

California Fish and Game Commission Meeting Binder



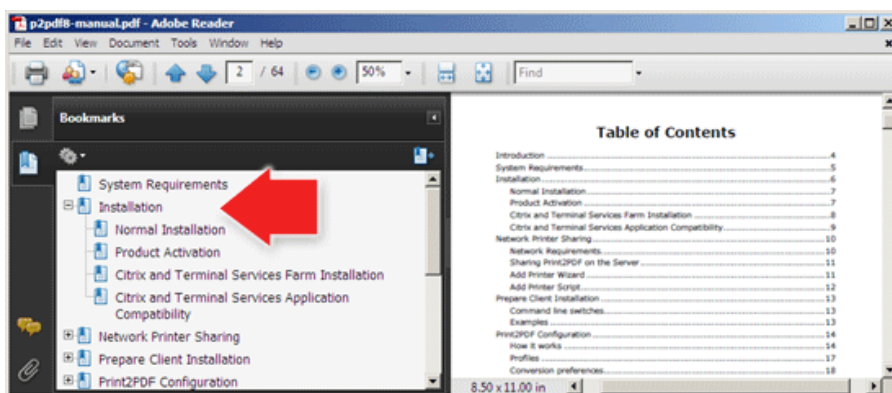
December 14-15, 2022
San Diego


EASY GUIDE TO USING THE BINDER

1. Download and open the binder document using your Adobe Acrobat program/app.
2. If a bookmark panel does not automatically appear on either the top or left side of the screen, click/tap on the “bookmark symbol” located near the top left-hand corner.



3. To make adjustments to the view, use the Page Display option in the View tab. You should see something like:



4. We suggest leaving open the bookmark panel to help you move efficiently among the staff summaries and numerous supporting documents in the binder. It's helpful to think of these bookmarks as a table of contents that allows you to go to specific points in the binder without having to scroll through hundreds of pages.
5. You can resize the two panels by placing your cursor in the dark, vertical line  located between the panels and using a long click /tap to move in either direction.
6. You may also adjust the sizing of the documents by adjusting the sizing preferences located on the Page Display icons found in the top toolbar or in the View tab.
7. Upon locating a staff summary for an agenda item, notice that you can obtain more information by clicking/tapping on any item underlined in blue.
8. Return to the staff summary by simply clicking/tapping on the item in the bookmark panel.
9. Do not hesitate to contact staff if you have any questions or would like assistance.

OVERVIEW OF CALIFORNIA FISH AND GAME COMMISSION TELECONFERENCE MEETING

- Welcome to a meeting of the California Fish and Game Commission. This is the 153rd year of operation for the Commission, in partnership with the California Department of Fish and Wildlife. Both organizations originated from the Board of Fish Commissioners and we collectively celebrated our 150th anniversary three years ago.
- The Commission's goals include preserving our wildlife heritage and conserving our natural resources through informed decision making. These meetings are vital in achieving those goals and, in that spirit, we provide the following information to be as effective and efficient toward that end.
- We are operating under the Bagley-Keene Open Meeting Act and these proceedings are being recorded and broadcast.
- In the unlikely event of an emergency, please note the location of the nearest emergency exits at your location.
- Items may be heard in any order pursuant to the determination of the presiding commissioner.
- The amount of time for each agenda item may be adjusted based on time available and the number of speakers.
- We will ask how many speakers we have before taking public comment; please be prepared and listen closely for your name or phone number to be called.
- When you speak, please state your name and any affiliation. Please be respectful and note that disruptions will not be tolerated. Time is precious so please be concise.
- To receive meeting agendas and regulatory notices about those subjects of interest to you, please visit the Commission's website, www.fgc.ca.gov, and sign up for our electronic mailing lists.
- If you want the Commission to consider a regulation change, note that all petitions for regulation change must be submitted in writing on the authorized form, FGC 1, Petition to the California Fish and Game Commission for Regulation Change, available on the Commission's website or directly from staff.
- For members of the public, if you have access to the Internet and are not planning to make public comment, you may listen to the meeting via our regular webcast by visiting the commission website at www.fgc.ca.gov (link is on right side). We ask that only those who plan to make public comment or who do not have Internet access to listen the meeting, participate by phone.
- **Reminder!** Please silence your mobile devices and computers to avoid interruptions.

INTRODUCTIONS FOR FISH AND GAME COMMISSION MEETINGS

Fish and Game Commission

Samantha Murray	President (La Jolla)
Erika Zavaleta	Vice President (Santa Cruz)
Jacque Hostler-Carmesin	Member (McKinleyville)
Eric Sklar	Member (Saint Helena)
Anthony Williams	Member (Huntington Beach)

Commission Staff

Melissa Miller-Henson	Executive Director
Rachel Ballanti	Deputy Executive Director
Mike Yaun	Legal Counsel
Susan Ashcraft	Marine Advisor
Ari Cornman	Wildlife Advisor
Chuck Striplen	Tribal Advisor and Liaison
Sherrie Fonbuena	Associate Analyst
Cynthia McKeith	Staff Services Analyst

California Department of Fish and Wildlife Staff

Chuck Bonham	Director
Wendy Bogdan	General Counsel
Chad Dibble	Deputy Director, Wildlife and Fisheries Division
David Bess	Deputy Director and Chief, Law Enforcement Division
Josh Grover	Deputy Director, Ecosystem Conservation
Jordan Traverso	Deputy Director, Office of Communication, Education and Outreach
Scott Gardner	Chief, Wildlife Branch
Jay Rowan	Chief, Fisheries Branch
Craig Shuman	Regional Manager, Marine Region

I would also like to acknowledge special guests who are present:
(i.e., elected officials, including tribal chairpersons, and other special guests)

Commissioners
Samantha Murray, President
La Jolla
Erika Zavaleta, Vice President
Santa Cruz
Jacque Hostler-Carmesin, Member
McKinleyville
Eric Sklar, Member
Saint Helena
Anthony Williams, Member
Huntington Beach

STATE OF CALIFORNIA
Gavin Newsom, Governor

Melissa Miller-Henson
Executive Director
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fgc@fgc.ca.gov
www.fgc.ca.gov

Fish and Game Commission



*Wildlife Heritage and Conservation
Since 1870*

REVISED* MEETING AGENDA **December 14-15, 2022**

Participate in Person

Handlery Hotel San Diego
950 Hotel Circle North
San Diego, CA 92108

Participate via Webinar/Teleconference

The meeting will be live streamed; visit www.fgc.ca.gov the day of the meeting to watch or listen. To provide public comment during the meeting, please join at an in-person location, via Zoom, or by telephone; [click here](#) for instructions on how to join.

Pursuant to California Government Code Section 11133, the California Fish and Game Commission is conducting this meeting by webinar/teleconference in addition to the in-person location. Commission members may participate remotely. The public may provide public comment during the public comment periods and otherwise observe remotely, consistent with the Bagley-Keene Open Meeting Act.

*** This agenda is revised to amend items 9(B) and 19.**

Note: See important meeting deadlines and procedures, including written public comment deadlines, starting on page 10. Unless otherwise indicated, the California Department of Fish and Wildlife is identified as Department.

Invitation: The Commission invites members of the public to join commissioners and staff for a field trip to currently under development that will take place on the afternoon of Wednesday, December 14. Details will be available in advance of the Commission meeting. Members of the public are welcome to join but must provide their own transportation.

DAY 1 – December 14, 2022, 9:30 AM

CALL TO ORDER/ROLL CALL TO ESTABLISH QUORUM

- 1. Consider approving agenda and order of items**

GENERAL PUBLIC COMMENT

2. **General public comment for items not on the agenda**

Receive public comment regarding topics within the Commission's authority that are not included on the agenda.

Note: The Commission may not discuss or take action on any matter raised during this item, except to decide whether to place the matter on the agenda of a future meeting (sections 11125 and 11125.7(a), Government Code).

DISCUSSION AND ACTION ITEMS

3. **Commission executive director and Department reports**

Receive updates on items of note since the previous Commission meeting.

(A) ***Commission executive director's report***

- I. Justice, equity, diversity and inclusion plan
- II. Discuss potential process for revisions to the Commission's Naming Installations Policy

(B) ***Department director and Department Law Enforcement Division***

- I. Clear Lake hitch emergency summit

4. **Commercial and recreational take of California spiny lobster and recreational hoop net requirements for take of crustaceans**

Consider authorizing publication of notice of intent to amend regulations for (a) commercial and recreational take of California spiny lobster, and (b) recreational hoop net requirements for take of crustaceans.

(Amend sections 29.80, 29.90, 29.91, 121, 121.5, 122, 122.1, 122.2 and 705, Title 14, CCR)

5. **Recreational take of ocean salmon and Pacific halibut**

Receive and discuss an update on the Pacific Fishery Management Council process and timeline for recreational ocean salmon and Pacific halibut recommendations, and automatic conformance to federal regulations.

(Pursuant to Section 1.95, Title 14, CCR)

6. **Marine Protected Areas Management Program**

Receive annual update from the Department on the State's Marine Protected Areas Management Program activities.

7. **Regulation change petitions (marine)**

(A) ***New petitions***

Receive new petitions for regulation change.

(Pursuant to Section 662, Title 14, CCR)

Consideration of whether to grant, deny, or refer for additional review is expected to be scheduled for the February 8-9, 2023 meeting.

(B) ***Previously received petitions***

Consider whether to grant, deny, or refer for additional review, petitions for regulation change received at previous meetings. Petitions granted today will be added to the Commission's rulemaking calendar for development and future consideration.

(Pursuant to Section 662, Title 14, CCR)

- I. *Petition 2022-04*: Request to revise boundaries of Vandenberg State Marine Reserve to allow some shore fishing.
- II. *Petition 2022-12*: Request to establish a slot limit for recreational take of striped bass in marine waters.
- III. *Petition 2022-14*: Request to add gooseneck barnacles to list of harvestable species.

8. **Non-regulatory requests from previous meetings (marine)**

Consider and potentially act on requests for marine non-regulatory action received from members of the public at previous meetings.

9. **Committee and Department reports**

Receive updates on items of note since the previous Commission meeting from Commission committees and Department divisions.

(A) ***Marine Resources Committee***

Receive summary and consider approving recommendations from the November 17, 2022 committee meeting. Discuss referred topics and consider revisions to topics and timing.

(B) ***Department Marine Region***

- I. Public discussion on action taken to close recreational razor clam fishery in Del Norte County due to domoic acid.

(C) ***Tribal Committee***

Receive summary and consider approving recommendations from the December 13, 2022 committee meeting. Discuss referred topics and consider revisions to topics and timing.

DAY 2 – December 15, 2022, 9:00 AM

CALL TO ORDER/ROLL CALL TO ESTABLISH QUORUM

GENERAL PUBLIC COMMENT

10. **General public comment for items not on the agenda**

Receive public comment regarding topics within the Commission's authority that are not included on the agenda.

Note: The Commission may not discuss or take action on any matter raised during this item, except to decide whether to place the matter on the agenda of a future meeting (sections 11125 and 11125.7(a), Government Code).

CONSENT ITEMS

Note: Items on the consent calendar are expected to be routine and non-controversial. After public comment, the Commission will consider approving items on the consent calendar in a single vote without discussion. The presiding commissioner may choose to remove any item from the consent calendar and allow a separate discussion and potential action on that item in response to a request by a Commission member, staff, or an interested person.

11. Shasta snow-wreath

Consider ratifying findings on the decision to list Shasta snow-wreath (*Neviusia cliftonii*) as endangered under the California Endangered Species Act (CESA).

(Pursuant to Section 2075.5, Fish and Game Code)

Staff will recommend that this item be continued to a future meeting.

12. Lime Ridge eriastrum

Consider approving the Department's request for a six-month extension to deliver the one-year status review report on the petition to list Lime Ridge eriastrum (*Eriastrum ertterae*) as endangered under CESA.

(Pursuant to Section 2074.6, Fish and Game Code)

13. Temblor legless lizard

Consider approving the Department's request for a six-month extension to deliver the one-year status review report on the petition to list Temblor legless lizard (*Anniella alexanderae*) as threatened or endangered under CESA.

(Pursuant to Section 2074.6, Fish and Game Code)

14. Conditional take of southern California steelhead

Consider adopting a second 90-day extension of emergency regulations to allow take of southern California steelhead (*Oncorhynchus mykiss*) under certain circumstances.

(Pursuant to sections 399 and 2084, Fish and Game Code).

15. California State Duck Stamp, 2023-2027

Receive and consider for approval Department recommendations for species to be depicted on the California State Duck Stamp, 2023-2027

(Pursuant to Section 3700.2, Fish and Game Code)

DISCUSSION AND ACTION ITEMS

16. Waterfowl hunting

Consider authorizing publication of notice of intent to amend waterfowl hunting regulations.

(Amend Section 502, Title 14, CCR)

17. Elk hunting

Consider authorizing publication of notice of intent to amend elk hunting regulations.

(Amend sections 364 and 364.1, Title 14, CCR)

18. Bighorn sheep

Consider authorizing publication of notice of intent to amend bighorn sheep regulations.

(Amend Section 362, Title 14, CCR)

19. Game Fish Contests

Consider approving sufficiently related changes to the regulations adopted by the Commission on June 16, 2022 for game fish contests.
(Amend Section 230, Title 14, CCR)

Staff will recommend this item be continued to a future meeting.

20. Electronic display of licenses via mobile application

Discuss proposed amendments to regulations to implement Assembly Bill 817 (Chapter 607, Statutes of 2021) to enable the Department to accept electronic display of licenses on a Department mobile application.
(Amend Section 700.4, Title 14, CCR)

21. California Waterfowler's Hall of Fame

Commission recognition of newly inducted members of the California Waterfowler's Hall of Fame.

22. Regulation change petitions (wildlife and inland fisheries)

(A) New petitions

Receive new petitions for regulation change.
(Pursuant to Section 662, Title 14, CCR)

Consideration of whether to grant, deny, or refer for additional review is expected to be scheduled for the February 8-9, 2023 meeting.

(B) Previously received petitions

Consider whether to grant, deny, or refer for additional review, petitions for regulation change received at previous meetings. Petitions granted today will be added to the Commission's rulemaking calendar for development and future consideration.

(Pursuant to Section 662, Title 14, CCR)

- I. *Petition 2021-007*: Request to revise authorized methods of take and designation for wild pig.
- II. *Petition 2022-16*: Request to prohibit waterfowl hunting at Lake Earl Wildlife Area (Del Norte County).

23. Non-regulatory requests from previous meetings

Consider and potentially act on non-regulatory requests submitted by members of the public at previous meetings.

24. Committee and Department reports

Receive updates on items of note since the previous Commission meeting from Commission committees and Department divisions.

(A) Wildlife Resources Committee

Discuss referred topics and consider revisions to topics and timing. Consider approving draft agenda topics for the next committee meeting on January 12, 2023.

(B) Department Wildlife and Fisheries Division, and Department Ecosystem Conservation Division

25. Commission administrative items

- (A) ***Legislation***
- (B) ***Rulemaking timetable updates***
- (C) ***Next meeting – February 8-9, 2023***

Adjourn

EXECUTIVE SESSION

(Not Open to Public)

At a convenient time during the regular agenda of the meeting listed above, the Commission will recess from the public portion of the agenda and conduct a closed session on the agenda items below. The Commission is authorized to discuss these matters in a closed session pursuant to Government Code Section 11126, subdivisions (a)(1), (c)(3), and (e)(1), and Fish and Game Code Section 309. After closed session, the Commission will reconvene in public session, which may include announcements about actions taken during closed session.

- (A) Pending litigation to which the Commission is a Party
 - I. Almond Alliance of California et al. v. California Fish and Game Commission and California Department of Fish and Wildlife (bumble bees California Endangered Species Act determination)
 - II. The Ballona Wetlands Land Trust v. California Fish and Game Commission (Ballona Wetlands Ecological Reserve petition for regulation change)
 - III. Fall River Conservancy and California Trout v. California Fish and Game Commission and California Department of Fish and Wildlife (California Environmental Quality Act determination regarding amendments to inland trout regulations)
 - IV. United Water Conservation District v. California Fish and Game Commission (southern California steelhead “may be warranted” determination under the California Endangered Species Act and regulation authorizing limited take under Fish and Game Code Section 2084)
 - V. Crowe v. California Fish and Game Commission (suspension of a commercial fishing license and a lobster operator permit)
- (B) Possible litigation involving the Commission
- (C) Staffing
- (D) Deliberation and action on license and permit items
 - I. Consider the proposed decision in Agency Case No. 21ALJ01-FGC, the accusation filed against Jonathan Ewart regarding revocation of a commercial fishing license and a lobster operator permit

California Fish and Game Commission Meeting Schedule

Note: As meeting dates and locations can change, please visit www.fgc.ca.gov for the most current list of meeting dates and locations. All Commission meetings will include a webinar/teleconference option for attendance and every effort will be made to ensure that committee meetings include the same.

Meeting Date	Commission Meeting	Committee Meeting
January 12		Wildlife Resources Los Angeles Area
February 8-9	Natural Resources Headquarters Building - Auditorium 715 P Street, 1 st Floor Sacramento	
March 16		Marine Resources Monterey/Santa Cruz area
April 18		Tribal Fresno/Bakersfield area
April 19-20	Fresno/Bakersfield area	
May 17	Teleconference – Sacramento	
May 17		Wildlife Resources Monterey/Santa Cruz area
June 14-15	CalEPA Headquarters Building Coastal Hearing Room, 2 nd Floor 1001 I Street Sacramento	
July 20		Marine Resources Sonoma/San Francisco Bay area
August 21		Tribal Smith River area/North coast
August 22-23	Smith River area/North coast	
September 21		Wildlife Resources Chico area
October 11-12	San Jose area	
November 16		Marine Resources San Diego area
December 12		Tribal San Diego area
December 13-14	San Diego area	

Other Meetings of Interest

Association of Fish and Wildlife Agencies

- September 23-27; 2023 – Calgary, Alberta, Canada

Pacific Fishery Management Council

- March 2023 – Seattle, WA
- April 2023 – Foster City, CA
- June 2023 – Vancouver, WA
- September 2023 – Spokane, WA
- November 2023 – Garden Grove, CA

Pacific Flyway Council

- February 21, 2023 – St Louis, MO
- August 2023 – Location TBD

Western Association of Fish and Wildlife Agencies

- Jan 4-10, 2023 – Santa Ana Pueblo, NM
- July 9-14, 2023 – Santa Fe, NM

Wildlife Conservation Board

- February 2023 – Sacramento, CA
- May 2023 – Sacramento, CA
- August 2023 – Sacramento, CA
- November 2023 – Sacramento, CA

Important Commission Meeting Procedures Information

Welcome to a Meeting of the California Fish and Game Commission

This year marks the 153rd year of operation of the Commission in partnership with the California Department of Fish and Wildlife. Our goal is the preservation of our heritage and conservation of our natural resources through informed decision making; Commission meetings are vital in achieving that goal and we provide this information to be as effective and efficient toward that end. Welcome, and please let us know if you have any questions.

Persons with Disabilities

Persons with disabilities needing reasonable accommodation to participate in public meetings or other Commission activities are invited to contact the Department's Equal Employment Opportunity (EEO) Office at EEO@wildlife.ca.gov. Accommodation requests for facility and/or meeting accessibility and requests for American Sign Language interpreters should be submitted at least two weeks prior to the event. Requests for real-time captioners should be submitted at least four weeks prior to the event. These timeframes are to help ensure that the requested accommodation is met. If a request for an accommodation has been submitted but is no longer needed, please contact the EEO Office immediately.

Stay Informed

To receive meeting agendas and regulatory notices about those subjects of interest to you, visit the Commission's website, www.fgc.ca.gov, to sign up on our electronic mailing lists.

Submitting Written Comments

The public is encouraged to comment on any agenda item. Submit written comments by one of the following methods: E-mail to fgc@fgc.ca.gov; mail to California Fish and Game Commission, P.O. Box 944209, Sacramento, CA 94244-2090; deliver to California Fish and Game Commission, 715 P Street, 16th Floor, Sacramento, CA 95814 (you must call at least one business day in advance to arrange delivery). Materials provided to the Commission may be made available to the general public.

Comment Deadlines

The **Comment Deadline** for this meeting is **5:00 p.m. on December 1, 2022**. Written comments received at the Commission office by this deadline will be made available to Commissioners prior to the meeting.

The **Supplemental Comment Deadline** for this meeting is **noon on December 9, 2022**. Comments received by this deadline will be made available to Commissioners at the meeting.

Written comments will not be accepted after the supplemental comment deadline.

Petitions for Regulation Change

Any person requesting that the Commission adopt, amend, or repeal a regulation must complete and submit form FGC 1, *Petition to the California Fish and Game Commission for Regulation Change* (as required by Section 662, Title 14, CCR), available at <https://fgc.ca.gov/Regulations/Petition-for-Regulation-Change>. To be received by the Commission at this meeting, petition forms must be delivered by the **Supplemental Comment Deadline** (or delivered in person at the meeting during the regulation change petitions agenda item). Petitions received at this meeting will be scheduled for consideration at the next

regularly scheduled business meeting, unless the petition is rejected under staff review pursuant to subsection 662(b), Title 14, CCR.

Non-Regulatory Requests

All non-regulatory requests will follow a two-meeting cycle to ensure proper review and thorough consideration of each item. All requests submitted by the **Supplemental Comment Deadline** (or heard during general public comment at the meeting) will be scheduled for receipt at this meeting and scheduled for consideration at the next regularly scheduled business meeting.

Speaking at the Meeting

To speak on an agenda item in-person, please complete a “speaker card” and provide it to the designated staff member before the agenda item is announced. Please complete one speaker card per item. Cards will be available near the entrance of the meeting room.

To speak on an agenda item by webinar/teleconference, please “raise” your hand either through the Zoom function or by pressing *9 once on your phone when prompted at the beginning of the agenda item.

1. In-person speakers will be identified in groups; please line up when your name is called. Speakers by webinar/teleconference will be identified by your Zoom display name or last three digits of your phone number; please pay attention to when your name or number is called.
2. When addressing the Commission, please give your name and the name of any organization you represent, and provide your comments on the item under consideration.
3. If there are several speakers with the same concerns, please appoint a spokesperson and avoid repetitive testimony.
4. The presiding commissioner will allot between one and three minutes per speaker per agenda item, subject to the following exceptions:
 - a. The presiding commissioner may allow up to five minutes to an individual speaker if a minimum of three individuals who are present when the agenda item is called have ceded their time to the designated spokesperson, and the individuals ceding time forfeit their right to speak to the agenda item.
 - b. In-person participants ceding their time shall complete a speaker card and approach the staff table with the spokesperson so that staff may confirm the presence of those ceding their time. If you are participating via Zoom and ceding your time to another speaker, please notify the Commission at fgc@fgc.ca.gov prior to the start of the agenda item, including to whom you are ceding your time, and be present on Zoom during the agenda item.
 - c. Individuals may receive advance approval for additional time to speak if requests for additional time to speak are received by email or delivery to the Commission office by the **Supplemental Comment Deadline**. The president or designee will approve or deny the request no later than 5:00 p.m. two days prior to the meeting.
 - d. An individual requiring an interpreter is entitled to at least twice the allotted time pursuant to Government Code Section 11125.7(c).

- e. An individual may receive additional time to speak to an agenda item at the request of any commissioner.

Agenda items may be heard in any order and on either day pursuant to the discretion of the presiding commissioner.

Visual Presentations/Materials

All electronic presentations must be submitted by the ***Supplemental Comment Deadline*** and approved by the Commission executive director before the meeting.

1. Electronic presentations must be provided by email to fgc@fgc.ca.gov. If the presentation file is too large to send via email, contact staff to identify an alternative method for submitting the file.
2. All electronic formats must be Windows PC compatible.
3. If presenting at the in-person meeting location, it is recommended that a print copy of any electronic presentation be submitted in case of technical difficulties.

STAFF SUMMARY FOR DECEMBER 14-15, 2022

2. GENERAL PUBLIC COMMENT**Today's Item****Information** ☒**Action** ☐

Receive public comment regarding topics within FGC authority that are not included on the agenda.

Summary of Previous/Future Actions

- | | |
|--|-----------------------------------|
| • Today receive requests, petitions, and comments | Dec 14-15, 2022; San Diego |
| • Consider granting, denying, or referring | Feb 8-9, 2023; Sacramento |

Background

This item is to provide the public an opportunity to address FGC on topics not on the agenda. Staff may include written materials and comments received prior to the meeting as exhibits in the meeting binder (if received by the written comment deadline), or as supplemental comments at the meeting (if received by the supplemental comment deadline).

General public comments are categorized into two types: (1) requests for non-regulatory action and (2) informational-only comments. Under the Bagley-Keene Open Meeting Act, FGC cannot discuss or take action on any matter not included on the agenda, other than to schedule issues raised by the public for consideration at future meetings. Thus, non-regulatory requests generally follow a two-meeting cycle (receipt and direction); FGC will determine the outcome of the non-regulatory requests received at today's meeting at the next regularly-scheduled FGC meeting, following staff evaluation (currently Feb 8-9, 2023).

Significant Public Comments

1. New, non-regulatory requests are summarized in Exhibit 1, and the original requests are provided as exhibits 2 through 5.
2. Informational comments are provided as exhibits 6 through 18.

Recommendation

FGC staff: Consider whether to add any future agenda items to address issues that are raised during public comment.

Exhibits

1. [Summary of new non-regulatory requests received by Dec 1, 2022 at 5:00 p.m.](#)
2. [Email from Bernard Friedman, requesting to amend his state water bottom lease to allow for the harvest of California mussels and giant kelp, and to make these changes permanent rather than subject to regular renewal, received Sep 26, 2022](#)
3. [Email from Jeff Maassen requesting a permit renewal for the harvest of *Sargassum Horneri* and an additional harvest area, and transmitting associated documents and correspondence, received Oct 25, 2022](#)

STAFF SUMMARY FOR DECEMBER 14-15, 2022

4. [Email from Doug Bush transmitting a request to renew a kelp bed lease, received Nov 3, 2022](#)
5. [Email from Phoebe Lenhart requesting that FGC coordinate a multi-agency effort to reduce cougar poisonings caused by rodenticides and add this issue to the WRC agenda, received Dec 1, 2022.](#)
6. [Email from Ace Carter recalling a fishing experience where a red algae bloom was encountered, received Oct 9, 2022](#)
7. [Email from Louis Gauci expressing opposition to bow hunting, received Oct 12, 2022](#)
8. [Email from Ken Bates, President, California Fishermen's Resiliency Association, sharing information about the organization's involvement in offshore wind project proposals in the Humboldt County area, providing policy documents, and offering to make a presentation to FGC, received Oct 19, 2022](#)
9. [Email from Gilbert Wirt expressing concern about low water levels at Littlerock Reservoir in Los Angeles County, received Oct 20, 2022](#)
10. [Email from Brad Mongeau stating that he was banned from the Bolsa Chica Interpretive Center after identifying unsafe conditions for the fish and lobster held there, received Oct 25, 2022](#)
11. [Email from Kim Hockman expressing opposition to bow hunting of bears and response to a specific incidence of a bear shot with an arrow, received Nov 1, 2022](#)
12. [Email from Patricia Lind expressing opposition to bow hunting as well as dissatisfaction with the handling of a bear injured by an arrow, received Nov 6, 2022](#)
13. [Email from Stanton Dumin expressing concerns about the current fishing regulations on the East Walker River and requesting a return to previous regulations, received Nov 7, 2022](#)
14. [Email from Larry Lewiston detailing a mountain lion encounter, received Nov 8, 2022](#)
15. [Email from Wayne Kotow transmitting an infographic about nationwide fishing participation data from 2021, received Nov 11, 2022](#)
16. [Email from Michael Wauschek expressing opposition to hunting, particularly bears, received Nov 13, 2022](#)
17. [Email from Daniel Childs inquiring about the differences between regulations concerning crab hoops and crab traps, received Nov 14, 2022](#)
18. [Email from Russell Walsh transmitting an article in East County Magazine about low water levels at Sweetwater and Loveland Reservoirs, received Nov 23, 2022](#)

Motion (N/A)

STAFF SUMMARY FOR DECEMBER 14-15, 2022

3B. DEPARTMENT DIRECTOR AND LAW ENFORCEMENT DIVISION REPORTS**Today's Item****Information** ☒**Action** ☐

DFW will highlight items of note since the last FGC meeting.

Summary of Previous/Future Actions (N/A)**Background**

Verbal reports are expected for the DFW director's report and Law Enforcement Division reports. The director will provide an update on the Clear Lake hitch emergency summit, held on Dec 8 at the request of Clear Lake tribes and FGC.

Significant Public Comments (N/A)**Recommendation (N/A)****Exhibits (N/A)****Motion (N/A)**

STAFF SUMMARY FOR DECEMBER 14-15, 2022

4. CALIFORNIA SPINY LOBSTER AND RECREATIONAL HOOP NETS**Today's Item**Information ☐Action ☒

Consider authorizing publication of notice of intent to amend regulations for (a) commercial and recreational take of California spiny lobster, and (b) recreational hoop net requirements for take of crustaceans.

Summary of Previous/Future Actions

- | | |
|---|--|
| • FGC adopted California spiny lobster fishery management plan (lobster FMP) | Jun 22-23, 2016; Bakersfield |
| • MRC discussed proposed lobster regulation changes and recommendation | Jul 14, 2022; MRC, Santa Rosa |
| • DFW requested that FGC add statewide hoop net changes to lobster rulemaking | Aug 17, 2022; Loleta |
| • Adoption of emergency hoop net regulations | Oct 12-13, 2022; Kings Beach |
| • Today's notice hearing for regular rulemaking for lobster and hoop net regulations | Dec 14-15, 2022; San Diego |
| • Discussion hearing for regular rulemaking for lobster and hoop net regulations | Feb 8-9, 2023; Sacramento |
| • Adoption hearing for regular rulemaking for lobster and hoop net regulations | Apr 19-20, 2023; Fresno/Bakersfield area |
| • Potential regular rulemaking effective date | Sep 1, 2023 (estimate) |

Background

The recreational and commercial lobster fisheries are managed under the authority of the lobster FMP adopted by FGC in 2016 and implementing regulations adopted the same year.

Existing, implementing regulations for *recreational take of spiny lobster*, as well as use of hoop nets for the recreational take of saltwater crustaceans, specify:

- authorized methods of take (spiny lobster by hoop nets or by hand only; crab by hoop nets, crab traps and crab loop traps north of Pt. Arguello, or by hand);
- hoop net limits (5 per person south of Pt. Arguello, 10 per vessel south of Pt. Arguello, and 2 per person from a public pier statewide), maximum hoop net service interval of two hours, and the two prescribed types of hoop nets allowed in California;

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- a requirement to mark hoop nets that are deployed from a vessel with a buoy, and a requirement to mark hoop net buoys with identification of the owner or operator of the hoop net;
- and open season, daily bag and possession limit, minimum size limit, and report card requirements for California spiny lobster.

Existing, implementing regulations for the *commercial spiny lobster fishery* specify the open season, minimum size, limited entry permit requirements, restricted fishing areas, fishing log requirements, authorized methods of take, prescribed configuration of traps and buoys, trap limit, trap tag requirement, a requirement to report lost traps, maximum trap service interval of 168 hours, a prohibition of abandoning traps, and a prohibition against tampering with another person's trap except to retrieve derelict traps.

DFW requested FGC fine-tune the existing regulations controlling the recreational and commercial spiny lobster fisheries. The proposed changes would help improve the regulations governing the fisheries, last amended by FGC in 2016, primarily by improving enforcement and reducing the public's regulatory burden. See exhibits 1-3.

In addition, the changes would amend rules on the recreational use of hoop nets statewide for take of crustaceans (including spiny lobster), most of which were adopted through an emergency rulemaking at the Oct 2022 FGC meeting and added by FGC to the scope of the lobster rulemaking (this item). The proposed changes to rules governing recreational hoop net use aim to reduce the risk of entanglement for protected marine wildlife by ensuring that hoop nets are not modified to function like traps when traps are otherwise prohibited, and to ensure they are serviced at regular intervals.

Proposed Recreational Changes

- Change the start of the recreational season for spiny lobster from 6:00 a.m. of the Saturday preceding the first Wednesday in Oct to 6:00 p.m. of the Friday preceding that first Wednesday.
- Clarify that when a spiny lobster is first taken it must be measured immediately and that any undersize lobster must be released with none kept in possession.
- Clarify that the month, day, location, and gear code must be entered on the first line of a spiny lobster report card prior to a hoop net being deployed or diver entering the water.
- Prohibit the use of hoop nets for any purposes south of Point Arguello for the 24-hour period prior to the recreational spiny lobster season opening.
- Refine the specifications for the allowed hoop net types A and B in line with the emergency regulation.
- Reorganize the requirement that the owner or operator of a hoop net shall raise the hoop net to the surface and inspect its contents at intervals not to exceed 2 hours.
- Specify the number of hoop nets that may be deployed in different parts of the state.
- Clarify hoop net buoy marking requirements and establish marking requirement for hoop nets deployed by a vessel in California waters.

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Proposed Commercial Changes

- Clarify that spiny lobsters must be measured immediately when any trap is raised to the surface.
- Change the boundary where commercial fishing may occur on the southern Catalina Island coast to the more identifiable landmark Church Rock.
- Require lobster receiver buoys to be marked with the identification of their owners.
- Add “disturb” to the prohibited actions for a lobster trap or receiver not one’s own. Specify that every commercial permit holder retrieving another individual’s trap must first obtain the trap owner’s written permission; the permit holder could then retrieve up to six lost or derelict traps per trip during the fishing season.
- Extend the deadline of the End of Season Spiny Lobster Trap Loss Reporting Affidavit (DFW 1020) from Apr 15 to Apr 30; reformat the trap loss affidavit in Form DFW 1020; insert a privacy notice in accordance with California Civil Code subdivision (b) of Section 1798.17; and move the incorporation by reference of Form DFW 1020 from Section 705 to Section 122.
- Move the incorporation by reference of Form DFW 1701 (Lobster Operator Permit Catastrophic Lost Trap Tag Affidavit) from Section 705 to Section 122.1.

Significant Public Comments

1. At the Oct 2022 meeting, FGC received testimony (Exhibit 6) from several commercial passenger fishing vessel operators opposed to the emergency hoop net regulation changes that specify allowable hoop net designs, including pictures of the new hoop net design that are prohibited, as they provide for more efficient capture and take (Exhibit 7). The regular rulemaking includes the changes adopted in the emergency hoop net regulations.
2. After the Oct 2022 meeting, FGC received correspondence requesting inclusion of alternative methods, such as zip ties, to mark hoop net buoys (Exhibit 8) and inquiring about hoop net weight limits (Exhibit 9).

Recommendation

FGC staff: Authorize publication of a notice of intent to amend regulations as recommended by DFW.

Marine Resources Committee: Authorize publication of a notice of intent to amend lobster regulations as recommended by DFW.

DFW: Authorize publication of a notice of intent to amend regulations as detailed in the draft initial statement of reasons (ISOR).

Exhibits

1. [DFW memo, received Dec 1, 2022](#)
2. [Draft ISOR](#)
3. [Proposed regulatory language](#)
4. [Draft economic and fiscal impact statement \(STD. 399\)](#)

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5. [DFW presentation](#)
6. [Public testimony excerpted from Zoom transcript of Oct 2022 meeting, item 16](#)
7. [Handout from James Smith, Oct 2022 meeting, item 16](#)
8. [Letter from Wayne Kotow, Coastal Conservation Association California, received Oct 14, 2022](#)
9. [Email message from "SE", received Oct 14, 2022](#)

Motion

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to amend Section 29.80, et al., related to commercial and recreational take of California spiny lobster and recreational hoop net requirements for take of saltwater crustaceans, as discussed today.

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5. RECREATIONAL TAKE OF OCEAN SALMON AND PACIFIC HALIBUT**Today's Item****Information** ☒**Action** ☐

Receive and discuss an update on the Pacific Fishery Management Council (PFMC) process and timeline for recreational ocean salmon and Pacific halibut recommendations, and automatic conformance to federal regulations.

Summary of Previous/Future Actions

- | | |
|-------------------------|--|
| • Today's update | Dec 14-15, 2022; San Diego |
| • Next update | Feb 8-9, 2023; Sacramento |
| • Final update | Apr 19-20, 2023; Fresno/Bakersfield area |

Background

This item informs the public of FGC's intent to auto-conform state regulations to federal regulations for ocean salmon and Pacific halibut recreational fishing for 2023 as recommended by PFMC and adopted by the National Marine Fisheries Service (NMFS). In 2017, FGC adopted regulations creating a process to auto-conform state ocean salmon and Pacific halibut recreational fishing regulations to federal regulations (Section 1.95). The auto-conformance regulations went into effect Jan 1, 2018; Exhibit 1 outlines the auto-conformance process.

Exhibits 2 and 3 provide an overview of the PFMC process for developing annual recommendations for salmon and Pacific halibut federal regulations. If FGC determines it is necessary, it may adopt ocean salmon and Pacific halibut recreational fishing regulations that are different from federal regulations, in which case FGC may need to take emergency action in order for those regulations to be effective by the beginning of ocean salmon and Pacific halibut seasons in 2023.

At this time, there is no indication that the state may need to consider regulations different from federal regulations, and regular rulemakings for ocean salmon and Pacific halibut are not proposed for 2023.

Update on Pacific halibut

For 2023, area allocations of catch for Pacific halibut are under re-negotiation and have the potential to change for California. The Makah Tribe in the state of Washington has submitted a proposal to PFMC to establish an annual total constant exploitation yield (TCEY) allocation of 1.65 million pounds for Regulatory Area 2A (which includes Washington, Oregon and California), unless information indicates a higher allocation can be adopted. If the proposal is adopted, it would be an extension of a previously-adopted Makah Tribe proposal from 2019, which was adopted to provide stability to fishery operations while not posing any conservation risk to the health of the stock. Recent experience suggests that a constant TCEY floor in Regulatory Area 2A can be sustained by the available biomass.

FGC may desire to send a letter to PFMC expressing support for the Makah Tribe regulatory proposal to retain the current Area 2A quota for Pacific halibut and, hence, contribute to greater stability for north coast fishing communities.

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Significant Public Comments (N/A)**Recommendation**

FGC staff: Direct staff to: (1) draft a letter to PFMC and send under President Murray's signature in support of retaining the current Area 2A quota for Pacific halibut, and (2) use the auto-conformance process for ocean salmon and Pacific halibut recreational fishing regulations for 2023.

Exhibits

1. [Staff summary for Aug 16, 2017 FGC meeting, agenda item 17 \(for background only\)](#)
2. [PFMC salmon fact sheet, updated Feb 18, 2021](#)
3. [PFMC Pacific halibut fact sheet, updated Jun 1, 2022](#)

Motion (N/A)

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6. MARINE PROTECTED AREAS MANAGEMENT PROGRAM**Today's Item****Information** ☒**Action** ☐

Receive annual update from DFW on the State's Marine Protected Areas (MPA) Management Program activities.

Summary of Previous/Future Actions

- | | |
|---|---|
| • Final MPA master plan adopted | Aug 24-25, 2016; Sacramento |
| • Most recent annual update on MPA Management Program activities | Dec 15-16, 2021; Webinar/Teleconference |
| • Today receive annual update on Management Program activities | Dec 14-15, 2022; San Diego |

Background

In 2016, FGC adopted the master plan for MPAs, which formally established DFW's MPA Management Program. As the primary managing agency for the state's MPAs, DFW manages California's MPAs as a statewide network within a collaborative, partnership-based approach.

DFW's MPA Management Program has four components: (1) outreach and education, (2) research and monitoring, (3) enforcement and compliance, and (4) policy and permitting. DFW's overall approach is essential to inform adaptive management of the MPA network and to help meet the goals of the Marine Life Protection Act. When it adopted the master plan for MPAs, FGC requested that DFW provide an annual report of program activities.

For 2022, DFW has provided a memo detailing actions in the past year for each of the four components (Exhibit 1). The management program made significant advances in 2022, including near-completion of the network's first decadal management review. At today's meeting, DFW will highlight 2022 management activities and significant events, and highlight the upcoming decadal management review, describing sources of data for MPA network performance evaluation, tribal engagement efforts, and the anticipated timeline for release of DFW's decadal management review report and public discussions with MRC and FGC (Exhibit 2).

Significant Public Comments (N/A)**Recommendation (N/A)****Exhibits**

1. [DFW memo, received Dec 1, 2022](#)
2. [DFW presentation](#)

Motion (N/A)

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7. REGULATORY CHANGE PETITIONS (MARINE)**Today's Item**Information ☐Action ☒

This is a standing agenda item for FGC to receive new regulation change petitions and act on regulation change petitions received from the public at previous meetings. For this meeting:

- (A) Receive new petitions for regulation change
- (B) Act on previously received petitions for regulation change

Summary of Previous/Future Actions**(A) *New Petitions for Regulation Change – Receipt***

- **Today receive new petitions** **Dec 14-15; San Diego**
- **Potentially act on new petitions** **Feb 8-9; Sacramento**

(B) *Regulation Change Petitions – Scheduled for Action*

- **Received new petitions** **Oct 12-13; Kings Beach**
- **Today's potential action on petitions** **Dec 14-15; San Diego**

Background**(A) *Receipt of new petitions for regulation change***

Pursuant to Section 662, any person requesting that FGC adopt, amend, or repeal a regulation must complete and submit form FGC 1. Regulation change petition forms submitted by the public are received at this FGC meeting under (A) if they are delivered by the comment deadline (included in meeting materials) or by the supplemental comment deadline.

Under the Bagley-Keene Open Meeting Act, FGC cannot discuss or take action on any matter not included on the agenda, other than to schedule issues raised by the public for consideration at future meetings. Thus, petitions for regulation change generally follow a two-meeting cycle (receipt and direction); FGC will determine the outcome of the petitions for regulation change received at today's meeting at the next regularly scheduled FGC meeting (currently Feb 8-9, 2023) under (B), following staff evaluation, unless the petition is rejected under 10-day staff review as prescribed in subsection 662(b).

FGC received one new petition by the comment deadline; the petition is summarized in Exhibit A1 and provided as Exhibit A2.

(B) *Action on previously-received petitions for regulation change*

Petitions received at the previous meeting are scheduled for FGC consideration at the next regularly scheduled business meeting under (B). A petition may be (1) denied, (2) granted, or (3) referred to a committee, staff, or DFW for further evaluation or information-gathering. Referred petitions are scheduled for action once the evaluation is completed and a recommendation made.

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For today, three marine petitions are scheduled for action:

- I. *Petition 2022-04*: Request to revise boundaries of Vandenberg State Marine Reserve to allow some shore fishing (Exhibit B2)
- II. *Petition 2022-12*: Request to establish a slot limit for recreational take of striped bass in marine waters (Exhibit B3)
- III. *Petition 2022-14*: Request to add gooseneck barnacles to list of harvestable species (Exhibit B4)

Staff recommendations and rationales, developed with input from DFW staff, are provided in Exhibit B1. DFW's evaluation of Petition 2022-04, including its recommendation and rationale, is provided as Exhibit B5.

Significant Public Comments (N/A)

Recommendation

FGC staff: Defer action on referred Petition 2022-04 until DFW completes its evaluation, as recommended by DFW, grant Petition 2022-12, and deny Petition 2022-14, based on the rationales provided in Exhibit B1.

DFW: Continue DFW review of Petition 2022-004 until after the marine protected areas decadal management review in early 2023, based on the rationale presented in Exhibit B4. Grant Petition 2022-12 for consideration with granted Petition 2020-005.

Exhibits

- A1. [Summary of new petitions for regulatory change received through Dec 1, 2022](#)
- A2. [Petition 2022-17, received Oct 11, 2022](#)
- B1. [Summary of non-regulatory requests and staff recommendations for requests scheduled for action, updated Dec 7, 2022](#)
- B2. [Petition 2022-04, received Feb 23, 2022](#)
- B3. [Petition 2022-12, received Aug 1, 2022](#)
- B4. [Petition 2022-14, received Aug 19, 2022](#)
- B5. [DFW memo on Petition 2022-04, received Dec 7, 2022](#)

Motion

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations reflected in Exhibit B1 to defer action on petition 2022-04, grant petition 2022-12, and deny petition 2022-14.

OR

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations as reflected in Exhibit B1, except _____.

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8. NON-REGULATORY REQUESTS FROM PREVIOUS MEETINGS (MARINE)**Today's Item**Information ☐Action ☒

This is a standing agenda item for FGC to act on requests for non-regulatory action received from the public at previous meetings.

Summary of Previous/Future Actions

- FGC received request Oct 12-13, 2022; Kings Beach
- **Today potentially act on request Dec 14-15, 2022; San Diego**

Background

Requests for non-regulatory action are received from members of the public under general public comment. All non-regulatory requests follow a two-meeting cycle to ensure proper review and thorough consideration of each item. All requests received in writing or public testimony during general public comment at the previous FGC meeting are scheduled for consideration at the next meeting. Referred non-regulatory requests are scheduled for action once the evaluation is completed and a recommendation made.

There is one non-regulatory marine request scheduled for action today. Exhibit 1 provides a staff recommendation and rationale, developed with input from DFW staff.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Adopt the staff recommendation for the non-regulatory request as reflected in Exhibit 1.

Exhibits

1. [Summary of non-regulatory request and staff recommendation scheduled for action, updated Nov 26, 2022](#)

Motion

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendation for action on the non-regulatory request as reflected in Exhibit 1.

OR

Moved by _____ and seconded by _____ that the Commission does not adopt the staff recommendation for action as reflected in Exhibit 1; instead, the the action is _____.

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9A. MARINE RESOURCES COMMITTEE (MRC)**Today's Item**Information ☐Action ☒

Receive summary and consider approving recommendations from the November 17, 2022 committee meeting. Discuss referred topics and consider revisions to topics and timing.

Summary of Previous/Future Actions

- | | |
|---|--|
| • Previous MRC meeting | Nov 17, 2022; MRC, San Diego |
| • Today consider MRC recommendations | Dec 14-15, 2022; San Diego |
| • Next MRC meeting | Mar 16, 2023; Monterey/Santa Cruz area |

Background

MRC works under FGC direction to set and accomplish its work plan (Exhibit 1). Today, FGC will receive a report on the previous MRC meeting and recommendations, as well as provide direction for any referred topics and revisions to MRC topics and timing.

Previous Committee Meeting

MRC met on Nov 17 in San Diego, and via webinar/teleconference, and discussed four primary topics related to aquaculture lease public interest determination, red abalone fishery management plan (FMP), bycatch in California fisheries, and a coastal fishing communities policy.

Aquaculture leasing in California – public interest determination: Update on draft public interest criteria development process and public input, including outcomes from a Sep 30, 2022 public workshop.

- Outcomes: MRC directed FGC staff to work with DFW to revise the draft public interest criteria; further engage with government agencies, interested stakeholders, and non-governmental organizations; and bring a final proposal to the Mar 2023 MRC meeting for a potential recommendation. MRC also requested that FGC's tribal advisor review the draft criteria for potential tribal considerations.

Red abalone FMP: Update on 2022 survey results, harvest control rule development, and *de minimis* fishery concepts.

- Outcome: MRC developed a recommendation (see Recommendation 1 below) based on continued red abalone population declines and guidance for near-term DFW focus.

Assessing and evaluating bycatch in California fisheries: Review of the four-step process for limiting bycatch as outlined in the 2018 Marine Life Management Act (MLMA) master plan for fisheries, update on analysis of bycatch data for the California halibut fishery, and discussion of potential approaches to completing inquiries for determining what bycatch is "acceptable" within a specific fishery.

- Outcome: MRC developed a recommendation (see Recommendation 2 below) based on the bycatch analysis report provided by DFW and input received during the meeting.

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Coastal fishing communities policy: Update on progress in developing a draft policy on coastal fishing communities and discussion of next steps.

- Outcome: MRC supported staff's proposal to move forward with the revised draft policy outline presented at the meeting, host a public policy-drafting workshop on Dec 1, and bring a final proposed policy to the Mar 2023 MRC meeting for discussion and potential MRC recommendation.

In addition to the four primary topics, standing staff and agency updates were provided:

- California Ocean Protection Council, with a written update
- DFW Law Enforcement Division, with a verbal update on some exceptional marine protected area (MPA) citations and cases
- DFW Marine Region
 - DFW presented an update on the MPA decadal management review (DMR), DFW's DMR report to FGC, and plans for engaging with FGC in early 2023, including FGC consideration of adaptive management recommendations in DFW's DMR report. MRC discussed options for providing adequate time at the Mar 2023 MRC meeting to discuss DMR and symposium outcomes (to be held the day prior to MRC), while still allowing for regular MRC agenda topics; MRC developed a recommendation under the Future Meetings agenda item .
- Future Meetings
 - Outcomes: MRC developed a recommendation to modify the schedule for the Mar 2023 MRC meeting (see Recommendation 3 below). There was some discussion about the format of future MRC meetings – hybrid versus in-person; those that provided public comment were in support of keeping the hybrid model.

In lieu of a written meeting summary, a link to the official minutes (the meeting video) is now posted online at fgc.ca.gov/Meetings/2022; a meeting outcomes document will be posted soon.

MRC Recommendations

MRC has three recommendations for FGC consideration.

1. Red Abalone FMP

Support DFW to (1) pause development of the red abalone FMP, except to memorialize the harvest control rule options evaluated; (2) pause development of a *de minimis* fishery approach while retaining the concept in the future fishery management plan; and (3) focus current efforts on recovery planning.

2. Assessing and Addressing Bycatch in California Fisheries

- (1) Support DFW moving forward with evaluation of bycatch acceptability in the California halibut commercial fishery based on the analysis report submitted by DFW at the Nov 2022 MRC meeting, beginning with the gillnet gear type; and
- (2) request that DFW pursue completing the inquiries within Step 3 of the bycatch evaluation framework by:

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- Starting the evaluation with the top ten bycatch species for halibut gill nets;
- engaging stakeholders in the process by reaching out to gillnet fishermen for dialogue and conferring with various stakeholder groups on the evaluation outcomes; and
- bringing results back to the Mar 2023 MRC meeting for discussion and potential committee recommendation.

3. *Future Meetings*

Divide the Mar 2023 MRC meeting into two days (Mar 14 and Mar 16, 2023) to accommodate the MPA DMR symposium on Mar 15, 2023; schedule regular agenda topics for Mar 14, and focus Mar 16 on a single agenda item – the MPA DMR – to hear results, receive public input, and develop a potential committee recommendation.

Committee Work Plan

The MRC work plan (Exhibit 1) includes topics and timelines for items referred by FGC to MRC and has been updated to reflect proposed changes in potential topic timing based on MRC guidance (reflected in blue text). No new topics are proposed for referral to MRC.

Significant Public Comments

Two comment letters were received regarding the “bycatch in California fisheries” topic:

1. Two environmental non-governmental organizations (NGOs) submit a joint letter with two bycatch “factsheet” summary reports they have prepared for set gillnet and trawl gear types targeting California halibut and white seabass (combined) at a statewide scale. The two reports are offered to augment DFW's information for evaluating bycatch acceptability (Exhibit 2).
2. A joint letter from fourteen environmental NGOs expresses support for addressing with urgency the high levels of bycatch in set gillnet and bottom trawl fishing gears targeting California halibut. Commenters urge FGC to undertake the process to formally determine that bycatch is unacceptable and develop solutions towards minimizing bycatch to support both local seafood and healthy ecosystems (Exhibit 3).

Recommendation

FGC staff: Approve the Nov 17, 2022 MRC recommendations and approve the MRC work plan as reflected in Exhibit 2, including any changes identified during this meeting.

Exhibits

1. [MRC work plan, updated Dec 5, 2022](#)
2. [Letter and three attachments from Geoff Shester, Oceana, and Scott Webb, Turtle Island Restoration Network, received Dec 1, 2022](#)
3. [Joint letter from 14 NGOs, received Dec 1, 2022](#)

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Motion

Moved by _____ and seconded by _____ that the Commission approves the recommendations from the November 17, 2022 Marine Resources Committee meeting and approves changes to the work plan as discussed today.

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9B. DEPARTMENT MARINE REGION**Today's Item****Information** ☒**Action** ☐

DFW will highlight marine items of note since the last FGC meeting.

- I. Public discussion on action taken to close recreational razor clam fishery in Del Norte County due to domoic acid.

Summary of Previous/Future Actions (N/A)**Background**

DFW's Marine Region will provide a verbal update on items of interest since the last FGC meeting.

- I. This item will include a public discussion on recent action taken by DFW Director Bonham on Nov 3, 2022 to close the recreational razor clam fishery in Del Norte County following a recommendation from state health agencies; those agencies determined that consumption of razor clams in the area poses significant threat of domoic acid exposure. Today's public discussion satisfies the requirements of subsection (a)(2) of Section 5523 (see Exhibit 1 for more information).

An additional DFW news release of interest is provided as Exhibit 2.

Significant Public Comments (N/A)**Recommendation (N/A)****Exhibits**

1. [DFW news release: Razor Clam Fishery Closes In Del Norte County Due to Public Health Hazard, dated Nov 3, 2022](#)
2. [DFW news release: CDFW Continues Partial Recreational Crab Trap Restriction and Commercial Dungeness Crab Fishery Delay to Protect Whales from Entanglement and Due to Low Crab Quality, dated Nov 21, 2022](#)

Motion (N/A)

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9C. TRIBAL COMMITTEE (TC)**Today's Item**Information ☐Action ☒

Receive verbal summary and consider approving recommendations from Dec 13, 2022 committee meeting. Discuss referred topics and consider revisions to topics and timing.

Summary of Previous/Future Actions

- | | |
|-------------------------------|---|
| • Previous TC meeting | Dec 13, 2022; TC, San Diego |
| • Today discuss topics | Dec 14-15, 2022; San Diego |
| • Next TC meeting | Apr 18, 2023; TC, Fresno/Bakersfield area |

Background

TC works under FGC direction to set and accomplish its work plan. Today, FGC will receive a report on the previous TC meeting and any recommendations, as well as provide direction for any referred topics and revisions to TC topics and timing.

Previous Committee Meeting

TC met on Dec 13 in San Diego, with teleconference/webinar participation. In addition to standing agenda items (annual tribal planning meeting, updates on species management plans, committee cross-pollination, staff and other agency updates, FGC rulemaking timetable, and future agenda topics), TC covered two topics:

1. *Co-management roundtable discussion*: Discuss co-management with tribal representatives regarding their co-management interests and experiences.
2. *Definition of "tribal subsistence", and related management mechanisms*: Receive a presentation and discuss outcomes from workgroup meetings.

Committee Work Plan

Topics that have been referred from FGC to TC are displayed within a work plan to help with scheduling and tracking (Exhibit 1).

Significant Public Comments (N/A)**Recommendation**

FGC staff: Any recommendations from TC will be presented verbally during today's meeting.

Exhibits

1. [TC work plan, updated Dec 2, 2022](#)

Motion

Moved by _____ and seconded by _____ that the Commission approves the recommendations from the December 13, 2022 Tribal Committee meeting, as discussed today. Further, the Commission approves the changes to the Tribal Committee work plan as recommended by the Committee and discussed today.

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OR

Moved by _____ and seconded by _____ that the Commission approves the recommendations from the December 13, 2022 Tribal Committee meeting, as discussed today, except for _____ for which it approves _____. Further, the Commission approves the changes to the Tribal Committee work plan as recommended by the Committee, except _____.

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10. GENERAL PUBLIC COMMENT (DAY 2)**Today's Item****Information** ☒**Action** ☐

Receive public comment regarding topics within FGC's authority that are not included on the agenda.

Summary of Previous/Future Actions

- **Today's receipt of requests and comments** **Dec 14-15, 2022; San Diego**
- Consider granting, denying, or referring Feb 8-9, 2023; Sacramento

Background

This item is to provide the public an opportunity to address FGC on topics not on the agenda. Staff may include written materials and comments received prior to the meeting as exhibits in the meeting binder (if received by the written comment deadline), or as supplemental comments at the meeting (if received by the supplemental comment deadline).

General public comments are categorized into two types: (1) requests for non-regulatory action and (2) informational-only comments. Under the Bagley-Keene Open Meeting Act, FGC cannot discuss or take action on any matter not included on the agenda, other than to schedule issues raised by the public for consideration at future meetings. Thus, non-regulatory requests generally follow a two-meeting cycle (receipt and direction); FGC will determine the outcome of the non-regulatory requests received at today's meeting at the next regularly scheduled FGC meeting, following staff evaluation (currently Feb 8-9, 2023).

Significant Public Comments

All written comments are summarized and provided as exhibits under Agenda item 2.

Recommendation

FGC staff: Consider whether to add any future agenda items to address issues that are raised during public comment.

Exhibits

See exhibits for Agenda Item 2.

Motion (N/A)

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11. SHASTA SNOW-WREATH (CONSENT)**Today's Item****Information** ☒**Action** ☐

Consider ratifying findings for the decision to list Shasta snow-wreath (*Neviusia cliftonii*) as endangered under the California Endangered Species Act.

This item is not ready for FGC consideration. Staff recommends continuing this item to a future meeting.

Summary of Previous/Future Actions (N/A)

Background (N/A)

Significant Public Comments (N/A)

Recommendation

FGC staff: Under Agenda Item 1 for this meeting, continue this item to the Feb 2023 meeting.

Exhibits (N/A)

Motion (N/A)

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12. LIME RIDGE ERIASTRUM (CONSENT)**Today's Item**Information ☐Action ☒

Consider approving DFW's request for a six-month extension to deliver its one-year status review report on the petition to list Lime Ridge eriastrum (*Eriastrum ertterae*) as endangered under the California Endangered Species Act (CESA).

Summary of Previous/Future Actions

- | | |
|---|---|
| • Received petition | Jul 6, 2021 |
| • Transmitted petition to DFW | Jul 15, 2021 |
| • Published notice of receipt | Aug 6, 2021 |
| • Received DFW 90-day evaluation report | Dec 15-16, 2022; Webinar/Teleconference |
| • FGC determined petitioned action may be warranted | Feb 16-17, 2022; Webinar/Teleconference |
| • Today consider granting six-month extension to complete status review report | Dec 14-15, 2022; San Diego |

Background

On Jul 6, 2021, FGC received a petition from Christopher McCarron to list Lime Ridge eriastrum as endangered under CESA.

At its Feb 2022 meeting, FGC determined that the petition contains sufficient information to indicate that the petitioned action may be warranted. FGC published a notice of its determination and of Lime Ridge eriastrum's protected, candidate species status on Feb 22, 2022. Pursuant to California Fish and Game Code Section 2074.6, DFW has one year from the date of notice to complete a status review, unless FGC grants an extension of time.

Today, FGC will consider a request by DFW for a six-month extension to complete its status review to further analyze and evaluate the available science, to undergo the peer review process, and to complete its status review (Exhibit 1). FGC must receive the DFW status review report before FGC can make a final listing decision.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Approve request for a six-month extension to complete the status review report for Lime Ridge eriastrum under a motion to adopt the consent calendar.

DFW: Approve request for a six-month extension to complete the status review report for Lime Ridge eriastrum.

Exhibits

1. [DFW memo, received Nov 7, 2022](#)

STAFF SUMMARY FOR DECEMBER 14-15, 2022

Motion

Moved by _____ and seconded by _____, that the Commission adopts the staff recommendations for items 11 through 15 on the consent calendar.

STAFF SUMMARY FOR DECEMBER 14-15, 2022

13. TEMBLOR LEGLESS LIZARD (CONSENT)**Today's Item**Information ☐Action ☒

Consider approving DFW's request for a six-month extension to deliver its one-year status review report on the petition to list Temblor legless lizard (*Anniella alexanderae*) as endangered under the California Endangered Species Act (CESA).

Summary of Previous/Future Actions

- | | |
|---|-----------------------------------|
| • Received petition | Nov 18, 2021 |
| • Transmitted petition to DFW | Nov 29, 2021 |
| • Published notice of receipt | Dec 10, 2021 |
| • Received DFW 90-day evaluation report | Apr 20-21, 2022; Monterey |
| • FGC determined petitioned action may be warranted | Jun 15-16, 2022; Los Angeles |
| • Today consider granting six-month extension to complete status review report | Dec 14-15, 2022; San Diego |

Background

On Nov 18, 2021 FGC received a petition from the Center for Biological Diversity to list Temblor legless lizard as endangered under CESA.

At its Jun 2022 meeting, FGC determined that the petition contains sufficient information to indicate that the petitioned action may be warranted. FGC published a notice of its determination and of Temblor legless lizard's protected, candidate species status on Jun 20, 2022. Pursuant to California Fish and Game Code Section 2074.6, DFW has one year from the date of notice to complete a status review, unless FGC grants an extension of time.

Today, FGC will consider a request by DFW for a six-month extension to further analyze and evaluate the available science, to undergo the peer review process, and to complete its status review (Exhibit 1). FGC must receive the DFW status review report before FGC can make a final listing decision.

Significant Public Comments (N/A)

FGC staff: Approve request for a six-month extension to complete the status review report for Temblor legless lizard under a motion to adopt the consent calendar.

DFW: Approve request for a six-month extension to complete the status review report for Temblor legless lizard.

Exhibits

1. [DFW memo, received Nov 29, 2022](#)

STAFF SUMMARY FOR DECEMBER 14-15, 2022

Motion

Moved by _____ and seconded by _____, that the Commission adopts the staff recommendations for items 11 through 15 on the consent calendar.

STAFF SUMMARY FOR DECEMBER 14-15, 2022

14. CONDITIONAL TAKE OF SOUTHERN CALIFORNIA STEELHEAD (CONSENT)**Today's Item****Information** ☐**Action** ☒

Consider adopting a second, 90-day extension of emergency regulations to allow take of southern California steelhead (*Oncorhynchus mykiss*) under certain circumstances during the California Endangered Species Act (CECA) candidacy period.

Summary of Previous/Future Actions

- | | |
|---|-----------------------------------|
| • Adopted emergency regulation | Apr 20-21, 2022; Monterey |
| • Emergency readoption | Oct 12-13, 2022; Kings Beach |
| • Today's potential emergency readoption | Dec 14-15, 2022; San Diego |

Background

In Apr 2022, FGC accepted for consideration a CESA petition requesting to list southern California steelhead as endangered under CESA; FGC's decision resulted in the species receiving candidate species status. As a candidate species, take of southern California steelhead is prohibited unless otherwise authorized by FGC.

California Fish and Game Code Section 2084 provides that the Commission may adopt regulations to authorize take of candidate species, based on the best available scientific information, when the take is otherwise consistent with CESA. FGC may adopt a regulation under Section 2084 on an emergency basis when it determines that a situation exists that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.

At its Apr 2022 meeting, FGC adopted an emergency regulation to temporarily authorize the take of southern California steelhead in certain situations, adding the regulation to Section 749.13. FGC found that an emergency exists because of the immediate, serious harm to the public peace, health or safety that would be caused by work delays or stoppages for projects or activities that relate to flood control and provide flood protection necessary to prevent flood damage to communities or infrastructure; projects or activities that relate to highways and provide public-safety benefits through highway maintenance or improvements; or projects or activities that relate to the diversion, impoundment, or discharge of water and provide water supply or water treatment for essential domestic, agricultural, industrial, or other commercial uses.

The emergency regulation was originally set to expire on Nov 14, 2022. At its Oct 2022 meeting, FGC readopted the emergency regulations for an additional 90 days (see exhibits 1 and 2 for background information). If not extended again by FGC, the current extension will expire on Feb 10, 2023. If readopted, the regulation will be extended until May 11, 2023. For today's meeting, DFW provided a draft finding of emergency and a draft statement of proposed emergency regulatory action for FGC to consider in re-adopting the emergency regulation (Exhibit 3).

STAFF SUMMARY FOR DECEMBER 14-15, 2022

Significant Public Comments (N/A)**Recommendation**

FGC staff: FGC staff recommends that FGC find, pursuant to Section 399 of the Fish and Game Code, that adopting the proposed emergency regulation is necessary for the immediate preservation of the public peace, health and safety, or general welfare.

FGC staff recommends that FGC further determine, pursuant to Section 11346.1 of the Government Code, that an emergency situation still exists and find the proposed regulation is necessary to address the emergency.

Therefore, FGC staff recommends that the Commission adopt a 90-day extension for the southern California steelhead emergency regulation as recommended by DFW.

Exhibits

1. [Staff summary from Apr 20-21, 2022 \(for background purposes only\)](#)
2. [DFW memo for Section 749.13, received Nov 7, 2022](#)
3. [Draft statement of proposed emergency regulatory action, informative digest and proposed regulation text for Section 749.13](#)
4. [Draft economic and fiscal impact statement \(STD 399\) and addendum](#)

Motion

Moved by _____ and seconded by _____, that the Commission adopts the staff recommendations for items 11 through 15 on the consent calendar.

STAFF SUMMARY FOR DECEMBER 14-15, 2022

15. CALIFORNIA STATE DUCK STAMP SPECIES, 2023-2027 (CONSENT)**Today's Item**Information ☐Action ☒

Receive and consider for approval DFW recommendations for species to be depicted on the California State Duck Stamp, 2023-2027

Summary of Previous/Future Actions (N/A)**Background**

Pursuant to Section 3700.2(e) of California Fish and Game Code, FGC shall determine the form of the California State Duck Stamp. In previous years, FGC has selected the waterfowl species to depict on the stamp in five-year increments. The species selections guide the annual State Duck Stamp Contest and the final artwork depicted on the annual stamp is the winner from each year's contest.

DFW recommends species that are popular with the hunting public and celebrated for their uniqueness (Exhibit 1). For the 2023-2027 period, DFW recommends approval of ring-necked duck, mallard, cinnamon teal, white-fronted goose, and Ross' goose. Exhibit 1 contains a list of the species used each year from 1971 to present and indicates the number of times each of these recommended species have appeared on previous stamps.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Under a motion to adopt the consent calendar, approve DFW's recommendation for the 2023-2027 duck stamp species as presented in Exhibit 1.

DFW: Approve the 2023-2027 duck stamp species as recommended.

Exhibits

1. [DFW memo, received Dec 2, 2022](#)

Motion

Moved by _____ and seconded by _____, that the Commission adopts the staff recommendations for items 11 through 15 on the consent calendar.

STAFF SUMMARY FOR DECEMBER 14-15, 2022

16. WATERFOWL HUNTING**Today's Item****Information** ☐**Action** ☒

Consider authorizing publication of notice of intent to amend waterfowl hunting regulations.

Summary of Previous/Future Actions

- | | |
|---------------------------------|--|
| • WRC vetting | Sep 15, 2022; WRC, Arcadia |
| • Today's notice hearing | Dec 14-15, 2022; San Diego |
| • Discussion hearing | Feb 8-9, 2023; Sacramento |
| • Adoption hearing | Apr 19-20, 2023; Fresno/Bakersfield area |

Background

DFW proposes changes to migratory waterfowl regulations as described in the draft initial statement of reasons (ISOR) and proposed regulatory language (Exhibit 3) to comply with the proposed frameworks for the 2023-2024 hunting seasons, as approved by the four regional flyway councils in August 2022 and by the U.S. Fish and Wildlife Service (USFWS) Regulation Committee in October 2022. USFWS is scheduled to adopt the proposed frameworks in February 2022.

While the flyway councils and USFWS process for updating federal regulations overlaps with FGC's state process, USFWS has provided its proposals to each state to help ensure consistency between state and federal regulations.

Significant changes proposed by DFW include:

- increasing the duck season length to 103 days for the Southern San Joaquin Valley Zone, Southern California Zone, and Balance of State Zone;
- increasing the goose season length to 103 days for the Southern San Joaquin Valley Zone and the Southern California Zone;
- combining the Youth and Veterans and Active Military Personnel waterfowl hunting days for the Northeastern California Zone, Southern San Joaquin Valley Zone, Southern California Zone, and Balance of State Zone; and
- allowing up to two days of falconry-only season for Northeastern California Zone, Southern San Joaquin Valley Zone, Southern California Zone, and Balance of State Zone.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Authorize publication of a notice as recommended by DFW.

WRC: Authorize publication of a notice as recommended by DFW.

DFW: Authorize publication of a notice as proposed in Exhibit 3.

STAFF SUMMARY FOR DECEMBER 14-15, 2022

Exhibits

1. [DFW memo, received Nov 14, 2022](#)
2. [Draft economic and fiscal impact statement \(STD 399\)](#)
3. [Draft migratory waterfowl ISOR and proposed regulatory language](#)
4. [DFW presentation](#)

Motion

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to amend Section 502 related to waterfowl hunting regulations.

STAFF SUMMARY FOR DECEMBER 14-15, 2022

17. ELK HUNTING**Today's Item****Information** ☐**Action** ☒

Consider authorizing publication of notice of intent to amend elk hunting regulations.

Summary of Previous/Future Actions

- | | |
|---------------------------------|--|
| • WRC vetting | Sep 15, 2022; WRC, Arcadia |
| • Today's notice hearing | Dec 14-15, 2022; San Diego |
| • Discussion hearing | Feb 8-9, 2023; Sacramento |
| • Adoption hearing | Apr 19-20, 2023; Fresno/Bakersfield area |

Background

Current regulations in Section 364 provide definitions, hunting zone descriptions, season opening and closing dates, methods of take (e.g., general methods, archery only, muzzleloader only), tag designations (e.g., bull, spike bull, antlerless, and either-sex), tag quotas (total number of hunting tags to be made available), and bag and possession limits for elk hunting. Section 364.1 provides season opening and closing dates, methods of take, tag designations, tag quotas, and bag and possession limits for elk hunting administered through the Shared Habitat Alliance for Recreational Enhancement (SHARE) hunt program. Individuals are awarded an elk hunting tag through DFW's big game drawing or SHARE Program drawing.

Harvest of an elk is authorized for an individual awarded a tag for a respective hunt zone or SHARE property and season. Tag quotas are established based on a variety of factors including population density and abundance, age and sex composition, elk distribution, and human-elk conflict levels, among other population objectives, factors, and considerations. DFW has identified areas where increased public elk hunting opportunities are feasible and support population objectives; it recommends regulation changes as described in the draft initial statement of reasons (ISOR; Exhibit 2) and proposed regulatory text (Exhibit 3).

Tejon Rocky Mountain Elk Management Unit

- *Current (2022) regulations:* No hunt zone established which authorizes public elk harvest in the Tejon Rocky Mountain Elk Management Unit.
- *Proposed changes:* Create a Tehachapi Rocky Mountain Elk Hunt Zone and General Methods Hunt, with tag allowances set at 5 bull and 10 antlerless.

Bear Valley and Cache Creek Tule Elk Hunt Zones

- *Current regulations:* Public tag quota for these zones are 1 antlerless tag and 2 bull tags (Bear Valley), and 1 apprentice bull tag, 2 antlerless tags, and 2 bull tags (Cache Creek).
- *Proposed changes:* Modify adjacent hunt zone boundaries to bound demographically and genetically interacting populations.

STAFF SUMMARY FOR DECEMBER 14-15, 2022

Siskiyou Roosevelt Elk Hunt Zone

- *Current regulations:* Public tag quota is 20 antlerless tags and 20 bull tags. The bull and antlerless hunt periods are concurrent.
- *Proposed changes:* Set public tag quota to 20 bull tags and 30 antlerless tags and shift the bull season from September to October.

Northwestern Roosevelt Elk Hunt Zone

- *Current regulations:* Public tag quota is 15 antlerless tags, 3 bull tags, and 3 either-sex tags.
- *Proposed changes:* Set public tag quota to 25 bull tags, 15 antlerless tags, and 3 either-sex tags.

La Panza Tule Elk Hunt Zone and Central Coast Tule Elk Management Unit

- *Current regulations:* Public tag quotas for the La Panza Hunt Zone is 1 apprentice antlerless tag, 11 antlerless tags across two hunt periods (5 and 6 tags, respectively), and 12 bull tags across two hunt periods (6 and 6, respectively). There is currently no authorized public elk harvest in the Central Coast Tule Elk Management Unit.
- *Proposed changes:* Decrease the size of the La Panza Hunt Zone, create a new Gabilan Tule Elk Hunt Zone, and create a new Central Coast Tule Elk Zone, which incorporates the existing Camp Roberts Tule Elk Management Unit. For each of the new hunt zones, create a general methods hunt, with tag allowances set at 6 bull and 5 antlerless (La Panza Period 1), 6 bull and 5 antlerless (La Panza Period 2), 10 bull and 10 antlerless (Central Coast), and 4 bull and 6 antlerless (Gabilan).

Additional Non-Substantive Proposed Changes

The proposal also makes several non-substantive changes to provide consistency among Title 14 sections, such as corrections to spelling, grammar, and reference terminology.

Significant Public Comments

A commenter requests that the notice hearing for this rulemaking be postponed to the Feb 2023 meeting because DFW materials were not available prior to the public comment deadline (Exhibit 6).

Recommendation

FGC staff: Authorize publication of a notice of intent to amend regulations related to elk hunting, as recommended by DFW and supported by WRC.

WRC: Support the proposed regulation changes related to elk hunting.

DFW: Authorize publication of a notice of intent to amend regulations as detailed in the draft ISOR.

Exhibits

1. [DFW memo, received Nov 21, 2022](#)
2. [Draft ISOR](#)

STAFF SUMMARY FOR DECEMBER 14-15, 2022

3. [Proposed regulatory text](#)
4. [Draft economic and fiscal impact statement \(STD. 399\)](#)
5. [DFW presentation](#)
6. [Email from Phoebe Lenhart, received Dec 1, 2022.](#)

Motion

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to amend sections 364 and 364.1 related to elk hunting.

STAFF SUMMARY FOR DECEMBER 14-15, 2022

18. BIGHORN SHEEP HUNTING**Today's Item****Information** ☐**Action** ☒

Consider authorizing publication of notice of intent to amend Nelson bighorn sheep hunting regulations.

Summary of Previous/Future Actions

- | | |
|--|--|
| • Today's proposed notice hearing | Dec 14-15, 2022; San Diego |
| • Proposed discussion hearing | Feb 8-9, 2023; Sacramento |
| • Proposed adoption hearing | Apr 19-20, 2023; Fresno/Bakersfield area |

Background

The Marble and Clipper mountains bighorn sheep populations, which are currently subject to hunting under Section 362, have been subject to extreme drought, low recruitment, and respiratory disease in recent years. Recent population estimates and minimum counts in the Marble and Clipper mountains strongly suggest population declines. Specifically, DFW's 2022 population estimates from the summer of 2022 was only 25 to 83 adult male sheep, such that the mature (greater than 2 years) population available for hunting may be less than 25 rams. Furthermore, annual surveys during 2015-2022 indicate between 0 and 0.18 lambs per ewe survived from the previous year to be counted as yearlings (i.e., recruitment). The minimum recruitment rate for a sustainable population is on the order of 0.20.

Due to mounting concerns regarding the low population and reproduction estimates, DFW has determined that it is imperative tag quotas be reduced for the 2023-2024 season. DFW's formal request to add this rulemaking to FGC's rulemaking timetable—and the proposed schedule—is included in Agenda Item 25B for this meeting.

DFW's proposed changes to bighorn sheep hunting regulations are detailed in the draft initial statement of reasons (ISOR) and proposed regulatory language (Exhibit 3); the proposed amendments are necessary to achieve a sustainable population of Nelson bighorn sheep in the Marble and Clipper mountains, meet management recommendations in the existing Clipper Mountains management unit plans, and comply with a 15% harvest threshold specified in California Fish and Game Code subdivision (d) of Section 4902.

The proposed changes to Section 362 include:

- decreasing the tag quota for the general lottery in the Marble/Clipper Mountains Hunt Zone 1 (San Bernardino County) from 5 tags to 1; and
- decreasing the fundraising tag for the Marble, Clipper, and South Bristol mountains from 1 to 0 tags.

Over the next year, DFW intends to follow up with a more detailed analysis of the bighorn sheep population and reproduction trends and evaluation of factors affecting those trends.

STAFF SUMMARY FOR DECEMBER 14-15, 2022

Significant Public Comments (N/A)**Recommendation**

FGC staff: Authorize publication of a notice as recommended by DFW.

DFW: Authorize publication of a notice as proposed in the ISOR.

Exhibits

1. [DFW memo, received Nov 29, 2022](#)
2. [Draft economic and fiscal impact statement \(STD 399\)](#)
3. [Draft ISOR and proposed regulatory language](#)
4. [DFW presentation](#)

Motion

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to amend Section 362 related to bighorn sheep hunting regulations.

STAFF SUMMARY FOR DECEMBER 14-15, 2022

19. GAME FISH CONTESTS**Today's Item****Information** ☐**Action** ☒

Consider approving sufficiently related changes to the regulations adopted by the Commission on June 16, 2022 for game fish contests.

This item is not ready for FGC consideration. Staff recommends continuing this item to a future meeting.

Summary of Previous/Future Actions (N/A)

Background (N/A)

Significant Public Comments (N/A)

Recommendation

FGC staff: Under Agenda Item 1, continue this item to a future meeting.

Exhibits (N/A)

Motion (N/A)

STAFF SUMMARY FOR DECEMBER 14-15, 2022

20. ELECTRONIC DISPLAY OF LICENSES VIA MOBILE APPLICATION**Today's Item****Information** ☒**Action** ☐

Discuss proposed amendments to regulations to implement Assembly Bill 817 (Chapter 607, Statutes of 2021) to enable DFW to accept electronic display of licenses on a DFW mobile application.

Summary of Previous/Future Actions

- | | |
|-------------------------------------|-----------------------------------|
| • Notice hearing | Oct 12-13, 2022; Kings Beach |
| • Today's discussion hearing | Dec 14-15, 2022; San Diego |
| • Adoption hearing | Feb 8-9, 2023; Sacramento |

Background

Section 1050 of the California Fish and Game Code authorizes FGC to determine the form of all licenses, permits, tags, reservations, and other entitlements and the method of carrying and displaying all licenses. Section 1050.4 of the Fish and Game Code, created by AB 817, authorizes DFW to provide an option to display a sport fishing license, validation, report card, or other sport fishing entitlement electronically on a mobile device.

Fish and Game Code Section 1054.2 and existing regulation (Section 700) state that every person, while engaged in taking any fish, amphibian, reptile, bird, or mammal shall have on their person or immediate possession a valid sport fishing or hunting license. Currently, the DFW Automated License Data System (ALDS) allows license items to be printed instantly using point-of-sale terminals at DFW license agents and DFW license sales offices. ALDS also allows applicants to apply for licensing online, print out a temporary license, and receive a permanent license via mail; these existing options will remain available if the proposed regulations are adopted.

The proposed regulations would amend Section 700.4 to include electronic display as a valid form of presenting a sport fishing license. Specifically, the proposed changes include: (1) adding language to allow DFW to accept electronic display of licenses on an official DFW application, and (2) non-substantive changes to language and punctuation (see exhibits 2 and 3 for detail and additional rationale).

Today's meeting is an opportunity for public discussion about the proposed regulation changes.

Significant Public Comments

A hunting and conservation organization commends the proposed regulations as greatly beneficial to hunters and anglers (Exhibit 5).

Recommendation (N/A)**Exhibits**

1. [DFW memo, received Sep 9, 2022](#)

STAFF SUMMARY FOR DECEMBER 14-15, 2022

2. [Initial statement of reasons](#)
3. [Noticed regulatory text](#)
4. [Email from Sven Lindquist, President, Safari Club International, received Nov 9, 2022](#)

Motion (N/A)

STAFF SUMMARY FOR DECEMBER 14-15, 2022

21. CALIFORNIA WATERFOWLERS HALL OF FAME**Today's Item**Information ☐Action ☒

Recognize newly inducted members of the California Waterfowler's Hall of Fame.

Summary of Previous/Future Actions

As a sponsor of the California Waterfowler's Hall of Fame, FGC annually recognizes inductees through the presentation of signed resolutions.

Background

The California Waterfowlers Hall of Fame was established in 1999 to recognize individuals who have made significant contributions to enhancing waterfowl and their habitats in California. In 2006, FGC began formally recognizing inductees with a resolution.

