning set forth in Section
37 4650.

38 **Comment.** Section 4180.2 is added to incorporate in the article in which the section is located
39 the definition of the term “wild pigs” set forth in Section 4650.

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

2 SEC. _____. Section 4181.1 of the Fish and Game Code is amended to read:

3 4181.1. (a) Any bear that is encountered while in the act of inflicting injury to,
4 molesting, or killing, livestock may be taken immediately by the owner of the
5 livestock or the owner's employee if the taking is reported no later than the next
6 working day to the department and the carcass is made available to the department.

7 (b) Notwithstanding Section 4652, any wild pig that is encountered while in the
8 act of inflicting injury to, molesting, pursuing, worrying, or killing livestock or
9 damaging or destroying, or threatening to immediately damage or destroy, land or
10 other property, including, but not limited to, rare, threatened, or endangered native
11 plants, wildlife, or aquatic species, may be taken immediately by the owner of the
12 livestock, land, or property or the owner's agent or employee, or by an agent or
13 employee of any federal, state, county, or city entity when acting in his or her official
14 capacity. The person taking the wild pig shall report the taking no later than the next
15 working day to the department and shall make the carcass available to the
16 department. Unless otherwise directed by the department and notwithstanding
17 Section 4657, the person taking a wild pig pursuant to this subdivision, or to whom
18 the carcass of a wild pig taken pursuant to this subdivision is transferred pursuant
19 to subdivision (c), may possess the carcass of the wild pig. The person in possession
20 of the carcass shall make use of the carcass, which may include an arrangement for
21 the transfer of the carcass to another person or entity, such as a nonprofit
22 organization, without compensation. The person who arranges this transfer shall be
23 deemed to be in compliance with Section 4304. ~~A violation of this subdivision is~~
24 ~~punishable pursuant to Section 12000.~~ It is the intent of the Legislature that nothing
25 in this subdivision shall be interpreted to authorize a person to take wild pigs
26 pursuant to this subdivision in violation of a state statute or regulation or a local
27 zoning or other ordinance that is adopted pursuant to other provisions of law and
28 that restricts the discharge of firearms.

29 (c) The department shall make a record of each report made pursuant to
30 subdivision (a) or (b) and may have an employee of the department investigate the
31 taking or cause the taking to be investigated. The person taking a wild pig shall
32 provide information as deemed necessary by the department. Upon completion of
33 the investigation, the investigator may, upon a finding that the requirements of this
34 section have been met with respect to the particular bear or wild pig taken under
35 subdivision (a) or (b), issue a written statement to the person confirming that the
36 requirements of this section have been met. The person who took the wild pig may
37 transfer the carcass to another person without compensation.

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

40 (e) Nothing in this section prohibits federal, state, or county trappers from killing
41 or trapping bears when the bears are killing or molesting livestock, but no iron-
42 jawed or steel-jawed or any type of metal-jawed trap shall be used to take the bear,

1 and no person, including employees of the state, federal, or county government,
2 shall take bear with iron-jawed or steel-jawed or any type of metal-jawed traps.

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

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

5 SEC. _____. Section 4181.5 of the Fish and Game Code is amended to read:

6 4181.5. (a) Any owner or tenant of land or property that is being damaged or
7 destroyed or is in immediate danger of being damaged or destroyed by deer may
8 apply to the department for a permit to kill those deer. The department, upon
9 satisfactory evidence of ~~that~~ actual or immediately threatened damage or
10 destruction, ~~actual or immediately threatened~~, shall, pursuant to regulations adopted
11 by the commission, issue a revocable permit for the taking and disposition of those
12 deer, for a designated period not to exceed 60 days ~~under regulations promulgated~~
13 ~~by the commission~~.

14 (b) The regulations of the commission shall include provisions concerning the
15 type of weapons to be used to kill the deer. The weapons shall be those as will ensure
16 humane killing, but the regulations of the commission shall provide for the use of a
17 sufficient variety of weapons to permit the designation of particular types to be used
18 in any particular locality commensurate with the need to protect persons and
19 property. Firearms using .22-caliber rimfire cartridges may be used only when
20 authorized by the director or his designee. No pistols shall be used.

21 (c) The caliber and type of weapon to be used by each permittee shall be specified
22 in each permit by the issuing officer who shall take into consideration the location
23 of the area, the necessity for clean kills, the safety factor, local firearms ordinances,
24 and other factors that apply. Rifle ammunition used shall have expanding bullets;
25 shotgun ammunition shall have only single slugs, or, if authorized by the
26 department, 0 or 00 buckshot.

27 ~~(e) (d) The~~ At the time a permit is issued pursuant to subdivision (a), the
28 department shall issue tags similar to those provided for in Section 4331 ~~at the same~~
29 ~~time the permit is issued. A permittee under this section~~ The permittee shall carry
30 the tags while hunting the deer for which the permit was issued, and upon ~~the~~ killing
31 ~~of~~ any deer, shall immediately ~~fill~~ do all of the following:

32 (1) Fill out both parts of the tag, and clearly punch out ~~clearly~~ the date of the kill.
33 ~~One~~

34 (2) Attach one part of the completed tag shall be immediately attached to the
35 antlers of antlered deer, or to the ear of any other deer, and kept ~~keep~~ that part of the
36 tag attached to the deer until 10 days after the permit has expired. The

37 (3) Obtain a countersignature on the other part of the tag shall be immediately sent
38 to the department after it has been countersigned by any person authorized by
39 pursuant to Section 4341.

40 (4) Send the countersigned part of the tag to the department.

41 ~~(d) (e)~~ A permit issued pursuant to this section may be renewed only after a
42 finding by the department that further damage has occurred or will occur, unless

1 that permit is renewed. A person seeking renewal of the permit pursuant to this
2 subdivision shall account do all of the following:

3 (1) Account for all prior tags previously issued at the time he or she received any
4 with all prior permits, and if .

5 (2) If any previously issued tags are unused, he or she shall show either that of the
6 following:

7 (A) That any deer previously killed pursuant to a previously issued permit could
8 not reasonably be have been tagged or why .

9 (B) Why the killing was not accomplished within the allotted time allotted for that
10 killing, and why that the killing would be accomplished under a new time period.

11 **Comment.** Section 4181.5 is amended for clarity, and to add a subdivision designation and
12 paragraph designations.

13 **Fish & Game Code § 4188 (amended). Access by licensed hunters for depredator control**

14 SEC. ____ . Section 4188 of the Fish and Game Code is amended to read:

15 4188. (a) If a landowner or tenant applies for a permit under Section 4181 ~~for to~~
16 take wild pigs or wild turkeys, or under Section 4181.5 ~~for to take~~ deer, the
17 department shall ~~notify the landowner or tenant~~ inform the applicant about available
18 options for allowing access by licensed hunters, including, but not limited to, access
19 authorized pursuant to Article 3 (commencing with Section 1570) of Chapter 5 of
20 Division 2 to control wild pigs, wild turkeys, and deer.

21 (b) The commission, in lieu of a permit as described in subdivision (a), and with
22 the consent of, or upon the request of, the landowner or tenant, ~~under may pursuant~~
23 to appropriate regulations, may regulation authorize the issuance of permits to
24 persons holding valid hunting licenses to take wild pigs, wild turkeys, or deer in
25 sufficient numbers to stop the damage or threatened damage. Before issuing permits
26 to licensed hunters, the department shall investigate and determine the number of
27 permits necessary, the territory involved, the dates of the proposed hunt, the manner
28 of issuing the permits, and the fee for the permit.

29 **Comment.** Section 4188 is amended for clarity.

30 **Fish & Game Code § 4301 (amended). Commercial use of deer meat**

31 SEC. ____ . Section 4301 of the Fish and Game Code is amended to read:

32 4301. (a) As used in this section, “deer” includes any animal of the family
33 Cervidae.

34 ~~(a) Subject to the provisions of this code permitting the sale of domestically raised~~
35 ~~game mammals (b) Except as otherwise provided in this section, it is unlawful to~~
36 ~~sell or , purchase, or transport for the purpose of sale, any deer meat in this state,~~
37 ~~whether fresh, smoked, canned, or preserved by any means; .~~

38 (c) The prohibition in subdivision (b) does not apply to the following:

39 (1) Conduct authorized by provisions of this code permitting the sale of
40 domestically raised game mammals.

1 ~~(2) except fallow~~ Fallow deer meat processed by a slaughterer in accordance with
2 Chapter 4 (commencing with Section 18650) of, and Chapter 4.1 (commencing with
3 Section 18940) of, Part 3 of Division 9 of the Food and Agricultural Code, ~~and~~
4 ~~except that deer meat may be~~ .

5 (3) Deer meat imported into this state from a foreign country for the purpose of
6 ~~processing (manufacturing) preparing~~ and selling for human consumption a product
7 commonly known and properly labeled as venison ~~or jerky~~, deer jerky ~~or~~ , venison
8 salami, or deer salami, ~~properly labeled as such, for human consumption.~~

9 (d) All deer meat imported into this state shall meet all of the sanitary and
10 inspection requirements for wholesomeness, except an antemortem inspection, but
11 including a postmortem inspection, as required for other meat imported for human
12 consumption.

13 (e) The deer meat shall be in an identifiable condition and accompanied by a bill
14 of lading, showing the name of the consignor, the consignee, and the weight of the
15 deer meat shipped. A copy of the bill of lading shall be delivered to the nearest office
16 of the department either prior to, or not later than, two days from the date of receipt
17 of the deer meat.

18 (f) No ~~such~~ deer meat imported into this state may leave the premises of the
19 original consignee unless written permission is received from the department, or
20 unless it is processed into the form of the product commonly known as jerky or
21 salami.

22 ~~(b) As used in this section, “deer” includes any animal of the family Cervidae.~~

23 **Comment.** Section 4301 is amended for clarity, and to add additional subdivision and paragraph
24 designations.

25 **Fish & Game Code § 4302 (amended). Retention of deer head**

26 SEC. ____ . Section 4302 of the Fish and Game Code is amended to read:

27 4302. Any person taking any a deer shall retain ~~in his~~ possession ~~during the open~~
28 ~~season thereon, and for 15 days thereafter, of~~ that portion of the deer’s head which
29 that in adult males normally bears the antlers, during the open season for that deer
30 and for 15 days thereafter, and shall produce ~~the designated~~ that portion of the head
31 upon the demand of any officer authorized to enforce the provisions of this code.

32 **Comment.** Section 4302 is amended for clarity, and to eliminate a gendered pronoun.

33 **Fish & Game Code § 4304 (amended). Waste**

34 SEC. ____ . Section 4304 of the Fish and Game Code, as amended by Section 20
35 of Chapter 469 of the Statutes of 2022, is amended to read:

36 4304. (a) A No person shall ~~not at any time~~ capture or destroy any deer and detach
37 or remove from the carcass only the head, hide, antlers, or horns; ~~nor shall any~~ .

38 (b) No person ~~at any time~~ shall leave through carelessness or neglect leave any
39 game mammal or game bird that is in ~~their~~ that person’s possession, or any ~~portion~~
40 of the flesh ~~thereof~~ of that animal usually eaten by humans, to go needlessly to
41 waste.

1 (c) The provisions of this section ~~shall~~ do not apply to game mammals taken ~~under~~
2 ~~the authority of~~ pursuant to Section 4152.

3 ~~(b)~~ (d) This section shall remain in effect only until July 1, 2024, and as of that
4 date is repealed.

5 **Comment.** Section 4304 is amended for clarity.

6 **Fish & Game Code § 4304 (amended). Waste**

7 SEC. _____. Section 4304 of the Fish and Game Code, as added by Section 21 of
8 Chapter 469 of the Statutes of 2022, is amended to read:

9 4304. (a) A No person shall ~~not at any time~~ capture or destroy any deer and detach
10 or remove from the carcass only the head, hide, antlers, or horns.

11 (b) A No person shall ~~not at any time leave~~ through carelessness or neglect leave
12 any game mammal, exotic game mammal, or game bird that is in ~~their~~ that person's
13 possession, or any ~~portion~~ of the flesh of that animal usually eaten by humans, to go
14 needlessly to waste.

15 (c) ~~This~~ The provisions of this section ~~does~~ do not apply to game mammals taken
16 pursuant to Section 4152.

17 (d) This section shall become operative on July 1, 2024.

18 **Comment.** Section 4304 is amended for clarity.

19 **Fish & Game Code § 4332 (amended). Deer tag**

20 SEC. _____. Section 4332 of the Fish and Game Code is amended to read:

21 4332. (a) Any resident of this state, 12 years of age or over, who possesses a valid
22 hunting license, may procure one tag for the taking of one deer by one person during
23 the current license year, upon payment of the base fee of ten dollars (\$10) for the
24 license year beginning July 1, 1986, and the base fee as adjusted under Section 713
25 for subsequent license years.

26 (b) Any nonresident of this state, 12 years of age or over, who possesses a valid
27 hunting license, may procure one tag for the taking of one deer by one person during
28 the current license year, upon payment of the base fee of one hundred dollars (\$100)
29 for the license year beginning July 1, 1986, and the base fee as adjusted under
30 Section 713 for subsequent license years.

31 (c) If provided in regulations adopted by the commission under Section 200, any
32 resident of this state, 12 years of age or over, who possesses a deer tag may procure
33 one additional deer tag for the taking of one additional deer during the current
34 license season, upon payment of the base fee of twelve dollars and fifty cents
35 (\$12.50) for the license years beginning July 1, 1986, and the base fee as adjusted
36 under Section 713 for subsequent license years.

37 (d) If provided in regulations adopted by the commission under Section 200, any
38 nonresident of this state, 12 years of age or over, who possesses a deer tag may
39 procure one additional deer tag for the taking of one additional deer during the
40 current license season, upon payment of the base fee of one hundred dollars (\$100)

1 for the license year beginning July 1, 1986, and the base fee as adjusted under
2 Section 713 for subsequent license years.

3 ~~(e) All revenues pursuant to this section shall be deposited in the Big Game~~
4 ~~Management Account established in Section 3953 and, upon appropriation by the~~
5 ~~Legislature, shall be expended as set forth in that section.~~

6 **Comment.** Section 4332 is amended to delete duplicative material. See Section 3953(b).

7 **Fish & Game Code § 4341 (amended). Countersigning**

8 SEC. _____. Section 4341 of the Fish and Game Code is amended to read:

9 4341. Any person legally killing a deer in this state shall have the tag for that deer
10 countersigned by a person employed in by the department, a person designated for
11 this that purpose by the commission, or by a notary public, a postmaster,
12 postmistress, a peace officer, or an officer authorized to administer oaths, before
13 transporting such the deer, except for the purpose of taking it to transport the deer
14 to the nearest person authorized to countersign the tag, on the route being followed
15 from the point from where the deer is taken to that person.

16 **Comment.** Section 4341 is amended for clarity.

17 **Fish & Game Code § 4651 (amended). Management plan**

18 SEC. _____. Section 4651 of the Fish and Game Code is amended to read:

19 4651. (a) The department shall, upon appropriation by the Legislature for that
20 purpose, prepare a plan for the management of wild pigs. Under the plan, the status
21 and trend of wild pig populations shall be determined and management units shall
22 be designated within the state. The plan may establish pig management zones to
23 address regional needs and opportunities. In preparing the plan, the department shall
24 consider available, existing information and literature relative to wild pigs.

25 (b) The plan may include all of the following:

26 (1) The distribution and abundance of wild pigs, as described in Section 3950.

27 (2) A survey of range conditions.

28 (3) Recommendations for investigations and utilization of wild pigs.

29 (4) Encouraging mitigation of depredation by sport hunting pursuant to this
30 chapter.

31 (5) Live trapping and relocation of wild pigs to areas suitable and accessible to
32 mitigation of depredation, with the consent of the landowner and after prior
33 consultation with adjacent landowners who, in the department's opinion, may be
34 impacted, ~~pursuant to this chapter.~~

35 (c) This section shall remain in effect only until July 1, 2024, and as of that date
36 is repealed.

37 **Comment.** Paragraph (5) of subdivision (b) of Section 4651 is amended for clarity.

38 **Fish & Game Code § 4654 (amended). Obtaining tag**

39 SEC. _____. Section 4654 of the Fish and Game Code, as amended by Section 31
40 of Chapter 469 of the Statutes of 2022, is amended to read:

1 4654. (a) ~~Any resident of this state,~~ To obtain a wild pig tag, a person must be 12
2 years of age or older, who possesses and possess a valid hunting license, or if a
3 nonresident, a valid California nonresident hunting license.

4 (b) A person authorized to obtain a wild pig tag may procure obtain the number
5 of wild pig tags corresponding to the number of wild pigs that may legally be taken
6 by one person during the license year, upon payment of a base fee ~~of fifteen dollars~~
7 ~~(\$15), for each wild pig tag, as follows:~~

8 (1) For a resident of the state, fifteen dollars (\$15).

9 (2) For a nonresident, fifty dollars (\$50).

10 ~~(b) Any nonresident, 12 years of age or older, who possesses a valid California~~
11 ~~nonresident hunting license, may procure the number of wild pig tags corresponding~~
12 ~~to the number of wild pigs that may legally be taken by one person during the license~~
13 ~~year upon payment of a base fee of fifty dollars (\$50), for each wild pig tag.~~

14 (c) The base fees specified in this section are applicable to the 2004 license year,
15 and shall be adjusted annually thereafter pursuant to Section 713.

16 (d) This section shall remain in effect only until July 1, 2024, and as of that date
17 is repealed.

18 **Comment.** Section 4654 is amended for clarity.

19 **Fish & Game Code § 4654 (amended). Obtaining tag**

20 SEC. ____ . Section 4654 of the Fish and Game Code, as added by Section 32 of
21 Chapter 469 of the Statutes of 2022, is amended to read:

22 4654. (a) ~~Any resident of this state,~~ To obtain a wild pig validation, a person must
23 be 12 years of age or older, who possesses and possess a valid hunting license, or if
24 a nonresident, a valid California nonresident hunting license.

25 (b) A person authorized to obtain a wild pig validation may procure obtain a wild
26 pig validation upon payment of a base fee ~~of twenty-five dollars (\$25) for the license~~
27 ~~year beginning July 1, 2024, and the base fee as adjusted under Section 713 for~~
28 ~~subsequent license years, as follows:~~

29 (1) For a resident of the state, twenty-five dollars (\$25).

30 (2) For a nonresident, ninety dollars (\$90).

31 ~~(b) Any nonresident, 12 years of age or older, who possesses a valid California~~
32 ~~hunting license, may procure a wild pig validation upon payment of a base fee of~~
33 ~~ninety dollars (\$90) for the license year beginning July 1, 2024, and the base fee as~~
34 ~~adjusted under Section 713 for subsequent license years.~~

35 (c) The base fees specified in this section are applicable for the license year
36 beginning July 1, 2024, and shall be adjusted under Section 713 for subsequent
37 license years.

38 ~~(e)~~ (d) This section shall become operative on July 1, 2024.

39 **Comment.** Section 4654 is amended for clarity.

40 **Fish & Game Code § 4656 (repealed). Revenue deposit and management**

41 SEC. ____ . Section 4656 of the Fish and Game Code is repealed.

1 ~~4656. Revenues received pursuant to this chapter shall be deposited in the Big~~
2 ~~Game Management Account established in Section 3953. These funds shall be~~
3 ~~available for expenditure by the department as set forth in Section 3953. The~~
4 ~~department shall maintain all internal accounting measures necessary to ensure that~~
5 ~~all restrictions on these funds are met.~~

6 **Comment.** Section 4656 is repealed as superfluous. See Section 3953.

7 **Fish & Game Code § 4755 (amended). Countersigning**

8 SEC. _____. Section 4755 of the Fish and Game Code is amended to read:

9 4755. Any person legally killing a bear in this state shall have the tag for that bear
10 countersigned by a fish and game commissioner, a person employed in the
11 department, a person designated for this that purpose by the commission, or by a
12 notary public, a postmaster, postmistress, a peace officer, or by an officer authorized
13 to administer oaths, before transporting that the bear, except for the purpose of
14 taking it to transport the bear to the nearest officer person authorized by this section
15 to countersign the tag, on the route being followed from the point from
16 where the bear is taken to that person.

17 **Comment.** Section 4755 is amended for clarity.

18 **Fish & Game Code § 4757 (amended). Retention of skin and head**

19 SEC. _____. Section 4757 of the Fish and Game Code is amended to read:

20 4757. Any person taking ~~any~~ a bear must retain in his possession of the skin of
21 the bear and the portion of the bear's head that includes both ears, during the open
22 season thereon, for that bear and for 15 days thereafter, the skin and portion of the
23 head bearing the ears, and must produce the skin and that portion of the head upon
24 the demand of any officer authorized to enforce the provisions of this code.

25 **Comment.** Section 4757 is amended for clarity, and to eliminate a gendered pronoun.

26 **Fish & Game Code § 5500 (amended). Explosives**

27 SEC. _____. Section 5500 of the Fish and Game Code is amended to read:

28 5500. It is unlawful to use explosives in the waters of ~~this~~ the state inhabited by
29 fish, ~~except under~~ in one of the following circumstances:

30 (a) Pursuant to a permit first obtained by the user from the department, consistent
31 with terms and conditions set by the commission, or except in case of . The
32 department's decision to grant or deny a permit may be appealed to the commission
33 by any person.

34 (b) In an emergency, to remove an accidental obstruction to the flow of water.
35 ~~Any person may appeal the department's decision to grant or deny a permit to the~~
36 ~~commission.~~

37 **Comment.** Section 5500 is amended for clarity, and to add subdivision designations.

1 **Fish & Game Code § 5507 (amended). Fish spear or gaff**

2 SEC. _____. Section 5507 of the Fish and Game Code is amended to read:

3 5507. (a) It is unlawful for any person to possess, ~~except in his home,~~ any a fish
4 spear or gaff within 300 feet of ~~any a~~ lake or stream in this ~~State~~ state, at ~~any a~~ time
5 when spearing is prohibited in ~~such~~ that lake or stream.

6 (b) This section does not apply to ~~the possession~~ either of the following acts:

7 (1) Possession of a gaff carried as an accessory while angling.

8 (2) Possession of a fish spear or gaff in one's own home.

9 **Comment.** Section 5507 is amended for clarity.

10 **Fish & Game Code § 5522 (amended). Abalone recovery and management plan**

11 SEC. _____. Section 5522 of the Fish and Game Code is amended to read:

12 5522. (a) On or before January 1, 2003, the department shall submit to the
13 commission a comprehensive abalone recovery and management plan. The plan
14 shall contain all of the following:

15 (1) An explanation of the scientific knowledge regarding the biology, habitat
16 requirements, and threats to abalone.

17 (2) A summary of the interim and long-term recovery goals, including a range of
18 alternative interim and long-term conservation and management goals and
19 activities. The department shall report why it prefers the recommended activities.

20 (3) Alternatives for allocating harvest between sport and commercial divers if the
21 allocation of the abalone harvest is warranted.

22 (4) An estimate of the time and costs required to meet the interim and long-term
23 recovery goals for the species, including available or anticipated funding sources,
24 and an initial projection of the time and costs associated with meeting the final
25 recovery goals. An implementation schedule shall also be included.

26 (5) An estimate of the time necessary to meet the interim recovery goals and
27 triggers for review and amendment of strategy.

28 (6) A description of objective measurable criteria by which to determine whether
29 the goals and objectives of the recovery strategy are being met and procedures for
30 recognition of successful recovery. These criteria and procedures shall include, but
31 not be limited to, the following:

32 (A) Specified abundance and size frequency distribution criteria for former
33 abalone beds within suitable habitat not dominated by sea otters.

34 (B) Size frequency distributions exhibiting multiple size classes as necessary to
35 ensure continued recruitment into fishable stock.

36 (C) The reproductive importance to the entire ecosystem of those areas proposed
37 for reopening to harvest and the potential impact of each reopening on the recovery
38 of abalone population in adjacent areas.

39 (b) Where appropriate, the recovery and management plan may include the
40 following:

41 (1) A network of no-take abalone reserves.

1 (2) A total allowable catch, reflecting the long-term yield each species is capable
2 of sustaining, using the best available science and bearing in mind the ecological
3 importance of the species and the variability of marine ecosystems.

4 (3) A permanent reduction in harvest.

5 (c) Funding to prepare the recovery and management plan and any planning and
6 scoping meetings shall be derived from the fees collected for ~~the abalone stamp~~
7 an abalone report card or stamp.

8 (d) On or before January 1, 2008, and following the adoption of the recovery and
9 management plan by the commission, the department may apply to the commission
10 to reopen sport or commercial fishing in all or any portion of the waters described
11 in Section 5521. If the commission makes a finding that the resource can support
12 additional harvest activities and that these activities are consistent with the abalone
13 recovery plan, all or a portion of the waters described in Section 5521 may be
14 reopened and management measures prescribed and implemented, as appropriate.
15 The commission may close or, where appropriate, may establish no-take marine
16 refuges in any area opened pursuant to this section if it makes a finding that this
17 action is necessary to comply with the abalone management plan.

18 (e) If the commission determines that commercial fishing is an appropriate
19 management measure, priority for participation in the fishery shall be given to those
20 persons who held a commercial abalone permit during the 1996–97 permit year.

21 **Comment.** Subdivision (c) of Section 5522 is amended to revise a reference to fees collected for
22 an abalone stamp to also include fees collected for an abalone report card.

23 **Fish & Game Code § 5650.1 (amended). Specified punishments**

24 SEC. _____. Section 5650.1 of the Fish and Game Code is amended to read:

25 5650.1. (a) A person who violates Section 5650 is subject to a civil penalty of not
26 more than twenty-five thousand dollars (\$25,000) for each violation.

27 (b) The civil penalty imposed for each separate violation pursuant to this section
28 is separate, and in addition to, any other civil penalty imposed for a separate
29 violation pursuant to this section or any other provision of law, except as provided
30 in subdivision (j).

31 (c) In determining the amount of a civil penalty imposed pursuant to this section,
32 the court shall take into consideration all relevant circumstances, including, but not
33 limited to, the nature, circumstance, extent, and gravity of the violation. In making
34 this determination, the court shall consider the degree of toxicity and volume of the
35 discharge, the extent of harm caused by the violation, whether the effects of the
36 violation may be reversed or mitigated, and with respect to the defendant, the ability
37 to pay, the effect of any civil penalty on the ability to continue in business, any
38 voluntary cleanup efforts undertaken, any prior history of violations, the gravity of
39 the behavior, the economic benefit, if any, resulting from the violation, and any
40 other matters the court determines justice may require.

41 (d)(1) Every civil action brought under this section shall be brought by the
42 Attorney General, district attorney, or city attorney in the name of the people of the

1 State of California, and any actions relating to the same violation may be joined or
2 consolidated.

3 (2) A civil action alleging a violation resulting from unlicensed cannabis
4 cultivation may be brought by a county counsel in the name of the people of the
5 State of California.

6 (e) In a civil action brought pursuant to this ~~chapter~~ section in which a temporary
7 restraining order, preliminary injunction, or permanent injunction is sought, it is not
8 necessary to allege or prove at any stage of the proceeding that irreparable damage
9 will occur if the temporary restraining order, preliminary injunction, or permanent
10 injunction is not issued, or that the remedy at law is inadequate.

11 (f) After the party seeking the injunction has met its burden of proof, the court
12 shall determine whether to issue a temporary restraining order, preliminary
13 injunction, or permanent injunction without requiring the defendant to prove that it
14 will suffer grave or irreparable harm. The court shall make the determination
15 whether to issue a temporary restraining order, preliminary injunction, or permanent
16 injunction by taking into consideration, among other things, the nature,
17 circumstance, extent, and gravity of the violation, the quantity and characteristics of
18 the substance or material involved, the extent of environmental harm caused by the
19 violation, measures taken by the defendant to remedy the violation, the relative
20 likelihood that the material or substance involved may pass into waters of the state,
21 and the harm likely to be caused to the defendant.

22 (g) The court, to the maximum extent possible, shall tailor a temporary restraining
23 order, preliminary injunction, or permanent injunction narrowly to address the
24 violation in a manner that will otherwise allow the defendant to continue business
25 operations in a lawful manner.

26 (h) All civil penalties collected pursuant to this section shall not be considered
27 fines or forfeitures as defined in Section 13003 and shall be apportioned in the
28 following manner:

29 (1) Fifty percent shall be distributed to the county treasurer of the county in which
30 the action is prosecuted. Amounts paid to the county treasurer shall be deposited in
31 the county fish and wildlife propagation fund established pursuant to Section 13100.

32 (2) Fifty percent shall be distributed to the department for deposit in the Fish and
33 Game Preservation Fund. These funds may be expended to cover the costs of legal
34 actions or for any other law enforcement purpose consistent with Section 9 of
35 Article XVI of the California Constitution.