A small group of interested waterfowlers was instrumental in establishing the Hall of Fame so that major contributions and achievements of biologists, academics/professors, federal/state administrators, legislators, sportsmen, agriculturalists, and other conservationists could be recognized. The selection committee includes representatives from the California Waterfowl Association, Ducks Unlimited, Conservations Solutions, Gaines and Associates, University of California at Davis, National Audubon Society, U.S. Fish & Wildlife Service, and DFW.

Inductees or their representatives will be presented with their resolutions by the California Waterfowl Association. This year's inductees are William F. Berry, Glenn Olson, Dr. Jim Sedinger, Bob Shaffer, and Jimmy Smith.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Recognize this year's Waterfowlers Hall of Fame inductees with FGC resolutions.

Exhibits

1. [Resolution for William F. Berry](#)
2. [Resolution for Glenn Olson](#)
3. [Resolution for Jim Sedinger, PhD.](#)
4. [Resolution for Bob Shaffer](#)
5. [Resolution for Jimmy Smith](#)

Motion

Moved by _____ and seconded by _____ that the Commission recognizes William F. Berry, Glenn Olson, Dr. Jim Sedinger, Bob Shaffer, and Jimmy Smith as the newest inductees to the California Waterfowlers Hall of Fame.

STAFF SUMMARY FOR DECEMBER 14-15, 2022

22. REGULATORY CHANGE PETITIONS (WILDLIFE)**Today's Item**Information ☐Action ☒

This is a standing agenda item for FGC to receive new regulation change petitions and act on regulation change petitions received from the public at previous meetings. For this meeting:

- (A) Receive new petitions for regulation change
- (B) Act on previously received petitions for regulation change

Summary of Previous/Future Actions**(A) *New Petitions for Regulation Change – Receipt***

- **Today receive new petitions** **Dec 14-15, 2022; San Diego**
- Potentially act on new petitions Feb 8-9, 2023; Sacramento

(B) *Regulation Change Petitions – Scheduled for Action*

- Received new petitions Oct 12-13, 2022; Kings Beach
- **Today's potential action on petitions** **Dec 14-15, 2022; San Diego**

Background**(A) *Receipt of new petitions for regulation change***

Pursuant to Section 662, any person requesting that FGC adopt, amend, or repeal a regulation must complete and submit form FGC 1. Regulation change petition forms submitted by the public are received at this FGC meeting under (A) if they are delivered by the comment deadline (included in meeting materials) or by the supplemental comment deadline.

Under the Bagley-Keene Open Meeting Act, FGC cannot discuss or take action on any matter not included on the agenda, other than to schedule issues raised by the public for consideration at future meetings. Thus, petitions for regulation change generally follow a two-meeting cycle (receipt and direction); FGC will determine the outcome of the petitions for regulation change received at today's meeting at the next regularly scheduled FGC meeting (currently Feb 8-9, 2023) under (B), following staff evaluation, unless the petition is rejected under 10-day staff review as prescribed in subsection 662(b).

FGC received one new petition by the comment deadline; the petition is summarized in Exhibit A1, and the petition is provided as Exhibit A2.

(B) *Action on previously-received petitions for regulation change*

Petitions received at the previous meeting are scheduled for FGC consideration at the next regularly scheduled business meeting under (B). A petition may be (1) denied, (2) granted, or (3) referred to a committee, staff, or DFW for further evaluation or information-gathering. Referred petitions are scheduled for action once the evaluation is completed and a recommendation made.

STAFF SUMMARY FOR DECEMBER 14-15, 2022

For today, two wildlife and inland fisheries petitions are scheduled for action:

- I. *Petition 2021-007*: Request to revise authorized methods of take and designation for wild pig (Exhibit B2)
- II. *Petition 2022-16*: Request to prohibit waterfowl hunting at Lake Earl Wildlife Area (Del Norte County) (Exhibit B3)

Staff recommendations and rationales, developed with input from DFW staff, are provided in Exhibit B1.

Significant Public Comments

1. The petitioner for Petition 2021-007 submits comments in response to DFW's Oct update on the petition, underscoring and supporting the request to regulate the caliber of BB devices (Exhibit B4).
2. The Del Norte County Board of Supervisors opposes both elements of Petition 2022-16. The board supports waterfowl hunting as a means of supporting conservation efforts, finds the petition's claims to be without support or evidence, and states that the second request to "replace county operated Lake Earl breaching practice with a solar powered aqueduct" is outside the authority of FGC (Exhibit B5).
3. Del Norte Waterfowlers opposes Petition 2022-16, questioning its factual basis. The organization states that the area is subject to noise from other sources, has a long history of waterfowl hunting, and is the only remaining public area available to waterfowl hunters in the county (Exhibit B6).
4. A waterfowl hunter opposes Petition 2022-16, citing limited opportunity in Del Norte County and stating that if some hunters were acting unethically, they would have been turned in by others (Exhibit B7).

Recommendation

FGC staff: Defer action on Petition 2021-007 until the Feb 2023 FGC meeting, and deny Petition 2022-16 for the reasons set forth in Exhibit B1.

Exhibits

- A1. [Summary of new petitions for regulatory change received through Dec 1, 2022](#)
- A2. [Petition 2022-18, received Nov 10, 2022](#)
- B1. [Summary of non-regulatory requests and staff recommendations for requests scheduled for action, updated Dec 7, 2022](#)
- B2. [Petition 2021-007, received Mar 10, 2021](#)
- B3. [Petition 2022-16, received Sep 19, 2022](#)
- B4. [Emails from Colin Gallagher, received Oct 13 through Oct 14, 2022](#)
- B5. [Letter from Garry Hemmingsen, Chair, Del Norte County Board of Supervisors, received Nov 21, 2022](#)
- B6. [Letter from Jeff Reed, Del Norte Waterfowlers, received Nov 23, 2022](#)
- B7. [Email from Sebastian Garcia, received Nov 30, 2022](#)

STAFF SUMMARY FOR DECEMBER 14-15, 2022

Motion

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations, reflected in Exhibit B1, to defer action on petition 2021-007 and deny petition 2022-16.

OR

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations as reflected in Exhibit B1, except for item(s) _____ for which the action is _____.

STAFF SUMMARY FOR DECEMBER 14-15, 2022

23. NON-REGULATORY REQUESTS FROM PREVIOUS MEETINGS (WILDLIFE AND INLAND FISHERIES)**Today's Item**Information ☐Action ☒

This is a standing agenda item for FGC to act on requests for non-regulatory action received from the public at previous meetings.

Summary of Previous/Future Actions

- FGC received requests Oct 12-13, 2022; Kings Beach
- **Today potentially act on requests Dec 14-15, 2022; San Diego**

Background

Requests for non-regulatory action are received from members of the public under general public comment. All non-regulatory requests follow a two-meeting cycle to ensure proper review and thorough consideration of each item. All requests received in writing or public testimony during general public comment at the previous FGC meeting are scheduled for consideration at the next meeting. Referred non-regulatory requests are scheduled for action once the evaluation is completed and a recommendation made.

There are two non-regulatory wildlife and inland fisheries requests scheduled for action today. Exhibit 1 provides staff recommendations and rationales, developed with input from DFW staff.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Adopt the staff recommendations for non-regulatory requests as reflected in Exhibit 1.

Exhibits

1. [Summary of non-regulatory requests and staff recommendations for requests scheduled for action, updated Nov 26, 2022](#)

Motion

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for actions on non-regulatory requests reflected in Exhibit 1.

OR

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for actions on non-regulatory requests reflected in Exhibit 1, except for item(s) _____ for which the action is _____.

STAFF SUMMARY FOR DECEMBER 14-15, 2022

24A. WILDLIFE RESOURCES COMMITTEE (WRC)**Today's Item**Information ☐Action ☒

Discuss referred topics and consider revisions to topics and timing. Consider approving draft agenda topics for the next committee meeting currently scheduled for Jan 12, 2023.

Summary of Previous/Future Actions

- Previous WRC meeting Sep 15, 2022; WRC, Arcadia
- **Today consider approving agenda topics** **Dec 14-15, 2022; San Diego**
- Next WRC meeting Jan 12, 2023; WRC, Los Angeles area

Background

WRC works under FGC direction to set and accomplish its work plan.

Committee Work Plan

Topics that have been referred by FGC to WRC are displayed within a work plan for scheduling and tracking (Exhibit 1).

Next Committee Meeting

In addition to standing agenda items, six topics are proposed for the Jan 12 WRC meeting:

- *American Bullfrog and Non-Native Turtle Stakeholder Engagement Project*: Receive options for collective action and continue discussion of the previous analysis.
- *Petition 2021-017*: Discuss, receive DFW's recommendations, and potentially make recommendations to FGC for the big game hunting proposals in this referred petition.
- *Preference Points and Refunds for Hunting Tags*: Receive recommendations on proposed changes to the previous hunting tags preference points and refund rulemaking, and potentially make recommendations to FGC.
- *Rulemakings*: Receive proposals for a potential future rulemaking concerning DFW-owned and DFW-managed lands. Discuss and potentially make recommendations for three potential rulemakings related to wildlife rehabilitation facilities, upland game hunting draws, and chronic wasting disease.
- *Inland Sport Fishing*: Discuss and potentially make recommendations on inland boat limits.
- *Bear Management Plan*: Receive an update and continue discussion on DFW's bear management plan.

Most of the topics are expected to require significant discussion and cannot be completed in a single-day meeting. WRC Chair Zavaleta and staff have identified Jan 11 as an option for adding to the scheduled meeting to ensure there is sufficient discussion time for all agenda topics.

STAFF SUMMARY FOR DECEMBER 14-15, 2022

Significant Public Comments (N/A)

Recommendation

FGC staff: Approve the draft WRC agenda topics as proposed and add Jan 11 to the scheduled Jan 12 WRC meeting date.

Exhibits

1. [WRC work plan, updated Dec 7, 2022](#)

Motion

Moved by _____ and seconded by _____ that the Commission approves the topics for the Jan 12, 2023 Wildlife Resources Committee meeting and adds Jan 11 to the meeting date, as discussed today.

STAFF SUMMARY FOR DECEMBER 14-15, 2022

24B. DEPARTMENT WILDLIFE AND FISHERIES DIVISION, AND DEPARTMENT ECOSYSTEM CONSERVATION DIVISION**Today's Item**Information ☒Action ☐

DFW will highlight items of note since the last FGC meeting.

Summary of Previous/Future Actions (N/A)**Background**

A verbal report is expected for DFW's Wildlife and Fisheries Division, and Ecosystem Conservation Division report. News releases of interest are provided as exhibits 1 through 4.

Significant Public Comments (N/A)**Recommendation (N/A)****Exhibits**

1. [DFW news release: CDFW Celebrates 50 Years of Wild Trout Waters, Oct 24, 2022](#)
2. [DFW news release: Klamath River Upstream of Interstate 5 Reopened to Adult Chinook Salmon Harvest, Nov 8, 2022](#)
3. [DFW news release: CDFW Offers Veteran-Specific Hunting and Fishing Resources and Reduced-Fee Hunting and Fishing Licenses to Disabled Veterans, dated Nov 11, 2022](#)
4. [DFW news release: CDFW Announces the Availability of \\$200 Million in New Grant Funding Under Drought, Climate and Nature-Based Solutions Initiatives, dated Nov 30, 2022](#)

Motion (N/A)

STAFF SUMMARY FOR DECEMBER 14-15, 2022

25A. ADMINISTRATIVE ITEMS – LEGISLATION**Today's Item****Information** ☒**Action** ☐

Receive updates on legislative activity and letters of support. Consider providing direction to staff on potential actions.

Summary of Previous/Future Actions

- Directed staff to update and resend a letter regarding federal drift gill net actions to the U.S. Congress

Oct 12-13, 2022; Kings Beach

Background

During the 2021-22 state legislative session, FGC staff provided updates on legislation that may affect FGC's resources and workload, or may be of interest to commissioners; DFW also provided regular reports on active bills it was tracking. At its Oct 21-22, 2022 meeting, FGC received a final report on legislative activities for the session, including the governor's actions on relevant bills.

The legislature convened for the 2023-24 session on Dec 5, 2022, when new members were sworn in and a special session was held at the request of Governor Newsom regarding gas prices. The legislature adjourned and will reconvene on Jan 4, 2023. Calendar highlights include:

- Jan 1: Most statutes take effect unless identified as urgent
- Jan 10: Budget must be submitted by Governor Newsom
- Jan 20: Last day to submit bill requests to the Office of Legislative Counsel
- Feb 17: Last day for new bills to be introduced
- Mar 30: Spring recess begins upon adjournment of the day's session
- Apr 10: Legislature reconvenes

At any meeting, FGC may direct staff to provide information to, or share concerns with, bill authors. Today, FGC may provide further direction to staff concerning potential legislation.

Letters of Support for Concepts in Legislation

At its Oct 12-13, 2022 meeting, FGC directed staff to locate, update and resend a letter previously sent by FGC to support efforts at harmonizing California and federal drift gill net actions. The previous letter was sent in November 2018 to then-Chairman John Thune and then-Ranking Member Bill Nelson of the U.S. Senate Committee on Commerce, Science and Transportation, expressing support for the Driftnet Modernization and Bycatch Reduction Act. Staff worked with Commissioner Sklar and President Murray to update the letter, reflecting support for phasing out large-mesh drift gill nets offshore California, testing and implementing alternative gear that reduces bycatch of non-target species, and allocating federal funds to provide drift gillnet fishermen with additional resources to transition to more sustainable and selective gear (Exhibit 1).

STAFF SUMMARY FOR DECEMBER 14-15, 2022

Significant Public Comments (N/A)

Recommendation (N/A)

Exhibits

1. [Letter to Nancy Pelosi, Speaker of the House, Steny Hoyer, Majority Leader, and Kevin McCarthy, House Republican Leader, U.S. House of Representatives, dated Nov 3, 2022](#)

Motion (N/A)

STAFF SUMMARY FOR DECEMBER 14-15, 2022

25B. ADMINISTRATIVE ITEMS - RULEMAKING TIMETABLE UPDATES**Today's Item**Information ☐Action ☒

Review and potentially approve changes to the perpetual timetable for anticipated regulatory actions.

Summary of Previous/Future Actions

- FGC approved rulemaking timetable Oct 12-13, 2022; Kings Beach
- **Today consider approving changes to the rulemaking timetable Dec 14-15, 2022; San Diego**

Background

This is a standing agenda item for staff and DFW to request changes to the FGC rulemaking timetable, confirm changes made by FGC during this meeting, and highlight minor changes made by staff.

DFW requests one change to the rulemaking timetable (Exhibit 1):

1. Add a "Bighorn Sheep Hunting" rulemaking to amend Section 362 to decrease tag quotas for two hunts in the Marble/Clipper Mountains Hunt Zone. This rulemaking is necessary to comply with requirements of California Fish and Game Code Section 4902(b), in light of population declines recently estimated for Nelson bighorn sheep. The proposed timeline for this rulemaking is notice in Dec 2022 (this meeting, under Agenda Item 18), with discussion in Feb 2023, and adoption in Apr 2023.

FGC staff removed the disclaimer for the "Harvesting of Kelp and Other Aquatic Plants, Commercial Marine Algae Management Policies" rulemaking indicating that it had been withdrawn from OAL. The rulemaking has been approved by OAL and will be effective Jan 1, 2023. Additionally, minor updates to anticipated effective dates and Title 14 section numbers have been made, as reflected in Exhibit 2.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Adopt proposed changes to the timetable for anticipated regulatory actions and any rulemaking changes identified during this meeting.

Exhibits

1. [DFW memo, received Nov 21, 2022](#)
2. ["Perpetual Timetable for Anticipated Regulatory Action," dated Dec 5, 2022](#)

Motion

Moved by _____ and seconded by _____ that the Commission approves the proposed changes to the rulemaking timetable as discussed today.

STAFF SUMMARY FOR DECEMBER 14-15, 2022

25C. ADMINISTRATIVE ITEMS – NEXT MEETING**Today's Item**Information ☐Action ☒

This is a standing agenda item to review logistics and approve draft agenda items for the next FGC meeting and consider any changes to meeting dates or locations.

Summary of Previous/Future Actions (N/A)**Background**

The next FGC meeting is scheduled for Feb 8-9, 2023 in downtown Sacramento at the new headquarters building and via teleconference/webinar. There are no unusual logistics anticipated. Potential agenda items for this meeting are provided in Exhibit 1 for consideration and potential FGC approval.

Note that for two-day FGC meetings in 2023, wildlife and inland fisheries items will be heard on the first day and marine items will be heard on the second day.

Plans are, of course, contingent upon state and local health guidance regarding in-person events as the meeting date approaches.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Approve agenda items for the Feb 8-9 FGC meeting as presented in Exhibit 1 and amended at this meeting.

Exhibits

1. [Potential agenda items for the Feb 8-9, 2023 FGC meeting](#)

Motion

Moved by _____ and seconded by _____ that the Commission approves the draft agenda items for the February 8-9, 2023 Commission meeting, as amended during this meeting.

STAFF SUMMARY FOR DECEMBER 14-15, 2022

Executive Session**Today's Item****Information** ☐**Action** ☒

Executive session will include four standing topics:

- (A) Pending litigation to which FGC is a party
- (B) Possible litigation involving FGC
- (C) Staffing
- (D) Deliberation and action on license and permit items

Summary of Previous/Future Actions (N/A)**Background**

During the public portion of its meeting, FGC will call a recess and reconvene in a closed session pursuant to the authority of California Government Code subsections 11126 (a), (c)(3), and (e)(1). FGC will address four items in closed session:

(A) Pending litigation to which FGC is a party

See agenda for a complete list of pending civil litigation to which FGC is a party, at the time the agenda was made public.

(B) Possible litigation involving FGC**(C) Staffing**

For details about staffing, see the executive director's report under Agenda Item 3(A) for today's meeting.

(D) Deliberation and action on license and permit items

- I. *Consider the proposed decision in Agency Case No. 21ALJ01-FGC, the accusation filed against Jonathan Ewart regarding revocation of a commercial fishing license and a lobster operating permit*

DFW filed an administrative accusation against Jonathan Ewart alleging that violations of the California Fish and Game Code merited revocation of Ewart's commercial fishing license and lobster operator permit. Jonathan Ewart filed a notice of defense with FGC seeking a hearing.

FGC staff referred the case to the Office of Administrative Hearings (OAH), and OAH conducted a hearing. At the hearing, DFW submitted an amended accusation, which most notably deleted the sixth cause of discipline from the original accusation. After the hearing, OAH submitted a proposed decision to FGC; the proposed decision finds that all the violations in the amended accusation did occur, that the 17 causes support imposing discipline, and recommends the revocations that DFW requested (Exhibit 1).

In reaction to the proposed decision, both parties have submitted letters to FGC. DFW submitted a letter to FGC urging it to adopt the proposed decision and revoke

STAFF SUMMARY FOR DECEMBER 14-15, 2022

the license and permit (Exhibit 2). E. Michael Linscheid, representing Jonathan Ewart, submitted a letter to FGC requesting that it impose a punishment or remedy short of the revocation (Exhibit 3).

Significant Public Comments (N/A)**Recommendation**

FGC staff: (D)I. Adopt the proposed decision for agency case number 21ALJ01-FGC.

Exhibits

1. [Proposed decision regarding the Ewart Accusation, dated Oct 25, 2022](#)
2. [Letter from DFW to FGC, dated Nov 14, 2022](#)
3. [Letter from E. Michael Linscheid to FGC, dated Nov 16, 2022](#)

Motion

Moved by _____ and seconded by _____ that the Commission adopts the proposed decision for Agency Case No. 21ALJ01-FGC, regarding revocation of Jonathan Ewart's commercial fishing license and lobster operating permit, in its entirety.

CALIFORNIA FISH AND GAME COMMISSION
RECEIPT LIST FOR NON-REGULATORY REQUESTS RECEIVED BY 5:00 PM ON
DECEMBER 1, 2022 PUBLIC COMMENT DEADLINE FOR THIS MEETING

Date Received	Name/Organization of Requestor	Subject of Request	Short Description	FGC Receipt Scheduled	FGC Action Scheduled
9/26/2022	Bernard Friedman	State Water Bottom Leases	Requests to add California mussels and giant kep to the species allowed for cultivation on state water bottom lease M-653-02, and for the addition to be permanent rather than routinely subject to renewal.	12/14-15/22	2/8-9/22
10/25/2022	Jeff Maassen	Harvest Permit Renewal	Requests to renew a permit to harvest <i>Sargassum horneri</i> , as well as add another harvest area within the existing permit.	12/14-15/22	2/8-9/22
11/3/2022	Doug Bush, Cultured Abalone Farm	Kelp Bed Leases	Requests to renew Kelp Bed Lease L-2724, pertaining to Kelp Bed L-26.	12/14-15/22	2/8-9/23
12/1/2022	Phoebe Lenhart	Rodenticide Poisonings	Requests that FGC coordinate a multi-agency effort to reduce cougar poisonings caused by rodenticides.	12/14-15/22	2/8-9/23

From: [REDACTED]
Sent: Monday, September 26, 2022 3:42 PM
To: FGC@fgc.ca.gov
Subject: fw: RE: Ammending lease M-653-02

Hello,

Please submit this email and it's attachments into the public record.

I've been trying to add California mussels and giant kelp to my list of species I can cultivate on my state water bottom lease M-653-02 since February of 2021.

I am asking the commission for oversight and advise on progress to get the lease amended.

I have been farming on this lease for the past 20 years and have permission from all of California's relevant regulatory agencies.

The California Coastal Commission has already amended the CDP to allow for cultivation of California mussels.

All operations are current and up to date on submissions of annual progress reports and mitigation measures. There is no change to this operation for the addition of these two species which have already been permitted on a conditional short-term basis.

The request I'm looking for is to permanently add these two species instead of regularly having to resubmit temporary permits.

I am happy to take questions and look forward to a solution.

Regards,

Bernard Friedman

Santa Barbara Mariculture Co.
Bernard Friedman
[REDACTED]
[REDACTED]
[REDACTED]

From: [REDACTED]
Sent: Tuesday, August 30, 2022 8:29 PM
To: "Briley, Sara [REDACTED]" "kirsten ramey"
<Kirsten.Ramey@fgc.ca.gov>
Cc: "Lovell, Randy [REDACTED]" "susan ashcraft"
<Susan.Ashcraft@fgc.ca.gov>
Subject: RE: Ammending lease M-653-02

Hi Sara,

After much delay I have a response to the comments you sent along last december.

The main delay was getting a quote for a ceqa document to help in getting the lease amended. the quote came in at a range of \$94,000 to \$130,000. The cost of this quote makes the request of amending the lease not feasible.

the quote does come with a menu of costs so that it may be affordable if a narrower request was called for.

In my attachment, my answers to your comments start on page 9. I do not feel a amendment to my CEQA document is warranted based on my answers. I am happy to discuss this further.

I also included the CEQA quote for your reference.

.My research group which is comprised of Holdfast aquaculture and USC researchers were just awarded a NOAA salt and kennedy grant on a proposal to develop CA mussels for aquaculture that was submitted last year. The work is to begin in a month.

I would like to move forward with solutions to this delimma so the grant money can be used for developing CA mussel culture in California.

I would like to submit any progress we make to the commission at the October meeting. I'm not going to throw anyone under the bus. The delays are all my fault. But I do need a solution and direction for what to do.

Regards, Bernard

Santa Barbara Mariculture Co.
Bernard Friedman

[REDACTED]
[REDACTED]
[REDACTED]

Cover Letter

May 4, 2022

Mr. Bernard Friedman
[REDACTED]
[REDACTED]
[REDACTED]

Subject: Santa Barbara Mariculture Co. Amending Lease M-653-02

Dear Mr. Bernard

Dudek is pleased to submit our outline of services necessary to prepare a Mitigated Negative Declaration (MND) pursuant to the California Environmental Quality Act (CEQA) in support of an Amendment to your existing lease with the California Fish and Game Commission (CFGF), specifically Lease M-653-02. We understand the intent of the lease amendment would be to include mussels and kelp at the current Santa Barbara Mariculture Co operations offshore of Santa Barbara, California.

We understand that we would be taking the materials provided to date including the applicant prepared draft Initial Study /Mitigated Negative Declaration (IS/MND), and include an assessment of impacts compared to the adopted IS/MND for the current operations. The outlined scope and estimated cost ranges herein assume Dudek undertaking all the work, however, we would be happy to discuss alternative sharing of work items as we recognize the costs are not inconsequential to your effort.

In addition, Dudek can help support application for an amendment to the operations Coastal Development permit to include kelp. For mussels, the California Coastal Commission (CCC) previously issued an immaterial approval of an amendment to the permit. For kelp, an additional amendment would be necessary, which ostensibly could again qualify as an immaterial amendment.

Dudek has been providing environmental evaluation support to aquaculture and other complex projects in the marine environment for over a decade. Our team offers the following strengths:

Unmatched Experience Preparing Legally Defensible Environmental Documents. Dudek has one of California's largest, most experienced teams for CEQA and National Environmental Policy Act (NEPA) document preparation. Our environmental planners have prepared and processed more than 2,800 CEQA/NEPA documents for a variety of large and small development, restoration, and conservation projects throughout the state. Combining comprehensive analysis and evidence-based findings, we provide legally defensible documents that are supported by substantial evidence, none of which have ever been successfully challenged. We conduct technically sound assessments and manage environmental review processes in a streamlined, compliant, and straightforward manner.

Diverse Capabilities. Our depth and breadth of experience means we can quickly assemble and mobilize the appropriate level of service to match your project needs and budget. Dudek's mid-sized, 600-plus-person team means we are small enough to provide customized services to meet the needs of our clients, while still offering the depth of experience needed to provide thorough, effective work products and strategic guidance. Our flat and

integrated organizational structure empowers project managers to seek input from our diverse group of seasoned professionals, and act decisively on our client's behalf, saving you time and money.

Qualified Staff. Our key Dudek team members include Project Manager Matt Valerio, Laurie Monarres and Carolyn Groves as permitting support, and John Davis IV as marine biology lead. These team members have key experience in aquaculture and/or permitting and environmental evaluation of projects and strong relationships with agency staff. For example, Laurie Monarres is a former U.S Army Corps. of Engineers (ACOE) Chief, and Carolyn Groves is a former California Coastal Commission (CCC) planner. John Davis IV has been integral to the development of best management practices and conservation measures for aquaculture projects. Matt Valerio has innovated permitting pathways and navigated the CEQA and NEPA process for large projects, including numerous projects for the ports of San Diego and Los Angeles, desalination projects, and a joint environmental impact statement (EIS)/EIR for the Coastal Storm Damage Reduction Project along the Southern California coast on behalf ACOE. Our team members provide various roles in support of the ongoing Ventura Shellfish Enterprise permitting processes for the Ventura Port District as well as the offshore fin fish Pacific Ocean Aquafarms Project permitting with the National Oceanic and Atmospheric Administration (NOAA

Sincerely,



Matt Valerio
Principal



Joseph Monaco
President and CEO

Joseph Monaco is authorized to sign on behalf of Dudek.

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Scope of Work and Cost Summary

Review of IS/MND and related materials, MND preparation, CDP Amendment support:

Task	Scope Summary	Cost Range
CFGC – State Waters Bottom Lease Amendment, CEQA	<ul style="list-style-type: none"> • Evolve the applicant prepared IS/MND into a Comprehensive IS/MND adequate pursuant to CEQA: <ul style="list-style-type: none"> ○ Confirm and refine project description to be comprehensive of all construction and operation activities including landside transport/operations [assume NO landside/shore improvements necessary for the project, only some transport details to be added] ○ Addition of Mandatory Findings of Significance including cumulative analysis, collaborating with CFGC to determine the list of cumulative projects ○ Independent analysis and improved processing of available technical material, including water quality [assumes no additional survey work is required] including whether/what mitigation may be necessary ○ Analysis of available fishing data including whether/what mitigation may be necessary ○ Marine Biology Survey and Biological Technical Report ○ Additional Marine Biology (Biological Assessment and EFH) ○ Undertake calculations for AQ, GHG and energy ○ Further analysis of cultural resources by reviewing California State Lands Commission California Shipwreck Database, and National Oceanic and Atmospheric Administration Shipwrecks and Obstructions database [assume CFGC has conducted Tribal Consultation and can provide summary, if necessary] 	<ul style="list-style-type: none"> • \$81,900 - \$114,000 <ul style="list-style-type: none"> ○ \$1,200 - \$2,000 ○ \$3,000 - \$5,000 ○ \$8,000 - \$10,000 ○ \$2,000 - \$4,000 ○ \$15,000 - \$20,000 ○ \$15,000 - \$20,000 ○ \$8,000 - \$10,000 ○ \$4,000 - \$6,000

Task	Scope Summary	Cost Range
	<ul style="list-style-type: none"> ○ Analysis of consistency with the California Coastal Act and note the CCC's guidance on Aquaculture permitting ^[1] ○ Independent review of all IS responses and additional narration as necessary [assumes no new technical reports or modelling necessary] • Provision of 1 screencheck Draft IS/MND for CFGC, CDFW and responsible agencies (CCC et al) review • Revisions based on agencies review and provision of Public Review Draft IS/MND [assumes no additional substantive analysis or surveying necessary] • Preparation of Notice of Intent (NOI) to adopt an MND, [1 round of review by CFGC assumed], and distribution of NOI [assuming CDFG would file with OCunty clerk and address review fees] for 30-day public review • Create a refined Mitigation Monitoring and Reporting Program (MMRP) • Collection of public comments received, organization and stratization of responses • Preparation of written responses to comments for upto 50 unique comments [assumes no new analysis required and use of common/master responses to the maximum extent possible] • Revisions to IS/MND as needed and provision to CFGC and responsible agencies 1 screencheck Final IS/MND including RTCs 	<ul style="list-style-type: none"> ○ \$1,500 - \$2,000 ○ \$4,000 - \$6,000 • [culmination of items "○" bulleted above] • \$8,000 - \$10,000 • \$2,000 - \$3,000 • \$2,000 - \$3,000 • \$1,200 - \$2,000 • \$4,000 - \$6,000 • \$3,000 - \$5,000
CCC CDP Amendment	<ul style="list-style-type: none"> • CCA consistency will be included in the IS/MND land/water use analysis; however, additional rigor is required for the CDP Amendment application to the CCC. Dudek has former CCC staff that can undertake the necessary review and prepare the CDP Amendment application IF the applicant has 	\$5,000-\$15,000

¹ https://documents.coastal.ca.gov/assets/cdp/CDP%20Application%20Guidance_12.08.20.pdf

Task	Scope Summary	Cost Range
	<p>not. Or Dudek can review and revise any application packet prepared by the applicant to promote it's comprehension and acceptance by CCC for review.</p> <ul style="list-style-type: none"> Dudek can provide responses and revisions to materials to address CCC feedback [assume 2 rounds of CCC review and comments prior to accepting application] Dudek can review CCC staff report, including conditions of approval and findings, and recommended responses thereto Dudek can support the applicant in preparing for and attending the CCC hearing for the CDP Amendment, [assume applicant would make any presentation at the hearing] 	
Project Management	<ul style="list-style-type: none"> Management of Dudek efforts and project progress, inclusive of all efforts identified herein as well as meetings, schedule, budget and invoicing, and coordination 	\$ = ~10% of fee outlined above (\$8,000-\$14,000)
Total assuming all tasks above:		\$94,900 - \$130,400

Amendment to State Water Bottom Lease M-653-02 to include the giant kelp (*Macrocystis pyrifera*) and the California mussel (*Mytilus californianus*) as species of cultivation.

Sept. 14, 2021

Introduction

This amendment request is to add two species as stated above to the list of cultivated species on Lease M-653-02. State water bottom lease M-653-02 was executed for a duration of 15 years on May 21, 2018 between Santa Barbara Mariculture Company (SBMC) and the Fish and Game Commission for the cultivation of Pacific oysters (*Crassostrea gigas*) and Mediterranean mussels (*Mytilus galloprovincialis*). Santa Barbara Mariculture Company was granted additional authorization for regulatory compliance for legal operation of lease M-653-02. These additional authorizations include a Coastal Development Permit (E-12-012-A1), a Water Quality Certification (34218WQ41), and a Department of Army Permit (SPL-2018-00684-TS) to run concurrent with the 15-year lease. In addition, SBMC holds annual permits with the California Department of Public Health which include a Shellfish Growing Area Certificate (SGA21-614-AQ) and a Shellfish Handling and Marketing Certificate (CA 614 SS).

Santa Barbara Mariculture Company submits yearly logs, reports, site inspections, audits, and payments to stay in compliance. Although the recent authorizations were granted in 2018, SBMC has been successfully operating and growing shellfish on lease M-653-02 since 2002. The history of operations and the detailed specifics of the operation can be found in the CEQA document Titled: SANTA BARBARA MARICULTURE COMPANY CONTINUED SHELLFISH AQUACULTURE OPERATIONS ON STATE WATER BOTTOM LEASE OFFSHORE SANTA BARBARA, CALIFORNIA, publish January 2018 by the Department of Fish and Game.

This amendment borrows heavily on present operations and authorizations. The structure, the operations, and the compliance requirements have all been authorized and meet California regulatory standards. This amendment is specifically a description of how giant kelp and California mussels will be utilized in the already pre-existing and authorized operation.

The California Mussel

The California mussels is a native of the North American West coast. They were an important source of food for Native Americans prior to European contact. Mussel populations are often found in large aggregations on rocks in the upper intertidal zone. The purpose for growing the California mussel at lease M-653-02 is to promote this delicacy as a sustainable source of food. The California mussel makes an excellent candidate to diversify SBMC's crop tool kit and

provide sustainability in the face of climate change and extreme variability in environmental conditions.

The proposed plan for growing the California mussels is identical to the description of the cultivation of Mediterranean mussels which is currently approved.

Mussel Farming Operations

The mussel culture begins by hanging 10-foot fuzzy ropes on the backbone. The fuzzy ropes are obtained from a shellfish hatchery and already have settled mussels on them. Each rope can carry as many as 50,000 mussels, which are referred to as “spat” once they are permanently attached to a surface. The spat were produced from native broodstock at a land based facility. After 3 months, the mussel spat have grown to 0.25-inch in size; the seed ropes are stripped and the mussels are placed into a machine that re-distributes them onto another continuous mussel rope using a biodegradable net sock to hold them in place until the mussels attach themselves to this fuzzy rope. The mussel rope is tied and draped below the backbone in 10-foot loops spaced 3-feet apart (diagram 1). About 2,000 feet of fuzzy rope is tied to one longline. At harvest time, the end of the mussel rope is untied from the backbone and inserted into a ship-board harvesting machine run by the boat’s hydraulic system. The machine strips the rope of its mussels and rotates them through spinning brushes to break the mussels apart and clean them of any fouling. The most common fouling on mussels is filamentous algae and barnacles, which is washed by seawater and returned to the ocean from whence it came. Washing mussels during harvesting is recommended by the National Shellfish Sanitation Program (FDA, National Shellfish Sanitation Program, 2013). After passing through the machine, the mussels are transferred into a barrel of seawater before being placed onto a sorting table. The market-size mussels are rinsed and placed into 25-pound bags and stored in barrels of seawater for transport back to landing, and undersized mussels collected for reattachment to ropes for continued grow-out.

Giant kelp

Giant kelp is a large brown algae native to the California marine environment. Individuals may grow to 150 feet with growth rates as much as 2 feet a day. Giant kelp can commonly be found on rocky bottoms in depths between 15 to 40 feet and form floating canopies which are commonly called kelp forests.

The purpose for growing giant kelp on lease M-653-02 is to diversify Santa Barbara Mariculture’s farm portfolio. Traditional uses for giant kelp have been for the extraction of alginates which are used as a thickening agent in common products ranging from ice cream to cosmetics. Other potential products are as an ingredient for livestock feed to reduce methane emissions, fertilizer, biofuel, carbon credits, and renewable and biodegradable plastic polymers.

Giant kelp grown on the lease may also one day be used to restore habitats devastated by climate change.

Giant kelp is currently being farmed on the lease under multiple temporary permits. They include two Scientific Collection Permits (S-183050002-18305-001 and S-200500001-20050-001) and an Amendment to a Coastal Development Permit (E-12-012-A4). The methods to grow the kelp have been extensively described in those permits and will be reviewed again in this document.

Giant Kelp Farming Operations.

The giant kelp germlings are produced from native brood-stock in a land-based facility. These germlings can be attached to a ½ inch nylon rope with biodegradable glue or settled naturally. The grow rope is 15 foot long and is directly tied to the main line and floated with a bullet float to suspend it above the mainline (see diagram 2). This grow rope may have as many as 15,000 germlings which are microscopic in size at the time of planting. Giant kelp seeds compete between each other for nutrients and access to light, which results in self – thinning, where some of the germlings might die off or stay at the microscopic stage until conditions for growth are met. A well seeded line would have between 1 and 2 attached adult plants per foot. Full grow-out of the seed rope is expected to occur in 6 to 12 months when the plants are reaching the surface. For harvesting and inspections, the longline is brought to the surface using the boats winches. The kelp will be harvest by hand either by cutting sections and letting the plant regrow or untying the seed line and dragging all the plants growing on the seed line into the boat.

Another method for growing the kelp is to soak a 1 to 4 mm nylon twine large containers filled with planktonic germlings. Nursery time can take 30 to 45 days and then the line is unfurled along the main line and fastened at 3-foot intervals to the mainline. The kelp is allowed to grow up to the surface and is periodically inspected for growth (see diagram 1). At 6 to 12 months of growth or when the plants have reached the surface, the longline will be raised using the boats winches and the giant kelp will be harvested by hand by either cutting sections of the plant and letting the plant regrow or cutting the plant at the stipe and dragging the whole plant into the boat.

An offshoot of this method, and this will be mostly for science, is to settle kelp germlings on short (2.5 inch) pieces of twine that will be attached to a ¼ nylon rope at 2 foot intervals which is fastened to the mainline at 2-foot intervals.

The backbone depth for the kelp and the mussel lines will be maintained at depths between 20 and 50 feet and will have a series of surface floats keeping the line at a set depth and in addition the kelp lines will have 50 lb. concrete weights attached to the mainline below the surface floats to maintain sufficient ballast during grow-out (See diagram 1 and 2).

Diagram 1: Schematic of mussel, kelp, and oyster longlines. Longline configuration is the same for all three species.

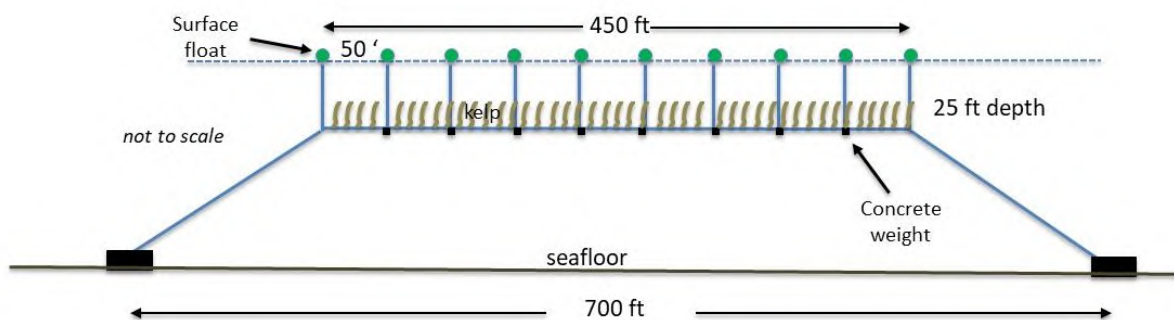
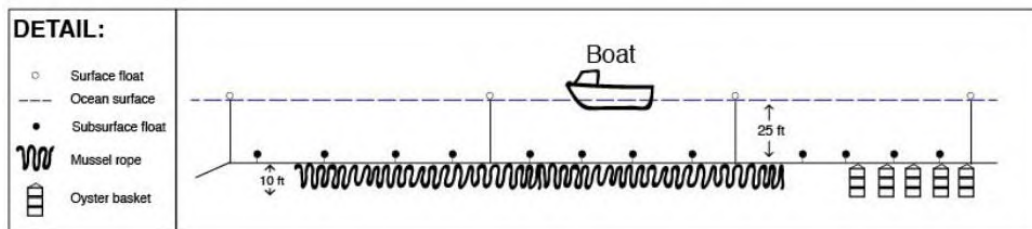
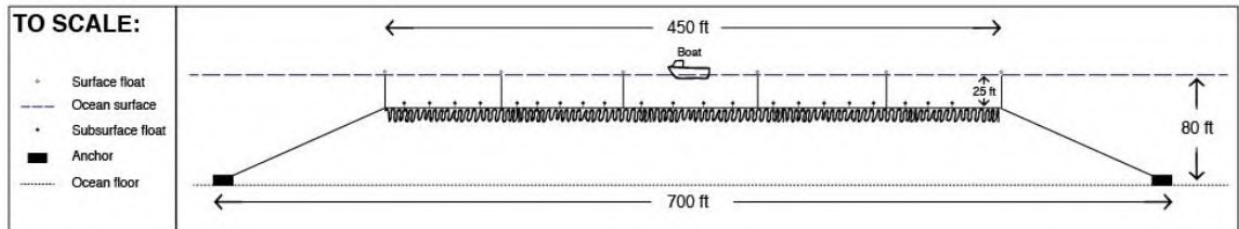
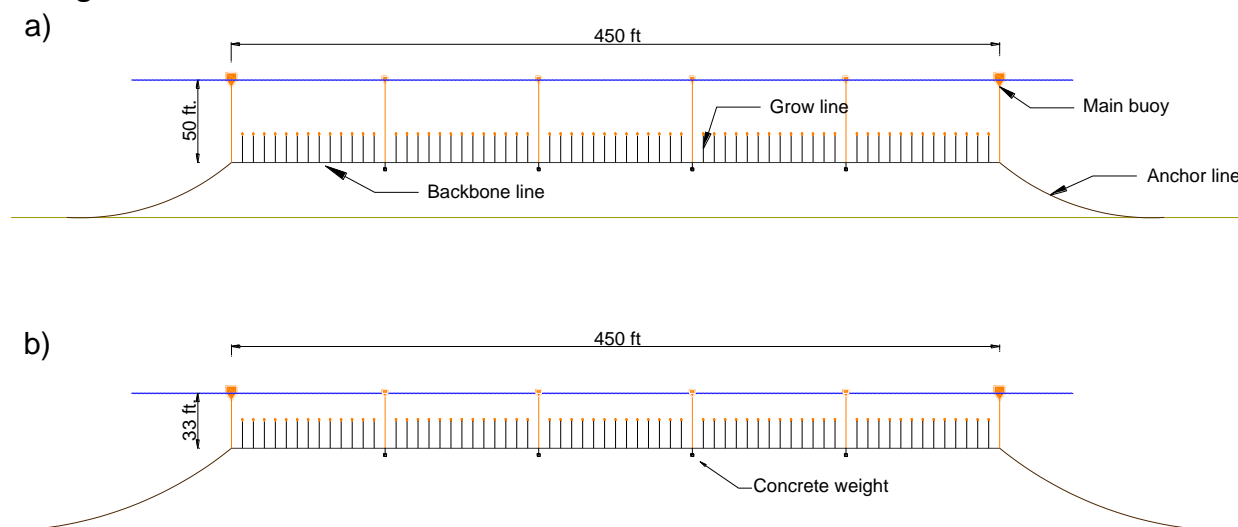


Diagram 2: Kelp seed lines attached to the mainline shown in two different depth configurations



Environmental Checklist

Aesthetics: The proposed project will not result in a long term impact to aesthetic resources. The farm structures have been approved by the CCC (CDP E-12-012-A1) and reviewed in the Initial Study Santa Barbara Mariculture CEQA document.

Agricultural Resources: There are no agricultural resources in the project location.

Air Quality: There are no significant impacts to air quality from the proposed project as determined by the mitigated negative declaration in the SBMC CEQA document.

Biological Resources: Refer to CDP E-12-012-A1 and BIO -1 through BIO-7 in CEQA document

Tribal Cultural Resources: The proposed project is located on a sandy ocean floor and there would be no earthwork or land disturbance. There is no impact to cultural resources as reviewed in CDP E-12-012-A1.

Geology and Soils: There is no land disturbance for the proposed project and there will be no impact to geological resources as reviewed in CDP E-12-012-A1.

Greenhouse gas Emissions: Refer to CEQA document.

Hazards and Hazardous Materials: The project as conditioned in the approved CDP E-12-012-A1.

Hydrology/Water Quality: The proposed project will not change or alter hydrology and would not impact water quality as approved by the Central Coast Regional Water Board and reviewed in CDP E-12-012-A1.

Land Use: No impacts.

Mineral Resources: No impacts

Noise: There would be no impacts from noise as reviewed in the CEQA document and CDP E-12-012-A1.

Population and Housing: There would be no impact to population and housing from the proposed project.

Public Services: The proposed project would not increase the need for public services.

Recreation: The proposed project does not impact recreation areas as reviewed in CDP E-12-012-A1.

Transportation/ Traffic: There would not be an increase of traffic or the need for parking from the proposed project.

Utilities: The proposed project does not impact utilities and there will be no impact.

Mandatory finding of Significance: Refer to CDP E-12-012-A1 and CEQA document.

Project Description:

More details are needed in the description. Highlight what would be new compared to what was already included in the 2018 IS/MND project description. Some information may seem obvious to you but would be helpful to state explicitly for other readers. For example, some details to consider adding:

1. CA mussel:

- Are there any differences between culturing the CA mussel compared to the previous description of culturing Mediterranean mussels?
- Will total production of mussels increase on the lease with the cultivation of this new species, or will mussel production remain the same but with Mediterranean mussels making up less of the total production amount?
- Will there be more lines devoted to mussel aquaculture now or no change from the IS/MND? How many lines will be used for mussel cultivation?

2. Kelp:

- What is the estimated amount of kelp produced on the lease?
- How many lines on the lease will be the modified kelp longline?
- How will maintenance of the kelp lines differ from maintenance of the mussel lines – is there a difference in timing and frequency of maintenance/harvest from the mussel culture?
- Will kelp culture activities result in additional boat trips to the site than described in the IS/MND?
- Why is there a wide range in potential depths for the kelp longlines (20-50 ft depth)? How is the depth selected?

Environmental Review:

1. Important to highlight how the impact of this revised project compares to the impact of the original project described in the adopted IS/MND. Are there any new significant environmental effects or increases in the severity of previously identified significant effects? If so, can they be reduced through mitigation?

2. Each issue on the checklist (e.g., aesthetics, biological resources) has a series of questions that each need to be addressed in your explanation. For example, there are 6 questions under biological resources to address.

3. In your explanations, the arguments must be included in this document and not just referenced to other documents. Mentioning that there are no impacts as determined by the previous IS/MND or CDPs is not enough information. Put the conclusions of the analysis from these documents into your own words prior to citing them.

4. Citing the previous IS/MND alone may not be adequate in all cases since the IS/MND did not include analysis of new project components (kelp or CA mussel aquaculture activities). That previous analysis serves as a good starting point, but then your analysis should evaluate whether there would be any differences in impacts caused by the new project scope compared to the original project. We discussed a few that might be new: culturing native species may pose some risks to wild population's genetic diversity and disease exposure. You might also consider whether there would be new or increased impacts if there are additional lines installed, modifications to the longline structures, or increased volume of bivalves.

I apologize for the long delay. It was suggested during one of our conversations last year that hiring an environmental consultant would be prudent to modify the current CEQA document to include the addition of these two new species for cultivation on the lease. I contacted 3 environmental consultants and received 1 quote 6 months later. You can find the quote added in a separate attachment. The estimated cost range for amending the current IS/MND is projected to be between \$94,000 to \$130,000.

The two species that I am trying to cultivate on the lease have low to little commercial value at this time. The interest in these two species is driven by government grants to develop these two species into commercial aquaculture production. The expense of an amended IS/MND is inappropriate for the application of these government funds. Further, the cost is inappropriate to this application because the two species do not change the operation of the farm that isn't already stated in the current IS/MND and no additional mitigation measures would be needed to cover the cultivation of these two species.

The estimate that is listed below does list a menu of items that could be specifically addressed to cover the concerns of CDFW. Further clarification is needed in CDFW's feedback response to make this amendment feasible. I cannot bear the full cost of amending my IS/MND to include these two species for cultivation. I am a family farm making a living on California's resources. The cost of doing business in this state is extremely high. Please mitigate these costly burdens so I can continue to provide for my family.

I would now like to respond to your feedback so that we may work together to make a request that is both feasible and comprehensive.

1. CA Mussel:

- a. There are no differences between culturing the CA mussel and the Mediterranean mussel. The description in the IS/MND is the same. The mussels are spawned in a hatchery. They set on a rope which is hung out on the farm which is redistributed on to more rope. The mussels are grown the same way and harvested the same way. A mussel is a mussel in this instance.
- b. The total production of mussels will not increase. The farm is approved to grow up to 360,000 lbs. a year as stated in the IS/MND. Maximum capacity for the farm is 320,000 lbs. if only mussels were to be grown on the farm. As stated in the IS/MND the farm can also grow up to 250,000 oysters but the ratio between mussels and oysters will vary from year to year. The same is true for CA mussels. The maximum of each species will not be exceeded in a given year nor can the farm grow a maximum for both species in a year. This allows flexibility in planting and farm management and allows for a suite of options for the farmer.
- c. As stated in the IS/MND and in the previous answer. There is no designation of longlines for a given species. Planting and growing designations are dependent on availability of seed and availability of lines that have been harvested and are ready for planting. Due to the variability of biology and environmental conditions, planting ratios of any shellfish species is hard to predict.

No new lines will be added as part of this request. The IS/MND permitted a total of 40 longlines to be installed on the farm. A total of 32 longlines exist on the farm with no more room to add more.

2. Kelp:

- a. The estimated amount of kelp produced on the lease would be 320,000 lbs. a year. This is a maximum amount assuming that kelp is grown on all 32 longlines.
- b. Due to the unpredictability of the environment, it is impossible to predict what ration of kelp, mussels, and oysters will exist on the farm. The longline is not modified for any of the three species. It is the same throughout the entire farm and can be used to grow all three species.
- c. The maintenance for the kelp lines and the mussel lines are the same. They are the same lines that can be used to grow either oysters, mussels, or kelp. The boat uses the same procedure for handling, maintaining, growing, and fixing. All 32 longlines are exactly the same.
- d. The current IS/MND permits two boats to visit the farm every day of the week. No additional boat visits are required for this amendment since there is no addition of any longlines just a request to add variety of species to cultivate.
- e. The range of depth requested for the kelp longlines is the same range of depth used to cultivate the shellfish. Mussels are hung below 50 feet to avoid duck predation. When the ducks are not around the mussel lines are raised to 20 feet to increase growth rates. Oyster nets are hung deep to avoid fouling at certain times and raised to boost growth. The same management practices will be applied to kelp to minimize environmental interactions and promote productivity.

Environmental Review:

1. The environmental impact will be much less than currently stated in the IS/MND. There are currently less longlines and less shellfish produced than allowed for in the current IS/MND. The subsequent annual reports submitted to your agency detail no impacts on the farm. One was just submitted in May of 2022. These reviews were submitted annually since 2019 during years where the farm was growing kelp under temporary permits. There have been no documented environmental effects as to be documented as required by the IS/MND and coastal development permits.

It is currently documented in these annual reports that no significant environmental changes have occurred over the past 20 years that this farm has been in existence. Since there is no change to the operation, no environmental effects are predicted to occur.

2. I don't have the original questions of the checklist anymore and would need a refresher on where to find them again. I believe that since there is no change to the operation, the current IS/MND and the CDP amendments answers those questions. Furthermore, the mitigation measures implemented are sufficient to monitor any environmental changes occurring by adding these two species.
3. I hope the above answers provided more context. The current IS/MND does not need to be rewritten and would be a burdensome reiteration of already previously stated facts.
4. There is no modification of longlines or increase in activity due to the addition of these species. The project stays the same just different species are grown.

The regulation and mitigation to exposure to disease and genetic diversity fall under CDFW existing regulation. I file import permits and consult with CDFW's Shellfish Health Laboratory and Fisheries Genetics Laboratory for any planting of shellfish on the farm. These two species fall under the same regulatory umbrella and are currently being evaluated by your department. Broodstock for the kelp is selected from nearby kelp beds and Ca mussels are selected from natural settlement on the longlines.

5. Nothing was added on the farm for the cultivation of these two new species requested. The amended CDP's should be sufficient since they do not increase any activity or equipment already permitted at the farm. California Coastal Commission staff have asked that the species be permanently put on the lease rather than have to continually resubmit a temporary permit. No adverse effects have been documented after 4 years of cultivation of kelp. How much more and what kind of analysis is needed.
6. Formatting is burdensome and costly for a family farm that is doing research on government funds. Please spend our tax dollars more wisely.

From: Jeff Maassen [REDACTED]
Sent: Tuesday, October 25, 2022 9:24 PM
To: FGC <FGC@fgc.ca.gov>
Cc: Elsmore, Kristen [REDACTED] Sergey Nuzhdin
[REDACTED]
Subject: Invasive harvest permit renewal (Sargassum Horneri)

Dear Commissioners and Melissa Miller Henson,

I am writing to renew my permit to harvest the invasive kelp Sargassum Horneri that you issued to me earlier this year as per Conditions Letter dated 1-20-2022.

I would also like to also ask your consideration to include another Sargassum h. harvest area within my existing permit to facilitate a Macrocystis Kelp restoration project in development that is a collaboration with USC (University of Southern California) at Catalina Island. (Map and coordinates attached....proposal coming soon!)

Please see attached request with background information, support letter from USC and Conditions Letter.

Thank you very much,

Lance Maassen (aka Jeff)

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Lance Maassen (aka- Jeff)

To: California Fish and Game Commission

Re: Commercial Kelp harvest conditions for invasive Sargassum Horneri.

Dear Commissioners,

I am writing to request an annual permit extension (with some modifications) of my annual conditional Kelp harvesting license for the invasive Sargassum horneri that I was issued January 20 2022.

This year, the Sargassum was not as severe as preceeding years and I was not inclined to complete a harvest due to market unavailability and cost of harvest constraints. After acquiring my permit in January- it became evident that the densities and volume would not be there as in the preceeding several years. In my market research subsequent to receiving my conditional permit I have contacted universities, "Urchinomics", farms (chicken, pig and marijuana) NGOs and other entities that are interested in experimenting in utilizing it. It appears that there is limited initial interest as all would like to try a sample and test out and assess if could be utilized on a broader scale. Should the Sargassum continue to be a persistent problem in the future - even with density ebbs and flows- I believe that my preliminary groundwork will serve to be useful in both scaled removals utilizing Sea Urchin divers and hopefully utilization of as a food, feed or fertilizer.

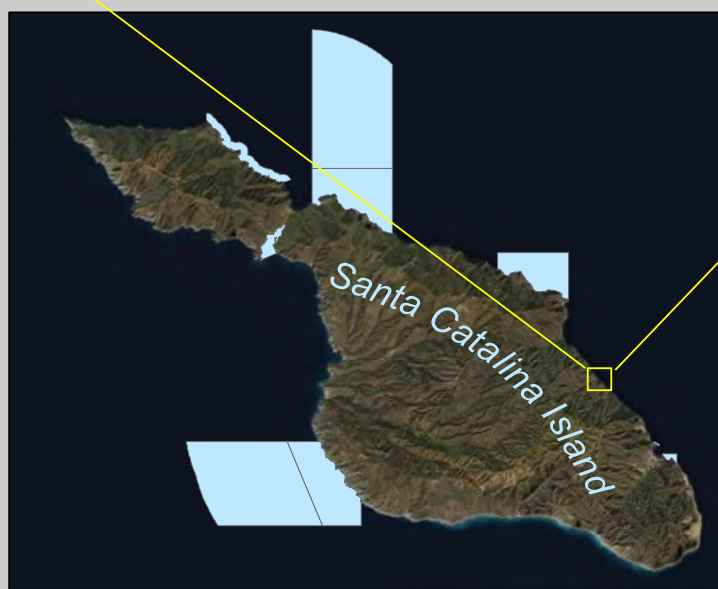
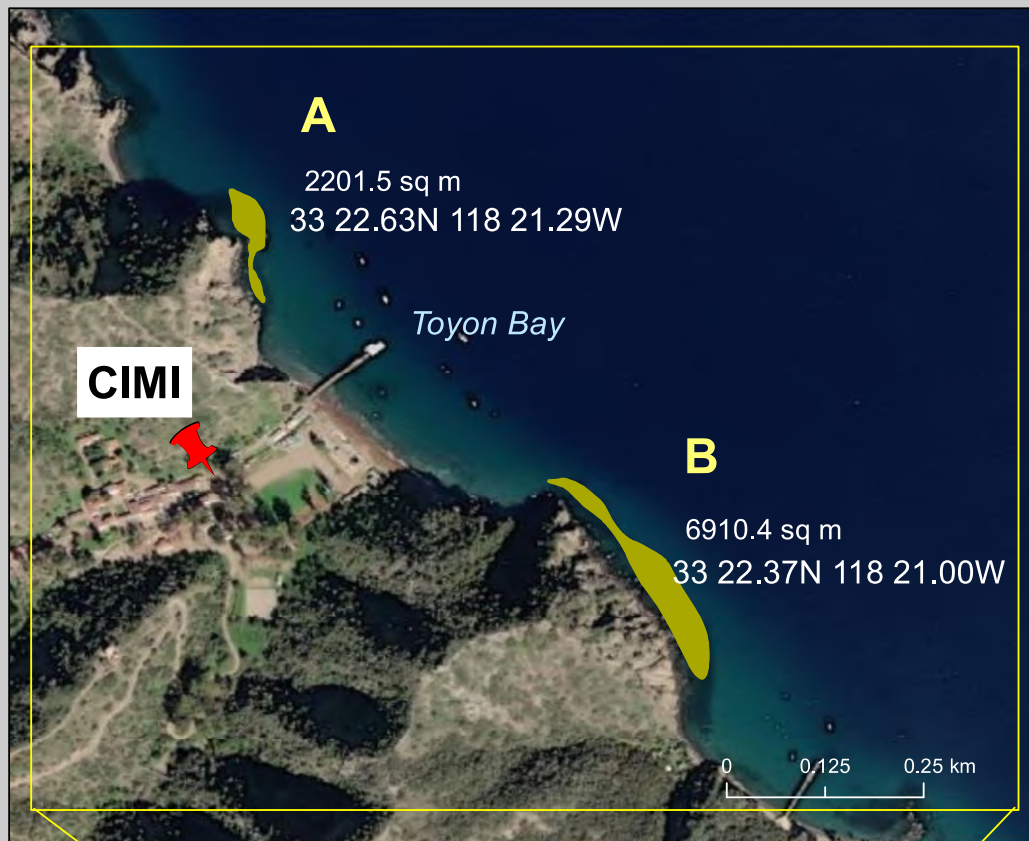
Within the context of Sargassum removals and research on Kelp Forest ecosystem regeneration- I wanted to inform you that I am collaborating on an upcoming project proposal with the Dr Sergey Nuzhdin lab at the USC Dornsife school (University of Southern California) to provide Sargassum removal services at the CIMI camp, Toyon bay at Catalina Island (Two coves up from Avalon). This exciting project could stimulate and perhaps incorporate camp students to inspire, collaborate and as well as provide easy accessability by CDF&W personnel and other interested parties to come visit and monitor efficacy and progress in restoring the Kelp forest at that site.

In Summary; It is my hope that you will renew my conditional Sargassum permit for another year. Attached, please find the proposed Catalina Island restoration site at Toyon Bay.

Best Regards,

Lance Maassen

Appendix 1. Locations for Kelp Beds Restoration Project.



Legend

- BIO_CA_Kelp_2013
- Area_of_Interest
- NOAA_MPAI_Catalina



To Jeff Maassen,

10/23/2022

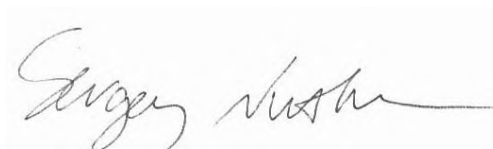
Dear Jeff,

This letter is to express my strong support to your application for the sargassum commercial harvest renewal and extending your permit to the Catalina Island area.

As you know, Catalina shore is overtaken by sargassum, and we plan on efforts to restore native kelp beds, with hopeful funding by Builders Foundation. Prior to enhancing kelp recruitment, we need to make sure that sargassum is not overabundant in restoration area, else kelps will be shaded and not efficiently recruited.

Collaborating with you is the most sure way of accomplishing this goal.

Yours





State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Marine Region
32330 N. Harbor Dr.
Fort Bragg, CA 95437
[Redacted]

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



January 20, 2022

Mr. Lance Maassen
[Redacted]

Subject: Conditions for Commercial Kelp Harvesting License

Dear Mr. Maassen:

Please find attached the Condition Letter to allow commercial harvest of *Sargassum horneri*. This condition letter must be attached to your Commercial Kelp Harvesting License and must be shown upon request to any person authorized to enforce California Fish and Wildlife regulations. This condition letter does not relieve the holder of the responsibility to obtain any other required permits, or comply with any other Federal, State, or local laws and regulations.

If you have any questions or need further information, please contact me at
[Redacted]

Sincerely,

A handwritten signature in black ink, appearing to read "Kristen Elsmore".

Kristen Elsmore, Environmental Scientist
Nearshore and Bay Management Project
Department of Fish and Wildlife

January 20, 2022

Subject: Conditions for Commercial Kelp Harvesting License

Authority: This license is issued by the California Department of Fish and Wildlife (Department) pursuant to California Fish and Game Code Sections 6650-6653, 6656, 6680, and 15202, and California Code of Regulations (CCR), Title 14, Section 165, and serves as authorization to collect and transport the marine alga species approved for commercial purposes.

Project Manager:

Name: Mr. Lance Maassen



Authorized Collector:

Name: Mr. Lance Maassen



Effective Date and Expiration Date:

This authorization shall be valid from **01/20/2022** through **12/31/2022**, or earlier if collection of approved species has ceased (e.g., due to emergence of *S. horneri* reproductive structures) or the take limit per trip of the approved species is reached, whichever is earlier.

Collection Location(s):

The vegetative tissue of the approved marine alga species may be collected within two nautical miles of Arch Rock (N 34°01.001, W 119°21.318) (Anacapa Island) from depths of approximately 20-30 feet and within two nautical miles of Brockway Point (N 34°01.743, W 120°08.674) (Santa Rosa Island) from depths of approximately 15-25 feet, with the approved ports of landing being Oxnard and Santa Barbara, respectively.

Authorized Species:

This authorization covers *Sargassum horneri*.

Conditions of Authorization:

The Department's issuance of this condition letter is subject to the Project Manager's compliance with and implementation of the following conditions of authorization:

- 1) This condition letter authorizes the collection of up to 1,500 pounds wet weight of *S. horneri* from a single approved harvest location per trip (Table 1).
- 2) Approved locations of harvest, depths, and ports of landing include:

Table 1. List of approved harvest locations and corresponding landing ports for the harvest of <i>S. horneri</i> .				
Harvest Location	Latitude, Longitude	Harvest Vicinity Radius	Harvest Depth Range	Landing Port
Arch Rock, Anacapa Island	N 34°01.001, W 119°21.318	within two nautical miles of coordinates	20-30 feet	Oxnard
Brockway Point, Santa Rosa Island	N 34°01.743, W 120°08.674	within two nautical miles of coordinates	15-25 feet	Santa Barbara

3) Only non-reproductive *S. horneri* may be harvested as determined by visual inspection for the absence of reproductive receptacles. Department-approved materials for the identification of reproductive receptacles are provided with this condition letter.

4) *S. horneri* may only be harvested by hand, or with hand tools such as dive knives, scissors, or clippers, and placed in sealed non-permeable bags underwater at the point of harvest, before being transferred to a vessel.

5) To reduce take of incidental species, epibionts (organisms living on or among *S. horneri*), and other species should be removed from *S. horneri* prior to placement in sealed non-permeable bags and care should be taken to not remove or disturb native species while harvesting.

6) All Commercial Kelp Harvesting License, harvesting and reporting provisions in CCR, Title 14, Section 165 apply.

7) To limit potential for dispersal, *S. horneri* may not be transported greater than 500 feet underwater from the point of harvest to the vessel.

8) On the vessel, bags of harvested *S. horneri* must be placed within additional containment, such as fish totes, other similar hard-sided containers, or heavy duty brailer bags to limit distribution on the deck and reduce accidental spillage of *S. horneri* while transferring from the boat to the dockside. The secondary containers, such as fish totes or brailer bags may only be washed out at upland sites or into municipal wastewater systems where appropriate.

9) Any debris from harvesting activity must be washed from the deck or fish hold before leaving the harvest location. Fish holds shall not be openly connected to surrounding seawater while transporting *S. horneri*. Fish holds used to transport *S. horneri* must be sterilized with a 10% bleach solution before reconnection to seawater.

10) To reduce the risk of spreading to new locations, *S. horneri* may only be harvested and possessed at approved harvest and landing locations and direct routes in between, as defined by the Department.

11) To reduce the risk of spreading to new locations during land-based transit, *S. horneri* must remain in sealed non-permeable bags throughout transport from landing locations to approved recipient locations adjacent to or connected with State waters (e.g., aquaria) (Table 2).

Table 2. List of facilities approved by the Department to receive, hold, and dispose of <i>S. horneri</i> transferred from the Project Manager (only includes facilities adjacent to or connected with State waters).				
Facility	Point of Contact	Date Approved	System	Effluent Treatment & Disposal Plan
SDSU Coastal and Marine Institute Laboratory 4165 Spruance Rd, Suite 100 San Diego, CA 92101	Name: Renee E. Angwin, Lab Manager Email: [REDACTED]	01/20/22	closed system (RAS)	Effluent: RAS waters are disposed of in the municipal sewer system Disposal: solid waste will be bagged and disposed of in the trash
Urchinomics 565 Shell Harbor Ln, Port Hueneme, CA 93041	Name: Peter Struffnegger, Operations Manager Email: NA [REDACTED]	01/20/22	closed system (RAS)	Effluent: RAS waters are disposed of in the municipal sewer system Disposal: solid waste will be bagged and disposed of in the trash

12) Recipient locations for transport by the Project Manager must be pre-approved by the Department (Table 2). Additional facilities adjacent to or connected with State waters must be requested for Department staff consideration by providing the following information to Kristen Elsmore [REDACTED] at least two weeks prior to initial proposed delivery date:

12a) Facility name and address

12b) Point of contact for recipient facility (name, email, and phone number)

12c) Description of facility's *S. horneri* holding and disposal plan (effluent and degraded/unused *S. horneri*)

13) To reduce the risk of potential disease transmission and physical spreading to new locations, facilities receiving *S. horneri* from the Project Manager must hold *S. horneri* in closed/recirculating systems. Effluent water from closed/recirculating systems (e.g., when cleaning or disposing of any recirculated seawater) must be treated with UV sterilization, Ozone, or chlorination. Effluent that flows directly into municipal wastewater systems do not need to be treated.

14) To reduce the risk of potential disease transmission and physical spreading to new locations, facilities receiving *S. horneri* from the Project Manager must dispose of *S. horneri* waste (e.g., unused, or degraded algae) such that it does not come into contact with the ocean or waters leading to the ocean.

15) Approved species **may not** be collected in marine protected areas or other marine conservation areas.

16) The Project Manager must avoid collecting the approved species in areas where researchers may have study sites, specifically the following study areas must be avoided (coordinates are for the centroid of the areas) when collecting *S. horneri*:

Near Anacapa Island:

34.018, -119.364

34.010, -119.388

34.013, -119.389

34.006, -119.394

17) The Project Manager shall not take or possess any other species of invertebrate, fish, or other marine algae while on a trip or when taking *S. horneri* under the authority of this condition letter.

18) No *S. horneri* specimen shall be returned to the waters of the State.

19) *S. horneri* taken under this license may be inspected periodically by the Department. Such inspection shall be coordinated by Department staff.

20) A copy of the valid Commercial Kelp Harvesting License, this condition letter, *Sargassum* Identification Guide, and a valid driver's license or DMV identification must be in the Project Manager's possession at all times while collecting or transporting under the authority of this condition letter.

21) The Project Manager shall comply with all applicable State, Federal, and local laws in existence on the effective date of this condition letter.

Notification and Reporting:

1) The Project Manager shall via email notify Fish and Wildlife Assistant Chief, Eric Kord at [REDACTED] and Kristen Elsmore [REDACTED] of intent to collect or transfer possession *S. horneri*, including intended collection date, collection location, landing port, and facility transfer location(s), at least **24 hours prior** to any collection activities and transfer of possession to recipient facilities.

2) The Project Manager shall maintain an accurate, current record of all *S. horneri* collected and maintained under this license. Such records shall include the latitude/longitude coordinates of location of take and describe the total landed weight, number and range of length of individuals collected, date of collection, destination, use, and disposal of *S.*

horneri. This information shall be provided via a summary report to be submitted by **January 31, 2023**, or within one month of ceasing collections of *S. horneri* approved for take to Kristen Elsmore [REDACTED]

3) Per CCR, Title 14, Section 165, following the collection of *S. horneri* pursuant to the Commercial Kelp Harvesting License, the Project Manager shall record the required information in the Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Report, (DFW 113A).

4) Per CCR, Title 14, Section 165, monthly reports of harvest with harvest royalty fees, \$24.00 per wet ton (\$0.012 per pound wet weight) harvested, shall be submitted to the address specified on the report, on or before the 10th day of each month, following the month to which the records pertain.

5) Intent to renew this condition letter shall be provided by the Project Manager to the Fish and Game Commission at least 60 days prior to the expiration of this condition letter.

This condition letter, *Sargassum horneri* ID guide, valid Commercial Kelp Harvesting License, and a valid driver's license or DMV identification must be in possession of the Project Manager when conducting any activity authorized by this letter and must be shown upon request to any person authorized to enforce Fish and Wildlife regulations. This condition letter does not relieve the Project Manager of the responsibility to obtain any other required permit(s), or comply with any other Federal, State, or local laws and regulations.

Attachments:

Sargassum horneri Identification Guide

Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Report,
(DFW 113A)

Sincerely,



Kristen Elsmore, Environmental Scientist
Nearshore and Bay Management Project
Department of Fish and Wildlife

cc: Eric Kord, Assistant Chief
Southern Enforcement District
Department of Fish and Wildlife
[REDACTED]

Jason Kraus, Lieutenant
Southern Enforcement District
Department of Fish and Wildlife
[REDACTED]

Kirsten Ramey, Program Manager
State Managed Finfish and Nearshore Ecosystem Program
Department of Fish and Wildlife
[REDACTED]

Rebecca Flores Miller, Environmental Scientist
Nearshore and Bay Management Project
Department of Fish and Wildlife
[REDACTED]

Lindsay Orsini, Environmental Scientist
Southern California Invertebrate Management Project
Department of Fish and Wildlife
[REDACTED]

Notice of intent to renew: Kelp Bed L-26 lease

Doug Bush [REDACTED]

Thu 11/03/2022 10:23 AM

To: FGC <FGC@fgc.ca.gov>

Cc: Flores Miller, Rebecca [REDACTED] Ashcraft, Susan [REDACTED]

[REDACTED] Lovell, Randy [REDACTED]

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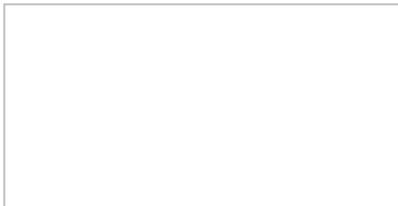
Please find attached our notice of intent to renew the lease of kelp bed L-26.

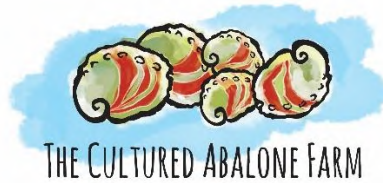
Hard copies have been mailed to CA FGC and to DGS.

Confirmation of receipt is requested.

douglas bush
managing member/gm
the cultured abalone farm, llc

[REDACTED]





November 3, 2022

California Fish and Game Commission
PO Box 944209
Sacramento CA 94244

Department of General Services
State Owned Leasing and Development
PO Box 989052
West Sacramento CA 95798

RE: Notice of intent to renew lease L-2724 (Lease of kelp bed L-26)

The Cultured Abalone Farm LLC (TCAF) provides timely request to exercise the right to renew the lease of kelp bed L-26 (Lease number L-2724) for a new 5-year term. TCAF is in compliance with the terms of the existing lease.

Per Section 7 of the current lease ("Renewal"), TCAF requests a determination of compliance by the State and a discussion of any terms required for renewal, including the required Fish and Game Commission approval of the Kelp Harvesting Plan (KHP), to be completed in a timely manner.

Signed

Douglas Bush, LLC Managing Member

FGC meeting, December 14, 2022, #2: General Public Comment

Phoebe Lenhart [REDACTED]

Thu 12/01/2022 03:26 PM

To: FGC@public.govdelivery.com <FGC@public.govdelivery.com>;FGC <FGC@fgc.ca.gov>

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Dear FGC Commissioners,

I would like to bring to your attention a very grave matter regarding multiple (as many as 5 poisons) rodenticide poisonings of the cougars (mountain lion, puma) in CA. Recently, on June 17, 2022 a female cougar, pregnant with 4 cubs, was found dead. While the nature of her death is assumed to be vehicle related, my point is that the cougars in CA are ingesting not 1 rodenticide or 2 rodenticides or 3 rodenticides; but a many as 5 different poisons that are detected in their blood.

It is my understanding that the DFW has been studying for 20 years whether or not rodenticides can pass through the lioness' placenta to the cubs. Frankly, this does not sound like "rocket science" worthy of 20 years of tax payer funding. Any high school biology student is capable of answering the question: whether poisons in the blood of a pregnant lioness/queen will pass into the blood of her unborn cubs?

My point is that this very endangered and vulnerable species' survival in CA appears against the odds. In addition to rodenticide poisons and vehicle related deaths; there is the huge nexus of climate change appearing as wildfires, drought, habitat loss, among them. The DFW refers concerns referring to cougar poisonings to the Department of Pesticide Regulation (DPR) in the California Environmental Protection Agency (CEPA). From there, who has heard anything regarding protecting the cougars from poisonings?

I am writing to the FGC to request a multi-agency attempt to reduce cougar poisonings in CA and to do more to enhance the environment that is adverse to the survival of the cougars. I welcome the Wildlife Resources Committee (FGC) to collaborate with the Department of Pesticide Regulation and the DFW to reduce rodenticide exposure for California's cougars. I would appreciate seeing this matter addressed on the agenda for the Wildlife Resources Committee promptly. CA cannot afford the loss of any cougars or in particular, the poisoning of cubs of any pregnant lioness/queen due to rodenticides.

Your attention to this urgent matter will be appreciated very much.

Sincerely,

Phoebe Lenhart

[REDACTED]

[REDACTED]

WE ENCOUNTERED THE DEADLY RED TIDE ALGAE BLOOMS ONCE..

Ace Carter - Super Angler [REDACTED]

Sun 10/09/2022 05:47 PM

To: Angling International Magazine [REDACTED]

Cc: Fishing Tackle Retailer - Ken Cook - Letters To The Editor [REDACTED]

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

WE ENCOUNTERED THE DEADLY RED TIDE ALGAE BLOOMS ONCE..

FISHING OUT OF THE SANTA BARBARA LAUNCH RAMP IN MY CENTER CONSOLE LONG AGO...

MY FISHING BUDDY BILL AND I FISHED THE KELP NORTH OF THE HARBOR AND
THEN DRAGGED LURES ON THE BOTTOM ALL THE WAY BACK DOWNSTREAM...

NO ONE WAS AT HOME...

NOT EVEN A SINGLE BITER...

WE FISHED HARD FROM DAWN UNTIL ABOUT 2 PM...

AT ALL THE TYPICAL GOOD PLACES LIKE NAPLES REEF...

THE ALGAE PLUME EXTENDED FOR MILES OUT TO SEA...

I DID SNAG A LARGE SEA SNAIL THAT MEASURED ABOUT SIX INCHES AND TOSSED
IT INTO THE BOTTOM OF THE BAIT TANK...

WHILE PUTTING THE BOAT AWAY AND STOWING OUR FISHING GEAR A FEMALE CA
GAME WARDEN APPROACHED US...

SHE APPEARED RATHER MANNISH AND OFFICIOUS AND I EXPECTED TROUBLE...

SHE ASKED US HOW WE DID, PROBABLY WANTING TO INSPECT OUR CATCH...

I TOLD HER WE STRUCK OUT DUE TO THE ALGAE AND ONLY CAUGHT A SNAIL...

SHE GOT THE LIVE SNAIL OUT OF THE LIVE WELL AND HELD IT WITH BOTH

HANDS IN A CAREFUL AND EVEN CHERISHING MANNER...

AND WALKED DOWN TO THE RAMP AND CAREFULLY BENT OVER AND RELEASED THE
SNAIL INTO THE HARBOR WATERS...

THE SNAIL JUST SAT THERE...

I WAS HOLDING MY BREATH HOPING BILL WOULDN'T LAUGH AT HER OR MAKE A
JOKE BECAUSE THIS WARDEN WAS SERIOUS...

SHE CAME BACK TO US AND GAVE US A LECTURE ON TAKING TIDE POOL CREATURES...

ACE

--

- THE WORLD FAMOUS ACE'S BAIT & TACKLE

- Lots Of Free Fishing Advise -

- NO EXTRAVAGANCE IS TOO GREAT FOR FISHING -

- PEARBLOSSOM FISHING CLUB -



- Let's Make California Great Again -

- FIRE ALL THE LAZY BUMS AND LOAFERS IN CALIFORNIA GOVERNMENT -

Ban Agonizing Bow and Arrow Assaults Against Bears and Other Wildlife

louis gauci [REDACTED]

Wed 10/12/2022 09:39 AM

To: FGC <FGC@fgc.ca.gov>

Dear Ms. Melissa Miller-Henson,

“He laid on his side, he perched his head up to look at us and, almost as though asking for help, he lifted his paw up, which was the most heart-wrenching thing.” These words came from an Arcadia resident who came upon an injured and possibly dying, bear in his backyard. This animal was likely the latest victim of this state’s largely unregulated bow-hunting practice, which is the most lenient in the nation.



While California has established itself as a progressive leader in many ways, this state still woefully lags in the protections and respect it affords its wildlife. Do you really want to be known as a place where the echoes of painful moans are the sounds reverberating through neighborhoods? Do you want the first experiences children to have with wildlife to be images of slaughter? And do you want to replace conservation with unchecked cruelty?

If the answer to any of these questions is no, then do something. Reign in unregulated bow hunting before the next victim falls.

Sincerely,

Louis

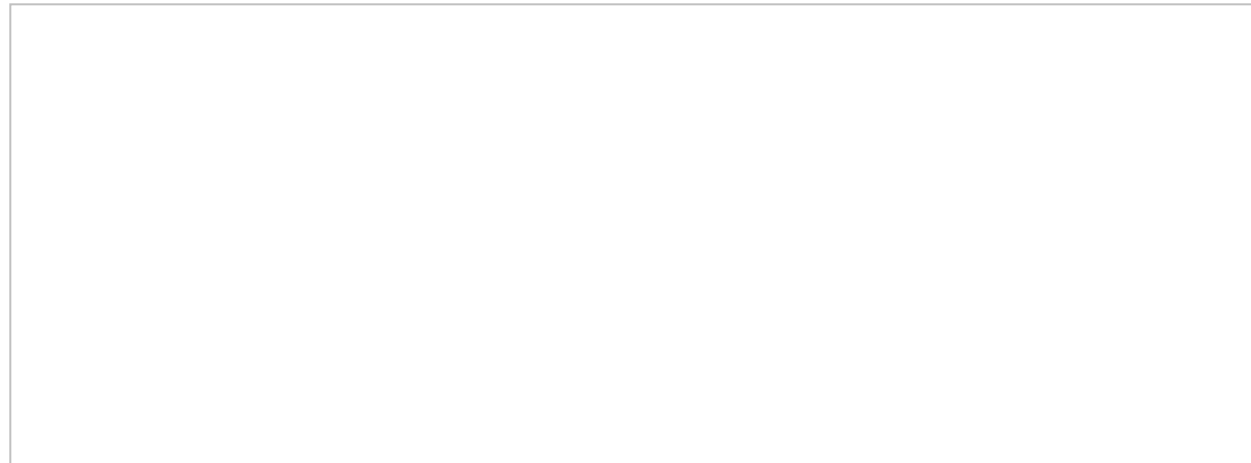
Draft Mitigation and Minimization Plan for Wind power. 10/17/2021

Ken Bates [REDACTED]

Wed 10/19/2022 11:16 AM

To: FGC <FGC@fgc.ca.gov>;Jaque Hostler-Carmesin [REDACTED]

Cc: Bonham, Chuck [REDACTED]



October 19, 2022

Dear Commissioner Hostler-Carmesin,

We are responding to your comments made during the afternoon (approximately 4:08pm) of October 12, 2022 at a meeting of the Fish and Game Commission.

North Coast fishermen's associations have been seriously involved in OSW development starting in 2015 when offshore wind development was first planned for the Central Coast. Humboldt Fishermen's Marketing Association (HFMA) has maintained close contact with these Central Coast fishermen's associations as well as outreach to North Coast and Southern California fishermen's associations.

In 2017, HFMA began meetings with Matthew Marshall and his staff at Redwood Coast Energy Authority (RCEA). HFMA Board Members expressed fishermen's concerns about the negative impacts of OSW to their industry. In 2018, HFMA signed a "MOU" with RCEA to open lines of communication. In addition to meeting with RCEA staff, HFMA has participated in meetings with potential wind developers and RCEA.

HFMA has also hosted a dozen meetings with staff from CDFW, State Lands, the Coastal Commission and the CEC and we have been able to establish effective "points of contacts" with these agencies. BOEM has often been a participant in these meetings.

In 2021, the fishermen's associations of Crescent City, Trinidad Bay, Humboldt Bay and Fort Bragg completed the North Coast Fishermen's mapping project which supplied species and habitat mapping of fishing grounds from Point Arena to the Oregon Border. This was a response to developers and BOEM who wanted to know "where do you fish?". This project was funded by a \$90,000 Ocean Protection Council grant and supported by Representative Huffman, CDFW, State Lands Commission and California Coastal Commission. This database is now accessible to wind power developers, state and federal agencies, research institutes, and the public through the California Offshore Wind Data Basin. This project was so successful that the State Agencies encouraged the Central Coast fishermen to undertake a similar mapping project for their fishing grounds.

In 2022, fishermen from San Francisco to Crescent City formed the California Fishermen's Resiliency Association (CFRA); this nonprofit is dedicated to the avoidance, minimization and mitigation of impacts to commercial fishing. The formation of the CFRA was a direct result of repeated requests by State agency staff including Dr. Kate Hucklebridge, Commissioner Courtney Vaccaro, Karen Douglas of the CEC, Chris Potter of CDFW and Mathew Marshall of RCEA. RCEA provided a \$20,000 grant as start-up funds and the Ocean Protection Council is presently processing additional state funding for the CFRA.

Fishermen in Humboldt have been involved at the State and Federal level for nearly five years and have developed networks that represent hundreds of fishermen. Recently we have had a conversation with HAF/Core Hub trying to understand their position on support for the local fishing fleet. The fishermen feel that HAF's position is a very localized effort to enlist land based stakeholders in Humboldt County.

California port commercial fishermen's associations and the CFRA continue to engage and comment at State and Federal levels.

We would appreciate that you would share this communication with others including your fellow commissioners and staff. At the Commission's pleasure, the CFRA Board would be available for a short presentation at a Commission meeting. We are providing a couple of policy documents for your inspection.

Sincerely

Ken Bates, President

California Fishermen's Resiliency Association

Release

June 9, 2022

The **California Fishermen's Resiliency Association** (CFRA) is pleased to announce the following:

In January 2022, seven Northern California Port Commercial Fishermen's Associations formed the California Fishermen's Resiliency Association, a California nonprofit Mutual Benefit Corporation. The California Fishermen's Resiliency Association now serves as a "point of contact" and negotiator for fishermen with developers of offshore wind power, telecommunication and energy transmission subsea cables, and offshore mineral extraction projects. The CFRA represents all fisheries and gear types through its member fishermen's associations which include the ports of Crescent City, Trinidad Bay, Humboldt Bay, Shelter Cove, Fort Bragg/Noyo, Bodega Bay and San Francisco. Planning is underway to expand the CFRA membership to include California Port Fishermen's Associations of Central and Southern California.

The CFRA is structured to encourage statewide cooperative policies and protocols related to offshore wind power and cable projects in a way that protects fishermen and fishing communities from impacts that result from these developments and allows California to move towards realistic renewable energy goals statewide.

This new association, representing California fishermen for the purpose of working cooperatively with state agencies and offshore developers, has been formed under the positive influences of policy documents produced by the Alliance of Communities for Sustainable Fisheries, the Central Coast Cable Fund Committee and the extensive work between the offshore wind developer Castle Wind LLC and Morro Bay and Port San Luis Fishermen's Associations. Castle Wind, advocating for a non-solicited wind energy lease site west of Morro Bay nearly six years ago has responsibly and consistently engaged with Central Coast Fishermen's Associations to negotiate a comprehensive "Fishing Community Benefit Agreement" to avoid, minimize and mitigate for impacts to commercial fishing from offshore wind (OSW) development on California's Community Fishing Grounds. In doing so, Castle Wind has set a high standard for industry- to- industry "Fishing Community Benefit Agreements" (FCBA's) in their efforts to address the concerns of California's commercial fishermen.

Based on the collective efforts mentioned above, the CFRA advocates for the use of FCBA's which are industry-to-industry contracts. These agreements provide for industry-to-industry communication, operational protocols, cooperation and monetary resources to help alleviate impacts to coastal fishing communities. The CFRA Fishing Community Benefit Agreement template allows for multiple OSW Developers operating in Northern California to participate through the formation of CFRA regional management committees who are responsible for local administration of the Fishing Community Benefit Agreement provisions. The CFRA welcomes the opportunity to meet directly with potential offshore wind power developers who are considering submission of a bid on either of the two Humboldt Wind Energy lease sale areas.

The CFRA Board of Directors appreciates the support of the California Coastal Commission, the California Energy Commission, State Lands Commission and the Ocean Protection Council in these agencies' efforts to support California's Fishing Communities and the formation of the CFRA.

Thank you,

The CFRA Board of Directors.

Dustin Owens, Legal Counsel

Sent from my iPad

Draft Minimization and Mitigation Plan for Offshore Non-fishing Development in Humboldt County

Draft Date - August 2021

New Draft Date - October 17, 2021

By Ken Bates and Linda Hildebrand

Preamble

As of 2020, federal, state and local agencies are advocating for the development of offshore wind power, submarine cables and non-petroleum based energy production on California's coastal fishing grounds. California has the most regulated ocean and fishing industry worldwide. Nearly every square inch of California's coastal ocean is covered by fishing closures, marine protected areas, national marine sanctuaries, naval training areas, munitions dumping grounds, submarine cable lanes, vessel traffic separation schemes, national parks, gear, depth and fish species restrictions and fossil fuel development. For California fishermen, the coastal ocean is 100% utilized— there is no “unused” space. This complete utilization manifests itself by fishermen employing various types of fishing gear targeting a wide range of species of fish as seasons change throughout the year. The displacement of fishermen by offshore development from one coastal ocean area of fishing grounds doesn't only affect those individuals and boats, but instead exerts a negative impact on all fishermen as fishing businesses try to relocate onto already occupied fishing grounds

The displacement of fishing activities by offshore developers starts on the fishing grounds and continues right into California's coastal harbors and the coastal communities dependent on the fishing industry as a local economic driver. The loss of this sustainable renewable seafood resource harvested on our community fishing grounds is for all intents and purposes, forever. These losses are often referred to as the “deferred cost of doing business”. These deferred costs heaped on coastal communities are a direct result of offshore non-fishing development, and in the past have been allowed by permitting agencies to damage fishing families and coastal communities as the “cost of doing business”. This practice is no longer valid. Offshore marine development impacts every single fisherman, and the local coastal economy whether directly or indirectly. The following document written on behalf of the Humboldt Fishermen's Marketing Association (HFMA) Board of Directors is designed to address the concerns, minimize the impacts to, and mitigate damages to all fishermen by offshore development. The fact that these impacts are real, universal and long lasting is not subject to debate.

Section 1 - List of Impacts

1. Initial Impacts

- a. Initial impacts to fishermen, fishing families, and fishing communities begin with the announcement of yet another non-fishing spatial challenge potentially resulting in the loss of additional community fishing grounds and the resources

(fish) harvested from these grounds. While not easily quantifiable in dollars and cents, the looming threat adds to an already unsteady footing of coastal communities and their ability to prevail over the interests of well funded multi-national development corporations. The community's efforts to protect itself, which is always a totally unpaid volunteer effort, results in lost income, large blocks of time consumed in resisting a usually overwhelming force of paid corporate consultants and a continued erosion of social and cultural coastal quality of life. This document is an example of one of the impacts.. While non-quantifiable in dollars and cents, these sociological impacts are great and long lasting. These challenging impacts hobble coastal members' ability to make any realistic long term plans for continued investment in business and family health and security.

- b. **Legal Counsel** — Local fishermen's organizations need to engage with legal counsel at the beginning of any proposed non-fishing coastal development proposal as a method of ensuring that fishermen and Coastal Fishing communities have some small hope of leveling the playing fields both in negotiations with developers and interaction with state permitting agencies. Funding the costs associated with the employment of attorneys hired to protect fishing interests is generally cost prohibitive for any individual fishing association or fishing community interest group.

2. Harbor Impacts

- a. Displacement of fishing fleet activities from existing shoreside facilities through the takeover of these facilities by offshore development. Typically, the loss of fishing fleet facilities by offshore developers is commonly referred to as a "conversion", and is generally condoned and expedited by local bureaucracies.
- b. **Hazards to Navigation** — Offshore development will potentially create additional hazards to navigation in Humboldt Bay through channel blockage by barges, tugs, equipment and floating assemblies, both during periods of limited visibility and high fishing vessel traffic.
- c. Direct competition between offshore development activities and fishing industry for existing facilities in Humboldt Bay. eg. fuel docks, hoists, boatyard services, work and gear storage areas.
- d. Hazard to transiting fishing vessels by the movement of tug traffic, barges, crew boats, and the transportation of assembled modules and components within and in and out of Humboldt Bay
- e. Entrance bar hazard caused by offshore projects requiring channel deepening (dredging) — Post federal channel deepening projects have resulted in an increased tidal prism leading to increased ebb current speed which in turn caused greater hazardous entrance bar conditions. These increased current velocities have limited the period of safe passage through the Humboldt Bay entrance bar for fishing fleet ingress and egress. Offshore development which

would require channel deepening will again subject fishermen to increased hazardous conditions during inclement weather and sea conditions.

- f. **Displacement and Restrictions of in-bay fisheries** — Humboldt Bay is the only location between San Francisco, CA and Westport, Washington for the albacore “live bait” fleet to seine anchovies and sardines for live bait. Most fishing takes place between the U.S. Coast Guard Station and the Redwood Marine Terminal I dock. Offshore development activities at Redwood Marine Terminal I, Fairhaven Dock, 14th Street Dock and along the Eureka Inner Reach will impact fishermen’s abilities to take anchovies and sardines during May thru early November, both through spatial challenges and disruption of fish behavior by increased vessel operations, noise, nighttime illumination and electro-magnetic disturbances.

3. Impacts from Ocean Surface Transit Lanes

- a. The transportation of modules, equipment, barges, anchoring systems and cable laying vessels will result in the extensive loss of fixed “bottom contact” gear including, crab traps, prawn traps, hagfish traps, longline gear and sable fish traps, as developers vessels run through these legally set fishing gears on the community fishing grounds.
- b. Mobile fishing gear such as trolling, seining and trawling will be excluded or displaced by the activities listed above.
- c. The transportation of modules, equipment, barges, anchoring systems, cable laying vessels and survey vessels will result in congestion and navigation hazards on the fishing grounds occupied by fishermen.

4. Impacts from Submarine Cables

- a. Installation of submarine data transmission cables and electric power transmission cables will result in the loss of access to the fishing resources adjacent to these cables. These losses affect all fishermen by displacing the fishermen previously operating in areas now designated as cable transmission lanes.
- b. Fixed and mobile bottom contact fishing gear will be entangled or lost on submarine cables exposed and/or suspended on the seabed. This gear loss will start within the 4-5 fathom depth contour and continue out to the 800 fathom depth curve.
- c. Fishermen expect significant disruption of marine life both in the water column and the benthic areas exposed to strong electro-magnetic fields from electrical power transmission cables. It is common knowledge that a fishing boat containing faulty electrical wiring will impact that vessel’s ability to catch species such as salmon and albacore tuna. As little as three or four tenths of a volt when measured against the vessel’s bonding system can be enough to interfere with fishing success.

- d. Interruption of fishing activities by the installation, maintenance and removal of submarine cables throughout the lifespan of individual cables. It is well documented that acoustical survey work, drilling and burying of subsea cables has a direct negative impact on fin fish behaviors which results in depressed fish catches in the vicinity of these non-fishing operations.
- e. Interconnecting cables between floating turbines present de facto fishing closures of water column and benthic fishing grounds and present major hazards for various surface fishing gear types including salmon trolling gear that operates up to 600 feet in depth.

5. Impacts at Ocean Lease Sites

- a. The Humboldt County community will lose all the fish and seafood resources on any lease area. The actual footprint per “unit” is not an accurate indicator of the true negative impact of the loss of resource access because there will be no fishing of any kind between or around various anchored power generation units. The whole lease area will be lost also because individual units may be relocated to other sites within the lease area
- b. Many square miles of fishing grounds may be rendered “unfishable” due to loss and abandonment of anchoring systems, cables, construction materials and miscellaneous junk “disposed” of on community fishing grounds, by both contractors and subcontractors working under the permit umbrella of developers.
- c. The effects of anchoring systems and electrical transmission on hard bottom (reef) marine communities are unknown. These offshore development projects are advocated for and planned to go forward without any biological baseline studies of fish and benthic communities on these lease sites. Undocumentable damages to lease site biological communities will be shouldered by fishing communities and not by offshore corporate developers.
- d. Impact of catastrophic loss of power generation units due to environmental conditions**
 - i. The potential for catastrophic loss of offshore power generation units is huge. The ocean off Humboldt County has recorded some of the largest waves recorded on the west coast during winter weather events. These recorded weather events (storms) typically include wind velocities of 30-60 knots and wave heights in excess of 30 feet with wave periods of less than 20 seconds. Fishermen fully expect wind power or wave energy units to be drug off station, parted from their electrical transmission cables and carried completely away by winter storms (see USCG super buoy, Cape Mendocino). Breakaway units driven by wind and currents will collect hundreds of Dungeness crab traps on their way to grounding on our beaches during the December to June season. Hagfish, sable fish and longline gear are also at risk of loss. Ultimately, wind power units carried away by ocean currents during winter weather events will end up on west coast beaches. Salvage of these units may be problematic or

impossible depending on the coastline structure where these units might go aground.

- ii. Abandonment of cable, damaged equipment and anchoring systems will occur during winter storms potentially scattering debris outside of lease sites onto fishing grounds with no way to track or retrieve this junk.

e. Catastrophic Loss of Power Generation Units due to Mechanical Failure

- i. All human built infrastructure is subject to catastrophic failure. High failure rates of infrastructure in hostile environments is well documented. One can go online and type in “wind turbine failures” and immediately numerous videos pop up with footage of catastrophic failure of land based wind turbines. These failures include electrical fires in generator components, individual turbine blade failure and “over speed” turbine events resulting in explosive deconstruction of the turbine components and collapse of the tower (mast) supporting the turbine. These failures have two things in common; they result in an extensive debris field and are land based. One could conclude that the salvage and clean-up of a land based failure while challenging is also possible. These catastrophic failures resulting from fires and over speed events will also occur at ocean based wind turbine units. Ocean conditions such as “current set” and “wind drift” will propel the rapid expansion of the resulting ocean debris. This wind power debris will then quickly move outside of the lease area. Some components will eventually sink to the seabed, thereby fouling community fishing grounds. Floating components will present serious hazards to navigation. The attempt to clean up the debris field may be impossible for weeks or longer, severely hampered by inclement ocean conditions. Decoupling and removing what remains of damaged floating turbine units from the lease area will also prove to be seriously challenged by weather and in some cases present extreme danger to salvage crews and salvage vessels attempting to remove these structures. Who will do this work? Perhaps no one,

f. Transfer of title and subsequent abandonment of energy infrastructure

- i. Energy, mining and other extractive industries work via a worldwide model which allows developers to maximize profits and minimize or totally defer maintenance costs. Initially a well funded, and often well known major development corporation will begin exploration, development and extraction of a resource. In this century, oil extraction is the prominent example. Once the infrastructure is built and operating, maintenance is kept to a minimum and costly major overhauls of said infrastructure are avoided. When the profitability of any particular extractive process decreases to a certain point, the initial developer transfers title (sells) the infrastructure and equipment to less well funded, marginal operators. Often as not, the purchasers of these assets acquire and operate the facility via layers of multiple “shell” corporations to avoid legal liability

connected with their operation and eventual abandonment of these marginal extractive facilities and equipment. The Gulf of Mexico and adjacent U.S. States contain thousands of abandoned oil wells, and thousands of miles of oil and gas pipelines. In California, the State is still trying to clean up oil wells in the nearshore Santa Barbara ocean waters which were drilled in the early 1900's. Texaco famously abandoned an early oil platform at Ellwood Beach in Santa Barbara. Offshore telecommunications companies landing fiber optic cables in California waters continually advocate for abandonment of fiber optic cables at the end of these cables' profitable lifespan. No one should expect that international wind power developers will step away from this model of maximizing profit, then selling outdated or marginal equipment to other operators to avoid the responsibility of maintenance, and removal of low profit wind power components from California's Community Fishing Grounds.

g. Decommissioning Impacts

- i. Decommissioning impacts can be as great as operational impacts. Many wind power and fossil fuel operators advocate for "decommissioning in place", a heavily spun terminology for the abandonment of outdated or financially "written off" equipment onto community fishing grounds. Sold to the public as "artificial reefs", this abandoned junk destroys miles of fishing grounds and presents biological challenges to existing habitats by allowing species displacement by non-native organisms more suited to colonizing this abandoned equipment.
 - ii. Funded Decommissioning Activity impacts — Funded and required decommissioning and removal of obsolete or damaged infrastructure, while the correct remedy for restoration of community fishing grounds, presents additional interruption of local fishing operations. Submarine cable operators in Central California are mandated to remove old cables while compensating local fishermen interrupted by removal activities.
- h. Impacts from actions of subcontractors** — Impacts to fishing activities by the actions of cable and offshore energy subcontractors is prevalent and problematic. Offshore oil subcontractors are infamous for "the deep sicing" of unwanted equipment, materials and damaged supplies onto community fishing grounds. These illegal deposits are difficult to confirm but wreak havoc with bottom contact fishing gear. Fishermen "discover" these discards when losing fishing gear in areas previously proven to be clean. Typically, energy companies deny responsibility for fishermen's gear losses on these discards.
- i. Impacts from Multinational Developers Legal Counsel** — Financial and emotional/moral impacts and costs heaped on small community groups by "paid for" predatory behavior by legal staff working for large scale development are not exclusive to coastal fishing communities. On any given day on all corners of the planet, fringe groups of people of color, the poor, undereducated, native groups

and others are the target of multinational developers “hell bent” on maximizing profits, high stock exchange values, shareholder payouts and disgustingly high executive compensation, all at the expense of the environment and the local populations that these corporations exploit. First hand reports from other fishermen groups attempting to defend community fishing grounds and fish resources describe an insidious process that starts with the “nice guys” representing the developers at meetings. Lots of bullshit terminology gets thrown around — “stakeholders”, “community inclusiveness”, etc., all smoke to increase community confusion in the “fog of war” these developers create in order to advance their goal — control and domination of the dialogue. As this process continues, community leaders form the false conclusion that their message is actually having an effect on the developer’s plans. Somewhere in the process the developers initial negotiators disappear and are replaced by more attorneys. Non-disclosure agreements (NDA’s) miraculously appear to silence any negative public comment or outcry on the community’s part. This is usually followed up with the “negotiated agreement” document which can only be read under a microscope. As Tom Waits accurately said “the large print giveth, and the small print taketh away”. Usually by this point the group in the crosshairs of the attorneys start to realize too late that they lost almost all of the community assets to the developers and are left with little legal recourse. Only after the fact does the community realize that the only realistic approach in hindsight was an all out assault to kill the planned project. In California, fishermen have at least a small chance of being listened to by the California Coastal Commission — the only agency protective of California’s Coastal Fishing Communities. Immediate involvement with Coastal Commission staff is absolutely necessary the first moment another offshore development project crawls out from under its rock. Every public comment, email, meeting minutes, and communications between fishermen and developers should be forwarded to the commission to establish a clear concise paper trail depicting the fishing communities position. This documentation is critical if negotiations fail and legal action by the community is in order.

6. Impacts from State and Federal Agencies

- a. Fishing communities have and will continue to be negatively impacted from both the actions and inactions of state and federal agencies responsible for environmental protection, protection of coastal dependent commercial fishing and permitting of non-fishing development on California’s community fishing grounds. While accurately forecasting future actions and policies of these agencies is problematic, we can certainly learn from past agency performance. In California the permitting installation and operation of submarine cables presents a real time lesson for fishermen. Submarine cable projects are ridiculously simple compared to offshore and wind power development. California has four “cable projects”

landing sites, all which impact fishermen. The California Coastal Commission (CCC) and State Lands Commission (SLC) have no policy or guidelines for the mitigation of cable impacts on coastal fishermen. Two of the cable mitigation programs administered directly by multiple port fishermen's associations are successful, while two similar projects have been failures. The CCC and SLC has since June 2020, been repeatedly requested to reform the Point Arena Cable fund which has operated as a private slush fund for five trawl fishermen for more than twenty years! In spite of multiple requests from two fishermen's associations and legal counsel, the agencies have made no significant effort to reform the Point Arena fund, which is under their jurisdiction. In August of 2021, the CCC and SLC allowed a developer, representing an international cable group to form a shell corporation populated by only five trawl fishermen, drafted a "fishing mitigation agreement" contract which the developer then executed with the shell corporation it paid to form! The state agencies not only endorsed the developers detrimental behavior, but simultaneously rejected an "Amended Fishing Agreement", submitted by twelve California fishermen's associations representing over 350 fishermen. In June of 2020, fishermen in Mendocino County became aware of a cable project "drilling mud blow-out" event and the loss of equipment on the Manchester Beach Fishing Grounds. Salmon Trollers Marketing Association (est. 1954) contacted CCC, SLC and the California Department of Fish and Wildlife (CDFW) requesting reports from the developer, RTI Infrastructure, Inc and its subcontractor Tull Communications concerning the blowout event and any equipment, drill pipe on debris left on the fishing grounds. None of these agencies responded even though all three agencies have jurisdiction over the development of this cable project. As of October 2021, CDFW has been assigned the task of collecting fishermen's concerns over the planning, siting and operation of OSW in California. They are required by the Governor's office to list impacts that fishermen anticipate will negatively affect fishing and coastal communities. CDFW is then to bring these concerns to other state agencies. The process looks like this - outreach, translate, edit and forward data .California DFW nor the Fish and Game Commission have any history of protecting coastal fisheries from offshore development. These agencies are mandated with the protection of California's natural resources and occupy a secondary position to the agencies permitting OSW. Fishermen need consistent direct access to CCC, SLC and the State Energy Commission, not interpretation by yet another layer of bureaucratic insulation.

Section 2 - Minimization of Impacts

1. **Seasonal restrictions imposed on the movement of equipment on/off of lease sites** — These restrictions of movement will be required to protect fixed gear (bottom contact) fishing equipment from loss during crab, black cod and other seasonal use of community fishing grounds.
2. **Seasonal Restrictions on Cable Installation, Routine Maintenance or Removal** — Activities concerning the installation, routine maintenance or removal of submarine cables of any type will be restricted or curtailed during seasonal use of community fishing ground — especially those fisheries dependent on fixed ground contact fishing gear.
3. **Automatic Identification System (AIS) Compliance** — All vessels, barges, scows and each individual floating turbine unit will employ and continuously broadcast AIS signals at all times for the purpose of tracking the movements and paths of support ships, equipment and floating turbine units within the “port of assembly”, during transportation across community fishing grounds and positioning at call area sites. Electronic records of AIS track lines will be maintained for a period of ten years on a website available to the public for the purposes of establishing fixed fishing gear losses by transiting wind power vessels and equipment, and for tracking the path of floating turbine units found to be “off station” or found drifting after a catastrophic parting of anchoring systems.
4. **Inventory and Serialization of Wind Power Components** — Developers will be required to mark all wind power components with both permanent and prominent company serial numbers which identify each component of the anchoring systems, turbine systems and interconnecting transmission cable assemblies. These serial numbers will be used to track the deployment and retrieval or loss of each wind power developers' equipment. Before deployment, all serial numbers of components will be verified by a licensed marine surveyor in the “port of assembly” by written and video formats. These written and video records will be used to verify compliance with the repair, retrieval and decommissioning of any wind power components deployed in the call area or lost on the Community Fishing Grounds.
5. **Location and Retrieval of Failed Wind Power Components** — Developers will locate and retrieve all lost, failed or jettisoned wind power components including but not limited to turbine blades, masts, buoyancy hulls, anchor components, interconnection and transmission cables. When located, either in the call area or outside of the call area on the community fishing grounds, developers will immediately publicize the geographic location of lost or failed components via local “Notice to Mariners”, through local governments agencies and local and statewide fishermen’s associations. Developers shall begin location and retrieval efforts of lost wind power components within ten days of acknowledgment of said losses or malfunctions. Fishermen who hang up and/or lose

fixed or mobile fishing gear on these lost or failed components will be compensated by the developer for lost fishing gear and lost fishing opportunity.

6. In the event that equipment, components, or cables would require installation routine or emergency maintenance or removal, a developer at the developer's sole expense, will employ local fishing vessels and crew to assist in minimization of disturbance or loss of fixed gear on the community fishing grounds. Developers will hold harmless hired fishermen, owners and vessels from liability or loss by providing insurance policies written by competent marine insurers, listing fishermen and vessels as additionally insured, during all wind power operations.
7. Developers, and subcontractors involved in the installation, maintenance, or removal of offshore infrastructure will give members of the Humboldt County fishing industry, "first right of refusal" for any employment opportunities on local offshore development projects.
8. Developers and their partners agree to work in tandem with the HFMA Board of Directors to minimize any negative impacts to all fishermen, and the Humboldt County fishing industry. These negative impacts include but are not limited to shoreside displacement or loss of fishing infrastructure, conflict arising from increased vessel traffic, hazards to navigation, offshore development operating procedures, catastrophic damage or loss of offshore infrastructure, components or support vessels, groundings, "off station" events, oil or chemical spills, fishing gear loss, displacement of fishing activities on local grounds, etc.
9. Developers will establish a "lost gear replacement fund" to be administered by three HFMA Boardmembers and two developer representatives for the reimbursement to fishermen claiming legitimate, documentable gear loss to offshore development activities.
10. Developers will maintain adequate marine liability and oil spill insurance in amounts necessary to cover any damage to the surrounding environment and businesses and communities reliant on that environment by the partial or catastrophic failure of a developer's equipment and/or by actions of the developer or subcontractor.
11. Developers and operators of offshore development projects, including submarine cables will post geographic locations of equipment, anchoring systems, floating units and cables to NOAA, U.S. Coast Guard notice to Mariners, Nobletec, Rose Point and other navigational software companies. Developers will continue to update the above listed agencies and parties as to any changes of locations of equipment during the total lifespan of the project.

12. Developers, operators and subcontractors shall make available contact information concerning details, location and operations of projects via VHF radio, SSB radio, email and telephone with someone responsible for monitoring and responding to incoming calls on a 24 hour basis.
13. Floating units will be equipped with RACON modules to cause each floating unit to be highly visible on navigational radar.
14. All vessels operating under contract by the developer will be marked with signage, port and starboard with the developer's name in 15" tall lettering.
15. Developers, operators and owners of offshore energy equipment will be required to post performance bonds in adequate amounts to insure payment for the cost of retrieval, removal or decommissioning of all equipment on community fishing grounds for the entire lifetime of each project.
16. Developers must be required to fund legal counsel for negotiating fishermen's associations as a condition for the application and possible later granting of all state permits required for offshore development.
17. All State and Federal permitting agencies involved in site selection for offshore wind power projects, by default, are directly responsible for closing hundreds of square miles of California's fishing grounds to fishermen. Both State and Federal agencies must advocate for and cause the reopening of California fishing areas closed to commercial fishing in the aggregate areas equal to the square mile areas closed to commercial fishing by agency actions in siting offshore wind power projects.

Section 3 — Mitigation Measures

Section 4 — Impact Fees

Section 5 — Contractual Agreements Between Developers, Fishermen's Associations and State Permitting Agencies.

Fw: Littlerock, CA "reservoir"/H2O supply

Gilbert Wirt [REDACTED]

Thu 10/20/2022 04:13 PM

To: PAO [REDACTED] dpc@delta.ca.gov <dpc@delta.ca.gov>;FGC
<FGC@fgc.ca.gov>;Krout, Natalie [REDACTED] pspinbox@fire.ca.gov
<pspinbox@fire.ca.gov>;OSDS Help@DGS <OSDSHelp@dgs.ca.gov> [REDACTED]
[REDACTED] Bugsch, Brian [REDACTED]
[REDACTED] ceqaquestions@resources.ca.gov <ceqaquestions@resources.ca.gov>;Save Our
Water@DWR <SaveOurWater@water.ca.gov>;cwc@water.ca.gov
<cwc@water.ca.gov>;water_news_editors@water.ca.gov <water_news_editors@water.ca.gov>;Donnelly,
John [REDACTED]

----- Forwarded Message -----

From: Gilbert Wirt [REDACTED]

To: "askusda@usda.gov" <askusda@usda.gov>; "feedback@ios.doi.gov" <feedback@ios.doi.gov>;
"chhsmail@chhs.ca.gov" <chhsmail@chhs.ca.gov>; "askpublicaffairs@state.gov" <askpublicaffairs@state.gov>;
"answers@hud.gov" <answers@hud.gov>; "fema-nims@fema.dhs.gov" <fema-nims@fema.dhs.gov>; "fema-r1-
info@fema.dhs.gov" <fema-r1-info@fema.dhs.gov>

Sent: Thursday, October 20, 2022, 03:39:26 PM PDT

Subject: Littlerock, CA "reservoir"/H2O supply

You are contacted because, along with other groups, you share administration of the water-shed linked to the Angles National Forest and the region north of the urban/suburban areas of Los Angeles(and that county within that that city sits).

The reservoir southwest of the community of Littlerock, CA, to my knowledge the only water-supply for that large "small-town", is 1/500 capacity(or less) and what wildlife(ducks/fish, that that actually matters on earth for life, versus homo sapiens---that only kill and destroy[evidence shows us]) that lives in that little-pond is in dire-need to keep that little bit of life-providence for their existence to continue.

My status relative to that body of water is of a land-owner(tax payer for over thirty years), in the foothills east of the reservoir; my five acres where my money goes for taxes(and on that lot, trespassed daily by the drug-dealer/derelict-delusional criminal-element of the region, those that reside on the road Arrow Lane, 93543) is in the area termed Juniper Hills east of the Littlerock reservoir.

My vantage does not incorporate the ban on encroachment to view the water-shed, and that reservoir is reachable from a road south of there(that leads to Santiago "staging area" south of the reservoir)---my experience as a sober/plant-fed/two-degree holding tax payer is that the area of Littlerock and Juniper Hills is made of bad people and drug-user/abusers, and only a partial explanation for the copious dumping of trash and trespassing in the area is available from the hard-data that the area has no water to sustain the masses-of-bad that pass as people in the area.

This letter is to notify your organization("department") that the area of Littlerock is not safely-habitable for homo-sapiens without a water supply; your one option is to run a water supply network from the "California Aqueduct" that

runs through the
area, from the foothills south of Hwy. 138 towards Llano.

A smart plan is to work on that as soon as possible, using what resources are available from CA, U.S. Departments of Agriculture (and Department of Forestry), and Los Angeles County---
there is no other way to keep the area alive with plants/creatures/homo-sapiens, then to follow that order-of-need cited.

Additionally, emergency deposit of some of that viaduct ("California Aqueduct") water into the mini-pond that used to be a small-lake, called Littlerock Reservoir, should begin immediately.

A Concerned and Spooked Citizen,
Gilbert G. Wirt III

[REDACTED]
[REDACTED]
[REDACTED]

From: Brad Mongeau [REDACTED]
Sent: Tuesday, October 25, 2022 2:09 PM
To: [REDACTED]
Cc: FGC <FGC@fgc.ca.gov>
Subject: Your Intrepretive Center.

Hey Patrick, here's one from the UNBELIEVABLE File: Enjoy

I got a phone call from the Huntington Beach Police Dept this morning and was told that i am not allowed back into your Interpretive Center. Your people lied to the police and told them that i made a disturbance. I asked if they had any video evidence-- because i knew they had NO SUCH evidence. My closest friends have never heard me use profanity. His offense and My crime was that i suggested that they put a fillet table next to their sportfishing area. A fitting accessory for any well established Conservancy wouldn't you think? Then i went on to tell them that the constant bombardment of UV was killing the Calico Bass and the lobster--the guy took offense, imagine that--a decent gentleman like me walks in and sees the imminent danger that the fish are in and has the audacity to say something. The following week i went back and the bass that i had foretold was going to die had been replaced with one that will also die. How do i know it wasn't the same bass--because the new one has a nice bronze color and the existing (dying) one is muted, pale like the one that just died. The carapace on the lobster is bleached from constant bombardment of UV that it will not survive much longer unless it has a place that offers 100% SHADE!!! Btw, i have kept a Koi healthy for the last 34 years!! I have been doing underwater photography for 30 years, i've logged over 150,000 NM in the bight. I know exactly what i am talking about when it comes to fish!

Under the current leadership, what you have at the center is a place where wildlife goes to slowly die, under the guise of a Conservancy no less! I wouldn't care so much if Jiffy Lube had fish die under their care, but for an actual CONSERVANCY to be KNOWINGLY committing this serial abuse is unacceptable! It turns your organization into a farce! Just another institution that portends to care about nature, but scratch the surface and it shows its ugly, dark side. You people actually solicit DONATIONS under the pretext of being a conservancy, read how your organization touts itself!! Yet you offer sportfishing right at the trail head! How is that not a legal or ethical conflict of interest????

Don't take my word for ANY thing i have said! Please take the time to look into it for yourself. ASK about the lobster and bass!

A couple more things: Please consider this to be a personal request. Since i am no longer allowed on the premises and i still gave grave concern for the lobster and the bass, will you please give them a welfare check for me. I have been sharing their plight with many friends we will be looking forward to your reporting back to me about the deteriorating condition of the fish and lobster. And we would also like to know how that bass (the one that i said was going to die) died while it under their care?

One final request: Would you be kind enough to put my 'denial of access' to the Bolsa Chica Interpretive Center in writing so there will be no misunderstanding by either party. Please make sure that it lists my offences in detail as cause. I plan to share it around and i want it to be precise, leaving nothing out.

I'm retired--call me any time if you'd like, i'll be interesting. [REDACTED]

Brad Mongeau

lovesthesea

PS, Don't hate the messenger, i ain't the one killing your display creatures or fouling the reputation of your institution by filing a frivolous POLICE REPORT in the name of YOUR institution! I am simply a private citizen expressing my concern. We be anxiously waiting for my written 'denial of access' to your property, thank you in advance.

Bears

Kim Hockman [REDACTED]

Tue 11/01/2022 05:24 AM

To: FGC <FGC@fgc.ca.gov>

Please stop the cruelty of bow hunting for bears in your state. Yogi should have been helped the moment it was reported that he was injured and suffering. Although I don't live in CA, this made international news. Yogi was well known in the area, and to see pictures of him lounging in a swimming pool are truly heartbreaking. This bear needed help, it was reported, and nothing was done to remove the arrow. Please stop this senseless vicious "sport." The world is killing our animals at an alarming rate. Sick individuals shouldn't be allowed to add to their agony.

Thank you, Kimberly Hockman

Sent from my iPhone

Outlaw bow hunting on bears

Patricia Lind [REDACTED]

Sun 11/06/2022 11:14 AM

To: FGC <FGC@fgc.ca.gov>

Cc: Donnelly, John [REDACTED]

Dear Mrs. MillerHenson and Mr. Anthony Williams,

I am be appalled that bears are allowed to be hunted with bows! This is barbaric. Often animals are severely injured and roam for weeks in pain and suffering. No one ensures a bear that has been injured will be put out of his misery!

Df&w just told the neighbors about this neighborhood bear, that was shot in the lungs with the bow, that Df&w would get involved if the bear was to cause a problem for humans and not otherwise. The neighbors had to watch helplessly as the bear moaned and appeared to ask for help.

So these poor animals suffer such cruelty needlessly. It disgusts me how this kind of hunting is still allowed for a sentinel being. It also disgusts me that the agency we all pay into to protect our precious wildlife does not seem to protect or care for them except to make money off with hunting licenses. They do not even ensure that the hunt does not cause needless suffering and that injured animals are tracked and put out of their misery!

Shame on those that allow this. Let me know what citizens can do to put an end to this.

Sincerely

Pat Lind

<https://www.cbsnews.com/amp/news/big-bear-backyard-arcadia-california-arrow-sticking-out-of-it/>

Sent from my iPhone

FW: East Walker River Fishing Regulations - change back to old regulations please

Hello, I'm a CA fly fisherman. I've been fishing the East Walker for a number of years. I'd like to voice my opinion and request that the fishing regulations be changed back to the previous rules on this river (as below), for the following reasons. 1) No bag limit (catch & release only) 2) Artificial lures with single barbless hook only 3) Open year round fishery The East Walker River is a small river, only 11 miles in CA side and depending on rain, may only have 30-50 cubic feet of water flow. The East Walker River is very susceptible to draught and overfishing. It's a very popular and highly fished river. In years past, when these rules were in place, there seemed to generally be a strong population of large fish in this river. It's one of the only true trophy fish rivers in CA. I've caught a number of 20+ inch fish and seems like I would catch several 16-20 inch fish on each trip with 1-2 20+ inch fish on each trip too. The new rules allowing 2 fish to be kept per day, per fisherman, has depleted the river of the bigger fish. I just went on a trip in late October and didn't catch any fish over 12 inches on 4 days fishing. It takes several years for a trout to grow to be 20+ inches and a zero bag limit ensures these trout stay in the river for the future. Low and warm water levels due to draught compound the challenges the fish population have in this river and their ability to survive. Allowing people to catch and keep fish from this river depletes their populations and is not sustainable. The rules above 1) Zero bag limit 2)

barbless artificial lures and 3) year round fishery is: 1) Good for the fish populations 2) Good for the fishermen who fish this river 3) Good for the local Bridgeport economy (hotels, restaurants and guide services) This is a Win-Win-Win proposition. The current regulation changes on the East Walker River really screwed things up on this river this year and will not get better unless action is taken to go back to a more sustainable set of regulations. Please seriously consider this regulation change for the EWR. Thank you. Stanton Dumin Corona, CA

Stanton Dumin
Riverside County



Lions bears and remedy

larryparker76 [REDACTED]

Tue 11/08/2022 12:58 PM

To: admin@goldgold.com <admin@goldgold.com>; contact@crpa.org
<contact@crpa.org> [REDACTED] CFL@chipotlepublishing.com
<CFL@chipotlepublishing.com>; FGC <FGC@fgc.ca.gov>; jury.courts@trinitycounty.org
<jury.courts@trinitycounty.org> [REDACTED]
[REDACTED] editor@trinityjournal.com <editor@trinityjournal.com>

The spring kit is 11.00 7 9 10 lb 45ACP 1911 A1, bullet mold no longer made (used eBay ??) but they might do a small run if- as they gladly make custom molds

for regular price of mold style and \$100.00 setup fee (2000 year catalog info) The recoil buffer actually smooth's the metal to metal jarring as the slide

comes back and incrementally adds to the spring back force back into battery. As none of my pistols have I every even gotten close to 500 rounds fired even

after 36 years of ownership, your advice ... not real world relevant in my estimation. But as this load is so shootable 155 gr water dropped cast lead over 5

gr Unique taper crimp 1.76 " col I intend to get a little practice every time I go out into the great beyond in Lewiston-while prospecting/hunting. I used a

Remington 1858 99\$ Cabelas 1990 mailed purchase revolver with my Lee Precision 200 gr conical over 8 gr pyrodex to hole beer cans at 20 yards and could place

my shots on them seeing the holes easily at that range/big revelation to me then. Almost smoke and recoil free and dead on sights wise accurate/only loading

I ever used after finding it. Less pyrodex would just dent a tin can an not worth the effort. These lions are a real presence in Lewiston and beyond. I ve

seen a lion chase a fox at the Lewiston cemetery at dusk ignoring my close standing presence as I was alerted to the noiseless pursuit just 20 yards away by

my cat flattening out before me and looking scared as the lion lost the fox threw the narrow passage of the chain-link fence at the cemetery parking area.

Also seen a big male lion at the edge of the ravinen above the white house/beaver pond -rush creek rd, < 100 yards in-as my cat was announcing its presence

following me in the draw while I had a double 12 ga shotgun and it was totally trained on my following cat 30 feet behind me. I spoke claiming my cat and As

far as business went. A candid private look at another lion as it was about to walk over my crossed feet me sittin back to the Deadwood RDditch/calculated

risk on its part-showed an intelligence in those big brown eyes and round pupils. Placid/no trace of anything but complete mastery of the situation. Hey...

This lion came back around and checking my back side was 50 feet up hill of me as I slung my 30 30, reholsterd my 9mm Largo (1911 clone) and hefted my double

12 ga shotgun... I described the encounter to you back when it happened 2005 Mouth of deadwood gulch late afternoon after I had, the previous day shot, a

protesting grey squirrel out of a tree while backing around the 90 foot conifer through rooms of crearing in otherwise 12 foot deep brush just above the

ditchline. the squirrel had seen the lion, unbenonced to me, but I trained my 30 30 with a 113 gr 6,4 gr unique 1200 fps reduced loading scoped rife and

brought it down cleaned it there and returned the following day to clear trail-machettii and bow saw-along the ditch... That lion later came threw the

trailer park so it must have not run off too far and saw my vw 1978 van, ID it in the park and during a freezing night of fog at 2am vocalized in a lions way

a speech that had the imitative cadence of a human...No boby is going to believe this so I went back to sleep as I was dead tired... I saw another first seen

by a black kitten hissing and halloween style broadside at my 73 vw squareback-something was behind me. 10 miles out from Quincy Plumas County-gold dredging

expedition 1984. I checked my Ruger 9 1/2 ich barreled 22 mag revolvers loading and became intent about me. Seeing out by the firelights edge in the road

with-as above again a clear run to me-ambush with force and overwhelming tactical advantage-a lions head-ears flattened-dimly rise up into the light. Dogs

had earlier been going nuts that night at a residence farther in so I fired my gun into the fire and calmed my new black friend that did not run

off,then...who later often went squirrel hunting with me (guts crushed head) and when bear cubs were frolicking out side my tent/Big French Creek-lost it.

Day 2 almost left but firing my pistol it returned down the mountainside to me-a long 15 minute later. It all starts by the edge of the road in TC. So WTF

are you doing today? Larry Parker Lewiston

Good info to share

Wayne Kotow [REDACTED]

Fri 11/11/2022 12:13 PM

To: FGC <FGC@fgc.ca.gov>

Thought this would be good info to share with the Commission.

Regards,

Wayne Kotow
Executive Director CCA CAL

2022 Special Report on Fishing



52.4M

Americans went
fishing in 2021

(+4.5% over 2019)



3.7M

First-time
participants

43%
were women



8M reactivated anglers but 14M lost participants

(Churn Rate: -18%)



12.9M

Youth (Ages 6–17)
went fishing in 2021

(+14% over 2019)



4.7M

Hispanic participants
fished in 2021

(+7% over 2019)



19.4M

Women went
fishing

(+8% over 2010)



1.6M

Female
participants
were first-timers



37%

of all anglers
participation were
female, the highest
level on record

99%

of participants plan to continue fishing in 2022



Black bear protection

Michael Wauschek [REDACTED]

Sun 11/13/2022 04:39 PM

To: FGC <FGC@fgc.ca.gov>

We must protect our wildlife they aren't are entertainment of ruthlessly killing them. How killing bear because to bush someone ego vs people that exsurly hunt for reasons vs ego issues they may have. As well by killing better gen pool they less gen pool. It's bad for all nothing good comes out.

[Sent from Yahoo Mail on Android](#)

Crab traps

Daniel Childs

Mon 11/14/2022 11:58 AM

To: FGC <FGC@fgc.ca.gov>

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Hi. I asked this question last year and got a round about response that didn't answer my question. So I'm going to ask again... Why can't people use crab traps in the same manner as crab hoops? For instance, why couldn't I set 2-3 traps out and be required check them every 2 hours and not be allowed to let the soak over night? How can a trap that is being used in the exact same manner as a hoop cause more of an entanglement problem? You could allow people to use traps like hoops and follow the same rules as hoops or give them an extra hour or 2 per soak but not allow any traps to be left over night or past a certain soak time. You can also make a limit on how many hoops/traps one person can set out... make it to where it's only 6 hoops or traps per person. There is a way you can still make traps legal to use and I don't see why that would be an issue so please enlighten me. Plus the state could collect more revenue from the people using traps in the same manner as hoops from the required trap registration stamps.

Thank you for your time and I'm looking forward to your response.

Daniel

Fw: Our article is posted - revised

Russell Walsh [REDACTED]

Wed 11/23/2022 04:47 PM

To: Russell Walsh [REDACTED]

From: Miriam Raftery <editor@eastcountymagazine.org>

Sent: Wednesday, November 23, 2022 2:21 PM

To: 'Russell Walsh' [REDACTED]

Subject: Our article is posted

<https://www.eastcountymagazine.org/sweetwater-drains-loveland-reservoir-dead-pool-level-save-its-ratepayers-money-expense-rural>

If you have a couple of the key documents proving your point about the easement please send – not as a link to a giant file with tons of papers, but as an attached and clearly labeled document or two that I can save and upload links to so everyone can see them.

Thanks, hope this helps.

Miriam

Memorandum

Date: November 30, 2022

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Submission of Initial Statement of Reasons for Agenda Item for the December 14-15, 2022, Fish and Game Commission Meeting - RE: Commercial and Recreational Take of California Spiny Lobster; Recreational Hoop Net Requirements for Take of Crustaceans**

The Department of Fish and Wildlife (Department) requests the Fish and Game Commission (Commission) authorize publication of notice of its intent to amend sections 29.80, 29.90, 29.91, 121, 121.5, 122, 122.1, 122.2, and 705, Title 14, California Code of Regulations (CCR), for the lobster and hoop net regulations adjustments. Authorization of this request will allow for possible adoption at the April 19-20, 2023 Commission meeting.

The Department is submitting the attached Initial Statement of Reasons (ISOR) proposing to fine-tune the existing regulations controlling the recreational and commercial spiny lobster fisheries. The changes would help improve the regulations governing the fisheries, last amended by the Commission in 2016, primarily by improving enforcement and reducing the public's regulatory burden. In addition, the ISOR also proposes to amend rules on the recreational use of hoop nets, most of which were adopted through an emergency rulemaking at the October 2022 Commission meeting. The proposed changes to rules governing recreational hoop net use aim to reduce the risk of entanglement for protected marine wildlife.

If you have any questions or need additional information, please contact Dr. Craig Shuman, Marine Regional Manager at (916) 215-9694, or by email at R7RegionalMgr@wildlife.ca.gov.

ec: Chad Dibble, Deputy Director
Wildlife and Fisheries Division
Department of Fish and Wildlife

Wendy Bogdan, Chief
Office of General Counsel
Department of Fish and Wildlife

Melissa Miller-Henson, Executive Director
Fish and Game Commission
November 30, 2022
Page 2

David Bess, Chief
Law Enforcement Division
Department of Fish and Wildlife

Craig Shuman, D. Env., Regional Manager
Marine Region
Department of Fish and Wildlife

Tom Mason, Senior Environmental Scientist, Supervisor
Marine Region
Department of Fish and Wildlife

Anthony Shiao, Environmental Scientist
Marine Region
Department of Fish and Wildlife

Joanna Grebel, Environmental Program Manager
Marine Region
Department of Fish and Wildlife

Eric Kord, Assistant Chief
Law Enforcement Division
Department of Fish and Wildlife

Jason Kraus, Captain
Law Enforcement Division
Department of Fish and Wildlife

Crystal D'Souza, Attorney
Office of General Counsel
Department of Fish and Wildlife

Nathan Goedde, Assistant Chief Counsel
Office of General Counsel
Department of Fish and Wildlife

Ona Alminas, Regulations Unit Manager
Regulations Unit
Department of Fish and Wildlife

Mike Randall, Analyst
Regulations Unit

David Thesell, Program Manager
Fish and Game Commission

Susan Ashcraft, Marine Advisor
Fish and Game Commission

Sherrie Fonbuena, Analyst
Fish and Game Commission

State of California
Fish and Game Commission
Initial Statement of Reasons for Regulatory Action

Amend Sections 29.80, 29.90, 29.91, 121, 121.5, 122, 122.1, 122.2, and 705
Title 14, California Code of Regulations
Re: Commercial and Recreational Take of California Spiny Lobster; Recreational Hoop Net
Requirements for Take of Crustaceans

I. Date of Initial Statement of Reasons: October 17, 2022

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing:

Date: December 14-15, 2022

Location: San Diego

(b) Discussion Hearing:

Date: February 8-9, 2023

Location: Sacramento

(c) Adoption Hearing:

Date: April 19-20, 2023

Location: Fresno/Bakersfield area

III. Description of Regulatory Action

(a) Statement of Specific Purpose of Regulatory Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations (CCR) and all references to “lobster” or “spiny lobster” are to the species *Panulirus interruptus*, commonly known as the California Spiny Lobster.

The proposed changes focus on fine-tuning the existing regulations controlling the recreational and commercial lobster fisheries. The last time these regulations were subject to major amendment was 2017, when the California Fish and Game Commission (Commission) adopted regulatory changes to implement the 2016 California Spiny Lobster Fishery Management Plan (FMP; [Department 2016](#)). The proposed amendments here represent the cumulation of the California Department of Fish and Wildlife’s (Department) internal discussion as well as input from recreational and commercial user groups. The proposed changes are necessary to improve the recreational and commercial lobster fishing regulations that were implemented in 2017 along with the FMP.

The proposed changes also amend the regulations controlling the use of recreational hoop nets. The gear type is commonly used for recreational lobster fishing. However, the changes proposed here would extend to recreational crab fishing as well due to ongoing concerns over entanglement of protected marine life.

Background

The Commission adopted the FMP at its April 2016 meeting. The document established a comprehensive management framework for the recreational and commercial California

spiny lobster fisheries, most notably the incorporation of a Harvest Control Rule (HCR). Under the HCR, the Commission selects management responses from a set of vetted management tools whenever specific reference points (which are based on catch, catch-per-unit-effort, and spawning potential ratio of the stock) are triggered.

In addition to the FMP and HCR, the following regulation changes were adopted by the Commission in 2016: new recreational hoop net marking requirements, new restrictions and clarifications on recreational take methods, a new start time for the recreational fishing season, a commercial trap limit program, and new provisions to allow retrieval of lost or abandoned commercial traps in-season, among others. These regulatory amendments were adopted in sections 29.80, 29.90, 121, 121.5, 122, and 705; and two new sections were added: 122.1, and 122.2. The changes and additions became effective in 2017 (Office of Administrative Law (OAL) File 2017-0118-03SR).

As the regulatory changes were being finalized in 2016, the Department and various stakeholders agreed to revisit the regulations for adjustment in the future. Internal dialogue between Department staff have been ongoing ever since, especially those pertaining to the enforceability of the regulations adopted in 2016. At the same time, stakeholders also reached out to Department staff and the Commission with requests to adjust the regulations (e.g., [Commission 2019](#); [Commission 2022](#)). In response to these requests, Department staff conducted various outreach efforts to different stakeholder groups to solicit further input. These included a survey to the commercial sector on February 9, 2022 (See [Department 2022](#)) and a virtual meeting with the recreational community on May 26, 2022.

In addition to fine-tuning the regulations governing spiny lobster fisheries, this proposal also contains changes to recreational hoop net regulations that apply statewide. The proposed hoop net changes address management needs due to increased use of hoop nets in the recreational Dungeness crab fishery, a popular recreational fishery that primarily occurs between San Luis Obispo and Del Norte counties.

Since 2013, a significantly higher number of marine life entanglements in fishing gear has been observed off California. Many of these entanglements involved endangered marine life, such as blue whales and humpback whales ([Saez et al. 2021](#)). Both the state and the fishing community have been attempting to reduce and eliminate such entanglements over the past several years (see e.g., [Department 2020](#); see also e.g., [Working Group 2021](#)). In 2021, the Commission further imposed new requirements on the use of recreational traps by the recreational Dungeness crab fishery in northern California to help account for that fishery's potential contribution to entanglement risk ([Commission 2020](#)). In particular, the use of recreational traps may now be prohibited temporarily by the Director of the Department (Director) during periods of elevated entanglement risk (subsection 29.80 (c)(7)).

At the start of the 2021-2022 Dungeness crab recreational fishing season (the first Saturday of November), a prohibition on the use of crab traps was declared by the Director in response to increased marine life entanglement risk at the time. The prohibition lasted for 5 weeks in Fishing Zone 4 (Pigeon Point to Lopez Point) and 6 weeks in Fishing Zone 3 (Sonoma/Mendocino county line to Pigeon Point), and a dramatic increase in hoop net use

was observed between Monterey and Sonoma counties. A hoop net is a type of light-weight net that resembles a lantern made of mesh. The inside of the gear is baited to attract animals, and the net can then be pulled up with the animals inside (Figure 1). Another crab trap prohibition was subsequently declared in April north of Point Arguello, Santa Barbara County, to the California-Oregon border, which lasted for the remainder of the season (10 weeks in the central region of the state and 14 weeks in the northern region of the state). Again, staff reported an increased use of hoop nets.

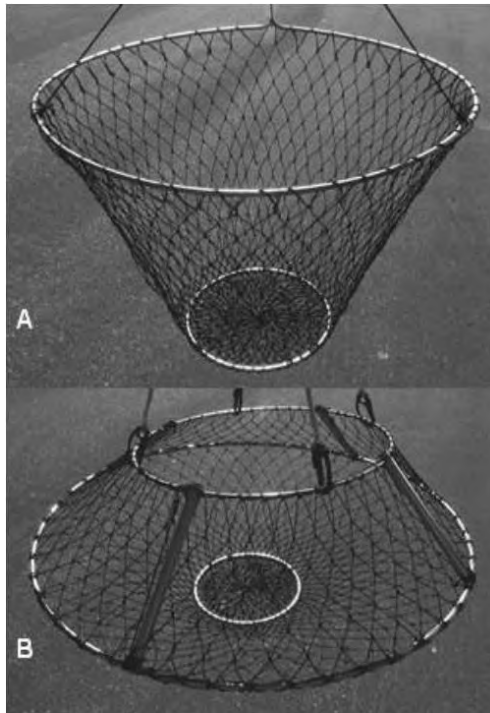


Figure 1: Current Type A Hoop Net (A) and Type B Hoop Net (B).

On top of the increasing use of hoop nets, the Department has been made aware that gear manufacturers are developing new hoop net designs that follow current hoop net Type B regulations but resemble traps. It is important to note that hoop nets are not meant to retain catch the way traps do and animals can freely move in and out of the gear without much impediment. As such, this gear type must be actively tended. Hoop nets constructed to behave like traps may incentivize longer soak periods posing elevated entanglement risk. Additionally, the use of traps to recreationally fish for crustaceans south of Point Arguello is not permitted, and hoop nets that more closely function as traps would reduce the integrity of that prohibition and violate the intent of that regulation. Furthermore, since hoop nets used north of Point Arguello, Santa Barbara County, are not required to be marked with identification, entanglements involving this gear type are more difficult to identify and address.

Due to the elevated marine life entanglement risk posed by the dramatic increase in hoop net gear use coupled with the impending use of the new hoop net type, an emergency rule was adopted by the Commission at its October 2022 meeting in order to have the regulation in place prior to the beginning of the 2022-23 recreational Dungeness crab season. This proposal incorporates the changes made by the emergency rule.

CURRENT REGULATIONS

Current laws governing the recreational lobster fishery and use of hoop nets for the recreational take of saltwater crustaceans are as follows:

Section 7256, California Fish and Game Code (FGC), Spiny lobster can only be taken with a hoop net or by hand.

- 29.80(b) A limit of 5 hoop nets per person south of Point Arguello, Santa Barbara County.
- 29.80(b) A limit of 10 hoop nets per vessel south of Point Arguello, Santa Barbara County.
- 29.80(b) Maximum hoop net service interval of 2 hours.
- 29.80(b) Two prescribed types of hoop nets that are allowed in California.
- 29.80(b) South of Point Arguello, Santa Barbara County, recreational hoop net operators (those people who deploy hoop nets) are required to mark the buoys of their hoop nets with their Get Outdoors identification numbers (GO ID), while commercial passenger fishing vessels (CPFVs) must mark their hoop net buoys with the vessel's commercial boat registration number, and licensed fishing guides must mark buoys with their guide license number for hoop nets used on a guided tour.
- 29.80(g) Diving for lobster is allowed, provided that the diver does not possess any hooked device.
- 29.90(a) Open season from 6:00 am on the Saturday preceding the first Wednesday in October through the first Wednesday after the 15th of March.
- 29.90(b) Daily bag and possession limit of seven lobsters.
- 29.90(c) Minimum carapace length of 3 and ¼ inches; recreational hoop net users may take lobsters out of the water to measure them, provided that no undersized lobster is retained for possession. Recreational divers, however, must measure lobsters while they are still in the water.
- 29.90(d) and 29.91 Requirement to purchase, fill out, and return Spiny Lobster Report Card.
- 29.90(e) Spiny lobsters shall be kept in a whole, measurable condition, until being prepared for immediate consumption.

Current regulations governing the commercial fishery are as follows:

- 121(a) Open season between the first Wednesday in October and the first Wednesday after the 15th of March.
- 121(b) Prohibition against possessing any spiny lobster following closed season.
- 121.5 Minimum carapace length of 3 and ¼ inches; lobster must be measured immediately on removal from the trap and undersized lobster must be returned to the water immediately after measuring.

- 122(a) through (c) Limited entry permit requirements.
- 122(d) Restricted fishing areas.
- 122(e) through (f) Fishing log requirement.
- 122(g) All commercial operators operating from a vessel are jointly liable for any violation incurred from that vessel.
- 122(h) Prohibition against taking lobsters using SCUBA gear.
- 122.1(a) Prescribed configuration for traps and buoys.
- 122.1(c) and 122.2(f) Trap limit, the accompanying trap tag requirement, and End of Season Spiny Lobster Trap Loss Reporting Affidavit (Affidavit).
- 122.2(a) Prohibition against fishing at night.
- 122.2(b) through (c), Grace period for setting and baiting traps before season, and retrieving the traps post season.
- 122.2(d) Maximum trap service interval of 168 hours.
- 122.2(e) Prohibition against abandoning traps.
- 122.2(h) Prohibition against tampering with another person's trap, except to retrieve up to 6 derelict traps during a fishing season, under a waiver granted the Department, or an unlimited number of traps post-season.
- 180.5(b) All buoys attached to a lobster trap must be marked with the operator's commercial fishing license identification number followed by the letter "P."

EMERGENCY REGULATIONS ADOPTED

The Commission adopted emergency regulations on October 13, 2022 which became effective on October 31, 2022 (OAL file No. 2022-1021-02E). The emergency regulations prohibit the use of the newly developed hoop net type and require all hoop nets north of Point Arguello to be marked with the identification of at least one operator. The emergency regulations will remain in effect for 180 days (and possibly an additional two 90-day periods) during consideration of this standard rulemaking, which serves as the certificate of compliance for amendments to Section 29.80.

The emergency regulations placed the following changes to recreational hoop net use:

- 29.80(b)(2) Clarify that the two-hour hoop net service interval requirement applies statewide
- 29.80(b)(4)(A) and (B) Require the soft mesh on hoop nets to be non-metallic for Type A and Type B hoop nets
- 29.80(b)(4)(B) Amend requirements of Type B hoop nets by restricting the number of rings from three to two, adding that the rigid support arms be "straight" and prohibiting the use of any additional openings

29.80(b)(6) Add that the use of a surface buoy and necessary gear marking requirements apply statewide, to include hoop nets used north of Point Arguello, and that only one operator's GO ID is necessary

PROPOSED REGULATIONS

The proposed changes to the regulations governing spiny lobster fisheries would not alter the fundamental fishery assessment framework (i.e., the HCR) or effort- and gear-based restrictions established in the FMP. Instead, the changes here would only address concerns brought by stakeholders and Department staff regarding the current fishing regulations. Several of the changes proposed here would reduce the regulatory burden on fishery participants, while others would improve enforceability of current regulations.

Section 29.80. Gear Restrictions for Recreational Take of Saltwater Crustaceans.

There are no proposed changes to subsection 29.80(a).

Amend subsection 29.80(b), Hoop Nets.

The main body of subsection 29.80(b) other than "Hoop nets may be used to take spiny lobsters and all species of crabs" is deleted. The deleted parts of the paragraph that prescribe the possession limit on hoop nets and the minimum service interval for hoop nets are moved to subsections 29.80(b)(2) through (4). This is necessary to improve clarity and readability of the regulation.

Amend subsection 29.80(b)(1), Hoop Net Defined.

For clarity, the phrase "There are two types of hoop nets allowed for use" will be replaced with "Only Type A and Type B hoop nets, as described below, are allowed for use." Clarifying the original language definitively limits the two types, A and B, of hoop nets as described. This is further reinforced by subsection 29.80(a)(2) that states "Nets, traps or other appliances may not be used except as provided in this Section."

Amend subsection 29.80(b)(1)(A), Type A.

For clarity and readability, the elements of the original text describing the permitted design of the Type A hoop net have been separated (renumbered) into their own provisions as subsections 1. through 6. For every reference of "soft mesh" the word "non-metallic" is added to specify the material. Ensuring non-metallic mesh is necessary to minimize entanglements, as metallic mesh is more conducive to longer soak time and the extra weight could exacerbate the seriousness of potential entanglements. In the case of Type A hoop net, which are intended to be collapsible, a metallic mesh structure could impede this design.

(b)(1)(A)1. – The description of the lift lines attached only to the top ring remains the same.

(b)(1)(A)2. – The relative size of the rings remains the same. The mesh surrounding the gear must be non-metallic.

- (b)(1)(A)3. – A comma is added follow the phrase “When the net is being raised”; “non-metallic” is added to specify that the bottom portion of the soft mesh must also be non-metallic soft mesh; language specifying the relative positions of the rings remains the same.
- (b)(1)(A)4. – The provision requiring that the hoop net lie flat on the ocean floor remains unchanged.
- (b)(1)(A)5. – The provision specifying the maximum height of a hoop net when it is suspended remains the same.
- (b)(1)(A)6. The maximum thickness of the ring material remains the same.

Amend subsection 29.80(b)(1)(B), Type B.

For clarity and readability, the elements of the original text describing the permitted design of the Type B hoop net have been separated (renumbered) into their own provisions as subsections 1. through 7. The Type B hoop net will now be composed of only two rigid rings (plus a bait ring if desired), with no changes to the minimum and maximum ring diameters. As with Type A hoop nets, for every reference of “soft mesh” the word “non-metallic” is added to specify the material. Ensuring non-metallic mesh is necessary to minimize entanglements, as metallic mesh is more conducive to longer soak time and the extra weight could exacerbate the seriousness of potential entanglements.

- (b)(1)(B)1. – Amendment of “upper ring or rings” to “top ring” is made to reflect that Type B hoop nets can now only incorporate two rings; and a provision is added that the rigid arms connecting the top and bottom rings must be straight. The 10-inch height restriction for the assembled frame remains unchanged.
- (b)(1)(B)2. – The maximum thickness of the rings and support materials remains the same.
- (b)(1)(B)3. – Like the Type A hoop net, the mesh surrounding the gear must be non-metallic.
- (b)(1)(B)4. – The provision that lift lines shall only be attached to the top ring remains unchanged.
- (b)(1)(B)5. – The provision specifying the maximum height of a hoop net when it is suspended remains the same; however, minor edits reflect that the type B hoop net can now only incorporate two rings. A comma is added for grammatical correctness.
- (b)(1)(B)6. – Added provision specifying that for a Type B hoop net, no entrance is allowed below the top ring, which is the only permitted entrance.
- (b)(1)(B)7. – A modification for clarity of the original provision specifies that the bait ring, if used, must be attached to the bottom half of the net.

Referring to Figure 1 above and Figure 2 below, the proposal to amend the

specifications of the Type B hoop net is necessary to help mitigate entanglement risk. As explained above, the Commission recently adopted additional restrictions on the use of recreational crab traps over concerns of their entanglement potential towards endangered marine life ([Commission 2020](#)). Department staff is concerned that hoop net users would design a hoop net with multiple opening(s), larger volume, curved shape and thicker construction (Figure 2). This could lead users to deploy them as traps and not actively tend to them. This is in sharp contrast with the conventional hoop nets, which are designed to be actively tended (Figure 1). The specifications for the two types of hoop net under subsection 29.80 (b)(1) were adopted in 2010 specifically to help ensure that hoop nets did not evolve to become traps ([Commission 2010](#)). Additionally, the use of traps to recreationally fish for crustaceans south of Point Arguello is not permitted, and hoop nets that become more trap-like would violate this prohibition.

Due to the potential impact that the trap-like hoop nets may create, there are substantial concerns within the Department of allowing their deployment without thorough vetting. As such, the regulation would restrict the use of such gear for now. The proposed regulation that Type B hoop nets must be supported by straight arms and only two rings is necessary to prevent high-volume nets with constricted openings that behave like traps. The proposed regulations that bait rings used in Type B hoop nets must be positioned near the bottom and that the sole opening must be at the top is necessary to prevent nets from becoming trap-like apparatuses that funnel the catch in and prevent them from escaping.

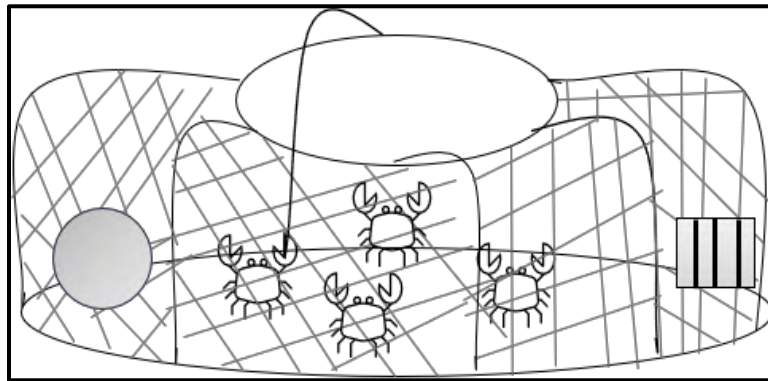


Figure 2: Rendition of recently developed hoop net that could function more similarly to a trap.

Subsections 29.80(b)(2) and (3).

The current subsections are proposed to be reorganized and amended in the added subsections 29.80(b)(3) through (5).

Add subsections 29.80(b)(2) through (6) clarifying the operational requirements of deploying hoop nets.

- (b)(2) The current maximum inspection interval of two hours, currently specified in the last sentence of subsection 29.80(b), is moved to its own subsection and amended. Moving the maximum service interval into its own subsection and disconnected from the hoop net limits would make

clear that the interval applies state-wide, as opposed to only south of Point Arguello. “The owner of the hoop net or person who placed the hoop net in the water” is replaced with “The owner or operator of a hoop net”. Using the term “operator” in placed of “person who placed the hoop net in into the water” is necessary to improve readability and enforceability; the new term necessarily covers whoever deploys a net, and provides for consistency with the marking requirement for hoop nets deployed from private vessels which is tied to their operators.

- (b)(3) The current subsection 29.80(b)(2) is renumbered as 29.80(b)(3). In addition, the language is amended to make clear that it is unlawful to abandon a hoop net or leave it unchecked for more than 2 hours. This is for the purpose of ensuring that hoop net owners/operators understand that they must actively tend to their hoop nets as opposed to soaking them unattended.
- (b)(4) Limits. The existing limits on the number of hoop nets that may be possessed (subsection 29.80(b)) are moved to this subsection and amended to improve clarity of the existing limits. The amendment describes the limits on the number of hoop nets that may be deployed at any one time. The language also clarifies that use of hoop nets from public piers is restricted to 2 nets under subsection 28.65(b).
- (A) Current regulations limiting the number of hoop nets that may be possessed south of Point Arguello are expanded to limit possession and deployment of hoop nets. South of Point Arguello, an individual may possess and deploy up to 5 hoop nets total when fishing alone. When two or more individuals are taking crab or lobster onboard a vessel, up to a total of 10 hoop nets may be possessed aboard or deployed from the vessel. Expanding the requirements to include both possession and deployment is necessary for ease of enforcement. Since the marking requirement of a hoop net is tied to its operator, the limit is expanded to include people who deploy the hoop nets, namely the operators, to close the nexus of accountability. Possession is retained in the regulatory language in case individuals try to claim that additional hoop nets aboard a vessel are not being “deployed” within the meaning of the regulation, which would complicate enforcement and contravene the purpose of setting the limits.

The revised provision of the 10-net vessel limit is necessary to eliminate confusion over the hoop net limits. The state’s position on hoop net limits has always been that the vessel limit applies in addition to the individual limit. This means that when there is only one person aboard a vessel, that individual is restricted to using only 5 hoop nets pursuant to the individual limit. However, the current language might lead some individuals to believe that a single individual on a vessel may possess and use up to 10 nets.

- (B) The new subsection 29.80(b)(4)(B) clarifies that there is no limit on the number of hoop nets that may be possessed or deployed north of Point Arguello. This is to help avoid confusion over whether any hoop net limit applies north of Point Arguello.

(b)(5) Hoop Net Identification Requirements:

The current hoop net marking requirement in subsection 29.80(b)(3) is renumbered as subsection 29.80(b)(5) and revised. The revision is necessary to help clarify the anglers' obligations when marking their hoop nets. The previous boundary at Point Arguello has been removed, making the marking requirement mandatory across the state. Anglers are required to mark their hoop nets with their GO IDs, a unique identification number issued by the Department's Automatic License Data System (ALDS) and permanently tied to each individual. The number can serve as a way for enforcement officers to identify the operator of a hoop net and track the number of nets people are using. Anyone can obtain a GO ID by creating a profile at the ALDS website (<https://wildlife.ca.gov/Licensing/Online-Sales>) at no charge.

This change to state-wide requirement is necessary to improve gear identification during entanglement on top of facilitating enforcement of new and existing restrictions on hoop net use. Marking of all hoop nets can reduce the number of observed entanglements where the fishing gear is not marked and responsible fishery unknown. Identifying fisheries in the event of a marine life entanglement helps the Department identify entanglement risk in the fishery and develop mitigation measures to reduce the risk. In addition, it reduces the number of unknown entanglements, which negatively impacts the commercial Dungeness crab fishery under the regulation for the Risk Assessment Mitigation Program (Section 132.8).

- (A) As with current regulations, the commercial boat registration number is required on the buoy for each hoop net deployed from a CPFV.
- (B) As with current regulations, the guide license number is required on the buoy for each hoop net provided by a licensed guide to clients for use on a guided trip.
- (C) As with current regulations, for hoop nets not deployed from CPFVs or provided by a licensed guide, the operator's d GO ID number is required on each buoy. The amendment to this provision specifies that in cases where there are multiple operators, only the GO ID of at least one operator is required.

The marking requirement for hoop nets was adopted in 2017 to ensure accountability and enforceability of hoop net limits. However, the requirement has since created unintended complications for many recreational hoop net users and the Department receives many

questions about how to comply with the marking requirements. Under the strictest interpretation of current subsection 29.80(b)(3), every individual on a vessel who is hoop netting for lobster and intends on operating (i.e., pulling) those hoop nets must mark their GO ID on every hoop net deployed from that vessel. As explained previously, this creates an unnecessary burden for almost all hoop net users who operate out of private boats.

The new requirement is necessary to lessen compliance burden and participant confusion, while also streamlining regulatory language. The proposal would clarify that hoop nets only need to be marked with the GO ID of at least one operator and no more. For the recreational hoop net sector, it is often the case that the owner of a recreational vessel also owns every hoop net deployed from that vessel. It is unclear how that vessel owner's GO ID and their passengers' GO IDs should appear on each hoop net under the current marking requirement. In conjunction with the newly proposed subsection 29.80(b)(4)(A), the new changes mean that as long as a hoop net owner is also operating the hoop nets along with at least one other hoop net operator on a vessel, that owner can simply keep their GO ID on all 10 of their hoop net buoys.

Furthermore, the references to sport fishing license and spiny lobster report card are removed. The references were added for informational purposes to help inform the public on where they may find their GO IDs. However, with the expansion of the marking requirements to areas north of Point Arguello, there will be minors younger than 16 years old using hoop nets to take Dungeness crab. These individuals can obtain a GO ID, but they are not required to possess a fishing license, a lobster report card, or any other types of permits or licenses. As such keeping the references may create confusion on what these individuals' obligations are in marking their hoop nets.

- (b)(6) The proposed new subsection 29.90(b)(6) would prohibit the deployment and use of hoop nets south of Point Arguello, Santa Barbara County, during the 24 hour period immediately prior to the start time of the recreational lobster season each year.

This regulation is necessary to reduce enforcement burden leading to the opening day for the recreational lobster fishery, which occurs primarily south of Point Arguello. This change would help maintain the integrity of the closed season. Department enforcement officers have observed individuals deploying hoop nets just prior to the start of the recreational lobster season, claiming to be targeting rock crabs. Once the 6:00 am start time for the lobster season arrives, the same individuals immediately begin to retain lobsters. These individuals are essentially deploying their hoop nets for lobsters before the season starts. This restriction is consistent with similar restrictions on

deployment and use of a gear type right before a season opening to prevent unequitable head start on the season (e.g., crab traps a week before the start of the sport Dungeness crab trap fishery (subsection 29.80(c)(4)).

There are no proposed changes to subsections 29.80(c) through (j).

Section 29.90. Spiny Lobsters.

Amend subsection 29.90(a), Open Season.

The new recreational season start time would be 6:00 pm on the Friday preceding the first Wednesday in October. The change would move the start of the season 12 hours earlier from the current start time.

The proposed change is necessary to ensure the safety of enforcement officers. Prior to 2017, the recreational lobster season opened at 12:01 am on the Saturday preceding the first Wednesday in October. Under this previous season schedule, a wildlife officer would start their shift at approximately 9 to 10 pm on Friday evening to deter early divers and hoop net users, and work through the opener into the early morning on Saturday. The same officer would then be able to rest throughout the day (10 to 12 hours) and start their next shift at approximately 6 to 8 pm on Saturday evening, working into Sunday morning. After another 10 to 12 hours of rest, the officer could repeat the same shift for Sunday evening.

Moving the opener to 6 am on Saturday morning greatly changed this dynamic. With this change, officers must still be posted on Friday evening to catch individuals who are attempting to start fishing before the season or are otherwise unaware of the change to the midnight season start. After midnight, the officers would get a few hours rest to start their next shift at approximately 3 to 4 am on Saturday morning to catch early divers and hoop net users and continue working until approximately 12 to 2 pm. If there are not enough officers to take over the next shift, which is often the case, the same officer would have to return for the next shift starting in early evening and into the following morning, after at most only another 4 to 5 hours of rest.

The current schedule thus forces enforcement officers to make the difficult choice of either reducing enforcement coverage of one of the most important fisheries in the state or work potentially back-to-back-to-back 8-plus hours of shifts. During the 2021 season opener, roughly 4 in every 10 officers available to staff the recreational lobster opener elected to work through consecutive shifts. Given the conditions that enforcement officers are working under (operating boats during the day and at night while keeping an eye out for divers and buoys, interacting with potentially disruptive participants, etc.), overworking and exhaustion pose a significant safety risk to officers. Moving the recreational start time to 6 pm Friday captures all enforcement needs in a single shift and therefore addressing enforcement concerns. In addition, this new start time would also address the safety issues surrounding a midnight opener by starting the season during daylight 30 to 45 minutes before sunset. Lastly the proposed time would not take fishing time away from the recreational fishery.

Subsection 29.90(b), Limit: Seven. There is no change to this provision.

Amend subsection 29.90(c), Minimum size.

The possession of undersized lobster is not permitted. The proposed changes to subsection 29.90(c) would standardize and clarify recreational participants' obligation to promptly measure all lobsters taken and to return any undersized lobsters immediately back to the ocean. Under the new regulation, no undersized lobsters may be possessed in any type of container. All lobsters must still be measured immediately after they are taken, as before. Divers would continue to be required to measure lobsters while they are still in the water, while hoop net users are required to immediately measure lobsters upon their removal from the water.

The 2017 regulatory change clarified subsection 29.90(c) to allow hoop net users to take lobsters out of the water to measure them, provided that "no undersize lobster may be placed in any type of receiver, kept on the person or retained in any person's possession or under his or her direct control." This phrase inadvertently left out divers, so that the prohibition on the possession of short lobsters in a game bag or other container only applied to hoop net users. Enforcement officers have caught divers entering the surf zone with undersize lobsters in their game bags, who then told the officers that they would measure the lobsters in the surf zone. In such a situation, it is practically impossible to distinguish good-faith individuals from poachers. To prevent such occurrences, and to standardize expectations between all recreational participants, both hoop net users and divers are prohibited from placing undersize lobsters in any type of container, be it a cooler or a game bag. This clarification effectively matches the regulation requirements prior to the 2017 change.

The word "spiny" is added in front of the word "lobster" where applicable to maintain consistency to usage elsewhere in the regulation. Consistency and specificity here are important especially in the context of possession since these regulations only apply the species of *P. interruptus*, not lobsters generally.

Renumber subsection 29.90(e) to (d).

There is no change to this provision. The current subsection 29.90(e) is moved to (d) to improve organization of the regulations.

Renumber subsection 29.90(e), Report Card Required.

The current subsection 29.90(d) is renumbered as subsection 29.90(e) to improve organization of the regulations. Minor changes: "Sections" is replaced with "sections" for consistency with the Commission's standard capitalization rules and "spiny" added to the word "lobster".

Section 29.91. Spiny Lobster Report Card Requirements for Ocean Waters (FG 685, See Section 701).

Amend subsection 29.91(a), Spiny Lobster Report Card Required.

The are no amendments to the provision requiring a Report Card except the addition of "spiny" before the word "lobster" and changing the word "Section" to "section" pursuant to the Commission's standard rules for capitalization..

Amend subsection 29.91(b).

The proposed change clarifies when a report card holder is required to record the month, day, location, and gear code on the report card by defining "Prior to beginning fishing activity". Once a hoop net user has deployed the first net or a diver has entered the ocean, the attempt to fish for lobster is considered to have begun and the corresponding information should appear on the report card. This is necessary to improve clarity and enforceability since the existing language of "prior to beginning fishing activity" is ambiguous, as fishing activity can be broadly defined to include a range of preparatory work.

Amend subsection 29.91(c), Cardholder.