36 (i) Except as provided in subdivision (j), in addition to any other penalty provided
37 by law, a person who violates Section 5650 is subject to a civil penalty of not more
38 than ten dollars (\$10) for each gallon or pound of material discharged. The total
39 amount of the civil penalty shall be reduced for every gallon or pound of the illegally
40 discharged material that is recovered and properly disposed of by the responsible
41 party.

42 (j) A person shall not be subject to a civil penalty imposed under this section and
43 to a civil penalty imposed pursuant to Article 9 (commencing with Section 8670.57)

1 of Chapter 7.4 of Division 1 of Title 2 of the Government Code for the same act or
2 failure to act.

3 **Comment.** Subdivision (e) of Section 5650.1 is amended to revise an overbroad reference.

4 **Fish & Game Code § 5653 (amended). Vacuum or suction dredging**

5 SEC. _____. Section 5653 of the Fish and Game Code is amended to read:

6 5653. (a) The use of vacuum or suction dredge equipment by a person in a river,
7 stream, or lake of this state is prohibited, except as authorized under a permit issued
8 to that person by the department in compliance with the regulations adopted
9 pursuant to Section 5653.9. Before a person uses vacuum or suction dredge
10 equipment in a river, stream, or lake of this state, that person shall submit an
11 application to the department for a permit to use the vacuum or suction dredge
12 equipment, specifying the type and size of equipment to be used and other
13 information as the department may require pursuant to regulations adopted by the
14 department to implement this section.

15 (b)(1) The department shall not issue a permit for the use of vacuum or suction
16 dredge equipment until the permit application is deemed complete. A complete
17 permit application shall include any other permit required by the department and
18 one of the following, as applicable:

19 (A) A copy of waste discharge requirements or a waiver of waste discharge
20 requirements issued by the State Water Resources Control Board or a regional water
21 quality control board in accordance with Division 7 (commencing with Section
22 13000) of the Water Code.

23 (B) A copy of a certification issued by the State Water Resources Control Board
24 or a regional water quality control board and a permit issued by the United States
25 Army Corps of Engineers in accordance with Sections 401 and 404 of the Federal
26 Water Pollution Control Act (33 U.S.C. Secs. 1341 and 1344, respectively) to use
27 vacuum or suction dredge equipment.

28 (C) If the State Water Resources Control Board or the appropriate regional water
29 quality control board determines that waste discharge requirements, a waiver of
30 waste discharge requirements, or a certification in accordance with Section 1341 of
31 Title 33 of the United States Code is not necessary for the applicant to use of vacuum
32 or suction dredge equipment, a letter stating this determination signed by the
33 Executive Director of the State Water Resources Control Board, the executive
34 officer of the appropriate regional water quality control board, or their designee.

35 (c) Under the regulations adopted pursuant to Section 5653.9, the department shall
36 designate waters or areas wherein vacuum or suction dredge equipment may be used
37 pursuant to a permit, waters or areas closed to the use of that equipment, the
38 maximum size of the vacuum or suction dredge equipment that may be used, and
39 the time of year when the equipment may be used. If the department determines,
40 pursuant to the regulations adopted pursuant to Section 5653.9, that the use of
41 vacuum or suction dredge equipment does not cause any significant effects to fish
42 and wildlife, it shall issue a permit to the applicant. If a person uses vacuum or

1 suction dredge equipment other than as authorized by a permit issued by the
2 department consistent with regulations ~~implementing this section~~ adopted pursuant
3 to Section 5653.9, that person is guilty of a misdemeanor.

4 (d)(1) Except as provided in paragraph (2), the department shall issue a permit
5 upon the payment, in the case of a resident, of a base fee of twenty-five dollars
6 (\$25), as adjusted under Section 713, when an onsite investigation of the project
7 size is not deemed necessary by the department, and a base fee of one hundred thirty
8 dollars (\$130), as adjusted under Section 713, when the department deems that an
9 onsite investigation is necessary. Except as provided in paragraph (2), in the case of
10 a nonresident, the base fee shall be one hundred dollars (\$100), as adjusted under
11 Section 713, when an onsite investigation is not deemed necessary, and a base fee
12 of two hundred twenty dollars (\$220), as adjusted under Section 713, when an onsite
13 investigation is deemed necessary.

14 (2) The department may adjust the base fees for a permit described in this
15 subdivision to an amount sufficient to cover all reasonable costs of the department
16 in regulating suction dredging activities.

17 (e) It is unlawful to possess a vacuum or suction dredge in areas, or in or within
18 100 yards of waters, that are closed to the use of vacuum or suction dredges.

19 (f) A permit issued by the department under this section shall not authorize an
20 activity in violation of other applicable requirements, conditions, or prohibitions
21 governing the use of vacuum or suction dredge equipment, including those adopted
22 by the State Water Resources Control Board or a regional water quality control
23 board. The department, the State Water Resources Control Board, and the regional
24 water quality control boards shall make reasonable efforts to share information
25 among the agencies regarding potential violations of requirements, conditions, or
26 prohibitions governing the use of vacuum or suction dredge equipment.

27 (g) For purposes of this section and Section 5653.1, the use of vacuum or suction
28 dredge equipment, also known as suction dredging, is the use of a mechanized or
29 motorized system for removing or assisting in the removal of, or the processing of,
30 material from the bed, bank, or channel of a river, stream, or lake in order to recover
31 minerals. This section and Section 5653.1 do not apply to, prohibit, or otherwise
32 restrict nonmotorized recreational mining activities, including panning for gold.

33 **Comment.** Subdivision (c) of Section 5653 is amended to more precisely identify regulations
34 referenced in that subdivision.

35 **Fish & Game Code § 5653.1 (amended). Moratorium and regulation review**

36 SEC. _____. Section 5653.1 of the Fish and Game Code is amended to read:

37 5653.1. (a) The issuance of permits to operate vacuum or suction dredge
38 equipment is a project pursuant to the California Environmental Quality Act
39 (Division 13 (commencing with Section 21000) of the Public Resources Code) and
40 permits may only be issued, and vacuum or suction dredge mining may only occur
41 as authorized by any existing permit, if the department has caused to be prepared,
42 and certified the completion of, an environmental impact report for the project

1 pursuant to the court order and consent judgment entered in the case of Karuk Tribe
2 of California et al. v. California Department of Fish and Game et al., Alameda
3 County Superior Court Case No. RG 05211597.

4 (b) Notwithstanding Section 5653, the use of any vacuum or suction dredge
5 equipment in any river, stream, or lake of this state is prohibited until the director
6 certifies to the Secretary of State that all of the following have occurred:

7 (1) The department has completed the environmental review of its existing suction
8 dredge mining regulations, as ordered by the court in the case of Karuk Tribe of
9 California et al. v. California Department of Fish and Game et al., Alameda County
10 Superior Court Case No. RG 05211597.

11 (2) The department has transmitted for filing with the Secretary of State pursuant
12 to Section 11343 of the Government Code, a certified copy of new regulations
13 adopted, as necessary, pursuant to Chapter 3.5 (commencing with Section 11340)
14 of Part 1 of Division 3 of Title 2 of the Government Code.

15 (3) The new regulations described in paragraph (2) are operative.

16 (4) The new regulations described in paragraph (2) fully mitigate all identified
17 significant environmental impacts.

18 (5) A fee structure is in place that will fully cover all costs to the department
19 related to the administration of the program.

20 ~~(e)(1) To facilitate its compliance with subdivision (b), the department shall~~
21 ~~consult with other agencies as it determines to be necessary, including, but not~~
22 ~~limited to, the State Water Resources Control Board, the State Department of Public~~
23 ~~Health, and the Native American Heritage Commission, and, on or before April 1,~~
24 ~~2013, shall prepare and submit to the Legislature a report with recommendations on~~
25 ~~statutory changes or authorizations that, in the determination of the department, are~~
26 ~~necessary to develop the suction dredge regulations required by paragraph (2) of~~
27 ~~subdivision (b), including, but not limited to, recommendations relating to the~~
28 ~~mitigation of all identified significant environmental impacts and a fee structure that~~
29 ~~will fully cover all program costs.~~

30 ~~(2) The requirement for submitting a report imposed under this subdivision is~~
31 ~~inoperative on January 1, 2017, pursuant to Section 10231.5 of the Government~~
32 ~~Code.~~

33 ~~(3) The report submitted to the Legislature pursuant to this subdivision shall be~~
34 ~~submitted in accordance with Section 9795 of the Government Code.~~

35 ~~(d) (c)~~ The Legislature finds and declares that this section, as added during the
36 2009–10 Regular Session, applies solely to vacuum and suction dredging activities
37 conducted for instream mining purposes. This section does not expand or provide
38 new authority for the department to close or regulate suction dredging conducted
39 for regular maintenance of energy or water supply management infrastructure, flood
40 control, or navigational purposes governed by other state or federal law.

41 ~~(e) (d)~~ This section does not prohibit or restrict nonmotorized recreational mining
42 activities, including panning for gold.

43 **Comment.** Section 5653.1 is amended to delete subdivision (c) of the section as obsolete.

1 **Fish & Game Code § 5654 (amended). Fishing closure**

2 SEC. ____ . Section 5654 of the Fish and Game Code is amended to read:

3 5654. (a)(1) Notwithstanding Section 5523 and except as provided in paragraph
4 (2), the director, within 24 hours of notification of a spill or discharge, as those terms
5 are defined in Section 8670.3 of the Government Code, where any fishing, including
6 all commercial, recreational, and nonlicensed subsistence fishing, may take place,
7 or where aquaculture operations are taking place, shall close to the take of all fish
8 and shellfish all waters in the vicinity of the spill or discharge or where the spilled
9 or discharged material has spread, or is likely to spread. In determining where a spill
10 or discharge is likely to spread, the director shall consult with the Administrator of
11 the Office of Spill Prevention and Response. At the time of closure, the department
12 shall make all reasonable efforts to notify the public of the closure, including
13 notification to commercial and recreational fishing organizations, and posting of
14 warnings on public piers and other locations where subsistence fishing is known to
15 occur. The department shall coordinate, when possible, with local and regional
16 agencies and organizations to expedite public notification.

17 (2) Closure pursuant to paragraph (1) is not required if, within 24 hours of
18 notification of a spill or discharge, the Office of Environmental Health Hazard
19 Assessment finds that a public health threat does not or is unlikely to exist.

20 (b) Within 48 hours of notification of a spill or discharge subject to subdivision
21 (a), the director, in consultation with the Office of Environmental Health Hazard
22 Assessment, shall make an assessment and determine all of the following:

23 (1) The danger posed to the public from fishing in the area where the spill or
24 discharge occurred or spread, and the danger of consuming fish taken in the area
25 where the spill or discharge occurred or spread.

26 (2) Whether the areas closed for the take of fish or shellfish should be expanded
27 to prevent any potential take or consumption of any fish or shellfish that may have
28 been contaminated by the spill or discharge.

29 (3) The likely period for maintaining a closure on the take of fish and shellfish in
30 order to prevent any possible contaminated fish or shellfish from being taken or
31 consumed or other threats to human health.

32 (c) Within 48 hours after receiving notification of a spill or discharge subject to
33 subdivision (a), or as soon as is feasible, the director, in consultation with the Office
34 of Environmental Health Hazard Assessment, shall assess and determine the
35 potential danger from consuming fish that have been contained in a recirculating
36 seawater tank onboard a vessel that may become contaminated by the vessel's
37 movement through an area where the spill or discharge occurred or spread.

38 (d) If the director finds in ~~his or her~~ the director's assessment pursuant to
39 subdivision (b) that there is no significant risk to the public or to the fisheries, the
40 director may immediately reopen the closed area and waive the testing requirements
41 of ~~subdivisions~~ subdivision (e) and (f).

42 (e) Except under the conditions specified in subdivision (d), after complying with
43 subdivisions (a) and (b), the director, in consultation with the Office of

1 Environmental Health Hazard Assessment, but in no event more than seven days
2 from the notification of the spill or discharge, shall order expedited tests of fish and
3 shellfish that would have been open for take for commercial, recreational, or
4 subsistence purposes in the closed area if not for the closure, to determine the levels
5 of contamination, if any, and whether the fish or shellfish is safe for human
6 consumption.

7 (f)(1) Within 24 hours of receiving a notification from the Office of
8 Environmental Health Hazard Assessment that no threat to human health exists from
9 the spill or discharge or that no contaminant from the spill or discharge is present
10 that could contaminate fish or shellfish, the director shall reopen the areas closed
11 pursuant to this section. The director may maintain a closure in any remaining
12 portion of the closed area where the Office of Environmental Health Hazard
13 Assessment finds contamination from the spill or discharge persists that may
14 adversely affect human health.

15 (2) The director, in consultation with the commission, may also maintain a closure
16 in any remaining portion of the closed area where commercial fishing or aquaculture
17 occurs and where the department determines, pursuant to this paragraph, that
18 contamination from the spill or discharge persists that may cause the waste of
19 commercial fish or shellfish as regulated by Section 7701.

20 (g) To the extent feasible, the director shall consult with representatives of
21 commercial and recreational fishing associations and subsistence fishing
22 communities regarding the extent and duration of a closure, testing protocols, and
23 findings. If a spill or discharge occurs within the lands governed by a Native
24 American tribe or affects waters flowing through tribal lands, or tribal fisheries, the
25 director shall consult with the affected tribal governments.

26 (h) The director shall seek full reimbursement from the responsible party or
27 parties for the spill or discharge for all reasonable costs incurred by the department
28 in carrying out this section, including, but not limited to, all testing.

29 **Comment.** Subdivision (d) of Section 5654 is amended to delete an erroneous cross-reference.
30 The subdivision is also amended to make it gender neutral.

31 **Fish & Game Code § 5671 (amended). Authority of State Department of Public Health**

32 SEC. ____ . Section 5671 of the Fish and Game Code is amended to read:

33 5671. ~~The State Department of Health Services~~ State Department of Public Health
34 may:

35 (a) Examine any area from which shellfish may be taken.

36 (b) Determine whether the area is subject to sewage contamination.

37 (c) Determine whether the taking of shellfish from the area does or may constitute
38 a menace to the lives or health of human beings.

39 **Comment.** Section 5671 is amended to update an obsolete reference to the State Department of
40 Health Services. See Health & Safety Code §§ 20 and 131052(6).

1 **Fish & Game Code § 5672 (amended). Notice of contamination**

2 SEC. _____. Section 5672 of the Fish and Game Code is amended to read:

3 5672. (a) Upon the determination by the ~~State Department of Health Services~~
4 State Department of Public Health that the area is or may be subject to sewage
5 contamination, and that the taking of shellfish from it does or may constitute a
6 menace to the lives or health of human beings, it shall ascertain as accurately as it
7 can the bounds of the contamination, and shall post notices on or in the area
8 describing its bounds and prohibiting the taking of shellfish therefrom.

9 (b) The taking of shellfish from the area is unlawful after the completion of the
10 publication of the notices as prescribed in this article.

11 **Comment.** Section 5672 is amended to update an obsolete reference to the State Department of
12 Health Services. See Health & Safety Code §§ 20 and 131052(6).

13 **Fish & Game Code § 5674 (amended). Enforcement**

14 SEC. _____. Section 5674 of the Fish and Game Code is amended to read:

15 5674. The ~~State Department of Health Services~~ State Department of Public Health
16 shall enforce the provisions of this article, and for that purpose the inspectors and
17 employees of that agency may enter at all times upon public or private property
18 upon which shellfish may be located.

19 **Comment.** Section 5674 is amended to update an obsolete reference to the State Department of
20 Health Services. See Health & Safety Code §§ 20 and 131052(6).

21 **Fish & Game Code § 5700 (amended). Specified districts**

22 SEC. _____. Section 5700 of the Fish and Game Code is amended to read:

23 5700. Notwithstanding Sections 5670, 5672, 8341, and 9050, native and
24 nonnative mollusks may be taken in Districts 12 and 13 and moved to other areas to
25 be purified for human consumption under such rules and regulations as shall be
26 established by the commission. Such regulations may include, but are not limited
27 to, bag limits, methods of harvest, and provisions for public use. Mollusks taken
28 under this section shall not be used for human consumption unless such use is
29 approved by the ~~State Department of Health Services~~ State Department of Public
30 Health.

31 **Comment.** Section 5700 is amended to update an obsolete reference to the State Department of
32 Health Services. See Health & Safety Code §§ 20 and 131052(6).

33 **Fish & Game Code § 5701 (amended). Sanitary surveys**

34 SEC. _____. Section 5701 of the Fish and Game Code is amended to read:

35 5701. The ~~State Department of Health Services~~ State Department of Public Health
36 may make sanitary surveys of mollusk-growing areas or may use sanitary surveys
37 of mollusk-growing areas made by qualified state or county agencies, and based on
38 such information may classify such areas for purposes of harvesting and moving
39 mollusks which are to be purified for human consumption in accordance with
40 Section 5700. The ~~State Department of Health Services~~ State Department of Public

1 Health shall adopt such rules and regulations as are necessary to implement this
2 section.

3 **Comment.** Section 5701 is amended to update obsolete references to the State Department of
4 Health Services. See Health & Safety Code §§ 20 and 131052(6).

5 **Fish & Game Code § 5701.5 (amended). Certification of water quality**

6 SEC. _____. Section 5701.5 of the Fish and Game Code is amended to read:

7 5701.5. If examinations are conducted by the ~~State Department of Health Services~~
8 State Department of Public Health pursuant to this article for purposes of certifying
9 the quality of shellfish-growing waters, certification of water quality shall be
10 commenced within 30 days and completed within six months of the filing of an
11 application by an aquaculturist.

12 **Comment.** Section 5701.5 is amended to update an obsolete reference to the State Department
13 of Health Services. See Health & Safety Code §§ 20 and 131052(6).

14 **Fish & Game Code § 5800 (amended). Mining operations in Trinity and Klamath River**
15 **Fish and Game District**

16 SEC. _____. Section 5800 of the Fish and Game Code is amended to read:

17 5800. (a) It is unlawful to conduct any mining ~~operations~~ operation in the Trinity
18 and Klamath River Fish and Game District between July ~~1st 1~~ and November ~~30th~~
19 30, except when the debris, substances, tailings or other effluent from ~~such~~ those
20 operations do not and cannot pass into the waters in that district.

21 (b) It is unlawful between July ~~1st 1~~ and November ~~30th 30~~ to pollute, muddy,
22 contaminate, or roil the waters of the Trinity and Klamath River Fish and Game
23 District. ~~It is unlawful between those dates~~ , or to deposit in or cause, suffer, or
24 procure to be deposited in, permit to pass into, or place where it can pass into, ~~such~~
25 those waters, any debris, substance or tailings from hydraulic, placer, milling, or
26 other mining operation affecting the clarity of ~~such~~ those waters. The clarity of ~~such~~
27 those waters shall be deemed affected when ~~such~~ those waters at a point a distance
28 of one mile below the confluence of the Klamath River and the Salmon River or at
29 a point a distance of one mile below the confluence of the South Fork of the Trinity
30 River and the Trinity River, contain fifty (50) parts per million, by weight, of
31 suspended matter, not including vegetable matter in suspension and suspended
32 matter occurring in the stream or streams due to an act of God.

33 (c) It is unlawful, between July ~~1st 1~~ and November ~~30th 30~~ to carry on or operate
34 any hydraulic mine of any kind on, along, or in any waters flowing into the Trinity
35 and Klamath River Fish and Game District. ~~However, nothing herein contained~~

36 (d) Nothing in this section shall prevent the operation of a hydraulic mine where
37 the tailings, substance, or debris, or other effluent ~~therefrom~~, from that mine does
38 not or will not pass into the waters of the Trinity and Klamath River Fish and Game
39 District, between ~~such dates~~ July 1 and November 30, and any person, firm, or
40 corporation engaged in hydraulic mining shall have the right until ~~the fifteenth day~~
41 of July 15 to use water for the purpose of cleaning up.

1 ~~(d)~~ (e) Any structure or contrivance ~~which causes or contributes, in whole or in~~
2 ~~part, to the condition, the causing of which is in this section prohibited, that is used~~
3 ~~to violate this section is a public nuisance, and any .~~

4 (f) Any person, firm, or corporation ~~maintaining or permitting it~~ that maintains or
5 permits a structure or contrivance used in violating this section is guilty of
6 maintaining a public nuisance, ~~and it .~~

7 (g) It is the duty of the district attorney of the county where the ~~condition~~ violation
8 occurs or the acts creating the public nuisance occur, to bring an action to abate such
9 that nuisance.

10 **Comment.** Section 5800 is amended for clarity.

11 **Fish & Game Code § 5901 (amended). Obstruction in specified districts**

12 SEC. ____ . Section 5901 of the Fish and Game Code is amended to read:

13 5901. Except as otherwise provided in this code, it is unlawful to construct or
14 maintain in any stream in Districts 1, 1^{3/8}, 1^{1/2}, ~~1^{7/8}~~, 2, 2^{1/4}, 2^{1/2}, ~~2^{3/4}~~, 3, 3^{1/2}, 4, 4^{1/8},
15 4^{1/2}, 4^{3/4}, 11, 12, 13, 23, and 25, any device or contrivance that prevents, impedes,
16 or tends to prevent or impede, the passing of fish up and down stream.

17 **Comment.** Section 5901 is amended to delete references to two non-existent Fish and Game
18 Districts.

19 **Fish & Game Code § 5946 (amended). Dams constructed in District 4^{1/2}**

20 SEC. ____ . Section 5946 of the Fish and Game Code is amended to read:

21 5946. (a) The provisions of Section 5938 shall not be applicable to dams
22 constructed in District 4^{1/2} after September 9, 1953.

23 (b) No permit or license to appropriate water in District 4^{1/2} shall be issued by the
24 ~~State Water Rights Board~~ State Water Resources Control Board after September 9,
25 1953, unless conditioned upon full compliance with Section 5937.

26 (c) Plans and specifications for any such dam shall not be approved by the
27 Department of Water Resources unless adequate provision is made for full
28 compliance with Section 5937.

29 **Comment.** Section 5946 is amended to update a reference to the former State Water Rights
30 Board.

31 The section is also amended to add subdivision designations and make a technical correction.

32 **Fish & Game Code § 5981 (amended). Installation of screen on conduits**

33 SEC. ____ . Section 5981 of the Fish and Game Code is amended to read:

34 5981. (a) ~~The department shall examine all conduits; and order the owner of a~~
35 ~~conduit to install, and it is the duty of such an owner to install, a screen on the~~
36 ~~conduit when, .~~ If in the opinion of the department, a screen is necessary to prevent
37 fish from passing into the conduit, the department shall order the owner of the
38 conduit to install a screen.

1 (b) Except as provided in Sections 5987, 5988 and 5989, one-half of the expense
2 of constructing or installing a screen shall be paid by the owner of a conduit and
3 one-half by the department.

4 **Comment.** Section 5981 is amended for clarity.

5 The section is also amended to add subdivision designations.

6 **Fish & Game Code § 6023 (amended). Written notice and agreement**

7 SEC. ____ . Section 6023 of the Fish and Game Code is amended to read:

8 6023. (a) The department shall serve written notice upon each owner of its
9 intention to install a fish screen, ~~and~~ .

10 ~~(b) The notice shall describe therein the distance downstream from the intake or~~
11 ~~in other manner~~ the location of the screen, the access required, and the amount of
12 water required for the bypass. The location of the screen may be described by the
13 distance downstream from the intake or by another method.

14 ~~(c) The notice shall be served upon the owner in duplicate, and in such form that~~
15 ~~the original copy upon signature .~~

16 (d) Once signed by the owner, the notice shall serve as an agreement to the
17 installation of the screen or device under , according to the terms therein, and set
18 out in the notice.

19 (e) The signed agreement shall require the owner to render such any assistance,
20 other than mechanical repair or replacement of parts, necessary to keep the screen
21 or device in satisfactory operating condition. The hiring of additional labor shall not
22 be required for such that assistance.

23 **Comment.** Section 6023 is amended for clarity.

24 The section is also amended to add subdivision designations.

25 **Fish & Game Code § 6100 (amended). Diversion deleterious to salmon or steelhead**

26 SEC. ____ . Section 6100 of the Fish and Game Code is amended to read:

27 6100. (a) Notwithstanding any provision of Article 3 (commencing with Section
28 5980) and Article 4 (commencing with Section 6020), on or after January 1, 1972,
29 any new diversion of water from any stream having populations of salmon and
30 steelhead that is determined by the department to be deleterious to salmon and
31 steelhead shall be screened by the owner.

32 (b) The construction, operation, or maintenance costs of any screen required
33 pursuant to this article shall be borne by the owner of the diversion.

34 ~~(b) The department within 30 days of providing written notice to the owner that~~
35 (c) If the department has determined that the a diversion is deleterious to salmon
36 and steelhead pursuant to subdivision (a), or within the time determined by mutual
37 written agreement, shall submit to the owner its proposals as to measures necessary
38 to protect the salmon and steelhead it shall provide written notice of its
39 determination to the owner.

1 ~~(d)~~ (d) The department shall notify the owner that ~~it~~ the department shall make onsite
2 investigation and shall make any other investigation before it shall propose any
3 measures necessary to protect fishlife.

4 ~~(e)~~ (e) Within 30 days of providing notice under this section, or within a time
5 determined by mutual written agreement, the department shall submit to the owner
6 its proposals as to measures necessary to protect the salmon and steelhead.

7 ~~(f)~~ (f) The department, or any agency of the state, shall provide the owner of the
8 diversion any available information that is required by the owner in order to comply
9 with the provisions of this article.

10 ~~(g)~~ (g) The diversion shall not commence until the department has determined that
11 measures necessary to protect fishlife have been incorporated into the plans and
12 construction of the diversion.

13 **Comment.** Section 6100 is amended for clarity.

14 **Fish & Game Code § 6652 (amended). Weight records**

15 SEC. ____ . Section 6652 of the Fish and Game Code is amended to read:

16 6652. (a) Every person engaged in harvesting kelp shall determine the weight ~~by~~
17 ~~any method, including the displacement method, approved by the department of all~~
18 ~~wet kelp, immediately after it is delivered to the licensee's place of business or~~
19 ~~elsewhere, and the .~~ The weight shall be entered in a book to be kept by the licensee.
20 The book shall be open at all times to the inspection of the department.

21 (b) The weight shall be determined by any method approved by the department,
22 including the displacement method.

23 (c) Every person engaged in harvesting kelp shall, on or before 10 days after each
24 month of the term of the license, ~~render~~ deliver to the department a statement of the
25 weight of all wet kelp harvested during the preceding month.

26 **Comment.** Section 6652 is amended for clarity.

27 The section is also amended to add subdivision designations.

28 **Fish & Game Code § 6656 (amended). License revocation or nonrenewal**

29 SEC. ____ . Section 6656 of the Fish and Game Code is amended to read:

30 6656. (a) The commission may revoke a license and prohibit its reissuance for a
31 period of not more than one year, ~~the license of~~ in either of the following:
32 circumstances:

33 ~~(a) Any person who harvests any~~ (1) The licensee harvested kelp from a bed which
34 is that was closed, between the time of service of notice upon him or her of the
35 closing of the bed and the decision of the commission upon a hearing as to the
36 necessity for the closing after the department served notice of the closure on the
37 licensee and before the bed was reopened.

38 ~~(b) Any person who violates~~ (2) The licensee violated any law or regulation of the
39 commission relating to kelp.

40 ~~The proceedings~~ (b) A proceeding pursuant to this section shall be conducted at
41 one of the commission's regularly scheduled meetings.

1 **Comment.** Section 6656 is amended for clarity.
2 The section is also amended to add subdivision designations.

3 **Fish & Game Code § 6657 (amended). Scientific and educational permits**

4 SEC. _____. Section 6657 of the Fish and Game Code is amended to read:
5 6657. The commission may, subject to such regulations as it may deem proper,
6 grant permits to any department of the United States Government or to any scientific
7 or any educational institution, to harvest kelp at any time for scientific or
8 experimental purposes without the payment of the kelp license or ~~privilege tax~~
9 royalty imposed by this chapter.

10 **Comment.** Section 6657 is amended to more precisely describe the nature of payments
11 referenced in the section. See Section 6680 (requiring payment of “royalty” for harvesting kelp).

12 **Fish & Game Code § 6704 (amended). Renewal of lease**

13 SEC. _____. Section 6704 of the Fish and Game Code is amended to read:
14 6704. (a) Each kelp bed lease ~~entered into or renewed, on and after January 1,~~
15 ~~1985,~~ shall specify a period prior to expiration when renewal of the lease may be
16 requested by the lessee. If the commission determines that the lessee has complied
17 with the terms of the lease, the lessee shall have a prior right to renew the lease on
18 terms agreed upon between the commission and the lessee.
19 (b) If terms for a renewal of the lease are not agreed upon, or the commission
20 determines that the lessee has not complied with the terms of the lease, the
21 commission shall advertise for bids on the individual kelp beds comprising the lease.
22 (c) If a request for renewal is not made during the specified period by the lessee,
23 the commission shall advertise for bids on the individual kelp beds comprising the
24 lease.
25 (d) The duration of the term of any renewal of a lease shall not exceed 20 years.