The are no amendments to the provision requiring a record of take, except the term "he or she" is replaced with the term "cardholder" to clarify the regulation and the addition of the word "spiny" before the word "lobster".

There are no proposed changes to subsections 29.91(d) and (e).

Section 121. Spiny Lobster. Open Season and Possession during Closed Season

In the section title, "Lobster, Spiny" is amended to "Spiny Lobster".

Amend subsection 121(a).

The scientific name "*Panulirus interruptus*" is added to clarify the specific species for take. The are no other amendments to this provision for the dates of the open season.

Amend subsection 121(b).

The word "spiny" is added prior to the word "lobster" in three places.

Section 121.5. Spiny Lobster. Minimum Size and Verification.

In the section title, "Lobster, Spiny" is amended to "Spiny Lobster".

Subsection 121.5(a). No changes.

Amend subsection 121.5(b).

The sentence "A trap shall be serviced prior to any additional trap being brought aboard a vessel." would be replaced with the sentence "When a trap is pulled to the surface, any spiny lobster within shall be measured immediately and prior to any additional traps being pulled to the surface." The purpose of the service requirement

is to ensure that undersized lobsters are returned to the water as soon as possible. The new language is also necessary to help facilitate enforcement. The term “immediately” conveys the time-sensitive nature of returning lobsters back to their habitat as soon as possible.

Minor changes to subsections 121.5(b), (c), and (d).

The word “spiny” is added in front of the word “lobster” where applicable to maintain consistency to the word’s usage elsewhere in the regulation.

The term “Section” has been changed to “subsection” in subsection 121.5(c) to accurately reflect the reference.

The reference of “(*Panulirus interruptus*)” in subsection 121.5(c) is deleted as repetitive with subsection 121(a).

Section 122. Spiny Lobster Permits and Restricted Areas.

Amend subsection 122(a).

The word “Spiny” is added in front of the word “Lobster” to maintain consistency to the word’s usage elsewhere in the regulation.

There are no proposed changes to subsections 122(a)(1), (3), or (4).

Amend subsection 122(a)(2).

The proposed change moves the commercial lobster fishery’s boundary along the southern coast of Santa Catalina Island. Commercial lobster operators currently may take lobsters between China Point, on the west and Southeast Rock, on the east. This proposal would move the eastern boundary from Southeast Rock to Church Rock, expanding the fishing area by about 60 ft. While the two locations are adjacent to each other as part of the same rock outcropping, Church Rock is more prominent and much better known than Southeast Rock (Figure 3). The change merely clarifies the demarcation with a more distinctive geographical feature.

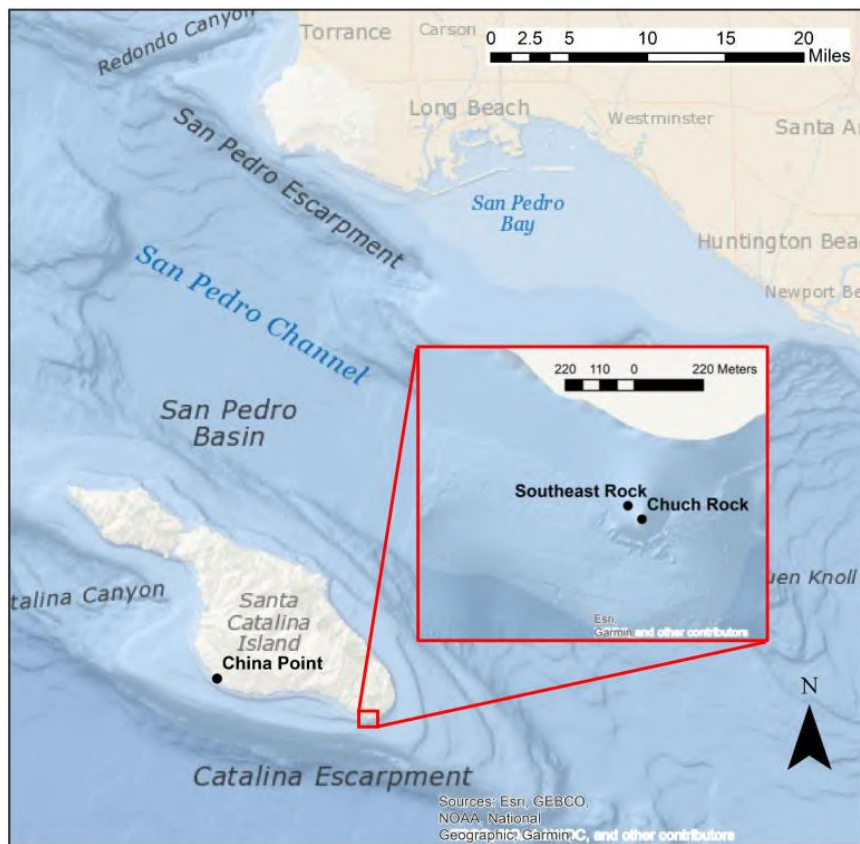


Figure 3: Positions of Southeast Rock (smaller rock on the left) and Church Rock (larger rock on the right) on the south side of Santa Catalina Island.

There are no proposed changes to subsections 122(b) through (h).

Section 122.1: Spiny Lobster Buoys and Trap Tags.

Amend title and subsection 122(a).

The word “spiny” is added in front of the word “lobster” to maintain consistency to the word’s usage elsewhere in the regulation.

Amend subsection 122.1(b).

The added language requires commercial permit holders to mark their lobster receiver buoys clearly and distinctly with their commercial fishing license identification numbers. The numbers must be at least 1.5 inches in height and drawn with a line at least 0.25 inch thick. In addition, the phrase “each buoy marking any lobster trap” would be amended to “any buoy that marks a spiny lobster trap” to better convey the explicitness of the requirement.

Department enforcement officers have found undersize lobsters inside unmarked receivers making identification of the actual owner difficult. Furthermore, officers have been notified of individuals potentially tampering with receivers that do not belong to them. Identification will help identify the owner of the receiver and help provide probable cause for illegal take, theft, and tampering of receivers. The size and coloring requirements of the identifications are drawn from the trap buoy

marking requirements under Section 180.5 to maintain consistency across regulations.

Amend subsection 122.1(c), Trap Tag Requirement.

There are no proposed changes to subsections 122.1(c), 122.1(c)(1), 122.1(c)(2) or 122.1(c)(2)(A).

In subsection (c)(2)(B) an Oxford comma is added for grammatical correctness.

Amend subsection 122.1(c)(2)(C).

The term “affidavit” is replaced with “Lobster Operator Permit Catastrophic Lost Trap Tag Affidavit, DFW 1701 (New 2/2016), incorporated by reference herein.” The form is currently incorporated under Section 705 which has generally been used for listing fishing permits that require the payment of fees and their respective prices. Since there is no fee, the Lobster Operator Permit Catastrophic Lost Trap Tag Affidavit does not fit into that category of forms.

There are no proposed changes to subsections 122.1(c)(2)(D) and (E).

Section 122.2. Pulling Spiny Lobster Traps.

In the title, the word “Spiny” is added in front of the word “Lobster” to maintain consistency to the word’s usage elsewhere in the regulation.

There are no proposed changes to subsections 122.2(a) through (e).

Amend subsection 122.2(f).

The changes provide commercial permit holders with an additional 15 days to complete their *End of Season Spiny Lobster Trap Loss Reporting Affidavit* (DFW 1020). The deadline is changed from April 15 to April 30 of each year. In addition, the new revised Affidavit will be incorporated into this subsection and removed from Section 705.

This proposed change is in response to feedback from the fishing community and is necessary to reduce compliance burden. The issue was first raised by commercial lobster operators during a meeting with Department staff on August 6, 2019. Commercial lobster operators have struggled to juggle a myriad of end-of-season activities and are often pressed to complete the Affidavit on-time. While an additional 15 days may seem small, it could provide the necessary cushion for the operators to complete and submit the form. However, setting the deadline too far after season closure could lead to permitholders forgetting to submit the Affidavit all together. Additionally, staff experience in the preceding five years show that an additional extension of 15 days would not materially impact the Department’s own end-of-season management activities.

The incorporation of the Affidavit into this section is necessary to improve the clarity of the regulations. The form is currently incorporated under Section 705, which has generally been used for listing fishing permits that require the payment of fees and

their respective prices. Since there is no fee, the Affidavit does not fit into that category of forms. The form will be updated to its new version date.

In addition, the term “he/she holds” would be replaced with “they hold” (referring to the permit holder) to help clarify the regulation.

There are no proposed changes to subsection 122.2(g).

Amend subsection 122.2(h).

The change adds “disturb” to the list of prohibited activities on lobster traps of other people. This is necessary to help improve enforceability of the section and is consistent with FGC Section 9002. In addition, the term “his/her” would be replaced with “their” (referring to the permit holder) to help clarify the regulation.

Add new subsection 122.2(h)(1)(A), In-season Trap Retrieval.

The proposed new subsection 122.2(h)(1)(A) would make permission from trap owners mandatory during any in-season trap retrieval. Under this proposal, a commercial permit holder would be able to retrieve up to 6 traps belonging to another permit holder only if the permit holder retrieving the trap possesses a dated written note from the trap’s owner authorizing such retrieval. This note shall contain the commercial fishing license identification number of that trap owner. All other requirements under subsection (h)(1) would remain the same. Lobsters found within such traps must be discarded, the retriever must document the circumstances and details surrounding a retrieval, and traps retrieved under the authorization of a note cannot be redeployed by the retriever.

This change will formally establish a system where lost or derelict traps can be recovered only by permit holders with explicit permission from the trap owner. Before the 2017 regulations went into effect, an informal system existed allowing for the unlimited recovery of lost or derelict traps by specific permit holders authorized by the trap owner. Since the 2017 regulatory changes went into effect, any commercial lobster operator may recover up to 6 lost or derelict traps owned by another operator. After 2017, concerns from the fishing community were raised that, if left unchanged, the provision could provide an avenue for gear theft, tampering, and theft of catch. Since then, numerous complaints have been filed and one case was prosecuted. Requiring authorization from trap owners and ensuring that the trap owners’ identification numbers are available for comparison against the traps being retrieved are necessary to deter gear tampering and theft.

Due to the newly-added subsection (h)(1)(A), the current subsections (A) through (D) will be sequentially renumbered as subsections (B) through (E) to ensure consistent numbering.

In subsections 122.2(h)(1)(C) and (h)(2)(F), the word “spiny” is added in front of the word “lobster” to maintain consistency to the word’s usage elsewhere in the regulation. In subsection 122(h)(2)(A), the term “his/her” would be replaced with “their” (referring to the permit holder) to help clarify the regulation. No other changes are proposed for subsections 122.2(h)(2) and (h)(3).

Section 705. Commercial Fishing Applications, Permits, Tags and Fees.

There are no proposed changes to subsections 705(a) through (c)(4).

Amend subsections 705(c)(5) and (7), Tags and Miscellaneous, Fees.

The Lobster Operator Permit Catastrophic Lost Trap Tag Affidavit, form DFW 1701, is deleted from subsection 705(c)(5) and moved the subsection 122.1(c)(2)(C). The End of Season Spiny Lobster Trap Loss Reporting Affidavit, form DFW 1020, is deleted from subsection 705(c)(7) and moved to subsection 122.2(f). Current subsections 705(c)(6) and (c)(8) are renumbered to (c)(5) and (c)(6), respectively.

There are no proposed changes to subsection 705(d).

Authority and Reference Citations

Authority and reference citations for sections 29.80, 29.90, 29.91, 121, 121.5 and 122 will be updated.

Form DFW 1020. End of Season Spiny Lobster Trap Loss Reporting Affidavit

The amended form will have several editorial changes to help improve clarity, improve Department operation, and ensure consistency throughout the form. The word “instructions” at the top would be bolded to help draw attention to the most important information concerning the return of the affidavit. The deadline for submission of the Affidavit is revised for consistency with and for the purpose explained above under Section 122.2. The email “Lobster@wildlife.ca.gov” has been added as an accepted recipient to allow for electronic transmission. The Instruction “please print clearly” is replaced with a bolded “type or print clearly” to account for electronic transmission. A new row inquiring the physical address of the reporter (in addition to mailing address) will be required to help facilitate communications from the Department. In addition, the “Commercial Fishing License Number” at the top of page one and “Commercial Fish License #” at the top of page two, would be converted to “Commercial Fishing ID #.” The term “Lobster Operator Permit Number” at the top of page one would be converted to “Lobster Operator Permit #” for consistency with the field at the top of page two. Staff have decided to use the shorter terms in both instances to conserve space.

The open text box within the current form DFW1020 (02/18/16) that allows a commercial operator to describe the circumstances surrounding each trap loss would be converted to a fillable table. The open text box often leads to permit holders submitting incomplete data or not submitting the requested data at all. Furthermore, Department staff must undertake the time-consuming and imperfect process of estimating locations of trap loss based on other lobster log and landing receipt data. An additional page of tabular boxes is further provided as a third page of the form if additional rows are needed. The form will now request:

- last known fishing block the traps were in,
- approximate date of trap loss,
- number of traps lost, and
- options for the specific reason that traps were lost, if known, which include boat traffic, line entanglement/breakage, weather/ocean conditions, theft/tampering, and “other.”

The table would look as follow:

Last Known Fishing Block	Approximate Date (MM-DD-YYYY)	Number of Traps Lost	Reason for Loss if known
			<input type="checkbox"/> Boat traffic <input type="checkbox"/> Line tangled/broke <input type="checkbox"/> Weather/ocean conditions <input type="checkbox"/> Theft/tampering <input type="checkbox"/> Other:
			<input type="checkbox"/> Boat traffic <input type="checkbox"/> Line tangled/broke <input type="checkbox"/> Weather/ocean conditions <input type="checkbox"/> Theft/tampering <input type="checkbox"/> Other:

The form now asks commercial operators to fill out the last known fishing blocks that the lost traps were located in as opposed to GPS coordinates. These block numbers are commonly used in the lobster fishery thus making it easier to complete the form. Switching to fishing block is necessary because operators are often reluctant to share the exact GPS coordinates of their fishing grounds and many permit holders often give abbreviated coordinates that do not provide any higher spatial resolution than just recording the fishing block number. Given the inconsistencies of permit holders reporting of spatial information surrounding trap loss, staff have only been able to estimate loss by fishing block as the highest spatial resolution of trap loss. A map of the fishing block is currently incorporated, among other places, as part of the Daily Lobster Log (DFW 122) under subsection 122(e). DFW 122 is in turn a form that every commercial lobster operator must fill out pursuant to subsection 122(e), and thus is familiar to every operator.

The number of traps lost, and date and location of trap loss are already currently requested on the form. The revised form includes a new field for the total number of tags used. This data is necessary in order for staff to characterize the severity of a trap loss event. The loss of a large number of traps (e.g., 50) on a single day or fishing trip would indicate a particularly intense event, such as a storm or high swell. This knowledge would help focus post-season gear recovery efforts by identifying where a large number of traps could have moved after becoming lost, while the loss of one or a few traps on a single day or fishing trip is pretty typical. Similarly, knowing how many trap tags used, which represents the number of traps used, would also help contextualize the severity of these occurrences (e.g., losing 5 out of 50 deployed traps is more significant relative to the permit holder and their fishing behavior than losing 5 out of 300 deployed traps). The data could also help Department staff evaluate the merit of the catastrophic loss threshold. This threshold, when reached, allows a commercial operator to apply for replacement trap tags and is currently set at 75 traps.

The four enumerated reasons for trap loss are considered by staff to be the most common reasons for operators to lose traps as submitted by permit holders in past affidavits, and an open-ended option preserves the possibility of other less-common events.

The reference to Section 746 in the certification statement would be removed, since the section only provides the process for permit revocation, not a cause for any revocation. Finally, a new privacy statement has been added pursuant to the requirement of Civil Code 1798.17, which requires state agencies to provide a privacy notice when requesting information from individuals.

(b) Goals and Benefits of the Regulation

Pursuant to FGC Section 7050, it is the state's policy, among others, to "[c]onserve the health and diversity of marine ecosystems and marine living resources" and to "[a]llow and encourage only those activities and uses of marine living resources that are sustainable." The proposed regulations would help improve the enforceability of current regulations governing the spiny lobster fisheries and help conserve natural resources, as well as improve user experience. The proposed changes are in line with the October

2022 emergency regulation and would help mitigate potential entanglement risk towards marine life.

(c) Authority and Reference Sections from Fish and Game Code for Regulation

- 29.80 Authority: Sections 200, 205, 7075 and 7078, Fish and Game Code.
Reference: Sections 200, 205, 270, 275, 7050, 7055 and 7056, Fish and Game Code.
- 29.90 Authority: Sections 200, 205, 7075, and 7078, Fish and Game Code.
Reference: Sections 200, 205, 255, 275, 7050, 7055 and 7056, Fish and Game Code.
- 29.91 Authority: Sections 200, 205, 7075, and 7078, Fish and Game Code.
Reference: Sections 200, 205, 265, 7050, 7075 and 7078, Fish and Game Code.
- 121 Authority: Sections 2365, 7075 and 7078, Fish and Game Code.
Reference: Sections 2365, 7050, 7075, 7078 and 8254, Fish and Game Code.
- 121.5 Authority: Sections 2365, 7075, 7078 and 8254, Fish and Game Code.
Reference: Sections 2365, 7050, 7075, 7078 and 8254, Fish and Game Code.
- 122 Authority: Sections 1050, 7075, 7078, 8254 and 8259, Fish and Game Code.
Reference: Sections 1050, 2365, 7050, 7055, 7056, 7071, 7852.2, 8026, 8043, 8046, 8250, 8250.5, 8254, 9002, 9005, 9006 and 9010, Fish and Game Code.
- 122.1 Authority: Sections 7075, 7078 and 9005, Fish and Game Code.
Reference: Sections 7050, 7055, 7056, 8250.5, 9002, 9005 and 9010 Fish and Game Code.
- 122.2 Authority: Sections 1050 and 7078, Fish and Game Code.
Reference: Sections 7050, 7055, 7056, 8250.5, 8251, 9002 and 9010, Fish and Game Code.
- 705 Authority: Sections 713 and 1050, Fish and Game Code.
Reference: Sections 713 and 1050, Fish and Game Code.

(d) Specific Technology or Equipment Required by Regulatory Change: None

(e) Identification of Reports or Documents Supporting Regulation Change

- Commission (2022). State of California Fish and Game Commission Marine Resources Committee — July 14, 2022 Meeting Summary, Item 5: California Spiny Lobster Fishery Regulations.
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=203037&inline>
- Commission (2020). State of California Fish and Game Commission Initial Statement of Reasons for Regulatory Action — Re: Recreational Crab Trap Fishery Marine Life Protection Measures.
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=183155&inline>

- Commission (2019). Petition to the California Fish and Game Commission for Regulation Change, Petition #2019-004.
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=169813&inline>
- Commission (2010). State of California Fish and Game Commission Initial Statement of Reasons for Regulatory Action — Re: Gear Restrictions.
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=204849&inline>
- Department (2022). Commercial Spiny Lobster Tailing and Post-Season Possession Survey Results.
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=203449&inline>
- Department (2020). State of California Department of Fish and Wildlife Amended Initial Statement of Reasons for Regulatory Action — Re: Risk Assessment Mitigation Program: Commercial Dungeness Crab Fishery.
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=180697&inline>
- Department (2016). California Spiny Lobster Fishery Management Plan.
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=121938&inline>
- Saez et al. (2021). Large Whale Entanglements off the U.S. West Coast, from 1982-2017, NOAA Technical Memorandum NMFS-OPR-63A.
<https://tethys.pnnl.gov/sites/default/files/publications/Saez-et-al-2021.pdf>
- Working Group (2021). California Dungeness Crab Fishing Gear Working Group (Working Group) Management Recommendation Form to inform the Risk Assessment and Mitigation Program for the California Department of Fish and Wildlife- Working Discussion Date: November 17, 2021.
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=195722&inline>

(f) Public Discussions of Proposed Regulations Prior to Notice Publication

- Commercial lobster fleet meeting 2020 (7/31/2020) held via Microsoft Teams
- Commercial lobster fleet meeting 2021 (8/20/2021) held via Microsoft Teams
- Recreational lobster fleet informational meeting (5/26/2022) held via Microsoft Teams
- July 2022 Marine Resources Committee meeting

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

During the outreach period, the commercial lobster fishery sector proposed two significant regulatory changes that would also help improve their experience utilizing the spiny lobster resources. They are the following:

1. Allow lobster tailing: Lobster tails are easier to preserve, transport, and sell. This would allow the fishery to pivot to domestic market in the event of sudden market shock, particularly if the foreign live export market is suspended or lost.
2. Allow post-season retention of lobsters: It currently takes between 5 and 10 days for processors to locate air freight and send lobsters overseas. As such lobster exporters currently stop accepting lobster landings approximately one week before

the season closes. Loosening the retention requirement could allow the commercial fleet to continue harvesting lobsters for the live export market until the season ends.

Department staff queried the commercial lobster sector on support for these two issues, and the majority of the responses were negative. Due to the incredible value that California spiny lobster commands, any significant changes to the possession and processing of the landed catch would inevitably create substantial enforcement, and thus biological, concerns. Consensus and support among the sector are thus crucial if such changes are to have any chance of succeeding. Department staff will continue to work with stakeholders to explore the various options on the matters. However, at the moment, the issues are not ready for regulatory actions.

No other alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

(b) No Change Alternative

Without the proposed changes, the outstanding issues concerning the regulations currently governing the lobster fishery and the marine life entanglement risks posed by the new type of recreational hoop net would remain unaddressed.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States

The proposed regulation will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. regulation. The proposed amendments to current regulations are not anticipated to introduce additional costs for commercial or recreational fishers. The volume of recreational and commercial activity in the fishery is not expected to change as a result of the proposed amendments. The proposed refinements of spiny lobster and recreational hoop net regulations clarify details of the existing regulations including zone boundaries and simplify marking requirements that should save time while also achieving management ends.

For the most recent season of 2021-2022, the Department has data on 238 businesses that could possibly be affected: 132 active commercial lobster operators; 39 commercial passenger fishing vessels (CPFV) that offer lobster trips; and 67 CPFVs that offer Dungeness crab trips. Only the CPFV operators would be affected by the recreational hoop net changes, and not many, if any, CPFVs have been deploying the new hoop net

gear for the take of spiny lobster or crab. Commercial lobster fisheries do not use recreational hoop nets so will not be affected by this change.

The demarcation of the boundary of where commercial fishing may occur on the southern Santa Catalina Island coast to a more identifiable landmark (Section 122) is not anticipated to impact fuel or other costs. The boundary is proposed to be moved by about 150 feet to a more readily identified landmark. This amendment will expand the fishable areas that lobster vessel operators may choose to fish though some may choose to stay within the previously defined boundary.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The Commission does not anticipate impacts on the creation or elimination of jobs within the state, the creation of new business, the elimination of existing businesses, or the expansion of businesses in California because the proposed regulations are unlikely to change the demand for goods or services related to the commercial and recreational spiny lobster fisheries and recreational crab fishery. The Commission does not anticipate direct benefits to the general health and welfare of California residents; however, the proposal would benefit California residents generally by benefitting the state's environment.

Benefits to worker safety are anticipated, with the reduction in the risks incurred by the Department's Law Enforcement Division (LED) during dark hour openers and long shifts. Benefits to the state's environment are anticipated including preservation of the lobster fishery resource through regulatory oversight, and a reduction in the number of marine life entanglements in fishing gear.

(c) Cost Impacts on a Representative Private Person or Business

The proposed regulatory action is not anticipated to introduce new monetary costs that would be necessarily incurred in reasonable compliance with the proposed amendments to the current regulations. Under current regulations, commercial lobster receivers are required to be marked with a buoy, but no buoy marking requirements are specified. In response to fishery feedback, marking requirements for buoys for commercial lobster receivers were specified to be the same as those in use for commercial traps. The proposed marking requirements for hoop nets north of Point Arguello will not have cost impacts because hoop nets deployed from a vessel would already have buoys attached with identifying marks. The proposed regulation will require that the buoy be marked with the GOID, which can be done with a permanent marker or other low-cost methods.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The Commission estimates that program implementation will involve some increase or shift in work effort for staff within the Department's LED totaling approximately \$18,618 annually that is absorbable within currently existing budgets.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None
- (f) Programs Mandated on Local Agencies or School Districts: None
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None
- (h) Effect on Housing Costs: None

VII. Economic Impact Assessment

The proposed regulations would help improve the enforceability of current regulations governing the spiny lobster fisheries, improve fishery participants' experience and help conserve natural resources, and mitigate potential entanglement risks.

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State

The Commission does not anticipate impacts on the creation or elimination of jobs within the state because the proposed regulations are unlikely to change the demand for goods or services related to the spiny lobster and recreational crab fisheries.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State

The Commission does not anticipate impacts on the creation of new business or the elimination of existing businesses within the state because the proposed regulations are unlikely to change the demand for goods or services related to the spiny lobster and recreational crab fisheries.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State

The Commission does not anticipate impacts on the expansion of businesses currently doing business within the state because the proposed regulations are unlikely to change the demand for goods or services related to the spiny lobster and recreational crab fisheries.

(d) Benefits of the Regulation to the Health and Welfare of California Residents

The Commission does not anticipate impacts on the health and welfare of California residents.

(e) Benefits of the Regulation to Worker Safety

The Commission anticipates positive impacts to worker safety. The proposed change to the start of the recreational season for spiny lobster from 6:00 am of the Saturday preceding the first Wednesday in October to 6:00 pm of the Friday preceding the first Wednesday is anticipated to relieve some safety issues experienced by Department law enforcement officers.

(f) Benefits of the Regulation to the State's Environment

The Commission anticipates benefits to the state's environment by sustainably managing California's ocean resources and reducing bycatch.

(g) Other Benefits of the Regulation

The Commission anticipates improvements to the enforceability of current regulations governing the spiny lobster and recreational crab fisheries.

Informative Digest/Policy Statement Overview

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations (CCR). The proposed changes focus on fine-tuning existing regulations controlling the recreational and commercial lobster fisheries. The last time these regulations were subject to major amendment was 2017, when the California Fish and Game Commission (Commission) adopted regulatory changes to implement the 2016 California Spiny Lobster Fishery Management Plan (FMP). The amendments proposed here represent the cumulation of the California Department of Fish and Wildlife's (Department) internal dialogue as well as the various outreach efforts to the recreational and commercial user groups. The framework established in the FMP is still sound and no FMP amendment is being proposed. The proposed changes are necessary to help improve the current regulations.

In addition to these adjustments, this proposal would also amend existing regulations on the recreational use of hoop nets beyond the scope of spiny lobster fishing in southern California. These additional changes to hoop net regulations are part of the ongoing effort by the Department to mitigate marine life entanglements in California. In 2021, new restrictions went into effect for recreational trap use in the recreational crab fishery due to ongoing concerns over potential marine life entanglements. Department staff have since noted the increased use of hoop nets as well as development of hoop nets that behave more like traps. These developments prompted the Department to propose broader regulatory changes on hoop net use in this package. These changes were first implemented through an emergency rulemaking by the Commission on October 13, 2022. Those changes would be adopted here through the standard rulemaking process.

The proposed changes are as follows:

Recreational Changes

- 29.80(b)(1) Refine the specifications for the allowed types A and B hoop nets in line with the emergency regulation.
- 29.80(b)(2) and (3) Reorganize the requirement that the owner or operator of a hoop net shall raise the hoop net to the surface and inspect the contents of the hoop net at intervals not to exceed 2 hours.
- 29.80(b)(4) Specify the number of hoop nets that may be deployed in different parts of the state.
- 29.80(b)(5) Clarify hoop net buoy marking requirements and establish marking requirement for hoop nets deployed by a vessel in California waters.
- 29.80(b)(6) Prohibit the use of hoop nets for any purposes south of Point Arguello for the 24-hour period prior to the recreational spiny lobster season opening.
- 29.90(a) Change the start of the recreational season for spiny lobster from 6:00 am of the Saturday preceding the first Wednesday in October to 6:00 pm of the Friday preceding that first Wednesday.
- 29.90(c) Clarify that when a spiny lobster is first taken it must be measured immediately and that any undersize lobster must be released with none kept in possession.

- 29.91(b) Clarify that the month, day, location, and gear code must be entered on the first line of a Spiny Lobster Report Card prior to a hoop net being deployed or diver entering the water.

Commercial Changes

- 121.5(b) Clarify that lobsters must be measured immediately when any trap is raised to the surface.
- 122(a)(2) Change the boundary of where commercial fishing may occur on the southern Catalina Island coast to the more identifiable landmark Church Rock.
- 122.1(b) Require lobster receiver buoys to be marked with the identification of their owners.
- 122.1(c) and 705(c)(5) Move the incorporation by reference of Form DFW 1701 (Lobster Operator Permit Catastrophic Lost Trap Tag Affidavit) from Section 705 to Section 122.1.
- 122.2(f) and 705(c)(7) Extend the deadline of the End of Season Spiny Lobster Trap Loss Reporting Affidavit (DFW 1020) from April 15 to April 30. Move the incorporation by reference of form DFW 1020 from Section 705 to Section 122.
- 122.2(h) Add “disturb” to the prohibited actions for a lobster trap or receiver not one’s own. Specify that every commercial permitholder retrieving another individual’s trap to first obtain the trap owner’s written permission; the permitholder could then retrieve up to 6 lost or derelict traps per trip during the fishing season.

Form DFW 1020 (Rev. 10/10/22) Reformat the trap loss affidavit. Insert a Privacy Notice in accordance with Civil Code subdivision 1798.17(b).

Non-substantive editing and renumbering to improve the clarity and consistency of the regulatory language have been made in sections 29.80, 29.90, 29.91, 121, 121.5, 122, 122.1, and 122.2.

Benefit of the Regulations:

The proposal improves enforceability of the regulations governing spiny lobster fishing, the commercial business’ operations, and the user experience for various stakeholders. In addition, the broader changes to recreational hoop net usage, specifically those applicable to northern California recreational crab fishery, would help mitigate ongoing entanglement risk of endangered marine life.

Consistency and Compatibility with Existing Regulations:

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. Section 20, Article IV, of the state Constitution specifies that the Legislature may delegate to the Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to adopt regulations governing lobster fishing and fishing generally (California Fish and Game Code sections 200, 205, 7075, 7078, and 8254). No other state agency has the authority to

adopt regulations governing commercial and recreational take of spiny lobster and use of hoop nets for recreational fishing. The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the CCR for any regulations regarding the adoption of fishing regulations and has concluded that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

Proposed Regulatory Language

Section 29.80, Title 14, CCR, is amended to read:

§ 29.80. Gear Restrictions for Recreational Take of Saltwater Crustaceans.

...[No proposed changes to subsection (a)]

(b) Hoop nets. Hoop nets may be used to take spiny lobsters and all species of crabs. ~~Between Point Arguello, Santa Barbara County, and the United States-Mexico border, not more than five hoop nets shall be possessed by a person when taking spiny lobster or crab, not to exceed a total of 10 hoop nets possessed when taking spiny lobster or crab per vessel. The owner of the hoop net or person who placed the hoop net into the water shall raise the hoop net to the surface and inspect the contents of the hoop net at intervals not to exceed 2 hours.~~

(1) Hoop Net Defined: ~~There are two types of hoop nets allowed for use:~~ Only Type A and Type B hoop nets, as described below, are allowed for use:

(A) Type A: Fishing gear that is comprised of one to three rigid ring(s), with each ring measuring no greater than 36 inches in inside diameter nor less than 10 inches in inside diameter, which is/are connected to non-metallic soft mesh thereby forming a circular-shaped net with an enclosed ~~bottom.~~ bottom and with the following specifications:

1. Lift lines shall be attached only to the top ~~ring-ring;~~
2. A second and third rigid ring(s) may be connected by non-metallic soft mesh to the top ring; however, each ring must be equal in size to or smaller than the ring above ~~it-it;~~
3. When the net is being ~~raised-raised,~~ the top ring shall be above and parallel to all other rings, with the enclosed bottom portion of the non-metallic soft mesh even with or hanging below all other ~~rings-rings;~~
4. All parts of the hoop net shall collapse and lie flat when resting on the ocean floor in such a manner that the gear does not entrap or restrict the free movement of crustaceans until ~~lifted-lifted;~~
5. When suspended from lift lines, the entire hoop net shall measure no taller than 36 ~~inches-inches;~~ and
6. The ring material shall not be thicker than one inch in any dimension.

(B) Type B: Fishing gear that is comprised of only ~~two to three~~ rigid rings (not including the bait ring), with ~~each-the~~ bottom ring measuring no greater than 36 inches in inside diameter and the top ring measuring no less than 15 inches in inside ~~diameter-diameter~~ and with the following specifications:

1. The ~~upper ring or rings-top ring~~ shall be connected to the bottom ring and supported by no more than six rigid straight support arms, and the assembled frame shall measure no more than 10 inches ~~tall-tall;~~

2. The rings and support material shall not be thicker than one inch in any dimension.~~dimension;~~
 3. All rings shall be connected by non-metallic soft mesh, thereby forming a net with an enclosed bottom.~~and bottom;~~
 4. Lift~~lift~~ lines shall be attached only to the top ring.~~ring;~~
 5. When suspended from lift lines, the enclosed bottom portion of the net shall be even with or hanging below all other the rings ~~the bottom ring~~, and the entire net shall measure no taller than 30 inches.~~inches;~~
 6. It is unlawful to have any entrances below the top ring; and
 7. A bait ring may be used if it is attached to the bottom half of the net as long as the ring and it is not attached to any part of the rigid frame.
- ~~(2) Any hoop net abandoned or left unchecked for more than 2 hours shall be considered abandoned and seized by any person authorized to enforce these regulations.~~
- ~~(3) Hoop nets used south of Point Arguello, Santa Barbara County shall be marked with a surface buoy. Except as provided below, the surface buoy shall be legibly marked to identify the operator's GO ID number as stated on the operator's sport fishing license or lobster report card. This section does not apply to hoop nets deployed by persons on shore or manmade structures connected to the shore.~~
- ~~(A) The surface buoy of hoop nets deployed from commercial passenger fishing vessels shall be legibly marked to identify the commercial boat registration number of the vessel.~~
- ~~(B) The surface buoy of hoop nets provided by a licensed guide to clients for use on guided trips shall be legibly marked to identify the guide license number of the accompanying guide.~~
- (2) The owner or operator of a hoop net shall raise the hoop net to the surface and inspect the contents of the hoop net at intervals not to exceed 2 hours.
- (3) It is unlawful to abandon or leave unchecked a hoop net for more than 2 hours. Any hoop net left unchecked for more than 2 hours shall be considered abandoned and may be seized by any person authorized to enforce these regulations.
- (4) Limits: Except for the limit of two hoop nets when taking crabs from a public pier under subsection 28.65(b), the following limits apply when taking spiny lobster or crab.
- (A) Between Point Arguello, Santa Barbara County, and the United States-Mexico border, not more than five hoop nets shall be possessed or deployed by a person, unless when two or more persons are on a vessel, in which case not more than 10 hoop nets may be possessed or deployed from such vessel.
- (B) North of Point Arguello to the California-Oregon border, there is no limit on the number of hoop nets that may be possessed or deployed.

(5) Hoop Net Identification Requirements: All hoop nets shall be marked with a surface buoy except those hoop nets deployed by persons on shore or manmade structures connected to the shore.

(A) The surface buoy of hoop nets deployed from commercial passenger fishing vessels shall be legibly marked to identify the commercial boat registration number of the vessel.

(B) The surface buoy of hoop nets provided by a licensed guide to clients for use on guided trips shall be legibly marked to identify the guide license number of the accompanying guide.

(C) In all other cases, the surface buoy of any deployed hoop net shall be legibly marked with the operator's GO ID number, or the GO ID number of at least one operator if there are multiple operators.

(6) Hoop nets shall not be deployed and used in ocean waters south of Point Arguello, Santa Barbara County, during the 24-hour period prior to the opening of the recreational spiny lobster season.

...[No proposed changes to subsections (c) through (j)]

Note: Authority cited: Sections 200, 205, ~~265, 275~~, 7075 and 7078, Fish and Game Code.

Reference: Sections 200, 205, ~~265, 270~~, 275, 7050, 7055 and 7056, Fish and Game Code.

Section 29.90, Title 14, CCR, is amended to read:

§ 29.90. Spiny Lobsters.

(a) Open season: From ~~6:00 a.m. on the Saturday~~ 6:00 p.m. on the Friday preceding the first Wednesday in October through the first Wednesday after the 15th of March.

(b) Limit: Seven.

(c) Minimum size: 3 and 1/4 inches measured in a straight line on the mid-line of the back from the rear edge of the eye socket to the rear edge of the body shell. All spiny lobsters shall be measured immediately and any undersize spiny lobster shall be released immediately into the water. Undersize spiny lobster shall not be placed in any type of receiver, bag, or other container, kept on the person or retained in any person's possession or under their direct control. Divers shall measure spiny lobsters while in the water and shall not remove undersized spiny lobsters from the water, and hoop net operators shall measure spiny lobsters immediately upon removal from the water. ~~Hoop netters may measure lobsters out of the water, but no undersize lobster may be placed in any type of receiver, kept on the person or retained in any person's possession or under his or her direct control.~~

(d) Spiny lobsters shall be kept in a whole, measurable condition, until being prepared for immediate consumption.

~~(d)~~(e) Report Card Required: Any person fishing for or taking spiny lobster shall have in their possession a nontransferable Spiny Lobster Report Card issued by the department and shall adhere to all reporting requirements for spiny lobster defined in ~~Sections~~ sections 1.74 and 29.91, Title 14, CCR.

~~(e) Spiny lobsters shall be kept in a whole, measurable condition, until being prepared for immediate consumption.~~

Note: Authority cited: Sections 200, 205, ~~219, 265, 275, 7075~~ and 7078, Fish and Game Code.
Reference: Sections 200, 205, 255, 275, 7050, 7055 and 7056, Fish and Game Code.

Section 29.91, Title 14, CCR, is amended to read:

§ 29.91. Spiny Lobster Report Card Requirements for Ocean Waters (FG 685, See Section 701).

(a) Spiny Lobster Report Card Required. All individuals must have a Spiny Lobster Report Card in their possession while fishing for or taking spiny lobster. In the case of a person diving from a boat, the report card may be kept in the boat, or in the case of a person diving from the shore, the report card may be kept within 500 yards from the point of entry. Individuals must complete and return the card pursuant to regulations in this ~~Section~~section and in Section 1.74.

(b) Prior to beginning fishing activity, the cardholder must record the month, day, location, and gear code on the first available line on the report card. For purposes of this subsection "beginning fishing activity" is defined as placing a hoop net into the water or entering the ocean to take spiny lobster.

(c) When the cardholder moves to another location code, or finishes fishing for the day, ~~he or she~~the cardholder must immediately record on the card the number of spiny lobster kept from that location.

(d) In the event an individual fills in all lines and returns a Spiny Lobster Report Card, an additional card may be purchased. See Section 1.74.

(e) The annual fee for the Spiny Lobster Report Card is specified in Section 701, Title 14, CCR.

Note: Authority cited: Sections 200, 205, 7075 and ~~265~~7078, Fish and Game Code. Reference: Sections 200, 205, ~~and 265~~, 7050, 7075, and 7078, Fish and Game Code.

Section 121, Title 14, CCR, is amended to read:

§ 121. ~~Lobster~~, Spiny Lobster. Open Season and Possession during Closed Season.

(a) Spiny lobsters (*Panulirus interruptus*) may be taken only between the first Wednesday in October and the first Wednesday after the 15th of March.

(b) No spiny lobsters may be sold or possessed during the closed season except as follows: ~~Lobsters~~ Spiny lobsters taken or imported during the open season which were cooked and frozen or frozen prior to the close of the open season, and spiny lobsters imported into California during the twenty-six (26) days following the close of the open season, provided such spiny lobsters were cooked and frozen or frozen prior to importation. During the closed season, after the twenty-six (26) day importation period, no spiny lobsters may be possessed on any boat, barge, or vessel.

Note: Authority cited: Sections ~~240 and 2365~~, 7075 and 7078, Fish and Game Code.

Reference: Sections ~~240, 2365~~, 7050, 7075, 7078 and 8254, Fish and Game Code.

Section 121.5, Title 14, CCR, is amended to read:

§ 121.5. ~~Lobster, Spiny~~ Spiny Lobster. Minimum Size and Verification.

- (a) No spiny lobster less than 3 and 1/4 inches in length measured in a straight line from the rear edge of the eye socket to the rear edge of the body shell, both points to be on the midline of the back, may be taken, possessed, purchased, or sold.
- (b) Every person taking spiny lobster shall carry a fixed caliper measuring device and shall measure any spiny lobster immediately on removal from the trap and if it is found to be undersize the spiny lobster shall be returned to the water immediately. ~~A trap shall be serviced prior to any additional trap being brought aboard a vessel. When a trap is pulled to the surface, any spiny lobster within shall be measured immediately and prior to any additional traps being pulled to the surface.~~
- (c) All spiny lobsters (~~*Panulirus interruptus*~~) taken, possessed, transported or sold must be maintained in such a condition that their size can be determined as described in ~~Section~~ subsection 121.5(a) of these regulations until prepared for immediate consumption or sold to the ultimate consumer except as provided for in subsection (d) below.
- (d) Spiny lobsters may be split along the midline of the carapace by persons licensed pursuant to Fish and Game Code Section 8034 (Fish Processors License) or Section 8037 (Commercial Fish Business License) provided both halves of each spiny lobster are kept together by banding or packaging until either displayed for purchase by the ultimate consumer or prepared for immediate consumption.

Note: Authority cited: Sections ~~240, 2365, 7075, 7078~~ and 8254, Fish and Game Code.

Reference: Sections ~~240, 2365, 7050, 7075, 7078~~ and 8254, Fish and Game Code.

Section 122, Title 14, CCR, is amended to read:

§ 122. Spiny Lobster Permits and Restricted Areas.

(a) Classes of Spiny Lobster Permits.

- (1) There is a transferable lobster operator permit, a non-transferable lobster operator permit and a lobster crewmember permit.
- (2) Under operator permits issued by the department, licensed commercial fishermen may take spiny lobsters for commercial purposes, but only with traps used pursuant to Fish and Game Code Section 9010, except that such traps shall only be used in Districts 18, 19, 20A, and that part of District 20 southerly of Santa Catalina Island between ~~Southeast Church~~ Rock and China Point. No other method of take is authorized for the commercial harvest of spiny lobsters.
- (3) Any licensed commercial fisherman who does not possess a valid transferable or non-transferable lobster operator permit may purchase a lobster crewmember permit, authorizing him/her to accompany a lobster operator permit holder and to assist the lobster operator permit holder in the commercial take of spiny lobster.
- (4) Exemption from Tidal Invertebrate Permit. A lobster operator permit holder or a lobster crewmember permit holder operating under the provisions of a lobster operator permit is not required to possess a Tidal Invertebrate Permit, but is subject to Section 123 of these regulations.

[...No proposed changes to subsections (b) through (h)]

Note: Authority cited: Sections 1050, 7075, 7078, 8254 and 8259, Fish and Game Code.

Reference: Sections 1050, 2365, 7050, 7055, 7056, 7071, 7852.2, 8026, 8043, 8046, 8250, 8250.5, 8254, 9002, ~~9002.5~~, 9005, 9006 and 9010, Fish and Game Code.

Section 122.1, Title 14, CCR, is amended to read:

§ 122.1. Spiny Lobster Buoys and Trap Tags.

(a) All spiny lobster traps and receivers impounding spiny lobsters shall be individually buoyed. The buoys must be on the surface of the water, except after the first Tuesday in October when buoys may be submerged by means of metallic timing devices with a timed delay (commonly called "pop-ups") that does not exceed the trap service interval requirement as specified in subsection 122.2(d) of these regulations.

(b) ~~Each~~ Any buoy ~~marking any that marks a spiny~~ lobster trap shall comply with marking requirements set forth in Section 180.5 of these regulations. Any buoy that marks a receiver that contains spiny lobster shall be clearly and distinctly marked with its owner's commercial fishing license identification number. The numbers shall be at least one and one-half (1.5) inches in height, drawn with a line no less than 1/4 (0.25) inch thick, in a color that contrasts with the buoy, and maintained so that they are visible and legible.

(c) Deployed lobster traps and those possessed by a lobster operator permit holder aboard a vessel shall have a valid department-issued trap tag directly attached to the trap. If the information on the trap tag is illegible or incorrect or if the trap tag is missing from the trap for any reason, the trap shall be considered not in compliance, and shall not be used to take spiny lobster for commercial purposes.

(1) Lobster trap tags. A lobster operator permit holder shall be issued 300 trap tags for use during that season for each valid lobster operator permit in possession.

(2) Replacement procedures for catastrophic loss of trap tags.

(A) A lobster operator permit holder shall only be eligible to receive replacement trap tags for trap tags lost due to catastrophic loss.

(B) Catastrophic trap tag loss is defined as the cumulative loss of 75 or more trap tags for each valid lobster operator permit due to events beyond the lobster operator permit holder's control, such as weather, force ~~majeure~~ majeure, and acts of God.

(C) The lobster operator permit holder shall submit to the department's License and Revenue Branch the affidavit-Lobster Operator Permit Catastrophic Lost Trap Tag Affidavit, DFW 1701 (New 2/2016), incorporated by reference herein, signed under penalty of perjury by the lobster operator permit holder and the nonrefundable fee for each replacement tag as specified in Section 705 of these regulations.

(D) An affidavit for trap tag replacement due to catastrophic loss, with a description of the factual circumstances consistent with subsection (B) above, shall be approved by the department prior to any replacement trap tags being issued.

(E) Any trap tag reported as lost and subsequently recovered during the season is invalid and shall be immediately returned to the department's License and Revenue Branch.

Note: Authority cited: Sections 7075, 7078 and 9005, Fish and Game Code. Reference: Sections 7050, 7055, 7056, 8250.5, 9002, 9005 and 9010, Fish and Game Code.

Section 122.2, Title 14, CCR, is amended to read:

§ 122.2. Pulling Spiny Lobster Traps.

[...No changes to subsections (a) through (e)]

(f) By April 15~~30~~ of each year, every lobster operator permit holder shall submit a ~~trap loss affidavit, as specified in Section 705, an End of Season Spiny Lobster Trap Loss Reporting Affidavit, DFW 1020 (Rev. 10/10/22), incorporated by reference herein,~~ for each permit ~~he/she holds they hold~~ to the address listed on the affidavit.

- (1) If a permit is transferred during the season, only the lobster operator permit holder who is in possession of that permit at the end of the season is required to submit the affidavit.
- (2) All trap tags shall be retained by each lobster operator permit holder until the beginning of the next lobster season.

. . [No change to subsection (g)]

(h) No lobster operator permit holder shall disturb, possess, use, control, or operate any lobster trap with a trap tag bearing a permit number other than their ~~his/her~~ own nor any receivers bearing a commercial fishing license identification number other than their ~~his/her~~ own except:

- (1) To retrieve from the ocean and transport to shore lobster trap(s) of another lobster operator permit holder that were lost, damaged, abandoned or otherwise derelict, provided that:
 - (A) The permit holder making the retrieval has in possession written permission from the permit holder who owns the traps. The permission shall contain the commercial fishing license identification number of the permit holder who owns the trap.
 - ~~(A)-(B)~~ No more than 6 derelict lobster traps may be retrieved per fishing trip.
 - ~~(B) Lobsters~~ (C) Spiny lobsters in any retrieved lobster trap(s) shall not be retained and shall be returned to the ocean waters immediately.
 - ~~(C)-(D)~~ Immediately upon retrieval of any lobster trap(s), the lobster operator permit holder retrieving the traps shall document in the retrieving vessel's log the date and time of trap retrieval, number of retrieved lobster traps, location of retrieval, and retrieved trap tag information.
 - ~~(D)-(E)~~ Any retrieved lobster trap(s) shall be transported to shore during the same fishing trip that retrieval took place.
- (2) Under a waiver granted by the department, pulling, servicing, or transporting receivers or more than 6 lobster traps by another lobster operator permit holder is allowed if:
 - (A) The lobster operator permit holder is unable to pull, service or transport ~~his/her~~ their traps or receivers due to circumstances beyond the control of the permit holder.

- (B) A request for the waiver has been submitted in writing to the department's License and Revenue Branch. The waiver shall include:
1. Name and permit number of the lobster operator permit holder requesting the waiver;
 2. Name and permit number of the lobster operator permit holder pulling, servicing or transporting the traps and receivers;
 3. Proposed time period and location to conduct operations; and
 4. Lobster trap tag numbers or number of traps and receivers to be pulled, serviced or transported.
- (C) The department may request other related information prior to granting or denying the waiver.
- (D) The waiver may include conditions such as time period to conduct operations, landing prohibitions or any other criteria the department deems necessary.
- (E) A copy of the waiver approved by the department shall be in the possession of the lobster operator permit holder when pulling, servicing, or transporting the traps and receivers.
- (F) The lobster operator permit holder pulling, servicing, or transporting the traps and receivers may retain spiny lobsters caught in the traps or contained in the receivers unless otherwise specified as a condition of the waiver.
- (3) From 15 days after the close of the commercial lobster season through September 15, an unlimited number of lobster traps may be retrieved by a lobster operator permit holder or a department designee and transported to shore.

Note: Authority cited: Sections 1050 and 7078, Fish and Game Code. Reference: Sections 7050, 7055, 7056, 8250.5, 8251, 9002 and 9010, Fish and Game Code.

Section 705, Title 14, CCR, is amended to read:

§ 705. Commercial Fishing Applications, Permits, Tags and Fees.

[...No changes to subsections (a) through (b)]

(c) Tags and Miscellaneous	Fees (US\$)
(1) Commercial Surfperch Tags	10.00 (Per Order)
(2) Importation and Sale of Kelp Bass, Sand Bass, and Spotted Bass Tags	10.00 (Per Order)
(3) Pismo Clams Imported into California	10.00 (Processing Fee Per Entry)
(4) Sea Urchin Diving Permit Drawing	4.38
(5) Lobster Operator Permit Catastrophic Lost Trap Tag Affidavit, DFW 1701 (New 2/2016), incorporated by reference herein.	
(6) (5) Lobster Operator Permit Catastrophic Lost Trap Tag Fee per tag.	1.25
(7) End of Season Spiny Lobster Trap Loss Reporting Affidavit, DFW 1020 (New 02/18/16), incorporated by reference herein.	
(8) (6) Lost or Abandoned Department Trap Fee (per trap)	\$408.50

... [No changes to subsection (d)]

NOTE: Authority cited: Sections 713 and 1050, Fish and Game Code. Reference: Sections 713 and 1050, Fish and Game Code.

**END OF SEASON SPINY LOBSTER TRAP LOSS REPORTING AFFIDAVIT**

DFW 1020 (REV. 10/10/22) Page 1 of 3

INSTRUCTIONS: At the end of each commercial fishing season, fill out the required information and submit the completed affidavit by **April 30th** to the California Department of Fish and Wildlife, 3883 Ruffin Rd., San Diego, CA 92123 or email to Lobster@wildlife.ca.gov. A separate signed affidavit must be submitted for each lobster operator permit that a commercial fisherman possesses.

TYPE OR PRINT CLEARLY.

COMMERCIAL FISHING ID #		LOBSTER OPERATOR PERMIT #		GO ID NUMBER	
FIRST NAME		M.I.	LAST NAME		
MAILING ADDRESS			CITY	STATE	ZIP CODE
PHYSICAL ADDRESS (DO NOT USE PO BOX)			CITY	STATE	ZIP CODE
DAY TELEPHONE			EMAIL ADDRESS		

COMPLETE THE FOLLOWING:

Number of total traps lost or unrecovered

Total number of tags used

Check the box if you did not fish this season ☐Check the box if you received replacement tags via a "Catastrophic Loss Affidavit" ☐

Describe the factual circumstance surrounding the loss of traps per fishing block (last known) and, if possible, the approximate date of loss. Additional rows are provided on page 3 of this form if needed.

Last Known Fishing Block	Approximate Date (MM-DD-YYYY)	Number of Traps Lost	Reason for Loss if Known
			<input type="checkbox"/> Boat traffic <input type="checkbox"/> Line tangled/broke <input type="checkbox"/> Weather/ocean conditions <input type="checkbox"/> Theft/tampering <input type="checkbox"/> Other: _____
			<input type="checkbox"/> Boat traffic <input type="checkbox"/> Line tangled/broke <input type="checkbox"/> Weather/ocean conditions <input type="checkbox"/> Theft/tampering <input type="checkbox"/> Other: _____
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I hereby certify under penalty of perjury, that said traps and associated trap tags have been lost. I understand that falsely reporting the number of traps lost is a violation of the law, pursuant to Fish and Game Code, Section 1054.

SIGNATURE OF PERMIT HOLDER

DATE

X

**END OF SEASON SPINY LOBSTER TRAP LOSS REPORTING AFFIDAVIT**

DFW 1020 (REV. 10/10/22) Page 2 of 3

NAME:	COMMERCIAL FISHING ID #	LOBSTER OPERATOR PERMIT #
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Circle trap tag numbers of each reported lost trap associated with the above permit. For lost traps marked with replacement tags acquired through a catastrophic loss claim, please provide the tag number in the blank boxes at the bottom of this affidavit.

1	11	21	31	41	51	61	71	81	91
2	12	22	32	42	52	62	72	82	92
3	13	23	33	43	53	63	73	83	93
4	14	24	34	44	54	64	74	84	94
5	15	25	35	45	55	65	75	85	95
6	16	26	36	46	56	66	76	86	96
7	17	27	37	47	57	67	77	87	97
8	18	28	38	48	58	68	78	88	98
9	19	29	39	49	59	69	79	89	99
10	20	30	40	50	60	70	80	90	100

101	111	121	131	141	151	161	171	181	191
102	112	122	132	142	152	162	172	182	192
103	113	123	133	143	153	163	173	183	193
104	114	124	134	144	154	164	174	184	194
105	115	125	135	145	155	165	175	185	195
106	116	126	136	146	156	166	176	186	196
107	117	127	137	147	157	167	177	187	197
108	118	128	138	148	158	168	178	188	198
109	119	129	139	149	159	169	179	189	199
110	120	130	140	150	160	170	180	190	200

201	211	221	231	241	251	261	271	281	291
202	212	222	232	242	252	262	272	282	292
203	213	223	233	243	253	263	273	283	293
204	214	224	234	244	254	264	274	284	294
205	215	225	235	245	255	265	275	285	295
206	216	226	236	246	256	266	276	286	296
207	217	227	237	247	257	267	277	287	297
208	218	228	238	248	258	268	278	288	298
209	219	229	239	249	259	269	279	289	299
210	220	230	240	250	260	270	280	290	300

Replacement tag number

Privacy Notice

Pursuant to California Code of Regulations, Title 14, Section 122.2, the Department of Fish and Wildlife (CDFW) is authorized to collect information from commercial spiny lobster operators to maintain a record of trap loss. All information requested on the affidavit is mandatory unless otherwise indicated. Failure to provide all of the requested information may result in enforcement action pursuant to California Fish and Game Code (FGC), Sections 12000 *et seq.* Pursuant to FGC, Section 391, CDFW may exchange or release to appropriate federal, state, or local agency or agencies in other states, for purposes of law enforcement, any information collected or maintained by CDFW. Questions, comments or complaints regarding this privacy policy or requests for personal information access, correction, or deletion should be sent to: privacy@wildlife.ca.gov. The CDFW Privacy Officer is responsible for the system of records and is located at 715 P Street, Sacramento, CA 95814 [no mail is accepted]; mail to: PO Box 944209, Sacramento, CA 94244-2090; the telephone number is (916) 445-0411. You may obtain a copy of your license records maintained by CDFW by contacting the custodian of records at the CDFW's License and Revenue Branch, PO Box 944209, Sacramento, CA 94244-2090, or email LRB@wildlife.ca.gov. All requests for copies of these records must be submitted in writing and include the requester's name, address, and telephone number.



Last Known Fishing Block	Approximate Date (MM-DD-YYYY)	Number of Traps Lost	Reason for Loss if Known
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			<input type="checkbox"/> Boat traffic <input type="checkbox"/> Line tangled/broke <input type="checkbox"/> Weather/ocean conditions <input type="checkbox"/> Theft/tampering <input type="checkbox"/> Other: _____
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			<input type="checkbox"/> Boat traffic <input type="checkbox"/> Line tangled/broke <input type="checkbox"/> Weather/ocean conditions <input type="checkbox"/> Theft/tampering <input type="checkbox"/> Other: _____

FORM PROPOSED TO BE REPEALED



State of California – Department of Fish Wildlife

END OF SEASON SPINY LOBSTER TRAP LOSS REPORTING AFFIDAVIT

DFW 1020 (NEW 02/18/16)

~~INSTRUCTIONS: At the end of each commercial fishing season fill out the required information and submit the completed affidavit by April 15th to the California Department of Fish and Wildlife, 3883 Ruffin Rd., San Diego, CA 92123, a separate signed affidavit must be submitted for each lobster operator permit that a commercial fisherman possesses.~~

PLEASE PRINT CLEARLY

COMMERCIAL FISHING LICENSE NUMBER	LOBSTER OPERATOR PERMIT NUMBER	GO ID NUMBER
--	---	-------------------------

FIRST NAME	M.I.	LAST NAME
------------	------	-----------

MAILING ADDRESS

CITY	STATE	ZIP CODE
------	-------	----------

DAY TELEPHONE	E-MAIL ADDRESS
---------------	----------------

COMPLETE THE FOLLOWING:

Number of total traps lost or unrecovered _____

Check the box if you did not fish this season ☐

Check the box if you received replacement tags via a "Catastrophic Loss ~~Affidavit~~" ☐

Describe the factual circumstance surrounding the loss of traps and if possible the approximate date and last known location (GPS coordinates if possible)

A large red triangle is centered on a white background. The triangle is formed by three red lines. The background is filled with horizontal black lines, similar to lined paper. The triangle's base is at the bottom, and its apex is near the top of the image. The lines are evenly spaced and extend across the entire width of the image.

~~I hereby certify under penalty of perjury, that said traps and associated trap tags have been lost. I understand that falsely reporting the number of traps lost is a violation of the law, pursuant to Fish and Game Code, Section 1054, and Section 746, Title 14 of the California Code of Regulations.~~

SIGNATURE OF PERMIT HOLDER	DATE
----------------------------	------

DFW 1020 (NEW 02/18/16)

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON David Thesell	EMAIL ADDRESS fgc@fgc.ca.gov	TELEPHONE NUMBER 916 902-9291
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Amend Sects. 29.80...CCR, Title 14, Re: Comm. & Rec. Take of Lobster; Recreational Hoop Net Requirements			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input checked="" type="checkbox"/> h. None of the above (Explain below): |

No new private sector compliance costs necessarily incurred***If any box in Items 1 a through g is checked, complete this Economic Impact Statement.******If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.***2. The _____ estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☐ Below \$10 million
- ☐ Between \$10 and \$25 million
- ☐ Between \$25 and \$50 million
- ☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: _____

Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total
businesses impacted that are small businesses: _____

4. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

5. Indicate the geographic extent of impacts: ☐ Statewide
☐ Local or regional (List areas): _____

6. Enter the number of jobs created: _____ and eliminated: _____

Describe the types of jobs or occupations impacted: _____

7. Will the regulation affect the ability of California businesses to compete with
other states by making it more costly to produce goods or services here? ☐ YES ☐ NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

DRAFT DOCUMENT**ECONOMIC IMPACT STATEMENT (CONTINUED)****B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ _____

a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

c. Initial costs for an individual: \$ _____ Annual ongoing costs: \$ _____ Years: _____

d. Describe other economic costs that may occur: _____

2. If multiple industries are impacted, enter the share of total costs for each industry: _____

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements.
Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ _____4. Will this regulation directly impact housing costs? ☐ YES ☐ NO

If YES, enter the annual dollar cost per housing unit: \$ _____

Number of units: _____

5. Are there comparable Federal regulations? ☐ YES ☐ NO

Explain the need for State regulation given the existence or absence of Federal regulations: _____

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: _____

2. Are the benefits the result of: ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?

Explain: _____

3. What are the total statewide benefits from this regulation over its lifetime? \$ _____

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: _____

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

DRAFT DOCUMENT**ECONOMIC IMPACT STATEMENT (CONTINUED)**

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ _____ Cost: \$ _____

Alternative 1: Benefit: \$ _____ Cost: \$ _____

Alternative 2: Benefit: \$ _____ Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ YES ☐ NOExplain: _____
_____**E. MAJOR REGULATIONS** *Include calculations and assumptions in the rulemaking record.****California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.***1. Will the estimated costs of this regulation to California business enterprises **exceed \$10 million**? ☐ YES ☐ NO***If YES, complete E2. and E3******If NO, skip to E4***

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES ☐ NO*If YES, agencies are required to submit a [Standardized Regulatory Impact Assessment \(SRIA\)](#) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____

Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____

Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____

- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT (CONTINUED)**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☒ 1. Additional expenditures in the current State Fiscal Year. (Approximate)\$ 18,618*It is anticipated that State agencies will:*☒ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☐ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☐ 4. Other. Explain _____
_____**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE

 DocuSigned by:
Dan Reagan
6556876412634493

DATE

11/29/2022

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY



DATE

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE

STD 399 Addendum

Amend Sections 29.80, 29.90, 29.91, 121, 121.5, 122, 122.1, 122.2, and 705
Title 14, California Code of Regulations

Re: Commercial and Recreational Take of California Spiny Lobster; Recreational Hoop
Net Requirements for Take of Crustaceans

ECONOMIC IMPACT STATEMENT

Summary

The California Department of Fish and Wildlife (Department) developed the proposed amendments through various outreach efforts to recreational crab and spiny lobster fisheries groups. The proposed changes to existing regulations address various practical concerns to improve regulations governing the recreational and commercial spiny lobster fisheries.

Refinements to the existing regulations on the use of recreational hoop nets that extend beyond the scope of lobster fishing in southern California are also proposed in this rulemaking. These additional changes to hoop net regulations are part of the ongoing effort by the Department to mitigate marine life entanglements in California. In 2021, the California Fish and Game Commission (Commission) adopted new requirements for recreational trap use in the northern California recreational crab fishery due to ongoing concerns over potential marine life entanglements.

Department staff subsequently noted the development of a new hoop net type that functions more like a trap. The character of this emergent gear design prompted the Department to propose broader regulatory changes on hoop net use to be included in this rulemaking package. These changes were first implemented through an emergency rulemaking by the Commission on October 13, 2022. Those changes are proposed to be adopted here through the standard rulemaking process.

A. ESTIMATED PRIVATE SECTOR COSTS IMPACTS

1. Answer (from STD 399): h. None of the above.

No new monetary costs are necessarily incurred in reasonable compliance with the proposed amendments to current regulations. The proposed refinements of spiny lobster and recreational hoop net regulations clarify details of the existing regulations including zone boundaries and simplify marking requirements that should save time while also achieving management ends.

Businesses: For the most recent season of 2021-2022, the Department has data on 238 businesses that could possibly be affected: 132 active commercial lobster operators; 39 commercial passenger fishing vessels (CPFV) that offer lobster trips; and 67 CPFVs that offer Dungeness crab trips.

Table 1. Maximum Potentially Affected Businesses

Season	CPFV- D Crab	CPFV- Lobster	Active Commercial Lobster Operators	Total Businesses
2018-19	59	44	135	238
2019-20	65	41	140	246
2020-21	73	43	133	249
2021-22	67	39	132	238

Source: CDFW License and Revenue Branch, and Marine Log System (MLS) 2022.

Hoop Nets: Businesses would only be impacted if they have been using the hoop nets that are proposed to be prohibited. The new hoop net design is just emerging, and not many, if any, CPFVs have been deploying the new hoop net gear for the take of spiny lobster or crab. Commercial lobster fisheries do not use recreational hoop nets so will not be affected by this change.

Fishing Boundary: The demarcation of the boundary of where commercial fishing may occur on the southern Santa Catalina Island coast to a more identifiable landmark (Section 122) is not anticipated to impact fuel or other costs. The boundary is proposed to be moved by about 150 feet to a more readily identified landmark. This amendment will expand the fishable areas that lobster vessel operators may choose to fish though some may choose to stay within the previously defined boundary.

Individuals: The number of spiny lobster report cards (34,643) and crab trap validations (23,284) sold serves as a proxy for the highest possible number of individual recreational fishery participants who could be affected. The actual number is likely substantially less as not all purchasers of report cards or validations necessarily use hoop nets to catch lobster or crab and there may be some double-counting as a number of the same individuals purchased both lobster cards and crab trap validations in 2021. Furthermore, the number of individuals using hoop nets north of Point Arguello, Santa Barbara County, is difficult to estimate because neither a report card nor a validation is required for taking crabs using hoop nets.

Table 2. Maximum Potentially Affected Recreational Lobster and Crab Fishers

Purchase Year	Lobster Cards Sold	Crab Validations Sold
2018	32,155	N/A*
2019	34,083	N/A*
2020	44,720	N/A*
2021	34,643	23,284

Source: CDFW License and Revenue Branch, 2022. *Crab validations first became available in the 2021 season.

Individuals: Hoop nets deployed from vessels all require some form of floating device to work properly, thus fishery participants are currently using buoys to mark these hoop nets north of Point Arguello. The proposed regulations will require that these buoys be

marked with identifying information which may be done by low-cost means, such as permanent marker.

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT

Answer: 5. No fiscal impact exists. This regulation does not affect any local entity or program.

B. FISCAL EFFECT ON STATE GOVERNMENT

Answer 1. Additional expenditures in current State Fiscal Year = \$18,618

- a. Absorb these additional costs within their existing budgets and resources.

The Commission estimates that program implementation will involve some increase or shift in work effort for staff within the Department's Law Enforcement Division (LED) totaling approximately \$18,618 annually that is absorbable within currently existing budgets.

Table 3. Department Implementation Costs

Program	Classification	Task	Rate	Hours	Total
LED	Fish and Game Warden	Enforcement (at Sea)	\$60.24	32.0	\$1,927.68
LED	Fish and Game Warden (Overtime)	Enforcement (at Sea)	\$87.35	10.0	\$873.50
LED	Fish and Game Warden	Enforcement (Dockside)	\$60.24	12.0	\$722.88
LED	Fish and Game Warden (Overtime)	Enforcement (Dockside)	\$87.35	4.0	\$349.40
LED	Fish and Game Lieutenant (Supervisor)	Enforcement - Oversight	\$80.17	32.0	\$2,565.44
LED	Patrol Boat	Enforcement (at Sea)	\$299.00	32.0	\$9,568.00
		Subtotal	--	122.0	\$16,006.90
		Overhead	16.31%	--	\$2,610.73
		Program Total		122.0	\$18,617.63

Notes: CalHR California State Civil Service Pay Scales by Classification; Rate is the median hourly salary including benefits. Overhead rate for fiscal year 2022/23 is

16.31%. Overtime rate is 1.45% the regular rate.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS

Answer: 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.



Adjustments to Commercial and Recreational Spiny Lobster and Recreational Hoop Net Regulations

December 15, 2022

Presented to:

**California Fish and Game
Commission**

Presented by:

**Dr. Jenny Hofmeister
Environmental Scientist
Marine Region**



Outline

- History and Context
- Hoop Net Changes for Recreational Take of Crustaceans
- Recreational Lobster Regulatory Adjustments
- Commercial Lobster Regulatory Adjustments
- Proposed Timeline
- Summary



History and Context

- **2016:** Commission adopted FMP implementing regulations and other fishery regulatory changes
 - Changes largely based on Lobster Advisory Committee recommendations
- **2017:** Implementation of regulatory changes
 - Potential concerns raised by commercial and sport participants
 - Commission and CDFW made a commitment to address these potential concerns should they become an issue
- **2017-Present:** Received feedback from stakeholders and enforcement
- **October 2022:** Emergency hoop net rulemaking adopted



Overview of Proposed Adjustments

- Formalization of Emergency Hoop Net Changes
- Proposed Recreational Regulatory Changes
 - Prohibit use of hoop nets for the 24 hours prior to lobster opener
 - Clarify possession of short lobster
 - Move recreational season opener
 - Minor language clean-up
- Proposed Commercial Regulatory Changes
 - Require permission to retrieve lost traps
 - Require marking of receivers
 - Extend deadline and reformat trap loss affidavit
 - Minor language clean-up



Outreach

- **Fleet Outreach To Date**

- July 2020: Commercial fleet meeting (virtual)
- August 2021: Commercial fleet meeting (virtual)
- February 2022: Commercial regulations survey (mail and email)
- May 2022: Recreational outreach meeting (virtual)
- June 2022: Commercial survey results and potential regulation changes shared (mail and email)
- October 2022: Emergency regulation change outreach meeting (virtual)



Hoop Net Changes

Proposed Lobster Rulemaking Item (MRC July 2022)

Adopted Emergency Rulemaking Items (FGC Oct 2022)

Simplify buoy marking requirements

Simplify buoy marking requirements

-

Update hoop net definitions

-

Clarify statewide 2-hour service interval

-

Extend surface buoy marking requirement statewide



Recreational Regulatory Adjustments Overview

- 1 Prohibit use of hoop nets 24 hrs prior to lobster season
- 2 Clarify possession of short lobster
- 3 Change recreational season start time



Limit Hoop Net Use Before Opener

1

Proposed Change	Hoop nets may not be used 24 hours before lobster opener south of Point Arguello for any species
Rationale/Purpose	<ul style="list-style-type: none">- Reduce enforcement burden- Maintain fairness by closing loophole that some may be exploiting to start fishing before opening time
Source of Request	CDFW



Clarify Possession of Short Lobster

2

- History and Context
 - In 2017, a new provision allowed hoopnetters to bring lobsters out of the water (onto a boat or pier) for measuring
 - The language in the new provision inadvertently changed the intent of existing restrictions relating to possession of undersized lobsters, such that it referred to only hoopnetters instead of hoopnetters and divers.



Clarify Possession (Cont.)

2

Proposed Change	<ul style="list-style-type: none">- No undersized lobsters may be placed in any kind of container (receiver, bag, receptacle, etc.) regardless of method of take- No change to when a lobster must be measured
Rationale/Purpose	Fix an error that currently impacts the ability to enforce the size limit
Source of Request	CDFW



Season Start Time

3

- History and Context
 - Opening time was changed from midnight on Friday to 6 am on Saturday due to participant safety concerns
 - Goal was to spread effort and reduce “rush” mentality
 - This change has resulted in some enforcement challenges:
 - Officer staffing shortages
 - Concerns over officer safety



Season Start Time (Cont.)

3

Proposed Change	Recreational lobster opener change to 6 pm on the Friday preceding the first Wednesday in October
Rationale/Purpose	<ul style="list-style-type: none">- Address LED staffing and safety concerns- Why 6 pm?<ul style="list-style-type: none">- Midnight is unsafe- 6 pm is before sunset/dark- Do not want to take time away
Source of Request	CDFW



Commercial Regulatory Adjustments Overview

- 1 Require permission to retrieve lost traps
- 2 Require marking of receivers
- 3 Extend deadline and reformat trap loss affidavit



Permission to Retrieve Lost Traps

1

- History and Context
 - To facilitate recovery of another person's lost gear, an allowance was made for possessing up to 6 lost traps belonging to another permit holder.
 - Concerns raised about this providing an avenue for gear theft and tampering and theft of catch. There has been one confirmed, prosecuted case and many complaints.



Permission to Retrieve Lost Traps (Cont.)

1

Proposed Change	<ul style="list-style-type: none">- Commercial fishery participants must have a note from the trap owner (can be electronic) prior to pulling lost or derelict traps- All other restrictions on pulling or possessing another person's lost traps remain the same
Rationale/Purpose	Establish a system allowing only those with permission to retrieve lost/derelict traps, close loophole
Source of Request	The fleet



Receiver Marking Requirements

2

Proposed Change	Any fish receiver that contains lobster shall be visibly and legibly marked with its owner's L number
Rationale/Purpose	Allow LED to identify the owner of lobsters within receivers
Source of Request	CDFW



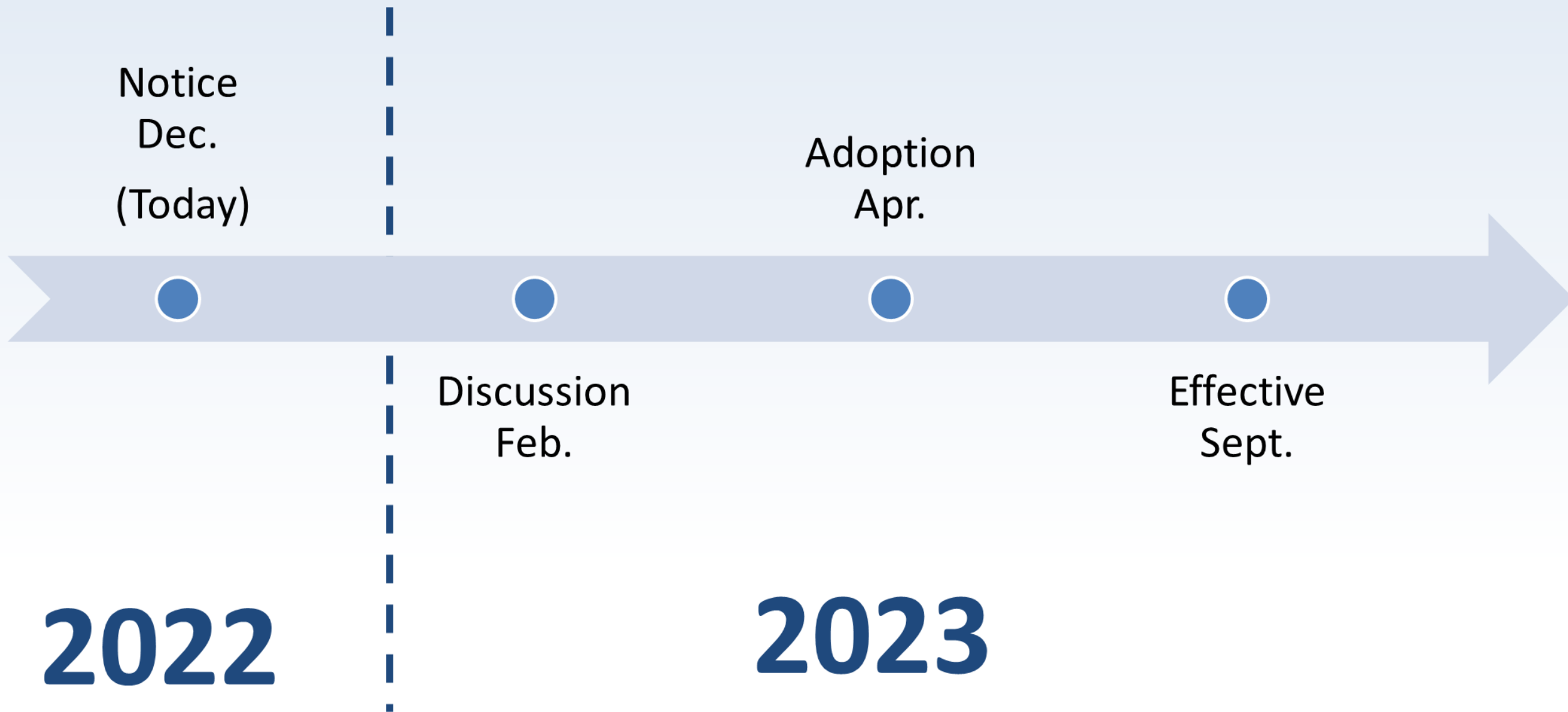
Trap Loss Affidavit

3

Proposed Change	Extend affidavit deadline by 15 days (to April 30) and simplify the way the data are reported
Rationale/Purpose	<ul style="list-style-type: none">- Give fishery participants more time- Simplify and streamline form
Source of Request	The fleet and CDFW



Proposed Rulemaking Timeline





UPDATE: Post-Season Possession of Live Lobster

- Current rule prohibits commercial possession of live lobsters after the season
 - Post-season possession of live lobsters would give markets more time to sell lobsters that were landed on the last day of the season
 - For enforcement purposes, it was recommended this change be accompanied by a requirement that all traps be out of the water by season's end



UPDATE: Post-Season Possession (Cont.)

- Directed by the MRC to discuss further with the fleet and enforcement staff
 - Met on August 23, 2022
- No viable compromise yet, more discussion needed
- Not included in this rulemaking package



Recap of Proposed Adjustments

- Formalization of Emergency Hoop Net Changes
- Proposed Recreational Regulatory Changes
 - Prohibit use of hoop nets for the 24 hours prior to lobster opener
 - Clarify possession of short lobster
 - Move recreational season opener
- Proposed Commercial Regulatory Changes
 - Require permission to retrieve lost traps
 - Require marking of receivers
 - Extend deadline and reformat trap loss affidavit

Thank You



Dr. Jenny Hofmeister, PhD.
Environmental Scientist, CDFW
lobster@wildlife.ca.gov

Public Testimony Excerpted from Zoom Transcript of October 2022
Item 16 Recreational Hoop Net Regulations

ANDY GUILIANO: Thank you, Commissioner, Director. Just a quick comment on the hoop. So, I represent the Golden Gate Fishermen's Association on the board of directors. I'm also on the Department's whale working group. So, we're intimately involved with the hoop and trap definitions and requirements. I would say that the hoops, it's as the director mentioned. It's human nature to try to evolve and make the hoop more efficient. So, that's gonna happen. Most of what we used last year, quite frankly, was, store-bought gear from Dick's Sporting Goods or Big Five Sporting Goods. So, there's a natural tendency to want to be more efficient, to have the gear in the water less and to have what we would call, you know, more commercial-grade equipment. So, it's natural to see those evolutions in the gear. And we were happy last year to be able to fish through the charter boats. As you know, we're the public's access to the resource. So, we were happy to be able to fish during times and when the risk was elevated and provide crab for the public.

PRESIDENT MURRAY: I just had a clarifying question. So, do you support what's being proposed today?

ANDY GUILIANO: I think you use bifurcated. I'm, I'm concerned that how far it goes, because I don't think any of that gear has actually been fished. Last year, our season lasts from November to December, so, we're in the water and we're out of the water. So, any of that innovative gear, that Christy reviewed, I think we've been [unintelligible] and I have talked, I don't think actually any of that's been in the water. It was designed after the season. So, as you hear some comments, I think the fact that if it fishes more efficient and we still apply the two-hour window, then the gear's in the water less than less-efficient fishing gear. So, I think some of the concerns with the respect to the weight to the traps is also misguided in that, an appropriately weighted hoop fishes good and get in and out of the water fast. So, I think that's a fine line on how we walk through this entanglement balance. Good. Thank you.

JAMES SMITH: Okay. My name is James Smith. I'm the owner operator, California Dawn Sport Fishing. I'm a career commercial crab fisherman and, I've been involved in this fishery since I could walk. Now the CPFV fishery, for Dungeness crab's been in effect somewhere around 20 years. And all those 20 years, 20 plus years, we have yet to get a whale entanglement. Now we have a safe, clean fishery. And last year we got thrown in with the commercial user group that drops 125 or 175,000 pots. Now I've been part of that fishery, so, I know what a minefield looks like, and it's not during sports season, and we're talking a fraction of the gear. So, anyways, I was kind on the forefront of all the hoop net fishery. A lot of CPFVs canceled their trips, a lot of passengers canceled. We lost tens of thousands of dollars across the board. Bait shops, tackle stores, hotels, restaurants, everybody suffered. When we did the hoop nets, I was one of the first guys that invested a bunch of money. I got hoop nets going, we were fishing, we were back in business making money. Anyways, we're basically

fishing with the lobster pots and like Andy pointed, we rated every Dick's Sporting Goods store, every Big Five, every tackle store just to get a hoop net cuz we didn't expect to be fishing with hoop nets during the season. And anyways, it turned out that it worked, but it didn't work great. We've made some innovations and I'm kind of partially responsible for some of the drawings you seen up here earlier. And Mr. Williams, you know about innovation, you're talking about it earlier, about how you appreciated it. Now if you look through my pages here, first page, it's basically the same design, 15 inches on top, 35 on the bottom, and you open it up. And this is an improved style hoop net.

So, then if you go to page three, this is what we're currently fishing with right now. The, it's the black and white photo that is a lobster hoop. Now if you look at page two and page three, the orange hoop, it's the same hoop. All we added was a tunnel and escape ring. We essentially built a crab hoop. We're fishing with lobster hoops. So, we made a better mouse trap. Now this new style of gear is gonna get us off the water. Now, I, I understand there's concerns about leaving these hoops out. These have all been tested for the demoic. They were doing the demoic acid research with all the prototypes, and they found that leaving these out there was no advantage. The crab escape, just like the hoop, they claimed out right out the top. So, before we, we walk away from innovation, you have to look at the bigger picture and say, well, as a CPFV, I'm gonna get my gear in and I'm gonna catch my client's crab in less time. That means hundreds and hundreds of hours saved on the water, hundreds of hours that I don't have ropes in, along with the other CPFVs. So, please keep an open mind about innovation and, and maybe allowing us to fish, hoop nets with, with doors and escape rings. So, we could, continue, continue our fishery.

PRESIDENT MURRAY: Thank you for that. This is really helpful to see the pictures and have you walk us through this. Just so I understand. So, you don't have a problem with the servicing every two hours?

JAMES SMITH: I, I don't, I mean, preferably

PRESIDENT MURRAY: Okay.

JAMES SMITH: Yeah. I'm sorry.

PRESIDENT MURRAY: Or the gear marking?

JAMES SMITH: No.

PRESIDENT MURRAY: It's just the design specifications and potentially the weight that you.

JAMES SMITH: Yeah, well, so, we're, we're kind of in a funny position because we're not really out in the big migration area. Most of our gears laid inside of 30 fathoms. So, we have lighter hoops, and now because of the size of the bar restricted in weight, we

can't even fish out in the deeper water where the majority of the whales are with these hoop styles.

So, we're, we're okay with, we're okay with some of the changes, but you can't, please don't overregulate an industry that's, you know, we're already suffering and getting kicked. We fought covid, we fought crazy fuel prices, you know, cancellations, because we're not fishing our traditional gear. We've made the trips go from a eight hour trip to a 13, 14 hour trip.

PRESIDENT MURRAY: Yeah.

JAMES SMITH: I'm gonna stay on the water and get my crab. If you let me innovate, I'll be out of there half the time. But if you keep me stuck with lobster styles with no innovation, I'm gonna stay out there longer. And everyone else is.

PRESIDENT MURRAY: We understand. Thank you.

JAMES SMITH: Yeah, thank you.

PRESIDENT MURRAY: Thanks so much.

RICHARD POWERS: Hello. My name's Richard Powers and I'm president of the Golden Gate Fishermen's Association. I also own and operate two charter boats out of Bodega Bay. And, I've been involved in the Dungeness crab fishery on charter boats for over the last 20 years. And, we were using traps up until this last year. We were able to use hoops. Like James said, it was very tedious. It wasn't easy, but it worked and it allowed our customers to fish and patronize our vessels. Now, I just wanted to take this time to kind of educate the Commission on how important this fishery is to our vessels and to the public. We are the public's access, non-boating access to the resource. And, it's, over the years, this fishery has progressed to be probably the busiest opening day that we have. Salmon season historically used to be the big opener. Now, I fish out of Bodega Bay. There are literally, well, I don't know if it's hundreds, thousands, but there are lots of people out with their families harvesting Dungeness crabs. It's become a really big thing. With the advent of the hoop net gear, we were able to fish last year. I understand what James is saying, but I do want the Commission to realize that when you start talking about the charter boat fleet, CPFVs, as compared to commercial boats, like James said, the the amount of gear that we fish is negligible. You might be looking at maybe one or two percent of what the commercial guys put in the water. Now we have been lucky. We have never, to my knowledge, experienced a whale entanglement. And we wanna consider, we wanna continue this record. And I think the hoop nets, we're fishing actually, the recreational sector is probably putting less hoop nets in than, than traps. So, thank you for the opportunity. This is important to us and, keep your minds open because, what James says has merit. Thank you.

JARED DAVIS: Yeah. Hi, my name's Jared Davis. I'm owner operator of CPFV Salty Lady. I'm also a board member of the Golden Gate Fishermen's Association. And, I

think I would, I would wanna start this by making sure that I make it clear that I definitely don't wanna rock the boat on this. I really appreciate the opportunity to fish hoop nets, and I can't understate the importance of this fishery to myself and other CPFV operators. That said, I agree with a lot of what James said. I respectfully disagree with the idea that fishing these new designs of hoop nets would incentivize fishermen to leave the gear out outside of the two-hour regulations. And I realize it might be difficult to enforce. And this is a self-enforcing type of gear, basically. I can tell you from experience fishing with traps, that if there is an opening big enough for these crabs to get out of, like a damaged gear or a lid left open, as soon as the bait is gone, the crabs are gone. Very similar to the escape ring that allows the smaller crab to escape. As soon as the bait's gone, the small crabs are gone outta there. If there's an opening big enough for all the crabs to get out, soon as the bait's gone, they're gone. Having that opening on top of the trap is, is good enough. Basically, I would urge the Commission here to leave the regulations as they are and allow hoop nets that fall within the definition to continue to, to be used even the innovative, new designs. I think that's all I got. Thanks for your time.

MARK SMITH: Great. President Murray, Commissioners, Mark Smith, on behalf of the Coastal Conservation Association of California. I wanna identify our comments with those of the previous speakers. Again, we, we think that there is a distinction between the commercial and the recreational fishery, and that there hasn't been enough discussion about the variety of those impacts. I'll also point out that the Department's own documents on this, you know, are, are pretty presumptive about whether or not extended soak times would occur and whether or not entanglements would occur. I think the testimony from the preceding gentleman points out that this is a pretty clean fishery. I'd also like to point out that we believe in innovation and like we talked about in the previous issue, you know, perhaps this gear type could be put into an EFP. Further, we don't believe that an emergency rulemaking process is the right way to deal with this, that the need hasn't been demonstrated, that we have a regular rulemaking process coming up, and that that is sufficient time to talk about and discuss this particular gear type and its innovations and its impact on the fishery overall. We do support the actively-tended gear and proper marking requirements. We would like to recommend a zip tie option for identification of gear. Unlike commercial or even the commercial passenger vessels, the gentleman that just spoke, recreational gear types may be shared between different users who have different GO IDs. And so, we recommend a zip tie option so that identification can be properly attached, but it doesn't have to be a, you know, scrawled onto the buoy, which then turns it into a form of graffiti, which is hard potentially for law enforcement to determine whose gear it is. So, perhaps we can consider some alternative type of fixing of identifying information to the buoy for recreational users who are more likely to share their gear type amongst each other and not constantly be using it. The same person, same fishing operation over and over. Thank you very much for the opportunity to provide comments.

DEVIN O'DEA: Hi there. Thank you for the opportunity to comment.

I'm the California chapter coordinator for Back Country Hunters and Anglers, but I also wanted to comment just from my own personal experience using hoop nets. And there's a couple points that I'd like to make on my own, but I also just wanted to second the comments of Mark Smith and some of the fishermen that just pointed out from their experience regarding, you know, how innovations in this case would reduce soak time, and so you're gonna reduce entanglement. I think that's a pretty good argument there. I also, you know, appreciate some of the additions here, like marking gear and ensuring that, you know, we're maintaining this as a sustainable fishery. One of the questions I had was regarding the weight requirement. In a lot of the areas that I personally fish, for hoop nets, and I'm primarily using this for lobster, sometimes from a kayak, sometimes from shore, low tide piers, just depending on, you know, when and where, adding weight to the hoop net is, is pretty much essential when you're surfing, when you're fishing anywhere, you know, close to the surf zone because otherwise the hoop net can just kind of get picked up and tossed, and oftentimes it'll get wedged into the reef or, you know, sometimes brought into shore. And so, I did, I was hoping to seek some clarification on the weight requirements because that could really restrict the use of hoop nets in certain locations where, you know, oftentimes I'll take, you know, bricks and put 'em in the hoop net, or something like that just to make sure that it's not gonna get tossed around. So, maybe some additional clarification there as far as the regulations as they currently exist or how they're being proposed to be changed would be helpful moving forward. And I think also just trying to look at, you know, we all support the reduction in entanglements and we wanna make sure that that's prioritized, but also looking at this, you know, from every angle to realize how we're gonna do that. And, you know, I, I think the two-hour rule is a great rule. If, if your bait's gone, the crabs and lobsters are gonna be gone anyway. So, if anyone who's used one will realize that. Anyways, my time's up. Thank you very much for the opportunity to comment.

TIM GILLESPIE: Hi, thank you for the time to speak here. I'm Tim Gillespie, charter boat owner of the Royal Seahawk, formerly the Huli Cat, and the Seahawk. In regards to the hoop net, with your approval of item 15 for the Hillstrand operation, what is the difference between their soak time is four to five days, which you allowed, and the hoop net? In server serving a hoop net every two hours, you, you, if you have a 10-hour trip and you service your gear five times, that only leaves the hoop net out of the water for 25 minutes. So, my question is why is the service time every two hours? And if you're servicing your pot and you can't leave it overnight, why can't you just use the normal crab pots? Based on the fact that if we can't leave 'em overnight and we pick up the gear, if I am not mistaken, a vertical line is a vertical line no matter what's attached to the end. The other thing for me is I, if when will we know if this goes into effect? I have a less than what, three weeks before opening day, I would, I would need to purchase these hoop nets. The closest place for me to purchase these hoop nets is in south of Long Beach, which is probably 14-hour drive. So, yeah, it's also with the

other one, with the Hillstrand thing, you're estimated time of operation is December through March. I don't know if you guys know, but the whale migration for the gray whales is December through April. So, yeah, I, I really don't understand this. A vertical line is a vertical line no matter what's attached to the end. And, in a 10-hour trip, if you service your gears five times, that only takes that pot or hoop net outta the water for 25 minutes.

PRESIDENT MURRAY: Thank you, Tim. We understand.

PRESIDENT MURRAY: All right. Well, if Mike [McCorkle] does unmute himself, I think we'd love to hear from him. Otherwise, a lot to unpack in that public comment. I think. Mike, did you have something you wanted to say, Mike Yaun?

MIKE YAUN: Yeah. Thank you, President Murray. In reflecting on the public comments, I did want to highlight part of your staff summary that this is an emergency reg, not to overstate the obvious. And emergency regs are supposed to be a tool, not the perfect tool to address an urgent issue. And as your staff summary highlights, there's a regular rulemaking that you'll be asked to go to notice in December, with some overlap with some potential extensions. So, you've got room. I'm just highlighting the procedural aspects that you can adopt this emergency regulation and still finetune the regulation through the process before it gets to a regular rulemaking.

PRESIDENT MURRAY: Yeah. Thank you for that. And, and to clarify the timing for our last speaker, if we did move forward with an emergency regulation that would become effective when?

MIKE YAUN: Yeah, there's not an exact answer, but several weeks.

PRESIDENT MURRAY: Two weeks. Okay. Director Bonham.

DIRECTOR BONHAM: Let's step back for a second. And I appreciate the public comments and in particular, those public commenters who are deeply involved in the Dungeness crab whale entanglement dynamic, including through our working group. Among other things here, we have commercial operations where the individuals who are fishing are fishing under recreational regulations. So, there's some gray area, but here, in my view is the real purpose and need. You and the Department threw a lifeline to the sector to use hoops. I mean, you could have decided not to do that last year. So, we shouldn't overlook that. You said hoops, okay. And I think that was still the right decision. And now we're on the brink of the next seasons. And the emergency regulation's purpose is to deal with what's right in front of us.

You will have a noticed general rulemaking that starts in December and would continue through most of next calendar year if you think about notice, discussion, decision, every other month. So, you still would have the opportunity to finetune what you may want to do permanently. But if you don't take the emergency moment now, we head into the next season where something you offered as an alternative, the Department thinks could use some caveats on it, for purposes of the season right in

front of us. So, that's how I would orient really what's going on for purposes of this decision right now.

PRESIDENT MURRAY: Yeah. Thank you, Director Bonham. I appreciate that framing. Craig, was there anything you wanted to add before we have a discussion?

CRAIG SHUMAN: Yes, just one more finer point on that is that we do support innovation as you saw from the last agenda item, and would look forward to working with the individuals involved to see if we can build a better mouse trap. The challenge is that that takes time. There are different avenues or mechanisms to do that. And I think what we're trying to avoid with the standard rulemaking is to signal to the fleet that it's okay to go out and spend a bunch of time, effort, and money investing in this gear and that we're going to allow it in the future. And so, if we look back to the hoop net discussion, maybe about 10 years or so ago when we had the discussion with the flat Type A, and the type B hoop nets. One of the reasons why the Type B hoop net is ultimately allowed is because the industry had already taken those to market and they were in widespread use. And the Commission at that time felt that there would be too much of an economic impact to try to pull that back despite some of the concerns from the Department. So, we're trying to get out ahead of that this time and signal to the industry that we don't know what's going to be allowed, be careful what you invest in, and let's make sure we do this in a thoughtful, pragmatic manner.

PRESIDENT MURRAY: Yeah, I mean, it is exactly what we were signaling we didn't want to happen in agenda item 15, right? Like, don't go make a market investment that down the road is not sustainable, because it increases the risk for entanglements. And that was kind of the word of caution we were trying to give, I think, on agenda item 15. In this case, we, as Chuck framed, we did want to show flexibility and adaptability to ensure that the recreational sector was able to continue to fish. And innovation makes sense. I can fully understand how we got to where we are, but now we have this situation where it sort of quacks like a trap and we're in a situation we don't want a continued investments in this thing that is going to increase the risk of whale entanglements. So, I really want to hear from my fellow commissioners on this before I make any more comments. Commissioners Sklar.

COMMISSIONER SKLAR: Yeah, I mean, I think you said it really well. I think that between what you said and what Chuck said, this was innovation without asking for forgiveness rather than permission a little bit. There's no one an individual to blame. It's certainly not the fishermen. It was the crabbers. It was the manufacturers who were coming up with innovative ways to turn a hoop net into a trap, more or less, or getting moving in that direction. I heard that nobody's invested in these traps yet. So, banning them doesn't seem to be a real problem until we go to a longer process where maybe we decide they are within a hoop net in terms of their functionality in a way that's okay. I don't know. That's to be determined. But we don't have time to do that in time for the season. So, I heard everything that was said and that process will be done for the following year. And all of we were talking about will be highly

incorporated, and I know the Department will spend a lot of time with y'all trying to work with you on it, but I think that we're kind of in a situation now where we can't allow the gear to be modified in a way that really isn't appropriate without process.

PRESIDENT MURRAY: Commissioner Hostler-Carmesin.

COMMISSIONER HOSTLER-CARMESIN: I'm comfortable with the Department's recommendation and I really appreciate Craig and the Department working with the commercial and recreational crabbers to modify things in the future. And I really appreciate the gentleman from San Francisco, the fishermen coming and making this long trip and expressing your points of view. And I think you guys know better than anybody out there on the water what you're facing. So, thank you for sharing that information today and keep working with the Department to finetune this topic. Thank you.

PRESIDENT MURRAY: Vice president.

VICE PRESIDENT ZAVALA: Yeah, I want to echo that appreciation. You made a long trip up here and I learned a lot just in the few minutes that I was able to listen to what you all shared about the things that we need to work on going forward with this, after we get through this emergency period. But I think I'm in agreement with my fellow commissioners that we need to do something now to address the season that's opening in just a couple weeks. I want to enumerate, like there are a couple of things in particular that came up that I think we need to address: weight in an absolute sense, right? In some way. Thank you for the insight about putting bricks in the traps like that. Yeah. That makes total sense and it also means that maybe we're kind of going about this and in a way that's too indirect.

I think we need to dig in more on this issue of soak time going up. Efficiency is lower and I appreciate hearing more about that. I think we need to sort of address what the functioning of openings that have one way valves versus openings that are two-way openings is, and how that does or doesn't affect the ability of a hoop net to serve as a trap. So, there's some really specific things, there's a lot of bits and pieces in this emergency reg, but short of the long is that, it's clear that we do need to do something to make sure that we really protect the ability of you all to continue to use hoop nets through this season by avoiding some of the risks that we're kind of stepping into further if we allow some of these changes not to go forward.

PRESIDENT MURRAY: Commissioner Williams.

COMMISSIONER WILLIAMS: Yeah. Just add myself and associate myself with all those comments, and particularly thank you all. I'm looking out in the audience here to the stakeholders who made the trek up here to come and make sure that your voice was heard. I think you recognize that it has been. You've made some very valid points and I think the Department, and I know the Department has heard you too and

understand what's necessary in terms of moving forward with the longer term regulation here. So, thank you for that.

PRESIDENT MURRAY: Yeah, I mean, what we have here is just a cost-benefit of waiting to get it exactly right versus doing something now that will preserve the opportunity to continue to fish with the hoop net, which I think is what we want to do. So, I absolutely want to echo the sentiment of my fellow commissioners, and thank you for making the trip. And I agree these pictures really helpful. I also learned a lot and I would love to get a commitment from staff that continue to work with the fishermen as we do come up on the regular rulemaking process for this to ensure that we will continue to work on design and wait, with input from, from fishermen on this. And I see Susan nodding her head that there's a commitment on that. And Craig, assuming your team as well will continue to work on that piece as well.

CRAIG SHUMAN: Certainly.

Mail body: Fwd: Specs for cone style

Received 11:05 10/13/22
@ meeting

Sent from my iPhone

Begin forwarded message:

From: "Seth G." <customcrabpots@yahoo.com>

Date: October 11, 2022 at 5:42:50 PM PDT

To: ACAPTAINSMITH@aol.com

Subject: Specs for cone style

- Top ring 15" diameter opening
- Bottom rings inside diameter 34.75"
- Total height 9.75"

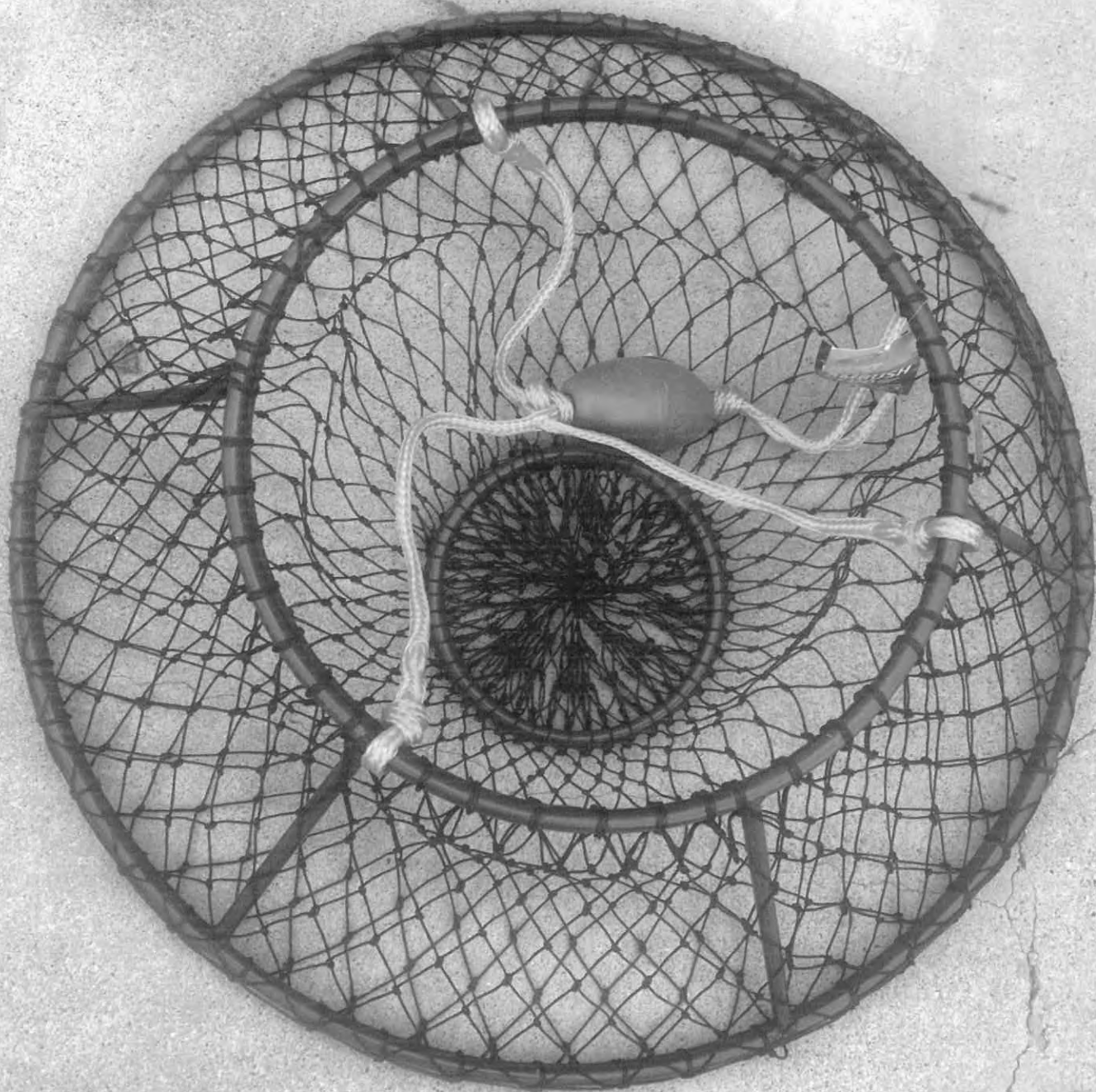
Added to hoop net -

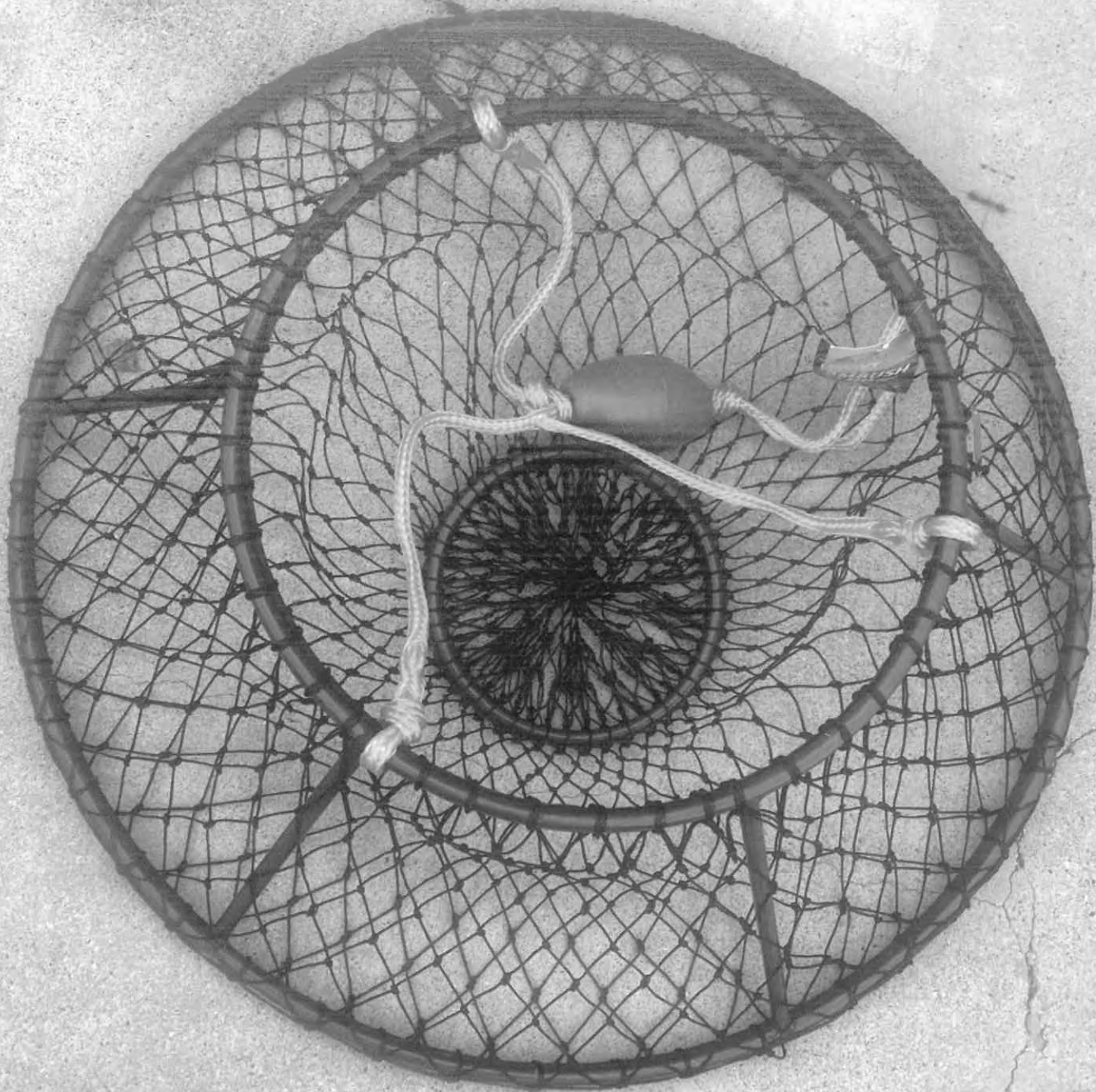
- 2 tunnels 4"x9"
- 2 escapes 4.25"

Sent from my iPhone



Sent from my iPhone







VIA ELECTRONIC COPY

Christy Juhasz,
Environmental Scientist
Marine Region
CA Dept of Fish and Wildlife
3637 Westwind Blvd.
Santa Rosa, CA 95403



October 14, 2022

RE: Recreational Hoop Net Regulations – follow up comments to today's Fish and Game Commission emergency regulations

Dear Ms. Juhasz,

The Coastal Conservation Association of California (CCA CAL) and its thousands of California members wish to provide additional feedback, in writing, on our comments presented to the Commission this morning (October 13, 2022, Item 16 – Recreational Hoop Net Regulations).

We strongly encourage you to allow for alternative bouy marking standards in the emergency regulations adopted today. We suggest allowing for identifying information via alternative methods such as zip ties or other attachments, by the buoy, to temporarily mark other users of the gear in the event that it is used by multiple parties over the course of a season. This is likely a more common occurrence for personal recreational gear then that of the commerical passenger or commercial fleet, and would provide significant benefits.

Thank you again for the opportunity to supplement our comments from today's Commission meeting. Please let us know if you would be willing to consider alternative identification methods for buoy marking for recreational gear that may be shared between multiple users.

Sincerely,

Wayne Kotow
Executive Director
Coastal Conservation Association California

Cc: Commissioners, California Fish and Game Commission
Melissa Miller-Henson, Executive Director, Fish and Game Commission
Craig Shuman, Marine Region, California Department of Fish and Wildlife

CDFW CRAB INFO

S A [REDACTED]

Fri 10/14/2022 11:49 AM

To: FGC <FGC@fgc.ca.gov>

Cc: S A [REDACTED]

You don't often get email from [REDACTED] [Learn why this is important](#)

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Is there going to be any weight specifications on devices? If the goal is to reduce injury from the weight as described, why is there no mention of weight specifics of devices? Also, hoop net mfg companies are welding multiple rings and making them as one. I do not want to invest thousands into new equipment to have regulations come back after my purchase to tell me the weight of it is too heavy and or rigs welded together are considered individual rings. Many crab fishermen fish deep water. The only way to prevent lost equipment is to have heavy enough devices in the 20 lb range. Regulation goals do not accomplish anything if they take one style of device away to force development of a similar device of the same weight.

Thanks,
SE

Sent from [Mail](#) for Windows

STAFF SUMMARY FOR AUGUST 16, 2017*For background purposes only***17. FISHERIES AUTOMATIC CONFORMANCE PROCESS****Today's Item****Information** ☐**Action** ☒

Adopt proposed regulation for a process to automatically conform state recreational fishing regulations to federal regulations.

Summary of Previous/Future Actions

- | | |
|-----------------------------------|---------------------------------|
| • Notice hearing | Apr 26-27, 2017; Van Nuys |
| • Discussion hearing | Jun 21-22, 2017; Smith River |
| • Today's adoption hearing | Aug 16, 2017; Sacramento |

Background

For species managed under federal fishery management plans or regulation, FGC usually takes concurrent action to conform State recreational regulations to federal regulations adopted by the National Marine Fisheries Services (NMFS); this dual process is redundant and inefficient. The proposed regulation, Section 1.95, Title 14, will establish a process through which State recreational fishing regulations for salmon and Pacific halibut will automatically conform to federal regulations, unless FGC adopts regulations for said species using the regular rulemaking process.

For annual regulations or corrections to annual regulations for salmon and Pacific halibut, the proposed regulation would require, no later than 10 days after federal regulations are published in the Federal Register, that:

- FGC submit amended State regulations to the Office of Administrative Law for publication in the California Code of Regulations, and file the amended State regulations with the Secretary of State;
- DFW issue a news release announcing the Federal Register in which the federal regulations are published and the effective date of the conformed State regulations;
- FGC mail or email the news release to interested parties;
- To the extent practicable, DFW provide information on any changes to the State regulations via public contact, electronic notification, and online and printed publications.

The proposed regulation would also require that an update on the conformed State regulations be included on the agenda of the next regularly-scheduled FGC meeting.

For in-season changes to regulations for salmon and Pacific halibut, the proposed regulation indicates that State regulations shall conform to the applicable federal regulations publicly noticed through the NMFS ocean salmon hotline and NMFS Area 2A Pacific halibut hotline, respectively.

STAFF SUMMARY FOR AUGUST 16, 2017

For background purposes only

Significant Public Comments

1. One oral comment in support of the proposed regulation was received at the Jun 22, 2017 FGC meeting.

Recommendation

FGC staff: Adopt the regulation as proposed.

Exhibits

1. DFW memo, received Apr 11, 2017
2. Initial statement of reasons
3. Draft notice of exemption

Motion/Direction

Moved by _____ and seconded by _____ that the Commission adopts proposed Section 1.95, related to a process to conform State recreational fishing regulations to federal regulations and that the Commission has determined, based on the record, this approval is exempt from the California Environmental Quality Act pursuant to the guidelines in Title 14 sections 15307 and 15308.

Fact Sheet: Salmon

2 February 2021 Modified 18 February 2021



Salmon fry. Photo: Vladimir Zykov/Shutterstock.com

Salmon species

The Council manages Chinook and coho salmon. In odd-numbered years, the Council may manage pink salmon near the Canadian border. Sockeye, chum, and steelhead are rarely caught in the Council's ocean fisheries.

Chinook salmon (*Oncorhynchus tshawytscha*) ("king" or "tyee") are the largest and most highly prized of the Pacific salmon. Like all salmon, Chinook are anadromous, which means they hatch in freshwater streams and rivers, migrate to the ocean for feeding and growth, and return to their natal waters to spawn. Chinook salmon can live up to seven years. They return to their natal waters after 1-5 years in the ocean.

Chinook from Washington, Oregon, and California range widely throughout the Pacific Ocean and the Bering Sea, and as far south as the U.S. border with Mexico.

Some wild Chinook populations have disappeared from areas where they once flourished, and several "evolutionarily significant units" (distinct populations) have been listed as at risk for extinction under the Endangered Species Act.

Coho or "silver" salmon (*Oncorhynchus kisutch*) are found in streams and rivers throughout much of the Pacific Rim. Coho have a life history similar to Chinook. Coho in Council-managed waters typically spend only one year in the ocean. North of central British Columbia, they tend to spend two years in the ocean.

Coho generally use smaller streams and tributaries than Chinook. They are most abundant in coastal areas from central Oregon to southeast Alaska. Like Chinook, Some wild coho populations have disappeared from areas where they once flourished, and several populations are listed as at risk for extinction under the Endangered Species Act.

Management

Because salmon migrate so far in the ocean, managing ocean salmon fisheries is extremely complex.

Salmon are affected by many factors in the ocean and on land, including ocean and climate conditions, dams, habitat loss, urbanization, agricultural and logging practices, water diversion, and predators (other fish, birds, marine mammals, and humans).

Several different regions and groups are involved in the salmon fishery:

Recreational fisheries take place in the ocean, Puget Sound, the Strait of Juan de Fuca, coastal bays, and in freshwater (including Columbia River Buoy 10). The Council manages recreational catches in the ocean but works closely with states on management in other areas.

Commercial fisheries include treaty tribal and non-tribal ocean troll and various treaty tribal and non-tribal net fisheries in Puget Sound, Washington coastal bays, and the lower and mid-Columbia River. The tribes manage tribal fisheries in coordination with the Council. The Council manages fisheries in Federal (ocean) waters, but works closely with states and tribes on fisheries in other areas.

Tribal Ceremonial and Subsistence fisheries occur in Puget Sound, Washington coastal rivers and bays, Columbia River and tributaries, and in the Klamath and Trinity Rivers. The tribes manage these fisheries in coordination with the Council.

Council process

The Council's Salmon Fishery Management Plan guides the management of commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California. The Council works with treaty tribes and its member states (Washington, Idaho, Oregon and California) on salmon management issues.

Management tools such as season length, quotas, and bag limits vary depending on how many salmon are present. There are two central parts of the fishery management plan: *conservation objectives*, which are annual goals for the number of spawners of the major salmon stocks ("spawner escapement goals"), and *allocation provisions* of the harvest among different groups of fishers (commercial, recreational, tribal, various ports, ocean, and inland). The Council must also comply with laws such as the Endangered Species Act.

Every year the Council follows a preseason process to develop recommendations for management of the ocean fisheries (below).

Date	Salmon management action
January	Salmon Technical Team and Council documents become available. Dates and locations of the two Council meetings, public hearings announced. Detailed schedule published. Salmon Technical Team meets to draft the review of ocean salmon fisheries for the previous year.
February – early March	Salmon Technical Team meets in February to draft preseason report with stock abundance forecasts, harvest and escapement estimates. State and Tribal management meetings take place. Salmon Technical Team reports summarizing the previous salmon season (Review), and projections of expected salmon stock abundance for the coming season (Preseason I) are posted online.

Date	Salmon management action
First or second full week in March	Council meeting. Typically, three alternatives are adopted for review at public hearings. These alternatives are initially developed by the Salmon Advisory Subpanel, refined by the Salmon Technical Team, then considered along with public comment by the Council. Council also considers any emergency actions needed.
Week following March Council meeting	Public hearings announcement released. Preseason Report II released, outlining Council-adopted alternatives.
Prior to April Council meeting	Agencies, tribes, and public meet to agree on allowable ocean and inside waters harvest levels north of Cape Falcon. The Council's ocean fishery options are refined.
Last week of March and first week of April	General time frame for formal public hearings on the proposed salmon management alternatives.
First or second full week of April	Council meeting. Final management measures recommended to National Marine Fisheries Service for adoption.
Second week of May	Final notice of Commerce decision. Final management measures published in Federal Register.

How are salmon counted?

Correctly judging the size of salmon populations is a constant challenge. Salmon are affected by many natural and human-caused factors, so their numbers can vary widely. Estimating the effects of changes in ocean conditions, weather, and freshwater habitat on salmon is difficult. Most models rely on the age structure of a given brood (the various ages of fish that make up the population) in combination with knowledge about environmental conditions over time.

Various methods are used to estimate salmon abundance. For adult salmon, fish trapped in weirs or passing dams are counted as they migrate upstream. Biologists count salmon carcasses and redds (nests) while doing stream surveys. Creel surveys help estimate catch in sport fisheries, and commercially-caught salmon are counted using fish tickets from the sale of fish. As juvenile fish move downstream and migrate to the ocean, smolts

are counted in rotary screw traps, snorkel surveys, and electrofishing (using electric current to temporarily stun young fish, which are then captured in a net).

Juvenile salmon may be marked with an internal tag, either a coded wire tag (CWT) or a passive integrated transponder (PIT) tag. CWTs are placed in the snout of the fish and are used mainly in hatchery fish. They are recovered from dead adult salmon. PIT tags are usually placed in the body cavity of the fish and are recovered from dead adults, but they can also be tracked electronically when a fish passes a receiver (for example at a bridge or dam) as it migrates. Both types of tags provide population and distribution data.

Advisory bodies

The **Salmon Technical Team** (STT) helps the Council by summarizing data from the previous season, estimating the number of salmon in the coming season, and analyzing the effects of the Council's recommendations and amendments. The STT is made up of eight people drawn from state, Federal, and tribal fisheries management agencies, all of whom have technical expertise in salmon management. STT meetings, like all Council advisory body meetings, are open to the public.

The **Salmon Advisory Subpanel** is made up of 16 members who represent commercial, recreational, and tribal interests, as well as a conservation representative. These advisors play a large role in developing the Council's annual salmon management options in March and April.

The **Model Evaluation Workgroup** (MEW) reviews and modifies models used to predict the effects of harvest on conservation objectives and allocation provisions. The MEW is made up of scientists from state, tribal, and Federal management agencies.

The **Habitat Committee** tracks habitat issues for the Council. Many (though not all) of these issues involve salmon habitat. For example, the Habitat Committee has developed several Council comment letters on Klamath and Columbia River dam and habitat issues.

How to get involved

There are a few ways to get involved in the Federal salmon management process. First, read up on how salmon are managed and become aware of current salmon fishery issues. Listen in on the salmon agenda items during the March and April Council meetings (see our website, www.pcouncil.org, for details). Provide public comment by using our e-Portal (see the Council website for link and comment deadlines). Attend a salmon season hearing in a coastal community (usually held in March), or sit in on a Salmon Advisory Subpanel, Salmon Technical Team, or Habitat Committee meeting. If you have time, volunteer to serve on an advisory body.

Challenges in salmon management

Besides counting the fish, challenges include coordinating with international, regional, and local agencies and groups; judging the effects of regional fisheries on salmon stocks; recovering salmon under the Endangered Species Act; dividing the harvest fairly; and restoring freshwater habitat.

Current hot topics relating to salmon include offshore aquaculture, offshore wind energy, salmon bycatch in other fisheries, the differences between wild and hatchery salmon, and the role salmon play as forage for predators such as killer whales.

Council Staff

Robin Ehlke is the Council staff officer responsible for salmon (robin.ehlke@noaa.gov, 503-820-2280 or toll free 866-806-7204)

Fact sheet: Halibut

3 February 2021 Modified 1 June 2022



Pacific halibut

The fish

Pacific halibut (*Hippoglossus stenolepis*) are large flatfish found on the continental shelf from California to the Bering Sea. Halibut have flat, diamond-shaped bodies, can weigh up to 500 pounds, and can grow to eight feet long. The oldest halibut on record, both male and female, is 55 years old. The stock status of these fish is tracked by the [International Pacific Halibut Commission](#) (IPHC), which reports on the status every year at its annual meeting, and provides detailed [life history information](#) on their webpage.

REPRODUCTION

Female halibut mature at around 12 years, while males mature at around 8 years. Adult fish tend to remain in the same area year after year, except for their migration to spawning grounds. Adult halibut will migrate long distances from shallow summer feeding grounds to deeper winter spawning grounds. The number of eggs they lay depends on the female's size. A 50-pound female can produce about 500,000 eggs, while a female over 250 pounds can produce four million eggs. The eggs float freely and drift in deep ocean currents and are fertilized externally. The eggs hatch 12-15 days after fertilization, and the larvae drift to shallow waters on the continental shelf. Larvae begin life in an upright position with eyes on both sides of their head. When they are about an inch long, the left eye migrates over the snout to the right side of the head, and the color of the left side fades. When the young fish are about six months old, they settle to the sea floor, where the protective coloring on their "eyed" side effectively camouflages them.

PREY AND FEEDING

Larval halibut feed on zooplankton, while juvenile and adults prey on cod, pollock, sablefish, rockfish, turbot, sculpins, other flatfish, sand lance, herring, octopus, crabs, clams, and occasionally smaller halibut. Adult halibut are sometimes eaten by marine mammals and sharks, but are rarely preyed upon by other fish.

The Management Context

Date	Halibut management action
January	International Pacific Halibut Commission sets the total allowable catch.
September Council meeting	Council solicits proposed changes to the Catch Sharing Plan.
Between Sept. & Nov. meetings	Council takes comments on proposed changes to Catch Sharing Plan.
November meeting	Council makes final recommendations for changes.

Halibut management schedule

Halibut have been fished for hundreds of years by native Americans on the west coast of the U.S. The U.S. commercial fishery started in 1888, when halibut were first landed in Tacoma, Washington.

Because halibut can be kept for long periods of time without spoiling, they soon became a popular target for commercial harvesters. In the 1890s, a fleet of sailing vessels with two-man dories fished for halibut from the west coast. Large steam-powered vessels soon entered the industry, and by the 1910s it became clear that halibut stocks were suffering from overfishing. In 1923 the U.S. and Canada signed a convention on halibut, creating what was eventually called the International Pacific Halibut Commission. In 1924 the Commission implemented a three-month winter closure – the first management action to affect halibut. The convention was revised several times over the years to allow the Commission to meet new conditions in the fishery. The most recent change occurred in the [Protocol of 1979](#), which allowed each government to establish more restrictive regulations. Canada implemented a limited entry system at that time and an individual vessel quota system in 1991. In the U.S., Alaska implemented an individual fishing quota system in 1995, similar to the individual vessel quota program in Canada except that shares were issued to individuals instead of vessels. Also in 1995, non-tribal commercial fishers in Oregon, Washington, and California had to make a choice: participate in the sport charter industry for halibut, the commercial directed fishery, or the halibut incidental fishery in the salmon troll fishery.

Each year the IPHC conducts a [stock assessment](#) to estimate the abundance and trends of the Pacific halibut stock using commercial fishery data and scientific surveys. The Commission utilizes a decision table to report the results of the annual stock assessment, effectively separating the science from policy. The decision table, prepared annually by IPHC staff, presents the Commissioners with a range of coastwide harvest levels, each with accompanying estimates of potential risk in terms of stock and fishery trend and status metrics. The Commissioners consider the coastwide assessment, and the current harvest policy in determining the final catch targets for each year.

Total catch is set by the IPHC, and the Council then allocates that total among Area 2A fisheries (treaty Indian, commercial non-tribal, and recreational). For more information on how IPHC sets halibut catch limits, see the IPHC document "[How are Halibut Catch Limits Determined?](#)" To learn more on how harvest is divided off the west coast (Area 2A), see the

Halibut Catch Sharing Plan described below and found [under 'Key Documents'](#).

The Fishery and Gear

The commercial halibut fishery on the West Coast was pioneered by fishers of Norwegian ancestry, many of whom had fished halibut in Norway. Many Nova Scotians and Newfoundlanders have also participated in the West Coast halibut fishery.

Halibut are one of the most valuable fish species in the northern Pacific. Pacific halibut fishing is an important part of several tribal cultures, and many tribal members participate in commercial, ceremonial and subsistence fisheries. Longlining is the main commercial gear used to target halibut, although there is some allowance for incidental catch in the commercial salmon troll and the primary sablefish fisheries. Vessel, trip and landing limits are all used to manage halibut harvest in non-tribal commercial fisheries.

Halibut is also a very popular target for sport fishers in Washington, Oregon, and California. Because halibut fishing is so popular, managers use closed seasons, bag limits, and possession limits to extend the halibut sport season as long as possible.

In 1995, the U.S. prohibited directed non-tribal commercial fishing north of Pt. Chehalis, Washington in order to allow the tribes to harvest their allocation of halibut.

Halibut Catch Sharing Plan

The Halibut Catch-Sharing Plan is a framework that dictates how the IPHC and NMFS will divide the total allowable catch (TAC) for Oregon, Washington, and California halibut fisheries (Area 2A). The total TAC is set each January by the IPHC, who also endorses the Catch Sharing Plan allocations set by the Council. Allocations between some recreational areas are subject to inseason and other changes. For a description of how the halibut harvest is shared, see the halibut catch sharing plan under "key documents" [on this page](#).

Each year the Council solicits proposed changes to the Catch Sharing Plan for its September meeting and takes comments on proposed changes

between its September and November meetings. The Council then makes final recommendations for changes at its November meeting. The proposed changes are described in the [Council Newsletter](#) and in the annual September [decision document](#). If you would like to propose a change or comment on proposed changes, you can submit comments by mail, fax, or email, marked to the attention of [Robin Ehlke](#), Pacific halibut staff officer.

Regulations

- NMFS Area 2A Halibut Hotline (for sport fishing): 1-800-662-9825, press 5
- [Commercial catch information from the International Pacific Halibut Commission](#)
- [Sport catch information from the International Pacific Halibut Commission](#)
- [Oregon sport halibut fishery regulations](#)
- [Washington sport halibut fishery regulations](#)
- [California sport halibut fishery regulations](#)

For more information on halibut management, please contact [Robin Ehlke](#).

Memorandum

Date: November 29, 2022

Received 12/1/2022;
signed copy on file

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: Marine Protected Areas Management Program Updates for 2022

I. Overview

In 2016, the California Fish and Game Commission (FGC) requested the California Department of Fish and Wildlife (CDFW) prepare annual updates about the management of California's marine protected area (MPA) Network. These annual updates are centered around the MPA Management Program ([Management Program](#)), which CDFW uses to manage the MPA Network through a collaborative partnership-based approach. The Management Program is supported by four pillars: 1) outreach and education, 2) research and monitoring, 3) enforcement and compliance, and 4) policy and permitting. In addition to regular work relating to the four pillars, CDFW spent concerted time and focus this year developing the first Decadal Management Review (Review) of the Management Program. This memo provides an overview of the 2022 Management Program activities, as well as information about the Review.

II. MPA Management Program 2022

While much of CDFW staff effort focused on development of the Review throughout 2022, the following summarizes ongoing work within the four pillars of the Management Program not directly related to the Review.

(a) Outreach and Education

Efforts continue to focus on increasing public awareness of the MPA Network to improve understanding of the Management Program and compliance with MPA regulations. CDFW and partners have emphasized the development of online resources such as blogs, articles, and videos while printed materials like brochures and posters have become less of a priority but are still made available at in-person outreach events. Notable outreach and education accomplishments from 2022 include:

- CDFW [authored a manuscript](#) published in the journal *Marine Policy* detailing lessons learned and management recommendations gleaned from planning for and managing the Network since 2004.
- CDFW had the [MPA brochures](#) translated from English into Spanish and has plans to release translations of the brochures into Vietnamese, Chinese (traditional and simplified), and Tagalog over the next year.
- Ocean Protection Council (OPC) approved approximately [\\$4.2 million from Once-Through-Cooling funds](#) for disbursement to the Department of Parks and Recreation (DPR) and Resources Legacy Fund (RLF) for continued support of MPA partnerships for Outreach, Education, Enforcement, and Compliance projects.
 - DPR will match the OPC approved funds with about \$350,000 to expand existing MPA outreach and education initiatives within DPR. Funding will be used to support staff, train volunteers, and extend the reach of educational programs (like [Parks Online Resources for Teachers and Students](#)) by utilizing video footage and new technologies.
 - RLF will match the OPC approved funds with about \$1.4 million to support continued trainings and production of resources to improve enforcement and compliance for the MPA Network.
- The California Marine Sanctuary Foundation (CMSF) and the MPA Collaborative Network continue to work on improving MPA signage statewide made possible by \$500,000 in [Once-Through-Cooling Interim Mitigation](#) funds approved by OPC in 2021.
 - During the summer of 2022, CMSF evaluated existing MPA signage (including harbor signs, interpretive signs, tidepool signs, “You Are Here” and no fishing/no collecting signs and all associated signage elements) to determine overall effectiveness in increasing awareness of MPA rules and boundaries. Nearly 3000 coastal visitors were observed and over 800 surveys were administered from San Diego to Del Norte counties. Data entry and analysis are currently underway, with outcomes informing the development of new signage anticipated for 2023.
 - The MPA Collaborative Network, in partnership with CMSF, is developing a new approach to inventory and track MPA signage across the state using geographic information system technology that will allow for signage data to be crowdsourced by collaborative members. Over

765 inventory surveys have been completed to ground truth previous sign installation records and catalog signs installed in 2022.

- An [overview video of California's Network of MPAs and enforcement efforts](#) for judges, district attorneys, and enforcement officers, was created in 2022 by RLF and the MPA Collaborative Network in partnership with CDFW's Law Enforcement Division, through Once-Through-Cooling Interim Mitigation funds approved by OPC in 2019.
- Following nearly two years of primarily remote, physically distanced work and meetings due to the COVID-19 pandemic, CDFW and partners began to return to in person events. In 2022, CDFW:
 - Participated in multiple MPA Collaborative meetings and events such as a subsistence fishing event hosted by the Santa Barbara Channel MPA Collaborative at the Goleta Pier in Santa Barbara County, and the Coastal Marine Research Symposium sponsored by the Orange County MPA Collaborative.
 - Provided an informal presentation with a question-and-answer session at the Environmental Action Committee of West Marin's MPA open house at Point Reyes Station.
 - Presented information about the Management Program at Beyond the Golden Gate Symposium, the 2022 Scuba Show Convention in Long Beach, and Sanctuary Fest – Monterey Bay National Marine Sanctuary's 30th anniversary event in Santa Cruz.
 - Hosted Special Topic Session: MPA Network Science and Management at the Western Society of Naturalist's 103rd annual meeting.

(b) Research and Monitoring

The [MPA Monitoring Program](#) guides research and monitoring activities across California's MPA Network. The Monitoring Program employs a two-phase, ecosystem-based approach to monitoring and combines multiple sources of information to guide the state's adaptive management process.

Phase 1: Regional Baseline Monitoring, 2007 to 2018

Baseline monitoring established a comprehensive benchmark of ecological and socioeconomic conditions at or near the time of regional MPA implementation and serves as an important set of data against which future conditions can be measured. Products are available on the [CDFW's MPA Monitoring page](#).

Phase 2: Statewide Long-term Monitoring, 2018 to present

Following the guidance outlined in the 2018 [MPA Monitoring Action Plan](#), eight long-term monitoring projects collected two years (2019 and 2020) of ecological and human use data. Each project submitted a technical report to aid in the evaluation of the MPA Network in meeting the goals of the MLPA. These [long-term monitoring technical reports](#) became publicly available in January 2022. Results from these projects helped inform the development of the Review. To avoid gaps in data collection, ecological monitoring in key habitats continued throughout 2021 and 2022.

In October, OPC approved funding of [\\$4.5 million to continue ecological monitoring](#) in 2023. Four key habitats (rocky intertidal, kelp forest/shallow rocky reef, deep rocky reef, and sandy beach/surf zone), as well as a collaborative fisheries research program were funded. This funding helps ensure continued data collection to minimize gaps in the long-term monitoring datasets.

In addition, OPC approved funding to expand upon an existing coastwide [connectivity population model](#), and to expand the [Tribal Marine Stewards Network Program](#) by adding a fifth partner tribe, the Santa Ynez Band of Chumash Indians, and to ensure monitoring and community engagement work will continue for the next three years (2023-2025).

(c) Enforcement and Compliance

CDFW's Law Enforcement Division (LED) continued to coordinate with the MPA Collaborative Network to support enforcement trainings for allied agency officers (i.e., State Parks officials, lifeguards, county enforcement). A total of seven regional trainings were completed. These trainings are designed to help allied agency officers learn the history, locations, and regulations of their local MPAs and to facilitate CDFW's capacity to communicate and enforce MPA regulations.

As part of the preparation for the Review, CDFW staff meticulously entered hard copy citation information for marine resource violations that occurred from 2015-2021. More than 14,700 citations and 17,900 violations were entered between 2021-2022. This data entry adds to citation entries previously done in preparation for [State of the Region reports](#).

The database that contains historical hardcopy MPA citation information complements LED's 2019 Records Management System (RMS). Since the implementation of the RMS in 2019, enforcement staff have been able to make queries of MPA citation data. In coordination with LED, MPA Management staff identified areas for improving the data structure within RMS. The improvements have increased LED's ability to effectively query trends in MPA violations.

(d) Policy and Permitting

Scientific Collecting Permits

From January to November 15, 2022, a total of 47 scientific collecting permits (SCPs) were issued for research and education within 76 unique MPAs, including 32 state marine reserves (SMRs), 33 state marine conservation areas (SMCAs), seven no-take state marine conservation areas, and four state marine recreational management areas (SMRMAs).

Since implementation of the MPA Network, a total of 909 SCPs have been issued for research and education activities within MPAs. Regionally, the MPAs with the most SCP activities are Crystal Cove SMCA –173 projects (south), Carmel Bay SMCA – 129 projects (central), and Bodega Head SMR – 81 projects (north).

Regulatory packages

- In 2015, a regulatory amendment intended to clarify some MPA regulations unintentionally removed the allowed and prohibited uses within five SMRMAs. Amendments to correct the [SMRMA regulations](#) were adopted by the FGC in June 2022 with an effective date of August 19, 2022.
- During regional implementation of the MPA Network, 2007-2012, certain artificial structures such as piers, docks, cables, intake and outflow pipes, and seawalls, existed where some of the newly designated MPAs are located. While normal operation of most of these structures may not result in take of marine species, maintenance, repair, or replacement could result in incidental take. Beginning in 2021 and throughout 2022, CDFW, developed draft regulations with input from a working group of the Statewide MPA Leadership Team to address maintenance and repair for those pre-existing structures. A contractor was hired to prepare a supplemental CEQA document for the proposed regulation amendments, the formal regulatory process is anticipated to begin in spring 2023.

III. Decadal Management Review

Throughout 2022, CDFW was largely focused on preparation for the first 10-year Review of the Management Program and performance of the Network. The Review focuses on each of the four pillars of the Management Program and evaluates the progress of the MPA Network towards meeting the [Marine Life Protection Act](#) (MLPA) goals.

(a) Science and Management Data Informing the Review

CDFW used multiple sources of information about the MPA Network, including scientific assessments of ecological and socioeconomic data, enforcement data, and scientific collecting permit information to inform the science of the Review.

Specific resources include:

- [Baseline reports](#) and [long-term monitoring reports](#).
- Two working group reports - [Science Guidance for Evaluating California's MPA Network](#) and [Climate Resilience and California's MPA Network](#).

In addition to these already available resources, throughout 2022, the [National Center for Ecological Analysis and Synthesis](#) (NCEAS) worked on an integrative analysis of MPA ecological monitoring, enforcement, and human dimensions data sources across the state. NCEAS used these existing data streams to address many of the Network-level evaluation questions outlined in Appendix B of the [MPA Monitoring Action Plan](#) and Science Guidance for Evaluating California's MPA Network report. Highlighted results produced by NCEAS will be featured in the Review report. NCEAS will also release a separate, more comprehensive technical report containing their detailed results.

(b) Communicating about the Review

OPC, in coordination with CDFW, hired two contractors who were tasked with raising awareness of the Management Program through effective branding and engaging with stakeholders leading up to the Review.

- Received in September 2022, CDFW now has a collection of design templates to use to help create cohesive and consistent documents and presentations when referencing MPA Network. Inspired by the existing four-wave MPA logo, these templates will be used for both digital and printed products to raise awareness of and create brand identity for the Management Program. When released, the Review report will showcase this newly developed brand design.
- Feedback from a series of [community engagement meetings](#) held in 2021 indicated the public who attended wanted more information regarding the long-term monitoring projects informing the Review ([archived video recordings](#)). In response to this feedback, OPC, in partnership with CDFW, hosted an eight-part virtual webinar series titled "[Ask the Researcher](#)" throughout the summer of 2022. These meetings and associated snapshot reports allowed webinar attendees to engage directly with the researchers about the science informing the management of the MPA Network ([archived webinar recordings](#)).

In addition to this contracted work, CDFW used multiple other outlets to make information available to the public, including:

- Creating a specific email address mpamanagementreview@wildlife.ca.gov and [contact form](#) to respond to questions and suggestions from the public about the Review,
- Including information about the Review in multiple blogs posted via [Marine Management News](#),
- Creating a [Review specific webpage](#) to communicate all information about events, resources, and responses to frequently asked questions,
- Presenting updates during FGC meetings, MPA Collaborative Network meetings, and other outreach events, and
- Using the [Outreach and Engagement Stakeholder Steering Committee](#) (Steering Committee) to help disseminate information about the Review with their existing networks and communities when needed.

(c) Tribal Engagement

CDFW actively engaged with tribes during the development of the Review. Starting with a letter sent to all California Native American Tribes in early 2021 informing them of the Review, two follow-up email announcements about the Review were sent to all California Native American Tribes in 2022. These correspondences focused on providing updates about the Review process and providing space for discussions, meetings, or consultations with tribes if desired. Updates were also provided this year during the [Environmental Protection Agency's Regional Tribal Operations Committee in January](#) and [FGC's Tribal Committee meeting in April](#). In addition, a virtual round table gathering occurred with California Native American Tribes May 9, 2022, to have a conversation about the 2022 the Review. Participants were invited to share their priorities and perspectives about MPA management in California.

A Tribal Steering Committee, consisting of tribal members, was established to provide outreach and engage with tribes during the Review process. Members of the Tribal Steering Committee worked with tribes to produce the *Tribal Summary to Inform the State of California Marine Protected Area Decadal Management Review*, which specifically informed tribal sections of the Review and will be available in its entirety as an appendix to the Review report. In addition, all California Native American Tribes were also invited to review the report and provide any comments prior to its finalization.

(d) Partner Engagement

To ensure an inclusive and comprehensive Review, CDFW invited agencies, tribes, and partners to submit a report highlighting their contributions to the Management Program since Network completion for inclusion in the Review. Twenty-two individual reports were received to inform the development of the Review and will be available in their entirety as an appendix to the Review. These reports provided partners with an opportunity to share their program's unique achievements, challenges, and recommendations in support of the Management Program pillars, and how their work relates to the goals of the MLPA.

IV. Emerging Management Issues

In October 2020, Governor Newsom launched an effort to protect California's biodiversity and build climate resilience by establishing a state goal of conserving at least 30 percent of California's land and 30 percent of coastal waters by 2030 ([Order N-82-20](#)). While the MPA Network is a fundamental component to meet California's 30 x 30 goals, the Executive Order's commitment to reaching 30 percent of coastal marine conservation is also based on advancing measures beyond the MPAs, such as enhancing biodiversity safeguards in National Marine Sanctuaries, National Estuary Programs, and Areas of Special Biological Significance. The first 10-year review of the MPA Network and Management Program will focus on recommendation to support meeting the MLPA goals, not the state's 30 x 30 marine conservation goals.

V. Looking Forward

Throughout 2022, CDFW and its partners focused on preparation for the first Review of the Management Program. The report is anticipated for public review in January 2023 and delivery to the FGC for their February 2023 meeting. A public symposium will be held March 15 to highlight the collaborative work that informed the Review, followed by a Marine Resources Committee (MRC) meeting March 16; both the symposium and MRC meeting will take place in Monterey. The MRC meeting is anticipated to include a discussion of the findings and adaptive management recommendations within the Review. The full FGC will then discuss the Review findings, adaptive management recommendations, and possible changes to the MPA Management Program and/or the MPA Network at their April and subsequent meetings in 2023.

If you have any questions or need more information, please contact Dr. Craig Shuman, Marine Regional Manager, at (805) 568-1246.

Attachment: Marine Protected Areas Management Program Updates for 2022 Memo
hyperlinks in sequential order

Melissa Miller-Henson, Executive Director
Fish and Game Commission
November 29, 2022
Page 9

cc: Jenn Eckerle, Acting Deputy Secretary for Ocean and Coastal Policy
Natural Resources Agency

Craig Shuman, D. Env., Region Manager
Marine Region

David Bess, Chief
Law Enforcement Division

Eric Kord, Assistant Chief
Law Enforcement Division

Becky Ota, Environmental Program Manager
Marine Region

Stephen Wertz, Senior Environmental Scientist
Marine Region

Attachment 1. Marine Protected Areas Management Program Updates for 2022 Memo hyperlinks in sequential order.

1. Page 1

- a. Management Program:
<https://www.wildlife.ca.gov/Conservation/Marine/MPAs/Management>

2. Page 2

- a. Published a manuscript:
https://www.sciencedirect.com/science/article/pii/S0308597X2100539X?casa_token=CjmF3AI0qdAAAAAA:ycsOqf4fvpee1Jjd_18qBjZ5c8NCAbhoHFnes8IS_pfpTp40AjQn1EOdJgtH6QZtmh1COCfiGFE
- b. MPA brochures: <https://wildlife.ca.gov/Conservation/Marine/MPAs/Outreach-Materials#26716426-mpa-brochures>
- c. \$4.2 million from Once-Through-Cooling funds:
https://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/20221006/Item-7a-MPA-OE-and-Compliance-508.pdf
- d. Parks Online Resources for Teachers and Students: <https://www.ports-ca.us/home/mpas>

3. Page 3

- a. Overview video of California's Network of MPAs and enforcement efforts:
<https://www.youtube.com/watch?v=rrfPLmtEk3o>
- b. MPA Monitoring Program:
<https://wildlife.ca.gov/Conservation/Marine/MPAs/management/monitoring>

4. Page 4

- a. CDFW's MPA Monitoring page:
<https://www.wildlife.ca.gov/Conservation/Marine/MPAs/management/monitoring#537132130-baseline-monitoring-reports-by-region>
- b. MPA Monitoring Action Plan:
<https://wildlife.ca.gov/Conservation/Marine/MPAs/Management/Monitoring/Action-Plan>
- c. Long-term monitoring technical reports: <https://caseagrant.ucsd.edu/news/california-marine-protected-area-long-term-monitoring-program-final-reports-2019-2021>
- d. \$4.5 million to continue ecological monitoring:
https://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/20221006/Item-7b-MPA-Monitoring-508.pdf

- e. Connectivity population model:
https://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/20221006/Item-9-Connectivity-508.pdf
- f. Tribal Marine Stewards Network Program:
https://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/20221006/Item-5-TMSN-508.pdf
- g. State of the Region reports:
<https://wildlife.ca.gov/Conservation/Marine/MPAs/management/monitoring#537133255-state-of-the-region-reports-by-region>

5. Page 5

- a. SMRMA regulations: <https://fgc.ca.gov/Regulations/2022-New-and-Proposed#SMRMA>
- b. Marine Life Protection Act: <https://wildlife.ca.gov/Conservation/Marine/MPAs/MLPA>

6. Page 6

- a. Baseline reports:
<https://wildlife.ca.gov/Conservation/Marine/MPAs/Management/monitoring#topofpane>
- b. Long-term monitoring reports:
<https://wildlife.ca.gov/Conservation/Marine/MPAs/management/monitoring#topoflmppane>
- c. Science Guidance for Evaluating California's MPA Network:
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=198644&inline>
- d. Climate Resilience and California's MPA Network:
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=198646&inline>
- e. National Center for Ecological Analysis and Synthesis: <https://www.nceas.ucsb.edu/>
- f. MPA Monitoring Action Plan:
<https://wildlife.ca.gov/Conservation/Marine/MPAs/Management/Monitoring/Action-Plan>
- g. Community engagement meetings:
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=197069&inline>
- h. Archived video recordings: <https://www.youtube.com/playlist?list=PL-PEXRYYP1QS9F8EGp5x92GgV6XS-LP7>
- i. Ask the Researcher: <https://www.opc.ca.gov/2022/05/mpa-monitoring-series-ask-the-researcher/>

7. Page 7

- a. Archived webinar recordings:
<https://www.youtube.com/playlist?list=PLTFHbsQ8LvIXCJQC5gUX9owDRTTr7Z1WiE>
- b. Contact form: <https://wildlife.ca.gov/Conservation/Marine/MPAs/Contact/Decadal-Management-Review>

- c. Marine Management News: <https://cdfwmarine.wordpress.com/>
 - d. Review specific webpage:
<https://wildlife.ca.gov/Conservation/Marine/MPAs/Management/Decadal-Review>
 - e. Outreach and Engagement Stakeholder Steering Committee:
<https://wildlife.ca.gov/Conservation/Marine/MPAs/Management/Decadal-Review#568183257-what-is-the-review-steering-committee>
 - f. Environmental Protection Agency's Regional Tribal Operations Committee in January:
<https://www.epa.gov/system/files/documents/2022-02/winter-rtoc-2022-presentation-ocean-protection-council.pdf>
 - g. FGC's Tribal Committee meeting in April:
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=202268&inline>
8. Page 8
- a. Order N-82-20: <https://www.adaptationclearinghouse.org/resources/california-executive-order-n-82-20-addressing-the-biodiversity-crisis.html>



Marine Protected Areas Annual Update: 2022

14 December 2022

Presented to:

Fish and Game Commission
Virtual Webinar

Presented by:

Amanda Van Diggelen
Environmental Scientist
Marine Region



MPA Management Program Pillars





Outreach and Education



Photo: S. Wertz



Photo: MPA Collaborative Network



Photo: S. Worden



Research and Monitoring

- Habitat Monitoring
 - Sandy beach
 - Rocky intertidal
 - Kelp forests
 - Deep rocky reefs
- Tribal Marine Stewards Network
- Network Connectivity Modeling





Enforcement and Compliance

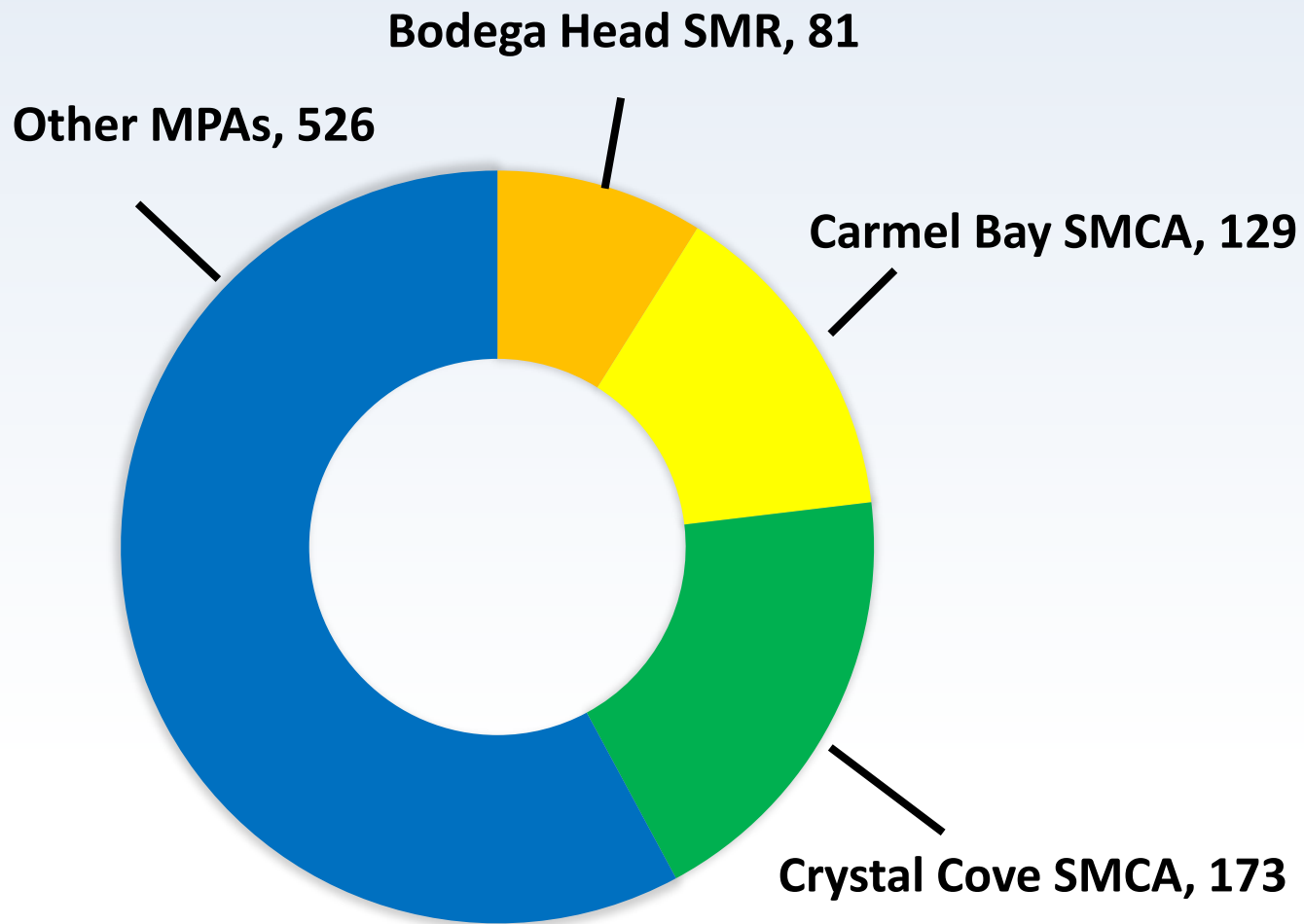
- MPA Citation Data Entry, 2016-2021
 - 14,700 citations and 17,900 violations entered
- Allied Agencies Enforcement Workshops, 2022
 - 7 workshops
- Records Management System Improvements





Policy and Permitting

909 MPA SCPs ISSUED, 2012-2022*

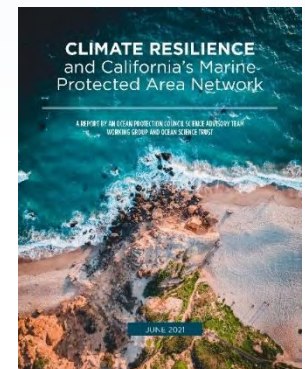
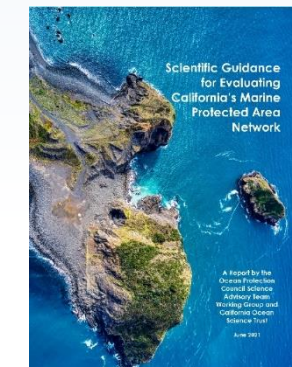
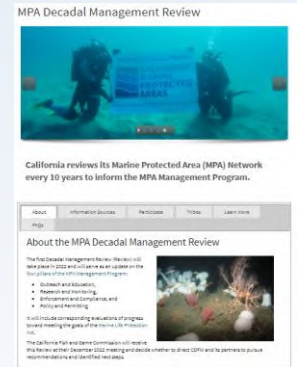


**2022 data through November 15, 2022*



MPA Network Performance Sources

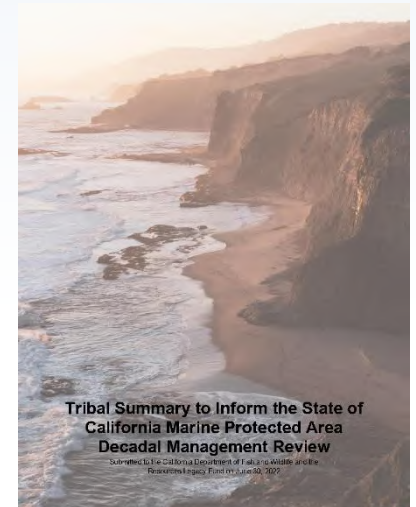
- Law enforcement data
- MPA Management Program partner reports
- Input from stakeholder engagement
- Science guidance
 - Monitoring reports
 - MPA Decadal Evaluation Working Group Report
 - MPAs and Climate Resilience Report
 - National Center for Ecological Analysis and Synthesis
- Recommendations and associated action items





Decadal Management Review: Tribal Engagement

- Notification letter and emails about Review sent to all California Native American Tribes
- Environmental Protection Agency's Regional Tribal Operations Committee
- Review updates for the Fish and Game Commission
 - Tribal Committee
 - Marine Resources Committee
- Review Tribal Steering Committee produced: *Tribal Summary to Inform the California's MPA Network Decadal Management Review*





Decadal Management Review: Anticipated Timeline

2023

- **January:** Report publicly available
- **February:** Report received at Commission meeting
- **March:** Forum and Marine Resource Committee (MRC) Meeting
 - Dates: Forum, March 15 & MRC, March 16
 - Location: Monterey Fair Grounds
- **April:** Report discussion continued at Commission meeting

Thank You ♦ Questions?

Amanda Van Diggelen, Environmental Scientist

MPA Management Project Staff:

- Program Manager, Becky Ota
- Senior Environmental Scientist Supervisor, Stephen Wertz
- Environmental Scientists: Michael Prall, Sara Worden, Chenchen Shen, Lara Slatoff, Kara Gonzales, Amanda Van Diggelen
- Associate Governmental Program Analyst: Tamara Heitzenrater

CALIFORNIA FISH AND GAME COMMISSION

RECEIPT LIST FOR PETITIONS FOR REGULATION CHANGE: RECEIVED BY 5:00 PM ON DECEMBER 1, 2022

Tracking No.	Date Received	Name of Petitioner	Subject of Request	Short Description	FGC Receipt Scheduled	FGC Action Scheduled
2022-17	10/11/2022	David Kasheta	Recreational fishing: Crab buoys	Request to amend the number of buoys and buoy markers required while fishing recreationally for crab.	12/14-15/2022	2/8-9/2023



Tracking Number: (____2022-17____)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: David Kasheta

Address: [REDACTED]

Telephone number: [REDACTED]

Email address: [REDACTED]

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: **Section 200, 205, 265, 275, 7074, 7078**

3. Overview (Required) - Summarize the proposed changes to regulations: Amend from one main buoy and marker buoy to two main buoys plus a marker buoy.

4. Rationale (Required) - Describe the problem and the reason for the proposed change: At times of strong currents the vertical line and buoy can become submerged making retrieval in a timely fashion impossible due to lack of buoyancy with only one main buoy. This increases the risk of gear loss and whale entanglements. Also, it is more difficult to sight and gaff/retrieve only one buoy during times of rough seas.

SECTION II: Optional Information

5. Date of Petition: October 12, 2022

6. Category of Proposed Change

☒ Sport Fishing

☐ Commercial Fishing



- ☐ Hunting
- ☐ Other, please specify: [Click here to enter text.](#)

7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*
- ☐ Amend Title 14 Section(s): 29.80 (c) (3)
 - ☐ Add New Title 14 Section(s): [Click here to enter text.](#)
 - ☐ Repeal Title 14 Section(s): [Click here to enter text.](#)
8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** [Click here to enter text.](#)
Or ☐ Not applicable.
9. **Effective date:** If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: As soon as possible so it can be used this recreational crab season
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: [Click here to enter text.](#)
11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: [Click here to enter text.](#)
12. **Forms:** If applicable, list any forms to be created, amended or repealed:
[Click here to enter text.](#)

SECTION 3: FGC Staff Only

Date received: 10/17/22

FGC staff action:

- ☐ Accept - complete
- ☐ Reject - incomplete
- ☐ Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: _____

Meeting date for FGC consideration: _____

FGC action:

- ☐ Denied by FGC
- ☐ Denied - same as petition _____

Tracking Number

- ☐ Granted for consideration of regulation change

CALIFORNIA FISH AND GAME COMMISSION PETITIONS FOR REGULATION CHANGE - ACTION ON DECEMBER 14-15, 2022

FGC - California Fish and Game Commission DFW - California Department of Fish and Wildlife WRC - Wildlife Resources Committee MRC - Marine Resources Committee

Grant: FGC is willing to consider the petitioned action through a process Deny: FGC is not willing to consider the petitioned action Refer: FGC needs more information before the final decision

Tracking No.	Date Received	Name of Petitioner	Subject of Request	Short Description	FGC Receipt	FGC Initial Action Date	Initial Staff Recommendation	Referral Date	Referred to	Final Staff Recommendation
2022-04	2/23/2022	Dean Albro City of Lompoc	Marine protected areas: Vandenberg State Marine Reserve (SMR)	Request to revise boundaries of Vandenberg SMR to allow some shore fishing	4/20-21/2022	4/20-21/2022	REFER to DFW for review and recommendation.	6/15-16/2022	DFW	DEFER action until DFW evaluation and recommendation is completed following the marine protected areas network decadal management review, scheduled for early 2023, as reflected in DFW memo under Agenda Item 7 in December 2022 meeting materials.
2022-12	8/1/2022	James Stone Nor-Cal Guides & Sportsmen's Association	Sport fishing: Striped bass slot limit (marine)	Request to establish a slot limit for striped bass in marine waters, consistent with proposed slot limit for inland waters.	8/17/2022	10/12-13/2022	REFER to DFW for review and recommendation.	10/13/2022	DFW	GRANT for consideration in a future rulemaking with granted Petition 2020-005 (striped bass freshwater slot limit), and align specific proposed regulations with those developed for Petition 2020-005.
2022-14	8/19/2022	Daniel Schoen	Ocean recreational fishing: Gooseneck barnacles	Request to add gooseneck barnacles to list of harvestable species	10/12-13/2022	12/14-15/2022	DENY ; existing fisheries have been prioritized for management focus under the Marine Life Management Act master plan framework. Opening a new fishery for the petitioned species would require collecting sufficient data to determine sustainability and redirecting staff away from prioritized management needs.			



Tracking Number: (2022-04)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: Dean Albro, City Manager

Address: [REDACTED]

Telephone number: [REDACTED]

Email address: [REDACTED]

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: The Commission has authority over most hunting and fishing regulations in California. 200, 205 (c), 265,1590,1591, 2860, 2861, 6750

3. Overview (Required) - Summarize the proposed changes to regulations: [Click here to enter text.](#)

The City of Lompoc, formally requests a minor modification to the area of Surf Beach known as the Vandenberg Marine Preserve. This Preserve is located adjacent to Vandenberg Air Force Base, which itself is located directly adjacent to the City of Lompoc.

From the time of the earliest inhabitants, the Santa Ynez Band of Chumash Indians, to many generations of settlers thereafter, and to the citizens of Lompoc (established in 1888), Surf Beach has been used as a resource by many. Not only was the beach used for fishing to provide food to eat for their families, fishing was also enjoyed by many for its simple enjoyment and relaxation.

The opportunity to fish at Surf Beach was available until 2007, when the Vandenberg Marine Preserve was created. This preservation area, encompassing approximately 33 square miles of marine protection, has had a detrimental impact on the City of Lompoc and its surrounding areas. Unfortunately, the creation of the Preserve removed any opportunity for fishing from the beach, located at what is known as Surf Beach. As mentioned earlier, this new preserve designation, implemented with little to no true input from the citizens or City of Lompoc, has placed a great hardship upon the City, in terms of family



subsistence, as well as creating a negative financial impact on the City of Lompoc due to a reduction in tourism related revenues.

The City of Lompoc is a regionally isolated community, and is also recognized as a disadvantaged community by the State of California. The residents of the City and surrounding areas are limited in many areas including recreational activities, particularly those offered at a low or no-cost level of participation. Surf Beach fishing is one of the activities that was eliminated by the creation of the marine preserve.

4. Rationale (Required) - Describe the problem and the reason for the proposed change: [Click here to enter text.](#)

The City's formal request for consideration by the California Department of Fish & Wildlife is a small modification to the existing marine preserve restrictions. This request would be to allow fishing on the one-half mile stretch of beach known as Surf Beach. The City sees this modification as a minor request considering that the entire preserve is approximately 33 square miles. However small, the modification would allow for families to once again fish for subsistence, and/or provide a low cost/no-cost recreational alternative for the residents of Lompoc and the surrounding area.

The City's belief is that there will be, on average, no more than three or four individuals fishing at any given time. This level of 'take' from the Preserve should pose no harm to the Preserve as the act of fishing has been going on for centuries, but at least from the 1800's when Lompoc was settled, with no true harm to the volume of marine life.

Should the Department of Fish & Wildlife decide to modify the restrictions to allow surf fishing, but impose a limit on the number of fish that could be caught by a single, licensed individual, the City of Lompoc requests that a minimum of four (4) fish caught be allowed, such that families using fishing for subsistence can survive on the limit.

SECTION II: Optional Information

5. Date of Petition: Originally on 1/22/2020 – Reiterated on 2/8/2022.

6. Category of Proposed Change

☒ Sport Fishing

☐ Commercial Fishing

☐ Hunting

☐ Other, please specify: [Click here to enter text.](#)

7. The proposal is to: *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*

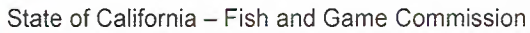
☐ Amend Title 14 Section(s): [Click here to enter text.](#)

☐ Add New Title 14 Section(s): [Click here to enter text.](#)

☐ Repeal Title 14 Section(s): [Click here to enter text.](#)

8. If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition [Click here to enter text.](#)

Or ☒ Not applicable.