26 **Comment.** Subdivision (a) of Section 6704 is amended to delete an obsolete reference to a past
27 qualifying date.

28 **Fish & Game Code § 6705 (repealed). Renewal of leases in effect on specified dates**

29 SEC. _____. Section 6705 of the Fish and Game Code is repealed.
30 ~~6705. Notwithstanding Section 6704, with respect to any kelp lease in effect on~~
31 ~~January 1, 1983, the lessee shall have a prior right to renew the lease on terms agreed~~
32 ~~upon between the commission and the lessee. If the lessee does not renew the lease,~~
33 ~~or if terms are not agreed upon, the commission shall advertise for bids on the~~
34 ~~individual kelp beds comprising the lease. The term of any renewal of a lease shall~~
35 ~~not exceed 20 years. Any lease in effect on January 1, 1985, may be performed~~
36 ~~pursuant to its terms, notwithstanding this article, but any renewal of that lease is~~
37 ~~subject to this article.~~

38 **Comment.** Section 6705 is repealed as obsolete.

1 **Fish & Game Code § 6707 (amended). Royalty payment**

2 SEC. _____. Section 6707 of the Fish and Game Code is amended to read:

3 6707. (a) Each lease ~~entered into, or renewed, on or after January 1, 1985,~~ shall
4 require, in addition to the license fee required by this chapter, a payment by the
5 lessee or any sublessee of not less than the minimum royalty established under
6 Article 2 (commencing with Section 6680), for all kelp harvested from the lease
7 area, and shall provide for an annual advance payment of not less than forty dollars
8 (\$40) per square mile per year for the kelp bed leased, to be credited against the
9 amount payable by the lessee, or sublessee, as the case may be, for each ton of kelp
10 harvested during the ensuing year.

11 (b) The lease shall, in addition, include provisions for forfeiture of the lease if the
12 annual payment is not made in advance.

13 **Comment.** Section 6707 is amended to delete an obsolete reference to a past qualifying date.
14 The section is also amended to add subdivision designations.

15 **Fish & Game Code § 6924 (repealed). Report of determined elements of program**

16 SEC. _____. Section 6924 of the Fish and Game Code is repealed.

17 ~~6924. The department shall determine the initial elements of the program and
18 transmit a report describing those elements to the Legislature and the Advisory
19 Committee on Salmon and Steelhead Trout within six months of the effective date
20 of this chapter.~~

21 **Comment.** Section 6924 is repealed as obsolete.

22 **Fish & Game Code § 7090 (amended). Emerging fisheries**

23 SEC. _____. Section 7090 of the Fish and Game Code is amended to read:

24 7090. (a) The Legislature finds and declares that a proactive approach to
25 management of emerging fisheries will foster a healthy marine environment and
26 will benefit both commercial and sport fisheries and other marine-dependent
27 activities. Therefore, the commission, based upon the advice and recommendations
28 of the department, shall encourage, manage, and regulate emerging fisheries
29 consistent with the policies of this part.

30 (b) For purposes of this section, “emerging fishery,” in regard to a marine fishery,
31 means both of the following:

32 (1) A fishery that the director has determined is an emerging fishery, based on
33 criteria that are approved by the commission and are related to a trend of increased
34 landings or participants in the fishery and the degree of existing regulation of the
35 fishery.

36 (2) A fishery that is not an established fishery. “Established fishery,” in regard to
37 a marine fishery, means, prior to January 1, 1999, one or more of the following:

38 (A) A restricted access fishery has been established in this code or in regulations
39 adopted by the commission.

40 (B) A fishery, for which a federal fishery management plan exists, and in which
41 the catch is limited within a designated time period.

1 (C) A fishery for which a population estimate and catch quota is established
2 annually.

3 (D) A fishery for which regulations for the fishery are considered at least
4 biennially by the commission.

5 (E) A fishery for which this code or regulations adopted by the commission
6 prescribes at least two management measures developed for the purpose of
7 sustaining the fishery. Management measures include minimum or maximum size
8 limits, seasons, time, gear, area restriction, and prohibition on sale or possession of
9 fish.

10 (c) The department shall closely monitor landings and other factors it deems
11 relevant in each emerging fishery and shall notify the commission of the existence
12 of an emerging fishery.

13 (d) The commission, upon the recommendation of the department, may do either,
14 or both, of the following:

15 (1) Adopt regulations that limit taking in the fishery by means that may include,
16 but not be limited to, restricting landings, time, area, gear, or access. These
17 regulations may remain in effect until a fishery management plan is adopted.

18 (2) Direct the department to prepare a fishery management plan for the fishery
19 and regulations necessary to implement the plan.

20 (e) A fishery management plan for an emerging fishery shall comply with the
21 requirements for preparing and adopting fishery management plans contained in this
22 part. In addition to those requirements, to allow for adequate evaluation of the
23 fishery and the acquisition of essential fishery information, the fishery management
24 plan shall provide an evaluation period, which shall not exceed three years unless
25 extended by the commission. During the evaluation period, the plan shall do both
26 of the following:

27 (1) In order to prevent excess fishing effort during the evaluation period, limit
28 taking in the fishery by means that may include, but need not be limited to,
29 restricting landings, time, area, gear, or access to a level that the department
30 determines is necessary for evaluation of the fishery.

31 (2) Contain a research plan that includes objectives for evaluating the fishery, a
32 description of the methods and data collection techniques for evaluating the fishery,
33 and a timetable for completing the evaluation.

34 (f) The commission is authorized to impose a fee on an emerging fishery in order
35 to pay the costs of implementing this chapter. The fees may include, but need not
36 be limited to, ocean fishing stamps and permit fees. The fees may not be levied in
37 excess of the necessary costs to implement and administer this chapter. The
38 commission may reduce fees annually if it determines that sufficient revenues exist
39 to cover costs incurred by the department in administering this chapter. The
40 commission and the department, with the advice of fishery participants and other
41 interested parties, shall consider alternative ways to fund the evaluation of emerging
42 fisheries.

1 (g) An emerging fishery is subject to this section unless the department
2 incorporates the fishery into a fishery management plan developed under Sections
3 7070 to 7088, inclusive.

4 (h) In the event that this section is found to conflict with Section 1022, ~~8614, or~~
5 ~~8615~~, this section shall prevail.

6 **Comment.** Subdivision (h) of Section 7090 is amended to conform to the concurrent repeal of
7 Sections 8614 and 8615.

8 **Fish & Game Code § 7120 (amended). Bag limits**

9 SEC. _____. Section 7120 of the Fish and Game Code is amended to read:

10 7120. It is unlawful for any person to possess more than one daily bag limit of any
11 fish, amphibian, or reptile taken under a license issued pursuant to Article 3
12 (commencing with Section 7145) unless authorized by regulations adopted by the
13 commission.

14 **Comment.** Section 7120 is amended to parallel the language of Section 7145.

15 **Fish & Game Code § 7149.05 (amended). Sport fishing license**

16 SEC. _____. Section 7149.05 of the Fish and Game Code, as amended by Section 2
17 of Chapter 607 of the Statutes of 2021, is amended to read:

18 7149.05. (a) A sport fishing license granting the privilege to take any fish, reptile,
19 or amphibian anywhere in this state for purposes other than profit shall be issued to
20 any of the following:

21 (1)(A) A resident, 16 years of age or older, for the period of a calendar year, or, if
22 issued after the beginning of the year, for the remainder of the year, upon payment
23 of a base fee of thirty-one dollars and twenty-five cents (\$31.25).

24 (B) The director may authorize the issuance of a license under subparagraph (A)
25 that is valid for the period of 12 consecutive months beginning on the date specified
26 on the license instead of only for the calendar year.

27 (2)(A) A nonresident, 16 years of age or older, for the period of a calendar year,
28 or, if issued after the beginning of the year, for the remainder of the year, upon
29 payment of a base fee of eighty-four dollars (\$84).

30 (B) The director may authorize the issuance of a license under subparagraph (A)
31 that is valid for the period of 12 consecutive months beginning on the date specified
32 on the license instead of only for the calendar year.

33 (3) A nonresident, 16 years of age or older, for ~~the a~~ a period of 10 designated
34 consecutive days beginning on the date specified on the license, upon payment of
35 the fee set forth in paragraph (1). Notwithstanding Section 1053.1, more than one
36 10-day license for different 10-day periods may be issued to, or possessed by, a
37 person at one time.

38 (4) A resident or nonresident, 16 years of age or older, for two designated
39 consecutive days, upon payment of one-half the fee set forth in paragraph (1).
40 Notwithstanding Section 1053.1, more than one single-day two-day license issued

1 for different ~~days~~ two-day periods may be issued to, or possessed by, a person at
2 one time.

3 (5) A resident or nonresident, 16 years of age or older, for one designated day,
4 upon payment of a base fee of ten dollars (\$10). Notwithstanding Section 1053.1,
5 more than one one-day license for different days may be issued to, or possessed by,
6 a person at one time.

7 (b) California sport fishing license validations shall be issued by authorized
8 license agents in the same manner as sport fishing licenses, and no compensation
9 shall be paid to the authorized license agent for issuing the validations except as
10 provided in Section 1055.1.

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

13 (d) The base fees specified in this section are applicable to the 2004 license year,
14 and shall be adjusted annually thereafter pursuant to Section 713.

15 (e) The commission shall adjust the amount of the fees specified in subdivision
16 (d), as necessary, to fully recover, but not exceed, all reasonable administrative and
17 implementation costs of the department and the commission relating to those
18 licenses.

19 (f)(1) The director shall provide the Legislature, on or before January 1, 2025,
20 recommendations for increasing fees for all sport fishing licenses to levels that
21 provide adequate resources to fund sport fishing, including all necessary supporting
22 activities, at the department.

23 (2) The director shall submit to the Legislature, on or before July 1, 2028, a written
24 report evaluating all sport fishing licenses issued pursuant to this section, including
25 sales information, the cost of administering and implementing sport fishing licenses
26 to the department and commission, and evidence of any changes in the number of
27 new or renewing sport fishing license participants. The director shall collect all
28 relevant, appropriate, and sufficient data necessary to evaluate sport fishing licenses
29 issued pursuant to this section and to justify the amount of the license fees assessed
30 pursuant to this section, including information about data collection and
31 enforcement costs. Data collection efforts pursuant to this paragraph shall avoid
32 duplication and use data collected for other purposes, to the extent feasible.

33 (3) The requirement for submitting a report imposed under paragraph (1) is
34 inoperative on January 1, 2029, pursuant to Section 10231.5 of the Government
35 Code.

36 (4) A report to be submitted pursuant to this subdivision shall be submitted in
37 compliance with Section 9795 of the Government Code.

38 (g) This section shall remain in effect only until January 1, 2030, and as of that
39 date is repealed.

40 **Comment.** Paragraphs (3) and (5) of subdivision (a) of Section 7149.05 are amended to
41 expressly state the inapplicability of Section 1053.1 to those provisions. See Section 1053.1(a)(1).

42 Paragraphs (3) and (4) of subdivision (a) are also amended for clarity.

1 **Fish & Game Code § 7149.05 (amended). Sport fishing license**

2 SEC. _____. Section 7149.05 of the Fish and Game Code as added by Section 3 of
3 Chapter 607 of the Statutes of 2021, is amended to read:

4 7149.05. (a) A sport fishing license granting the privilege to take any fish, reptile,
5 or amphibian anywhere in this state for purposes other than profit shall be issued to
6 any of the following:

7 (1) A resident, 16 years of age or older, for the period of a calendar year, or, if
8 issued after the beginning of the year, for the remainder of the year, upon payment
9 of a base fee of thirty-one dollars and twenty-five cents (\$31.25).

10 (2) A nonresident, 16 years of age or older, for the period of a calendar year, or,
11 if issued after the beginning of the year, for the remainder of the year, upon payment
12 of a base fee of eighty-four dollars (\$84).

13 (3) A nonresident, 16 years of age or older, for ~~the a~~ a period of 10 designated
14 consecutive days beginning on the date specified on the license, upon payment of
15 the fee set forth in paragraph (1). Notwithstanding Section 1053.1, more than one
16 10-day license for different 10-day periods may be issued to, or possessed by, a
17 person at one time.

18 (4) A resident or nonresident, 16 years of age or older, for two designated
19 consecutive days, upon payment of one-half the fee set forth in paragraph (1).
20 Notwithstanding Section 1053.1, more than one ~~single-day~~ two-day license issued
21 for different ~~days~~ two-day periods may be issued to, or possessed by, a person at
22 one time.

23 (5) A resident or nonresident, 16 years of age or older, for one designated day,
24 upon payment of a base fee of ten dollars (\$10). Notwithstanding Section 1053.1,
25 more than one one-day license for different days may be issued to, or possessed by,
26 a person at one time.

27 (b) California sport fishing license validations shall be issued by authorized
28 license agents in the same manner as sport fishing licenses, and no compensation
29 shall be paid to the authorized license agent for issuing the validations except as
30 provided in Section 1055.1.

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

33 (d) The base fees specified in this section are applicable to the 2004 license year,
34 and shall be adjusted annually thereafter pursuant to Section 713.

35 (e) The commission shall adjust the amount of the fees specified in subdivision
36 (d), as necessary, to fully recover, but not exceed, all reasonable administrative and
37 implementation costs of the department and the commission relating to those
38 licenses.

39 (f) This section shall become operative on January 1, 2030.

40 **Comment.** Paragraphs (3) and (5) of subdivision (a) of Section 7149.05 are amended to
41 expressly state the inapplicability of Section 1053.1 to those provisions. See Section 1053.1(a)(1).

42 Paragraphs (3) and (4) of subdivision (a) are also amended for clarity.

1 **Fish & Game Code § 7149.2 (amended). Lifetime sport fishing license**

2 SEC. _____. Section 7149.2 of the Fish and Game Code is amended to read:

3 7149.2. (a) In addition to Section 7149.05, the department shall issue a lifetime
4 sport fishing license under this section. A lifetime sport fishing license authorizes
5 the taking of fish, amphibians, or reptiles anywhere in this state in accordance with
6 the law for purposes other than profit for the life of the person to whom issued unless
7 revoked for a violation of this code or regulations adopted under this code. A
8 lifetime sport fishing license is valid for a one-year period from January 1 through
9 December 31 and may be renewed annually, regardless of any lapse of the license,
10 at no additional cost to the licensee. A lifetime sport fishing license is not
11 transferable. A lifetime sport fishing license does not include any special tags,
12 stamps, or fees.

13 (b) A lifetime sport fishing license may be issued to residents of this state, as
14 follows:

15 (1) To a person 62 years of age or over, upon payment of a base fee of three
16 hundred sixty-five dollars (\$365).

17 (2) To a person 40 years of age or over and less than 62 years of age, upon payment
18 of a base fee of five hundred forty dollars (\$540).

19 (3) To a person 10 years of age or over and less than 40 years of age upon payment
20 of a base fee of six hundred dollars (\$600).

21 (4) To a person less than 10 years of age upon payment of a base fee of three
22 hundred sixty-five dollars (\$365).

23 (c) Nothing in this section requires a person less than 16 years of age to obtain a
24 license to take fish, amphibians, or reptiles for purposes other than profit.

25 (d) Nothing in this section exempts a license applicant from meeting other
26 qualifications or requirements otherwise established by law for the privilege of sport
27 fishing.

28 (e) Upon payment of a base fee of two hundred forty-five dollars (\$245), a person
29 holding a lifetime sport fishing license shall be entitled annually to the privileges
30 afforded to a person holding a second-rod ~~stamp~~ or validation issued pursuant to
31 Section 7149.45, a sport fishing ocean enhancement ~~stamp~~ or validation issued
32 pursuant to subdivision (a) of Section 6596.1, one steelhead trout report restoration
33 card issued pursuant to Section 7380, and one salmon report card issued pursuant to
34 regulations adopted by the commission. Lifetime privileges issued pursuant to this
35 subdivision are not transferable.

36 (f) The base fees specified in this section are applicable commencing January 1,
37 2004, and shall be adjusted annually thereafter pursuant to Section 713.

38 **Comment.** Subdivision (e) of Section 7149.2 is amended to delete references to two obsolete
39 types of stamps.

40 **Fish & Game Code § 7151 (amended). Free sport fishing licenses**

41 SEC. _____. Section 7151 of the Fish and Game Code is amended to read:

1 7151. (a) Upon application to the department, the following persons, if they have
2 not been convicted of any violation of this code, shall be issued, free of any charge
3 or fee, a sport fishing license, that authorizes the licensee to take any fish, reptile,
4 or amphibian anywhere in this state for purposes other than profit:

5 (1) Any blind person upon presentation of proof of blindness. “Blind person”
6 means a person with central visual acuity of 20/200 or less in the better eye, with
7 the aid of the best possible correcting glasses, or central visual acuity better than
8 20/200 if the widest diameter of the remaining visual field is no greater than 20
9 degrees. Proof of blindness shall be by certification from a qualified licensed
10 optometrist or ophthalmologist or by presentation of a license issued pursuant to this
11 paragraph in any previous license year.

12 (2) Every resident Native American who, in the discretion of the department, is
13 financially unable to pay the fee required for the license.

14 (3) Any ~~developmentally disabled~~ person with a developmental disability, upon
15 presentation of certification of that disability from a qualified licensed physician, or
16 the director of a state regional center for ~~the developmentally disabled persons with~~
17 developmental disabilities.

18 (4) Any person who is a resident of the state and who is so severely physically
19 disabled as to be permanently unable to move from place to place without the aid of
20 a wheelchair, walker, forearm crutches, or a comparable mobility-related device.
21 Proof of the disability shall be by certification from a licensed physician or surgeon
22 or, by presentation of a license issued pursuant to this paragraph in any previous
23 license year after 1996.

24 (b) Sport fishing licenses issued pursuant to paragraph (2) of subdivision (a) are
25 valid for the calendar year of issue or, if issued after the beginning of the year, for
26 the remainder thereof.

27 (c) Sport fishing licenses issued pursuant to paragraphs (1), (3), and (4) of
28 subdivision (a) are valid for five calendar years, or if issued after the beginning of
29 the first year, for the remainder thereof.

30 (d) Upon application to the department, the department may issue, ~~free of any~~
31 ~~charge or fee~~, a group sport fishing license, free of any charge or fee, to groups of
32 ~~mentally or physically handicapped persons~~ a group of persons with mental or
33 physical disabilities who are under the care of a any of the following entities:

34 (1) A certified federal, state, county, city, or private licensed care center that is a
35 community care facility as defined in subdivision (a) of Section 1502 of the Health
36 and Safety Code, to organizations .

37 (2) An organization exempt from taxation under Section 501(c)(3) of the federal
38 Internal Revenue Code, or to schools or school districts.

39 (3) A school or school district.

40 (e) Any ~~The~~ organization that ~~applies for a group fishing license listed in~~
41 subdivision (d) shall provide evidence that it is a legitimate private licensed care
42 center, tax-exempt organization, school, or school district.

1 (f) The license shall be issued to the person in charge of the group and shall be in
2 his or her that person's possession when the group is fishing.

3 ~~(g) Employees of private licensed care centers, tax-exempt organizations, schools,~~
4 ~~or school districts are exempt from Section 7145 only while assisting physically or~~
5 ~~mentally disabled persons fishing under the authority of a valid license issued~~
6 ~~pursuant to this section. The license shall include identify the location where the~~
7 ~~activity will take place, and the date or dates of the activity for which fishing is~~
8 ~~authorized, and the maximum number of people that may be included in the group~~
9 ~~that will be fishing. The licenseholder shall notify the local department office before~~
10 ~~sport fishing and indicate where, when, and how long the group will fish be sport~~
11 ~~fishing.~~

12 (h) Employees of the organization listed in subdivision (d) are exempt from
13 Section 7145 while assisting the group that is sport fishing pursuant to the license.

14 ~~(e)~~ (i) Upon application to the department, the department may issue, free of any
15 charge or fee, a sport fishing license to a nonprofit organization for day-fishing trips
16 that provide recreational rehabilitation therapy for active duty members of the
17 United States military who are currently receiving inpatient care in a military or
18 Veterans Administration hospital and veterans with service-connected disabilities.
19 The license shall be valid for the calendar year of issue or, if issued after the
20 beginning of the year, for the remainder of that year. The license shall be issued to
21 the person in charge of the group, and shall be in the licenseholder's possession
22 when the group is fishing. The organization shall notify the local department office
23 before fishing and indicate where, when, and how long the group will fish. To be
24 eligible for a license under this subdivision, an organization shall be registered to
25 do business in this state or exempt from taxation under Section 501(c) of the federal
26 Internal Revenue Code.

27 ~~(f)~~ (j) On January 15 of each year, the department shall determine the number of
28 free sport fishing licenses in effect during the preceding year under subdivisions (a),
29 (d), and ~~(e)~~ (i).

30 ~~(g)~~ (k) There shall be appropriated from the General Fund a sum equal to two
31 dollars (\$2) per free sport fishing license in effect during the preceding license year
32 under subdivisions (a) and (d), as determined by the department pursuant to
33 subdivision ~~(f)~~ (j). That sum may be appropriated annually in the Budget Act for
34 transfer to the Fish and Game Preservation Fund and appropriated in the Budget Act
35 from the Fish and Game Preservation Fund to the department for the purposes of
36 this part.

37 **Comment.** Section 7151 is amended for clarity. The section is also amended to make it gender
38 neutral.

39 **Fish & Game Code § 7180.1 (amended). Fishing on Colorado River**

40 SEC. _____. Section 7180.1 of the Fish and Game Code is amended to read:

41 7180.1. (a) Any person taking fish or amphibia for purposes other than profit from
42 or on a boat or other floating device on the waters of the Colorado River ~~and~~ or on

1 adjacent waters, except canals, drains, or ditches used to transport water used for
2 irrigation or domestic purposes, shall have in ~~his or her~~ their possession a valid
3 sportfishing license issued by either the State of Arizona or State of California.

4 ~~(b) In addition to either of the licenses, a person taking fish or amphibia as~~
5 ~~indicated shall have in his or her possession a Colorado River special use validation.~~
6 ~~If he or she is a person having in his or her possession a valid California sportfishing~~
7 ~~license, he or she shall have an Arizona special use validation to fish legally the~~
8 ~~waters described above. If he or she is a person having in his or her possession a~~
9 ~~valid Arizona sportfishing license, he or she shall have a California special use~~
10 ~~validation to fish legally the waters described above.~~

11 ~~(c) A special use validation, when accompanied by the proper license, permits~~
12 ~~fishing in any portion of those waters, and permit fishermen to enter the waters from~~
13 ~~any point. The fee for a Colorado River special use validation is three dollars (\$3).~~

14 ~~(d) (b) This section applies only to licenses, permits, reservations, tags, and other~~
15 ~~entitlements issued through the Automated License Data System.~~

16 **Comment.** Subdivision (a) of Section 7180.1 is amended to correct a grammatical error, and to
17 eliminate gendered pronouns.

18 Subdivisions (b) and (c) are deleted to reflect the discontinuation of Colorado River special use
19 validations issued by the state of California.

20 **Fish & Game Code § 7181.1 (amended). Colorado River shoreline fishing**

21 SEC. _____. Section 7181.1 of the Fish and Game Code is amended to read:

22 7181.1. (a) A person fishing from the shore in the waters of the Colorado River
23 located in Arizona or California shall have in ~~his or her~~ their possession a valid
24 sportfishing license issued by the state that has jurisdiction over that shore. ~~That~~
25 ~~shoreline fishing does not require a Colorado River special use validation as long as~~
26 ~~the fisherman remains on the shore and does not embark on the water. Any person,~~
27 ~~however, having in his or her possession a valid Arizona sportfishing license and a~~
28 ~~California special use validation may fish from the shore in the waters of the~~
29 ~~Colorado River, or adjacent waters, except canals, drains, and ditches used to~~
30 ~~transport water used for irrigation or domestic purposes, located in California,~~
31 ~~without a sport fishing license issued by the State of California.~~

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

34 **Comment.** Section 7181.1 is amended to reflect the discontinuation of Colorado River special
35 use validations issued by the state of California, and to eliminate gendered pronouns.

36 **Fish & Game Code § 7182.1 (repealed). Colorado River special use validations**

37 SEC. _____. Section 7182.1 of the Fish and Game Code is repealed.

38 ~~7182.1. (a) Arizona Colorado River special use validations shall be issued by~~
39 ~~California authorized license agents under the supervision of the department in the~~
40 ~~same manner as sportfishing licenses are issued, and California sportfishing licenses~~

1 ~~and California Colorado River special use validations shall be issued by Arizona~~
2 ~~license dealers under the supervision of the Arizona Game and Fish Commission.~~

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

5 **Comment.** Section 7182.1 is repealed based on the discontinuation of Colorado River special
6 use validations issued by the state of California.

7 **Fish & Game Code § 7232 (amended). Fish offal**

8 SEC. _____. Section 7232 of the Fish and Game Code is amended to read:

9 7232. (a) Notwithstanding Section 7121 any offal from a fish taken under a sport
10 fishing license which is delivered by the license holder to a fish canner or fish
11 processor may be processed, used, or sold by that fish canner or fish processor.

12 (b) Nothing in this section authorizes a holder of a sport fishing license to sell, or
13 a fish canner or fish processor to purchase from a holder of a sport fishing license,
14 any fish, ~~or any portion thereof~~, taken under a sport fishing license.

15 **Comment.** Section 7232 is amended to delete a superfluous reference to a portion of a fish. See
16 Section 80.

17 The section is also amended to add subdivision designations.

18 **Fish & Game Code § 7706 (amended). Complaint alleging violation**

19 SEC. _____. Section 7706 of the Fish and Game Code is amended to read:

20 7706. (a) A written complaint may be made to the commission against any person
21 who violates Section 7700 to 7705, inclusive, 7707, 7708, or 8075 to 8080,
22 inclusive, ~~or 8153~~, or any regulation adopted thereunder, by any person having
23 information or knowledge of the violation. If the person charged in the complaint is
24 found guilty of the offense charged, the commission may suspend, for a period not
25 to exceed 90 days, any license issued by any state board or officer to that person to
26 take, buy, sell, can, or preserve fish or fishery products. No other license shall be
27 issued to that person during the period of suspension.

28 (b) The proceedings on a complaint shall be conducted at one of the commission's
29 regularly scheduled meetings.

30 **Comment.** Section 7706 is amended for clarity, and to delete a cross-reference to a repealed
31 provision.

32 The section is also amended to add subdivision designations.

33 **Fish & Game Code § 7850 (amended). Activity requiring license**

34 SEC. _____. Section 7850 of the Fish and Game Code is amended to read:

35 7850. (a) Excepting persons expressly exempted under this code, no person shall
36 use or operate, or assist in using or operating, any boat, aircraft, net, trap, line, or
37 other appliance to take fish or amphibia for commercial purposes, and no person
38 shall cause to be brought ashore, any fish or amphibia at any point in the state for
39 the purpose of selling them in a fresh state or shall contribute materially to the
40 activities on board the commercial fishing vessel, unless the person holds a
41 commercial fishing license issued by the department.

1 (b) Any person not required under subdivision (a) to hold a commercial fishing
2 license shall register his or her presence on board the commercial fishing vessel in
3 a log maintained by the owner or operator of the vessel according to the
4 requirements of the department.

5 (c) As used in this section, “person” ~~does not include persons who are less than~~
6 ~~16 years of age, a partnership, corporation, or association~~ means a natural person 16
7 years of age or greater. Any person, partnership, corporation, limited liability
8 company, or association may pay the fees for a license issued to any person.

9 (d) This article does not apply to the taking, transporting, or selling of live
10 freshwater fish for bait by the holder of a live freshwater bait fish license issued
11 pursuant to Section 8460.

12 **Comment.** Subdivision (c) of Section 7850 is amended to clarify the definition of the term
13 “person” as used in the section.

14 **Fish & Game Code § 7852 (amended). Age requirement and fee for commercial fishing**
15 **license**

16 SEC. ____ . Section 7852 of the Fish and Game Code is amended to read:

17 7852. (a) ~~The department shall issue a commercial fishing license to any resident~~
18 ~~who is 16 years of age or older, upon payment of a base fee of ninety-five dollars~~
19 ~~(\$95) for each resident vessel crewmember or resident vessel operator.~~

20 (b) ~~The department shall issue a commercial fishing license to any nonresident~~
21 ~~who is 16 years of age or older, upon payment of a base fee of two hundred eighty-~~
22 ~~five dollars (\$285) for a nonresident vessel crewmember or nonresident vessel~~
23 ~~operator.~~

24 (a) An applicant for a commercial fishing license must be at least 16 years of age
25 on the date the license is issued.