FGC 1 (Rev 06/19) Page 3 of 3

- ### SECTION 3: FGC Staff Only

FGC staff action:

- Tracking Number

Meeting date for FGC consideration: Receive 4/20-21/22; act 4/20-21/22

FGC action:

- ☐ Denied by FGC
- ☐ Denied - same as petition _____ Tracking Number
- ☐ Granted for consideration of regulation change
- X Referred to DFW



January 22, 2020

Mr. Charlton H. Bonham, Director
California Department of Fish & Wildlife
P.O. Box 944209
Sacramento, CA 94244-2090

SUBJECT: Surf Fishing at Surf Beach, Lompoc, Ca

Dear Mr. Bonham:

This letter is being sent to you to by the City of Lompoc, to formally request a minor modification to the area of Surf Beach known as the Vandenberg Marine Preserve. This Preserve is located adjacent to Vandenberg Air Force Base, which itself is located directly adjacent to the City of Lompoc.

From the time of the earliest inhabitants, the Santa Ynez Band of Chumash Indians, to many generations of settlers thereafter, and to the citizens of Lompoc (established in 1888), Surf Beach has been used as a resource by many. Not only was the beach used for fishing to provide food to eat for their families, fishing was also enjoyed by many for its simple enjoyment and relaxation.

The opportunity to fish at Surf Beach was available until 2007, when the Vandenberg Marine Preserve was created. This preservation area, encompassing approximately 33 square miles of marine protection, has had a detrimental impact on the City of Lompoc and its surrounding areas. Unfortunately, the creation of the Preserve removed any opportunity for fishing from the beach, located at what is known as Surf Beach. As mentioned earlier, this new preserve designation, implemented with little to no true input from the citizens or City of Lompoc, has placed a great hardship upon the City, in terms of family subsistence, as well as creating a negative financial impact on the City of Lompoc due to a reduction in tourism related revenues.

The City of Lompoc is a regionally isolated community, and is also recognized as a disadvantaged community by the State of California. The residents of the City and surrounding areas are limited in many areas including recreational activities, particularly those offered at a low or no-cost level of participation. Surf Beach fishing is one of the activities that was eliminated by the creation of the marine preserve.

The City's formal request for consideration by the California Department of Fish & Wildlife is a small modification to the existing marine preserve restrictions. This request would be to allow fishing on the one-half mile stretch of beach known as Surf Beach. The City sees this modification as a minor request considering that the entire preserve is approximately 33 square miles., However small, the modification would allow for families to once again fish for subsistence, and/or provide a low cost/no-cost recreational alternative for the residents of Lompoc and the surrounding area.

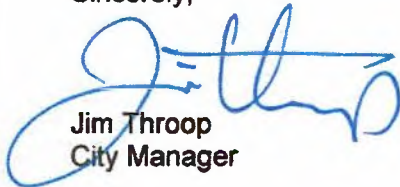
Mr. Charlton H. Bonham, Director
January 8, 2020
Page 2 of 2

The City's belief is that there will be, on average, no more than three or four individuals fishing at any given time. This level of 'take' from the Preserve should pose no harm to the Preserve as the act of fishing has been going on for centuries, but at least from the 1800's when Lompoc was settled, with no true harm to the volume of marine life. In addition, the City would suggest that the change for surf/beach fishing be changed from a Preserve designation, to a 'Conservation' designation, such that fishing would be limited to the taking of Sand Perch, and/or similar species, and Sand Crabs, which are commonly used as bait.

The City is requesting a response from the Department of Fish & Wildlife by February 28, 2020, such that there will be a modification to the existing marine preserve restrictions, or a response informing the City of Lompoc on the proper procedures to follow to request a modification.

Thank you for your consideration and assistance in this matter.

Sincerely,



Jim Throop
City Manager

Cc: Gavin Newsom, Governor
Wade Crowfoot, Secretary of Natural Resources
Jenelle Osborne, Mayor
Dirk Starbuck, Mayor Pro-tem
Victor Vega, Council Member
Jim Mosby, Council Member
Gilda Cordova, Council Member



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Marine Region
1933 Cliff Drive, Suite 9
Santa Barbara, CA 93109
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



May 4, 2020

Mr. Jim Throop
Lompoc City Manager
100 Civic Center Plaza
Lompoc, CA 93436

RECEIVED
MAY 08 2020
City Manager's Office

SUBJECT: Response to Request for Amending Vandenberg State Marine Reserve Area Regulations

Dear Mr. Throop:

Thank you for your inquiry regarding the Vandenberg State Marine Reserve. I apologize for the delayed response to your inquiry. The California Department of Fish and Wildlife (Department) has reviewed your request to allow shore fishing at Surf Beach within the Vandenberg State Marine Reserve (SMR). This letter provides a brief background of the establishment of the Vandenberg SMR, a summary of the adaptive management framework that governs the management of State's Marine Protected Area network, and guidance for advancing your request, if so desired, to the California Fish and Game Commission (Commission) for consideration.

In 1999, the State Legislature approved, and the Governor signed into law the Marine Life Protection Act (MLPA). The MLPA required the Department to redesign California's existing patchwork of marine protected areas (MPAs) into a science-based, cohesive, ecologically connected network. From 2005 to 2012, a very extensive public planning process took place sequentially across four coastal regions resulting in 124 MPAs and 15 special closures along California's 1100-mile coastline and offshore islands.

The public planning process for the central coast region took place from 2005 to 2007. Following planning, the Commission took action to adopt regulations for 28 central coast MPAs, including the Vandenberg SMR. The SMR designation prohibits any type of take, thus it is considered the backbone of the MPA network. The Vandenberg SMR was intended to protect unique and diverse habitats and species in an area where vessel traffic/extensive human use was already limited due to the Vandenberg Air Force Base.

The Commission has authority over most hunting and fishing regulations in California and oversees the establishment of wildlife areas, ecological reserves, and the designation of MPAs under the MLPA. As part of the adaptive management process, the Commission will be conducting a decadal review of the statewide MPA network in 2022. As part of this review, the Commission will receive information on the four focal

Mr. Throop, Lompoc City Manager
May 4, 2020
Page 2

areas of MPA Program: 1) policy and permitting; 2) enforcement and compliance; 3) outreach and education; and 4) monitoring and research. The Commission will also receive recommendations, if any, for future management actions utilizing all available sources of information. In addition to the decadal review, the Commission may consider amendments to the MPA network in response to petitions for regulatory change. Every person or agency recommending that a regulation be added, amended, or repealed must submit a petition to the Commission. Details regarding the regulatory petition process can be found on the Commission's website at www.fgc.ca.gov.

If you need additional information please do not hesitate to contact Stephen Wertz, Senior Environmental Scientist at (562) 342-7184 or at [REDACTED]

Sincerely,



Craig Shuman, D. Env.
Regional Manager, Marine Region
[REDACTED]

cc: Melissa Miller-Henson, Executive Director
Fish and Game Commission
[REDACTED]

Becky Ota, Program Manager
Marine Region
[REDACTED]

Stephen Wertz, Senior Environmental Scientist
Marine Region
[REDACTED]



Tracking Number: (2022-12)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: James Stone

Address: PO Box 111, Sutter CA 95982

Telephone number: [REDACTED]

Email address: jstone@ncgasa.org

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Sections 200, 205, 265 and 275, Fish and Game Code

3. Overview (Required) - Summarize the proposed changes to regulations: NCGASA and our partners are proposing a slot limit on striped bass from 20-30 inches. This would increase, from 18 inches to 20 inches, the size of a fish that may be harvested, and further restrict the harvest of any mature fish in the system above 30 inches. This slot limit would apply in both fresh and salt water, since striped bass are an anadromous species. Our organizations believe the 20-30 inch slot limit is an appropriate starting point to balance angler harvest, recreational enthusiasm, and protection of the species; we understand the Commission and Department may have perspectives on other limits and we welcome that discussion.

4. Rationale (Required) - Describe the problem and the reason for the proposed change:

NCGASA previously submitted a Petition for Regulatory Change for a striped bass slot limit, for the purpose of protecting the species, on April 3rd, 2020. NCGASA and our partners believed that petition would cover both inland and marine waters, given that striped bass are an anadromous species. Recently, we have been informed by Department staff that they interpreted this request to apply only to inland waters. After consultation with Department staff we have been encouraged to submit this clarifying petition. Therefore, we are additionally submitting this petition to clarify that the proposed slot limit should apply for the protection of this species in both inland (fresh) and marine (salt) waters.



NCGASA has been collaborating with nearly every other angling organization in the state that cares about striped bass, both inland and in marine waters. Our organizations collectively represent the voice of California's recreational angling community, from charter boats in the estuary and ocean to inland guides, fly fishers, and others. Together, we represent the vision of the majority of California's recreational angler communities, whose fishing license revenue fund fishery-related research, and enforce regulatory protection of fish and wildlife.

The Fish and Game Commission (FGC) recently approved changes to California's 1996 Striped Bass policy which our collective organizations strenuously objected. In addition to removing numeric targets for one of California's most heavily sought-after recreational angling species (Striped Bass), the FGC further directed the Department of Fish and Wildlife (DFW) to deprioritize investment in Striped Bass population research because of their non-native status. This despite the fact that Striped Bass were introduced 146 years ago and face exactly the same poor aquatic habitat conditions and water conveyance threats to survival as native fishes, including listed anadromous salmonids.

Over the past two years, our recreational angling community has been a committed party in discussions with FGC's and the DFW's leadership to present pragmatic solutions to the management of Striped Bass as a game fish. This included finding fiscal and non-fiscal management actions, including funding for the DFW to study, develop and implement a Fisheries Management Plan and/or other alternatives geared toward Striped Bass long term health and viability (conservation).

This proposal is one of those alternatives. The regulatory change petition proposed by NCGASA and supported by our organizations offers a low-cost alternative management tool that will promote the conservation of Striped Bass. By restricting take to a specific target size range, younger, sub-adult, Striped Bass females will have an opportunity to reach reproductive maturity and older large adults will be prevented from catch from the SFEW during their most reproductive years.

Additionally, NCGASA has committed financial resources to collect real time data on the Striped Bass population to facilitate management decisions based upon defensible science. It is our sincere hope that our recreational angling community can team with DFW to provide credible science on the current status of the Striped Bass to conserve Striped Bass for future generations of anglers.

It is not just the salmon and delta smelt populations that are in crisis. The striped bass population is collapsing parallel to the salmon populations and for the same reasons. The striped bass population is in desperate trouble at each life stage critical to supporting a viable population. Striped bass are broadcast spawners with each female producing hundreds of thousands if not millions of eggs/larvae. In a healthy ecosystem only a very few of these larvae ever survive to become adults. It's been documented for over a 10 year period that maternal transfer of contaminants causes over 90% of striped bass larvae to die prior to first feeding (Ostrach et al. PNAS, 2008, Ostrach et al. POD final report 2009) . It has been documented in the pelagic organism decline studies that the few larvae that survive as juveniles are subjected to poor water quality and contaminants such that extremely high incidences of parasitism and disease are found in these young fish and very few survive as young of the year fish (Ostrach



D.J. et al., POD final report 2009, Durieux E.D. et al. 2010, Spearow J.L. et al. 2010). This provides clear credible scientific evidence as to why the young of the year index for striped bass has been near zero for the past decades. The young of the year index directly relates to population recruitment. The latest fall midwater trawl data for striped bass indicates one of the lowest indices ever recorded. In addition, current fishing regulations allow for the removal of female striped bass before they reach sexual maturity removing them from the breeding population resulting in having fewer females to spawn in subsequent years. Current regulations also allow for the removal of the largest females from the system. Typically the larger/older fish produce the most and the highest quality eggs. Removing them from the system causes the most successful and fecund striped bass to be taken out of the breeding pool. Striped bass growth rates are approximately half of what they were 25 or 30 years ago which relates to poor quality food and environmental conditions. For there to be a robust viable recreational fishery the striped bass population needs to be stabilized and restored.

In order to sustain Striped Bass populations, several East Coast states (e.g., Maine, Massachusetts, New York, and others), adopted slot lengths. These slot length limits ensure that female Striped Bass reach sexual maturity and have more than one opportunity to spawn before been captured. Over the decades of the slot length limit regulation implementation, small changes have been made based upon the health of the Striped Bass population which is tied to riverine, estuarine, and marine habitat conditions and food availability. The recreational angling community strongly supports the principles for Adaptive Management which must be built into Fishery Management Plans due to unpredictable environmental changes to sustain viable recreational angling opportunities in California. Bradley et al (2019) provided a new approach to fisheries data systems which promotes innovation to increase data coverage, accuracy and resolution, while reducing costs and allowing adaptive, responsive, near real-time management decision-making to improve fisheries outcomes.

SECTION II: Optional Information

5. Date of Petition: 8/1/2022

6. Category of Proposed Change

☒ Sport Fishing

☐ Commercial Fishing

☐ Hunting

☐ Other, please specify:

7. The proposal is to: *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*

☒ Amend Title 14 Section(s): 27.85 |

☐ Add New Title 14 Section(s):

☐ Repeal Title 14 Section(s): |

8. If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition [\[Click here to enter text.\]](#)
Or X Not applicable.



9. **Effective date:** If applicable, identify the desired effective date of the regulation. If the proposed change requires immediate implementation, explain the nature of the emergency:

Implementation consistent with the original petition for a striped bass slot limit which is under discussion.

10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: NONE
11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: NONE
12. **Forms:** If applicable, list any forms to be created, amended or repealed: NONE

SECTION 3: FGC Staff Only

Date received: Originally rec'd 8/1 (incomplete); updated 8/4/22

FGC staff action:

☒ Accept - complete

☐ Reject - incomplete

☐ Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: _____

Meeting date for FGC consideration: _____

FGC action:

☐ Denied by FGC

☐ Denied - same as petition _____

Tracking Number

☐ Granted for consideration of regulation change



Tracking Number: (2022-14_)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: Daniel Schoen

Address: [REDACTED]

Telephone number: [REDACTED]

Email address: [REDACTED]

Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Sections 200, 205 and 265, Fish and Game Code

Overview (Required) - Summarize the proposed changes to regulations: addition of Gooseneck barnacles to the list of ocean animals that recreational California Sportsmen may harvest.

2. Rationale (Required) - Describe the problem and the reason for the proposed change:

Gooseneck barnacles are currently illegal to harvest in California. This is not because they were delisted due to population concerns. It is because they were never included in a list of harvestable animals when the list was drafted, likely due to its lack of culinary popularity at the time. Current populations are more than sufficient to support a recreational allowance for California foragers and will improve the public knowledge of these members of our California ecosystem. Outdoorsmen are consistently the strongest group of conservationists and adding this species to their table fare will bring all barnacles into their realm of awareness, and protection.

SECTION II: Optional Information

3. Date of Petition: 14 August, 2022



4. Category of Proposed Change

- ☐ Sport Fishing
- ☐ Commercial Fishing
- ☐ Hunting

X Other, please specify: Foraging of invertebrates in Tidepools or other areas between the high tide mark (defined as Mean Higher High Tide) and 1,000 feet seaward and lateral to the low tide mark (defined as Mean Lower Low Water)

5. The proposal is to: (To determine section number(s), see current year regulation booklet or

<https://govt.westlaw.com/calregs>)

X Amend Title 14 Section(s): 29.05 B 1 |

☐ Add New Title 14 Section(s): [Click here to enter text.](#)

☐ Repeal Title 14 Section(s): [Click here to enter text.](#)

6. If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition : Not applicable.

7. Effective date: If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: January 1, 2023

8. Supporting documentation: Identify and attach to the petition any information supporting the proposal including data, reports and other documents:

- a. https://animaldiversity.org/accounts/Pollicipes_polymerus/
- b. <https://www.iucnredlist.org/search?query=pollicipes%20&searchType=species>
- c. <https://marine.ucsc.edu/target/target-species-pollicipes.html>
- d. <https://www.centralcoastbiodiversity.org/goose-neck-barnacle-bull-pollicipes-polymerus.html>

9. Economic or Fiscal Impacts: Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: Addition of Pollicipes Polymerus to the list of forageable invertebrates would not negatively affect businesses, jobs, schools or housing. It's main effect is to involve conservationists in the protection of an important piece of California's ecosystem by including barnacles in their diet.

10. Forms: If applicable, list any forms to be created, amended or repealed:

[Click here to enter text.](#)

SECTION 3: FGC Staff Only

Date received: 8/19/2022 |

FGC staff action:

x Accept - complete



- ☐ Reject - incomplete
- ☐ Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: _____

Meeting date for FGC consideration: _____

FGC action:

- ☐ Denied by FGC
- ☐ Denied - same as petition _____

Tracking Number

- ☐ Granted for consideration of regulation change

Memorandum

Date: December 5, 2022

Received 12/7/2022
Signed copy on file

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Petition 2022-04: Vandenberg State Marine Reserve**

A petition submitted by the City of Lompoc to the Fish and Game Commission (Commission) proposes to allow surf fishing within a portion of the Vandenberg State Marine Reserve. The California Department of Fish and Wildlife (Department) is in the process of developing a report for the first decadal management review (DMR) of the California Marine Protected Area (MPA) network and the Marine Protected Areas Management Program (Management Program). As part of this review, the Commission will receive information on progress towards meeting the goals of the [Marine Life Protection Act](#) along with adaptive management recommendations within the four focal areas of [MPA Program](#): 1) policy and permitting; 2) enforcement and compliance; 3) outreach and education; and 4) monitoring and research. The Department will be submitting the DMR to the Commission at their February 2023 meeting. Commission discussion of the DMR is scheduled to begin at their April 2023 meeting.

Given the pending DMR, the Department recommends consideration of this petition after the Commission receives and considers the DMR and provides adaptive management guidance.

Please direct further questions to Dr. Craig Shuman, Marine Regional Manager, at (805) 568-1246 or by email at r7regionalmgr@wildlife.ca.gov.

cc: Chad Dibble, Deputy Director
Wildlife and Fisheries Division

David Bess, Chief
Law Enforcement Division

Eric Kord, Assistant Chief
Law Enforcement Division

Becky Ota, Program Manager
Marine Region

Melissa Miller-Henson, Executive Director
Fish and Game Commission
December 5, 2022
Page 2

Stephen Wertz
Senior Environmental Scientist
Marine Region

California Fish and Game Commission
Non-Regulatory Requests for Action - Updated November 26, 2022

FGC - California Fish and Game Commission DFW - California Department of Fish and Wildlife
WRC - Wildlife Resources Committee MRC - Marine Resources Committee

Date Received	Name of Requestor	Subject of Request	Short Description	FGC Receipt Scheduled	FGC Initial Action Scheduled	Initial Staff Recommendation
8/14/2022	Denise Ferry	Sea Otters	Requests that sea otters be reintroduced to Drake's Estero in Point Reyes.	10/12-13/22	12/14-15/22	This request is under the purview of the US Fish and Wildlife Service and outside of FGC and DFW authority. No further action necessary.

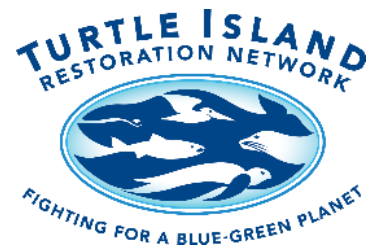
California Fish and Game Commission Marine Resources Committee (MRC) Work Plan

Updated Dec 5, 2022

Note: Proposed changes to topics/timing are shown in blue underscore or strike-out font.

TOPICS	CATEGORY	Jul 2022	Nov 2022	Mar 2023
Planning Documents & Fishery Management Plans (FMPs)				
MLMA Master Plan for Fisheries – Implementation Updates	Plan Implementation		X*	
Red Abalone FMP / Abalone Recovery Management Plan Update	FMP	X/R	X/R	
California Halibut Fishery Management Review	Management Review			
California Halibut Bycatch Evaluation for Fishery Management Review	Management Review	X*	X	X
Market Squid Fishery Management and FMP Review	Management/ FMP Review	X*		
Kelp Recovery and Management Plan development	Management Plan			
Marine Protected Area Network 2022 Decadal Management Review	Management Review		X*	X/R
Regulations				
California Halibut Trawl Grounds Review	Commercial Take	X*		
Kelp and Algae Commercial Harvest – Sea Palm (<i>Postelsia</i>)	Commercial Take			
California Spiny Lobster FMP Implementing Regulations Review	Implementing Regulations	X/R		
Implementation of 365-Day Sport Fishing License	Recreational Take	X		
Marine Aquaculture				
Aquaculture Program Planning (State Aquaculture Action Plan)	Planning Document			X
Aquaculture State Water Bottom Leases: Existing & Future Lease Considerations	Current Leases / Planning			
<i>Public Interest Determination Criteria</i> for New State Water Bottom Aquaculture Lease Applications	FGC Policy – New Leases	X	X/R	<u>X/R</u>
Aquaculture Lease Best Management Practices Plans (Hold, TBD)	Regulatory			
Emerging Management Issues				
Kelp Restoration and Recovery Tracking	Kelp			X
Invasive Non-native Kelp and Algae Species	Kelp / Invasive Species			
Special Projects				
California's Coastal Fishing Communities Project	MRC Special Project			
Coastal Fishing Communities Policy	FGC Policy	X*	X	X/R
Box Crab Experimental Fishing Permit (EFP) Research Project	EFP			

Key: X = Discussion scheduled X/R = Recommendation may be developed and may move to Commission
* = Written agency update



December 1, 2022

Ms. Samantha Murray, President
California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090

RE: Agenda Item 9A: Marine Resources Committee – Bycatch in Set Gillnets & Halibut Trawls

Dear President Murray,

We appreciated the attention and discussion at the November 17, 2022 Marine Resources Committee (MRC) regarding bycatch in set gillnet and bottom trawl fisheries targeting California halibut. Bycatch with these gear types rose to the top of the list in the Marine Life Management Act (MLMA) Master Plan prioritization process and is a top concern for a wide suite of stakeholders. We hope to find solutions to minimize bycatch and ensure sustainable fishing communities.

Over the last year, Oceana and Turtle Island Restoration Network thoroughly analyzed publicly available data from federal observer programs and other sources to better understand the complex issues associated with bycatch in California set gillnets and bottom trawls. We are grateful to members of the California Department of Fish & Wildlife (CDFW) and Fish and Game Commission staff for their guidance in navigating the myriad of data constraints associated with this fishery.

To this end, attached are initial overview summaries for each of the two gear types containing some of our high-level findings at the statewide scale. The federal set gillnet observer data combines sets targeting California halibut and white seabass, and reports catch, discards, and observed discard mortality by numbers of individual fish and other animals. The federal West Coast Groundfish Observer Program provides annual statewide summaries of total weights of each species caught and discarded in the California halibut trawl fishery. Trawl discard mortality is not assessed by observers and is assumed by NMFS to be 100% as the default unless other estimates are available for certain species. We are also attaching NMFS' official public write-up on a gray whale disentanglement event in June 2022 off Southern California involving 8-inch mesh pink monofilament gillnet. It is our hope that these summaries provide an initial glance at the bycatch issues with these gear types to inform the MRC and relevant stakeholders of rate and magnitude of bycatch caused by set gillnets and halibut trawls.

We are supportive of the MRC's guidance for CDFW to complete the MLMA Master Plan Bycatch Inquiry for the set gillnet component of the California halibut fishery to inform a March 2023 MRC recommendation to the full Commission on bycatch acceptability. It is our intention that the attached information augments the Department's bycatch analysis and helps provide focus toward a robust and timely basis for decision-making. Thank you and we look forward to further discussions with CDFW, the MRC, and the Commission.

Sincerely,

Geoff Shester, Ph.D.
Oceana

Scott Webb
Turtle Island Restoration Network

Bycatch in California Halibut and White Seabass Set Gillnets – December 2022 Summary

California's set gillnets have among the highest discard rates - by number of animals - of any fishery in the country. These nearly invisible monofilament net panels extend for hundreds of yards weighted to the seafloor, entangling many species of fish and wildlife in their path. California voters passed Proposition 132 in 1990 banning set gillnets in state waters, and the Fish and Game Commission banned the nets off Central California in 2002. Vulnerable fish, sharks, and porpoises have rebounded in areas where set gillnets are banned.¹ However, set gillnets continue to harm fish, wildlife, and ecosystems where this gear is still allowed further offshore in federal waters off Southern California. Data presented in this factsheet represents the combined California halibut and white seabass multi-species set gillnet fishery recorded by the National Marine Fisheries Service (NMFS) federal observer program.

By the numbers:

- Set gillnets catch over 125 species including fish, sharks, rays, seabirds, sea lions, seals, and dolphins.^{2,3,4} 17 of these species are retained more often than they are discarded.
- This fishery has historically been documented to catch endangered leatherback sea turtles.⁵ The fishery is likely involved in large whale entanglements, but the gear is not uniquely marked so cannot be distinguished from other gillnets.^{6,7}
- 64% of individual fish and animals caught in set gillnets are discarded overboard, more than half of them already dead.² The population status of most discarded species is unknown.
- In halibut-targeting set gillnet trips using 8-inch mesh, California halibut accounts for 10.6% of all animals caught.⁸
- Set gillnets discard 12% of the individual California halibut caught.² Observers documented that approximately 40% of these discarded California halibut are already dead before being discarded at sea.²
- Set gillnets were not observed in 9 of the last 15 years. In the 6 years the fishery was observed, NMFS estimates they observed 12.5% of total fishing effort.⁹
- The California Department of Fish and Wildlife tracks set gillnet fishing effort differently than the federal observer program, which creates uncertainty in estimates of total bycatch and potential population impacts. By conservative estimates, 230,000 animals were discarded from 2007-2021;^{2,10} however, commercial fish landings data indicate the number could be as high as 2 million.¹¹

**Composition of Catch in California Set Gillnets
2007 - 2021**

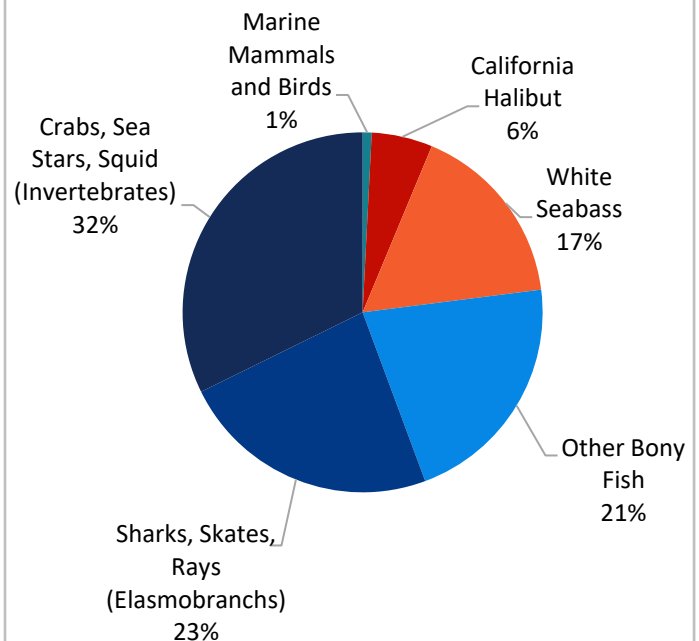


Figure 1. Composition of catch in California set gillnets; separated by target species (California halibut and white seabass), other bony fish (not including target species or elasmobranch species), elasmobranchs (sharks, rays, and skates), invertebrates, and birds/mammals. Catch includes protected species but does not include confirmed large whale entanglements. Percentages are calculated as proportion of individuals in the total number of individuals caught, as reported in the NMFS observer data and protected species data for birds and mammals.^{2,3,4}

- Set gillnets catch 25 species of sharks, skates, and rays, many of which have unassessed populations.² Most shark and ray species mature slowly and have few young, which makes them especially vulnerable to rapid population declines due to fishing pressure.^{12,13,14,15}
- NOAA Fisheries estimates from 2001 to 2011 California set gillnets caught an average of 25 juvenile great white sharks per year which is more than 90% of all the juvenile great white sharks captured in all California fisheries (NOAA Fisheries estimates roughly 50% mortality in the nets).¹⁶
- Set gillnets kill seabirds such as cormorants and common murrelets that are entangled in the nets as the birds dive and forage for food.³
- Annually set gillnets kill an estimated 178 marine mammals — mostly sea lions, but also harbor seals and dolphins.⁴ This fishery kills more California sea lions than all other West Coast fisheries combined.¹⁷ These numbers do not include animals that escape injured or entangled, and only includes estimates based on marine mammals observed dead by infrequent federal observers.
- From 2000 to 2019, NOAA Fisheries confirmed 32 reports of whales entangled in unidentified gillnets (excluding documented large-mesh drift gillnet entanglements) off the U.S. West Coast.⁶ This includes 7 humpback whales, 24 gray whales, and 1 unidentified whale. In summer of 2022, NOAA Fisheries confirmed an 8-inch pink monofilament gillnet - typical of the set gillnet fishery targeting California halibut - entangling a gray whale off the coast of Redondo Beach, CA.¹⁸ Set gillnets do not have unique gear marking requirements and are also used in Mexico, so NOAA Fisheries is unable to attribute the fishery involved in most gillnet entanglements. An unknown number of whale entanglements are not reported.

The California Fish and Game Commission is responsible for set gillnet management and is required under state law to reduce bycatch to acceptable levels.

¹ Forney et al. 2020. A multidecadal Bayesian trend analysis of harbor porpoise (*Phocoena phocoena*) populations off California relative to past fishery bycatch. *Mar Mam Sci*. 2021; 37: 546–560. <https://doi.org/10.1111/mms.12764>

² NMFS. 2022. California Set Gillnet Observer Program, Observed Catch 2007-01-01 to 2017-12-31. NOAA. <https://media.fisheries.noaa.gov/2022-01/setnet-catch-summaries-2007-2010-2013-2017.pdf> * this program only provides number of individuals caught in the set gillnet fishery, therefore catch weights are unavailable

³ NMFS. National Bycatch Report Database, Seabird Bycatch by Fishery 2011, 2012, Update 2. <https://apps.fisheries.noaa.gov/stapex/f?p=243:101:29602220642274:::> Accessed August 2022

⁴ NMFS. 2021. Marine Mammal Stock Assessment Reports by Species/Stock. NOAA Fisheries. <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-species-stock>. Accessed July 2022.

⁵ Julian, F., Beeson, M., (1998). "Estimates of marine mammal, turtle, and seabird mortality for two California gillnet fisheries: 1990 -1995". Fishery Bulletin US Department of Commerce National Ocean and Atmospheric Association, 96 (2), Pg. 273. Available: <https://spo.nmfs.noaa.gov/sites/default/files/pdf-content/fish-bull/julian.pdf>

⁶ NMFS. 2021. Large whale entanglements off the U.S. West Coast, from 1982-2017. Saez, L., D. Lawson, and M. DeAngelis. NOAA Tech. Memo. NMFS-OPR-63A, 50 p. Available: https://fisheries.legislature.ca.gov/sites/legislature.ca.gov/files/Large%20whale%20entanglements%20off%20the%20U.S.%20West%20Coast%201982-2017_Final%20031921.pdf

⁷ NMFS. 2020. Master data of large whale entanglement records off the U.S. West Coast. L. Saez, Personal communication. * whale entanglement data used excludes gillnet entanglements positively identified as large-mesh drift gillnets, and is an updated dataset through 2019 of the original Master data of large whale entanglement records off the U.S. West Coast up to 2017.

⁸ CDFW. 2022. Percent California halibut caught by number of animals in halibut targeting set gillnet trips. K. Ramey, Personal communication. November 2022.

⁹ NMFS. 2022. CA Halibut, White Seabass and Other Species Set Gillnet (>3.5 in mesh) - MMPA List of Fisheries. <https://www.fisheries.noaa.gov/national/marine-mammal-protection/ca-halibut-white-seabass-and-other-species-set-gillnet-35-mesh> Accessed: October 2022

¹⁰ CDFW. 2022. Number of Trips by Gear/Year 2007 – 2021 from the Marine Landings Data System (MLDS) for Gillnet Fisheries in California. CDFW Personal Communication. 2022

¹¹ Pacific States Marine Fisheries Commission. Pacific Fisheries Information Network (PacFIN) In: Landings and revenue by gear type for years 2007- 2021. <http://www.psmfc.org/program/pacific-fisheries-information-network-pacfin>. Accessed: October 2022

¹² Froese, R. and D. Pauly. Editors. 2022. FishBase. World Wide Web electronic publication. www.fishbase.org, (06/2022)

¹³ Oliver S, Braccini M, Newman SJ, Harvey ES (2015) Global patterns in the bycatch of sharks and rays. *Mar Policy* 54:86–97

¹⁴ James KC, Lewison RL, Dillingham PW, Curtis KA, Moore JE (2016) Drivers of retention and discards of elasmobranch non-target catch. *Environ Conserv* 43: 3–12

¹⁵ Dulvy NK, Fowler SL, Musick JA, Cavanagh RD and others (2014) Extinction risk and conservation of the world's sharks and rays. *eLife* 3: e00590

¹⁶ Dewar et al. 2013, Status Review of the Northeastern Pacific Population of White Sharks (*Carcharodon Carcharias*) under the Endangered Species Act, 2013. <https://repository.library.noaa.gov/view/noaa/17705>. Table 4.3 Average estimated catches from U.S. west coast set nets 2001-2011.

¹⁷ NMFS. 2019. Marine Mammal Stock Assessment Reports by Species/Stock: CALIFORNIA SEA LION (*Zalophus californianus*): U.S. Stock. NOAA Fisheries. https://media.fisheries.noaa.gov/dam-migration/ca_sea_lion_final_2018_sar.pdf. Accessed November 2022. *estimates by fishery located in Table 1.

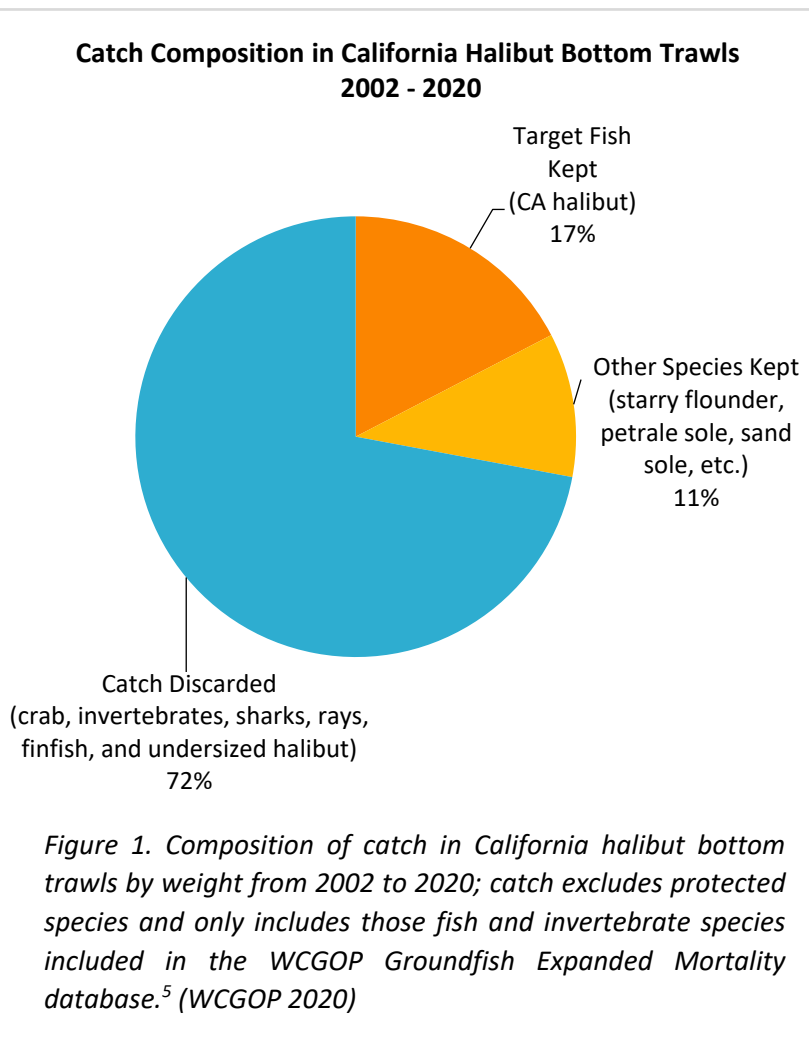
¹⁸ NMFS. 2022. NOAA Fisheries Whale Entanglement Response Program. Official Report. L. Saez, Personal communication. June 2022.

Bycatch in California Halibut Bottom Trawls – December 2022 Summary

The state-managed California halibut bottom trawl fishery has the highest rate of discarded catch of any observed fishery in the United States.¹ Bottom trawling is a fishing practice that involves dragging nets with metal doors and footropes over the seafloor to catch fish. The California state legislature recognized the damaging effects of the California halibut trawl fishery by enacting Senate Bill 1459 in 2004, which implemented a ban on bottom trawling in all state waters, with the exception of specific California halibut trawl grounds off Santa Barbara and Ventura.² This fishery currently operates in the remaining open California halibut trawl grounds in state waters using restricted gear, and in federal waters along the continental shelf off Southern and Central California. The California Fish and Game Commission is required to re-evaluate the state trawl grounds every three years to ensure the fishery minimizes bycatch, seafloor damage, and impacts to ecosystem health. The California Department of Fish and Wildlife is currently in the process of assessing these California halibut trawl grounds for Commission review for the first time since 2008. Some of the trawl grounds remain open based on a 2008 study of experimental 15-minute tows where most of the bycatch was released alive.³ However, tow length in the state-wide fishery is documented to be much longer. Between 2002 and 2021, over the course of 5,304 observed tows statewide, federal observers documented tow times averaging 2.5 hours at a time.⁴ Halibut trawl tow durations, bycatch composition, and gear configurations may vary across different parts of the state. NOAA Fisheries observers track the catch and discards in halibut bottom trawls but do not assess their mortality rates. In their public reports, NOAA Fisheries assumes a default of 100% mortality for all discarded species unless species-specific mortality rates are assessed.⁵ While the fishery may differ depending on the regions fished, the data presented in this summary includes aggregated statewide data as reported by the West Coast Groundfish Observer Program (WCGOP).

By the numbers:

- California halibut trawls have been observed to catch over 248 distinct species, including finfish, sharks, rays, seabirds, invertebrates, sea lions, seals, and a population of green sturgeon listed as threatened with extinction under the U.S. Endangered Species Act (ESA).^{5,6,7,8}
- 55 of these species are primarily retained for sale – 193 species are primarily discarded at sea.⁵ However, 94% of the trawl fishery revenue comes from California halibut, meaning the other 54 landed species account for 6% of the total landings value.⁹
- 72% of the total observed halibut trawl catch by weight was discarded overboard from 2002 to 2020.⁵ The population status of most discarded species is unknown.
- Over 1 million pounds of marine life is discarded annually in the California halibut trawl fishery, more than double the amount of catch that is kept and sold each year.⁵



- California halibut trawls are the biggest fishery threat to the ESA-listed population of green sturgeon. These trawls are responsible for 99% of the West Coast fishery bycatch of this green sturgeon population.^{8,10} Annually this fishery catches an average of 328 threatened green sturgeon, and mortality is estimated to be approximately 20%.^{8,11} A recent federal review of the threatened green sturgeon population states that any take of adult and subadult SDPS green sturgeon due to fishing activity may limit population productivity.¹⁰
- NOAA Fisheries estimates approximately 200,000 pounds of dead sharks, skates, and rays comprised of 29 different species are thrown back to sea every year in the California halibut trawl fishery.⁵
- An average of 45 marine mammals are caught and killed each year in the California halibut trawl fishery, mostly comprised of California sea lions and occasionally Steller sea lions. The fishery has rare encounters with harbor seals and elephant seals.⁷ An average of 44 seabirds die in these nets each year, including Brandt's cormorants, common murrelets, and western gulls.⁶
- Every year California halibut trawls discards an average of 360,000 pounds of Dungeness crab, which is more by weight and value than the catch of California halibut.^{5,9}

The California Fish and Game Commission is responsible for California halibut trawl management and is required under state law to reduce bycatch to acceptable levels in all areas where the fishery occurs. The Commission is also required to close any state waters trawl grounds where bycatch is not minimal.

Of the 28 issued halibut trawl fishing permits in 2021, 18 participants actively fished.¹² On average, trawl-caught California halibut accounts for approximately 1% of total annual commercial fishing revenue in California, and its relative importance varies by port.¹³ California halibut landings by all gear types are highest in the ports of San Francisco and Santa Barbara, representing 8.6% and 2.5% of total fishing revenue respectively in 2021.¹³

¹ NMFS. 2019. U.S. National Bycatch Report First Edition Update 2 and 3. U.S. Department of Commerce, 90 p. Available: <http://www.st.nmfs.noaa.gov/observer-home/first-edition-update-2>

² California Legislative Information (2003-2004) SB-1459 Fishing: trawl nets. In: Section 1-6. Available: http://leginfo.ca.gov/faces/billCompareClient.xhtml?bill_id=2003200405B1459 Accessed: October 2022.

³ Frimodig A, Horeczko M, Mason T, et al. 2008. Review of California Halibut Trawl Fishery in the California Halibut Trawl Grounds, Report to the California Fish and Game Commission. California Department of Fish and Game. 44p. Available: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=36120>

⁴ West Coast Groundfish Observer Program. 2022. Observed California Halibut Trawl Haul Durations 2002-2021. WCGOP Personal Communication July 2022. Data Request from NOAA by Oceana.

⁵ West Coast Groundfish Observer Program. 2020. Groundfish Expanded Mortality Multiyear (GEMM), 2002-20. U.S. Department of Commerce, NOAA Data Report NMFS-NWFSC-DR-2020-01. Available: <https://doi.org/10.25923/zfxe-9m37> * **data presented in this report is aggregated statewide, and assumes 100% mortality for all species that were not evaluated for individual species mortality rates** *

⁶ Jannot, J. E., K. A. Somers, V. Tuttle, J. McVeigh, and T. P. Good. 2021. Seabird Mortality in U.S. West Coast Groundfish Fisheries, 2002-18. U.S. Department of Commerce, NOAA technical memorandum NMFS NWFS-165. DOI : <https://doi.org/10.25923/78vk-v149>

⁷ Jannot, J. E., K. A. Somers, V. J. Tuttle, J. Eibner, K. E. Richerson, J. T. McVeigh, J. V. Carretta, N. C. Young, and J. Freed. 2022. Marine Mammal Bycatch in U.S. West Coast Groundfish Fisheries, 2002-19. U.S. Department of Commerce, NOAA Technical Memorandum NMFS-NWFSC-176. <https://doi.org/10.25923/h6gg-c316>

⁸ Richerson, K. E., J. E. Jannot, J. T. McVeigh, K. A. Somers, V. J. Tuttle, and S. Wang. 2022. Observed and Estimated Bycatch of Green Sturgeon in 2002-19 U.S. West Coast Groundfish Fisheries. U.S. Department of Commerce, NOAA Technical Memorandum NMFS-NWFSC-178. <https://doi.org/10.25923/tpk7-mj29>

⁹ Pacific States Marine Fisheries Commission. Pacific fisheries information network (PacFIN) In: Landings and revenue by gear type for years 2002-2021. Available: <http://www.psmfc.org/program/pacific-fisheries-information-network-pacfin> Accessed: August 2022

¹⁰ NMFS. 2015. Southern Distinct Population Segment of the North American Green Sturgeon (*Acipenser medirostris*) 5-Year Review: Summary and Evaluation. Available: <https://repository.library.noaa.gov/view/noaa/17034>

¹¹ Doukakis, Phaedra. 2020. Post release survival of green sturgeon (*Acipenser medirostris*) encountered as bycatch in the trawl fishery that targets California halibut (*Paralichthys californicus*), estimated by using pop-up satellite archival tags: suppl. table 1. Fishery Bulletin. 118. 10.7755/FB.118.1.6s1.

¹² T. Tanaka, CDFW. 2022. Personal Communication. November, 2022.

¹³ Pacific States Marine Fisheries Commission. Pacific fisheries information network (PacFIN) In: Landings and revenue by port for 2021. Available: <http://www.psmfc.org/program/pacific-fisheries-information-network-pacfin> Accessed: August 2022



NOAA Fisheries West Coast

June 17, 2022 Official Post on Facebook

Entanglement response teams successfully freed a gray whale entangled in a gillnet off Dana Point, California this week!

The sub-adult gray whale was originally reported on Monday morning off Redondo Beach, CA and seen again on Wednesday morning off Aliso Canyon by a [Dana Wharf Whale Watch](#) boat. Multiple groups including [Sea Tow](#), [Newport Coastal Adventure](#), [Captain Dave's Dolphin Safari](#), and private boaters reported the whale's condition and movement and stayed with the whale as NOAA's Large Whale Entanglement Response Team coordinated response. Once on site, rescue teams from [SeaWorld San Diego](#) Rescue Team and [Pacific Marine Mammal Center](#) led by Keith Yip began the response by documenting the nature and type of entanglement. A mass of pink mesh gillnetting and floats were deeply embedded in the tailstock and the whale was swimming very slowly. The responders used multiple tactics to remove the netting in a way that would be safe for both the whale and the rescue team. The team was able to cut through the gear, making over 100 cuts to loosen the net. The response took nearly 3 hours until finally all the heavy gear was removed and collected late Wednesday afternoon. **The gillnet was pink monofilament with an 8-inch mesh size throughout the net.** The gray whale was completely freed and swam away.

The freed gray whale is one of thousands of gray whales that migrate along the West Coast and together represent an important conservation success. Thanks to protection from the Marine Mammal Protection Act, they rebounded from near extinction and were removed from the list of endangered species in 1994.

Entanglements are a concern for whales along the US West Coast. Read the 2021 West Coast Whale Entanglement Summary: <https://bit.ly/3y0XoZY>

Due to the dangerous nature of responding to entangled large whales, responders go through extensive training and many years of apprenticeship to learn the proper techniques and protocols to ensure their safety and that of the animals. Untrained members of the public should never attempt to disentangle marine life themselves. Critical to the success of this effort was the quick report from [Dana Wharf Whale Watch](#) and their willingness, along with multiple other whale watch and private vessels to stand by with the whale. The response was further helped by the excellent weather condition, the location of the whale, the whale being relatively cooperative, and the nature of the entanglement.

To report entangled marine mammals:

Entanglement Reporting Hotline: 1-877-SOS-WHALE or 1-877-767-9425

The U.S. Coast Guard: VHF Ch. 16

Learn more about NOAA's Large Whale Entanglement Response Program: <https://bit.ly/3O4RDjE>

Thank you to these reporting parties and standby vessels:

Alisa Schulman-Janiger, [American Cetacean Society - Los Angeles Chapter \(ACS/LA\)](#) Gray Whale Census and Behavior Project

[Dana Wharf Sportfishing](#) & [Dana Wharf Whale Watch](#)

[Newport Coastal Adventure](#)

[Captain Dave's Dolphin Safari](#)

[Sea Tow](#)

Thank you to the rescue team:

[SeaWorld San Diego](#): Keith Yip, Mike Hopkins, Jeni Fain

[Pacific Marine Mammal Center](#): Lindsey VanShoick, Mia Giunta, Malena Berndt, Alissa Deming, Bill Lackey







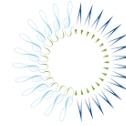
OCEANA



Ocean Conservancy®



Heal the Bay



THE PEW CHARITABLE TRUSTS



Resource Renewal Institute
40 Years. Innovation for a Sustainable Future.



December 1, 2022

Ms. Samantha Murray, President
California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090

RE: Agenda Item 9: Marine Resource Committee: Bycatch in California Halibut Fisheries

Dear President Murray and Members of the Commission,

We, the undersigned organizations, are concerned about the high levels of bycatch in set gillnet and bottom trawl fishing gears targeting California halibut, which was addressed at the November 2022 Marine Resources Committee (MRC) meeting. The unintended catch and discarding of dead or injured marine life is widely considered among the top ecological impacts of fisheries – contributing to population impacts and a reduction in marine biodiversity.

While several gear types target California halibut, the primary bycatch concerns are associated with bottom trawls and set gillnets.¹ These two fisheries collectively catch 278 distinct species – including many sensitive, vulnerable, and threatened species unique and critical to the California current ecosystem.^{2,3} Set gillnets consist of nearly invisible monofilament net panels extending for hundreds of yards along the seafloor, entangling fish and wildlife in their path. Due to the bycatch concerns, this gear type was banned within state waters by a 1990 California ballot proposition and was banned off Central California by the California Fish and Game Commission in 2002. However, set gillnets still operate relatively unchecked in Southern California federal waters. Vulnerable fish and porpoises have rebounded in areas where set gillnets were previously banned.⁴ Halibut bottom trawls pose similar problems. The National Marine Fisheries Services' National Bycatch Report identifies the California halibut bottom trawl fishery as having the highest discard rate of any observed fishery in the U.S.⁵, despite previous efforts by the Commission to regulate the fishery through SB 1459. These two California fisheries targeting halibut continue to harm fish, wildlife, and ecosystems where they are still allowed, and the chronic bycatch issues urgently need to be addressed.

We are all interested in supporting and enjoying seafood sourced from local California anglers. We rely upon fishery managers and policymakers to ensure this seafood is responsibly harvested in a way that supports recreation, other fisheries, and the unique marine biodiversity along California's coastline. The Marine Life

Management Act (MLMA) includes bycatch acceptability criteria and associated processes for determining acceptability via the MLMA Master Plan for Fisheries, giving resource managers the tools needed to both identify bycatch concerns and implement measures to minimize bycatch. In the context of these criteria and based on publicly accessible federal observer data and other bycatch information, we believe the ongoing rates and impacts of bycatch in California halibut bottom trawls and set gillnets are unacceptable. We urge the commission to undertake its process and make formal determinations that bycatch is unacceptable in these two gear types and develop solutions towards minimal bycatch fisheries that support both local seafood and healthy ecosystems.

Thank you for your consideration and for your work to ensure sustainable California fisheries.

Sincerely,

Geoff Shester
California Campaign Director
Oceana

Scott Webb
Advocacy & Policy Director
Turtle Island Restoration Network

Ashley Eagle-Gibbs
Legal & Policy Director
EAC West Marin

Cary Strand
Community Outreach Coordinator
American Cetacean Society San Diego Chapter

Evelina Marchetti
Chief Operating Officer
Project O

Emily Parker
Coastal and Marine Scientist
Heal the Bay

Greg Helms
Manager Fishery Conservation
Ocean Conservatory

Laura Walsh
California Policy Manager
Surfrider Foundation

Gilly Lyons
Officer, Conserving Marine Life in the U.S.
The Pew Charitable Trusts

Jason Schratwieser
President
International Game Fish Association

Michael Bear
Board Member
Shark Stewards

Erin Politz
Vice President
The Sea Change Agency

Kimberly Ray
Founder & CEO
Marine Conservation Network

Chance Cutrano
Director of Programs
Resource Renewal Institute

¹ CDFW. MLMA Master Plan Fishery Prioritization. 2018. <https://wildlife.ca.gov/Conservation/Marine/MLMA/Master-Plan/Prioritizing-Management-Efforts/results-of-fisheries-prioritization#gsc.tab=0> and Samhouri et al. 2019. An ecosystem-based risk assessment for California fisheries co-developed by scientists, managers, and stakeholders, Biological Conservation 231 (103-121) <https://www.sciencedirect.com/science/article/pii/S0006320718302696>

² NMFS. 2022. California Set gillnet Observer Program, Observed Catch 2007-01-01 to 2017-12-31. NOAA. <https://media.fisheries.noaa.gov/2022-01/setnet-catch-summaries-2007-2010-2013-2017.pdf>

³ NMFS. 2019. U.S. National Bycatch Report First Edition Update 2 and 3. U.S. Department of Commerce, 90 p. Available: <http://www.st.nmfs.noaa.gov/observer-home/first-edition-update-2>

⁴ Forney et al. 2020. A multidecadal Bayesian trend analysis of harbor porpoise (*Phocoena phocoena*) populations off California relative to past fishery bycatch. *Mar Mam Sci.* 2021; 37: 546–560. <https://doi.org/10.1111/mms.12764>

⁵ NOAA National Bycatch Report (2011), Update 1 (2014), Update 2 (2016), and 3 (2019). <https://www.fisheries.noaa.gov/resource/document/national-bycatch-report>

Razor Clam Fishery Closes In Del Norte County Due To Public Health Hazard

November 3, 2022



The California Department of Fish and Wildlife (CDFW) Director Charlton H. Bonham has [closed the recreational razor clam fishery in Del Norte County \(PDF\)](#) following a [recommendation from state health agencies \(PDF\)](#) determining that consumption of razor clams in the area poses a significant threat for domoic acid exposure.

Pseudo-nitzschia, a naturally occurring single-celled, marine alga, produces the potent neurotoxin domoic acid under certain ocean conditions. Bivalve shellfish, like clams and mussels, accumulate the toxin without being harmed. In fact, razor clams are known to bioaccumulate domoic acid, meaning it may not clear their system until long after a bloom has abated.

Sampling of razor clams from Crescent Beach in Crescent City in late October found clams exceeding the current federal action level for domoic acid of greater than or equal to 20 parts per million.

Domoic acid poisoning in humans may occur within minutes to hours after consumption of affected seafood and can result in signs and symptoms ranging from vomiting and diarrhea to permanent loss of short-term memory (Amnesic Shellfish Poisoning), coma or death. There is

no way to prepare clams for consumption that will remove the toxin – cooking and freezing have no effect.

CDFW will continue to work with the California Department of Public Health (CDPH) and Office of Environmental Health Hazard Assessment to collect, monitor and analyze razor clams to determine when the recreational clam fishery in Del Norte County can be reopened safely.

For more information on any fishery closure or health advisories, please visit: www.wildlife.ca.gov/Fishing/Ocean/Health-Advisories

To get the latest information on current fishing season closures related to domoic acid, please call CDFW's **Domoic Acid Fishery Closure Information Line** at (831) 649-2883.

For the latest consumption warnings, please call **CDPH's Biotoxin information Line** at (510) 412-4643 or toll-free at (800) 553-4133.

CDFW Continues Partial Recreational Crab Trap Restriction And Commercial Dungeness Crab Fishery Delay To Protect Whales From Entanglement And Due To Low Crab Quality

November 21, 2022



The California Department of Fish and Wildlife (CDFW) is continuing the temporary recreational crab trap restriction in Fishing Zones 3, 4, 5 and 6 due to presence of humpback whales and the potential for entanglement from trap gear. However, the recreational crab trap restriction for Fishing Zones 1 and 2 will be lifted on Nov. 28, 2022 at 9 a.m. CDFW reminds recreational crabbers that take of Dungeness crab by other methods, including hoop nets and crab snares, is allowed during a temporary trap restriction.

The commercial Dungeness crab fishery in Fishing Zones 3-6 will also remain delayed due to presence of high numbers of humpback whales and the potential for entanglement with lines and traps in this fishery.

CDFW anticipates the next risk assessment will take place on or before Dec. 7, 2022, at which time CDFW Director Charlton H. Bonham will re-evaluate the temporary recreational crab trap restriction and commercial fishery delay in Fishing Zones 3-6. That risk assessment is

expected to inform the potential for a commercial fishery opener and modification of the recreational trap restriction in Fishing Zones 3-6 on Dec. 16, 2022.

“We appreciate the discussions with the California Dungeness Crab Fishing Gear Working Group regarding risk of entanglement,” said Director Bonham. “Ultimately, we must rely on the best available science and make management decisions based on the Risk Assessment Mitigation Program (RAMP) regulations. CDFW remains committed to providing fishing opportunity when risk of entanglement is low, which is consistent with our management approach since implementation of RAMP.”

In addition, pursuant to Fish and Game Code 8672.2, Director Bonham has also delayed the northern California commercial Dungeness crab season due to [poor crab meat quality test results](#) for Mendocino, Humboldt and Del Norte counties (Fishing Zones 1 and 2). The commercial Dungeness crab fishery in this area is delayed until 12:01 a.m. on Friday, Dec. 16, 2022 pending another round of meat quality testing. If results indicate good quality, the fishery will open and be preceded by a 64-hour gear setting period that will begin at 8:01 a.m. on Tuesday, Dec. 13, 2022.

For more information related to the risk assessment process, please visit [CDFW's Whale Safe Fisheries page](#) or more information on the Dungeness crab fishery, please visit wildlife.ca.gov/crab.

California Fish and Game Commission Tribal Committee (TC) Work Plan

Updated December 2, 2022

Topic / Goal	Type / Lead	Aug 2022	Dec 2022	Apr 2023
Special Projects				
FGC justice, equity, diversity and inclusion plan	FGC Project	X		X
Tribal subsistence definition and related management mechanisms	TC Project	X	X	X
Co-management roundtable discussion	TC Project	X	X	X
Coastal Fishing Communities Project: Updates	MRC Project	X		X
Regulatory / Legislative				
Kelp and algae harvest management regulations: Updates and then recommendation and guidance	DFW Project and Regulation Change	X	X	X
Management Plans				
Sheep, deer, antelope, trout, abalone, kelp/seaweed: Updates and guidance (timing as appropriate for each)	DFW	X	X	X
Informational Topics				
Agency updates OPC – MPA Statewide Leadership Team; tribal outreach strategy; Tribal Marine Stewards Network DFW – Possible items include: – Marine protected areas decadal management review, update on tribal participation – Drought/wildfire impacts and state response – Climate adaptation, mitigation, science – Statewide kelp and abalone recovery efforts – Proposition 64 (cannabis) implementation – Other items as identified by DFW Other agencies, as appropriate or requested	OPC DFW	X	X X	X
Cross-pollination with MRC and WRC: Identify tribal concerns and common themes with MRC and WRC	FGC Committees	X	X	X
FGC regulatory calendar: Update	FGC staff	X	X	X

Key: X = Discussion scheduled X/R = Recommendation developed and moved to FGC

FGC = California Fish and Game Commission

MRC = FGC's Marine Resources Committee

DFW = California Department of Fish and Wildlife

WRC = FGC's Wildlife Resources Committee

OPC = California Ocean Protection Council

**BEFORE THE
FISH AND GAME COMMISSION
STATE OF CALIFORNIA**

In the Matter of the First Amended Accusation against:

JONATHAN EWART,

Respondent.

Agency Case No. 21ALJ01-FGC

OAH No. 2021050363

PROPOSED DECISION

Howard W. Cohen, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by video and teleconference on June 27 and 28, 2022.

David Kiene, Attorney, California Department of Fish and Wildlife (DFW or Department), represented complainant, David Bess, Chief, Law Enforcement Division, DFW.

E. Michael Linscheid, Attorney, represented respondent, Jonathan Ewart, who was present throughout the administrative hearing.

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At hearing, complainant moved to make the following amendments to the First Amended Accusation by interlineation:

(a) delete subparagraphs (1) and (2) of paragraph 29(a) in the Fifth Cause for Discipline, at page 18, lines 7 to 11 (line numbers approximate). (Ex. 4, p. A22.)

(b) delete the entire Sixth Cause for Discipline, at p. 22, lines 18 to 24 (line numbers approximate). (Ex. 3, p. A26.)

There was no objection and the motion was granted.

Testimony and documentary evidence was received. The record was held open until September 26, 2022, to allow the parties to file closing briefs. Complainant and respondent each filed a closing brief and complainant filed a reply closing brief; the briefs were marked for identification as exhibits 23, C, and 24, respectively.

The record was closed and the matter was submitted for decision on September 26, 2022.

SUMMARY

Respondent has worked as a licensed commercial fisher and as a permitted lobster fisher. Between October 2018 and December 2020, DFW wardens cited respondent for offenses arising out of his lobster operator permit activities, and on April 21 and May 16, 2016, DFW wardens cited or arrested respondent for several offenses arising out of his commercial passenger fishing vessel (CPFV) operations.

Complainant asks that the Fish and Game Commission (Commission) revoke respondent's commercial fishing license and lobster operator permit based on his alleged violations of the Fish and Game Code and of title 14 of the California Code of Regulations, and based on a criminal conviction for one of those violations, which respondent suffered in 2017.

Respondent produced rebuttal evidence and evidence of mitigation and rehabilitation. Respondent admits he made mistakes but argues that revocation of his license and permit would be punitive and unnecessary.

The evidence established most of the disciplinary charges. Respondent did not sufficiently rebut those charges or establish mitigating circumstances and rehabilitation. Complainant's request for revocation of respondent's commercial fishing license and lobster operator permit is granted.

FACTUAL FINDINGS

Parties and Jurisdiction

1. DFW issued to respondent a commercial fishing license (License) and a Lobster Operator Permit, no. LOT0272 (Permit), on dates not reflected in the evidence; complainant did not submit a certified license history. Based on evidence introduced at hearing, the License and Permit were in full force and effect at all times relevant in the First Amended Accusation.

2. On January 7, 2021, complainant signed the Accusation. The Accusation was served on respondent, who timely filed a notice of defense. On November 22,

2021, complainant signed the First Amended Accusation. Any new charges were deemed controverted under Government Code section 11507.

Complainant's First Amended Accusation

3. In the First Amended Accusation, complainant seeks to revoke respondent's Permit and License as a result of respondent having allegedly committed violations of the Fish and Game Code and attendant regulations between October 2018 and December 2020 and in April and May 2016, and as a result of a related criminal conviction respondent suffered in 2017.

LOBSTER FISHING

4. The First Cause for Discipline is based on allegations that respondent possessed undersized lobsters on December 30, 2020, in violation of Fish and Game Code sections 8252 and 121.5, subdivision (a).

5. The Second and Third Causes for Discipline are based on allegations that, on March 23, 2019, respondent possessed live lobsters out of season, including undersized lobsters, in violation of Fish and Game Code sections 121, subdivision (b), 8252, and 121.5, subdivision (a).

6. The Fourth and Fifth Causes for Discipline are based on allegations that respondent failed to lawfully deploy and maintain lobster traps and to submit to the DFW, or accurately keep, Daily Lobster Logs on various dates between October 2018 and March 2019, in violation of Fish and Game Code sections 122.2, subdivision (d), and 190, subdivision (a).

7. The Seventh Cause for Discipline is based on allegations that respondent failed to make landing receipts available for inspection within two weeks, by May 8,

2019, in response to a DFW peace officer's request on April 24, 2019, in violation of Fish and Game Code section 8046, subdivision (a).

COMMERCIAL PASSENGER FISHING

8. Complainant alleges that, on April 21 and May 16, 2016, respondent violated the Fish and Game Code, and was criminally convicted for some of those violations, while operating the CPFV Amigo.

Fishing for Groundfish in an Area Closed to Fishing

9. The Ninth, Sixteenth, and Eighteenth Causes for Discipline all relate to April 21, 2016, and the Seventeenth and Nineteenth Causes for Discipline both relate to May 16, 2016. Complainant alleges that on each of those two dates, while respondent was the operator of the CPFV Amigo, respondent, crewmembers, and passengers on the CPFV Amigo illegally fished, and took and possessed rockfish, a type of groundfish, in an area closed to groundfish fishing, in violation of Fish and Game Code section 2002 and California Code of Regulations, title 14, sections 27.45, subdivision (b)(2), and 195, subdivision (f).

10. The area closed to groundfish fishing in 2016, known as the Southern Groundfish Management Area, was seaward of lines approximating 60-fathom-deep sea floor contour lines, (60-fathom contour lines). The 60-fathom contour lines are defined by connecting a set of 60-fathom waypoints as specified in federal regulations. The closed area boundaries have changed since 2016; the closed area is now outside the 100-fathom contour lines. (Cal. Code Regs., tit. 14, § 27.45, subd. (b).)

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Keeping Undersized Fish; Skin Not Attached to Filets; Dead Bocaccio

11. The Tenth, Eleventh, and Twelfth Causes for Discipline are based on allegations that, while respondent operated the CPFV Amigo on April 11, 2016, (a) a cabezon and a sheephead, both species with size limits under California Code of Regulations, title 14, section 28.28, subdivision (c), were illegally fileted aboard the CPFV Amigo; and (b) respondent or crew members fileting rockfish aboard the CPFV Amigo did not leave their entire skin attached, as required by California Code of Regulations, title 14, sections 27.65, subdivision (b)(8), and 195, subdivision (f).

12. The Thirteenth, Fourteenth, and Fifteenth Causes for Discipline are based on allegations that, while respondent was operating the CPFV Amigo on May 16, 2016, (a) rockfish filets aboard the Amigo did not have the entire skin attached as required by California Code of Regulations, title 14, sections 27.65, subdivision (b)(8), and 195, subdivision (f); (b) the Amigo exceeded its boat limit for rockfish in violation of California Code of Regulations, title 14, sections 27.60, subdivision (c)(2), and 195, subdivision (f)(1); and (c) crewmembers on the Amigo threw 26 dead bocaccio, a species of rockfish, into the ocean in violation of California Code of Regulations, title 14, sections 1.87 and 195, subdivision (f).

Criminal Conviction

13. The Eighth Cause for Discipline is based on allegations that, on May 17, 2017, respondent was criminally convicted, in *People v. Ewart* (Super. Ct. Ventura County, 2017, No. 2017013224), of violating Fish and Game Code section 2002 (unlawful possession of fish unlawfully taken) for taking rockfish illegally on April 21,

2016. (See Factual Finding 9.) Respondent was not convicted for his activities on May 16, 2016.

PRAYER FOR RELIEF

14. Complainant prays that the Commission issue a decision permanently revoking respondent's License and Permit.

Respondent's Background and Employment

15. Respondent currently fishes for lobster from October through March. He no longer operates CPFV's, but at times relevant to the First Amended Accusation he operated CPFV's out of Ventura Harbor. Respondent started learning fishing from his father on sportfishing boats and on commercial boats fishing for crab and squid when he was nine or 10 years old, about 23 years ago. He decided he wanted to fish as a career and trained to become a commercial fisher primarily by fishing with and observing his father. At 16 years old, respondent first operated a vessel when he learned to drive his father's lobster boat.

16. Claimant's father and mother, Greg and Theresa Ewart, owned Ventura Sportfishing and some boats berthed at the Ventura Sportfishing landing. Respondent has never had an ownership interest in Ventura Sportfishing, where he worked as an employee. He has never owned the Amigo or any other sportfishing boat.

17. Respondent has engaged in sportfishing and last worked on a sportfishing boat, the Amigo, two years ago. In March and April each year, the Amigo would take its passengers to fish for seabass and rockfish. Later in the year, the Amigo would look for yellowtail, seabass, halibut, rockfish, and ling cod, depending on the

water temperature. Respondent stopped operating the Amigo after about five years, when the boat was sold in 2020.

18. Respondent has fished for squid, Southern California rock crab, and lobster on commercial vessels. Respondent owns one commercial fishing vessel, the Olivia Rae, which he uses for lobster fishing. He bought it, when it was named the Storm Front, in 2012 for \$36,000, having also just purchased his Permit. According to respondent, he paid \$108,000 to buy the Permit and pays annual Permit renewal fees of \$1,500 to \$2,000.

19. After one season of lobster fishing on the Olivia Rae, respondent performed extensive repairs to the vessel, including work on the boat's fiberglass, electronics, engine, and painting, over a period of four or five months in the shipyard, at a cost of around \$25,000. Respondent renamed the refurbished boat for his daughter. According to respondent, annual costs to operate the boat last year included approximately \$56,000 in fuel costs, calculated at 75 to 100 gallons of fuel per day, four to six days per week, for a six month season, at \$4 per gallon. Costs also included unplanned repairs to the Olivia Rae, which sank at the dock during the last week of October 2021, at the beginning of the lobster season.

Commercial Lobster Fishing

UNDERSIZED LOBSTER—DECEMBER 30, 2020

20. The First Cause for Discipline is based on allegations that respondent possessed undersized lobsters on December 30, 2020, in violation of Fish and Game Code sections 8252 and 121.5, subdivision (a).

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21. DFW Wildlife Officers Cameron Roth and Scott Cohen were patrolling in Ventura Harbor on an inflatable skiff on the evening of December 30, 2020. They observed the Olivia Rae entering the harbor, confirmed it was a commercial fishing vessel, and identified themselves to respondent. With respondent's permission, Officer Roth boarded the boat to measure the catch while Officer Cohen remained on the skiff.

22. There were live lobsters on the vessel, stored in two wells on the deck. Officer Roth measured one lobster using his DFW-issued stainless-steel laser-cut lobster gauge, a metal device with a fixed gap of 3.25 inches between calipers, the minimum legal length of a spiny lobster measured from the midline of the front of the carapace, between the horns, to the midline of the rear of the carapace. Officer Roth also used a highly accurate micrometer as a backup. Officer Roth concluded the lobster he measured was undersized. He stayed on the Olivia Rae as it returned to its slip while Warden Cohen followed in the skiff. When the Olivia Rae docked, Officer Cohen joined Officer Roth on the Olivia Rae.

23. Officers Roth and Cohen measured the catch of about 200 lobsters and concluded 34 were smaller than the minimum legal size of 3.25 inches. The undersized lobsters ranged from 3.183 inches to 3.239 inches. (Ex. 20, p. A106.)

24. Officer Roth asked respondent who had measured the lobsters caught during the day; respondent answered he personally had measured all of them. Officer Roth asked to see respondent's gauge; it exactly matched Officer Roth's gauge.

25. Respondent asked Officers Roth and Cohen to be allowed to re-measure the 34 lobsters the officers believed were undersized. The officers allowed it.

Respondent re-measured the lobsters and agreed that 20 of them were undersized but still maintained that 14 were of legal size.

26. Officer Cohen testified that in his 12 years enforcing commercial lobster fishing laws, he had never seen a catch with so many undersized lobsters. Officers Roth and Cohen cited respondent for commercial possession of 34 undersized lobsters, under Fish and Game Code section 8252. The officers seized the 34 lobsters for use as evidence and stored them in an evidence freezer, but they allowed respondent to sell the rest of his live catch to Moore's Seafood, where the 244.9 pounds of lobster fetched \$39 per pound, for a total of \$9,551.10. The undersized lobsters, weighing about 1.5 pounds apiece, had a wholesale value at that time of \$1,989. Officer Cohen testified the price was "absolutely unbelievable," much greater than the highest price he had previously seen, and provided a strong incentive to keep undersized lobsters.

27. Respondent told the officers he accepted responsibility for incorrectly measuring the undersized lobsters but sought to excuse his measurement errors, stating he has Type I diabetes and did not have enough insulin with him on the boat because he forgot to fill his insulin pump reservoir when he left home that morning.

28. Respondent testified he often used to fish for lobster by himself but had to change his practice once he developed diabetes symptoms. To avoid long days alone in the lobster boat, he testified, he transferred his Permit to his father for two or three years and worked for his father as a crew member on a CPFV. Once respondent learned how to regulate his blood sugar, he had his father transfer the Permit back to him, earlier this year, and began fishing for lobster again. Lobster fishing is respondent's sole source of income to support his family.

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29. There is no evidence, other than respondent's uncorroborated testimony, that respondent was experiencing a diabetic medical emergency on December 30, 2020, either while fishing for lobster, returning to dock, or during the inspection. He claims he has trained his crew to know how to respond if he experiences symptoms of diabetes and has told his crew that the boat would return early if he were to experience symptoms. But, while lobster fishing on December 30, 2020, respondent insisted that he alone measure all of the lobsters he and his crew caught, as was his usual practice, rather than delegating that duty to a crew member. He himself piloted the Olivia Rae back into the harbor and into its slip. He then drank some orange juice and, rather than contact any emergency services or healthcare provider to treat him, at his request proceeded to re-measure the 34 lobsters the officers claimed were undersized.

30. None of respondent's crew members testified at hearing or submitted affidavits to corroborate any of respondent's claims about his condition on December 30, 2020, or about his teaching them how to address his condition generally. Nor did respondent offer corroboration from any healthcare provider as to his condition and its possible effects on him on December 30, 2020, or from any family member as to the insulin reservoir he testified he left at home that day.

31. Though respondent took responsibility for measuring the lobsters incorrectly, from the evidence on this record, including the observations of the two DFW officers, the uncorroborated nature of respondent's testimony, and respondent's voluntarily taking the time to re-measure all the undersized lobsters rather than address his alleged medical issue, it appears unlikely that respondent possessed so many undersized lobsters due to a diabetic condition having impaired his judgment.

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Criminal Conviction for Undersized Lobster

32. On March 1, 2021, in *People v. Ewart* (Super. Ct. Ventura County, 2021, No. 2021001343), respondent was charged with, and on October 1, 2021, respondent pled no contest to and was convicted of, violating Fish and Game Code section 8252 (possessing spiny lobsters of less than the minimum length), a misdemeanor. The sentenced respondent to pay restitution of \$2,000 to DFG and to pay fees.

LOBSTER OUT OF SEASON AND UNDERSIZED LOBSTERS—MARCH 23, 2019

33. The Second and Third Causes for Discipline are based on allegations that, on March 23, 2019, respondent possessed live lobsters out of season, including undersized lobsters, in violation of Fish and Game Code section 8252 and California Code of Regulations, title 14, sections 121, subdivision (b), and 121.5, subdivision (a). The allegations pertain to respondent's alleged activities from March 20 to March 23, 2019.

34. Commercial lobster season closes the first Wednesday after March 15 each year, which in 2019 was March 20, at midnight. The season closes to allow lobsters to spawn and reproduce in the offseason. During the offseason, lobster traps may remain in the water but they cannot contain live lobsters. It would be impossible for a warden to tell whether the lobsters were taken during the season or after the season closed.

35. In March 2019, the commercial fishing vessel *Crustacean* was registered to Ventura Sportfishing, then owned by respondent's parents. Respondent and his father, Greg Ewart, who also has a lobster permit, each operated the *Crustacean* at different times in 2019.

36. On March 22, 2019, the Department received a tip that there were live lobsters being kept in a receiver tied to the cleat used by the Crustacean, two days after the close of the commercial lobster season. On March 22, DFG Officers began surveilling the receiver tied to the cleat at the Crustacean's slip. On March 23, 2019, Officer Van Epps seized the lobsters from the receiver. Officers Van Epps and Johnson counted 42 lobsters inside the receiver. Then, on March 28, Officer Johnson reviewed surveillance video, taken by a fuel dock camera, of the Crustacean's slip during the period from March 20 to March 23, 2019.

March 20, 2019

37. Respondent's lobster log for March 20, 2019, which respondent submitted to DFG by April 10, 2019, reveals respondent, not his father, was using the Crustacean on that date. Respondent docked the Crustacean at a fuel dock that jutted perpendicularly from the shore (variously known as Dave's Marine Fuel, Dave's Fuel Dock, and Leo's Fuel Dock), at the slip closest to the rocks and to the gangway down from the parking lot. There are six other slips at that dock. Four slips belonged to commercial fishers, all with lobster permits and some with other permits as well (crab, swordfish, longlining). The dock may be accessed through a gate and down the gangway, or from the water, by kayak or a small private boat. There is no gate on the water side of the dock.

38. Jacob Coombs, a Lieutenant Supervisor for North Los Angeles and Ventura Counties, Patrol Division, supervises other wardens. He was working as a field training officer on the Ventura Patrol on March 20, 2019. Lt. Coombs patrolled Ventura Harbor by vehicle with Lt. J.C. Healy, his supervisor; Capt. John Laughlin accompanied the patrol in his own vehicle. At about 8:00 p.m., Lt. Coombs saw the Crustacean docking at its berth. He and the other two officers walked from the parking lot to the

Crustacean, talked to respondent and his crew, and conducted an inspection of the catch of lobster and crab and of respondent's paperwork, including licenses and log books. Lt. Coombs found respondent to be cooperative.

39. Respondent directed Lt. Coombs to the back deck, where there was a 32-gallon container resembling a large gray commercial trashcan, a typical container on lobster boats. Lt. Coombs testified he was able to conduct only a "visual inspection from looking from the top" of the bin containing the lobsters and observed that the level of lobsters in the bin was "over the halfway mark." Lt. Coombs estimated there were about 45 to 50 lobster in the container; the ones he saw near the surface appeared to be around legal size. Lt. Coombs would typically measure all the lobster in the container, but on this occasion he and the other officers were interrupted by information about a possible poaching incident near the breakwater, so they left respondent's boat to investigate what might be a crime in progress.

40. As Lt. Coombs and the other officers were disembarking, respondent approached them. He said he intended to sell his lobster but that his buyer, who was in Redondo Beach, might not arrive at the dock until after midnight that night, the close of the season. Respondent asked whether there was any leeway in the deadline and whether he would be in violation if he dumped the lobsters in the water.

41. This was an unusual request; no one else had ever asked Lt. Coombs about keeping lobsters past the season closure. The officers said possessing the lobsters after midnight would be a violation, though dumping the lobsters would not be. Lt. Coombs explained that the law, California Code of Regulations, title 14, section 121, prohibited possession of live lobsters after midnight. Lt. Coombs said, though, that he understood the circumstances and would be willing to work with respondent if the buyer were only an hour or two late. The officers told respondent to land the

lobsters so they could be documented before the season closure, and to freeze them if the buyer arrived more than an hour or two late. (Ex. 19.) Respondent testified he told the officers he would rather just dump the lobsters; they were worth only a few hundred dollars at \$7 per pound, so there was no real value to keeping them and risking a violation.

42. After the officers left, respondent and his crew cleaned the boat, that being the last day of the season, checked the oil, engine, and transmission, and left. Respondent testified he called the buyer to see whether he was nearby; the buyer said he was still on the freeway and had to go to Oxnard first. According to respondent, because it appeared the buyer would not arrive before or even shortly after midnight, respondent went down to the Crustacean and dumped all the lobsters. Respondent's lobster log reads, "Dumped barrel of lobster, buyer couldn't make it. Crab was dumped as well." (Ex. 9, p. A70.)

March 22 to 23 Surveillance

43. On March 22, 2019, DFG Officer Joe Johnson visited Ventura Harbor. He had been called by Officer Van Epps about a tip that a fisher had a receiver of spiny lobsters at a slip. A receiver is a heavy-duty plastic crate used by commercial fishers to transport and store their catch alive in the water. Receivers are required by law to be tied to a buoy with a fisher's commercial fishing license number ("L number") on the buoy. The receiver in question was reportedly tied by rope, not to a buoy, but to one of three or four cleats in the private slip at which the Crustacean was docked. Officer Johnson and Officer Van Epps planned to observe the receiver to see whether someone tried to retrieve it and take the lobsters. They staked out the slip and conducted surveillance.

44. On March 22, 2019, Officer Johnson entered the fuel dock to observe the cleat and confirmed lobsters were in one of two receivers tied to two cleats and suspended a couple of feet below the surface of the water; the other receiver contained live rock crabs. The receivers were roughly one foot by three feet by four feet. Officer Johnson ended his surveillance at 10:00 p.m., Officer Stanton relieved him, and he was relieved in turn by Officer Van Epps. Surveillance was continuous.

45. Slips are rented out by the harbor, and the slip owner has exclusive use of the slip. Ventura Sportfishing owned the Crustacean's slip on the fuel dock, but others with slips on that dock could access it.

46. The marine fuel store above the gangway to the fuel dock and outside the gate has a surveillance video camera. The camera has a short memory bank, recording over itself at two-week intervals.

47. On March 28, 2019, after the officers finished surveilling the slip, Officer Johnson visited the fuel store and reviewed three or four days' worth of video from the fuel dock camera covering the period from March 20 to March 23. Officer Johnson asked the owner to record a copy of the video, but the owner did not know how to do so and the video was deleted.

48. According to Officer Johnson, the video revealed that, once the boat arrived on March 20, it remained docked the entire time. Officer Johnson did not see any line tied to a cleat at the slip prior to the Crustacean docking there. A still image introduced in evidence captured an unobstructed view of a portion of the gangway, the entirety of the Crustacean's slip, and portions of two or three other slips at the fuel dock. Ropes may be seen attached to cleats near the Crustacean and leading into the water. A small portion of the boat in the slip adjacent to the Crustacean's slip can be

seen; Officer Johnson could not remember what type of vessel it was. Officer Van Epps testified there were five other boats at the dock, including one for commercial crabs, one for harpoon swordfish, and one for commercial groundfish and bait.

49. On the video Officer Johnson observed people entering the Crustacean slip three times.

50. First, Officer Johnson saw that, on March 20, respondent and his crew pulled the boat into the slip, and Lt. Coombs and the two other officers who inspected respondent's catch that day walked down the gangway and talked to respondent and his crew for about 10 minutes. The crew left the Crustacean and took no lobsters with them. Lobster season was still open and would close at midnight that night.

51. Next, Officer Johnson observed video of March 21, the day after lobster season closed; the video showed respondent accessing the slip. Respondent did some work on the vessel and moved some items under water on the starboard side at about 8:30 p.m. The video showed respondent bent down near the cleat at the bow of the boat and moving his arms. Officer Johnson interpreted the movements as being consistent with tying something to the cleat.

52. Finally, on the night of March 21, Officer Johnson himself appeared in the video, inspecting the receivers.

53. Officer Johnson saw no one else enter the slip during those three days captured on video.

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March 23 Seizure and Inspection

54. Surveillance ended on the morning of March 23, when Officer Van Epps seized the live spiny lobsters from the receiver. There were two receivers attached to the cleat at the Crustacean's slip. The receivers had no identifying marks or L number.

55. That afternoon, Officer Johnson inspected the lobsters seized from the receiver. He counted 42 lobsters. This was a close approximation of the number of lobsters Lt. Coombs testified he saw in respondent's bin on the Crustacean, before Lt. Coombs was called away to investigate a poaching incident. Officer Johnson measured the lobsters and found three to be undersized.

56. Officer Johnson spoke with respondent the afternoon of March 23, when inspecting respondent's catch. Respondent said nothing about who might have tied the receiver to the cleat. Only persons authorized to use the slip, i.e., persons associated with the Crustacean, were authorized to use the cleat at that slip. Officer Johnson testified that he has never seen someone tie a receiver to someone else's cleat. It also would have been very difficult and risky for any person other than respondent to tie a receiver filled with illegally possessed lobsters to someone else's cleat without getting caught. To reach the Crustacean's cleat, a person would have to, without attracting the attention of DFG officers (who, in addition to patrolling the harbor, operated a patrol vessel that was docked in a slip within view of the Crustacean), carry and then tie the large receiver to the cleat.

57. Respondent testified he occasionally uses a receiver when he is the only fisher with a catch, to hold lobsters until other fishers bring in their catch so the buyers can pick up all the lobsters at once. Respondent testified he makes his own receivers from black PVC-coated wire mesh and that his receivers are tagged with his

commercial fishing license number, as required by law. The receiver seized in this case (ex. 17, A86) does not resemble his receivers. Respondent denied catching the lobsters that were in the receiver. According to respondent's lobster logs, respondent dumped the 21 lobsters aboard the Crustacean back into the ocean due to not having a market for them. (Ex. 9, p. A70.) Aside from his own self-serving log entry, respondent offered no evidence to corroborate his testimony.

58. Officer Johnson did not compare the unmarked receivers found at the Crustacean's slip to other receivers respondent owns. He did not know whether respondent's receivers all have respondent's L number on them. Officer Johnson conceded that someone who wished to hide a receiver from scrutiny could possibly hide it near another fisher's boat. Recreational fishing boats used the adjacent dock and public launch ramp, and vessels launched from the public ramp sometimes tie up at the fuel dock at night.

59. Respondent was criminally charged with having lobsters in the receiver after the season closed. He was not convicted.

60. A preponderance of the evidence supports a finding that respondent transferred the lobsters from the bin on his deck to a receiver, placed the receiver into the water, and tied the receiver's rope to the Crustacean's cleat.

61. The receiver was just below the surface of the water and the rope attached to the cleat and receiver was visible. When respondent walked past the receiver, he could not have avoided seeing the rope and the receiver. But respondent did more than merely walk past the receiver—he spent 30 minutes on March 21, 2019, working on and around the Crustacean. He even tied a rope to the same cleat to which the receiver containing lobster was attached. If the receiver was not respondent's, as

he claims, he would have been expected to either release the lobsters or contact DFG to report a violation. However, respondent did neither of those things, presumably because he intended to keep the 42 lobsters in his receiver. The Crustacean was the only lobster fishing vessel at that dock, making it highly unlikely that the receiver belonged to anyone other than respondent. That the criminal prosecutor was unable to establish respondent's violation by a burden of proof stricter than that applicable here is not determinative of the import of the evidence in this case.

LOBSTER TRAPS AND LOGS

62. The Fourth Cause for Discipline is based on allegations that respondent failed to lawfully deploy lobster traps and maintain them, i.e., raise, clean of debris, empty, and service them at statutorily mandated intervals between October 2018 and March 2019. The Fifth Cause for Discipline is based on allegations that respondent failed to submit to the DFW or accurately keep Daily Lobster Logs on various dates in the same time period. Both causes allege violations of California Code of Regulations, title 14, sections 122.2, subdivision (d), and 190, subdivision (a).

63. To catch spiny lobsters, a fisher uses a commercial lobster trap, which is large, rectangular, and of wire construction, with a couple of openings and escape hatches. The trap is baited and dropped in the water with a line, which is attached to a buoy. Lobsters enter; small ones may escape. The fisher pulls the line attached to buoy, retrieves the lobsters, and returns undersized lobsters to the water. The fisher must have a commercial fishing license, a lobster operator permit, and a vessel registration to fish for lobster this way.

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FAILURE TO LAWFULLY DEPLOY AND MAINTAIN TRAPS

64. Fishers may leave their traps without checking them for up to seven days (168 hours). (Cal. Code Regs., tit. 14, § 122.2, subd. (d).) Lobsters left in traps more than seven days are subject to predation from other lobsters, fish, birds, and seals.

65. Officer Johnson explained that daily lobster logs are helpful for managing marine resources. Department biologists use the data to make management decisions, and the logs are useful for enforcing commercial fishing laws.

66. Lobster fishers must submit logs by the 10th of month following the month when they were created. The logs have blanks for the number of traps pulled and serviced in a given area, the number of nights the traps were in the water since they were last serviced, the number of undersized lobsters released, the number of legal-sized lobsters retained, i.e., lobsters pulled from traps, measured, and kept on vessels to be sold; and the date the traps were pulled. There is a Note Pad section for fishers to mark any notes. The fisher is to indicate whether it was a multi-day trip, where the fisher might service several traps, anchor overnight, and continue servicing traps the next day. The form asks for the number of traps currently deployed; there is a limit of 300 per permit that may be simultaneously in the water.

67. Respondent did not complete the field on his logs indicating the number of traps deployed.

68. Completed lobster logs reflect the date a trap is pulled from the water. According to Officer Johnson, that is usually the same as the date the trap is again placed, except first date of season. A fisher will pull a trap onto the vessel, open it, remove all wildlife, throw back in the water undersized lobsters, keep legal lobsters, re-bait the trap, and put the trap back in the water immediately to keep it fishing and

productive. A fisher might move a trap slightly as the season progresses, but usually places it again within the same block. This avoids lost time, fuel costs, and crew costs; besides, spaces for traps are scarce during the season, as there are numerous traps set by numerous lobster fishers. Unless something is wrong with a trap, the fisher will place it back in the water the same day it is pulled to be checked and maintained.

69. Comparing the date traps were pulled for a particular block with the last prior log that mentions that block shows that respondent committed 14 violations during the 2018-2019 lobster season for failing to raise, clean of debris, service, and empty traps at intervals not to exceed seven days. The logs contained numerous understatements of the number of nights traps were in the water.

70. Respondent admitted that the Department correctly calculated the number of nights traps were in the water for these fourteen violations of California Code of Regulations, title 14, section 122.2, subdivision (d). To excuse these violations, respondent claimed he was unable to service lobster traps as planned due to inclement weather.

71. Officer Johnson explained that neither California Code of Regulations, title 14, section 122.2, subdivision (d), nor any other authority, allows a fisher to delay servicing a trap for any reason. If fishers cannot service a trap in the prescribed time, they may apply for a waiver from DFW to permit another operator to service their traps. Officer Johnson told respondent that he could apply for a waiver if he could not service his traps, but knows of no time that season when respondent requested a waiver. In any event, most of the log entries respondent cites as documenting bad weather or other delays occurred on dates unrelated to his fourteen violations of section 122.2(d).

72. Respondent disputes two violations of California Code of Regulations, title 14, section 122.2, subdivision (d), based on his leaving traps in the water unserviced for 22 days from January 31 to February 22, 2019, and leaving traps in the water unserviced for 66 days from October 8 to December 14, 2018. Officer Johnson testified the records show respondent did not move these traps when he pulled them on January 31, 2019: instead, he immediately placed those traps back in the water and did not pull or service them until 22 days later. Respondent acted similarly on October 8, 2018, and December 14, 2018. (Ex. 9, pp. A52 [October 8, 2018], A62 [December 14, 2018].) "Trap Locations" data respondent submitted in his lobster logs show he did not move these traps at all. (See ex. 9, pp. A67 [January 31, 2019], A68 [February 22, 2019].) The latitudinal and longitudinal data, including minutes, for both dates are nearly identical. Respondent did not move these traps nor did he service them for 66 days. While the minutes for the latitudes differ by .003 minute, and the minutes for the longitudes differ by .006 minute, these differences are negligible considering that 0.001 minute is about six feet and could be caused by drifting.

FAILURE TO KEEP AND TIMELY SUBMIT ACCURATE LOGS

73. On 34 occasions in 2018 and 2019, respondent submitted incomplete and inaccurate logs. Officer Van Epps explained that except at the beginning and end of a season, lobster fishers place traps back in the water immediately or very soon after they are pulled, so the "Date Traps Pulled" field in lobster logs also reliably indicates the date traps were returned to the water. There is no separate "Date Traps Replaced" field in the logs. Moving traps around and redeploying them at later dates requires large amounts of both time and fuel, and take the traps out of production for a time. Depending on the size of the vessel and number of traps, it can take several trips to remove traps and redeploy them later. Suitable fishing grounds are limited, so

it is often difficult once the season is underway to find new locations to place traps that are not already occupied by other traps.

74. Because "Date Traps Pulled" reliably indicates the same date that traps were returned to the water, wardens can verify whether lobster logs accurately state the number of nights that traps were in the water by looking at the difference between the Dates Traps Pulled fields for the same fishing block number. For example, respondent's November 16, 2018 log describes fishing activity related to 150 traps in Block 681. The November 16 log states that traps had been deployed in the water for five nights. Reviewing previous lobster logs shows that the last prior log that mentions Block 681 is respondent's November 6, 2018 lobster log, which is both the date the traps were last pulled from the water and, what is highly likely, the date the traps were last returned to the water. Respondent submitted an inaccurate entry in his November 16 lobster log because those 150 traps in Block 681 were actually in the water from November 6 to November 16, 2018, i.e., the traps were in the water ten nights and not five nights as respondent claims.

75. Applying this method to respondent's 2018-2019 lobster logs shows that he inaccurately logged the number of nights that traps were in the water 32 times. When asked to explain discrepancies between what the Department determined were the actual numbers of nights his traps were in the water and what he submitted in his logs, respondent stated he had simply made mistakes in counting nights when filling out the logs. He maintained that the dates he entered in his logs were correct.

76. In addition to these 32 inaccuracies regarding the number of nights his traps remained in the water, respondent also wrote in his March 20, 2019 log that he kept 21 legal-sized lobsters when he actually kept 39 legal-sized lobsters and three undersized lobsters total in his receiver. He also submitted an incomplete log on

November 12, 2018 by not providing "No. of Legals Retained," even though there is a landing receipt number, 0477371, listed in the corner of that log under "Landing Receipt Number(s)" showing he had retained legal-sized lobsters.

77. Todd Neahr, Environmental Program Manager, assumes the fisher puts traps back in same spot. A few might be moved, perhaps up to 50 traps on one fishing day, but respondent's boat cannot hold, for example, 300 traps at a time. Because respondent failed to complete the "# of Traps Deployed" field in his logs, despite a requirement that fishers completely and accurately fill out their logs. Officer Neahr believes it probable, based on lobster fishing practices and the practicalities of moving traps, that respondent did not move the traps after he pulled them to service them.

78. Officer Van Epps testified he has observed fishers pulling and placing traps hundreds or thousands of times. He has never heard of a fisher moving large numbers of traps from one location to another in the middle of the season; that happens at the beginning or end of a season. A fisher might move one trap during the season if it is not performing well, but moving more is very uncommon. Lobsters are valuable, and fishers put the traps back in the same place to maximize the time the traps are in the water. Also, in addition to the logistics of moving traps on relatively small vessels, it can be a challenge to find a location without a substantial number of traps already there.

79. Respondent testified he usually moves traps that are not performing well to different blocks during the season. Logbooks do not have a box showing where fishers relocated their traps. They do, however, have a box where the fisher can enter explanatory notes. Respondent also testified there is no advantage to failing to timely service traps, since bait will not be fresh and other fishers' traps will catch the available lobsters. Finally, traps in front of the harbor may be damaged by large swells, so the

Harbor Patrol permits fishers to pull traps and place them in the parking lot ahead of the swell and replace them when the swell goes out.

80. Respondent admitted his logs were inaccurate in that he incorrectly calculated the time between dates, but insisted he logged correct dates. That is why he did not contest the criminal case against him for these violations.

81. Respondent submitted incomplete logs; they lacked required information and information that would be helpful in determining such important facts as changing trap placement and time in the water. Complainant did not establish, though, that the dates respondent entered in his logs were inaccurate; indeed, complainant calculated time-in-the-water violations based on respondent's dates. Nor did complainant establish respondent was trying to conceal the number of days the traps were left in the water, since he entered correct dates.

LANDING RECEIPTS

82. The Seventh Cause for Discipline is based on allegations that respondent failed to make landing receipts available for inspection by May 8, 2019, in response to a DFW peace officer's request on April 24, 2019, in violation of Fish and Game Code section 8046, subdivision (a).

83. Todd Neahr testified that landing receipts at commercial landings are used throughout the U.S. whenever a catch is offloaded to a commercial fish business. All licensed commercial fish businesses are required to submit landing receipts to DFW. DFW uses data from the receipts to assess fish stock, fishery productivity, and economics. Until July 1, 2019, all paper landing receipts were entered into a Marine Landings Database system. Landing receipts have been electronic since July 1, 2019.

84. Lobster fishers are required to submit their logbooks each month by the 10th day of the following month. They must also retain and make available to DFW copies of landing receipts. Buyers submit the receipts to DFW; lobster fishers receive a copy.

85. On April 3, 2019, by letter, Officer Johnson asked respondent for his 2018 to 2019 season logbook pages and landing receipts. Officer Johnson sent the letter to respondent's address of record, as listed in the DFW automated license and data system. Licensees must keep their address listing current. Receiving no response, Officer Johnson sent respondent a second request for the landing receipts on April 10, by certified mail. The letter was returned to DFW, stamped "Return to Sender. Refused." (Ex. 9, p. A91.)

86. On April 24, 2019, Officer Johnson made a third request, in person, on board the Amigo, operated by respondent. It was at the end of a sportfishing day trip and passengers were disembarking. Officer Johnson did not expect respondent to have the landing receipts with him. Officer Johnson told respondent to produce the documents within two weeks, by May 8, either directly to him or to the Los Alamitos field office. Officer Johnson told Respondent he "was issuing him a formal demand to inspect his copies of his logs and landing receipts from this past commercial spiny lobster commercial fishing season" by May 8, 2019. Officer Johnson gave respondent a letter demanding respondent send his logbook and landing receipts to the usual address. This was on April 24, 2019, two weeks after the date the logbooks for March 2019 would have been due.

87. Officer Johnson never received the landing receipts from respondent.

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88. Respondent testified the address Officer Johnson sent the requests to was not his address, it was his parent's address. Respondent submitted no evidence to support this claim, or to explain why he had not correctly informed DFW of his address of record.

89. Respondent was subjected to criminal prosecution for the conduct alleged in seventh cause for discipline and was acquitted by a jury. (Ex. B.) Officer Johnson found the landing receipt for the fish bought on October 7, 2018, submitted by the buyer, on DFG's database. The landing receipt identified Greg Ewart, not respondent, as the seller. Respondent was criminally charged with having a landing receipt but no log entry for October 7, 2018. But since, from the landing receipt, it appears respondent was not the fisher, respondent would not be expected to have a log entry for that day.

CPFV Sportfishing

FISHING IN A CLOSED AREA ON APRIL 21 AND MAY 16, 2016

90. The Ninth, Sixteenth, and Eighteenth Causes for Discipline, relating to April 21, 2016, and the Seventeenth and Nineteenth Causes for Discipline, relating to May 16, 2016, are based on similar allegations. Namely, that on those dates, respondent took and possessed fish in, and his crewmembers and passengers fished, and took and possessed fish taken in, an area closed to groundfish fishing, all while respondent was the operator of the CPFV Amigo, in violation of California Code of Regulations, title 14, sections 27.45, subdivision (b)(2), and 195, subdivision (f), and Fish and Game Code section 2002.

91. In 2016, groundfish fishing was prohibited in the Southern Groundfish Management Area, an area seaward of lines approximating the 60-fathom depth

contour, defined by connecting a set of 60-fathom waypoints adopted in federal regulations (60-fathom contour lines). A fathom is six feet. Fishing in a closed area may be detrimental to the health of the target species fishery. Rockfish, a type of groundfish, are slow growing and may live to be 70 years old. The rocky areas where they are found are relatively small; most of the sea floor in the area is sandy.

92. A CPFV is a vessel registered in California that carries paying fishing passengers. Passengers pay for a day of fishing because they generally want to be able to bring fish home, according to Officer Van Epps. He characterized rockfish as a CPFV's "bread and butter." A CPFV will fish for more exotic species, such as white seabass, halibut, and yellowtail, early in the day. It not infrequently happens that some passengers will not catch their limits. Later in the day the boat will target rockfish, where the passengers will more likely succeed and be more likely to come back for more trips.

93. All owners of CPFVs must submit logs, or may designate others to submit logs, at the conclusion of each day trip, or for every day of a multi-day trip. A CPFV log provides information about the operator of the boat, the duration of the trip, the target fish species, the number of passengers, what is caught and released while the vessel is on fishing grounds, and the depth at which fish were caught. Logs should be submitted by the 10th day of the month following the trip.

94. In April and May, 2016, DFW Lt. Specialist Ambartsum Bagdasaryan assisted Officer Van Epps with an investigation into the Amigo. DFW had received a tip that the Amigo was taking passengers fishing for groundfish in a closed area, beyond the permitted depth.

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95. During the April 21, 2016 trip and the May 16, 2016 trip, Lt. Bagdasaryan and another officer boarded the Amigo in Ventura Harbor to conduct a plainclothes investigation. During each trip, Lt. Bagdasaryan used two Global Positioning System (GPS) devices, one to record vessel locations and the other to record waypoints showing where fishing activity occurred, to determine whether passengers and crew were fishing on the seaward side of the 60-fathom contour lines. After returning from the trips, Lt. Bagdasaryan plotted the GPS data he had obtained to create maps using Google Earth. Officer Todd Van Epps then overlaid those maps with a map produced by the National Oceanic and Atmospheric Administration showing the 60-fathom contour lines.

April 21, 2016

96. On the morning of April 21, 2016, Lt. Specialist Bagdasaryan and another Wildlife Officer, Lt. Specialist Norris, who is no longer with DFW, were among the thirteen total passengers who boarded the Amigo. Respondent was the captain.

97. The Amigo departed at about 4:23 a.m. The target species that day were seabass and rockfish. The captain determines where to fish and what species to fish for, and announces his decisions over the boat's speaker so fishers know what gear to use. The gear used varies depending on the target fish. Fishers may target seabass at the middle of the water column, using relatively light sinkers and baiting a single hook with live or dead bait. To catch rockfish, fishers generally use a heavier sinker in order to reach the sea floor, and may bait multiple hooks with dead squid or dead fish.

98. Passengers and some of the crew started fishing around 6:00 a.m. After fishing near Arch Rock, the Amigo went to the back side of Anacapa Island. At about 10:30 a.m., respondent directed the Amigo passengers and crew to begin fishing for

rockfish. Respondent himself began fishing for rockfish at 11:45 a.m. For the rest of the trip, passengers, crew, and respondent fished for and kept rockfish. Fishing stopped at 3:01 p.m.

99. The maps that Officer Van Epps and Lt. Bagdasaryan created show that between 11:10 and 11:54 a.m. on April 21, 2016, the Amigo entered a closed area seaward of a 60-fathom contour line. Respondent, his crew, and his passengers caught and kept rockfish there.

100. A CPFV captain is responsible for all violations committed aboard a CPFV. (Cal. Code Regs., tit. 14, § 195, subd. (f).) Officer Cohen, who has worked as a deckhand on a CPFV, testified that few passengers have knowledge of fishing laws, though many are concerned about and support regulations for sustainable fisheries. The captain of a CPFV determines the activities of the passengers and of the crew, and passengers generally follow their captain's directions. Every passenger who fishes for rockfish in a closed area commits misdemeanor violations, though probably unknowingly. Officer Van Epps testified that, unless officers find the passengers knowingly violated the law, wardens only prosecute the captain and crew.

101. Respondent concedes that he committed the violations described in the Eighth, Ninth, Sixteenth, and Eighteenth Causes for Discipline. On May 17, 2017, in a criminal case based on those violations committed on April 21, 2016, respondent pled guilty to and was convicted of violating Fish and Game Code section 2002 (possession of fish taken in violation of the law). (Ex. 7, pp. A38-A43.)

May 16, 2016

102. On May 16, 2016, one day before respondent's criminal conviction for his activities on April 21, Lt. Bagdasaryan and another wildlife officer, Wayne Zerofsky, no

longer with DFW, conducted a second plainclothes investigation aboard the Amigo. The boat carried 17 passengers for that trip, including the two officers. The log for the May 16, 2016 trip shows respondent was the operator. It was a single-day trip.

103. Respondent and his passengers spent the morning fishing for white seabass and other species along Santa Cruz Island. At 10:48 a.m., they stopped fishing and travelled towards an area outside a 60-fathom contour line. At 11:53 a.m., in an area four miles seaward of a 60-fathom contour line, an area closed to groundfish fishing, respondent directed passengers to use rockfish tackle and to fish for rockfish. Respondent did not tell the passengers they were in an area closed to rockfish fishing.

104. The Amigo was in the closed area for 3 hours and 30 minutes, fishing most of the time except when the captain moved the boat a bit. Passengers and crew caught and kept large numbers of rockfish species, including bocaccio. The fish were large and abundant in the closed area. The Amigo stopped fishing in the closed area at 3:25 p.m. and started heading back to Ventura Harbor.

105. Respondent testified it is possible the Amigo drifted outside the contour line while still fishing, but maintained it was not intentional. And the more inexperienced fishers who rent rods and reels have a hard time winding up 300 feet of line; while they are doing so, the captain cannot power up and move the boat, even if it has unintentionally drifted to a closed area. But on cross-examination, respondent was reminded that Lt. Specialist Bagdasaryan testified the Amigo was fishing four miles outside the 60-fathom contour line. Respondent, asked if that was not quite a ways for an unintentional crossing, simply answered, "Yeah."

106. Based on the evidence, including the waypoints, the timeline, the distance traveled into the closed area, the long time spent there, and respondent's

testimony along with that of the officers, respondent intentionally took the Amigo across the 60-fathom contour line, found a fishing location, set up at furthest point from the lawful fishing grounds, and then allowed his boat to drift toward lawful fishing grounds.

KEEPING UNDERSIZED CABEZON AND SHEEPHEAD; SKIN NOT ATTACHED TO FILETS; DEAD BOCACCIO

107. The Tenth, Eleventh, and Twelfth Causes for Discipline are based on allegations that, on April 11, 2016: a cabezon and a sheephead, species with size limits under California Code of Regulations, title 14, section 28.28, subdivision (c), were fileted aboard the CPFV Amigo, and rockfish filets aboard the CPFV Amigo did not have the entire skin attached as required by California Code of Regulations, title 14, sections 27.65, subdivision (b)(8), and 195, subdivision (f), all while respondent was operating the CPFV Amigo.

108. The Thirteenth, Fourteenth, and Fifteenth Causes for Discipline are based on allegations that, on May 16, 2016, rockfish filets aboard the CPFV Amigo did not have the entire skin attached as required by California Code of Regulations, title 14, sections 27.65, subdivision (b)(8), and 195, subdivision (f); the CPFV Amigo exceeded its boat limit for rockfish in violation of California Code of Regulations, title 14, sections 27.60, subdivision (c)(2), and 195, subdivision (f)(1); and crewmembers on the CPFV Amigo threw 26 dead bocaccio into the ocean, in violation of California Code of Regulations, title 14, sections 1.87 and 195, subdivision (f), all while respondent was operating the CPFV Amigo.

109. On April 11, 2016, Lt. Specialist Santos Cabral contacted respondent shortly after the Amigo returned from a commercial passenger fishing trip and pulled

into its slip in Ventura Harbor. Lt. Cabral inspected fish that crewmembers had already fileted and placed in bags that they were distributing to passengers. Lt. Cabral noticed that several rockfish did not have the entire skin attached to the filets. Lt. Cabral also found cabezon and sheephead carcasses that were fileted. Regulations in effect at the time required that the crew leave the full skin attached to the fish. The Amigo's crew and respondent instead removed the entire skin, so it was difficult or impossible to identify the fish species by looking at the filets or to determine their sizes when they were intact.

110. Lt. Cabral warned respondent about these violations. In response, respondent told Lt. Cabral he would do a better job on fileting in the future. But respondent committed the same violation again about a month later, on May 16, 2016, when he and a crewmember fileted rockfish without leaving the entire skin attached to the filets. (Thirteenth Cause for Discipline.)

111. On the May 16 trip, while the Amigo was returning to Ventura Harbor, respondent and one of the crew started cleaning and fileting the fish for the passengers, again removing the entire skin. Passengers kept the fileted fish, including some bocaccio. The May 16 log was submitted late, on August 27, 2016; it should have been submitted by June 10.

112. Among the rockfish the passengers caught and kept onboard were 26 whole bocaccio. Bocaccio are known to be much more likely than other rockfish to be infested with parasites. The crew placed the bocaccio under the cleaning table and eventually tossed them overboard, dead. This is consistent with an illegal practice in which a CPFV retains whole, dead bocaccio that are caught, then discards them later during the trip if the CPFV reaches a boat limit with more desirable rockfish species,

i.e., species not as likely as bocaccio to be infested with parasites. According to Officer Van Epps, this illegal practice is known as "highgrading."

113. Each fisher may possess no more fish of a particular species than allowed by regulations, the fisher's "bag limit." The "boat limit" is each passenger's bag limit multiplied by the number of passengers on the boat. Respondent reported 170 rockfish were kept (ex. 10, p. A73); that was the boat limit, i.e., each passenger's 10-fish limit multiplied by 17 passengers. But that did not include the 26 bocaccio that were dumped into the ocean. (Ex. 12, p. A76.) Including those, the Amigo really took 196 fish, 26 over the boat limit.

114. Respondent excuses these violations by claiming that the laws governing the amount of skin to be left on fileted fish changed shortly before the May 16, 2016 trip. The laws governing fileting rockfish, however, were amended over a year before that date, and the laws governing fileting sheephead and cabezon were amended four years earlier. In any event, even if the fileting regulations had changed only shortly before respondent's May 2016 trip, that would not excuse any of respondent's fileting violations, especially after receiving Lt. Cabral's warning in April 2016.

115. Respondent argued that his CPFV violations described in Eighth through Nineteenth Causes for Discipline are "unrelated to commercial fishing or the commercial lobster fishery." But the Commission may revoke a commercial fishing license or lobster operator permit for any violation of the Fish and Game Code or its implementing regulations. (Fish & Game Code, § 7857, subd. (b)(2).) CPFV operations are similar to commercial lobster fishing in that they both involve profiting from the taking of state fishery resources. Thus, respondent's CPFV violations are relevant to the question of disciplining his License and his Permit.

116. Respondent argued the wardens never counted the number of rockfish brought back to the dock to determine whether the 170 noted in the log included the bocaccio, so it is possible the passengers kept only 144 rockfish. But the log belies this assertion; it reflects that 170 rockfish were caught and none were thrown back. (Ex. 10, p. A73.)

CRIMINAL CONVICTION

117. The Eighth Cause for Discipline is based on allegations that, on May 17, 2017, respondent was criminally convicted of violating Fish and Game Code section 2002, a violation for which the License may be revoked.

118. On April 20, 2017, in *People v. Ewart* (Super. Ct. Ventura County, 2017, No. 2017013224), respondent was charged with six criminal counts arising out of his activities on April 21 and May 16, 2016. They comprised a count for each date of unlawful possession of a creature unlawfully taken, in violation of Fish and Game Code section 2002, as well as multiple counts for May 16, i.e., one count of possessing rockfish filets without the skin attached (Cal. Cod Regs., tit. 14, § 27.65, subd. (b)(8)), two counts of taking and possessing rockfish in excess of the limit (Cal. Cod Regs., tit. 14, § 28.55, subd. (b)), and waste of fish (Cal. Cod Regs., tit. 14, § 1.87).

119. On May 17, 2017, respondent pled guilty to and was convicted of violating Fish and Game Code section 2002 (unlawful possession of creature unlawfully taken) on April 21, 2016, a misdemeanor. The court dismissed the other charges, suspended imposition of sentence, and placed respondent on probation ("conditional revocable release") for 36 months, on conditions including that he pay a fine of \$500 and other fees and fines.

120. Respondent successfully completed probation.

Mitigation and Rehabilitation Evidence

121. Complainant established respondent engaged in numerous and repeated acts of misconduct that had an effect upon marine resources.

122. Respondent failed to produce credible evidence that established mitigation of most of his misconduct, and failed to offer evidence from any third parties, in the form of testimony, declarations, or letters, to corroborate his testimony or establish rehabilitation.

LEGAL CONCLUSIONS

Commission's Authority

1. The Commission may, after a hearing, suspend, revoke, or temporarily cancel commercial fishing privileges of a licensee for a period of time to be determined by the Commission for the violation by the licensee, or by the licensee's agent, employee, or other person under the licensee's control, of: (a) the Fish and Game Code or of the regulations adopted under the code, (b) the terms of the license or permit, or (c) federal law relating to the fishery for which the license or permit was issued. (Fish & Game Code, § 7587, subd. (b)(2), (3).)

Burden of Proof

2. Relying on section 7857, subdivision (b)(2), complainant requests that the Commission revoke respondent's commercial fishing license and lobster operator permit for numerous alleged violations of marine aquatic laws. As the party seeking relief, complainant bears the burden of proving the alleged violations by a preponderance of the evidence. (Evid. Code, §§ 115, 500.) No statute or case law

requires the application of the clear and convincing standard of proof to revocations of commercial fishing entitlements.

3. The more exacting “clear and convincing evidence” standard of proof used in disciplinary cases involving professional licenses is inapplicable because respondent’s license and permit are nonprofessional licenses. (See *Imports Performance v. Dept. of Consumer Affairs, Bureau of Automotive Repair* (2011) 201 Cal.App.4th 911, 916-917.) Professional licenses have extensive education, training, and testing requirements. (*Ibid*; see also *San Benito Foods v. Veneman* (1996) 50 Cal.App.4th 1889, 1894; *Mann v. Department of Motor Vehicles* (1996) 76 Cal.App.4th 312, 319; 1889, 1894.) Respondent’s commercial fishing license and lobster operator permit have no such requirements. All persons over 16 years of age who pay the required fees are eligible for those licenses and permits. (Fish & Game Code, §§ 7852 [commercial fishing license], Cal. Code Regs., tit. 14, § 122 [lobster operator permit].) Respondent offered insufficient authority to support his proposition that an outlay of capital to purchase equipment converts an occupational license to a professional license.

Causes for Discipline

FIRST CAUSE FOR DISCIPLINE

4. Cause exists to suspend, revoke, or temporarily cancel respondent’s License and Permit in that respondent possessed undersized lobsters on December 30, 2020, in violation of Fish and Game Code sections 8252 and 121.5, subdivision (a), as set forth in Factual Findings 1 through 32.

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SECOND AND THIRD CAUSES FOR DISCIPLINE

5. Cause exists to suspend, revoke, or temporarily cancel respondent's License and Permit in that, on March 23, 2019, respondent possessed live lobsters out of season, including undersized lobsters, in violation of Fish and Game Code sections 121, subdivision (b), 8252, and 121.5, subdivision (a), as set forth in Factual Findings 1 through 19 and 33 through 61.

FOURTH AND FIFTH CAUSES FOR DISCIPLINE

6. Cause exists to suspend, revoke, or temporarily cancel respondent's License and Permit in that respondent failed to lawfully deploy and maintain lobster traps and to submit to the DFW, or to accurately keep, Daily Lobster Logs on various dates between October 2018 and March 2019, in violation of Fish and Game Code sections 122.2, subdivision (d), and 190, subdivision (a), as set forth in Factual Findings 1 through 19 and 64 through 81.

SEVENTH CAUSE FOR DISCIPLINE

7. Cause exists to suspend, revoke, or temporarily cancel respondent's License and Permit in that respondent failed to make landing receipts available for inspection within two weeks, by May 8, 2019, in response to a DFW peace officer's request on April 24, 2019, in violation of Fish and Game Code section 8046, subdivision (a), as set forth in Factual Findings 1 through 19 and 82 through 89.

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**NINTH, SIXTEENTH, AND EIGHTEENTH CAUSES FOR DISCIPLINE, RELATING TO
APRIL 21, 2016, AND THE SEVENTEENTH AND NINETEENTH CAUSES FOR
DISCIPLINE, RELATING TO MAY 16, 2016**

8. Cause exists to suspend, revoke, or temporarily cancel respondent's License and Permit in that, on April 21 and May 16, 2016, respondent took and possessed fish in, and his crewmembers and passengers fished, and took and possessed fish taken in, an area closed to groundfish fishing, all while respondent was the operator of the CPFV Amigo, in violation of California Code of Regulations, title 14, sections 27.45, subdivision (b)(2), and 195, subdivision (f), and Fish and Game Code section 2002, as set forth in Factual Findings 1 through 19 and 90 through 106.

TENTH, ELEVENTH, AND TWELFTH CAUSES FOR DISCIPLINE

9. Cause exists to suspend, revoke, or temporarily cancel respondent's License and Permit in that, on April 11, 2016: a cabezon and a sheephead, species with size limits under California Code of Regulations, title 14, section 28.28, subdivision (c), were fileted aboard the CPFV Amigo, and rockfish filets aboard the CPFV Amigo did not have the entire skin attached as required by California Code of Regulations, title 14, sections 27.65, subdivision (b)(8), and 195, subdivision (f), all while respondent was operating the CPFV Amigo, as set forth in Factual Findings 1 through 19 and 107 through 116.

THIRTEENTH, FOURTEENTH, AND FIFTEENTH CAUSES FOR DISCIPLINE

10. Cause exists to suspend, revoke, or temporarily cancel respondent's License and Permit in that, on May 16, 2016, rockfish filets aboard the CPFV Amigo did not have the entire skin attached as required by California Code of Regulations, title

14, sections 27.65, subdivision (b)(8), and 195, subdivision (f); the CPFV Amigo exceeded its boat limit for rockfish in violation of California Code of Regulations, title 14, sections 27.60, subdivision (c)(2), and 195, subdivision (f)(1); and crewmembers on the CPFV Amigo threw 26 dead bocaccio into the ocean, in violation of California Code of Regulations, title 14, sections 1.87 and 195, subdivision (f), all while respondent was operating the CPFV Amigo, as set forth in Factual Findings 1 through 19 and 107 through 116.

EIGHTH CAUSE FOR DISCIPLINE

11. Cause exists to suspend, revoke, or temporarily cancel respondent's License and Permit in that, on May 17, 2017, respondent was criminally convicted of violating Fish and Game Code section 2002, a violation for which the License may be revoked, as set forth in Factual Findings 1 through 19 and 117 through 120.

12. "[A] plea of nolo contendere or 'no contest' to . . . a charge of a violation of any provision of this code, or any rule, regulation, or order made or adopted under this code, is a conviction of a violation thereof. (Fish & Game Code, § 12158.5.)

13. Respondent's criminal convictions are substantially related to the qualifications, functions, and duties of a person holding a commercial fishing license. A licensee's conviction must be substantially related to his or her fitness to engage in an occupation. (*Donaldson v. Department of Real Estate* (2005) 134 Cal.App.4th 948, 954.) Where a licensing statute does not require a showing of a nexus between the licensee's conduct and the licensee's fitness or competence to practice, the statute must be read to include this "nexus" requirement to ensure its constitutionality. (*Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757, 770.)

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14. While many licensing agencies have published substantial relationship criteria, neither the Department nor the Commission have done so, and neither agency is under a legislative mandate to provide such criteria because its inclusion is implied.

15. Respondent's criminal convictions at issue in this disciplinary matter arose out of respondent's acts of proven misconduct in his capacity as a commercial fisher, or involved violations of the Fish and Game Code and regulations adopted thereunder. Thus, there is no factual or legal issue regarding the existence of a substantial relationship.

LEVEL OF DISCIPLINE

16. Neither the Department nor the Commission has developed guidelines regarding the level of discipline to impose for misconduct by a licensed commercial fisher or permitted lobster operator. But Fish and Game Code section 12154, which concerns appeals of suspended or revoked hunting or sportfishing licenses, describes factors that are useful in determining the appropriate discipline in this case. The factors the Commission considers in such appeals include the nature, circumstances, extent, and gravity of the violations, the person's culpability for the violations, and the injury to natural resources caused by the violations. (Fish & Game Code, § 12154, subd. (b)(1).)

17. The primary purpose of administrative license proceedings is to protect the public; punishing the licensee is not the object of license discipline. (*Fahmy v. Medical Board of California* (1995) 38 Cal.App.4th 810, 817; see also *Pirouzian v. Superior Court* (2016) 1 Cal.App.5th 438, 448-450.) It is reasonable to consider the factors described in Fish and Game Code section 12154 in this case to evaluate public protection, specifically the protection of the public's natural resources.

18. Respondent violated laws and regulations designed to protect the lobster fishery and the recreational sportfishing fisheries. The violations were serious and repeated, and sometimes engaged in after respondent received warnings about his very misconduct. His culpability for the violations is largely unmitigated.

19. Respondent presented almost no evidence of rehabilitation. The amount of evidence required to establish rehabilitation varies according to the seriousness of the misconduct at issue. The mere expression of remorse does not demonstrate rehabilitation. A truer indication of rehabilitation is presented by sustained conduct over an extended period of time showing rehabilitation and fitness to practice. (*In re Menna* (1995) 11 Cal.4th 975, 987, 991.) Rehabilitation is a state of mind and the law looks with favor upon rewarding with the opportunity to serve, one who has achieved "reformation and regeneration." (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) The evidentiary significance of misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct. (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.)

20. Respondent testified himself but called no other witnesses to describe his rehabilitation efforts, current commercial fishing practices, or present character. He downplayed his culpability for the violations by characterizing them as inadvertent mistakes, even the violation of placing the Amigo four miles inside a closed fishing area for over three hours. He did not adequately address his attempts to conceal his violations, such as keeping live lobsters in a receiver near his boat. Overall, respondent's evidence of rehabilitation from such serious violations was too limited to support his continued licensure as a commercial fisher and permitting as a lobster operator.

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21. Revocation of respondent's commercial fishing license and lobster operator permit is warranted to protect public resources.

22. Respondent argues that the threat of revocation of his Permit and License constitutes punishment and is disproportionate to his offenses. He also argues revocation would violate the prohibition against excessive fines set forth in the Eighth Amendment to the United States Constitution and Article I, Section 17 of the California Constitution.


23. Contrary to respondent's argument, revoking a habitual violator's privileges to take state fishery resources is not punishment or a fine, nor does it result in monetary benefit to the state. Neither is it punitive. In this case, the revocation of respondent's License and Permit is intended to protect the public by protecting state fishery resources against the likelihood, established by respondent's repeated violations over a period of time and after receiving warnings, that respondent will continue to violate statutes and regulations.

24. Respondent's violations include twice taking passengers on a CPFV beyond the 60-Fathom Line to fish for rockfish; wasting 26 dead bocaccios; keeping an overlimit of rockfish on a CPFV trip; disregarding fish fileting requirements and ignoring Department warnings about violating fileting requirements; not making landing receipts available upon request of a Wildlife Officer; possessing 42 lobsters after the close of the season; submitting lobster logs that contained many inaccurate or incomplete submissions; and twice keeping undersized lobsters. These are precisely the type of offenses that justify a License and Permit revocation. The aggregate harm of respondent's repeated misconduct both as a CPFV operator and lobster fisher, and the strong likelihood that he will continue to commit additional violations if he is not removed from the fishery, is proportionate to the discipline sought.

ORDER

The commercial fishing license and lobster operator permit issued to respondent Jonathan Ewart are revoked.

DATE: 10/25/2022


Howard W. Cohen (Oct 25, 2022 11:29 PDT)

HOWARD W. COHEN

Administrative Law Judge

Office of Administrative Hearings



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
P.O. Box 944209
Sacramento, CA 94244-2090
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



November 14, 2022

California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090

Re: Adoption of Proposed Decision, *In Matter of the First Amended Accusation Against Jonathan Ewart* (Agency Case No. 21ALJ01-FGC, OAH No. 2021050363)

Dear Commissioners:

I respectfully request that you adopt the entire Proposed Decision issued *In Matter of the First Amended Accusation Against Jonathan Ewart* (Agency Case No. 21ALJ01-FGC, OAH No. 2021050363; "Proposed Decision"), which recommends revoking Mr. Ewart's Commercial Fishing License and Lobster Operator Permit.

In recommending the revocation of Mr. Ewart's commercial fishing license and lobster operator permit, Administrative Law Judge ("ALJ") Howard Cohen found that Mr. Ewart committed all **64 violations** described in the Accusation's eighteen Causes for Discipline, but provided little evidence of rehabilitation or mitigation. Mr. Ewart's violations include:

- Twice taking passengers on a Commercial Passenger Fishing Vessel ("CPFV") to fish for rockfish in an area where rockfish fishing was prohibited.
- Wasting 26 dead bocaccio that were caught on a CPFV by dumping them into the ocean.
- Keeping an overlimit of 26 rockfish on a CPFV trip.
- Twice disregarding fish fileting requirements for several species of fish, thus rendering fish species unidentifiable and their sizes indeterminable.
- Failing to make his lobster landing receipts available upon demand of a Wildlife Officer.
- Submitting 34 Daily Lobster Logs that contained inaccuracies and incomplete information.
- Possessing 42 spiny lobsters after the close of the season.
- On fourteen occasions, leaving lobster traps in the water several days or even several weeks longer than seven days without servicing them.

- Twice keeping undersized spiny lobsters, including keeping 34 undersized lobsters on December 30, 2020.

As ALJ Cohen states:

These are precisely the type of offenses that justify a License and Permit revocation. The aggregate harm of respondent's repeated misconduct both as a CPFV operator and lobster fisher, and the strong likelihood that he will continue to commit additional violations if he is not removed from the fishery, is proportionate to the discipline sought. (Proposed Decision, p. 44.)

Accordingly, I request that the Commission adopt this Proposed Decision in its entirety.

Moreover, revoking Mr. Ewart's Commercial Fishing License and Lobster Operator Permit would be consistent with discipline ordered in previous Commission decisions you have designated as precedential. For example, *In the Matter of the Accusation against Troy Tecklenburg*, the Commission determined that the totality of Mr. Tecklenburg's commercial lobster fishing violations warranted a revocation of his Lobster Operator Permit and Commercial Fishing License.¹ Likewise, the Commission determined that the totality of Mr. Woodrum's CPFV violations *In the Matter of the Accusation against Pursuit Fishing, LLC, and John Woodrum* warranted revocation of his commercial fishing privileges.² In this matter, Mr. Ewart's numerous commercial lobster and CPFV violations justify revoking his Commercial Fishing License and Lobster Operator Permit.

In addition to adopting the Proposed Decision, I also request that the Commission designate its decision on this matter as precedential. Government Code section 11425.60, subdivision (b), allows the Commission to "designate as a precedent decision a decision or part of a decision that contains a significant legal or policy determination of general application that is likely to recur." The Proposed Decision contains many significant legal and policy determinations of general application that are likely to recur, including:

¹ *In the Matter of the Accusation against Troy Tecklenburg*, Agency Case No. 15ALJ04-FGC, dated February 8, 2017 (<https://fgc.ca.gov/About/Precedential-Decisions>).

² *In the Matter of the Accusation against Pursuit Fishing, LLC, and John Woodrum*, Agency Case No. 19ALJ05-FGC, dated December 23, 2020 (<https://fgc.ca.gov/About/Precedential-Decisions>).

- CPFV violations are relevant to Commercial Fishing License and Lobster Operator Permit revocations because both CPFV operations and commercial lobster fishing involve profiting from the taking of state fishery resources.
- Fish and Game Code section 12154 can be used in determining an appropriate level of discipline.
- A revocation of a habitual violator's privileges to take state fishery resources does not violate the Eighth Amendment of the U.S. Constitution because a revocation is not a punishment or a fine, does not result in monetary benefit to the state, and is not punitive.
- The decision would serve as an example that the Commission can cite in future actions in determining appropriate levels of discipline.

Thus, the Commission should also designate this Proposed Decision as precedential.

Please do not hesitate to contact me if you have any questions.

Sincerely,

DocuSigned by:
David Bess
A8646E90CBC140C...

DAVID BESS
Deputy Director and Chief of the Law Enforcement Division

Cc: E. Michael Linscheid

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November 16, 2022

California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090
Via E-mail: Michael.Yaun@fgc.ca.gov

**Re: Rejection of the Proposed Decision In the Matter of the Accusation
Against Jonathan Ewart, 21 ALJ01-FGC, OAH NO. 2021050363.**

Dear Commissioners:

Respondent, Jonathan Ewart, is in receipt of the Proposed Decision rendered by Howard W. Cohen, Administrative Law Judge (ALJ) following a hearing on June 27th and June 28th, 2022. The proposed decision of the ALJ is to permanently revoke Respondent, Jonathan Ewart's, Commercial Fishing License and Spiny Lobster Operator Permit. On behalf of Mr. Ewart, I request that the Commission not permanently revoke the license and permit of a lifelong fisherman for conduct that is alleged to have occurred from 2016-2020. Mr. Ewart has accepted responsibility for the conduct established in most of the allegations and requests that the commission give him an opportunity to demonstrate his rehabilitation.

At the hearing, the Department of Fish and Wildlife [hereinafter "Department"] sought the permanent revocation of Respondent, Jonathan Ewart's, California commercial fishing license and California Spiny Lobster permit. The ALJ made findings that Respondent committed violations alleged within the 1st-5th and 7th-19th Causes for Discipline, which the Department identifies as 64 violations.¹ Many of the ALJ's factual conclusions were based upon speculation or insufficient evidence which must be addressed and reconsidered.

A. ALLEGATIONS PERTAINING TO LOBSTER FISHERY

Six of the causes for discipline within the First Amended Accusation (Causes 1, 2, 3, 4, 5 and 7) pertain specifically to Mr. Ewart's conduct while participating in the Spiny Lobster Fishery.

¹ While the Department elects to emphasize the number of violations, the conduct alleged within the First Amended Accusation is duplicated amongst several different violations.

Cause 1 involved possession of several undersized lobsters. Mr. Ewart accepted responsibility in this action by pleading no contest and accepting the punishment from the court. The ALJ discounts that he accepted responsibility through his actions of wanting to remeasure the lobsters despite experiencing a medical condition related to his diabetes. Respondent explained in his testimony that on the date and time of the incident he was experiencing low insulin and suggested that the errors in measuring the lobster were likely a result of his condition. While the ALJ appears to question Mr. Ewart's medical condition and appeared to require that he prove his disability to the ALJ, the wardens who cited Mr. Ewart corroborated his account that he had an insulin pump and another admitted that he bragged to others about citing Mr. Ewart while he was claiming to be experiencing low insulin. The ALJ makes conclusions, without medical expertise, as to how someone experiencing low insulin levels should respond when to law enforcement officers seeking to cite him for a law violation. Respondent agrees with the majority of the findings pertaining to Cause 1, except paragraphs 26 and 31.

Four of these five causes for discipline (**Causes 2, 3, 4, 5 and 7**) were litigated in the superior court and a jury acquitted Mr. Ewart of the conduct.

Causes 2 and 3 related to an allegation that he retained legal and undersized lobster after the close of the lobster season. The government's case of tying Mr. Ewart to a receiver of lobsters containing undersized and legal lobsters after the close of the season is based upon a video that law enforcement officers viewed but then permitted to be erased. The video purports to contain an image of someone who "looked like" Mr. Ewart in the vicinity of the receiver.² The ALJ does not address the law enforcement officer's lack of evidence tying Mr. Ewart to the receiver but instead accepts the government's version of the contents of the missing video as evidence of Mr. Ewart's conduct. Insufficient evidence established that Respondent had any connection to the receiver. Respondent disputes the findings in paragraphs 39, 51, 56, 60, 61.

Causes 4 and 5 involve convoluted allegations that Mr. Ewart did not properly service his lobster traps. While Mr. Ewart admitted that on occasion, he did not complete all of the fields in the lobster logs the government's evidence that he left his lobster traps in the ocean for extended periods of time are based upon speculation and were without corroboration. The wardens, without the experience of a lifelong lobster fisherman and without calling a lobster fisherman as a witness, speculated that fisherman always place the lobster trap in the same location it was pulled from. Respondent provided a logical explanation for not always returning the lobster traps to the same location immediately after pulling the traps, which included removing the traps from the water due to poor weather or moving the traps to other

² Nothing prevented law enforcement officers in 2019 from taking a video of the surveillance video once the officers determined that the person in the video "looked like" Mr. Ewart.

fishing grounds. (Paragraph 68) Mr. Ewart disputes the conclusions made in paragraphs 67, 68, 69, 70, 72, 73, 74, 76³, 77, 78.

As to errors in his logs, Respondent did admit that there were mistakes in his logs but not to the degree alleged by Complainant. Respondent disputes in part the finding at paragraph 80 in that despite the ALJ's statement that Respondent did not contest the charges, Respondent was acquitted of the charges in Cause 5.

Cause 7 involves an allegation that Respondent did not make landing receipts available for inspection. Respondent admits that he did not make the receipts available after Officer Johnson approached him on the dock as he believed the wardens had access to all his landing receipts through the Marine Landings Database. (Paragraph 83) Respondent denies having received any mailed communication demanding access to his logbooks or landing receipts as indicated in paragraph 85. In the future, Mr. Ewart will make landing receipts and logbooks available for inspection.

B. CPFV ALLEGATIONS

The balance of the allegations relates to conduct while operating a Commercial Passenger Fishing Vessel.

Causes 8, 9, 16 and 18 relate to fishing beyond the 60-fathom contour line on two separate occasions. Respondent conceded that while operating a sport fishing boat (CPFV) he fished beyond the 60-fathom contour line.

Causes 10, 11, 12, and 13 relate to the improper filleting of rock fish which included filleting two fish that are not permitted to be filleted aboard a vessel (Cause 10 and 11) as well as not keeping the entire skin attached to rockfish (Cause 12 and 13). Respondent admitted these violations.

Causes 14 and 15 relate to exceeding the boat limit for rock fish on May 16, 2016 (Cause 14) and throwing bocaccio back into the ocean (Cause 15). While Mr. Ewart admits that 26 bocaccio were returned to the ocean, the bocaccio were only returned to the ocean because they were infested with worms and not because they were in excess of the boat limit. No evidence was presented that the 170 fish boat limit did not include the 26 bocaccio that were thrown back. The log reporting that 170 fish were taken was based on the fact that 170 fish were removed from the fishery and thus no longer able to be fished by others. Respondent disputes the conclusions in paragraphs 112, 113, 115 and 116.

C. Discipline

In Determining the Appropriate Discipline, the Commission Must Consider Factors Relevant to the Conduct. Neither the Department of Fish and Wildlife nor the Fish and Game Commission have developed guidelines regarding the level of discipline to impose for misconduct by a commercial fisherman other than a recent

³ The purported inaccuracy as to the March 2019 log is based upon the location of crab in a receiver near a vessel jointly operated by Ewart and his father. Ewart denies any connection to those lobsters, and they were appropriately excluded.

flurry of decisions revoking or suspending commercial privileges. While the Department requests that the Commission consider as precedent, Fish and Game Code section 12154 for determining the appropriate level of discipline, such section is inapplicable to the current case as that section, by its express language, applies only to those individuals who hold hunting and sport fishing licenses.

Further, the cases cited by Counsel for Complainant which resulted in the Commission ordering a revocation of a commercial fishing license and permit involved numerous criminal convictions and allegations of numerous other law violations.

While the Department seeks the revocation of Jonathan Ewart's commercial fishing license and lobster permit, revocation is not the only remedy. (Cal. Fish and Game Code § 7857(b) ["The commission, after notice and opportunity for hearing, may suspend, revoke, or cancel commercial fishing privileges for a period of time to be determined by the commission..."].) The commission is not precluded from, as an alternative to revoking Ewart's commercial license and lobster permit, temporarily suspending or potentially staying a suspension or revocation for a period of time to allow Ewart the opportunity to demonstrate that he has learned from his mistakes and from this process. (14 CCR Forward ["the commission may suspend or modify these rules, in whole or in part, upon good cause shown or when in the discretion of the commission the particular facts or circumstances render such action appropriate in a given instance."].) Respondent respectfully requests the commission exercise its discretion consider a lesser alternative to permanent revocation of his permit and license.

CONCLUSION

Respondent, Jonathan Ewart respectfully requests that the commission consider the totality of his conduct as a commercial fisherman and the nature of the allegations and not limit their consideration to the years 2016-2020. Respondent respectfully requests that the commission impose a punishment or remedy short of the revocation or cancellation of Mr. Ewart's commercial fishing license and lobster permit.

DATED: November 16, 2022

Respectfully Submitted,



E. MICHAEL LINSCHIED

Attorney for Respondent

JONATHAN EWART

Memorandum

Date: November 3, 2022

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Request for Six-Month Extension, Lime Ridge Eriastrum Status Review**

Per Section 2074.6 of the Fish and Game Code, the California Department of Fish and Wildlife (Department) requests an extension of time, by six months, to further analyze and evaluate available science, to undergo the peer review process, and to complete the Lime Ridge eriastrum status review. Such an extension would change the due date of the Department's report to September 4, 2023, which is 18 months from the date the candidacy findings were published (March 4, 2022).

If you have questions or need additional information, please contact Jeff Drongesen, Branch Chief, Habitat Conservation Planning Branch at (916) 207-2823, or by e-mail at nativeplants@wildlife.ca.gov.

ec: California Department of Fish and Wildlife

Joshua Grover
Deputy Director
Ecosystem Conservation Division

Isabel Baer
Environmental Program Manager
Timberland Conservation, Fire Resiliency
and Native Plant Programs

Jeb Bjerke
Senior Environmental Scientist (Specialist)
Native Plant Program

Memorandum

Date: November 14, 2022

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: Request for 6-Month Extension, Temblor Legless Lizard Status Review

The Department of Fish and Wildlife (Department) requests a 6-month extension of time pursuant to Fish and Game Code section 2074.6 to produce and make publicly available the final peer reviewed Temblor legless lizard (*Anniella alexanderae*) status review report. The Department anticipates receiving substantial comments and/or scientific information from tribes, stakeholders, and other interested parties regarding the petition to list Temblor legless lizard as threatened or endangered under the California Endangered Species Act (CESA). The Department has determined that an extension is necessary to complete independent peer review of the report and to provide a minimum of 30 days for public review prior to the hearing specified in Fish and Game Code section 2075. The requested extension would change the due date of the Department's status review report to January 1, 2024, which is 18 months from the date the Fish and Game Commission published the Notice of Findings that, in part, provided notice that Temblor legless lizard is a candidate species under CESA (July 1, 2022).

If you have any questions or need additional information, please contact Scott Gardner, Wildlife Branch, at wildlifemgt@wildlife.ca.gov, or (916) 801-6257.

ec: Chad Dibble
Deputy Director
Wildlife and Fisheries Division

Pete Figura
Environmental Program Manager
Wildlife Branch

Katrina Smith
Senior Environmental Scientist (Specialist)
Wildlife Branch

STAFF SUMMARY FOR APRIL 20-21, 2022
(FOR BACKGROUND PURPOSES ONLY)

24. CONDITIONAL TAKE OF SOUTHERN CALIFORNIA STEELHEAD

Today's Item

Information ☐

Action ☒

If the Commission determines that listing may be warranted, consider regulatory action to allow take of southern California steelhead (*Oncorhynchus mykiss*) under certain circumstances by either authorizing a notice of intent to adopt a regulation at a future meeting or adopting an emergency regulation at this meeting, and consider taking final action under the California Environmental Quality Act.

Summary of Previous/Future Actions (for full summary, see Agenda Item 23)

- **Today discuss and consider authorizing conditional take of southern California steelhead** **Apr 20-21, 2022; Monterey/Trinidad**

Background

At its Feb 16-17, 2022 meeting, FGC held a public hearing regarding the petition to list southern California steelhead (SCS) as an endangered species under the California Endangered Species Act (CESA). After oral testimony concluded, FGC discussed the item, closed the public hearing and administrative record pursuant to California Fish and Game Code Section 2074.2, and continued deliberation on the question of whether listing SCS as endangered may be warranted to today's meeting (Agenda Item 23). FGC also asked staff to work with DFW, the petitioner, tribes, and other interested parties to develop a draft regulation, consistent with the purposes of CESA, that would permit the take of SCS and allow critical infrastructure and other essential projects to continue operations.

If FGC determines that listing may be warranted, SCS will become a candidate species and DFW will undertake a one-year status review before FGC makes a final decision on listing. Candidate species are protected from unauthorized take during the remainder of the listing process pursuant to Fish and Game Code Section 2085. Fish and Game Code Section 2084 permits FGC to authorize the take of any candidate species, subject to terms and conditions it prescribes and based on the best available scientific information, consistent with CESA.

DFW proposes a draft regulation (Exhibit 2) that, if adopted by FGC, would authorize take of SCS during the candidacy period. The take authorization would apply to certain projects or activities that relate to flood control, highways and the diversion, impoundment, or discharge of water that provide certain benefits to public peace, health, safety or general welfare, and that meet other specific conditions described in the proposed addition of Section 749.13. The take authorization would be contingent on a current, valid federal instrument that authorizes take under the federal Endangered Species Act – a biological opinion or an incidental take permit issued by the National Marine Fisheries Service. The project proponent must demonstrate they have complied with Fish and Game Code Section 1602 by (1) submitting a final lake and streambed alteration agreement (LSAA), (2) indicating they have initiated the process of obtaining an LSAA by paying the applicable fees, or (3) affirming that an LSAA is not required for the project. As proposed, DFW would examine all submitted materials and make a written determination as to whether all requirements have been met.

STAFF SUMMARY FOR APRIL 20-21, 2022
(FOR BACKGROUND PURPOSES ONLY)

An emergency exists because of the immediate, serious harm to the public health, safety, or general welfare that would be caused by work delays or stoppages for projects or activities that relate to: (1) flood control and provide flood protection necessary to prevent flood damage to communities or infrastructure; (2) projects or activities that relate to highways and provide public-safety benefits through highway maintenance or improvements; or (3) projects or activities that relate to the diversion, impoundment or discharge of water and that provide water supply or water treatment for essential domestic, agricultural, industrial or other commercial uses. Under the regulation, DFW may only authorize take for projects that meet the California Administrative Procedure Act definition of an emergency, namely, those for which not issuing take authorization would cause “serious harm to the public peace, health, safety, or general welfare.”

Regarding projects or activities that provide water supply, on March 28, 2022 Governor Newsom ordered through Executive Order N-7-22 that the previously proclaimed states of emergency due to extreme and expanding drought conditions that exist across all the counties of California shall remain in full force and effect. The critical need for water delivery under these serious drought conditions reinforces the emergency nature of the regulation.

Today, FGC will discuss and consider the potential regulation to authorize conditional take of SCS during the candidacy period. By adopting this regulation, FGC would authorize the incidental take of SCS during the candidacy period that may result from activities previously mentioned.

If FGC adopts an emergency regulation at this meeting, staff would submit the regulation to the Office of Administrative Law for filing. If FGC authorizes a notice of proposed rulemaking (i.e., regular rulemaking in lieu of an emergency regulation) at this meeting, the regulation would be considered at a future meeting. A regulation adopted pursuant to FGC’s authority under Section 2084 would only authorize take during the time that SCS is a candidate species under CESA.

Significant Public Comments

1. Casitas Municipal Water District requests that, if FGC finds listing SCS under CESA may be warranted, FGC authorize interim incidental take in accordance with Fish and Game Code Section 2084 for operations, maintenance and repair of existing water system facilities (Exhibit 4).
2. United Water Conservation District provides information on its operations and two of its water projects, and supports Section 2084 language attributed to the Association of California Water Agencies, which is similar to the language proposed by DFW. In the absence of such a regulation, it urges FGC to include United’s facilities in any Section 2084 regulation that allows for take of SCS during its candidacy period (Exhibit 5).
3. Orange County Water District states that it would be beneficial for DFW and FGC staff to clarify in the Section 2084 regulation that stocked fish are not “native” SCS as it would avoid needless confusion and improper allegations in the future should stocked fish be found dead as part of normal operations of the water agencies (Exhibit 6).

STAFF SUMMARY FOR APRIL 20-21, 2022
(FOR BACKGROUND PURPOSES ONLY)

Recommendation

FGC staff: Adopt the proposed emergency regulation authorizing conditional take of southern California steelhead as proposed in exhibits 1 and 2 and discussed today.

Exhibits

1. DFW memo for proposed Section 749.13, received Apr 6, 2022
2. Draft statement of proposed emergency regulatory action and proposed regulation text, received Apr 6, 2022
3. Draft economic and fiscal impact statement (STD 399) and addendum, received Apr 6, 2022
4. Letter from Michael L. Flood, General Manager, Casitas Municipal Water District, received Apr 6, 2022
5. Letter from Anthony Emmert, Assistant General Manager, United Water Conservation District, received Apr 7, 2022
6. Letter from Michael R. Markus, General Manager, Orange County Water District, received Apr 7, 2022

Motion

Moved by _____ and seconded by _____ that the Commission finds, pursuant to Section 399 of the Fish and Game Code, that adopting the proposed emergency regulation is necessary for the immediate preservation of the public peace, health, safety, or general welfare.

The Commission further determines, pursuant to Section 11346.1 of the Government Code, that an emergency situation exists and finds the proposed regulation is necessary to address the emergency.

Therefore, the Commission adopts the emergency regulation to add Section 749.13 to Title 14, California Code of Regulations, as discussed today.

Memorandum

Date: November 9, 2022

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Agenda item for December meeting - Submittal of Emergency Statement for Re-adopt of Addition of Section 749.13 to Title 14, California Code of Regulations: Incidental Take of Southern California Steelhead**

Please find attached the Finding of Emergency and Statement of Proposed Emergency Regulatory Action to Re-adopt the Addition of Section 794.13 to Title 14, California Code of Regulations (Emergency Statement), STD399 Economic and Fiscal Impact Statement, and STD399 Addendum. At the February 17, 2022, Fish and Game Commission (Commission) meeting, the Commission asked the Department of Fish and Wildlife (Department) to work with stakeholders to develop a potential Fish and Game Code (FGC) Section 2084 regulation that would allow take of Southern California steelhead under certain conditions. At its April 20-21, 2022, meeting, the Commission determined that listing Southern California steelhead (*Oncorhynchus mykiss*) as endangered under the California Endangered Species Act (CESA) may be warranted pursuant to FGC Section 2074.2.

Candidate species are protected from take under CESA pursuant to FGC Sections 2080 and 2085 during the CESA status review period. Under FGC Section 2084, CESA provides that the Commission may adopt regulations to authorize take of candidate species, based on the best available scientific information, when the take is otherwise consistent with CESA. As with all regulations, the Commission may adopt a regulation under FGC Section 2084 on an emergency basis when it determines that a situation exists which threatens public health and safety or general welfare.

The Department worked with stakeholders to develop regulations, under FGC Section 2084, which the Commission adopted through an emergency rulemaking action at the Commission's April 20-21, 2022, meeting. The Commission re-adopted this regulation under emergency authority at its October 12-13, 2022, meeting. The Commission may consider another re-adoption of this regulation described in the attached Emergency Statement through an emergency rulemaking action at the Commission's December 14-15, 2022, meeting. If adopted by the Commission and approved by the Office of Administrative Law (OAL), this potential emergency regulation would be effective upon filing by the OAL and the regulation would continue for a period of 90 days. If the Commission adopts this regulation, the Commission would, subject to specific terms and conditions, continue to authorize the incidental take of Southern California

Melissa Miller-Henson, Executive Director
Fish and Game Commission
November 9, 2022
Page 2

steelhead during the CESA candidacy period that may result from projects or activities related to flood control; highways; and the diversion, impoundment, or discharge of water that provide certain public benefits.

If you have any questions or need additional information, please contact Ed Pert, Regional Manager, South Coast Region, via email at SCSH@Wildlife.ca.gov.

Attachments: Emergency Statement
STD399 Economic and Fiscal Impact Statement
STD399 Addendum

cc: Chad Dibble, Deputy Director
Wildlife and Fisheries Division

Jay Rowan, Branch Chief
Fisheries Branch

Ed Pert, Regional Manager
South Coast Region

Richard Burg, Program Manager
South Coast Region

Erinn Wilson-Olgin, Program Manager
South Coast Region

Chris Stoots, Assistant Chief
Law Enforcement Division

Brian Hennes, Attorney
Office of the General Counsel

Ona Alminas, Program Manager
Regulations Unit

Jenn Bacon, Analyst
Fish and Game Commission

David Thesell, Program Manager
Fish and Game Commission

CALIFORNIA FISH AND GAME COMMISSION
FINDING OF EMERGENCY AND
STATEMENT OF PROPOSED EMERGENCY REGULATORY ACTION

Emergency Action to
Re-adopt Section 749.13
Title 14, California Code of Regulations
Re: Incidental Take of Southern California Steelhead

Date of Statement: October 20, 2022

Unless otherwise specified, all section references in this document are to Title 14, California Code of Regulations.

I. Statement of Facts Constituting the Need for Emergency Regulatory Action

Background

On June 14, 2021, the California Fish and Game Commission (Commission) received a petition (the Petition) from California Trout to list Southern California steelhead (*Oncorhynchus mykiss*, herein referred to as “SCS”), as endangered under the California Endangered Species Act (CESA). SCS is defined in the petition as all *O. mykiss*, including anadromous and resident life histories, below manmade and natural complete barriers to anadromy from the Santa Maria River, San Luis Obispo County (inclusive) to the U.S. Mexico border. The anadromous and resident life history forms of the species *O. mykiss* commonly referred to as “steelhead” and “rainbow trout,” respectively, overlap in distribution and interbreed throughout much of their range.

A Southern California steelhead Distinct Population Segment (Southern California steelhead DPS) is currently listed under the federal Endangered Species Act (50 C.F.R. § 224.101). That federal listing has the same geographic scope as the SCS CESA listing proposed by California Trout in its petition; however, the federal listing only includes the anadromous life history of *O. mykiss* and does not include *O. mykiss* with resident life histories. It is important to note that it is difficult if not impossible to visually distinguish between the two life histories in freshwater, especially during early life stages. Even genetic analysis may not reveal which life history an individual *O. mykiss* has or will express. Accordingly, for management purposes the National Marine Fisheries Service generally considers any *O. mykiss* within the rivers included in the geographic scope of the Southern California steelhead DPS listing to be a part of that listing unit.

On December 15, 2021, the Commission received the California Department of Fish and Wildlife’s (Department) 90-day evaluation report on the Petition. In that evaluation report the Department determined that there is sufficient scientific information in the petition to indicate that the petitioned action may be warranted.

On February 17, 2022, the Commission closed the public hearing and administrative record and continued the deliberation and decision on whether listing SCS as endangered under CESA may be warranted to a future Commission meeting to be held no later than May 18, 2022. Continuing the deliberation and decision allowed the Commission to consider a potential Fish and Game Code Section (FGC) 2084 regulation in the same Commission meeting in

which the Commission might make a may-be-warranted finding that would make SCS a candidate species under CESA.

On April 21, 2022, the Commission found that listing SCS under CESA may be warranted pursuant to FGC Section 2074.2, and SCS became a CESA candidate species upon the Commission's publication of a notice of finding that the Commission has accepted the California Trout Petition for consideration and designated SCS as a candidate species under CESA. In the same meeting, the Commission adopted the FGC Section 2084 regulation through emergency authority. On October 13, 2022, the Commission re-adopted the same FGC Section 2084 regulation. On December 15, 2022, the Commission re-adopted the same FGC Section 2084 regulation for a second time.

Statutory Authority

Candidate-species are protected from take under CESA pursuant to FGC sections 2080 and 2085. FGC Section 86 states that "[t]ake means hunt, pursue, catch, capture, or kill or attempt to hunt, pursue, catch, capture, or kill." Under FGC Section 2084, CESA provides that the Commission may adopt regulations to authorize take of candidate species, based on the best available scientific information, when the take is otherwise consistent with CESA. As with all regulations, the Commission may adopt a regulation under Section 2084 on an emergency basis when it determines that a situation exists that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.

Consistency Determinations (CD) pursuant to FGC Section 2080.1 or Incidental Take Permits (ITP) pursuant to FGC Section 2081, subdivision (b), may also authorize the take of CESA candidate species. CESA take may only be authorized through a CD after the Department has determined that a project's federal take authorization under the federal Endangered Species Act meets certain CESA criteria; some federal take authorizations will likely not entirely meet those criteria. The Department may authorize CESA take through an ITP on a project-specific basis, which would be a substantially more lengthy and costly process for getting CESA take authorization than through this proposed emergency regulation.

Finding of Emergency

The Commission considered the following factors in determining whether an emergency exists: public health, safety, and general welfare, as well as the magnitude of potential harm; the immediacy of the need; and whether the anticipation of harm has a basis firmer than simple speculation and has determined that an emergency regulation authorized under FGC Section 2084 is needed. In this case, an emergency exists because of the immediate, serious harm to the public health, safety, or general welfare that would be caused by work delays or stoppages for projects or activities that relate to flood control and provide flood protection necessary to prevent flood damage to communities or infrastructure; projects or activities that relate to highways and provide public-safety benefits through highway maintenance or improvements; or projects or activities that relate to the diversion, impoundment, or discharge of water and provide water supply or water treatment for essential domestic, agricultural, industrial, or other commercial uses. Regarding projects or activities that provide water supply, on March 28, 2022, in Executive Order N-7-22, Governor Newsom ordered that the previously proclaimed states of emergency due to extreme and expanding drought conditions that exist across all the counties of California shall remain in full force and effect. The proposed readoption of Section

749.13 extends the emergency regulation to allow incidental take of SCS during CESA candidacy for certain activities subject to specific terms and conditions described below.

II. Proposed Emergency Regulations

Under this emergency regulation the Commission will continue to authorize the incidental take of SCS during the candidacy period that may occur during the implementation of certain projects or activities that relate to flood control; highways; and the diversion, impoundment, or discharge of water; that provide certain benefits to public peace, health, safety, or general welfare; and that meet other specific conditions described in the proposed addition of Section 749.13. The following paragraphs justify each subsection as follows:

749.13(a): This subsection is necessary to inform how the proponent of a project or activity seeking take authorization shall submit to the Department written documentation via email or physical mail to demonstrate that the project or activity satisfies the criteria in subsections (a)(1) through (4).

(a)(1): This subsection lists the types of projects or activities that would satisfy this first of four criteria in subsections (a)(1) through (4). Flood control, and the diversion, impoundment, or discharge of water are mentioned to define to project proponents of the scope of in-stream activities and applicability of this regulation. The definition of “highway” in subsection (a)(1) is the same as in Section 360 of the California Vehicular Code: “Highway” is a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street.” Referencing this code is necessary to ensure clarity to project proponents of the scope of transportation nexus and applicability of this regulation.

(a)(2): This subsection describes the public benefits that the types of projects or activities listed in subsection (a)(1) must provide to satisfy this second of four criteria in subsections (a)(1) through (4).

Projects or activities that provide flood protection necessary to prevent flood damage to communities or infrastructure may take SCS through work in wetted streams. Without CESA take authorization through this emergency regulation for the take of SCS during candidacy, the risk of unlawful take of a CESA candidate species may cause these flood-protection projects or activities to not be undertaken or significantly delayed if they must instead seek CESA take authorization from the Department through other non-emergency CESA take authorization pathways.

Projects or activities that provide public-safety benefits through highway maintenance or improvements may take SCS through work in wetted streams. Take of SCS may occur during the construction of highway projects when water diversions, which dewater streams and rivers that may be occupied by SCS, are necessary to install bridges or culverts. Without CESA authorization through this emergency regulation for the take of SCS during candidacy, the risk of unlawful take of a CESA candidate species may cause these highway maintenance or improvement projects or activities to not be undertaken or significantly delayed if they must instead seek CESA take authorization from the Department through other non-emergency CESA take authorization pathways. Highway maintenance or improvement projects provide public-safety benefits by their nature. Approval of such projects will rely on the project meeting the criteria that it is necessary to avoid serious harm to the public peace, health, or safety to

ensure that not only is the project an emergency but also that it provides the public benefit. Only those projects where the stoppage or delay would cause harm would be approved.

Ongoing water diversions that provide drinking water or supply water for agriculture, local industries, or other commercial uses are necessary to ensure public health, safety, and general welfare. Projects or activities that provide water supply or water treatment for essential domestic, agricultural, industrial, or other commercial uses may take SCS through work in wetted streams. Take of SCS may occur through dewatering of streams and rivers or entrainment or injury at a point of diversion. Without CESA authorization for the take of a CESA candidate species through this emergency regulation, the risk of unlawful take of a CESA candidate species may cause these water-supply or water-treatment projects or activities to not be undertaken or significantly delayed if they must instead seek CESA take authorization from the Department through other non-emergency CESA-take-authorization pathways.

(a)(3): This subsection describes the federal take authorization and associated documents that are required to satisfy this third of four criteria in subsections (a)(1) through (4). This required federal take authorization is specifically cross-referenced in subsections 749.13(c) and (d).

(a)(4): This subsection describes the requirement related to notification pursuant to FGC Section 1602 that is necessary to satisfy this fourth of four criteria in subsections (a)(1) through (4). Under FGC 1602, when an entity is required to notify the Department and the Department determines the activity may substantially adversely affect an existing fish and wildlife resource, the Department may issue a final agreement to that entity that includes reasonable measures necessary to protect the resource, which may include SCS.

(b): This subsection creates a 30-day timeline, which is necessary to give the Department sufficient time to review the written documentation that the proponent of a project or activity has submitted and make a determination on whether the project or activity satisfies the criteria in subsections (a)(1) through (4) while also ensuring that the Department will promptly make such determinations.

(b)(1) and (b)(2): The requirements in these subsections that the Department make its determinations in writing are intended to ensure transparency and clarity in the Department's determinations.

(c): This subsection describes how any CESA take authorization conferred by this emergency regulation shall have the same operational requirements and be for the same type and amount of take as the federal take authorization for the project or activity that satisfied subsection (a)(3). This subsection is intended to limit the scope of the CESA take authorization (operational requirements and type and amount of take) to the scope of the federal take authorization that CESA take authorization is based on. Further, this subsection is intended to provide a mechanism for the Department to revoke the CESA take authorization if the project or activity is not complying with the terms of its federal take authorization.

(d): This subsection is intended to ensure that only projects that continue to have valid federal take authorization will continue to have CESA take authorization.

(e): This subsection describing responsibility of project proponent to ensure consistency with all applicable laws is necessary to clarify the limitations of the intended effect of this emergency regulation.

III. Identification of Reports or Documents Supporting Regulation Change

A summary of general scientific information on the life history of Southern California steelhead is presented in the National Marine Fisheries Service's Southern California Steelhead Recovery Plan published in January 2012 available online at:

<https://www.fisheries.noaa.gov/resource/document/southern-california-steelhead-recovery-plan>.

IV. Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

(a) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The Commission anticipates that there will be costs to the State, specifically the (Department). Estimated program costs of \$6,584.96 over the extended emergency regulation period of 90 days will be absorbed within existing budgets.

Table 1. Estimated Department Implementation Costs for Making Determinations as Required Under this Emergency Regulation Relating to Take of Southern California Steelhead

DFW Classification	Activity/Task	Hourly Rate ¹	Hours per Task	Projected Cost
Senior Environmental Scientist (Region)	Review whether project or activity satisfies specified criteria	\$76.35	2	\$152.70
Senior Environmental Scientist (Fisheries Branch)	Review whether project or activity satisfies specified criteria	\$76.35	2	\$152.70
Senior Environmental Scientist	Meet with proponent to discuss whether project or activity satisfies specified criteria and write explanation of Department's determination on whether it does or does not	\$76.35	6	\$458.10
Senior Environmental Scientist, Supervisor	Meet with proponent to discuss whether project or activity satisfies specified criteria and write explanation of Department's determination on whether it does or does not	\$101.80	6	\$610.80
Environmental Program Manager	Meet with proponent to discuss whether project or activity satisfies specified criteria and write explanation of Department's determination on whether it does or does not	\$123.92	6	\$743.52

DFW Classification	Activity/Task	Hourly Rate ¹	Hours per Task	Projected Cost
Regional Manager	Meet with proponent to discuss whether project or activity satisfies specified criteria and write explanation of Department's determination on whether it does or does not	\$123.02	2	\$246.04
Attorney IV	Consultation with Region	\$110.72	4	\$466.92
	Subtotal per project			\$2,830.78
	Overhead ²	16.31%		\$461.70
	Total per project cost			\$3,292.48
	Grand Total for two (2) Projects			\$6,584.96

¹ Hourly Rate includes mean wages per CalHR payscale 2022 and Department benefit rates.

² Non-Federal Project Overhead rate for FY 2022/23 is 16.31% per Department Budget Branch.

Note: Minor discrepancies (less than \$1.00) may be apparent in total costs due to rounding error.

Other State agencies, such as California Department of Transportation (Caltrans) may also be affected if they pursue a take allowance through the Department. An estimate of Caltrans potential per project costs is detailed in Table 2.

Table 2. Estimated Caltrans Implementation Costs for Take of Southern California Steelhead

Caltrans Classification	Activity/Task	Hourly Rate ¹	Hours per Task	Projected Cost
Senior Planner	Draft correspondence	\$67.84	1.00	\$67.84
Attorney IV	Review correspondence	\$116.73	0.33	\$38.52
Deputy Director	Approve filing	\$129.88	0.25	\$32.47
	Subtotal per project		1.58	\$138.83
	Overhead²	16.31%		\$22.64
	Total per project costs			\$161.47

¹ Hourly Rate includes mean wages per CalHR payscale 2022 and estimated benefit rates.

² Non-Federal Project Overhead rate for FY 2022/23 is estimated to be 16.31% estimate

Note: Minor discrepancies (less than \$1.00) may be apparent in total costs due to rounding error.

(b) Nondiscretionary Costs/Savings to Local Agencies:

This emergency regulation will not introduce nondiscretionary costs or savings to local agencies. Should an agency choose to consider the review and issuance of a permit, the process would likely entail the review of project plans, census information, and relocation plans.

(c) Programs Mandated on Local Agencies or School Districts:

None.

(d) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:

None.

V. Authority and Reference

The Commission adopts this emergency action pursuant to the authority vested by Sections 399 and 2084 of the Fish and Game Code to implement, interpret, or make specific Sections 399 and 2084 of the Fish and Game Code.