26 (b) The fee for a commercial fishing license is as follows:

27 (1) For a resident, a base fee of ninety-five dollars (\$95).

28 (2) For a nonresident, a base fee of two hundred eighty-five dollars (\$285).

29 (c) The base fees specified in this section are applicable to the 2004 license year,
30 and shall be adjusted annually thereafter pursuant to Section 713.

31 (d) The commission shall adjust the amount of the fees specified in subdivision
32 (c), as necessary, to fully recover, but not exceed, all reasonable administrative and
33 implementation costs of the department and the commission relating to those
34 licenses.

35 (e) Nothing in this section affects any other provision of law relating to the
36 employment of minors.

37 **Comment.** Section 7852 is amended for clarity.

38 **Fish & Game Code § 7852.27 (amended). Possession and display of identification**

39 SEC. ____ . Section 7852.27 of the Fish and Game Code is amended to read:

40 7852.27. (a) At all times when engaged in any activity described in Section 7850
41 or Article 7 (commencing with Section 8030) for which a commercial fishing

1 license is required, the licensee shall have in ~~his or her~~ their possession, or
2 immediately available to the licensee, a valid driver's license or identification card
3 issued to ~~him or her~~ the licensee by the Department of Motor Vehicles or by the
4 entity issuing driver's licenses from the licensee's state of domicile.

5 (b) A current passport may be used in lieu of a valid driver's license or
6 identification card by a holder of a valid nonresident commercial fishing license
7 issued pursuant to ~~subdivision (b) of~~ Section 7852.

8 (c) The licensee's driver's license, identification card or, if applicable, passport,
9 shall be exhibited upon demand to any person authorized by the department to
10 enforce this code or regulations adopted pursuant ~~thereto~~ to this code.

11 **Comment.** The third sentence of Section 7852.27 is amended to conform to the concurrent
12 amendment of Section 7852.

13 The section is also amended to add subdivision designations and make the section gender neutral.

14 **Fish & Game Code § 7856 (amended). Preparation of fish on commercial fishing vessel for**
15 **human consumption**

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

17 7856. Notwithstanding any other provision of this division, except as provided in
18 subdivision (f) and except when prohibited by federal law, fish may be prepared for
19 human consumption aboard a commercial fishing vessel only under the following
20 conditions:

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

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

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

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

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

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

38 (e) ~~A fish that may be possessed under sportfishing regulations shall not be~~
39 ~~possessed in excess of the sport bag limit for each crew member and passenger~~ The
40 quantity of fish prepared shall not exceed the aggregate sportfishing bag limit for
41 that fish applicable to the total number of crew members and passengers on board
42 the vessel.

1 (f) Notwithstanding other provisions of this section, kelp bass, sand bass, spotted
2 bass, yellowfin croaker, spotfin croaker, California corbina, and marlin, shall not be
3 possessed aboard a commercial fishing vessel while that vessel is on a commercial
4 fishing trip. Lobster, salmon, or abalone shall not be possessed aboard a commercial
5 fishing vessel while that vessel is on a commercial fishing trip for preparation for
6 human consumption pursuant to this section unless that lobster, salmon, or abalone
7 is taken and possessed in compliance with all applicable laws pertaining to
8 commercial fishing methods of take, licenses, permits, and size limits. Sturgeon or
9 striped bass shall not be possessed aboard a commercial fishing vessel. A person
10 shall not take or possess a fish on a commercial fishing vessel under a sportfishing
11 license while that vessel is engaged in a commercial fishing activity, including going
12 to or from an area where fish are taken for commercial purposes.

13 **Comment.** Subdivision (e) of Section 7856 is amended for clarity.

14 **Fish & Game Code § 7921 (amended). Commercial passenger fishing vessel license**

15 SEC. _____. Section 7921 of the Fish and Game Code is amended to read:

16 7921. The base fee for a commercial passenger fishing ~~boat~~ vessel license is two
17 hundred fifty dollars (\$250) in the 2004 license year, which shall be adjusted
18 annually thereafter pursuant to Section 713. The commercial passenger fishing
19 vessel license shall be issued to the holder of a commercial boat registration issued
20 pursuant to Section 7881.

21 **Comment.** Section 7921 is amended to conform two references in the section to a commercial
22 passenger fishing vessel license.

23 **Fish & Game Code § 7925 (amended). Take from commercial passenger fishing boat**

24 7925. (a) ~~If a vessel is licensed under this article and~~ commercial passenger
25 fishing boat is used to take salmon or has salmon aboard in ocean waters north of
26 Point Arguello, there shall be on board that vessel; a total number of commercial
27 fishing salmon stamps sufficient to have at least one for the operator and one for
28 each crewmember required by United States Coast Guard regulations, excepting an
29 operator or a crewmember who is exempt from the commercial fishing salmon
30 stamp requirement ~~under subdivision (b)~~ of Section 7860. The commercial fishing
31 salmon stamps shall be affixed to either the commercial fishing licenses of the
32 operator and the crewmembers or, pursuant to subdivision (b), to the vessel's
33 commercial passenger fishing boat license. No person shall operate, or cause to be
34 operated, ~~any vessel licensed under this article~~ a commercial passenger fishing boat
35 in violation of this subdivision. Vessels permitted as commercial salmon fishing
36 vessels pursuant to ~~Section 8234~~ Article 4.5 (commencing with Section 8230) of
37 Chapter 2 are exempt from the requirements of this subdivision.

38 (b) Notwithstanding Section ~~4053~~ 1053.1, the department may issue to the owner
39 or operator of a vessel licensed pursuant to this article, upon application and
40 payment of the fees prescribed in subdivision (c) of Section 7860, one commercial
41 fishing salmon stamp for the operator and not more than one additional commercial

1 salmon stamp for each crewmember required by the United States Coast Guard
2 regulations. The commercial fishing salmon stamps issued under this subdivision
3 shall be affixed to the vessel’s commercial passenger fishing boat license issued
4 pursuant to this article.

5 **Comment.** Subdivision (a) of Section 7925 is amended to more clearly identify statutory
6 permitting authority cross-referenced in the subdivision.

7 Subdivision (b) is amended to update an obsolete cross-reference.

8 The section is also otherwise amended for clarity.

9 **Fish & Game Code § 8032 (amended). Types of licenses**

10 SEC. _____. Section 8032 of the Fish and Game Code is amended to read:

11 8032. (a) A multi-function commercial fish business license shall be issued that
12 authorizes any or all activities described in Section 8033, 8034, 8035, or 8036. The
13 annual fee for this license is one thousand three hundred seventy-three dollars
14 (\$1,373).

15 (b) Specialty licenses for part of, but not all, activities described in subdivision (a)
16 shall be issued in five classes, as follows:

17 (1) Fish receiver’s license, issued to any person engaged in the business of
18 receiving fish as provided in Section 8033.

19 (2) Marine aquaria receiver’s license, issued to any person engaged in the business
20 of receiving live marine species indigenous to California waters from a person
21 required to be a licensed commercial fisherman for the purpose of wholesaling or
22 retailing those species for pet industry or hobby purposes as provided in Section
23 8033.1.

24 (3) Fish processor’s license, issued to any person engaged in the business of
25 processing fish as provided in Section 8034.

26 (4) Fish wholesaler’s license, issued to any person who is engaged in the business
27 of wholesaling fish as provided in Section 8035.

28 (5) Fish importer’s license, issued to any person who is engaged in the business
29 of importing fish as provided in Section 8036.

30 (c) The commission shall adjust the amount of the fee specified in subdivision (a),
31 as necessary, to fully recover, but not exceed, all reasonable administrative and
32 implementation costs of the department and the commission relating to those
33 licenses.

34 **Comment.** Subdivision (a) of Section 8032 is amended to more precisely identify the license
35 referenced in the subdivision.

36 **Fish & Game Code § 8037 (amended). License on premises of business**

37 SEC. _____. Section 8037 of the Fish and Game Code is amended to read:

38 8037. (a) A person who engages in business involving fish which business activity
39 would require more than one class of license under this article shall obtain either a
40 commercial fish business license issued under subdivision (a) of Section 8032 or
41 each of the specialty licenses which are required for the classes of activities engaged

1 in. Each plant, facility, or other place of business in which an activity occurs that is
2 required to be licensed shall have a copy of the required license on the premises.

3 (b) This section shall become operative on January 1, 1993.

4 **Comment.** Subdivision (a) of Section 8037 is amended to clarify its meaning.

5 **Fish & Game Code § 8040 (amended). Definitions**

6 SEC. _____. Section 8040 of the Fish and Game Code is amended to read:

7 8040. The following definitions govern the construction of this article.

8 (a) “Commercial fisherman” means a person who has a valid, unrevoked
9 commercial fishing license issued pursuant to Section 7850.

10 (b) “Landing fee” means a fee imposed on a fish receiver or processor, as
11 described in pursuant to Section 8041.

12 **Comment.** Subdivision (b) of Section 8040 is amended to reconcile its text with the text of
13 Section 8041.

14 **Fish & Game Code § 8041 (amended). Landing fee**

15 SEC. _____. Section 8041 of the Fish and Game Code is amended to read:

16 8041. (a) The following persons shall pay the landing fee determined pursuant to
17 Section 8042:

18 (1) Any person who is required to be licensed as a fish receiver, and any person
19 who is licensed before January 1, 1987, as a wholesaler or a processor pursuant to
20 former Section 8040 and who receives fish from commercial fishermen.

21 (2) Any commercial fisherman who sells fish to any person who is not a ~~licensed~~
22 fish receiver licensed under Article 7 (commencing with Section 8030).

23 (b) ~~Notwithstanding subdivision (a), a~~ The following persons are exempt from the
24 landing fee imposed under this article:

25 (1) A person licensed pursuant to Section 8460 who only takes, transports, or sells
26 live freshwater fish for bait or a .

27 (2) A commercial fisherman who sells live freshwater fish for bait to such a
28 licensed person a person described in paragraph (1). , and a person licensed pursuant
29 to Section 8033.1 who takes, transports, or sells live aquaria fish as described in
30 Section 8597 or a

31 (3) A commercial fisherman who sells live aquaria fish, are exempt from the
32 landing fee imposed under this article.

33 (4) A person who purchases, sells, takes, or receives live marine fish for use as
34 live bait as described in subdivision (g) of Section 8030.

35 (5) A person licensed pursuant to Section 8033.1 who takes, transports, or sells
36 live aquaria fish as described in Section 8597. It is the intent of the Legislature that
37 the license fee for live aquaria fish described in Section 8033.1 shall be in lieu of a
38 landing fee imposed under this article.

39 (c) ~~Notwithstanding subdivision (a), a person who purchases, sells, takes, or~~
40 ~~receives live marine fish for use as live bait as described in subdivision (g) of~~
41 ~~Section 8030 is exempt from the landing fee imposed under this article.~~

1 **Comment.** Section 8041 is amended for clarity.

2 **Fish & Game Code § 8043 (amended). Landing receipt**

3 SEC. ____ . Section 8043 of the Fish and Game Code is amended to read:

4 8043. (a) ~~Every commercial fisherman who sells or delivers fish that he or she has~~
5 ~~taken to any person who is not licensed under Article 7 (commencing with Section~~
6 ~~8030), and every person who is required to be licensed under Article 7 (commencing~~
7 ~~with Section 8030) to conduct the activities of a fish receiver, as described in Section~~
8 ~~8033, shall~~ The following persons are required to make a legible landing receipt
9 record , on a form to be furnished and in a manner prescribed by the department.
10 The landing receipt shall be completed at the time of the receipt, purchase, or
11 transfer of fish, whichever occurs first. :

12 (1) Any person who is required to be licensed under Article 7 (commencing with
13 Section 8030) to conduct the activities of a fish receiver as described in Section
14 8033.

15 (2) Any commercial fisherman who sells or delivers fish that the fisherman has
16 taken to any person who is not a fish receiver licensed under Article 7 (commencing
17 with Section 8030).

18 (3) Any person licensed under Article 7 (commencing with Section 8030) who
19 takes their own fish.

20 (b) The landing receipt shall show all of the following:

21 (1) The name of the species of landed fish as designated by the department, or if
22 not designated, the commonly used name of the species.

23 ~~(2) The accurate weight of the species of fish received, as designated pursuant to~~
24 ~~Section 8045. Sablefish may be reported in dressed weight, and if so reported, shall~~
25 ~~have the round weights computed, for purposes of management quotas, by~~
26 ~~multiplying 1.6 times the reported dressed weight.~~

27 ~~(2)~~ (3) The commercial fisherman's name of the fisherman and the fisherman's
28 commercial fishing license identification number.

29 ~~(3)~~ (4) The department registration number of the boat.

30 ~~(4)~~ (5) The recipient's name of the recipient of the fish, and that person's
31 identification number, if applicable.

32 ~~(5)~~ (6) The date of receipt.

33 ~~(6)~~ (7) The price paid for the fish.

34 ~~(7)~~ (8) The department origin block number where the fish were caught.

35 ~~(8)~~ (9) The type of gear used.

36 ~~(9)~~ (10) Any other information the department may prescribe require.

37 (c) Persons identified in paragraph (1) or (2) of subdivision (a) shall complete the
38 landing receipt at the time of the receipt, purchase, or transfer of fish, whichever
39 occurs first. Persons identified in paragraph (3) of subdivision (a) shall complete the
40 landing receipt at the time the fish are are brought ashore.

41 (d) Any person taking, purchasing, or receiving fish, whether or not licensed under
42 Article 7 (commencing with Section 8030), shall sign the landing receipt.

1 (e) The numbered landing ~~receipt forms~~ receipts in each individual landing receipt
2 book shall be completed sequentially.

3 (f) A voided fish landing receipt shall have the word “VOID” plainly and
4 noticeably written on the face of the receipt. ~~A voided fish landing receipt, and~~ shall
5 be submitted to the department in the same manner as a completed fish landing
6 receipt is submitted to the department.

7 (g) A fish receiver who is no longer conducting business as a licensed receiver
8 shall forward all unused landing receipts and landing receipt books to the
9 department immediately upon terminating his or her business activity.

10 **Comment.** Section 8043 is amended for clarity, and to consolidate provisions from other code
11 sections relating to the subject matter of the Section 8043.

12 The last sentence of subdivision (a) is relocated to subdivision (c).

13 Paragraph (3) of subdivision (a), and the second sentence of subdivision (c), continue the first
14 sentence of Section 8047(a)(1).

15 Paragraph (1) of subdivision (b) continues a provision of former Section 8045.

16 Subdivision (d) continues the third sentence of Section 8047(b).

17 **Fish & Game Code § 8045 (repealed). Names of species of fish**

18 SEC. _____. Section 8045 of the Fish and Game Code is repealed.

19 ~~8045. The names used in the landing receipt and transportation receipt made under~~
20 ~~Sections 8043 and 8047 for designating the species of fish dealt with shall be those~~
21 ~~in common usage unless otherwise designated by the department.~~

22 **Comment.** Section 8045 is repealed. See Sections 8043(b)(1), 8047(c)(1).

23 **Fish & Game Code § 8047 (amended). Processing of landing and transportation receipt**

24 8047. (a)(1) A person licensed under Article 7 (commencing with Section 8030)
25 who takes his or her own fish shall ~~make a legible record in the form of~~ deliver the
26 original signed copy of the landing receipt as required by Sections 8043 and 8043.1
27 ~~at the time the fish are brought ashore. The original signed copy of the landing~~
28 ~~receipt shall be delivered by the licensee~~ to the department, as provided in Section
29 8046. A copy of the landing receipt shall be retained by the licensee for a period of
30 four years and shall be available for inspection at any time within that period by the
31 department. A copy of the landing receipt shall be delivered to an agent authorized
32 in writing by the majority of the persons who participated in the taking of the fish,
33 excluding the commercial fisherman receiving the original copy.

34 (2) A person licensed under Section 8033.5 who sells his or her fish to a licensed
35 receiver may use a transportation receipt to transport those fish only to that licensed
36 receiver. The receiver shall complete a landing receipt for those fish. A person who
37 sells his or her fish to the ultimate consumer shall complete a landing receipt
38 pursuant to Sections 8043 and 8043.2. Transportation receipts shall be completed at
39 the time the fish are transferred from the fishing vessel.

40 (b) Every commercial fisherman who sells fish taken from the waters of this state
41 or brought into this state in fresh condition to persons not licensed to receive fish
42 for commercial purposes pursuant to Article 7 (commencing with Section 8030)

1 shall make a legible record in the form of the landing receipt required by Sections
2 8043 and 8043.1. ~~Persons subject to Section 8043 shall remit the landing fee~~
3 ~~imposed by Section 8041. The person taking, purchasing, or receiving the fish,~~
4 ~~whether or not licensed under Article 7 (commencing with Section 8030), shall sign~~
5 ~~the landing receipt.~~ The original signed copy of the landing receipt shall be delivered
6 by the commercial fisherman to the department, as provided in Section 8046. A
7 copy of the landing receipt shall be retained by the commercial fisherman for a
8 period of four years and shall be available for inspection at any time within that
9 period by the department. A copy of the landing receipt shall be retained by the
10 person taking, purchasing, or receiving the fish until they are prepared for
11 consumption or otherwise disposed of. A copy of the landing receipt shall be
12 delivered to an agent authorized in writing by the majority of the persons who
13 participated in the taking of the fish, excluding the commercial fisherman receiving
14 the original copy.

15 (c)(1) Every commercial fisherman or his or her designee, who transports, causes
16 to be transported, or delivers to another person for transportation, any fish, except
17 herring, taken from the waters of this state or brought into this state in fresh
18 condition, shall fill out a transportation receipt according to the instructions and on
19 forms provided by the department at the time the fish are brought ashore.

20 (2) The original signed copy of the transportation receipt shall be delivered by the
21 commercial fisherman to the department on or before the 16th day or the last day of
22 the month in which the fish were landed, whichever date occurs first after landing.
23 A copy of the transportation receipt shall be retained by the commercial fisherman
24 who filled it out for a period of four years and shall be available for inspection at
25 any time within that period by the department. A copy of the transportation receipt
26 shall be given to and retained by the person transporting the fish until the fish are
27 sold fresh, processed, or otherwise disposed of.

28 (3) The transportation receipt is required only for transit purposes.

29 (4) A person transporting fish from the point of first landing under a transportation
30 receipt is not required to be licensed to conduct the activities of a fish receiver as
31 described in Section 8033.

32 (5) The transportation book receipt shall be issued to an individual fisherman and
33 is not transferable.

34 (d) The transportation receipt shall contain all of the following information:

35 (1) The name of each species of transported fish, ~~pursuant to Section 8045 as~~
36 designated by the department, or if not designated, the commonly used name of the
37 species.

38 (2) The date and time of the receipt.

39 (3) The accurate weight of the species of fish being transported. Sablefish may be
40 reported in dressed weight, and if so reported, shall have the round weights
41 computed, for purposes of management quotas, by multiplying 1.6 times the
42 reported dressed weight.

1 (4) The name and identification number of the fisherman. The signature of the
2 fisherman authorizing transportation.

3 (5) The name of the person transporting the fish.

4 (6) The name of the fish business, the fish business identification number, and the
5 corresponding landing receipt number issued by the fish business to the commercial
6 fisherman.

7 (7) The department registration number of the vessel and the name of the vessel.

8 (8) The department origin block number where the fish were caught.

9 (9) The port of first landing.

10 (10) Any other information the department may prescribe.

11 (e) The numbered transportation receipt forms in each individual transportation
12 receipt book shall be completed sequentially. A voided fish transportation receipt
13 shall have the word “VOID” plainly and noticeably written on the face of the receipt.
14 A voided fish transportation receipt shall be submitted to the department in the same
15 manner as a completed fish transportation receipt is submitted to the department. A
16 commercial fisherman who is no longer conducting business as a licensed fisherman
17 shall forward all unused transportation receipts and transportation receipt books to
18 the department immediately upon terminating his or her business activity.

19 **Comment.** Section 8047 is amended to clarify its interrelationship with other sections and
20 eliminate duplicate provisions.

21 A portion of the first sentence of paragraph (1) of subdivision (a) is continued in Section
22 8043(a)(3), and the remainder is combined with the second sentence of that paragraph.

23 The second sentence of subdivision (b) is continued in Section 8041.

24 The third sentence of subdivision (b) is continued in Section 8043(d).

25 The amendment of paragraph (1) of subdivision (d) continues a provision from former Section
26 8045.

27 **Fish & Game Code § 8050 (amended). Accounting records**

28 SEC. ____ . Section 8050 of the Fish and Game Code is amended to read:

29 8050. (a) In addition to the receipt required ~~in~~ by Section 8043, every person
30 licensed under Article 7 (commencing with Section 8030), and any commercial
31 fisherman who sells fish to persons who are not licensed under Article 7
32 (commencing with Section 8030), and any person who deals in fresh or frozen fish
33 for profit, shall keep accounting records in which all of the following shall be
34 recorded:

35 (1) ~~The names of the~~ name as designated by the department of each different
36 species of fish sold, distributed, or taken, or if not designated, the commonly used
37 name of each species.

38 (2) The number of pounds sold, distributed, or taken of each different species.

39 (3) The name of the person to whom the fish were sold or distributed.

40 (4) The name, address, and phone number of the seller or distributor.

41 (5) The date of sale.

42 (6) The price paid.

43 (7) The intended use.

1 (b) Accounting record information required by this section that is transmitted
2 from any person identified in subdivision (a) to any business that deals in fish for
3 profit shall be in the English language.

4 (c) The accounting records shall be maintained by both buyer and seller for a
5 period of three years and upon request, shall be open for inspection during normal
6 business hours by the department. The accounting records shall be maintained
7 within the State of California.

8 ~~(d) The names used for designating the species of fish shall be those in common
9 usage unless otherwise designated by the department.~~

10 **Comment.** Paragraph (1) of subdivision (a) of Section 8050 is amended to incorporate the
11 substance of subdivision (d).

12 Subdivision (a) is also amended to make a technical correction.

13 **Fish & Game Code § 8104 (amended and renumbered). Transfer of permit of deceased**
14 **permittee**

15 SEC. _____. Section 8104 of the Fish and Game Code is amended and renumbered
16 to read:

17 ~~8104. 8552.65. (a) Upon the death of a limited-entry herring permittee, the permit~~
18 ~~shall vest in the permittee's estate or in the surviving community estate, and may be~~
19 ~~transferred by the executor, administrator, personal representative, or surviving~~
20 ~~spouse to a qualified pointholder pursuant to Section 8552.2, or to a partner qualified~~
21 ~~partner, pursuant to Section 8552.6. This~~

22 (b) The transfer shall be initiated by notice to the department, in writing, sent by
23 certified mail, within one year of the date of death.

24 (c) If no transfer is initiated within one year of the date of death, the permit shall
25 revert to the department for disposition pursuant to Section 8552.4, and shall be
26 thereafter be treated as a herring permit that has not been renewed.

27 (d) The department may, upon written application, grant an extension of time up
28 to one additional year for the transfer to be initiated.

29 **Comment.** Section 8104 is amended and renumbered as Section 8552.65 to clarify its intended
30 application to herring permittees.

31 The section is also amended for clarity, and to add subdivision designations.

32 **Fish & Game Code § 8233.5 (amended). Change of ownership of permitted vessel**

33 SEC. _____. Section 8233.5 of the Fish and Game Code is amended to read:

34 8233.5. (a) Except as otherwise provided in this article, the department shall
35 change the designation of the holder of a permit, and with it shall go all rights,
36 privileges, and obligations of a permit holder, including rights of renewal, upon
37 receipt of a notice of change of ownership to a new owner of a permitted vessel. A
38 permit changed pursuant to this section is valid for the permit year during which it
39 is issued to the new owner of a permitted vessel upon receipt of a notice of change
40 of ownership of the permitted vessel, whether the change of ownership is by
41 contract, by operation of law, or otherwise.

1 (b) The permit shall not be transferred to any other vessel, except by the issuance
2 of a permit for use of the replacement vessel pursuant to subdivision (c) and Sections
3 8239 to 8241, inclusive.

4 (c) The owner of the permitted vessel may seek to retire the permitted vessel from
5 the commercial salmon fishery and apply for transfer of the permit, to be issued
6 pursuant to Section 8241, for use of a replacement vessel.

7 (d) A permit changed pursuant to this section is valid for the permit year during
8 which it is issued.

9 (e) Upon change of the designation of the holder of the permit, all rights,
10 privileges, and obligations of a permit holder, including rights of renewal, are
11 transferred to the new owner of a permitted vessel.

12 **Comment.** Section 8233.5 is amended to incorporate the provisions of former Section 8237.

13 **Fish & Game Code § 8237 (repealed). Use of vessel permit after change of ownership**

14 SEC. ____ . Section 8237 of the Fish and Game Code is repealed.

15 ~~8237. (a) The department shall change the designation of the holder of a permit to~~
16 ~~the new owner of a permitted vessel upon change of ownership of the permitted~~
17 ~~vessel, whether the change of ownership is by contract, by operation of law, or~~
18 ~~otherwise.~~

19 ~~(b) The permit shall not be transferred to any other vessel, except by the issuance~~
20 ~~of a permit for use of the replacement vessel pursuant to subdivision (c) and Sections~~
21 ~~8239 to 8241, inclusive.~~

22 ~~(c) The owner of the permitted vessel may seek to retire the permitted vessel from~~
23 ~~the commercial salmon fishery and apply for transfer of the permit, to be issued~~
24 ~~pursuant to Section 8241, for use of a replacement vessel.~~

25 **Comment.** Section 8237 is repealed. Its provisions are incorporated in Section 8233.5.

26 **Fish & Game Code § 8246 (amended). Compromise or dismissal of suspension or revocation**
27 **of commercial salmon fishing privilege**

28 SEC. ____ . Section 8246 of the Fish and Game Code is amended to read:

29 8246. (a) At any time after notice of an order suspending or revoking of a person's
30 commercial salmon fishing privilege is issued by the commission, and before the
31 order of suspension or revocation is final, the commission may, with the agreement
32 of the person subject to the action, compromise or dismiss the action to suspend or
33 revoke the commercial salmon fishing privilege in the best interests of the state, or
34 the commission may compromise or dismiss the action with the agreement of the
35 person subject to the action on terms and conditions, which may include, but are not
36 limited to, the payment of civil damages, the reduction of a revocation to a
37 suspension for a specified period of time, or any other terms and conditions.

38 (b) The commission, after notice and opportunity for hearing, may suspend or
39 revoke the commercial fishing privilege, authorized under a license issued for the
40 purposes of Section 7850, for any violation of a term or condition of an agreement

1 to compromise or dismiss a separate suspension or revocation action that was made
2 pursuant to subdivision (a).

3 (c) If the commission orders a suspension or revocation of a person's commercial
4 salmon fishing privilege, any permit issued pursuant to this article shall be renewed
5 when the next renewal is due or the permit shall expire as provided in Section 8233.

6 (d) Subdivision ~~(b)~~ (a) does not apply if an action is brought to recover civil
7 damages under Section 2014 from the person subject to action under this section.

8 **Comment.** Subdivision (d) of Section 8246 is amended to correct an erroneous cross-reference.

9 **Fish & Game Code § 8246.2 (amended). Determination of civil damages**

10 SEC. ____ . Section 8246.2 of the Fish and Game Code is amended to read:

11 8246.2. (a) The commission, in consultation with the department, shall adopt
12 regulations for the determination of civil damages provided for in subdivision ~~(b)~~
13 (a) of Section 8246 that give due consideration to the appropriateness of the civil
14 damages with respect to all of the following factors:

- 15 (1) The gravity of the violation.
- 16 (2) The good faith of the convicted licensee.
- 17 (3) The history of previous violations.
- 18 (4) The damage to the fishery.
- 19 (5) The cost of restoration of the fishery.

20 (b) Civil damages imposed under subdivision ~~(b)~~ (a) of Section 8246 shall be due
21 and payable on or before a date that is 30 days after the compromise is entered into.

22 **Comment.** Section 8246.2 is amended to correct two erroneous cross-references.

23 **Fish & Game Code § 8276.5 (amended). Dungeness crab trap limits**

24 SEC. ____ . Section 8276.5 of the Fish and Game Code is amended to read:

25 8276.5. (a) In consultation with the Dungeness crab task force, or its appointed
26 representatives, the director shall adopt a program, by March 31, 2013, for
27 Dungeness crab trap limits for all California permits. Unless the director finds that
28 there is consensus in the Dungeness crab industry that modifications to the
29 following requirements are more desirable, with evidence of consensus, including,
30 but not limited to, the record of the Dungeness crab task force, the program shall
31 include all of the following requirements:

32 (1) The program shall contain seven tiers of Dungeness crab trap limits based on
33 California landings receipts under California permits between November 15, 2003,
34 and July 15, 2008, as follows:

35 (A) The 55 California permits with the highest California landings shall receive a
36 maximum allocation of 500 trap tags.

37 (B) The 55 California permits with the next highest California landings to those
38 in subparagraph (A) shall receive a maximum allocation of 450 trap tags.

39 (C) The 55 California permits with the next highest California landings to those
40 in subparagraph (B) shall receive a maximum allocation of 400 trap tags.

1 (D) The 55 California permits with the next highest California landings to those
2 in subparagraph (C) shall receive a maximum allocation of 350 trap tags.

3 (E) The 55 California permits with the next highest California landings to those
4 in subparagraph (D) shall receive a maximum allocation of 300 trap tags.

5 (F) The remaining California permits with the next highest California landings to
6 those in subparagraph (E), which are not described in paragraph (1) or (2) of
7 subdivision (i) of Section 8276.4, shall receive a maximum allocation of 250 trap
8 tags.

9 (G) The California permits described in paragraphs (1) and (2) of subdivision (i)
10 of Section 8276.4 shall receive a maximum allocation of 175 trap tags. ~~The trap tags
11 in this tier shall not be transferable for the first two years of the program.~~

12 ~~(2) Notwithstanding paragraph (1), the director shall not remove a permit holder
13 from a tier described in paragraph (1), if, after an allocation is made pursuant to
14 paragraph (1), an appeal pursuant to paragraph (8) places a permit holder in a tier
15 different than the original allocation.~~

16 ~~(3)~~ (2) Participants in the program shall meet all of the following requirements:

17 (A) Unless a participant receives a waiver pursuant to paragraph ~~(4)~~ (3), pay a
18 biennial fee for each trap tag issued pursuant to this section to pay the pro rata share
19 of costs of the program, including, but not limited to, informing permit holders of
20 the program, collecting fees, acquiring and sending trap tags to permit holders,
21 paying for a portion of enforcement costs, and monitoring the results of the program.
22 The fee shall not exceed five dollars (\$5) per trap, per two-year period. All of the
23 trap tags allocated to each permit pursuant to subdivision (a) shall be purchased by
24 the permit holder or the permit shall be void.

25 (B) Purchase a biennial crab trap limit permit of not more than one thousand
26 dollars (\$1,000) per two-year period to pay for the department's reasonable
27 regulatory costs.

28 (C) Not lease a crab trap tag, and transfer a tag only as part of a transaction to
29 purchase a California permitted crab vessel.

30 (D) A Dungeness crab trap that is fished shall contain a trap tag that is fastened to
31 the main buoy, and an additional tag provided by the permit holder attached to the
32 trap. The department shall mandate the information that is required to appear on
33 both buoy and trap tags.

34 ~~(4)~~ (3) The department shall issue a participant a waiver from the biennial fee for
35 each trap tag described in subparagraph (A) of paragraph ~~(3)~~ (2) if the participant is
36 unable to fish due to mandatory military service and the participant submits a
37 request for a waiver to the department at the same time that the participant renews
38 the permit issued pursuant to subparagraph (B) of paragraph ~~(3)~~ (2). A participant
39 who receives a waiver pursuant to this paragraph shall not apply to the department
40 to fish for Dungeness crab during the first year of the waiver, but may apply to fish
41 for Dungeness crab during the second year of the waiver if the participant pays the
42 full cost of the biennial fee for each trap tag. The department shall not limit the
43 number of times a participant may request a waiver.

1 ~~(5)~~ (4) Notwithstanding subparagraph (D) of paragraph ~~(3)~~ (2), a vessel may
2 transit state waters with Dungeness crab traps that are not tagged pursuant to
3 subparagraph (D) of paragraph ~~(3)~~ (2) if the traps contain either a valid Oregon or
4 Washington trap tag, no crab species are onboard the vessel, and the traps are not
5 deployed in state waters.

6 ~~(6)~~ (5) The department shall annually provide an accounting of all costs associated
7 with the crab trap limit program. The department shall use excess funds collected to
8 reduce the cost of the crab trap limit permit fee or tag fee in subsequent years of the
9 program.

10 ~~(7)~~ (6) Permitholders may replace lost tags by application to the department and
11 payment of a fee not to exceed the reasonable costs incurred by the department. The
12 department may waive or reduce a fee in the case of catastrophic loss of tags.

13 ~~(8) Any Dungeness crab permit holder may submit to the director an appeal of a~~
14 ~~trap tag allocation received pursuant to this section, by March 31, 2014, on a permit-~~
15 ~~by permit basis for the purpose of revising upward or downward any trap tag~~
16 ~~allocation. Any appeal to revise upward a trap tag allocation shall be based on~~
17 ~~evidence that a permit's California landings during the period between November~~
18 ~~15, 2003, and July 15, 2008, inclusive, were reduced as a result of unusual~~
19 ~~circumstances and that these circumstances constitute an unfair hardship, taking into~~
20 ~~account the overall California landings history as indicated by landing receipts~~
21 ~~associated with the permit. The director shall initiate the appeal process within 12~~
22 ~~months of receiving an appeal request. The appeal shall be heard and decided by an~~
23 ~~administrative law judge of the Office of Administrative Hearings, whose decision~~
24 ~~shall constitute the final administrative decision. Except as provided in~~
25 ~~subparagraph (B), any Dungeness crab permit holder requesting an appeal to revise~~
26 ~~upward the permit holder's trap tag allocation shall pay all expenses, including a~~
27 ~~nonrefundable filing fee, as determined by the department, to pay for the~~
28 ~~department's reasonable costs associated with the appeal process described in this~~
29 ~~paragraph.~~

30 (b)(1) In addition to criminal penalties authorized by law, a violation of the
31 requirements of the program created pursuant to this section shall be subject to the
32 following civil penalties:

33 (A) Conviction of a first offense shall result in a fine of not less than two hundred
34 fifty dollars (\$250) and not more than one thousand dollars (\$1,000) per illegal trap
35 or fraudulent tag.

36 (B) Conviction of a second offense shall result in a fine of not less than five
37 hundred dollars (\$500) and not more than two thousand five hundred dollars
38 (\$2,500) per illegal trap or fraudulent tag, and the permit may be suspended for one
39 year.

40 (C) Conviction of a third offense shall result in a fine of not less than one thousand
41 dollars (\$1,000) and not more than five thousand dollars (\$5,000) per illegal trap or
42 fraudulent tag, and the permit may be permanently revoked.

1 (2) The severity of a penalty within the ranges described in this subdivision shall
2 be based on a determination whether the violation was willful or negligent and other
3 factors.

4 (3) The portion of monetary judgments for noncompliance that are paid to the
5 department shall be deposited in the Dungeness Crab Account created pursuant to
6 subdivision (e).

7 (c) For the purposes of this section, a proposed recommendation that receives an
8 affirmative vote of at least two-thirds of the voting members of the Dungeness crab
9 task force may be transmitted to the director or the Legislature as a recommendation,
10 shall be considered to be the consensus of the task force, and shall be considered to
11 be evidence of consensus in the Dungeness crab industry. Any proposed
12 recommendation that does not receive a vote sufficient to authorize transmittal to
13 the director or Legislature as a recommendation shall be evidence of a lack of
14 consensus by the Dungeness crab task force, and shall be considered to be evidence
15 of a lack of consensus in the crab industry.

16 (d) The director may modify the program adopted pursuant to subdivision (a), if
17 consistent with the requirements of this section, after consultation with the
18 Dungeness crab task force or its representatives and after the task force has had 60
19 days or more to review the proposed modifications and recommend any proposed
20 changes. The director may implement the modifications earlier than 60 days after it
21 is sent to the Dungeness crab task force for review, if recommended by the task
22 force.

23 (e) The Dungeness Crab Account is hereby established in the Fish and Game
24 Preservation Fund and the fees collected pursuant to this section shall be deposited
25 in that account. The money in the account shall be used as follows:

26 (1) By the department, upon appropriation by the Legislature, for administering
27 and enforcing the program.

28 (2) In each fiscal year through the 2029 fiscal year, upon appropriation by the
29 Legislature, of the amount remaining in the account after an allocation pursuant to
30 paragraph (1), the sum of one hundred fifty thousand dollars (\$150,000), if
31 available, shall be allocated to the council to support the administration and
32 facilitation of the Dungeness crab task force.

33 (f) For purposes of meeting the necessary expenses of initial organization and
34 operation of the program until fees may be collected, or other funding sources may
35 be received, the department may borrow money as needed for these expenses from
36 the council. The borrowed money shall be repaid within one year from the fees
37 collected or other funding sources received. The council shall give high priority to
38 providing funds or services to the department, in addition to loans, to assist in the
39 development of the program, including, but not limited to, the costs of convening
40 the Dungeness crab task force, environmental review, and the department's costs of
41 attending meetings with task force members.

42 (g)(1) It is the intent of the Legislature that the department, the council, and the
43 Dungeness crab task force work with the Pacific States Marine Fisheries

1 Commission and the Tri-State Dungeness Crab Commission to resolve any issues
2 pertaining to moving the fair start line south to the border of California and Mexico.

3 (2) For purposes of this subdivision, the resolution of issues pertaining to the fair
4 start line shall be limited to assessing the positive and negative implications of
5 including District 10 in the tri-state agreement, including working with the Tri-State
6 Dungeness Crab Commission to amend Oregon and Washington laws to include
7 District 10 in the regular season fair start clause, and discussion of providing
8 different rules for District 10 with regard to preseason quality testing.

9 (h) For purposes of this section, “council” means the Ocean Protection Council
10 established pursuant to Section 35600 of the Public Resources Code.

11 (i) This section shall become inoperative on April 1, 2029, and, as of January 1,
12 2030, is repealed, unless a later enacted statute, that becomes operative on or before
13 January 1, 2030, deletes or extends the dates on which it becomes inoperative and
14 is repealed.

15 **Comment.** Section 8276.5 is amended to delete obsolete provisions within the section, and make
16 conforming revisions.

17 **Fish & Game Code § 8398 (amended). Take in Tomales Bay**

18 SEC. _____. Section 8398 of the Fish and Game Code is amended to read:

19 8398. (a) It is unlawful to take fish for commercial purposes in that portion of
20 Tomales Bay in District 10 between a line drawn from the most northern tip of
21 Tomales Point northeast, 47° magnetic, to the opposite shore in the vicinity of Dillon
22 Beach, and a line drawn west from the western tip of Tom’s Point, 252° magnetic,
23 to the opposite eastern shore of Tomales Point.

24 (b) This section does not apply to the taking of oysters by ~~persons licensed under~~
25 ~~Article 4 (commencing with Section 6480), Chapter 5, Part 1, Division 6 from their~~
26 ~~allotted areas~~ a person who has obtained a state water bottom lease pursuant to
27 Chapter 5 (commencing with Section 15400) of Division 12 for the cultivation of
28 oysters, in their lease site.

29 **Comment.** Subdivision (b) of Section 8398 is amended to revise an incorrect cross-reference,
30 and reflect that the taking of oysters is presently authorized and governed by Chapter 5
31 (commencing with Section 15400) of Division 12 of this code.

32 The section is also amended to add subdivision designations.

33 **Fish & Game Code § 8399.1 (amended). Unlawful activity in District 10**

34 SEC. _____. Section 8399.1 of the Fish and Game Code is amended to read:

35 8399.1. (a) In District 10, it is unlawful to engage in the following activities:

36 (1) Attract squid by a light displayed from any vessel, except a vessel deploying
37 nets for the take, possession, and landing of squid or from the seine skiff of the
38 vessel deploying nets for the take, possession, and landing of squid.

39 (2) Attract squid by a light displayed from any vessel whose primary purpose is
40 not the deployment, or assisting in the deployment, of nets for the take, possession,
41 and landing of squid.

1 ~~To encircle~~ Encircle any vessel, ~~other than by the~~ . This paragraph does not
2 apply to a seine skiff of a vessel that is deploying nets for the take, possession, and
3 landing of squid, while that vessel is engaged in the taking of squid.

4 (b) For purposes of this section, “seine skiff” means a vessel that meets all the
5 following requirements:

6 (1) It is not licensed by the federal government or registered by the Department
7 of Motor Vehicles, ~~that~~ .

8 (2) It is used to assist a larger federally-licensed or state-registered fishing vessel
9 by assisting in the deployment and retrieval of nets and the landing of fish, ~~and that~~
10 .

11 (3) It travels with that larger fishing vessel at all times, ~~that~~ .

12 (4) It is used solely at the direction of the operator of the larger fishing vessel, ~~and~~
13 ~~that~~ .

14 (5) It is owned by the owner of the larger fishing vessel.
15 **Comment.** Section 8399.1 is amended for clarity.

16 **Fish & Game Code § 8403 (amended). Take of marine species of fin fish**

17 SEC. _____. Section 8403 of the Fish and Game Code is amended to read:

18 8403. (a) To the extent not in conflict with Section 8607, marine species of fin
19 fish ~~which~~ that are classified as groundfish may be taken under the regulations of
20 the commission.

21 (b) Marine species of fin fish, including, but not limited to, fin fish ~~which~~ that
22 classified as groundfish, may be taken with fin fish traps, subject to Article 1
23 (commencing with Section 9000) of Chapter 4, under regulations of the
24 commission. The regulations may limit the number of fin fish traps ~~which~~ that any
25 vessel may use, designate the areas in which the traps may be used, and prescribe
26 other limitations on the use of fin fish traps.

27 ~~Any other species not~~ Except as otherwise prohibited, any species may be
28 taken in a fin fish trap.

29 **Comment.** Section 8403 is amended for clarity.

30 **Fish & Game Code § 8429 (amended). Revocation of privileges for materially false**
31 **statements**

32 SEC. _____. Section 8429 of the Fish and Game Code is amended to read:

33 8429. (a) Any statement made to the department, orally or in writing, relating to
34 a permit issued under this article, shall be made under penalty of perjury.

35 (b) The commission shall revoke the commercial fishing license, the commercial
36 boat registration of any vessel, and, if applicable, any licenses issued pursuant to
37 Section 8032, 8033, or 8034 that are held by any person submitting material false
38 statements, as determined by the commission, for the purpose of obtaining a
39 commercial market squid vessel permit or a commercial squid light boat owner’s
40 permit.

41 **Comment.** Subdivision (b) of Section 8429 is amended for clarity.

1 The section is also amended to add subdivision designations.

2 **Fish & Game Code § 8475 (renumbered). Commission regulation of take of freshwater**
3 **claims for commercial purpose**

4 SEC. _____. Section 8475 of the Fish and Game Code is renumbered to read:
5 ~~8475.~~ 8438. Notwithstanding Section 200, the commission shall regulate the
6 taking of freshwater clams for commercial purposes.

7 **Comment.** Section 8475 is renumbered as Section 8438 and relocated to Article 10
8 (commencing with Section 8430) of Chapter 2 of Part 3 of Division 6, to clarify the intended
9 application of the section.

10 **Fish & Game Code § 8494 (amended). Halibut bottom trawl vessel permits**

11 SEC. _____. Section 8494 of the Fish and Game Code is amended to read:

12 8494. (a) Any vessel using bottom trawl gear in state-managed halibut fisheries,
13 as described in subdivision (a) of Section 8841, shall possess a valid California
14 halibut bottom trawl vessel permit that has not been suspended or revoked and that
15 is issued by the department authorizing the use of trawl gear by that vessel for the
16 take of California halibut.

17 (b) A California halibut bottom trawl vessel permit shall be issued annually, and
18 commencing with the 2006 permit year, ~~and an applicant shall have been~~ shall be
19 issued only to a person who had been issued a California halibut bottom trawl vessel
20 permit in the immediately preceding permit year.

21 (c) Permits issued pursuant to this section may be transferred only if at least one
22 of the following occur:

23 (1) The commission adopts a restricted access program for the fishery that is
24 consistent with the commission's policies regarding restricted access to commercial
25 fisheries.

26 (2)(A) Before the implementation of a halibut trawl restricted access program, the
27 department may consider requests from a vessel permitholder or the permitholder's
28 conservator or estate representative, as applicable, to transfer a vessel permit to a
29 vessel consistent with the requirements of subparagraph (B) or (C). The department
30 may request information that it determines is reasonably necessary from the
31 permitholder or the permitholder's conservator or heirs or estate for the purpose of
32 verifying statements in the request before authorizing the transfer of the permit.

33 (B) The department may approve the transfer of a California halibut bottom trawl
34 vessel permit to a replacement vessel if all of the following requirements are met:

35 (i) In the form of a notarized application, the permitholder submits to the
36 department a request for the transfer of a California halibut bottom trawl vessel
37 permit to another vessel owned by the permitholder.

38 (ii) The permitholder provides a current United States Coast Guard certificate of
39 documentation or vessel marine survey to the department for the permitted vessel
40 and replacement vessel.

1 (iii) Based on the information provided pursuant to clause (ii), the department
2 determines that the replacement vessel is equal to or less than the capacity of the
3 permitted vessel.

4 (iv) The department determines the California halibut bottom trawl vessel permit
5 for the permitted vessel is valid and has not been suspended or revoked.

6 (v) If applicable, the department receives written confirmation from the
7 replacement vessel's owner or authorized agent, or mortgager, of the vessel's
8 participation in the transfer of the California halibut bottom trawl vessel permit.

9 (vi) The replacement vessel is registered with the department pursuant to Section
10 7881 at the time the application is submitted pursuant to clause (i).

11 (C) The department may approve the transfer of a California halibut bottom trawl
12 vessel permit to another person if all of the following requirements are met:

13 (i) In the form of a notarized application, the permitholder or the permitholder's
14 conservator or estate submits to the department a request to transfer a California
15 halibut bottom trawl vessel permit to another person.

16 (ii) If the permitholder's estate submits a request pursuant to clause (i), the estate
17 submits the notarized application to the department within one year of the death of
18 the permitholder as listed on the death certificate.

19 (iii) A current United States Coast Guard certificate of documentation or vessel
20 marine survey is provided to the department for the permitted vessel and vessel to
21 be used by the proposed transferee.

22 (iv) Based on the information provided pursuant to clause (iii), the department
23 determines that the vessel to be used by the proposed transferee is equal to or less
24 than the capacity of the permitted vessel.

25 (v) The proposed transferee meets both of the following requirements:

26 (I) The person has a valid commercial fishing license issued pursuant to Section
27 7852 that has not been suspended or revoked.

28 (II) The person is the owner of a commercial fishing vessel that is registered with
29 the department pursuant to Section 7881 and that registration has not been
30 suspended or revoked.

31 (vi) The permit for the permitted vessel is current, and the permitholder or the
32 permitholder's conservator or estate submitting the application is responsible for
33 any renewal of the permit that becomes due during the application processing
34 period.

35 (vii) Under penalty of perjury, the permitholder or the permitholder's conservator
36 or estate signs the application for transfer and certifies that the information included
37 is true to the best of the permitholder's information and belief.

38 (D) Any applicant who is denied transfer pursuant to this paragraph may appeal
39 the denial in writing describing the basis for the appeal to the commission within 60
40 days from the date of the department's decision.

41 (d) The commission shall establish California halibut bottom trawl vessel permit
42 fees based on the recommendations of the department and utilizing the guidelines
43 outlined in subdivision (b) of Section 711 to cover the costs of administering this

1 section. Before the adoption of a restricted access program pursuant to subdivision
2 (c), fees may not exceed one thousand dollars (\$1,000) per permit.

3 (e) Individuals holding a federal groundfish trawl permit may retain and land up
4 to 150 pounds of California halibut per trip without a California halibut trawl permit
5 in accordance with federal and state regulations, including, but not limited to,
6 regulations developed under a halibut fishery management plan.

7 (f) This section shall become inoperative upon the adoption by the commission of
8 a halibut fishery management plan in accordance with the requirements of Part 1.7
9 (commencing with Section 7050).

10 (g) The commission may adopt regulations to implement this section.

11 **Comment.** Subdivision (b) of Section 8494 is amended to clarify its meaning.

12 **Fish & Game Code § 8603 (amended). Prohibition against use of gear to take fish except as**
13 **authorized**

14 SEC. _____. Section 8603 of the Fish and Game Code is amended to read:

15 8603. It is unlawful to use or operate or assist in using or operating any net, trap,
16 line, spear, or appliance, other than in connection with angling, in taking fish, except
17 as ~~provided in this chapter or Chapter 4 of this part~~ authorized by this code.

18 **Comment.** Section 8603 is amended to provide an exception to the prohibitions of the section
19 when a described action is otherwise authorized by the Fish and Game Code.

20 **Fish & Game Code § 8606.1 (repealed). Use of nearshore trawl nets**

21 SEC. _____. Section 8606.1 of the Fish and Game Code is repealed.

22 ~~8606.1. (a) The Legislature finds and declares that the use of nearshore trawl nets~~
23 ~~was authorized through the experimental gear permit process and the alternative~~
24 ~~gear development program as a potential alternative to the use of gill and trammel~~
25 ~~nets in areas where the use of that gear type has been prohibited.~~

26 ~~(b) The Legislature, in considering the needs of user groups, requires the use of~~
27 ~~nearshore trawl nets to be phased out effective January 1, 1993.~~

28 **Comment.** Section 8606.1 is repealed as obsolete.

29 **Fish & Game Code § 8614 (repealed). Revocation or non-renewal of permit**

30 SEC. _____. Section 8614 of the Fish and Game Code is repealed.

31 ~~8614. (a) If an experimental permit is revoked or not renewed, pursuant to a~~
32 ~~judgment, a decision of the commission, or a legislative enactment, and the~~
33 ~~permittee has an outstanding loan with the State Coastal Conservancy under Section~~
34 ~~31125 of the Public Resources Code, as added by Chapter 910 of the Statutes of~~
35 ~~1986, for the purchase of alternative fishing gear, the unpaid balance of the loan~~
36 ~~shall be excused from the date of revocation or nonrenewal of the permit, or from~~
37 ~~the date of any judgment, decision, or enactment which terminates the permit, if the~~
38 ~~permittee relinquishes the permit and returns the collateral fishing gear to the~~
39 ~~department, in which case the department shall take possession of the alternative~~
40 ~~fishing gear for the State Coastal Conservancy. Any alternative gear received by the~~

1 ~~department due to a revocation, nonrenewal, or termination of an experimental~~
2 ~~permit may be resold by the State Coastal Conservancy at fair market value to other~~
3 ~~experimental permit applicants or holders under this article. If the permittee chooses~~
4 ~~to keep the alternative gear and repay the loan, the rate of interest shall be reduced~~
5 ~~to 3 percent for the remaining balance of the loan.~~

6 ~~(b) If the Legislature approves the permanent use or type of gear and the~~
7 ~~commercial fishing permit or the license for the permanent use or type of gear is~~
8 ~~revoked for a violation of the terms and conditions under which the fishery is~~
9 ~~conducted, the permittee shall be responsible for any remaining balance on any~~
10 ~~outstanding loan with the State Coastal Conservancy for the purchase of alternative~~
11 ~~fishing gear.~~

12 **Comment.** Section 8614 is repealed as obsolete. See Section 1022.

13 **Fish & Game Code § 8615 (repealed). Request to terminate permit**

14 SEC. ____ . Section 8615 of the Fish and Game Code is repealed.

15 ~~8615. (a)(1) Within the first six months of operation pursuant to an experimental~~
16 ~~permit and after a reasonable and concerted effort to utilize a new type of~~
17 ~~commercial fishing gear, the permittee may request that the experimental permit be~~
18 ~~terminated if it is economically infeasible to harvest the target species or if the~~
19 ~~alternative gear is impractical, inefficient, or ineffective within the fishery or~~
20 ~~regional area selected. The permittee shall submit copies of all landing receipts, a~~
21 ~~financial statement setting forth the expenses and any revenue generated by the~~
22 ~~operation of the alternative fishing gear, and a brief summary from any observers,~~
23 ~~monitors, and employees regarding the operation of the alternative fishing gear to~~
24 ~~the department. The department shall review the permittee's submitted material.~~

25 ~~(2) If the submitted material supports the claim that the new type of commercial~~
26 ~~fishing gear utilized by the permittee was either inefficient, impractical, or~~
27 ~~ineffective, or that it was not economically feasible for the permittee to harvest the~~
28 ~~target species, the department shall terminate the experimental permit and submit~~
29 ~~its findings to the State Coastal Conservancy. Upon receiving the department's~~
30 ~~report, the State Coastal Conservancy may terminate the permittee's loan. If the~~
31 ~~permittee returns the collateral fishing gear to the department, the State Coastal~~
32 ~~Conservancy shall reimburse the permittee from the loan fund for the principal~~
33 ~~amount of the loan repaid by the permittee. The department shall take possession of~~
34 ~~the fishing gear for the State Coastal Conservancy, which may resell the gear as set~~
35 ~~forth in subdivision (a) of Section 8614.~~

36 ~~(3) If the information does not support the claim made by the permittee, the~~
37 ~~department may still terminate the experimental permit. The State Coastal~~
38 ~~Conservancy may terminate the remaining balance on the loan if the permittee~~
39 ~~returns the collateral fishing gear to the department, but the State Coastal~~
40 ~~Conservancy shall not reimburse the permittee for previous loan payments.~~

41 ~~(b) After six months of operation pursuant to an experimental permit, any request~~
42 ~~to terminate the permit for the reasons set forth in subdivision (a) shall include, in~~

1 ~~addition to the information required by paragraph (1) of subdivision (a), an~~
2 ~~explanation of the changed circumstances or reasons that cause the new type of gear~~
3 ~~to become inefficient, impractical, or ineffective or economically infeasible to~~
4 ~~harvest the target species after the initial six-month operating period. The~~
5 ~~department shall review the request and make its recommendation to the State~~
6 ~~Coastal Conservancy following the procedures set forth in subdivision (a). If the~~
7 ~~department terminates the experimental gear permit, the State Coastal Conservancy~~
8 ~~may terminate the remaining balance on the loan if the permittee returns the~~
9 ~~collateral fishing gear to the department, but it shall not reimburse the permittee for~~
10 ~~any loan payments received. The department shall take possession of the alternative~~
11 ~~fishing gear for the State Coastal Conservancy, which may resell the gear as set~~
12 ~~forth in subdivision (a) of Section 8614.~~

13 **Comment.** Section 8615 is repealed as obsolete. See Section 1022.

14 **Fish & Game Code § 8623 (amended). Use of purse seines or round haul nets**

15 SEC. ____ . Section 8623 of the Fish and Game Code is amended to read:

16 8623. (a) It is unlawful to use any purse seine or round haul net to take yellowtail,
17 barracuda, or white sea bass.

18 (b) It is unlawful to possess any yellowtail, barracuda, or white sea bass, except
19 those taken south of the international boundary between the United States and
20 Mexico, and imported into the state under regulations of the commission as provided
21 in Section 2362, on any boat carrying or using any purse seine or round haul net,
22 including, but not limited to, a bait net as described in Section 8780.

23 (c) Gill nets with meshes of a minimum length of 3¹/₂ inches may be used to take
24 yellowtail and barracuda.

25 (d) Gill nets with meshes of a minimum length of six inches may be used to take
26 white sea bass; however, during the period from June 16 to March 14, inclusive, not
27 more than 20 percent by number of a load of fish may be white seabass 28 inches
28 or more in total length, up to a maximum of 10 white seabass per load, if taken in
29 gill nets or trammel nets with meshes from 3¹/₂ to 6 inches in length.

30 (e) Notwithstanding ~~the provisions of this section~~ subdivision (b), the department
31 may issue permits to hook and line commercial fishermen to possess a bona fide
32 bait net on their vessels for the purpose of taking bait for their own use only.

33 **Comment.** Section 8623 is amended to clarify the application of subdivision (e) of the section.

34 **Fish & Game Code § 8625 (amended). Nets for halibut**

35 SEC. ____ . Section 8625 of the Fish and Game Code is amended to read:

36 8625. (a) Except as otherwise provided in this code, set gill nets and trammel nets
37 with mesh size of not less than 8¹/₂ inches may be used to take California halibut.

38 (b) Except as provided in subdivision (c), not more than 1,500 fathoms (9,000
39 feet) of gill net or trammel net shall be fished in combination each day for California
40 halibut from any vessel in ocean waters.

1 (c) Not more than 1,000 fathoms (6,000 feet) of gill net or trammel net shall be
2 fished in combination each day for California halibut from any vessel in ocean
3 waters between a line extending due west magnetic from Point Arguello in Santa
4 Barbara County and a line extending 172° magnetic from Rincon Point in Santa
5 Barbara County to San Pedro Point at the east end of Santa Cruz Island in Santa
6 Barbara County, then extending southwesterly 188° magnetic from San Pedro Point
7 on Santa Cruz Island.

8 ~~(d) This section shall become operative on August 15, 1989.~~

9 **Comment.** Section 8625 is amended to delete obsolete material.

10 **Fish & Game Code § 8626 (amended). Nets for halibut in specified areas**

11 SEC. _____. Section 8626 of the Fish and Game Code is amended to read:

12 8626. (a) Notwithstanding Section 8625, and where consistent with the
13 determination made pursuant to subdivisions (b) and (c), the director may reduce
14 the minimum mesh size permitted for gill and trammel nets used to take California
15 halibut from 8½ inches to not less than 8 inches in any or all areas south of a line
16 extending 240° magnetic from the boundary line between the Counties of Los
17 Angeles and Ventura.

18 (b) If, on or before October 1, 1990, the department determines that commercial
19 landings of California halibut taken south of the line extending 240° magnetic from
20 the boundary line between the Counties of Los Angeles and Ventura in the period
21 between September 1, 1989, and August 31, 1990, decline by 10 percent or more
22 compared with landings of California halibut taken in this area during the period
23 between September 1, 1988, and August 31, 1989, the department shall assess the
24 impact of the 8½ inch minimum mesh size restriction on the California halibut
25 fishery in the area described in subdivision (a). The assessment shall include, but is
26 not limited to, an analysis of landing data, including landings of California halibut
27 in Los Angeles, Orange, and San Diego Counties, the age and size composition of
28 the catch, and the department's monitoring at sea of the gill and trammel net fishery.

29 (c) If the department determines that the 8½ inch minimum mesh size, established
30 pursuant to Section 8625 has directly resulted in a decline of 10 percent or more in
31 landings of California halibut south of the line extending 240° magnetic from the
32 boundary between the Counties of Los Angeles and Ventura, the director shall hold
33 a public hearing in the area affected to make findings and take public testimony
34 prior to taking any action pursuant to subdivision (a).

35 ~~(d) This section shall become operative on August 15, 1989.~~

36 **Comment.** Section 8626 is amended to delete obsolete material.

37 **Fish & Game Code § 8752 (amended). Districts 6, 7, 8, 9, 10, and 11**

38 SEC. _____. Section 8752 of the Fish and Game Code is amended to read:

39 8752. In Districts 6, 7, 8, 9, 10, and 11, ~~purse and~~ round haul nets may be used.

40 **Comment.** Section 8752 is amended to eliminate a superfluous reference to purse nets. See
41 Section 8750 (round haul nets include purse nets).

1 **Fish & Game Code § 8754 (amended). Districts 16, 17, 18, and 19**

2 SEC. _____. Section 8754 of the Fish and Game Code is amended to read:

3 8754. (a) In Districts 16, 17, 18, and 19, ~~purse and~~ round haul nets may be used,
4 except that purse seines or ring nets may not be used in that portion of District 19
5 lying within three miles offshore from the line of the high-water mark along the
6 coast of Orange County from sunrise Saturday to sunset Sunday from May 1 to
7 September 10, inclusive.

8 (b) Purse seine or ring nets may not be used from May 1 to September 10,
9 inclusive, in the following portions of District 19:

10 (a) (1) Within a two-mile radius of Dana Point.

11 (b) (2) Within a two-mile radius of San Mateo Point.

12 (c) (3) Within two miles offshore from the line of the high-water mark along that
13 portion of the coast of Orange County lying between the northernmost bank of the
14 mouth of the Santa Ana River and a point on that coast six miles south therefrom.

15 **Comment.** Section 8754 is amended to eliminate a superfluous reference to purse nets. See
16 Section 8750 (round haul nets include purse nets).

17 The section is also amended to add and revise subdivision designations.

18 **Fish & Game Code § 8755 (amended). Districts 20, 20A, and 21**

19 SEC. _____. Section 8755 of the Fish and Game Code is amended to read:

20 8755. In Districts 20A and 21, ~~purse and~~ round haul nets may be used.

21 (a) ~~In District 20, Purse and~~ round haul nets may be used, except (1) from sunrise
22 Saturday to sunset Sunday, in ~~that portion of District 20~~ the area from a line
23 extending three nautical miles east magnetically from the extreme easterly end of
24 Santa Catalina Island southwesterly and northerly to a line extending three nautical
25 miles southwest magnetically from the most southerly promontory of China Point
26 and (2) at any time during the period commencing on June 1st and ending on
27 September 10 in each year, ~~that portion of District 20~~ the area from a line extending
28 three nautical miles east magnetically from the extreme easterly end of Santa
29 Catalina Island southerly to a line extending three nautical miles southeasterly
30 magnetically from the United States government light on the southeasterly end of
31 Santa Catalina Island.

32 (b) Subdivision (a) shall not be construed as restricting the right to use the waters
33 therein specified for anchorage of vessels at any time.

34 **Comment.** Section 8755 is amended to eliminate superfluous references to purse nets. See
35 Section 8750 (round haul nets include purse nets).

36 Subdivision (a) of the section is also amended to insert an inadvertently omitted introductory
37 clause and make conforming technical changes.

38 **Fish & Game Code § 8756 (amended). Salmon, steelhead, striped bass, or shad**

39 SEC. _____. Section 8756 of the Fish and Game Code is amended to read:

40 8756. Salmon, steelhead, striped bass, or shad may not be taken with ~~purse or~~
41 round haul nets.

1 **Comment.** Section 8756 is amended to eliminate a superfluous reference to purse nets. See
2 Section 8750 (round haul nets include purse nets).

3 **Fish & Game Code § 8780 (amended). Use of bait nets**

4 SEC. _____. Section 8780 of the Fish and Game Code is amended to read:

5 8780. (a) As used in this chapter, the term “bait net” means a lampara or round
6 haul type net, the mesh of which is constructed of twine not exceeding Standard No.
7 9 medium cotton seine twine or synthetic twine of equivalent size or strength.
8 Notwithstanding Section 8757, except for drum seines and other round haul nets
9 authorized under a permit issued by the department pursuant to this section, the nets
10 may not have rings along the lead line or any method of pursing the bottom of the
11 net.

12 (b) Bait nets may be used to take fish for bait in Districts 6, 7, 8, 9, 10, 11, 12, 13,
13 16, 17, 18, 19, ~~19A~~, 19B, 20A, 21, 118, and 118.5.

14 (c) In District 19A, bait nets may be used only to take anchovies, queenfish, white
15 croakers, sardines, mackerel, squid, and smelt for live bait purposes only. Bait nets
16 may not be used within 750 feet of Seal Beach Pier or Belmont Pier.

17 (d) No other species of fish may be taken on any boat carrying a bait net in District
18 19A, except that loads or lots of fish may contain not more than 18 percent, by
19 weight of the fish, of other bait fish species taken incidentally to other fishing
20 operations and that are mixed with other fish in the load or lot.

21 **Comment.** Subdivision (b) of Section 8780 is amended to eliminate an erroneous reference to
22 Fish and Game District 19A, as use of bait nets in that district is specifically governed by
23 subdivisions (c) and (d).

24 **Fish & Game Code § 8841 (amended). Bottom trawl fisheries**

25 SEC. _____. Section 8841 of the Fish and Game Code is amended to read:

26 8841. (a) The commission is hereby granted authority over all state-managed
27 bottom trawl fisheries not managed under a federal fishery management plan
28 pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (16
29 U.S.C. Sec. 1801 et seq.) or a state fishery management plan pursuant to Part 1.7
30 (commencing with Section 7050), to ensure that resources are sustainably managed,
31 to protect the health of ecosystems, and to provide for an orderly transition to
32 sustainable gear types in situations where bottom trawling may not be compatible
33 with these goals.

34 (b) The commission is hereby granted authority to manage all of the following
35 fisheries in a manner that is consistent with this section and Part 1.7 (commencing
36 with Section 7050):

- 37 (1) California halibut.
- 38 (2) Sea cucumber.
- 39 (3) Ridge-back, spot, and golden prawn.
- 40 (4) Pink shrimp.

41 (c) The commission is also granted authority over other types of gear targeting the
42 same species as the bottom trawl fisheries referenced in subdivision (a) to manage

1 in a manner that is consistent with the requirements of Part 1.7 (commencing with
2 Section 7050).

3 (d) Every commercial bottom trawl vessel issued a state permit is subject to the
4 requirements and policies of the federal groundfish observer program (50 C.F.R.
5 660.360).

6 (e) The commission may only authorize additional fishing areas for bottom trawls
7 after it determines, based on the best available scientific information, that bottom
8 trawling in those areas is sustainable, does not harm bottom habitat, and does not
9 unreasonably conflict with other users.

10 (f) It is unlawful to use roller gear more than eight inches in diameter in
11 connection with a trawl net.

12 (g) Commencing April 1, 2006, it is unlawful to fish commercially for prawns or
13 pink shrimp, unless an approved bycatch reduction device is used with each net. On
14 or before April 1, 2006, the commission shall approve one or more bycatch
15 reduction devices for use in the bottom trawl fishery. For purposes of this
16 subdivision, a rigid grate fish excluder device is the approved type of bycatch
17 reduction device unless the commission, the Pacific Marine Fishery Management
18 Council, or the National Marine Fisheries Service determines that a different type
19 of fish excluder device has an equal or greater effectiveness at reducing bycatch. If
20 the commission does not approve a bycatch reduction device prior to April 1, 2006,
21 then a device that is approved by the Pacific Marine Fishery Management Council
22 or the National Marine Fisheries Service shall be deemed approved by the
23 commission.

24 (h) Except as provided in Section 8495 or 8842, it is unlawful to engage in bottom
25 trawling in ocean waters of the state.

26 (i) This section does not apply to the use of trawl nets pursuant to a scientific
27 research permit.

28 (j) The commission shall facilitate the conversion of bottom trawlers to gear that
29 is more sustainable if the commission determines that conversion will not contribute
30 to overcapacity or overfishing. The commission may participate in, and encourage
31 programs that support, conversion to low-impact gear or capacity reduction by trawl
32 fleets. The department may not issue new permits to bottom trawlers to replace those
33 retired through a conversion program.

34 ~~(k) As soon as practicable, but not later than May 1, 2005, the commission and~~
35 ~~the department shall submit to the Pacific Fishery Management Council and the~~
36 ~~National Marine Fisheries Service a request for federal management measures for~~
37 ~~the pink shrimp fishery that the commission and the department determine are~~
38 ~~needed to reduce bycatch or protect habitat, to account for uncertainty, or to~~
39 ~~otherwise ensure consistency with federal groundfish management.~~

40 ~~(k)~~ (k) No vessel may utilize bottom trawling gear without a state or federal permit.

41 **Comment.** Subdivision (f) of Section 8841 is amended to clarify the context in which the
42 provision is intended to apply.

43 Subdivision (k) is deleted as obsolete.

1 **Fish & Game Code § 9001.7 (amended). Taking of finfish**

2 SEC. _____. Section 9001.7 of the Fish and Game Code is amended to read:

3 9001.7. Finfish, other than sablefish and hagfish, may be taken under a general
4 trap permit if all of the following criteria are also met:

5 (a) Every person aboard the vessel possesses a valid general trap permit that has
6 not been suspended or revoked.

7 (b) If nearshore species are present, at least one person aboard the vessel possesses
8 a valid nearshore fishery permit and a nearshore fishery trap endorsement that has
9 not been suspended or revoked.

10 (c) If deeper nearshore species are present, at least one person aboard the vessel
11 possesses a valid deeper nearshore species fishery permit that has not been
12 suspended or revoked.

13 (d) During the period from one hour after sunset to one hour before sunrise, finfish
14 traps that are left in the water shall be unbaited with the door secured open. If, for
15 reasons beyond the control of the permittee, all trap doors cannot be secured open
16 prior to one hour after sunset, the permittee shall immediately notify the department.

17 (e) Poppers shall not be used on buoy lines attached to finfish traps, and shall not
18 be possessed aboard a vessel when taking finfish under a general trap permit.

19 (f) Trap destruction devices used on finfish traps shall conform to the current
20 regulatory requirements for those devices pursuant to Section 9003 and as adopted
21 by the commission.

22 (g) No finfish traps shall be set within 750 feet of any pier, breakwall, or jetty in
23 District 6, 7, 17, 18, 19, 19A, 19B, 20, 20A, ~~20B~~, or 21.

24 (h) No more than 50 finfish traps may be used in state waters along the mainland
25 shore.

26 (i) The mesh of any finfish trap used pursuant to this section shall measure not
27 less than two inches by two inches.

28 (j) The following fish shall not be used as bait in finfish traps:

29 (1) Lobster.

30 (2) Crabs of the genus cancer, except rock crab, yellow crab, and red crab, as
31 identified in Section 8282, which may be used as bait under the authority of a rock
32 crab trap permit issued pursuant to Section 8282.

33 (3) Any other finfish or invertebrate to which a minimum size limit applies that is
34 used or possessed in a condition so that its size can not be determined.

35 (k) Lobster may be possessed aboard or landed from any vessel on which finfish
36 are also present, if every person aboard the vessel has a valid lobster permit that has
37 not been suspended or revoked, and complies with Article 5 (commencing with
38 Section 8250) of Chapter 2 ~~of the Fish and Game Code~~, this article, and the
39 regulations adopted pursuant thereto.

40 **Comment.** Subdivision (g) of Section 9001.7 is amended to delete a reference to a Fish and
41 Game District that does not exist.

42 Subdivision (k) is amended to correct the form of a cross-reference.

1 **Fish & Game Code § 9011 (amended). Dungeness and rock crab traps**

2 SEC. _____. Section 9011 of the Fish and Game Code is amended to read:

3 9011. (a)(1) Subject to Article 6 (commencing with Section 8275) of Chapter 2,
4 Dungeness crab, as defined in Section 8275, may be taken with Dungeness crab
5 traps.

6 (2) A Dungeness crab trap may have any number of openings of any size.
7 However, every Dungeness crab trap shall have at least two rigid circular openings
8 of not less than $4\frac{1}{4}$ inches, inside diameter, on the top or side of the trap. If both of
9 the openings are located on the side of the trap, at least one of the openings shall be
10 located so that at least one-half of the opening is in the upper half of the trap.

11 (3) Subject to Article 6 (commencing with Section 8275) of Chapter 2, rock crab
12 may be taken incidentally with a Dungeness crab trap used pursuant to this
13 subdivision to take Dungeness crab, provided that the incidental taking occurs only
14 during the season when it is lawful to take both species. A rock crab, taken
15 incidentally with a Dungeness crab trap, that does not comply with Article 6
16 (commencing with Section 8275) of Chapter 2, shall be immediately returned to the
17 waters from which it was taken.

18 (b)(1) Subject to Article 6 (commencing with Section 8275) of Chapter 2, rock
19 crab, as defined in Section 8275, may be taken with rock crab traps.

20 (2) A rock crab trap may have any number of openings of any size. However, a
21 rock crab trap constructed of wire mesh with an inside mesh measurement of not
22 less than $1\frac{7}{8}$ inches by $3\frac{7}{8}$ inches, with the $3\frac{7}{8}$ inch measurement parallel to the
23 floor, shall have at least one rigid circular opening of not less than $3\frac{1}{4}$ inches, inside
24 diameter, located on any outside wall of the rearmost chamber of the crab trap and
25 shall be located so that at least one-half of the opening is in the upper half of the
26 trap. Rock crab traps constructed of other material shall have at least two rigid
27 circular openings of not less than $3\frac{1}{4}$ inches, inside diameter, on the top or side of
28 the rearmost chamber of the trap. If both of the openings are located on the side of
29 the trap, at least one of the openings shall be located so that at least one-half of the
30 opening is in the upper half of the trap. No rigid circular opening, as required, shall
31 extend more than $\frac{1}{2}$ inch beyond the plane of the wall side or top of the trap in
32 which it is located, and it shall be clearly accessible to any crab which may be in the
33 trap.

34 (3) Subject to Article 6 (commencing with Section 8275) of Chapter 2, Dungeness
35 crab may be taken incidentally with a rock crab trap used pursuant to this
36 subdivision to take rock crab, provided that the incidental taking occurs only during
37 the season when it is lawful to take both species. A Dungeness crab, taken
38 incidentally with a rock crab trap, that does not comply with Article 6 (commencing
39 with Section 8275) of Chapter 2, shall be immediately returned to the waters from
40 which it was taken.

41 (4) A person shall not possess any lobster aboard a vessel while the vessel is being
42 used pursuant to this subdivision to take rock crab.

1 ~~(c) On or before January 1, 2013, the department shall report to the appropriate~~
2 ~~policy and fiscal committees of the Legislature the impacts, if any, of the changes~~
3 ~~made to this section by Chapter 478 of the Statutes of 2009. The report shall include~~
4 ~~information about citations issued pursuant to this section relating to both rock crab~~
5 ~~and Dungeness crab for the years 2010 to 2012, inclusive.~~

6 **Comment.** Section 9011 is amended to delete subdivision (c) of the section as obsolete.

7 **Fish & Game Code § 9027.5 (amended). Additional restrictions on use of fishing line in**
8 **specified areas**

9 SEC. _____. Section 9027.5 of the Fish and Game Code is amended to read:

10 9027.5. (a) (1) Notwithstanding Section 9026, 9028, or 9029 in the area described
11 in subdivision (b), it is unlawful to use more than 150 hooks on a vessel to take fish
12 for commercial purposes when using fishing lines authorized pursuant to this article.

13 (2) In the area described in subdivision (b), not more than 15 hooks shall be
14 attached to any one fishing line, and no fishing line shall be attached to another
15 fishing line, while those lines are being used for commercial fishing pursuant to this
16 article.

17 (3) Each fishing line used pursuant to this article that is not attached to a vessel
18 fishing in the area described in subdivision (b) shall be buoyed, and the commercial
19 fishing license identification number issued pursuant to Section 7852 to the
20 permittee who is using the fishing line shall be marked on, and visible on the upper
21 one-half of each buoy, in numbers not less than two inches in height.

22 (b) This section applies only to waters within one mile of the mainland shore in
23 Fish and Game Districts 17, 18, and 19.

24 ~~(c) Subdivision (a) does not apply to persons who are fishing south of a line~~
25 ~~extending due west from Point Conception and who are fishing for halibut, white~~
26 ~~sea bass, sharks, skates, or rays. The exemption in this subdivision does not apply~~
27 ~~if all of the fish possessed by persons aboard the vessel consist of at least 80 percent~~
28 ~~by number of halibut, white sea bass, sharks, skates, and rays.~~

29 Subdivision (a) does not apply to persons who are fishing for halibut, white sea
30 bass, sharks, skates, or rays, south of a line extending due west from Point
31 Conception, if at least 80 percent of the fish possessed by persons aboard the vessel
32 are, by number, halibut, white sea bass, sharks, skates, or rays.

33 **Comment.** Section 9027.5 is amended for clarity.

34 **Fish & Game Code § 9050 (amended). Miscellaneous tools**

35 SEC. _____. Section 9050 of the Fish and Game Code is amended to read:

36 9050. A spade, shovel, hoe, rake, or other appliance operated by hand may be used
37 to take mollusks, sand crabs, and shrimps in Districts 1, 1½, 2, 2½, 3, 3½, 4, 4½,
38 4¾, 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 19, 19A, 20, 20A, and 21, except as
39 specified in ~~Sections~~ Section 7332 ~~and 8303~~, and except that freshwater clams shall
40 not be taken by means of such appliances on any levee or on the berm of any levee.

41 **Comment.** Section 9050 is amended to delete obsolete material.

1 **Fish & Game Code § 10000 (amended). Required license**

2 SEC. _____. Section 10000 of the Fish and Game Code is amended to read:

3 10000. (a) Every person engaged in the business of canning, curing, preserving,
4 packing, or otherwise processing, or dealing at wholesale in, the eggs of sturgeon
5 for human consumption shall obtain a sturgeon egg processing license from the
6 department for that purpose. The license required by this division is in addition to
7 any other license, permit, or other authorization required by this code or by any
8 other provision of law.

9 (b) Possession of a sturgeon egg processing license issued pursuant to this division
10 authorizes the licensee to can, cure, preserve, pack, or otherwise process, or deal at
11 wholesale in, the eggs of sturgeon if, and only if, the eggs are lawfully taken or
12 lawfully possessed pursuant to Section 7230 or ~~8374~~ 7370.

13 **Comment.** Subdivision (b) of Section 10000 is amended to reflect the effect of prior legislation
14 relocating regulation of sturgeon eggs to Section 7370.

15 **Fish & Game Code § 10002 (amended). Required documentation**

16 SEC. _____. Section 10002 of the Fish and Game Code is amended to read:

17 10002. Every person licensed pursuant to this division shall make a true and
18 legible record of each transaction involving the eggs of sturgeon. This
19 documentation shall show all of the following:

20 (a) The weight of the eggs received by the licensee.

21 (b) The date the eggs were received by the licensee.

22 (c) The name and address of the person from whom the licensee received the eggs
23 were received, and, if different, the.

24 (d) If any of the sturgeon that produced the eggs were artificially propagated by a
25 person other than the person named pursuant to subdivision (c), the name and
26 address of the person who artificially propagated the sturgeon from which the eggs
27 were obtained or the.

28 (e) If the person named pursuant to subdivision (c) received any of the sturgeon
29 that produced the eggs from another person, the name and address of the that person
30 from whom the sturgeon were received from which the eggs were obtained.

31 ~~(e) The date of receipt.~~

32 ~~(d) (f) If any of the sturgeon that produced the eggs were imported into this state,~~
33 ~~the place where the those sturgeon were taken.~~

34 ~~(e) (g) Whether the eggs are to be processed by the recipient licensee or sold by~~
35 ~~him or her to another person for processing, and. In addition, if the eggs are to be~~
36 ~~sold to another person for processing by another, the name and address of that~~
37 ~~person.~~

38 ~~(f) (h) Such~~ Any other information as that the department may require and specify
39 as required on the any form provided.

40 **Comment.** Section 10002 is amended for clarity.

1 **Fish & Game Code § 10653 (amended). Transport of animals**

2 SEC. _____. Section 10653 of the Fish and Game Code is amended to read:

3 10653. In the San Francisco Fish and Game Refuge, birds, mammals, fish,
4 amphibians, and reptiles legally possessed may be carried openly by persons
5 traveling through the refuge on public roads, between one-half hour before sunrise
6 and one-half hour after sunset.

7 **Comment.** Section 10653 is amended to correct an erroneously named refuge.

8 **Fish & Game Code § 10654 (amended). Use of land for water supply purposes**

9 SEC. _____. Section 10654 of the Fish and Game Code is amended to read:

10 10654. Nothing in this division prevents the full use of the land included in the
11 San Francisco Fish and Game Refuge for water supply purposes, nor prohibits any
12 authorized employee of the San Francisco water department from carrying out such
13 reasonable measures as may be necessary for the protection of the water supply or
14 the prevention of pollution of the streams or reservoirs.

15 **Comment.** Section 10654 is amended to correct an erroneously named refuge.

16 **Fish & Game Code § 10662 (amended). Firearm prohibition**

17 SEC. _____. Section 10662 of the Fish and Game Code is amended to read:

18 10662. Notwithstanding any other provision ~~in~~ of this code, it shall be unlawful
19 for any person to fire a firearm, but it shall not be unlawful to possess a firearm, in
20 the following areas: All of T. 5 S., R. 5 E., except Sections 1, 2, 11, 12, and 13, of
21 ~~Fish and Game District~~ Game Refuge 4D.

22 **Comment.** Section 10662 is amended to update a cross-reference to a renamed game refuge. See
23 Section 10837.

24 **Fish & Game Code § 10741 (amended). Exception to vehicle prohibition**

25 SEC. _____. Section 10741 of the Fish and Game Code is amended to read:

26 10741. ~~Nothing~~ (a) Except as provided in subdivision (b), nothing in this article
27 ~~shall be construed as prohibiting~~ prohibits access by a person over any a road or
28 trail, ~~in any such area to any land to which any person is entitled to possession by~~
29 ~~such person or any in an area described in Section 10740, to reach land that person~~
30 lawfully possesses. A person allowed access over a road or trail pursuant to this
31 subdivision may authorize another person authorized by him to use such road or
32 trail as a means of access to the land; provided, that to do the same.

33 (b) Notwithstanding subdivision (a), none of the motorized vehicles or aircraft
34 mentioned in Section 10740 shall may be used by any person as a means of gaining
35 access to the wilderness areas for the purpose of hunting or fishing. Nor shall anyone
36 having a lawful right to enter a wilderness area with a motorized vehicle or aircraft
37 fish or hunt while within the area after having entered the area with a motorized
38 vehicle or aircraft.

39 **Comment.** Section 10741 is amended for clarity.

40 The section is also amended to add subdivision designations.

1 **Fish & Game Code § 10770 (amended). Fish and game refuges**

2 SEC. _____. Section 10770 of the Fish and Game Code is amended to read:

3 10770. The ~~districts~~ area described in ~~the following sections~~ this article ~~are~~ is a
4 fish and game ~~refuges~~ refuge.

5 **Comment.** Section 10770 is amended to distinguish a fish and game refuge identified as a
6 “district” in Division 7 from the Fish and Game Districts identified in Division 8.

7 **Fish & Game Code § 10820 (amended). Described areas**

8 SEC. _____. Section 10820 of the Fish and Game Code is amended to read:

9 10820. (a) The ~~districts~~ areas described in ~~the following sections~~ this article are
10 game refuges.

11 (b) An existing reference to a “Fish and Game District” that is a game refuge shall
12 be construed to refer to the “Game Refuge” that continues the former district.

13 **Comment.** Section 10820 is amended to distinguish game refuges identified as “districts” in
14 Division 7 from the Fish and Game Districts identified in Division 8.

15 **Fish & Game Code § 10821 (amended). Game Refuge 1C**

16 SEC. _____. Section 10821 of the Fish and Game Code is amended to read:

17 10821. The following constitutes ~~Fish and Game District~~ Game Refuge 1C: All
18 that area within the County of Modoc within the following boundaries:

19 Beginning at the boundary of the Modoc National Forest on the east side of Sec.
20 28, T. 42 N., R. 14 E., where Parker Creek crosses the national forest boundary and
21 following thence Parker Creek and the South Fork of Parker Creek to the summit of
22 the Warner Mountains; thence southerly along the summit of the Warner Mountains
23 to the headwaters of Mill Creek; thence following course of Mill Creek to Mill
24 Creek Ranger Station and Mill Creek stock corrals in approximately Sec. 15, T. 40
25 N., R. 15 E. (unsurveyed); thence along road from Mill Creek Ranger Station and
26 stock corrals running north of Cantrell’s sawmill to Bowman Ranch, thence along
27 same road to the Modoc National Forest boundary on the center line of Sec. 33, T.
28 41 N., R. 14 E.; thence north along said national forest boundary to Parker Creek,
29 the point of beginning.

30 **Comment.** The first paragraph of Section 10821 is amended to clarify that the area described in
31 the section is a game refuge, and not a fish and game district. See also Section 10820.

32 **Fish & Game Code § 10822 (amended). Game Refuge 1F**

33 SEC. _____. Section 10822 of the Fish and Game Code is amended to read:

34 10822. The following constitutes ~~Fish and Game District~~ Game Refuge 1F: All
35 that area within the County of Lassen within the following boundaries:

36 Beginning at the fork of the Puls Camp Road and the Poison Lake-Harvey Valley
37 Road near the quarter section corner between Secs. 33 and 34, T. 33 N., R. 8 E.;
38 thence northerly following the westerly side of said road by Dixie Springs and Puls
39 Camp in Sec. 33, T. 34 N., R. 8 E., to Shroder Lake in Sec. 19, T. 34 N., R. 8 E.;
40 thence southwesterly about one mile to the junction of said Puls Camp Road and the

1 Little Valley Road in Sec. 24, T. 34 N., R. 7 E.; thence northwesterly following the
2 southerly side of said Little Valley Road to its junction with the Blacks Lake Road;
3 thence westerly following the southerly side of said Blacks Lake Road to the
4 Eldridge place in Sec. 13, T. 34 N., R. 6 E.; thence southerly following the easterly
5 side of said road to Jelly Camp in Sec. 25, T. 34 N., R. 6 E.; thence southeasterly
6 following the easterly side of the Susanville-Pittville Road to junction of the Poison
7 Lake-Harvey Valley Road; thence easterly following the northerly side of said
8 Poison Lake-Harvey Valley Road to the point of beginning.

9 **Comment.** The first paragraph of Section 10822 is amended to clarify that the area described in
10 the section is a game refuge, and not a fish and game district. See also Section 10820.

11 **Fish & Game Code § 10823 (amended). Game Refuge 1G**

12 SEC. _____. Section 10823 of the Fish and Game Code is amended to read:

13 10823. The following constitutes ~~Fish and Game District~~ Game Refuge 1G: All
14 that area within the County of Tehama within the following boundaries:

15 Beginning at a point where Deer Creek crosses the west township line of T. 25
16 N., R. 2 E.; thence north along said township line and along the west township line
17 of T. 26 N., R. 2 E. to its intersection with Boatgunwale Creek; thence down
18 Boatgunwale Creek to Mill Creek; thence up Mill Creek to the Ponderosa Truck
19 Trail; thence following the Ponderosa Truck Trail to its intersection with South
20 Antelope Creek; thence up South Antelope Creek to mouth of the North Fork of
21 South Antelope Creek; thence up the North Fork to its source; thence following
22 Manzanita Cut Trail to the South Fork of Rock Gulch Creek; thence down Rock
23 Gulch Creek to its intersection with the Old Butte Meadows-Round Valley Trail;
24 thence following the Old Butte Meadows-Round Valley Trail to its intersection with
25 the Deer Creek Highway, thence down the Deer Creek Highway to its westerly
26 crossing of Deer Creek, thence down Deer Creek to point of beginning.

27 **Comment.** The first paragraph of Section 10823 is amended to clarify that the area described in
28 the section is a game refuge, and not a fish and game district. See also Section 10820.

29 **Fish & Game Code § 10824 (amended). Game Refuge 1H**

30 SEC. _____. Section 10824 of the Fish and Game Code is amended to read:

31 10824. The following constitutes ~~Fish and Game District~~ Game Refuge 1H: All
32 that area within the County of Plumas within the following boundaries:

33 Beginning at a point on the Western Pacific Railway known as Quincy Junction;
34 thence following northerly the westerly side of the Old Road to Taylorsville; thence
35 westerly along the southerly side of the County Road 207 to its intersection with the
36 Western Pacific Railway from Crescent Mills to Keddie; thence southwesterly and
37 southerly along these tracks to Keddie; thence southerly and southeasterly along
38 main Western Pacific tracks from Keddie to Quincy Junction to the point of
39 beginning.

40 **Comment.** The first paragraph of Section 10824 is amended to clarify that the area described in
41 the section is a game refuge, and not a fish and game district. See also Section 10820.

1 **Fish & Game Code § 10825 (amended). Game Refuge 1I**

2 SEC. _____. Section 10825 of the Fish and Game Code is amended to read:

3 10825. The following constitutes ~~Fish and Game District~~ Game Refuge 1I: All
4 that area within the County of Placer within the following boundaries:

5 Beginning at a point in Sec. 17, T. 14 N., R. 14 E., M.D.M., where the French
6 House-Big Meadows Road intersects the South Fork of Long Canyon Creek; thence
7 following southwesterly along said road to its intersection with the French
8 Meadows-Georgetown Road near the section line between Secs. 22 and 23, T. 14
9 N., R. 13 E., thence southwesterly along the French Meadows-Georgetown Road
10 where it intersects an unnamed tributary to the North Fork of Long Canyon Creek
11 near the section line between Secs. 22 and 27, T. 14 N., R. 13 E.; thence
12 northwesterly along said tributary to French House Site (near the center of Sec. 22,
13 T. 14 N., R. 13 E.); thence northwesterly along the French House-Red Star Mine
14 Jeep Road in Secs. 22 and 15, T. 14 N., R. 13 E., to its intersection with the Middle
15 Fork of the American River, in Sec. 15, T. 14 N., R. 13 E.; thence northeasterly
16 along the Middle Fork of the American River, to its intersection with the southern
17 boundary of Sec. 35, T. 15 N., R. 13 E., thence due north on a line through the center
18 of Sec. 35 to an intersection with the summit of Red Star Ridge in Sec. 26, T. 15 N.,
19 R. 13 E. (this being the divide between Duncan Creek and the Middle Fork of the
20 American River); thence northeasterly following the summit of Red Star Ridge to a
21 point in Sec. 4, T. 15 N., R. 14 E. where said ridge intersects the main Foresthill
22 Divide between the North Fork of the American River and the Middle Fork of the
23 American River; thence easterly along the summit of said divide to Needle Peak;
24 thence southerly following the summit of the divide to Mt. Mildred; thence
25 southwesterly following the summit of the divide between Gray Horse Creek and
26 the Middle Fork of the American River to its intersection with the Big Meadows-
27 Gray Horse Valley Trail (near the middle of Sec. 5, T. 14 N., R. 14 E.); thence
28 following said trail to the South Fork of Long Canyon Creek (near the middle of
29 Sec. 9, T. 14 N., R. 14 E.); thence southwesterly down the South Fork Long Canyon
30 Creek to the point of beginning.

31 **Comment.** The first paragraph of Section 10825 is amended to clarify that the area described in
32 the section is a game refuge, and not a fish and game district. See also Section 10820.

33 **Fish & Game Code § 10826 (amended). Game Refuge 1J**

34 SEC. _____. Section 10826 of the Fish and Game Code is amended to read:

35 10826. The following constitutes ~~Fish and Game District~~ Game Refuge 1J: All
36 that area within the County of Amador within the following boundaries:

37 Beginning at a point between Secs. 13 and 18, T. 8 N., R. 14 and 15 E., where the
38 Carson Pass Highway (State Sign Route 88) enters Sec. 18, T. 8 N., R. 15 E.; thence
39 northeasterly along the south side of State Highway 88 right of way to the Bear
40 River Road in Section 12, T. 8 N., R. 15 E.; thence southeasterly along the westerly
41 side of said road to the junction of the Ham's Spring and Cole Creek Roads in
42 Section 20, T. 8 N., R. 16 E.; thence southeasterly along the westerly side of the

1 Cole Creek Road to its termination at the P. G. & E. penstock in Section 33, T. 8
2 N., R. 16 E.; thence southerly along the westerly side of said penstock to its
3 intersection with the Mokelumne River; thence down the north bank of the
4 Mokelumne River in a southwesterly direction to the intersection of range line
5 between T. 7 N., R. 14 and 15 E.; thence north along range line between T. 8 N., R.
6 14 and 15 E., to the intersection of State Sign Route 88 to the place of beginning.

7 **Comment.** The first paragraph of Section 10826 is amended to clarify that the area described in
8 the section is a game refuge, and not a fish and game district. See also Section 10820.

9 **Fish & Game Code § 10827 (amended). Game Refuge 1N**

10 SEC. _____. Section 10827 of the Fish and Game Code is amended to read:

11 10827. The following constitutes ~~Fish and Game District~~ Game Refuge 1N: All
12 that area within the Counties of Siskiyou and Modoc within the following
13 boundaries:

14 Beginning at the junction of the Lava Ranger Station Road and the Egg Lake-
15 Quaking Asp Road, thence following westerly and northerly the northerly and
16 easterly side of said Lava Ranger Station Road to its junction with the Medicine
17 Lake-Quaking Asp Road near the northwest corner of Sec. 18, T. 42 N., R. 5 E.,
18 thence easterly and southerly following the southerly and westerly side of the
19 Medicine Lake-Quaking Asp-Egg Lake Road to the point of beginning.

20 **Comment.** The first paragraph of Section 10827 is amended to clarify that the area described in
21 the section is a game refuge, and not a fish and game district. See also Section 10820.

22 **Fish & Game Code § 10828 (amended). Game Refuge 1P**

23 SEC. _____. Section 10828 of the Fish and Game Code is amended to read:

24 10828. The following constitutes ~~Fish and Game District~~ Game Refuge 1P: All
25 that area within the County of Plumas, within the following boundaries:

26 Beginning at the junction of the Milford-Beckwourth Road and the Last Chance-
27 Doyle Road, thence following the easterly side of said Milford-Beckwourth Road
28 to its junction with the Dixie Valley-Frenchman's Cove Road; thence following the
29 easterly side of the Dixie Valley-Frenchman's Cove Road to its junction with the
30 Little Last Chance Road; thence following the westerly side of the Little Last
31 Chance Road to its junction with the Last Chance-Doyle Road; thence following the
32 westerly side of the Last Chance-Doyle Road to the place of beginning.

33 **Comment.** The first paragraph of Section 10828 is amended to clarify that the area described in
34 the section is a game refuge, and not a fish and game district. See also Section 10820.

35 **Fish & Game Code § 10829 (amended). Game Refuge 1R**

36 SEC. _____. Section 10829 of the Fish and Game Code is amended to read:

37 10829. The following constitutes ~~Fish and Game District~~ Game Refuge 1R: All
38 that area within the County of Tuolumne within the following boundaries:

39 Beginning at the junction of the North Fork of the Stanislaus River and the Middle
40 Fork of the Stanislaus River; thence easterly following the northerly bank of said

1 Middle Fork of the Stanislaus River to the mouth of the Shu-fly Creek,
2 approximately in Sec. 9, T. 5 N., R. 18 E.; thence northerly following the westerly
3 bank of said creek to its junction with Whit's Basin Creek; thence westerly
4 following the southerly and westerly bank of said Whit's Basin Creek to its junction
5 with the Sands Meadow Trail in Sec. 36, T. 6 N., R. 17 E.; thence northwesterly
6 following said Sands Meadow Trail to its junction with the Government Truck Trail
7 in Sec. 23, T. 6 N., R. 17 E.; thence westerly following said Truck Trail to Liberty
8 Hill; thence following said Government Truck Trail westerly and southerly to its
9 junction with the Boards Crossing-Beaver Creek Camp Road; thence northerly
10 following said Boards Crossing-Beaver Creek Camp Road to Boards Crossing on
11 the North Fork of the Stanislaus River; thence downstream following the easterly
12 bank of said North Fork of the Stanislaus River to the point of beginning

13 **Comment.** The first paragraph of Section 10829 is amended to clarify that the area described in
14 the section is a game refuge, and not a fish and game district. See also Section 10820.

15 **Fish & Game Code § 10830 (amended). Game Refuge 1S**

16 SEC. _____. Section 10830 of the Fish and Game Code is amended to read:

17 10830. The following constitutes ~~Fish and Game District~~ Game Refuge 1S: All
18 that area lying within the County of Lassen within the following boundaries:

19 Beginning at the old Haydenhill Post Office in the approximate center of Sec. 36,
20 T. 37 N., R. 9 E.; thence following westerly along the old Juniper Road through
21 Windmill Flat to the junction of the Summit Spring Road near Meyers Spring;
22 thence south through Lost Valley along the Lost Valley-Dixie Valley Road to the
23 junction of the Dixie Valley-Grasshopper Road; thence east to the junction of the
24 old Haydenhill-Slate Creek Road located approximately in Sec. 24, T. 35 N., R. 9
25 E.; thence north along the Haydenhill-Slate Creek Road to the place of beginning.

26 **Comment.** The first paragraph of Section 10830 is amended to clarify that the area described in
27 the section is a game refuge, and not a fish and game district. See also Section 10820.

28 **Fish & Game Code § 10831 (amended). Game Refuge 1V**

29 SEC. _____. Section 10831 of the Fish and Game Code is amended to read:

30 10831. The following constitutes ~~Fish and Game District~~ Game Refuge 1V: ~~all~~
31 All that area within the County of Plumas within the following boundaries:

32 Beginning at the intersection of U. S. Alternate 40 Highway and U. S. Forest
33 Service Road 24N12; thence following northerly the easterly side of U. S. Forest
34 Service Road 24N12 to its intersection with U. S. Forest Service Road 24N10;
35 thence easterly following the southerly side of U. S. Forest Service Road 24N10 to
36 its intersection with U. S. Forest Service Road 24N07 (Relocated); thence easterly
37 following the southerly side of U. S. Forest Service Road 24N07 (Relocated) to its
38 intersection with U. S. Forest Service Road 25N08; thence southerly on the westerly
39 side of U. S. Forest Service Road 25N08 to its intersection with U. S. Alternate 40
40 Highway; thence westerly along the northerly side of U. S. Alternate 40 Highway
41 to the point of beginning.

1 **Comment.** The first paragraph of Section 10831 is amended to clarify that the area described in
2 the section is a game refuge, and not a fish and game district. See also Section 10820.

3 **Fish & Game Code § 10832 (amended). Game Refuge 2A**

4 SEC. _____. Section 10832 of the Fish and Game Code is amended to read:

5 10832. The following constitutes ~~Fish and Game District~~ Game Refuge 2A: All
6 that area within the Counties of Mendocino, Lake, and Glenn within the following
7 boundaries:

8 Beginning at the summit of Hull Mountain in Mendocino County, in the southwest
9 corner of Sec. 2, T. 19 N., R. 10 W.; thence in a northeasterly direction down Hull
10 Creek (sometimes known as Red Rock Creek) to its junction with Sand Creek;
11 thence southeasterly down Sand Creek to its junction with Corbin Creek, thence in
12 an easterly direction up Corbin Creek to Sec. 36, T. 20 N., R. 8 W.; thence in a
13 southerly direction up a ravine to the Pacific Crest Road (24N02) on the summit of
14 the Coast Range Mountains in Sec. 12, T. 19 N., R. 8 W.; thence southwesterly
15 along the Pacific Crest Road (24N02) to Low Gap, where the Bloody Rock trail
16 crosses the summit in Sec. 27, T. 19 N., R. 8 W.; thence in a westerly direction down
17 the Bloody Rock trail and Cold Creek to South Eel River in Sec. 26, T. 19 N., R. 9
18 W.; thence down the river to the mouth of a ravine in the SE ¼ of Sec. 27, T. 19 N.,
19 R. 9 W.; thence in a northwesterly direction up the ravine through Secs. 27 and 28
20 to the summit of Boardman Ridge; thence in a northwesterly direction up Boardman
21 Ridge to the summit of Hull Mountain to the point of beginning.

22 **Comment.** The first paragraph of Section 10832 is amended to clarify that the area described in
23 the section is a game refuge, and not a fish and game district. See also Section 10820.

24 **Fish & Game Code § 10833 (amended). Game Refuge 2B**

25 SEC. _____. Section 10833 of the Fish and Game Code is amended to read:

26 10833. The following constitutes ~~Fish and Game District~~ Game Refuge 2B, the
27 Mount Tamalpais Game Refuge: All that area within the County of Marin within
28 the following boundaries:

29 Beginning at the intersection of the easterly shore of inner Bolinas Bay with the
30 northwesterly boundary line extended, of the Stinson ranch conveyed to A. H.
31 Stinson et al., by decree of distribution dated the 28th of July, 1911; thence
32 northwesterly along the said northwesterly boundary line to the southwesterly
33 boundary line of the lands of the Marin municipal water district on the crest of
34 Bolinas Ridge; thence northeasterly, northwesterly, and easterly along the westerly
35 and northerly boundary line of the watershed lands of the said water district to its
36 intersection with the southwesterly corner of the Rancho Canada de Herrera; thence
37 north 14 degrees west along the westerly line of said Rancho Canada de Herrera to
38 the southwesterly corner of the Bothin real estate property; thence in an easterly
39 direction along the southerly line of the said Bothin property to its intersection with
40 the westerly boundary line of the town of Fairfax; thence in a general southerly
41 direction along the westerly boundary of the said town of Fairfax to its intersection

1 with the southerly boundary line of the said Rancho Canada de Herrera; thence
2 northerly 83 degrees 15 minutes east along said southerly line 3,200 feet, more or
3 less, to its intersection with the southeasterly line of the county road leading from
4 Fairfax to Bolinas; thence northerly along said road and along the Fairfax-Bolinas
5 County Road to a point in the southerly line of the right of way of the Northwestern
6 Pacific Railroad Company near Fairfax station; thence along the said last-mentioned
7 line in a southerly direction following the westerly line of said railroad right of way
8 to its intersection with the southerly line of the road or highway immediately south
9 of Alto station; thence following the southerly side of said Alto-Belvedere Road and
10 state highway easterly to its intersection with the northwesterly line of the Town of
11 Belvedere; thence following the northwesterly line of the Town of Belvedere
12 southwesterly to its extreme westerly corner; thence in a direct line to the extreme
13 northerly corner of the Town of Sausalito; thence southwesterly along the
14 northwesterly line of the Town of Sausalito to its intersection with the Northwestern
15 Pacific Railroad; thence following the westerly line of the right of way of the
16 Northwestern Pacific railroad to Manzanita Station; thence southwesterly in a direct
17 line to the Mill Valley State Highway; thence westerly along the said highway to its
18 intersection with Tennessee Avenue; thence following the southerly and easterly
19 line of Tennessee Avenue, westerly and southerly, to the corner common to ranches
20 E, F, and A, as said ranches are delineated on the Tamalpais Land and Water
21 Company's map No. 3; thence southwesterly along the southeasterly boundary lines
22 of ranches E, L, and K, as shown on the said last-mentioned map, to the shore of the
23 Pacific Ocean; thence northwesterly along the shore of the Pacific Ocean and across
24 the easterly end of the Bolinas sandspit, and along the easterly shore of inner Bolinas
25 Bay, to the point of beginning, excepting from the area of said Mount Tamalpais
26 Game Refuge all lands lying within incorporated areas.

27 **Comment.** The first paragraph of Section 10833 is amended to clarify that the area described in
28 the section is a game refuge, and not a fish and game district. See also Section 10820.

29 **Fish & Game Code § 10835 (amended). Game Refuge 3F**

30 SEC. _____. Section 10835 of the Fish and Game Code is amended to read:

31 10835. The following constitutes ~~Fish and Game District~~ Game Refuge 3F: All
32 that area within the County of Contra Costa described as follows:

33 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.,
34 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
35 12 of T. 1 S., R. 1 W.

36 **Comment.** The first paragraph of Section 10835 is amended to clarify that the area described in
37 the section is a game refuge, and not a fish and game district. See also Section 10820.

38 **Fish & Game Code § 10836 (amended). Game Refuge 3G**

39 SEC. _____. Section 10836 of the Fish and Game Code is amended to read:

40 10836. The following constitutes ~~Fish and Game District~~ Game Refuge 3G:

1 All those lands of the Leland Stanford Junior University within the Counties of
2 San Mateo and Santa Clara, and consisting of lots numbers 1 to 33, inclusive; that
3 portion of lots 35 and 42 lying outside of the town limits of the town of Mayfield;
4 lots 36, 43, 46 to 75, inclusive; 80 to 86, inclusive; 89 to 98, inclusive, as shown on
5 the map entitled “map of the lands of the Leland Stanford Junior University at or
6 near the site of the university in the Counties of Santa Clara and San Mateo, by A.
7 T. and F. A. Herrmann of Herrmann Bros.,” dated November, 1908, recorded in the
8 Office of the County Recorder of the County of Santa Clara.

9 **Comment.** The first paragraph of Section 10836 is amended to clarify that the area described in
10 the section is a game refuge, and not a fish and game district. See also Section 10820.

11 **Fish & Game Code § 10837 (amended). Game Refuge 4D**

12 SEC. _____. Section 10837 of the Fish and Game Code is amended to read:

13 10837. The following constitutes ~~Fish and Game District~~ Game Refuge 4D: All
14 that area within the County of Riverside described as follows:

15 Beginning at the intersection of State Highway 74 and Highway 111 in Section
16 20, T. 5 S., R. 6 E., S.B.B. & M.;

17 Thence northwesterly on State Highway 111 to its intersection with the south bank
18 of the Palm Canyon wash and the east boundary of Section 25, T. 4 S., R. 4 E.,
19 S.B.B. & M.;

20 Thence southwesterly and southerly along east bank of Palm Canyon wash
21 through said Section 25, Sections 36 and 35, T. 4 S., R. 4 E., S.B.B. & M. and
22 Sections 2, 11, 14, 23, 25 and 36, T. 5 S., R. 4 E., S.B.B. & M.;

23 Thence continuing along the east bank of said Palm Canyon wash through
24 Sections 1, 12, 13, T. 6 S., R. 4 E., and continuing through Sections 18, 19, 30 and
25 31, T. 6 S., R. 5 E., to a point of intersection with Omstott Creek;

26 Thence along the north bank Omstott Creek through Section 31, T. 6 S., R. 5 E.,
27 and continuing through Sections 5, 4, 9, 10, T. 7 S., R. 5 E., to the north line of said
28 State Highway 74;

29 Thence easterly along north line of said Highway 74 to a point of intersection with
30 the north line Section 12, T. 7 S., R. 5 E.;

31 Thence east along north line of said Section 12 to the northeast corner of said
32 Section 12;

33 Thence south along the easterly boundary of Sections 12, 13, 24, 25 and 36, T. 7
34 S., R. 5 E.; and the easterly boundary of Section 1, T. 8 S., R. 5 E., to the point of
35 intersection with the southwesterly corner of Section 31, T. 7 S., R. 6 E.;

36 Thence east and along the southerly boundary of said Section 31 and Sections 32,
37 33, 34 and 35, to the southeast corner of Section 36, T. 7 S., R. 6 E.;

38 Thence north along the easterly boundary of Sections 36, 25, 24, 13 and 12 to the
39 northeast corner of Section 1, T. 7 S., R. 6 E.;

40 Thence west along the north line of said Section 1 to the southeast corner of
41 Section 36, T. 6 S., R. 6 E.;

1 Thence north along the east line of said Section 36, Sections 25, 24 and 13 to the
2 southwest corner of Section 7, T. 6 S., R. 7 E.;

3 Thence east along the south line of said Section 7 to the southeast corner thereof;

4 Thence north along the east line of said Section 7 and Section 6 of said T. 6 S., R.
5 7 E., to the northeast corner of said Section 6;

6 Thence west along the north line of said Section 6 of said T. 6 S., R. 7 E. to
7 Marshall Street;

8 Thence north along Marshall Street and on the $\frac{1}{4}$ section line of Sections 31 and
9 30, T. 5 S., R. 7 E. to Highway 111;

10 Thence westerly along Highway 111 to the point of beginning.

11 **Comment.** The first paragraph of Section 10837 is amended to clarify that the area described in
12 the section is a game refuge, and not a fish and game district. See also Section 10820.

13 **Fish & Game Code § 10838 (amended). Game Refuge 4G**

14 SEC. _____. Section 10838 of the Fish and Game Code is amended to read:

15 10838. The following constitutes ~~Fish and Game District~~ Game Refuge 4G:

16 Beginning at the northeast corner of T. 4 S., R. 3 E., S. B. B. & M.;

17 Thence on section lines, west one mile, north one mile, west two miles, north one
18 mile and west three miles to the northwest corner of Sec. 30, T. 3. S., R. 3 E., S. B.
19 B. & M.;

20 Thence south on the range line between R. 2 and 3 E., about $7\frac{3}{4}$ miles to the crest
21 of the divide forming the northwesterly boundary of Strawberry Creek watershed;

22 Thence southwesterly along said divide to a point on the northerly boundary of
23 Sec. 28 in T. 5 S., R. 2 E., S. B. B. & M.;

24 Thence southwesterly in a straight line to the junction of Strawberry Creek and
25 the south fork of the San Jacinto River;

26 Thence southeasterly and northeasterly along the crest of the divide between the
27 waters of Dry Creek, a tributary of Strawberry Creek, and the waters of the south
28 fork of the San Jacinto River and its tributaries to the northeasterly side of the right
29 of way of the Pines to Palms Highway;

30 Thence southeasterly along the said northeasterly side of the right of way of the
31 Pines to Palms Highway to the right bank of Hurkey Creek;

32 Thence northerly along the right bank of Hurkey Creek through Secs. 9 and 4 in
33 T. 6 S., R. 3 E., and through Secs. 33, 28, 21, the southeast quarter of Sec. 16, the
34 west one-half of Sec. 15, the east half of Sec. 10 and the northwest quarter of Sec.
35 11 to the crest of the divide between the waters of Hurkey Creek and Murray
36 Canyon;

37 Thence southeasterly along the crest of the divide between the waters flowing
38 west into the San Jacinto River and the waters flowing east into Coachella Valley
39 to a point on the south boundary of Sec. 24 in T. 5 S., R. 3 E., S. B. B. & M.;

40 Thence east on said south line of Sec. 24 to the southeast corner thereof. Thence
41 north on the range line to the point of beginning.

1 **Comment.** The first paragraph of Section 10838 is amended to clarify that the area described in
2 the section is a game refuge, and not a fish and game district. See also Section 10820.

3 **Fish & Game Code § 10842 (amended). Game Refuge 1K**

4 SEC. _____. Section 10842 of the Fish and Game Code is amended to read:

5 10842. The following constitutes ~~Fish and Game District~~ Game Refuge 1K, the
6 Johnsville Game Refuge: All that area within the County of Plumas within the
7 following boundaries:

8 Beginning at the North $\frac{1}{4}$ corner of Section 24, T. 22 N., R. 11 E., M. D. M.;
9 thence North $89^{\circ} 39' 25''$ East 334.93 feet; thence South $0^{\circ} 08' 47''$ East 418.08 feet;
10 thence South $89^{\circ} 48' 44''$ West 167.37 feet; thence South $0^{\circ} 09' 33''$ East 668.15
11 feet; thence South $89^{\circ} 59' 48''$ West 496.21 feet; thence South $0^{\circ} 09' 15''$ East 83.34
12 feet; thence South $89^{\circ} 58' 24''$ West 164.51 feet; thence South $0^{\circ} 08' 41''$ East 83.31
13 feet; thence South $89^{\circ} 59' 14''$ West 82.26 feet; thence South $0^{\circ} 08' 24''$ East 83.29
14 feet; thence North $89^{\circ} 59' 55''$ West 82.26 feet; thence South $0^{\circ} 03' 55''$ East 83.09
15 feet; thence North $89^{\circ} 51' 34''$ West 82.43 feet; thence South $0^{\circ} 03' 58''$ East 83.05
16 feet; thence North $89^{\circ} 50' 14''$ West 82.42 feet; thence South $0^{\circ} 03' 30''$ East 331.95
17 feet; thence North $89^{\circ} 46' 07''$ West 329.53 feet; thence North $0^{\circ} 03' 37''$ West
18 331.59 feet; thence South $89^{\circ} 49' 39''$ East 164.68 feet; thence North $0^{\circ} 04' 08''$
19 West 165.91 feet; thence North $0^{\circ} 04' 47''$ West 498.64 feet; thence South $89^{\circ} 57'$
20 $00''$ West 164.57 feet; thence North $0^{\circ} 04' 11''$ West 184.90 feet; thence North 69°
21 $21' 49''$ East 175.25 feet; thence North $0^{\circ} 05' 22''$ West 584.25 feet; thence North
22 $89^{\circ} 43' 00''$ East 985.90 feet to the point of beginning.

23 **Comment.** The first paragraph of Section 10842 is amended to clarify that the area described in
24 the section is a game refuge, and not a fish and game district. See also Section 10820.

25 **Fish & Game Code § 10843 (amended). Farallon Islands Game Refuge**

26 SEC. _____. Section 10843 of the Fish and Game Code is amended to read:

27 10843. (a) 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 (b) Section 10513 shall have no application in this refuge.

32 (c) Notwithstanding the provisions of Section 10500, persons on commercial
33 vessels may possess unloaded firearms when traveling through the navigable waters
34 of this refuge. Fishermen, however, may not take any seal or sea lion while in this
35 refuge, notwithstanding the provisions of Section 4500 ~~or 4500.5~~.

36 **Comment.** Section 10843 is amended to delete a cross-reference to former Section 4500.5 as
37 obsolete.

38 The section is also amended to add subdivision designations.

39 **Fish & Game Code § 10844 (amended). Education and outreach**

40 SEC. _____. Section 10844 of the Fish and Game Code is amended to read:

1 10844. (a) The department shall undertake appropriate education and outreach
2 regarding the current location of existing game refuges, agency contacts for
3 statutory notices in Sections 10506 and 10507, and the potential closure of all state
4 game refuges, except the California Sea Otter Game Refuge and the Farallon Islands
5 Game Refuge.

6 (b) The department shall provide an opportunity for public comment concerning
7 the potential elimination of game refuges.

8 (c) The department shall provide information about game refuge boundaries,
9 including, but not limited to, maps available both on the department's Internet Web
10 site and in hardcopy format.

11 (d) The department shall also provide Internet Web site contact information for
12 the public to contact the department in accordance with state law.

13 (e) The department may conduct regional workshops as it determines to be
14 necessary to provide public information about the proposed elimination of game
15 refuges.

16 ~~(b) The department, on or before January 1, 2011, shall prepare and submit to the~~
17 ~~Legislature a description of the public education and outreach effort undertaken~~
18 ~~pursuant to subdivision (a), and a summary of any information provided by the~~
19 ~~public that is relevant to the potential closure of all state game refuges except the~~
20 ~~California Sea Otter Game Refuge and the Farallon Islands Game Refuge.~~

21 Comment. Section 10844 is amended to delete subdivision (b) of the section as obsolete.
22 The section is also amended to add new subdivision designations.

23 **Fish & Game Code § 10860 (amended). Waterfowl refuges**

24 SEC. _____. Section 10860 of the Fish and Game Code is amended to read:

25 10860. ~~The following districts are~~ area described in this article is a waterfowl
26 refuges refuge.

27 **Comment.** Section 10860 is amended to distinguish the waterfowl refuge identified as a
28 "district" in Division 7 from the Fish and Game Districts identified in Division 8.

29 **Fish & Game Code § 10880 (amended). Quail refuges**

30 SEC. _____. Section 10880 of the Fish and Game Code is amended to read:

31 10880. ~~The following districts are~~ area described in this article is a quail refuges
32 refuge.

33 **Comment.** Section 10880 is amended to distinguish quail refuges identified as "districts" in
34 Division 7 from the Fish and Game Districts identified in Division 8.

35 **Fish & Game Code § 11018 (amended). District 10**

36 SEC. _____. Section 11018 of the Fish and Game Code is amended to read:

37 11018. The following constitutes Fish and Game District 10:

38 The ocean waters and the tidelands of the State to high-water mark lying between
39 the southern boundary of Mendocino County and a line extending west from the
40 Pigeon Point lighthouse in San Mateo County, including the waters of Tomales Bay

1 to a line drawn from the mouth of the unnamed creek approximately 1500 feet north
2 of Tomasini Point southwesterly 218° magnetic to the mouth of the unnamed creek
3 at Shell Beach, and excluding Bodega Lagoon and all that portion of Bolinas Bay
4 lying inside of Bolinas bar, that portion of San Francisco Bay lying east of a line
5 drawn from Point Bonita to Point Lobos and all rivers, streams, and lagoons.

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

9 **Comment.** Section 11018 is amended to delete an obsolete provision.

10 **Fish & Game Code § 12001.5 (amended). Specified punishments**

11 SEC. _____. Section 12001.5 of the Fish and Game Code is amended to read:

12 12001.5. (a) In addition to any other penalty or fine imposed pursuant to this code,
13 if a person has been convicted of one or more offenses that was a violation of a
14 section listed in subdivision (b) separate from the offense before the court, the court
15 may order as a condition of probation upon conviction of the offense before the
16 court that is also a violation of a section listed in subdivision (b), that the person
17 attend the hunter education course designated in Section 3051 and perform
18 community service, preferably relating to natural resources if that type of
19 community service is available, as follows:

20 (1) If the person has one separate conviction, not more than 200 hours of
21 community service.

22 (2) If the person has two or more separate convictions, not more than 300 hours
23 of community service.

24 (b) This section applies to violations relating to a taking in Sections 3007, ~~3700~~
25 3700.1, 4330, and 4750, and a sale or purchase of parts of a bear in Section 4758.

26 **Comment.** Section 12001.5 is amended to update a cross-reference to a repealed code section.

27 **Fish & Game Code § 12002 (amended). Specified punishments**

28 SEC. _____. Section 12002 of the Fish and Game Code is amended to read:

29 12002. (a) Unless otherwise provided, the punishment for a violation of this code
30 that is a misdemeanor is a fine of not more than one thousand dollars (\$1,000),
31 imprisonment in a county jail for not more than six months, or by both that fine and
32 imprisonment.

33 (b) The punishment for a violation of any of the following provisions is a fine of
34 not more than two thousand dollars (\$2,000), imprisonment in a county jail for not
35 more than one year, or both the fine and imprisonment:

36 (1) Section 1059.

37 (2) Subdivision (b) of Section 4004.

38 (3) Section 4600.

39 (4) Paragraph (1) or (2) of subdivision (a) of Section 5650.

40 (5) A first violation of Section 8670.

41 (6) Section 10500.

1 (7) Unless a greater punishment is otherwise provided, a violation subject to
2 subdivision (a) of Section 12003.1.

3 (c) Except as specified in Sections 12001 and 12010, the punishment for violation
4 of Section 3503, 3503.5, 3513, or 3800 is a fine of not more than five thousand
5 dollars (\$5,000), imprisonment in the county jail for not more than six months, or
6 by both that fine and imprisonment.

7 (d)(1) A license, tag, stamp, reservation, permit, or other entitlement or privilege
8 issued pursuant to this code to a defendant who fails to appear at a court hearing for
9 a violation of this code, or who fails to pay a fine imposed pursuant to this code,
10 shall be immediately suspended or revoked. The license, tag, stamp, reservation,
11 permit, or other entitlement or privilege shall not be reinstated or renewed, and no
12 other license, tag, stamp, reservation, permit, or other entitlement or privilege shall
13 be issued to that person pursuant to this code, until the court proceeding is completed
14 or the fine is paid.

15 (2) This subdivision does not apply to any violation of Section 1052, 1059, 1170,
16 5650, ~~5653.9~~, 6454, 6650, or 6653.5.

17 **Comment.** Paragraph (2) of subdivision (d) of Section 12002 is amended to delete an erroneous
18 cross-reference.

19 **Fish & Game Code § 12002.2.1 (amended). Punishments for specified offenses**

20 SEC. ____ . Section 12002.2.1 of the Fish and Game Code is amended to read:

21 12002.2.1. (a) Notwithstanding any other provision of law, a violation of any of
22 the following is an infraction, punishable by a fine of not less than fifty dollars (\$50),
23 or more than two hundred fifty dollars (\$250), for a first offense:

24 (1) Subdivision (a) of Section 6596.1.

25 (2) Subdivision (a) of Section 7149.45.

26 ~~(3) Subdivision (b) of Section 7180.1.~~

27 ~~(4) Section 1.18 of Title 14 of the California Code of Regulations.~~

28 (b) If a person is convicted of a violation of any of the sections listed in
29 subdivision (a) within five years of a separate offense resulting in a conviction of a
30 violation of any of those sections, that person shall be punished by a fine of not less
31 than one hundred dollars (\$100) or more than five hundred dollars (\$500).

32 (c) If a person convicted of a violation of any of the sections listed in subdivision
33 (a) produces in court the applicable ~~sport fishing ocean enhancement stamp~~, sport
34 fishing ocean enhancement validation, ~~second rod sport fishing stamp~~, second rod
35 sport fishing validation, ~~Colorado River special use stamp~~, or Colorado River
36 special use validation, ~~Bay Delta Sport Fishing Enhancement Stamp~~ or ~~Bay Delta~~
37 ~~Sport Fishing Enhancement validation~~ issued pursuant to this code and valid at the
38 time of the person's arrest, and if the taking was otherwise lawful with respect to
39 season, limit, time, and area, the court may reduce the fine imposed for the violation
40 to twenty-five dollars (\$25).

41 **Comment.** Section 12002.2.1 is amended to delete obsolete material.

1 **Fish & Game Code § 12002.4 (amended). Commercial boat registration suspension for**
2 **unlawful sale or purchase of fish**

3 SEC. ____ . Section 12002.4 of the Fish and Game Code is amended to read:

4 12002.4. (a) ~~Notwithstanding Sections 12000, 12001, and 12002, a~~ In addition to
5 any other applicable penalty, the commercial boat registration of a commercial
6 passenger fishing boat may be revoked or suspended by the commission, when
7 requested by the department, for a period not to exceed one year, upon conviction
8 of the registrant, or the registrant's agent, servant, employee, or any other person
9 acting under the registrant's direction or control, for a violation of Section 7121 or
10 ~~the regulations~~ a regulation adopted pursuant ~~thereto~~ to that section, if the violation
11 in question ~~involved a vessel licensed pursuant to Section 7920~~ involves that boat.

12 (b) ~~Notwithstanding Sections 12000, 12001, and 12002, a~~ In addition to any other
13 applicable penalty, the commercial boat registration of a ~~vessel licensed pursuant to~~
14 ~~Section 7920~~ commercial passenger fishing boat may be revoked or suspended by
15 the commission, when requested by the department, for a period not to exceed one
16 year, upon conviction of any ~~other~~ person other than the person specified in
17 subdivision (a), for a violation of Section 7121, if the fish or ~~amphibia~~ amphibians
18 involved in the violation were taken from ~~the vessel~~ that boat, and ~~that~~ the person
19 committing the violation had committed a prior violation of Section 7121 involving
20 that boat within the previous three years ~~on the vessel~~.

21 (c) ~~The~~ A commercial boat registration shall not be revoked under this section for
22 a violation ~~which is unrelated to the vessel for which the commercial boat~~
23 ~~registration is to be revoked. Any violation~~ committed without the knowledge of the
24 master, or an agent or employee of the registrant, ~~is unrelated to the vessel~~.

25 **Comment.** Section 12002.4 is amended for clarity. Principles of collateral estoppel may have
26 application to a license revocation or suspension proceeding under this section. *Cf. People v. Sims*
27 (1982) 32 Cal.3d 468, 651 P.2d 321, 186 Cal.Rptr. 77 (welfare fraud); *Gikas v. Zolin* (1993)
28 6 Cal.4th 841, 863 P.2d 745, 25 Cal.Rptr.2d 500 (driving under the influence).

29 **Fish & Game Code § 12002.5 (amended). Required possession of wildlife area pass**

30 SEC. ____ . Section 12002.5 of the Fish and Game Code is amended to read:

31 12002.5. (a) Notwithstanding subdivision (a) of Section 12002, a violation of
32 Section 1764 is an infraction, not a misdemeanor, punishable by a fine of not less
33 than one hundred dollars (\$100) and not more than five hundred dollars (\$500). If a
34 person convicted of a violation of Section 1764 is granted probation, the court shall
35 impose as a condition of probation that the person pay at least the minimum fine
36 prescribed in this subdivision.

37 (b) If a person is convicted of a violation of Section 1764 and produces in court a
38 valid wildlife area pass, the court may reduce the fine imposed for the violation of
39 Section 1764 to fifty dollars (\$50).

40 **Comment.** Subdivision (a) of Section 12002.5 is amended to clarify a cross-reference.

1 **Fish & Game Code § 12002.6 (amended). Suspension or revocation of registration for**
2 **specified violations**

3 SEC. _____. Section 12002.6 of the Fish and Game Code is amended to read:

4 12002.6. (a) ~~Notwithstanding Sections 12000, 12001, and 12002~~ In addition to
5 any other applicable penalty, a commercial boat registration may be revoked or
6 suspended by the commission, when requested by the department, for a period not
7 to exceed one year, upon the second conviction in three years of the registrant, or
8 the registrant's agent, servant, employee, or any other person acting under the
9 registrant's direction or control, for a violation of any of the following provisions or
10 regulations adopted pursuant thereto:

11 (1) Section 5521 or 5521.5.

12 (2) Article 2 (commencing with Section ~~8150~~ 8150.5), Article 3 (commencing
13 with Section 8180), Article 4 (commencing with Section ~~8210~~ 8210.2), Article 5
14 (commencing with Section 8250), Article 6 (commencing with Section 8275),
15 Article 9 (commencing with Section 8370), Article 13 (commencing with Section
16 8495), and Article 15 (commencing with Section 8550) of Chapter 2 of Part 3 of
17 Division 6.

18 (3) Article 1 (commencing with Section 8601), Article 2 (commencing with
19 Section ~~8620~~ 8623), Article 4 (commencing with Section 8660), Article 5
20 (commencing with Section ~~8685~~ 8680), Article 6 (commencing with Section 8720),
21 Article 7 (commencing with Section 8750), Article 8 (commencing with Section
22 8780), and Article 10 (commencing with Section 8830) of Chapter 3 of Part 3 of
23 Division 6.

24 (4) Article 1 (commencing with Section 9000) of Chapter 4 of Part 3 of Division
25 6.

26 (b) The commercial boat registration shall not be revoked unless both the first and
27 second convictions are related to the boat for which the commercial boat registration
28 is to be revoked, and are for violations ~~which~~ that occurred when the person
29 convicted was the registrant or the registrant's agent, servant, or employee, or acting
30 under the registrant's direction or control.

31 **Comment.** Section 12002.6 is amended for clarity, to make a technical correction, and to correct
32 four erroneous cross-references.

33 **Fish & Game Code § 12002.8 (amended). Revocation of commercial fishing license or**
34 **permit**

35 SEC. _____. Section 12002.8 of the Fish and Game Code is amended to read:

36 12002.8. (a) The court shall order the department to permanently revoke and the
37 department shall permanently revoke, the commercial fishing license and any
38 commercial fishing permits of any person convicted of either of the following:

39 (1) Taking or possessing abalone out of season.

40 (2) Taking or possessing abalone taken illegally from any area north of Point Sur.

41 (b) The court shall order the department to permanently revoke and the
42 department shall permanently revoke the commercial fishing license and any

1 commercial fishing permits of any person convicted of either of the following two
2 offenses, if the person possessed more than 12 abalone at the time of the offense:

3 (1) Removing abalone from the shell or possessing abalone illegally removed
4 from the shell.

5 (2) Taking or possessing abalone that are less than the minimum size.

6 (c) Any person sentenced pursuant to subdivision (a) or (b) shall not thereafter be
7 eligible for any license or permit to take or possess fish for sport or commercial
8 purposes.

9 (d) ~~Notwithstanding Sections 12000, 12001, and 12002~~ In addition to any other
10 applicable penalty, the commercial fishing license of the master of a vessel may be
11 revoked or suspended by the commission, when requested by the department, for a
12 period not to exceed one year, upon the second conviction in three years of the
13 master or the master's agent, servant, employee, or any other person acting under
14 the master's direction or control, for a violation of any of the following provisions
15 or regulations adopted pursuant thereto:

16 (1) Article 2 (commencing with Section 8150.5), Article 3 (commencing with
17 Section 8180), Article 4 (commencing with Section ~~8210~~ 8210.2), Article 5
18 (commencing with Section 8250), Article 6 (commencing with Section 8275),
19 Article 9 (commencing with Section 8370), Article 13 (commencing with Section
20 ~~8495~~ 8494), and Article 15 (commencing with Section 8550) of Chapter 2 of Part 3
21 of Division 6.

22 (2) Article 1 (commencing with Section 8601), Article 2 (commencing with
23 Section 8623), Article 4 (commencing with Section 8660), Article 5 (commencing
24 with Section 8680), Article 6 (commencing with Section 8720), Article 7
25 (commencing with Section 8750), Article 8 (commencing with Section 8780), and
26 Article 10 (commencing with Section 8830) of Chapter 3 of Part 3 of Division 6.

27 (3) Article 1 (commencing with Section 9000) of Chapter 4 of Part 3 of Division
28 6.

29 (e) A master's license shall not be revoked unless both the first and second
30 convictions are for a violation by the master or a violation occurring when the person
31 convicted was acting as the master's agent, servant, employee, or acting under the
32 master's direction or control.

33 (f) The master of a vessel is the person on board the vessel who is in charge of the
34 vessel.

35 **Comment.** Subdivision (d) of Section 12002.8 is amended for clarity.

36 Paragraph (1) of subdivision (d) is amended to correct two erroneous cross-references.

37 **Fish & Game Code § 12008.1 (amended). Punishment and disposition of fine or forfeiture**
38 **relating to endangered, threatened or candidate species**

39 SEC. _____. Section 12008.1 of the Fish and Game Code is amended to read:

40 12008.1. (a) Notwithstanding subdivision (a) of Section 12002 or Section 12008,
41 the punishment for any violation of Section 2080 or 2085 is a fine of not less than
42 twenty-five thousand dollars (\$25,000) or more than fifty thousand dollars

1 (\$50,000) for each violation, or imprisonment in the county jail for not more than
2 one year, or ~~by~~ both that fine and imprisonment.

3 (b) Notwithstanding any other law, the moneys collected from any fine or
4 forfeiture imposed or collected for violating Chapter 1.5 (commencing with Section
5 2050) of Division 3 shall be deposited as follows:

6 (1) One-half in the Endangered Species Permitting Account established pursuant
7 to Section 2081.2.

8 (2) One-half in the county treasury of the county in which the violation occurred.
9 The board of supervisors shall first use revenues pursuant to this subdivision to
10 reimburse the costs incurred by the district attorney or city attorney in investigating
11 and prosecuting the violation. Any excess revenues may be expended in accordance
12 with Section 13103.

13 **Comment.** Subdivision (a) of Section 12008.1 is amended to clarify a cross-reference.

14 Subdivision (a) is also amended to make two technical corrections.

15 **Fish & Game Code § 12010 (amended). Birds of prey**

16 SEC. _____. Section 12010 of the Fish and Game Code is amended to read:

17 12010. ~~(a)~~ Notwithstanding Section 12002, the maximum punishment for each
18 violation of Section 3503.5 relating to a bird-of-prey that is either designated as
19 endangered, threatened, or fully protected, or taken from the wild and subsequently
20 reported to the department as having been bred in captivity, is a fine of five thousand
21 dollars (\$5,000) or imprisonment in the county jail for a period of not to exceed one
22 year, or both the fine and imprisonment.

23 ~~(b) Notwithstanding Section 12002, the maximum punishment for a violation of~~
24 ~~Section 3503.5 relating to any bird of prey that was taken from the wild and that~~
25 ~~is subsequently reported to the department as having been bred in captivity is a fine~~
26 ~~of five thousand dollars (\$5,000) or imprisonment in the county jail for a period of~~
27 ~~not to exceed one year, or both the fine and imprisonment.~~

28 **Comment.** Section 12010 is amended to eliminate duplicative text.

29 **Fish & Game Code § 12017 (amended). Deposit of specified funds**

30 SEC. _____. Section 12017 of the Fish and Game Code is amended to read:

31 12017. (a) Notwithstanding subdivision (a) of Section 13001, any recovery or
32 settlement of money received pursuant to the following sections shall be deposited
33 in the Fish and Wildlife Pollution Account:

34 (1) Section 2014.

35 (2) Article 1 (commencing with Section 5650) of Chapter 2 of Part 1 of Division
36 6.

37 (3) Section 12015 or 12016.

38 (4) Chapter 4 (commencing with Section 151) of Division 1.5 of the Harbors and
39 Navigation Code.

40 (5) Section 13442 of the Water Code.

41 (6) Proceeds or recoveries from pollution and abatement actions.

1 (b) Moneys in the account are continuously appropriated to the department,
2 except as provided in Section 13230.

3 (c) Funds in the account shall be expended for the following purposes:

4 (1) Abatement, cleanup, and removal of pollutants from the environment.

5 (2) Response coordination, planning, and program management.

6 (3) Resource injury determination.

7 (4) Resource damage assessment.

8 (5) Economic valuation of resources.

9 (6) Restoration or rehabilitation at sites damaged by pollution.

10 (d) Notwithstanding subdivision (c), funds in the account in excess of one million
11 dollars (\$1,000,000) as of July 1 of each year may also be expended for the
12 preservation of California plants, wildlife, and fisheries.

13 (e) Funds in the account may be expended for cleanup and abatement if a
14 reasonable effort has been made to have the responsible party pay cleanup and
15 abatement costs and funds are not available for disbursement from the emergency
16 reserve account of the Toxic Substances Control Account in the General Fund
17 pursuant to Section 78875 of the Health and Safety Code.

18 (f) The department may use funds in the account to pay the costs of consultant
19 contracts for resource injury determination or damage assessment during hazardous
20 material or oil spill emergencies. These contracts are not subject to Part 2
21 (commencing with Section 10100) of Division 2 of the Public Contract Code.

22 **Comment.** Subdivision (a) of Section 12017 is amended to correct an overbroad cross-reference.

23 **Fish & Game Code § 12020 (amended). Failure to appear is misdemeanor**

24 SEC. _____. Section 12020 of the Fish and Game Code is amended to read:

25 12020. Any person who is charged with a violation of this code or a regulation
26 adopted pursuant to this code, who willfully ~~violating his~~ violates their written
27 promise to appear in court, or before a person authorized to receive a deposit of bail,
28 is guilty of a misdemeanor, regardless of the disposition of the charge upon which
29 he the person was originally arrested.

30 **Comment.** Section 12020 is amended to clarify its application to violations of the Fish and Game
31 Code or regulations adopted pursuant to that code.

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

33 **Fish & Game Code § 12023 (amended). Specified punishments**

34 SEC. _____. Section 12023 of the Fish and Game Code is amended to read:

35 12023. (a) Notwithstanding ~~Section~~ Sections 12002 and 12007, any person who
36 violates Section 6400 through the use of an aquatic nuisance species, as defined in
37 Section 6431, is guilty of a misdemeanor, punishable by all of the following:

38 (1) Imprisonment in the county jail for not less than six months or more than one
39 year, a fine of not more than fifty thousand dollars (\$50,000) for each violation, or
40 both that imprisonment and fine.

1 (2) Revocation of all of the defendant’s licenses and permits issued pursuant to
2 this code.

3 (b) A person who personally or through another violates Section 6400, through
4 the use of an aquatic nuisance species, is liable to the owner of any privately or
5 publicly owned property for any damages to that property caused by the violation.
6 A person who violates Section 6400 through the use of an aquatic nuisance species
7 shall also be liable for all monetary damages directly, indirectly, and proximately
8 caused thereby, including, but not limited to, damages to any commercial fishery,
9 sport fishery, or to the public communities which depend upon those fisheries for a
10 portion of their annual income. The Attorney General may file a civil action on
11 behalf of the fisheries or communities that are damaged as a result of the violation.
12 In addition, a private citizen who suffers damages as a result of the violation may
13 file a civil action against the violator.

14 (c) A person who allows an aquatic nuisance species to escape from ~~his or her~~
15 their property to the property of another, whether privately or publicly owned, is
16 liable to the owner of the intruded upon property for any damages caused by the
17 species.

18 (d) This section shall not apply to the placement of any live fish, any fresh or salt
19 water animal, or any aquatic plant from the discharge or exchange of ballast water
20 from any vessel as defined by Section 21 of the Harbors and Navigation Code.

21 (e) This section does not apply to the placement of an aquatic plant by a person
22 who was unaware that ~~he or she was~~ they were in possession of the plant. This
23 exception includes circumstances in which a plant becomes unknowingly and
24 temporarily attached or affixed to a boat, boat trailer, or boat motor.

25 **Comment.** Subdivision (a) of Section 12023, which specifies punishment for a violation of
26 Section 6400, is amended to reconcile its relationship with Sections 12002 and 12007, which also
27 specify punishment for a violation of Section 6400.

28 Subdivisions (c) and (e) are revised to eliminate gendered pronouns.

29 **Fish & Game Code § 12153 (amended). License forfeiture**

30 SEC. _____. Section 12153 of the Fish and Game Code is amended to read:

31 12153. A commercial fishing license is forfeited for the violation of Sections
32 1050.1 to ~~1060~~ 1059, inclusive, or Section 2012, or of any of the provisions of this
33 code relating to the use of nets.

34 **Comment.** Section 12153 is amended to delete reference to a repealed and discontinued cross-
35 reference.

36 **Fish & Game Code § 13011 (amended). Deposit of specified funds**

37 SEC. _____. Section 13011 of the Fish and Game Code is amended to read:

38 13011. The state portion of any recovery or settlement of money damages
39 received pursuant to any citation or charges brought under the following sections by
40 the people by or through any state or local public entity shall be deposited in the
41 following subaccounts:

1 (a) Administrative and judicially imposed fines, penalties, or punitive damages
2 resulting from either civil or criminal action or administrative civil liability for
3 violations of the oil and petroleum product control and discharge provisions of this
4 code, including, but not limited to, Sections 2014, 12011, and 12016, Chapter 6.5
5 (commencing with Section 2580) of Division 3, and Chapter 2 (commencing with
6 Section ~~5600~~ 5650) of Part 1 of Division 6, shall be deposited in the Oil Pollution
7 Administration Subaccount or the Oil Pollution Response and Restoration
8 Subaccount as determined by administrative or judicial settlement, or as provided
9 by law.

10 (b) Administrative and judicially imposed fines, penalties, or punitive damages
11 resulting from either criminal or administrative civil liability for violations of
12 hazardous materials and other pollution laws including, but not limited to, Sections
13 2014 and 12016, and Chapter 6.5 (commencing with Section 2580) of Division 3,
14 and Part 1 (commencing with Section 5500) of Division 6, shall be deposited in the
15 Hazardous Materials Administration Subaccount or the Hazardous Materials
16 Response and Restoration Subaccount as determined by administrative or judicial
17 settlement or as provided by law.

18 **Comment.** Subdivision (a) of Section 13011 is amended to correct an erroneous cross-reference.
19 The section is also amended to make technical corrections.

20 **Fish & Game Code § 13013 (amended). Prudent reserve**

21 SEC. ____ . Section 13013 of the Fish and Game Code is amended to read:

22 13013. (a) Appropriations from either the Oil Pollution Administration
23 Subaccount or the Hazardous Materials Administration Subaccount shall not exceed
24 one third of the maximum fund level established under Section 13012 in order to
25 maintain a prudent reserve for future appropriations.

26 (b) If the director or ~~his or her~~ the director's designee expends funds from the
27 prudent reserve established pursuant to subdivision (a) for activities authorized
28 under subdivision (b) of Section 13230, the director or the director's designee shall
29 ensure that there are adequate funds remaining in those subaccounts to carry out
30 their purposes. Expenditures from the prudent reserve shall be repaid in part, or in
31 full, from any funds received pursuant to Section 13011 until those reserves are fully
32 reimbursed.

33 (c) The director or ~~his or her~~ the director's designee, shall recover from the spiller,
34 responsible party, or, in the absence of those responsible parties, from a particular
35 pollution abatement or remediation account, all expenditures paid ~~from the accounts~~
36 ~~established~~ pursuant to subdivisions (b) and (d) of Section 13230, and all costs
37 incurred by the department arising from the administration and enforcement of
38 applicable pollution laws. The director or ~~his or her~~ the director's designee may
39 request, and a district attorney, city attorney, or other prosecuting agency, as part of
40 a prosecution or negotiation, may allege a claim for, these costs and expenditures
41 and shall deposit any recoveries into the fund from which they were expended.

1 (d) The director or ~~his or her~~ the director's designee shall ensure that there are
2 adequate funds in the accounts and subaccounts specified in this section to carry out
3 their purposes.

4 **Comment.** Subdivision (c) of Section 13013 is amended to delete an erroneous reference to
5 accounts established pursuant to subdivisions (b) and (d) of Section 13230.

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

7 **Fish & Game Code § 15512 (amended). Compensation to owner of destroyed plant or**
8 **animal**

9 SEC. _____. Section 15512 of the Fish and Game Code is amended to read:

10 15512. (a) If aquatic plants or animals are destroyed pursuant to subdivision (e)
11 of Section 15505, and a claim is submitted pursuant to Section 15513, the owner
12 shall be promptly paid from the General Fund an amount equal to 75 percent of the
13 replacement value of the plants or animals, less the value determined by the
14 department of any replacement stock provided by the department under subdivision
15 (b) ~~if the claim is submitted pursuant to Section 15513~~. If the replacement value is
16 not settled between the owner and the department, the replacement value shall be
17 determined by an appraiser appointed by the director and an appraiser appointed by
18 the owner. Appraiser's fees shall be paid by the appointing party. Disputes between
19 these two appraisers shall be submitted to arbitration under the Commercial
20 Arbitration Rules of the American Arbitration Association.

21 (b) If the department provides replacement stock to an aquaculturist whose plants
22 or animals are destroyed pursuant to subdivision (e) of Section 15505, the amount
23 to be paid to the aquaculturist pursuant to this section shall be reduced by the value
24 of the replacement stock, as determined by the department.

25 (c) The result of the arbitration or the amount settled between the owner and the
26 department, reduced by the value determined by the department of any replacement
27 stock provided under subdivision (b), may be submitted as a claim by the owner to
28 the Department of General Services pursuant to Section 15513.

29 **Comment.** Section 15512 is amended for clarity.

30 **Fish & Game Code § 15601 (amended). Application for importation**

31 SEC. _____. Section 15601 of the Fish and Game Code is amended to read:

32 15601. A written application for the importation of a live aquatic plant or animal
33 that is submitted in conformance with the procedural requirements established by
34 the commission is deemed to be approved ~~where~~ if it has not been denied within 60
35 days.

36 **Comment.** Section 15601 is amended for clarity. The added language provides context, drawn
37 from preceding Section 15600.

38 **Fish & Game Code § 15700 (amended). Composition of committee**

39 SEC. _____. Section 15700 of the Fish and Game Code is amended to read:

1 15700. The director shall appoint an Aquaculture Development Committee
2 consisting of the following persons:

3 (a) At least 12 members representing all sectors of the fresh and salt water
4 aquaculture industry.

5 (b) One member representing the department, two members from and chosen by
6 the University of California, one with expertise in aquaculture science and one with
7 expertise in outreach to the fisheries community, and one member each from and
8 chosen by the Department of Food and Agriculture, the California Coastal
9 Commission, the State Lands Commission, the State Water Resources Control
10 Board, the ~~State Department of Health Services~~ State Department of Public Health,
11 and the Joint Legislative Committee on Fisheries and Aquaculture. The member of
12 the committee appointed by the Joint Legislative Committee on Fisheries and
13 Aquaculture shall meet and, except as otherwise provided by the California
14 Constitution, advise the committee to the extent that this advisory participation is
15 not incompatible with ~~his or her~~ their position as a Member of the Legislature.

16 **Comment.** Section 15700 is amended to update an obsolete reference to the State Department
17 of Health Services. See Health & Safety Code Sections 20 and 131052(6).

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