VI. Section 399 Finding

Delays or stoppages for projects or activities that relate to flood control and provide flood protection necessary to prevent flood damage to communities or infrastructure that would likely occur without this emergency regulation because of SCS CESA protections would jeopardize that flood protection.

Delays or stoppages for projects or activities that relate to highways and provide public-safety benefits through highway maintenance or improvements that would likely occur without this emergency regulation because of SCS CESA protections would jeopardize those public safety benefits.

Delays or stoppages for projects or activities related to the diversion, impoundment, or discharge of water that provide water supply or water treatment for essential domestic, agricultural, industrial, or commercial uses that would likely occur without this emergency regulation because of SCS CESA protections would jeopardize those water supply or water treatment public benefits. Regarding projects or activities that provide water supply, on March 28, 2022, in Executive Order N-7-22, Governor Newsom ordered that the previously proclaimed states of emergency due to extreme and expanding drought conditions that exist across all the counties of California shall remain in full force and effect.

Pursuant to Section 399, subdivision (b), of the Fish and Game Code, the Commission finds, based on the information above, that adopting this regulation is necessary for the immediate preservation of the public peace, health and safety, and general welfare.

Informative Digest

On June 14, 2021, the California Fish and Game Commission (Commission) received a petition (the Petition) from California Trout to list Southern California steelhead (*Oncorhynchus mykiss*, hereinafter “SCS”), as endangered under the California Endangered Species Act (CESA). SCS is defined in the petition as all *O. mykiss*, including anadromous and resident life histories, below manmade and natural complete barriers to anadromy from the Santa Maria River, San Luis Obispo County (inclusive) to the U.S. Mexico border. The anadromous and resident life history forms of the species *O. mykiss* commonly referred to as “steelhead” and “rainbow trout,” respectively, overlap in distribution and interbreed throughout much of their range. It is difficult if not impossible to visually distinguish between the two life histories in freshwater, especially during early life stages.

A Southern California steelhead Distinct Population Segment (Southern California steelhead DPS) is currently listed under the federal Endangered Species Act. That federal-listing has the same geographic scope as the SCS CESA listing proposed by California Trout in its petition; however, the federal listing only includes the anadromous life history of *O. mykiss*. It is important to note that it is difficult if not impossible to visually distinguish between the two life histories in freshwater, especially during early life stages. Even genetic analysis may not reveal which life history an individual *O. mykiss* has or will express. Accordingly, for management purposes the National Marine Fisheries Service generally considers any *O. mykiss* within the rivers included in the geographic scope of the Southern California steelhead DPS listing to be a part of that listing unit.

On December 15, 2021, the Commission received the California Department of Fish and Wildlife’s (Department) 90-day evaluation report on the Petition. In that evaluation report the Department determined that there is sufficient scientific information in the petition to indicate that the petitioned action may be warranted.

On February 17, 2022, the Commission closed the public hearing and administrative record and continued the deliberation and decision on whether listing SCS as endangered under CESA may be warranted to a future Commission meeting to be held no later than May 18, 2022. Continuing the deliberation and decision allowed the Commission to consider a potential 2084 regulation in the same Commission meeting in which the Commission might make a may-be-warranted finding that would make SCS a candidate species under CESA.

On April 21, 2022, the Commission found that listing SCS under CESA may be warranted pursuant to FGC Section 2074.2, and SCS became a CESA candidate species upon the Commission’s publication of a notice of finding that the Commission has accepted the California Trout Petition for consideration and designated SCS as a candidate species under CESA. In the same meeting, the Commission adopted a Fish and Game Code Section 2084 regulation through emergency authority. On October 13, 2022, the Commission re-adopted the same Fish and Game Code Section 2084 regulation. On December 15, 2022, the Commission re-adopted the same Fish and Game Code Section 2084 regulation for a second time.

Candidate-species are protected from take under CESA pursuant to Fish and Game Code (FGC) sections 2080 and 2085. FGC Section 86 states that “[t]ake means hunt, pursue, catch, capture, or kill or attempt to hunt, pursue, catch, capture, or kill.” Under FGC Section 2084, CESA provides that the Commission may adopt regulations to authorize take of candidate species, based on the best available scientific information, when the take is otherwise

consistent with CESA. As with all regulations, the Commission may adopt a regulation under Section 2084 on an emergency basis when it determines that a situation exists that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.

Consistency Determinations (CD) pursuant to FGC Section 2080.1 or Incidental Take Permits (ITP) pursuant to FGC Section 2081, subdivision (b), may also authorize the take of CESA candidate species. CESA take may only be authorized through a CD after the Department has determined that a project's federal take authorization under the federal Endangered Species Act meets certain CESA criteria; some federal take authorizations will likely not entirely meet those criteria. The Department may authorize CESA take through an ITP on a project-specific basis, which would be a substantially more lengthy and costly process for getting CESA take authorization than through this proposed emergency regulation.

The Commission considered the following factors in determining whether an emergency exists: public health, safety, and general welfare, as well as the magnitude of potential harm; the immediacy of the need; and whether the anticipation of harm has a basis firmer than simple speculation and has determined that an emergency regulation authorized under FGC Section 2084 is needed. In this case, an emergency exists because of the immediate, serious harm to the public health, safety, or general welfare that would be caused by work delays or stoppages for projects or activities that relate to flood control and provide flood protection necessary to prevent flood damage to communities or infrastructure; projects or activities that relate to highways and provide public-safety benefits through highway maintenance or improvements; or projects or activities that relate to the diversion, impoundment, or discharge of water and provide water supply or water treatment for essential domestic, agricultural, industrial, or other commercial uses. Regarding projects or activities that provide water supply, on March 28, 2022, in Executive Order N-7-22, Governor Newsom ordered that the previously proclaimed states of emergency due to extreme and expanding drought conditions that exist across all the counties of California shall remain in full force and effect. The proposed readoption of the emergency regulation Section 749.13 allows incidental take of SCS during CESA candidacy for certain activities subject to specific terms and conditions described below.

Commission staff have searched the California Code of Regulations and have found no other state regulation relating to the Commission's ability to allow for incidental take of a candidate species under CESA, and therefore concludes that the proposed regulation is neither inconsistent nor incompatible with existing state regulation.

PROPOSED REGULATORY TEXT

Section 749.13, Title 14, California Code of Regulations, is re-adopted to read:

§ 749.13. Emergency Regulation Relating to Take of Southern California Steelhead (*Oncorhynchus mykiss*) During Candidacy Period.

The commission authorizes the take of Southern California steelhead during the candidacy period for each of the projects or activities described in this section, subject to the following terms and conditions:

(a) The proponent of a project or activity seeking take authorization pursuant to this section shall submit to the department by emailing to SCSH@wildlife.ca.gov or mailing to California Department of Fish and Wildlife, Fisheries Branch, Attention: Southern California Steelhead Take Authorization, P.O. Box 944209, Sacramento, CA 94244-2090 written documentation to demonstrate that the project or activity:

(1) Relates to flood control; a “highway” as defined in Section 360 of the Vehicle Code; or the diversion, impoundment, or discharge of water;

(2) Provides flood protection necessary to prevent flood damage to communities or infrastructure and is therefore immediately necessary to avoid serious harm to the public peace, health, or safety; public-safety benefits through highway maintenance or improvements and is therefore immediately necessary to avoid serious harm to the public peace, health, or safety; or water supply or water treatment for essential domestic, agricultural, industrial, or other commercial uses and is therefore immediately necessary to avoid serious harm to the public peace, health, or safety;

(3) Has valid take authorization from the National Marine Fisheries Service through a federal incidental take statement or incidental take permit under the federal Endangered Species Act for the Southern California steelhead Distinct Population Segment. The written documentation required by this subsection (a)(3) shall include a copy of the incidental take statement or incidental take permit through which the project or activity has valid take authorization from the National Marine Fisheries Service and shall also include any associated biological assessment, biological opinion, or habitat conservation plan; and

(4) Does not require the proponent of the project or activity to submit a written notification pursuant to Fish and Game Code Section 1602 or the proponent of the project or activity has submitted a notification pursuant to Section 1602 and has either received a final agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code or paid the applicable fees pursuant to Section 1609.

(b) Within thirty calendar days of receipt of the written documentation required by subsection (a), the department shall determine in writing whether the project or activity satisfies the criteria in subsections (a)(1) through (4).

(1) If the department determines the project or activity does not satisfy the criteria in subsections (a)(1) through (4), the department shall provide a written explanation detailing the reasons for its determination.

(2) If the department determines the project or activity does satisfy the criteria in subsections (a)(1) through (4), the department shall provide the proponent of the project or activity written confirmation of take authorization pursuant to this section.

(c) The proponent of a project or activity receiving take authorization pursuant to subsection (b)(2) shall undertake the project or activity as described in the federal incidental take statement or incidental take permit for the project or activity. The state take authorization conferred by this section shall be for the same type and amount of take as the federal take authorization required by subsection (a)(3). If the department determines the proponent of a project or activity receiving take authorization pursuant to subsection (b)(2) has not undertaken the project or activity as described in the federal take authorization required by subsection (a)(3) or has exceeded the type or amount of take authorized by the federal take authorization required by subsection (a)(3), the department shall revoke the state take authorization conferred by this section for the duration of the Southern California steelhead candidacy period.

(d) If the federal take authorization that satisfied subsection (a)(3) for a project or activity is amended, is replaced, expires, or is revoked, the Department shall revoke the state take authorization conferred by this section. If the proponent of the project or activity receives new federal take authorization, it may reapply for state take authorization using the process set forth in subsection (a).

(e) Nothing in this section is intended to be or shall be construed to be a general project or activity approval. It shall be the responsibility of the proponent of each project or activity receiving take authorization pursuant to this section to obtain all necessary permits and approvals and to comply with all applicable federal, state, and local laws.

NOTE: Authority cited: Sections 399 and 2084, Fish and Game Code.

Reference: Sections 399 and 2084, Fish and Game Code.

ECONOMIC AND FISCAL IMPACT STATEMENT**(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

DRAFT DOCUMENT**ECONOMIC IMPACT STATEMENT**

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON David Thesell	EMAIL ADDRESS fgc@fgc.ca.gov	TELEPHONE NUMBER 916 902-9291
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Extend Emergency to Add Section 749.13 ,Title 14, CCR, Re: Incidental Take of Southern California Steelhead			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input checked="" type="checkbox"/> h. None of the above (Explain below): |

**Emergency action does not require economic assessment;
only fiscal impact assessment is required.**

If any box in Items 1 a through g is checked, complete this Economic Impact Statement.

If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.

2. The _____ estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☐ Below \$10 million
- ☐ Between \$10 and \$25 million
- ☐ Between \$25 and \$50 million
- ☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: _____

Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total
businesses impacted that are small businesses: _____

4. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

5. Indicate the geographic extent of impacts: ☐ Statewide
☐ Local or regional (List areas): _____

6. Enter the number of jobs created: _____ and eliminated: _____

Describe the types of jobs or occupations impacted: _____

7. Will the regulation affect the ability of California businesses to compete with
other states by making it more costly to produce goods or services here? ☐ YES ☐ NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ _____

a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

c. Initial costs for an individual: \$ _____ Annual ongoing costs: \$ _____ Years: _____

d. Describe other economic costs that may occur: _____

2. If multiple industries are impacted, enter the share of total costs for each industry: _____

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements.
Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ _____4. Will this regulation directly impact housing costs? ☐ YES ☐ NO

If YES, enter the annual dollar cost per housing unit: \$ _____

Number of units: _____

5. Are there comparable Federal regulations? ☐ YES ☐ NO

Explain the need for State regulation given the existence or absence of Federal regulations: _____

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: _____

2. Are the benefits the result of: ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?

Explain: _____

3. What are the total statewide benefits from this regulation over its lifetime? \$ _____

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: _____

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

DRAFT DOCUMENT**ECONOMIC IMPACT STATEMENT (CONTINUED)**

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ _____ Cost: \$ _____

Alternative 1: Benefit: \$ _____ Cost: \$ _____

Alternative 2: Benefit: \$ _____ Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ YES ☐ NOExplain: _____
_____**E. MAJOR REGULATIONS** *Include calculations and assumptions in the rulemaking record.****California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.***1. Will the estimated costs of this regulation to California business enterprises **exceed \$10 million**? ☐ YES ☐ NO***If YES, complete E2. and E3******If NO, skip to E4***

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES ☐ NO*If YES, agencies are required to submit a [Standardized Regulatory Impact Assessment \(SRIA\)](#) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: _____
_____The incentive for innovation in products, materials or processes: _____
_____The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

ECONOMIC AND FISCAL IMPACT STATEMENT**(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____

Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____

Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____

- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☐ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☒ 6. Other. Explain No nondiscretionary costs to local govts. are imposed. There is no fee for local agencies should they choose to apply for an incidental take permit.

The permit process would be discretionary and would only entail time spent reviewing project plans, census information, and relocation plans.

ECONOMIC AND FISCAL IMPACT STATEMENT**(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

DRAFT DOCUMENT**FISCAL IMPACT STATEMENT (CONTINUED)****B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☒ 1. Additional expenditures in the current State Fiscal Year. (Approximate)\$ 6,585*It is anticipated that State agencies will:*☒ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☐ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☒ 4. Other. Explain Other State agencies, such as California Department of Transportation (Caltrans) may also be affected if they choose to pursue a take allowance through the Department (See Addendum).**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE

DocuSigned by:

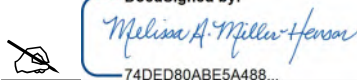
Dan Reagan

DATE

11/4/2022

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY

DocuSigned by:

Melissa A. Miller-Hanson

DATE

11/23/2022

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER

DATE



STD399 CALCULATIONS WORKSHEET ADDENDUM

Extension of Emergency Action to Add Section 749.13,
Title 14, California Code of Regulations
Re: Incidental Take of Southern California Steelhead
(Re-Adopt II)

Economic Impact Statement

Emergency regulations do not require an economic impact statement; only fiscal impacts must be evaluated (California Government Code Section 11346.1).

Fiscal Impact Statement

A. Fiscal Effect on Local Government

The proposed readoption of Section 749.13 to Title 14, California Code of Regulations (CCR) extends the emergency regulation allowing incidental take of Southern California steelhead (*Oncorhynchus mykiss*), during the California Endangered Species Act (CESA) candidacy period for certain water diversion and supply activities. The proposed addition of Section 749.13 does have the potential to have a fiscal impact on local government, that would not be eligible for state reimbursement (pursuit to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

B. Fiscal Effect on State Government

The Commission anticipates that there will be a fiscal effect on the State, specifically the California Department of Fish and Wildlife (Department) for program startup and implementation as shown in Table 1. The implementation costs per project are estimated to be \$3,292.48. The Department anticipates approximately two (2) remaining projects, resulting in total program costs of \$6,584.96 over the 90 days of the extension of the emergency action. The identified program costs are within existing budgets.

Table 1. Estimated Department Implementation Costs for Making Determinations as Required Under this Emergency Regulation Relating to Take of Southern California Steelhead

DFW Classification	Activity/Task	Hourly Rate¹	Hours per Task	Projected Cost
Senior Environmental Scientist (Region)	Review whether project or activity satisfies specified criteria	\$76.35	2	\$152.70
Senior Environmental Scientist (Fisheries Branch)	Review whether project or activity satisfies specified criteria	\$76.35	2	\$152.70
Senior Environmental Scientist	Meet with proponent to discuss whether project or activity satisfies specified criteria and write explanation of Department's determination on whether it does or does not	\$76.35	6	\$458.10
Senior Environmental Scientist, Supervisor	Meet with proponent to discuss whether project or activity satisfies specified criteria and write explanation of Department's determination on whether it does or does not	\$101.80	6	\$610.80
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¹ Hourly Rate includes mean wages per CalHR payscale 2022 and Department benefit rates.

² Non-Federal Project Overhead rate for FY 2022/23 is 16.31% per Department Budget Branch.

Note: Minor discrepancies (less than \$1.00) may be apparent in total costs due to rounding error.

Other State agencies, such as California Department of Transportation (Caltrans) may also be affected if they pursue a take allowance through the Department. An estimate of Caltrans potential per project costs is detailed in Table 2.

Table 2. Estimated Caltrans Implementation Costs for Take of Southern California Steelhead

Caltrans Classification	Activity/Task	Hourly Rate ¹	Hours per Task	Projected Cost
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	Subtotal		1.58	\$138.83
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² Non-Federal Project Overhead rate for FY 2022/23 is estimated to be 16.31%.

Note: Minor discrepancies (less than \$1.00) may be apparent in total costs due to rounding error.

C. Fiscal Effect on Federal Funding of State Programs

The proposed action will not have a fiscal effect on federal funding of state programs.

Memorandum

Date: November 29, 2022

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Agenda Item for the December 15, 2022 Fish and Game Commission Meeting Regarding Species Depicted on the State Duck Stamp**

Pursuant to Fish and Game Code sections 3700.2 (e), the Fish and Game Commission shall determine the form of the California State Duck Stamp. Historically, the Department has provided recommendations for the species to be depicted on the stamp for 5-year periods. Attached is a list of the species portrayed on the California State Duck Stamp since inception (1971) with the recommendation for the 2023-2027 period.

California has a rich waterfowl heritage: approximately 40 species and subspecies of ducks and geese are routinely found here in winter and 18 species nest within the state. Over the 46-year existence of the California State Duck Stamp, 19 different species or subspecies have been portrayed on the State Duck Stamp. For the next five years, the Department is recommending species believed to be popular with the hunting public, in addition to those species that are celebrated for their uniqueness: ring-necked duck (depicted once), mallard (depicted 5 times), cinnamon teal (depicted 3 times), white-fronted goose (depicted 3 times), and Ross' goose (never depicted).

The artwork depicted on the California Duck Stamp is the winner from the State Duck Stamp Contest held annually, in early summer.

If you have any questions regarding this item, please contact Scott Gardner, Wildlife Branch Chief.

Attachment

cc: Chad Dibble, Deputy Director
Wildlife and Fisheries Division

Scott Gardner, Branch Chief
Wildlife Branch
Wildlife and Fisheries Division

Melanie Weaver, Waterfowl Coordinator
Waterfowl Program
Wildlife Branch

Year	CA Duck Stamp Species
1971	Pintail
1972	Canvasback
1973	Mallard
1974	White-fronted goose
1975	Green-winged teal
1976	Wigeon
1977	Cinnamon teal
1978	Hooded Merganser
1979	Wood duck
1980	Pintail
1981	Canvasback
1982	Wigeon
1983	Green-winged teal
1984	Mallard decoy
1985	Ring-necked duck
1986	Cackling Canada goose
1987	Redhead
1988	Mallard
1989	Cinnamon teal
1990	Canada goose
1991	Gadwall
1992	White-fronted goose
1993	Pintail
1994	Wood duck
1995	Snow Goose
1996	Mallard
1997	Pintail
1998	Green-winged teal
1999	Wood duck
2000	Canada goose
2001	Canvasback
2002	Pintail
2003	Mallard
2004	Cinnamon teal
2005	Pintail
2006	White-fronted goose
2007	Pintail
2008	Mallard
2009	Northern Shoveler

Year	CA Duck Stamp Species
2011	Barrow's Goldeneye
2012	Aleutian Canada goose
2013	Wigeon
2014	Scaup
2015	Green winged-teal
2016	Snow goose
2017	Ruddy duck
2018	Brant
2019	Pintail
2020	Canvasback
2021	Gadwall
2022	Canada goose
2023	<i>Ring-necked duck*</i>
2024	<i>Mallard*</i>
2025	<i>Cinnamon teal*</i>
2026	<i>White-fronted goose*</i>
2027	<i>Ross' goose*</i>

***Proposed**

Memorandum

Date: November 8, 2022

Signed original on file,
Received November 14, 2022

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Agenda Item for the December Fish and Game Commission Meeting - Initial Statement of Reasons to Amend Subsection Section 502, Title 14, California Code of Regulations (CCR), Waterfowl, Migratory, American Coot and Common Moorhen**

The Department of Fish and Wildlife (Department) requests that the Fish and Game Commission (Commission) authorize publishing notice of its intent to amend section 502 of Title 14, CCR. The Department is proposing the following changes to the existing waterfowl regulations for the 2023-24 season:

- 1) Increase the duck season length to 103 days in subsection 502(d)(2)(B) for the Southern San Joaquin Valley Zone, in subsection 502(d)(3)(B) for the Southern California Zone, and in subsection 502(d)(5)(B) for the Balance of State Zone.
- 2) Increase the goose season length to 103 days in subsection 502(d)(2)(B) for the Southern San Joaquin Valley Zone and in subsection 502(d)(3)(B) for the Southern California Zone.
- 3) Combine the Youth and Veterans and Active Military Personnel waterfowl hunting days in subsections 502(e)(1)(B) and 502(f)(1)(B) for the Northeastern California, Southern San Joaquin Valley, Southern California and Balance of State zones.
- 4) Allow up to two days of falconry-only season in subsection 502(g)(1)(B) for the Northeastern California, Southern San Joaquin Valley, Southern California and Balance of State zones.

If you have any questions regarding this item, please contact Scott Gardner, Wildlife Branch Chief, at (916) 801-6257. The public notice for this rulemaking should identify Senior Environmental Scientist, Melanie Weaver as the Department's point of contact. She can be reached at (916) 502-1139.

cc: Chad Dibble, Deputy Director
Wildlife and Fisheries Division

Scott Gardner, Branch Chief
Wildlife Branch
Wildlife and Fisheries Division

Melissa Miller-Henson, Executive Director
Fish and Game Commission
November 8, 2022
Page 2

Melanie Weaver, Waterfowl Coordinator
Wildlife Branch
Wildlife and Fisheries Division

Ona Alminas, Program Manager
Regulations Unit
Wildlife and Fisheries Division

Mike Randall, Analyst
Regulations Unit
Wildlife and Fisheries Division

Ari Cornman, Wildlife Advisor
California Fish and Game Commission

David Thesell, Program Manager
California Fish and Game Commission

Maurene Trotter, Analyst
California Fish and Game Commission

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON David Thesell	EMAIL ADDRESS fgc@fgc.ca.gov	TELEPHONE NUMBER 916 902-9291
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Amend Sect. 502, Title 14, CCR re: Waterfowl, Migratory; American Coot and Common Moorhen			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input checked="" type="checkbox"/> h. None of the above (Explain below): |

Annual conformance with Federal Regs introduces no cost impacts***If any box in Items 1 a through g is checked, complete this Economic Impact Statement.******If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.***2. The _____ estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☐ Below \$10 million
- ☐ Between \$10 and \$25 million
- ☐ Between \$25 and \$50 million
- ☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: _____

Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total
businesses impacted that are small businesses: _____

4. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

5. Indicate the geographic extent of impacts: ☐ Statewide
☐ Local or regional (List areas): _____

6. Enter the number of jobs created: _____ and eliminated: _____

Describe the types of jobs or occupations impacted: _____

7. Will the regulation affect the ability of California businesses to compete with
other states by making it more costly to produce goods or services here? ☐ YES ☐ NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ _____

a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

c. Initial costs for an individual: \$ _____ Annual ongoing costs: \$ _____ Years: _____

d. Describe other economic costs that may occur: _____

2. If multiple industries are impacted, enter the share of total costs for each industry: _____

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements.
Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ _____4. Will this regulation directly impact housing costs? ☐ YES ☐ NO

If YES, enter the annual dollar cost per housing unit: \$ _____

Number of units: _____

5. Are there comparable Federal regulations? ☐ YES ☐ NO

Explain the need for State regulation given the existence or absence of Federal regulations: _____

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: _____

2. Are the benefits the result of: ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?

Explain: _____

3. What are the total statewide benefits from this regulation over its lifetime? \$ _____

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: _____

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ _____ Cost: \$ _____

Alternative 1: Benefit: \$ _____ Cost: \$ _____

Alternative 2: Benefit: \$ _____ Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ YES ☐ NOExplain: _____
_____**E. MAJOR REGULATIONS** *Include calculations and assumptions in the rulemaking record.****California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.***1. Will the estimated costs of this regulation to California business enterprises **exceed \$10 million**? ☐ YES ☐ NO***If YES, complete E2. and E3
If NO, skip to E4***

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES ☐ NO*If YES, agencies are required to submit a [Standardized Regulatory Impact Assessment \(SRIA\)](#) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____

Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____

Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____

- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT (CONTINUED)**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:☐ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☐ 4. Other. Explain _____
_____**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE

DocuSigned by:

6558B764C2D347D

DATE

11/9/2022

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY



DATE

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE

State of California
Fish and Game Commission
Initial Statement of Reasons for Regulatory Action

Amend Section 502
Title 14, California Code of Regulations
Re: Waterfowl, Migratory; American Coot and Common Moorhen (Common Gallinule)

I. Date of Initial Statement of Reasons: November 8, 2022

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing

Date: December 15, 2022

Location: San Diego, CA

(b) Discussion Hearing

Date: February 8, 2023

Location: Sacramento, CA

(c) Adoption Hearing

Date: April 19, 2023

Location: Fresno/Bakersfield, CA

III. Description of Regulatory Action

(a) Statement of Specific Purpose of Regulatory Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary

The U.S. Fish and Wildlife Service (Service) annually establishes federal regulation frameworks (Frameworks) for migratory bird hunting. California shall set its waterfowl hunting regulations within the Frameworks. The Frameworks describe the earliest dates that waterfowl hunting seasons may open, the maximum number of days hunting can occur, the latest dates that hunting seasons must close, and the maximum daily bag limit. The proposed hunting season Frameworks for a given year are developed in the fall of the prior year for a majority of species and populations. For example, the breeding populations (including the California Breeding Population Survey) and habitat conditions observed in 2022 and the regulatory alternatives selected for the 2022 hunting season will be used to develop the Frameworks for the 2023-24 season.

States may make recommendations to change the Frameworks. These recommendations are made to the four regional Flyway councils in late summer (July, August or September). Flyway councils may elect to forward recommendations to the Service. The Service may elect to incorporate proposed changes in the Frameworks. The Service considers these and other recommendations at the Service's Regulation Committee public meeting held in September or October. Proposed season Frameworks are typically published in the Federal Register by mid-December and final Frameworks published by late February.

Section 355 of the Fish and Game Code authorizes the Fish and Game Commission (Commission) to adopt annual regulations pertaining to the hunting of migratory birds that conform with or further restrict the regulations prescribed by the Service pursuant to its

authority under the Migratory Bird Treaty Act. The Commission selects and establishes state regulations that specify hunting season dates and daily bag limits.

Current regulations in Section 502, Title 14, California Code of Regulations (CCR), provide definitions, hunting zone descriptions, season opening and closing dates, and daily bag and possession limits for hunting of waterfowl. The proposed Frameworks for the 2023-24 season were approved by the Flyway councils in August and at the Service's Regulations Committee meeting in October. The Frameworks allow for a liberal duck season which includes: a 107-day season; a 7 daily duck limit including 7 mallards but only 2 hen mallards, 1 pintail, 2 canvasback, 2 redheads, and 2 scaup (during an 86-day season); and closing no later than January 31. The duck daily bag limits and season length, as well as the season lengths for geese, are provided as ranges below, to allow the Commission flexibility in determining the final regulations.

A range of season length and bag limit (zero bag limit represents a closed season) are also provided for black brant. The range is necessary, as the black brant Framework cannot be determined until the Pacific Flyway Winter Brant Survey is conducted in January 2023. The black brant regulatory package is determined by the most current Winter Brant Survey, rather than the prior year survey. The proposed season length and bag limit will be updated per the Black Brant Harvest Strategy pending results of the January 2023 survey. See the Summary of Proposed Waterfowl Hunting Regulations for 2023-24 table in the Informative Digest/Policy Statement Overview for the range of season and bag limits.

Lastly, federal regulations provide that California's hunting regulations shall conform to those of Arizona in the Colorado River Zone and those of Oregon in the North Coast Special Management Area.

The Department-recommended changes to Section 502 are:

- 1) Increase the duck season length to 103 days in subsection 502(d)(2)(B) for the Southern San Joaquin Valley Zone, in subsection 502(d)(3)(B) for the Southern California Zone, and in subsection 502(d)(5)(B) for the Balance of State Zone.

The existing duck season length for the referenced zones is 102 days. Closing on January 31 and maintaining a traditional opening Saturday in late October results in an annual adjustment to the season length; from 102 to 103 days for the upcoming season. In prior rulemakings, the Commission adopted the latest possible closing date of January 31 rather than the historical closing day of the last Sunday in January. This annual adjustment also results in modifications to falconry-only seasons; no days would be available for the upcoming season if items 3 and 4 are not approved.

- 2) Increase the goose season length to 103 days in subsection 502(d)(2)(B) for the Southern San Joaquin Valley Zone and in subsection 502(d)(3)(B) for the Southern California Zone.

The existing goose season length for the referenced zones is 102 days. See item 1 above for the justification. This annual adjustment also results in modifications to falconry-only seasons; no days would be available for the upcoming season if items 3 and 4 are not approved.

- 3) Combine the Youth and Veterans and Active Military Personnel waterfowl hunting days in subsections 502(e)(1)(B) and 502(f)(1)(B) for the Northeastern California, Southern San Joaquin Valley, Southern California and Balance of State zones.

The existing season dates for the Youth and Veteran and Active Military Personnel waterfowl hunting days for the referenced zone occur on separate weekends. Participation on these special hunt days tend to be low in all zones, based on public area hunt results. Given the low turnout, hunting areas will be able to accommodate both groups on the same weekend. In addition, goose hunting is closed during the Veteran Hunt Days in the Northeastern and Balance of State zones in existing regulations because all 107 days of goose hunting were allocated prior to the creation of this special hunt. Combining the Youth and Veteran special hunt days would promote more efficient operations on hunt areas, provide additional sanctuary prior to migration to northern breeding grounds, and allow Veteran and Active Military hunt participants the opportunity to hunt geese in addition to ducks in the Northeastern and Balance of State zones. Lastly, combining the special hunt days would free up two hunt days to be used for falconry-only season (see item 4).

- 4) Allow up to two days of falconry-only season in subsection 502(g)(1)(B) for the Northeastern California, Southern San Joaquin Valley, Southern California and Balance of State zones.

The existing regulation does not allow a falconry-only season because all available hunting days have been allocated. The length of the falconry-only season is contingent upon the number of days used for the general duck and goose seasons, in addition to the Youth and Veteran Hunt Days, as seasons cannot exceed 107 days. Combining the Youth and Veteran Hunt Days (see item 3) frees up two hunt days.

Minor editorial changes are also proposed to clarify and simplify the regulations and to comply with existing federal Frameworks.

(b) Goals and Benefits of the Regulation

The goals and benefits of the regulations are to provide for the conservation and maintenance of sufficient waterfowl populations to ensure their continued existence, while providing for balanced hunting opportunity, consistent with Commission and Department policies.

(c) Authority and Reference Sections from Fish and Game Code for Regulation

Authority: Section(s) 265 and 355, Fish and Game Code

Reference: Section(s) 265, 355, and 356, Fish and Game Code

(d) Specific Technology or Equipment Required by Regulatory Change: None.

(e) Identification of Reports or Documents Supporting Regulation Change: None.

(f) Public Discussions of Proposed Regulations Prior to Notice Publication

This proposal was discussed at the Commission's Wildlife Resources Committee (WRC) meeting held on September 15, 2022, and a public scoping session will be held in late November 2022.

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

No alternatives identified.

(b) No Change Alternative

The No Change Alternative would retain the 2022-23 regulations for the 2023-24 season which may place the state out of compliance with federal regulations. This alternative was rejected because in prior rulemakings, the Commission preferred the latest possible closing date of January 31 and maintaining a traditional opening Saturday in late October. This results in an annual adjustment to the season length; 103 days rather than 102 days for the 2023-24 season because of calendar progression. In addition, modifying the season length affects available days for falconry seasons, and must also be adjusted annually so as not to exceed 107 days.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed regulations are expected to maintain a similar level of recreational waterfowl hunting opportunity for the public. Shifting days for general duck season affects available days for falconry-only seasons, which must also be adjusted annually so total season length does not exceed 107 days.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses, or the expansion of businesses in California. The proposed waterfowl regulations will set the 2023-24 waterfowl hunting season dates and bag limits within the federal Frameworks. A total hunting season length of 107 days and shifts in days amongst the season types suggest that the number of hunter-days remains similar to that in previous years, with little to no impacts to jobs and/or businesses that provide services to waterfowl hunters. The Commission anticipates that the proposed 2023-24 waterfowl hunting regulations provide benefit for the health and welfare of

California residents by providing opportunity for outdoor activity. The Commission expects no benefits to worker safety but does expect benefit to the environment in that setting these regulations facilitates maintenance of sufficient waterfowl populations and their habitats while providing for the public's beneficial use and enjoyment. The most recent Service National Survey of Fishing, Hunting, and Wildlife-Associated Recreation for California estimated that migratory bird hunters contributed about \$169 million to the state economy during the 2011 migratory bird hunting season. However, minor variations in hunting regulations such as the ones proposed for waterfowl are, by themselves, unlikely to provide notable economic stimulus to the state. Businesses that support waterfowl hunting are generally small businesses employing a few individuals and, like all small businesses, are subject to failure for a variety of causes. The long-term intent of the proposed regulations is to sustainably manage waterfowl populations, and consequently, the long-term viability of the same small businesses.

(c) Cost Impacts on a Representative Private Person or Business

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

(e) Nondiscretionary Costs/Savings to Local Agencies: None.

(f) Programs Mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

(h) Effect on Housing Costs: None.

VII. Economic Impact Assessment

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State

The proposed conformance to federal regulations is expected to maintain similar levels of hunting opportunity and activity as previous seasons such that little to no net impacts on the creation or elimination of jobs are anticipated within the state from the adoption of the proposed waterfowl hunting regulations for the 2023-24 season. The most recent Service National Survey of Fishing, Hunting, and Wildlife-Associated Recreation for California estimated that waterfowl hunters contributed about \$169,115,000 to businesses in California during the 2011 waterfowl hunting season. The proposed regulations in themselves should not affect the typical level of waterfowl hunting expenditures. Businesses within the state that provide goods and services to waterfowl hunters are generally small businesses employing few individuals and, like all small businesses, are subject to failure for a variety of causes. The long-term intent of the proposed regulations is to sustainably manage waterfowl populations, and consequently, the long-term viability of the same small businesses.

The 2011 National Survey is posted on the U.S. Census Bureau website <https://www.census.gov/content/dam/Census/library/publications/2014/demo/fhw11-nat.pdf> and the 2011 National Survey of Fishing and Hunting, and Wildlife-Associated Recreation

Report for California can be found at <https://www2.census.gov/programs-surveys/fhwar/publications/2011/fhw11-ca.pdf>.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State

The proposed regulation is not anticipated to prompt the creation of new businesses or the elimination of existing businesses within the state. Minor variations in regulations pertaining to hunting are, by themselves, unlikely to stimulate the creation of new businesses or cause the elimination of existing businesses. The number of hunting trips and the economic contributions from the trips are not expected to change substantially.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State

The proposed minor variations in season lengths are, by themselves, unlikely to stimulate substantial expansion of businesses currently doing business in the state. The long-term intent of the proposed regulations is to sustainably manage waterfowl populations, and consequently, the long-term viability of various businesses that serve recreational waterfowl hunters.

(d) Benefits of the Regulation to the Health and Welfare of California Residents

Hunting is an outdoor activity that can provide several health and welfare benefits to California residents. Hunters and their families benefit from fresh game to eat, and from the benefits of outdoor recreation, including exercise. People who hunt have a special connection with the outdoors and an awareness of the relationships between wildlife, habitat and humans. With that awareness comes an understanding of the role humans play in being caretakers of the environment. Hunting is a tradition that is often passed from one generation to the next, creating a special bond between family members and friends.

(e) Benefits of the Regulation to Worker Safety

The regulations will not affect worker safety because they do not address working conditions.

(f) Benefits of the Regulation to the State's Environment

As set forth in Fish and Game Code Section 1801, it is the policy of the state to encourage the preservation, conservation, and maintenance of waterfowl resources for all citizens of the state. The objectives of this policy include, but are not limited to, maintenance of sufficient populations and their habitats, provide for beneficial use and enjoyment, to perpetuate the waterfowl resource for their intrinsic and ecological values, and to maintain diversified recreation use including sport hunting consistent with the status of this resource. Adoption of scientifically based waterfowl hunting regulations provides for the maintenance of sufficient waterfowl populations to ensure these objectives are met. Further, the fees that hunters pay for licenses and stamps fund wildlife conservation.

(g) Other Benefits of the Regulation

Hunting seasons provide an incentive for private landowners to maintain waterfowl habitat, mainly wetlands, that benefit waterfowl and other wetland dependent wildlife.

Informative Digest/Policy Statement Overview

Current regulations in Section 502, Title 14, California Code of Regulations (CCR), provide definitions, hunting zone descriptions, season opening and closing dates, and daily bag and possession limits for hunting of waterfowl. The proposed Frameworks for the 2023-24 season were approved by the four regional Flyway councils in August and at the U.S. Fish and Wildlife Service (Service's) Regulations Committee meeting in October. The Frameworks allow for a liberal duck season which includes: a 107-day season; a 7 daily duck limit including 7 mallards but only 2 hen mallards, 1 pintail, 2 canvasback, 2 redheads, and 2 scaup (during an 86-day season); and closing no later than January 31. The duck daily bag limits and season length, as well as the season lengths for geese, are provided as ranges below, to allow the Commission flexibility in determining the final regulations.

A range of season length and bag limit (zero bag limit represents a closed season) are also provided for black brant. The range is necessary, as the black brant Framework cannot be determined until the Pacific Flyway Winter Brant Survey is conducted in January 2023. The black brant regulatory package is determined by the most current Winter Brant Survey, rather than the prior year survey. The proposed season length and bag limit will be updated per the Black Brant Harvest Strategy pending results of the January 2023 survey. See the Summary of Proposed Waterfowl Hunting Regulations for 2023-24 table, below.

Lastly, Federal regulations provide that California's hunting regulations shall conform to those of Arizona in the Colorado River Zone and those of Oregon in the North Coast Special Management Area.

The Department recommended changes to Section 502 are:

- 1) Increase the duck season length to 103 days in subsection 502(d)(2)(B) for the Southern San Joaquin Valley Zone, in subsection 502(d)(3)(B) for the Southern California Zone, and in subsection 502(d)(5)(B) for the Balance of State Zone.
- 2) Increase the goose season length to 103 days in subsection 502(d)(2)(B) for the Southern San Joaquin Valley Zone and in subsection 502(d)(3)(B) for the Southern California Zone.
- 3) Combine the Youth and Veterans and Active Military Personnel waterfowl hunting days in subsections 502(e)(1)(B) and 502(f)(1)(B) for the Northeastern California, Southern San Joaquin Valley, Southern California and Balance of State zones.
- 4) Allow up to two days of falconry-only season in subsection 502(g)(1)(B) for the Northeastern California, Southern San Joaquin Valley, Southern California and Balance of State zones.

Minor editorial changes are also proposed to clarify and simplify the regulations and to comply with existing federal Frameworks.

Benefits of the regulations

The benefits of the proposed regulations are consistency with federal law and the sustainable management of the state's waterfowl resources. Continued benefits to jobs and/or businesses

that provide services to waterfowl hunters will be realized with the continued adoption of waterfowl hunting seasons in 2023-24.

Evaluation of incompatibility with existing regulations

The Commission has reviewed its regulations in Title 14, CCR, and conducted a search of other regulations on this topic and has concluded that the proposed amendments to Section 502 are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate waterfowl hunting regulations.

Summary of Proposed Waterfowl Hunting Regulations for 2023-24

AREA	SPECIES	SEASONS	DAILY BAG & POSSESSION LIMITS
Statewide	Coots & Moorhens (Gallinules)	Concurrent w/duck season	25/day. 75 in possession
Northeastern Zone	Ducks	No longer than 103 days	[4-7]/day, which may include: [3-7] mallards no more than [1-2] females. 1 pintail, 2 canvasback, 2 redheads. Possession limit triple the daily bag.
Northeastern Zone <i>Season may be split for Scaup</i>	Scaup	No longer than 86 days	2 scaup. Possession limit triple the daily bag.
Northeastern Zone <i>Season may be split for Dark and White geese</i>	Geese	No longer than 105 days except for Canada geese which cannot exceed 100 days or beyond Jan 14	30/day, which may include: 20 white geese, 10 dark geese, no more than 2 Large Canada geese. Possession limit triple the daily bag.
Southern San Joaquin Valley Zone	Ducks	No longer than 103 days	[4-7]/day, which may include: [3-7] mallards no more than [1-2] females. 1 pintail, 2 canvasback, 2 redheads. Possession limit triple the daily bag.
Southern San Joaquin Valley Zone <i>Season may be split for Scaup</i>	Scaup	No longer than 86 days	2 scaup. Possession limit triple the daily bag.

AREA	SPECIES	SEASONS	DAILY BAG & POSSESSION LIMITS
Southern San Joaquin Valley Zone	Geese	No longer than 103 days	30/day, which may include: 20 white geese, 10 dark geese. Possession limit triple the daily bag.
Southern California Zone	Ducks	No longer than 103 days	[4-7]/day, which may include: [3-7] mallards no more than [1-2] females. 1 pintail, 2 canvasback, 2 redheads. Possession limit triple the daily bag.
Southern California Zone <i>Season may be split for Scaup</i>	Scaup	No longer than 86 days	2 scaup. Possession limit triple the daily bag.
Southern California Zone	Geese	No longer than 103 days	23/day, which may include: 20 white geese, 3 dark geese. Possession limit triple the daily bag.
Colorado River Zone	Ducks	No longer than 101 days	7/day, which may include: 7 mallards no more than 2 females or Mexican ducks. 1 pintail, 2 canvasback, 2 redheads. Possession limit triple the daily bag.
Colorado River Zone <i>Season may be split for Scaup</i>	Scaup	No longer than 86 days	2 scaup. Possession limit triple the daily bag.
Colorado River Zone	Geese	No longer than 101 days	24/day, up to 20 white geese, up to 4 dark geese. Possession limit triple the daily bag.
Balance of State Zone	Ducks	No longer than 103 days	[4-7]/day, which may include: [3-7] mallards no more than [1-2] females. 1 pintail, 2 canvasback, 2 redheads. Possession limit triple the daily bag.

AREA	SPECIES	SEASONS	DAILY BAG & POSSESSION LIMITS
Balance of State Zone <i>Season may be split for Scaup</i>	Scaup	No longer than 86 days	2 scaup. Possession limit triple the daily bag.
Balance of State Zone <i>Season may be split for Dark and White Geese.</i>	Geese	Early Season: 3 days (Canada goose only) Regular Season: no longer than 100 days Late Season: Canada geese 2 days and white-fronted and white geese 5 days	30/day, which may include: 20 white geese, 10 dark geese. Possession limit triple the daily bag.

SPECIAL MANAGEMENT AREAS

AREA	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
North Coast <i>Season may be split</i>	All Canada Geese	No longer than 105 days except for Large Canada geese which cannot exceed 100 days or extend beyond the last Sunday in Jan	10/day, only 1 may be a Large Canada goose. Possession limit triple the daily bag. Large Canada geese are closed during the Late Season.
Humboldt Bay South Spit (West Side)	All species	Closed during brant season	
Klamath Basin	Dark and white geese	105 days except for Canada geese which cannot exceed 100 days or extend beyond Jan 14	30/day, which may include: 20 white geese, 10 dark geese only 2 may be a Large Canada goose. Possession limit triple the daily bag.
Sacramento Valley	White-fronted geese	Open concurrently with general goose season through Dec 21	3/day. Possession limit triple the daily bag.
Morro Bay	All species	Open in designated areas only	Waterfowl season opens concurrently with brant season.
Martis Creek Lake	All species	Closed until Nov 16	
Northern Brant	Black Brant	No longer than 37 days and closing no later than Dec 14.	[0-2]/day. Possession limit triple the daily bag.
Balance of State Brant	Black Brant	No longer than 37 days and closing no later than Dec 15.	[0-2]/day. Possession limit triple the daily bag.

AREA	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
Imperial County <i>Season may be split</i>	White Geese	No longer than 105 days	20/day. Possession limit triple the daily bag.

YOUTH WATERFOWL HUNTING DAYS (NOTE: To participate in these Youth Waterfowl Hunts, youth must be accompanied by a non-hunting adult 18 years of age or older. Federal regulations require that hunters must be 17 years of age or younger.)

AREA	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
Northeastern Zone	Same as regular season	No longer than 2 days occurring fourteen days before the opening of waterfowl season or after the duck season.	Same as regular season
Southern San Joaquin Valley Zone	Same as regular season	The first Saturday in February extending for 2 days.	Same as regular season
Southern California Zone	Same as regular season	The first Saturday in February extending for 2 days.	Same as regular season
Colorado River Zone	Same as regular season	The first Saturday in February extending for 2 days.	Same as regular season
Balance of State Zone	Same as regular season	The first Saturday in February extending for 2 days.	Same as regular season

Veterans and Active Military Personnel Waterfowl Hunting Days (NOTE: Veterans (as defined in Section 101 of Title 38, United States Code) and members of the Armed Forces on active duty, including members of the National Guard and Reserves on active duty (other than training), may participate.

AREA	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
Northeastern Zone	Ducks, Coots, and Moorhens, [Geese]	No longer than 2 days.	Same as regular season
Balance of State Zone	Ducks, Coots, and Moorhens	No longer than 2 days.	Same as regular season
Southern San Joaquin Valley Zone	Same as regular season	No longer than 2 days.	Same as regular season

AREA	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
Southern California Zone	Same as regular season	No longer than 2 days.	Same as regular season

FALCONRY

AREA	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
Northeastern Zone	Same as regular season	No longer than 107 days.	3/day. Possession limit 9
Balance of State Zone	Same as regular season	No longer than 107 days.	3/day. Possession limit 9
Southern San Joaquin Valley Zone	Ducks, Coots, and Moorhens	No longer than 107 days.	3/day. Possession limit 9
Southern California Zone	Same as regular season	No longer than 107 days.	3/day. Possession limit 9
Colorado River Zone	Ducks, Coots, and Moorhens	No longer than 107 days.	3/day. Possession limit 9

Proposed Regulatory Language

Section 502, Title 14 CCR, is amended to read:

§502. Waterfowl, Migratory; American Coot and Common Moorhen (Common Gallinule).

[No changes to subsections (a) through (b)]

(c) Seasons and Bag and Possession Limits for American Coots, and Common Moorhens.

(1) Statewide Provisions.

<i>(A) Species</i>	<i>(B) Season</i>	<i>(C) Daily Bag and Possession Limits</i>
American Coot and Common Moorhen	Concurrent with duck season(s)	Daily bag limit: 25, either all of one species or a mixture of these species. Possession limit: triple the daily bag limit.

(d) Seasons and Bag and Possession Limits for Ducks and Geese by Zone.

(1) Northeastern California Zone (NOTE: SEE SUBSECTION 502(d)(6) BELOW FOR SPECIAL SEASONS AND CLOSURES.)

<i>(A) Species</i>	<i>(B) Season</i>	<i>(C) Daily Bag and Possession Limits</i>
Ducks (including Mergansers)	From the first Saturday in October extending for 103 days. Scaup: from the first Saturday in October extending for a period of 58 days and from the third Thursday in December extending for a period of 28 days. <u>[Opening no earlier than the first Saturday in October and closing no later than January 31. Season may be split into two segments and no longer than 103 days except for scaup season can be no longer than 86 days.]</u>	Daily bag limit: 7 <u>[4-7]</u> Daily bag limit may include: • 7 <u>[3-7]</u> mallards, but not more than 2 <u>[1-2]</u> females. • 1 pintail (either sex). • 2 canvasback (either sex). • 2 redheads (either sex). • 2 scaup (either sex). Possession limit: triple the daily bag limit.
Geese	Regular Season: Small and Large Canada Geese: from the first Saturday in October extending for 100 days.	Daily bag limit: 30 Daily bag limit may include: • 20 white geese. • 10 dark geese but not

(A) Species	(B) Season	(C) Daily Bag and Possession Limits
	<p><u>[Opening no earlier than the first Saturday in October and closing no later than January 14. Season will be no longer than 100 days.]</u></p> <p>White-fronted and white geese from the first Saturday in October extending for a period of 58 days and from the last Saturday in December extending for a period of 14 days.</p> <p><u>[Opening no earlier than the first Saturday in October and closing no later than January 31. Season may be split into two segments and no longer than 100 days.]</u></p> <p>Late Season: White-fronted and white geese from February 6 extending for 33 days.</p> <p><u>[Season will be no longer than 38 days and closing no later than March 10.]</u></p> <p>During the Late Season, hunting is only permitted on Type C wildlife areas listed in sections 550-552, navigable waters, and private lands with the permission of the landowner under provisions of Section 2016, Fish and Game Code.</p> <p>Hunting is prohibited on Type A and Type B wildlife areas, the Klamath Basin National Wildlife Refuge Complex, the Modoc National Wildlife Refuge, and any waters which are on, encompassed by, bounded over, flow over, flow through, or are adjacent to any Type A and Type B wildlife areas, the Klamath Basin National Wildlife Refuge Complex, or the Modoc National Wildlife Refuge.</p>	<p>more than 2 Large Canada geese (see definitions: 502(a)).</p> <p>Possession limit: triple the daily bag limit.</p>

(2) Southern San Joaquin Valley Zone (NOTE: SEE SUBSECTION 502(d)(6) BELOW FOR SPECIAL SEASONS AND CLOSURES.)

(A) Species	(B) Season	(C) Daily Bag and Possession Limits
Ducks (including Mergansers)	<p>From the fourth Saturday in October extending for 102 days.</p> <p>Scaup: from November 7 extending for 86 days.</p> <p><u>[Opening no earlier than the third Saturday in October and closing no later than January 31. Season may be split into two segments and no longer than 103 days except for scaup season can be no longer than 86 days.]</u></p>	<p>Daily bag limit: 7<u>[4-7]</u></p> <p>Daily bag limit may include:</p> <ul style="list-style-type: none"> • 7<u>[3-7]</u> mallards, but not more than 2<u>[1-2]</u> females. • 1 pintail (either sex). • 2 canvasback (either sex). • 2 redheads (either sex). • 2 scaup (either sex). <p>Possession limit: triple the daily bag limit.</p>
Geese	<p>From the fourth Saturday in October extending for 102 days.</p> <p><u>[Opening no earlier than the third Saturday in October and closing no later than January 31. Season will be no longer than 103 days.]</u></p>	<p>Daily bag limit: 30</p> <p>Daily bag limit may include:</p> <ul style="list-style-type: none"> • 20 white geese. • 10 dark geese (see definitions: 502(a)). <p>Possession limit: triple the daily bag limit.</p>

(3) Southern California Zone (NOTE: SEE SUBSECTION 502(d)(6) BELOW FOR SPECIAL SEASONS AND CLOSURES.)

(A) Species	(B) Season	(C) Daily Bag and Possession Limits
Ducks (including Mergansers)	<p>From the fourth Saturday in October extending for 102 days.</p> <p>Scaup: from November 7 extending for 86 days.</p> <p><u>[Opening no earlier than the third Saturday in October and closing no later than January 31.</u></p> <p><u>Season may be split into two segments and no longer than 103 days except for scaup season can be no longer than 86 days.]</u></p>	<p>Daily bag limit: 7<u>[4-7]</u></p> <p>Daily bag limit may include:</p> <ul style="list-style-type: none"> • 7<u>[3-7]</u> mallards, but not more than 2<u>[1-2]</u> females. • 1 pintail (either sex). • 2 canvasback (either sex). • 2 redheads (either sex). • 2 scaup (either sex). <p>Possession limit: triple the daily bag limit.</p>
Geese	<p>From the fourth Saturday in October extending for 102 days.</p> <p><u>[Opening no earlier than the third Saturday in October and closing no later than January 31. Season will be no longer than 103 days.]</u></p>	<p>Daily bag limit: 23</p> <p>Daily bag limit may include:</p> <ul style="list-style-type: none"> • 20 white geese. • 3 dark geese (see definitions: 502(a)). <p>Possession limit: triple the daily bag limit.</p>

(4) Colorado River Zone (NOTE: SEE SUBSECTION 502(d)(6) BELOW FOR SPECIAL SEASONS AND CLOSURES.)

<i>(A) Species</i>	<i>(B) Season</i>	<i>(C) Daily Bag and Possession Limits</i>
Ducks (including Mergansers).	From October 23 extending for 101 days. <u>[No longer than 101 days].</u> Scaup: from November extending for 86 days. <u>[No longer than 86 days].</u>	Daily bag limit: 7 Daily bag limit may include: • 7 mallards, but not more than 2 females or Mexican-like ducks. • 1 pintail (either sex). • 2 canvasback (either sex). • 2 redheads (either sex). • 2 scaup (either sex). Possession limit: triple the daily bag limit.
Geese	From October 23 extending for 101 days. <u>[No longer than 101 days].</u>	Daily bag limit: 24 Daily bag limit may include: • 20 white geese. • 4 dark geese (see definitions: 502(a)). Possession limit: triple the daily bag limit.

(5) Balance of State Zone (NOTE: SEE SUBSECTION 502(d)(6) BELOW FOR SPECIAL SEASONS AND CLOSURES.)

<i>(A) Species</i>	<i>(B) Season</i>	<i>(C) Daily Bag and Possession Limits</i>
Ducks (including Mergansers).	From the fourth Saturday in October extending for 102 days. Scaup: from November 7 extending for 86 days. <u>[Opening no earlier than the third Saturday in October and closing no later than January 31. Season may be split into two segments and no longer than 103 days except for scaup season can be no longer than 86 days.]</u>	Daily bag limit: 7 <u>[4-7]</u> Daily bag limit may include: • 7 <u>[3-7]</u> mallards, but not more than 2 <u>[1-2]</u> females. • 1 pintail (either sex). • 2 canvasback (either sex). • 2 redheads (either sex). • 2 scaup (either sex). Possession limit: triple the daily bag limit.

<i>(A) Species</i>	<i>(B) Season</i>	<i>(C) Daily Bag and Possession Limits</i>
Geese	<p>Early Season: Large Canada geese only from the Saturday closest to October 1 for a period of 3 days EXCEPT in the North Coast Special Management Area where Large Canada geese are closed during the early season.</p> <p>Regular Season: Dark and white geese <u>opening no earlier than the third Saturday in October and closing no later than January 31.</u> Season will be no longer than 100 days] from the fourth Saturday in October extending for 100 days EXCEPT in the Sacramento Valley Special Management Area where the white-fronted goose season will close after December 21.</p> <p>Late Season: Canada geese from <u>opening after January 31 and closing no later than March 10.</u> Season will be no longer than 2 days] the third Saturday in February extending for 2 days.</p> <p>White-fronted and white geese from <u>opening after January 31 and closing no later than March 10.</u> Season will be no longer than 5 days] the third Saturday in February extending for a period of 5 days EXCEPT in the Sacramento Valley Special Management Area where the white-fronted goose season is closed. During the Late Season, hunting is not permitted on wildlife areas listed in sections 550-552 EXCEPT on Type C wildlife areas in the North Central and Central regions.</p>	<p>Daily bag limit: 30</p> <p>Daily bag limit may include:</p> <ul style="list-style-type: none"> • 20 white geese. • 10 dark geese EXCEPT in the Sacramento Valley Special Management Area where only 3 may be white-fronted geese (see definitions: 502(a)). <p>Possession limit: triple the daily bag limit.</p>

(6) Special Management Areas (see descriptions in 502(b)(6))

	(A) Species	(B) Season	(C) Daily Bag and Possession Limits
1. North Coast	All Canada Geese	From November 9 extending for a period of 84 days (Regular Season) and from February 18 extending for a period of 24 days (Late Season). <u>[Season may be split and closing no later than March 10. Season will be no longer than 105 days.]</u> During the Late Season, hunting is only permitted on private lands with the permission of the landowner under provisions Section 2016, Fish and Game Code.	Daily bag limit: 10 Canada Geese of which only 1 may be a Large Canada goose (see definitions: 502(a)), EXCEPT during the Late Season, the bag limit on Large Canada geese is zero. Possession limit: triple the daily bag limit.
2. Humboldt Bay South Spit (West Side)	All Species	Closed during brant season	
3. Klamath Basin	Geese	Small and Large Canada Geese <u>[opening no earlier than the first Saturday in October and closing no later than January 14. Season will be no longer than 100 days]</u> from the first Saturday in October extending for 100 days. White-fronted and white geese <u>[opening no earlier than the first Saturday in October and closing no later than January 31. Season will be no longer than 105 days]</u> from the first Saturday in October extending for 105 days.	Daily bag limit: 30 Daily bag limit may include: <ul style="list-style-type: none"> • 20 white geese. • 10 dark geese but not more than 2 Large Canada geese (see definitions: 502(a)). Possession limit: triple the daily bag limit.

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	<i>(A) Species</i>	<i>(B) Season</i>	<i>(C) Daily Bag and Possession Limits</i>
4. Sacramento Valley	White-Fronted Geese	Open concurrently with the goose season through December 21, and during Youth Waterfowl Hunting Days.	Daily bag limit: 3 white-fronted geese. Possession limit: triple the daily bag limit.
5. Morro Bay	All species	Open in designated area only from the opening day of brant season through the remainder of waterfowl season.	
6. Martis Creek Lake	All species	Closed until November 16.	
7. Northern Brant	Black Brant	From November 8 extending for 37 days. <u>[Season will be between 0 and 37 days, closing no later than December 14.]</u>	Daily bag limit: 2 <u>[0-2]</u> Possession limit: triple the daily bag limit.
8. Balance of State Brant	Black Brant	From November 9 extending for 37 days. <u>[Season will be between 0 and 37 days, closing no later than December 15.]</u>	Daily bag limit: 2 <u>[0-2]</u> Possession limit: triple the daily bag limit.
9. Imperial County	White Geese	From November 5 extending for a period of 88 days (Regular Season) and February 1-3, 2023, February 6-10, 2023 and February 13-21, 2023 (Late Season). <u>[Season may be split and closing no later than March 10. Season will be no longer than 105 days.]</u> During the Late Season, hunting is only permitted on private lands with the permission of the landowner under provisions of Section 2016, Fish and Game Code.	Daily bag limit: 20 Possession limit: triple the daily bag limit.

(e) Youth Waterfowl Hunting Days Regulations (NOTE: To participate in these Youth Waterfowl Hunts, youth must be accompanied by a non-hunting adult 18 years of age or older. Federal regulations require that hunters must be 17 years of age or younger.)

(1) Statewide Provisions.

<i>(A) Species</i>	<i>(B) Season</i>	<i>(C) Daily Bag Limit</i>
Ducks (including Mergansers), American Coot, Common Moorhen, Black Brant, Geese	<p>1. Northeastern California Zone: The Saturday fourteen days before the opening of waterfowl season extending for 2 days. <u>[No longer than 2 days, occurring fourteen days before the opening of waterfowl season or after the duck season.]</u></p> <p>2. Southern San Joaquin Valley Zone: The first Saturday in February extending for 2 days.</p> <p>3. Southern California Zone: The first Saturday in February extending for 2 days.</p> <p>4. Colorado River Zone: The Saturday following the closing of waterfowl season extending for 2 days.</p> <p>5. Balance of State Zone: The first Saturday in February extending for 2 days.</p>	Same as regular season.

(f) Veterans and Active Military Personnel Waterfowl Hunting Days Regulations.

NOTE: Veterans (as defined in Section 101 of Title 38, United States Code) and members of the Armed Forces on active duty, including members of the National Guard and Reserves on active duty (other than training), may participate. Persons participating in this special hunt must possess and present upon demand verification of eligibility to participate in this hunt. Verification includes: Veteran's ID Card, or Military ID Card for active duty, or a State-issued driver's license or Identification Card with Veteran Designation.

(1) Statewide Provisions.

(A) Species	(B) Season	(C) Daily Bag Limit
Ducks (including Mergansers), Geese, American Coot, Common Moorhen	<p>1. Northeastern California Zone: The Saturday following the closing of the regular duck season extending for 2 days. <u>[No longer than 2 days, occurring fourteen days before the opening of waterfowl season or after the duck season.]</u> Goose hunting in this zone is not permitted during these days.</p> <p>2. Southern San Joaquin Valley Zone: The second Saturday in February extending for 2 days. <u>[No longer than 2 days.]</u></p> <p>3. Southern California Zone: The second Saturday in February extending for 2 days. <u>[No longer than 2 days.]</u></p> <p>4. Balance of State Zone: The second Saturday in February extending for 2 days. <u>[No longer than 2 days.]</u> Goose hunting in this zone is not permitted during these days.</p>	Same as regular season.

(g) Falconry Take of Ducks (including Mergansers), Geese, American Coots, and Common Moorhens.

(1) Statewide Provisions.

(A) Species	(B) Season	(C) Daily Bag and Possession Limits
Ducks (including Mergansers), Geese, American Coot and Common Moorhen	<p>1. Northeastern California Zone. Open concurrently with duck season through January 11, 2023. <u>[No longer than 107 days.]</u></p> <p>2. Balance of State Zone. Open concurrently with duck season, February 4-5, 2023, February 18-19, 2023 and February 25, 2023 <u>[No longer than 107 days]</u> EXCEPT in the North Coast Special Management Area where the falconry season for geese runs concurrently with the season for Small Canada geese (see 502(d)(6)).</p> <p>3. Southern San Joaquin Valley Zone. Open concurrently with duck season, February 4-5, 2023, February 18-19, 2023 and February 25, 2023 <u>[No longer than 107 days]</u> Goose hunting in this zone by means of falconry is not permitted.</p> <p>4. Southern California Zone. Open concurrently with duck season, February 4-5, 2023, February 18-19, 2023 and February 25, 2023 <u>[No longer than 107 days]</u> EXCEPT in the Imperial County Special Management Area where the falconry season for geese runs concurrently with the season for white geese.</p>	<p>Daily bag limit: 3</p> <p>Daily bag limit makeup:</p> <ul style="list-style-type: none"> • Either all of 1 species or a mixture of species allowed for take. <p>Possession limit: 9</p>

<i>(A) Species</i>	<i>(B) Season</i>	<i>(C) Daily Bag and Possession Limits</i>
	5. Colorado River Zone. Open concurrently with duck season and February 1-4, 2023. <u>[No longer than 107 days]</u> Goose hunting in this zone by means of falconry is not permitted. Federal regulations require that California's hunting regulations conform to those of Arizona, where goose hunting by means of falconry is not permitted.	

Note: Authority cited: Sections 265 and 355, Fish and Game Code.

Reference: Sections 265, 355 and 356, Fish and Game Code.

2023-24 Section 502 Waterfowl Hunting Regulation Notice



Fish and Game Commission
December 15, 2022

Prepared by Melanie Weaver,
Waterfowl Coordinator
Wildlife Branch



Federal Frameworks and Recommendations

❧ Federal Frameworks

- ❧ Liberal package for ducks (no change)
- ❧ 107-day seasons, 7 ducks/day for most species
- ❧ Geese (no change)

❧ Recommendation

- ❧ Maintain Jan 31 closure
- ❧ Most zones increased to 103 days
- ❧ Combine Youth and Veteran Hunt Days
- ❧ Falconry-only increased to 2 days



Waterfowl Status

- ❧ Federal and state surveys conducted in 2022
- ❧ Most duck species near or above LTA
originating from northern breeding areas
 - ❧ Except pintail & scaup
- ❧ Western mallards
 - ❧ Alaska, British Columbia, Washington,
Oregon, and California
 - ❧ Up from 2019: overall stable
- ❧ All but 2 goose populations over objective



Questions?



Memorandum

Date: November 16, 2022

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **December meeting agenda item: Submission of Initial Statement of Reasons to Amend Title 14, California Code of Regulations (CCR), Section 364 and 364.1 Elk Hunts, Seasons, and Number of Tags and Department Administered Shared Habitat Alliance for Recreational Enhancement (SHARE) Elk Hunts**

The Department of Fish and Wildlife (Department) requests that the Fish and Game Commission (Commission) authorize publishing notice of its intent to amend Sections 364 and 364.1, Title 14, CCR. Tag quotas are established based on a variety of factors including population density and abundance, age and sex composition, elk distribution, and human-elk conflict levels, among other population objectives, factors, and considerations. Based on elk population data, the Department is proposing changes to elk hunt zone boundaries, seasons, and tag allocations for areas where increased public elk hunting opportunities support achievement of population objectives:

- Tejon Rocky Mountain Elk Management Unit;
- Bear Valley and Cache Creek Tule Elk Hunt Zones;
- Siskiyou Roosevelt Elk Hunt Zone;
- Northwestern Roosevelt Elk Hunt Zone; and
- La Panza Tule Elk Hunt Zone and Central Coast Tule Elk Management Unit.

If you have any questions regarding these items, please contact Scott Gardner, Wildlife Branch Chief, at (916) 801-6257. The public notices for these rulemakings should identify Environmental Scientist Tom Batter as the Department's point of contact. He can be reached at (916) 801-0649.

ec: Chad Dibble, Deputy Director
Wildlife and Fisheries Division

Scott Gardner, Branch Chief
Wildlife Branch
Wildlife and Fisheries Division

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State of California
Fish and Game Commission
Initial Statement of Reasons for Regulatory Action

Amend Sections 364 and 364.1
Title 14, California Code of Regulations
Re: Elk Hunting

I. Date of Initial Statement of Reasons:

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing

Date: December 15, 2022

Location: San Diego

(b) Discussion Hearing

Date: February 8, 2023

Location: Sacramento

(c) Adoption Hearing

Date: April 19, 2023

Location: Fresno/Bakersfield

III. Description of Regulatory Action

(a) Statement of Specific Purpose of Regulatory Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary.

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations.

Background

The California Department of Fish and Wildlife (Department) has identified regulated hunting as a preferred tool to both manage elk populations and provide public recreation opportunities. The Fish and Game Commission (Commission) periodically considers the recommendations of the Department in establishing elk hunting regulations. Considerations include recommendations for adjusting tag quotas, setting hunt periods, modifying zone boundaries, and authorizing methods of take, among others, to help achieve management goals and objectives.

To maintain appropriate harvest levels, it is necessary to periodically adjust elk hunting regulations, including tag quotas and hunt zone boundaries, in response to dynamic environmental, biological, and social conditions. Current regulations in Section 364 specify elk tag quotas for each hunt zone and establish hunt zone boundaries in accordance with management goals and objectives described in the Department's Elk Conservation and Management Plan. Similarly, current regulations in Section 364.1 specify elk tag quotas for each hunt zone that may be distributed to the public to allow access to hunt elk on specific properties that enter into the Shared Habitat Alliance for Recreational Enhancement (SHARE) program. A limited number of public elk hunting tags are offered annually via the

Big Game Drawing and SHARE program drawing, and public demand for elk hunting tags (as indicated by elk tag draw applications) has annually exceeded tag availability for the last ten years. In addition to harvest opportunity, public elk hunting also provides data that enhances the Department's ability to monitor elk populations including spatial, age, genetic, and disease information. As described in the Department's Elk Conservation and Management Plan (2018), the Department's goal is to increase elk hunting opportunities where feasible and compatible with population objectives, in which case recommendations will be offered to the Commission.

Current Regulations

Section 364 provides definitions, hunting zone descriptions, season opening and closing dates, methods of take (e.g., general methods, archery only, muzzleloader only), tag designations (e.g., bull, spike bull, antlerless, and either-sex), tag quotas (total number of hunting tags to be made available), and bag and possession limits for elk hunting. Section 364.1 provides season opening and closing dates, methods of take, tag designations, tag quotas, and bag and possession limits for elk hunting administered through the SHARE hunt program. Individuals are awarded an elk hunting tag through the Department's Big Game Drawing or SHARE hunt program drawing.

Harvest of an elk is authorized for an individual awarded a tag for a respective hunt zone or SHARE property and season. Tag quotas are established based on a variety of factors including population density and abundance, age and sex composition, elk distribution, and human-elk conflict levels, among other population objectives, factors, and considerations. The Department has identified the following areas where increased public elk hunting opportunities are feasible and support achievement of population objectives:

- Tejon Rocky Mountain Elk Management Unit. Currently there is no hunt zone established which authorizes public elk harvest in the Tejon Rocky Mountain Elk Management Unit.
- Bear Valley and Cache Creek Tule Elk Hunt Zones. Current (2022) public tag quota for these zones are 1 antlerless tag and 2 bull tags (Bear Valley), and 1 apprentice bull tag, 2 antlerless tags, and 2 bull tags (Cache Creek).
- Siskiyou Roosevelt Elk Hunt Zone. Current (2022) public tag quota for the Siskiyou Hunt Zone is 20 antlerless tags and 20 bull tags. The bull and antlerless hunt periods are concurrent.
- Northwestern Roosevelt Elk Hunt Zone. Current (2022) public tag quota for the Northwestern Hunt Zone is 15 antlerless tags, 3 bull tags, and 3 either-sex tags.
- La Panza Tule Elk Hunt Zone and Central Coast Tule Elk Management Unit. Current (2022) public tag quotas for the La Panza Hunt Zone is 1 apprentice antlerless tag, 11 antlerless tags across two hunt periods (5 and 6 tags, respectively), and 12 bull tags across two hunt periods (6 and 6, respectively). There is currently no authorized public elk harvest in the Central Coast Tule Elk Management Unit.

Figure 1 below outlines the affected elk management units and proposed hunt zones.

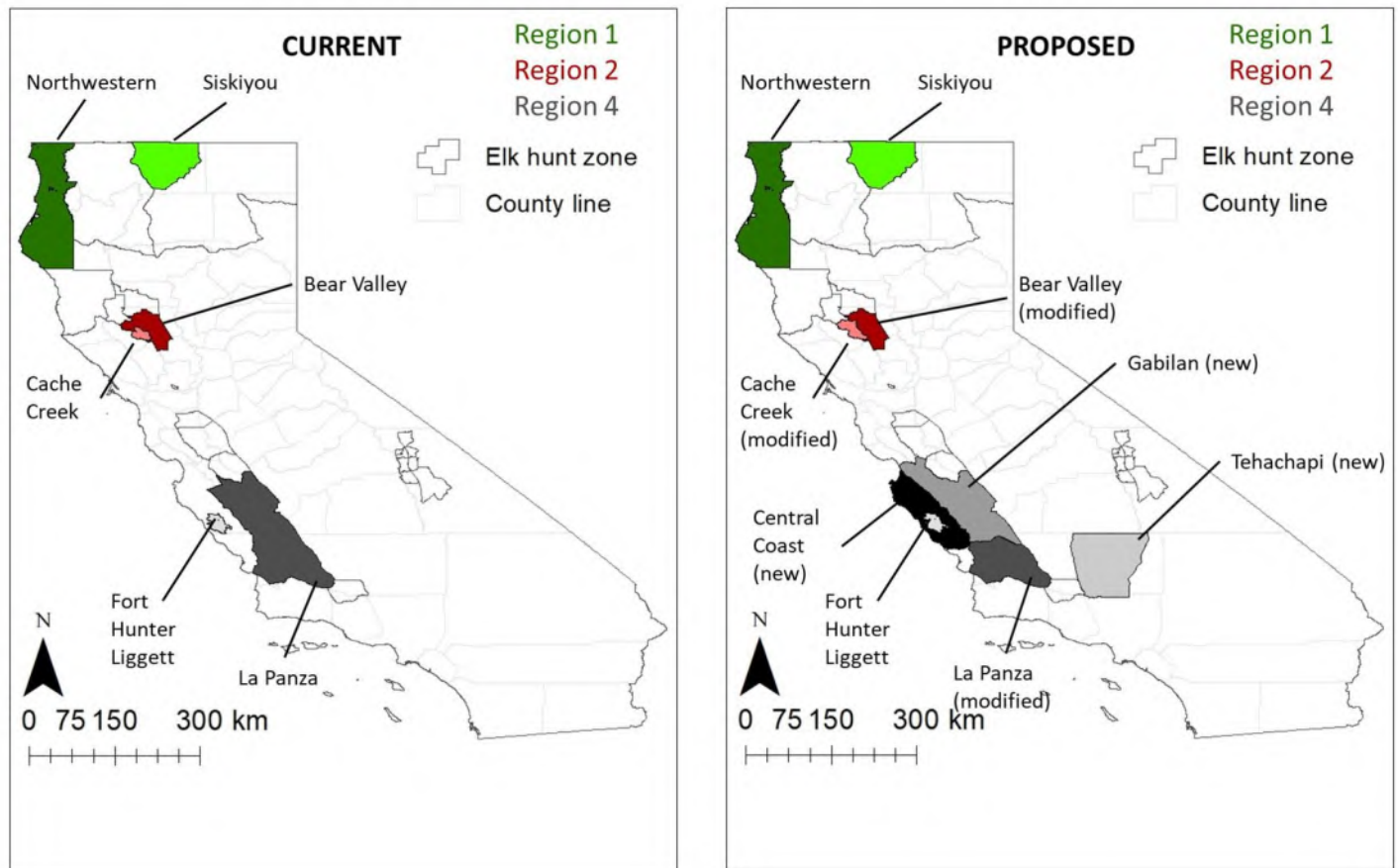


Figure 1. Elk management units affected by proposed regulation. Map on left outlines current hunt zones, and the map on the right shows the proposed revisions to existing hunt zone boundaries and new hunt zones.

Proposed Regulations

The regulatory changes the Department is proposing are described below by subsection.

The proposed changes to Section 364 and Section 364.1 include the following:

Tejon Rocky Mountain Elk Management Unit

- Add subsection 364(b)(2)(A) to establish the Tehachapi Rocky Mountain Elk Hunt.
- Add subsection 364.1(j)(2)(1), 364.1(j)(2)(2), and 364.1(j)(2)(B) to authorize bull harvest, antlerless harvest, and hunt area for the Tehachapi General Methods SHARE Rocky Mountain Elk hunt.

Tejon Rocky Mountain Elk Management Unit: currently there is no hunt zone established which authorizes public elk harvest within the Tejon Rocky Mountain Elk Management Unit. Regulated elk harvest occurs on the Tejon Ranch operated under the Private Lands Management program. Non-native Rocky Mountain elk were imported to the Rex C. Ellsworth Ranch in 1967, in what is now the community of Stallion Springs. The importation was permitted as part of a fenced game farming operation. Elk escaped the enclosure and persisted on adjacent properties, particularly Tejon Ranch. Elk populations have since increased in abundance and expanded beyond the Tejon Ranch into surrounding communities in Kern County and the Southern Sierras. Human-

elk conflict has exceeded tolerable levels in some areas. Current abundance levels are above objectives outlined in the 2018 Elk Conservation and Management Plan. Observed bull:cow ratios (47mm:100ff) are also above the Elk Conservation and Management Plan objective (25mm:100ff). Continued range expansion may result in non-native Rocky Mountain elk overlapping with endemic tule elk in the Owens Valley, resulting in hybridization between the two subspecies. This presents a threat to genetic integrity of the endemic tule elk population, and it is desirable to prevent hybridization between these subspecies from occurring as described in the Elk Conservation and Management Plan.

To help address these concerns for the Tejon Elk Management Unit, the Department recommends establishing a Tehachapi Rocky Mountain Elk Hunt Zone and General Methods Hunt to help achieve goals and objectives outlined in the 2018 Elk Conservation and Management Plan.

Bear Valley and Cache Creek Tule Elk Hunt Zones

- Amend subsections 364(d)(1)(A) and 364(d)(17)(A) to modify the boundaries of the Cache Creek General Methods Tule Elk Hunt and the adjacent Bear Valley General Methods Tule Elk Hunt.

Bear Valley and Cache Creek Tule Elk Hunt Zones: current (2022) public tag quota for these zones is one antlerless tag and two bull tags (Bear Valley) and one apprentice bull tag, two antlerless tags, and two bull tags (Cache Creek). Current Hunt Zone boundaries are outdated relative to observed population dynamics including spatial and genetic data; additionally, a problematic and potentially exploitative protrusion of the Bear Valley Hunt Zone into the western portion of Cache Creek Hunt Zone needs to be addressed.

The Department recommends modifying the adjacent Hunt Zone boundaries to bound closed populations (i.e., demographically and genetically interacting populations). The intended results of this recommendation will enhance regulated harvest assessment towards achieving management objectives and eliminate a problematic boundary protrusion.

Siskiyou Roosevelt Elk Hunt Zone

- Amend subsection 364(r)(1)(A)(2) to increase antlerless tag quota in the Siskiyou Roosevelt Elk Hunt Zone.
- Add subsection 364(r)(1)(B)(5) to adjust the Siskiyou Bull hunt season from September to October.

Siskiyou Roosevelt Elk Hunt Zone: current (2022) public tag quota for the Siskiyou Hunt Zone is 20 antlerless tags and 20 bull tags. The bull and antlerless hunt periods are concurrent. Elk populations in this Hunt Zone tend to concentrate on private property and human-elk conflict has exceeded tolerable levels in some areas. The observed bull:cow ratio (3mm:100ff) is below the Elk Conservation and Management Plan objective (25mm:100ff). The concurrent bull and antlerless hunt seasons have resulted in bull and antlerless hunter conflict and poor hunt experiences.

The Department recommends increased antlerless harvest and shifting the bull season to a later hunt period. The intended results of this recommendation will provide more public hunt opportunity, reduce elk density, reduce conflict, achieve sex ratio objective, and distribute bull and antlerless hunters across different hunt seasons, increasing quality of the hunt experience.

Northwestern Roosevelt Elk Hunt Zone

- Amend subsection 364(r)(2)(A)(1) to increase bull tag quota in the Northwestern Roosevelt Elk Hunt Zone.

Northwestern Roosevelt Elk Hunt Zone: current (2022) public tag quota for the Northwestern Hunt Zone is 15 antlerless tags, three bull tags, and three either-sex tags. Elk populations in this Hunt Zone tend to concentrate on private property and human-elk conflict has exceeded tolerable levels in some areas. High elk density may also contribute to increased disease transmission. The observed bull:cow ratios (32mm:100ff) are above the Elk Conservation and Management Plan objective (15mm:100ff).

The Department recommends increasing public bull harvest in this hunt zone. The intended results of this recommendation include increased public hunt opportunity, reduced population density, reduced disease transmission, reduced conflict, and trend toward achieving the sex ratio objective.

La Panza Tule Elk Hunt Zone and Central Coast Tule Elk Management Unit

- Amend subsection 364(d)(2)(A) to modify the boundaries of the La Panza General Methods Tule Elk Hunt.
- Amend subsection 364(d)(3)(A) to establish the Central Coast General Methods Tule Elk Hunt.
- Amend subsection 364(d)(4)(A) to establish the Gabilan General Methods Tule Elk Hunt.
- Add subsections 364(s)(2)(A)(1), 364(s)(2)(A)(2), and 364(s)(2)(A)(5) to authorize bull harvest, antlerless harvest, and establish season dates for the Tehachapi General Methods Rocky Mountain Elk Hunt.
- Add subsections 364(u)(3)(A)(1), 364(u)(3)(A)(2), and 364(u)(3)(A)(5) to authorize bull harvest, antlerless harvest, and establish season dates for the Central Coast General Methods Tule Elk Hunt.
- Add subsections 364(u)(4)(A)(1), 364(u)(4)(A)(2), and 364(u)(4)(A)(5) to authorize bull harvest, antlerless harvest, and establish season dates for the Gabilan General Methods Tule Elk Hunt.

La Panza Tule Elk Hunt Zone and Central Coast Tule Elk Management Unit: current (2022) public tag quotas for the La Panza Hunt Zone include 1 apprentice antlerless tag, 11 antlerless tags across two hunt periods (5 and 6 tags, for La Panza Periods 1 and 2, respectively), and 12 bull tags across two hunt periods (6 and 6 tags, for La Panza Periods 1 and 2, respectively). The tule elk population has expanded into the Central Coast Tule Elk Management Unit and increased substantially within the Camp Roberts and Salinas/Fremont Peak Tule Elk Management Units. There is no authorized

public elk harvest in those three units. Elk conflict has exceeded tolerable levels in some areas. The observed bull:cow ratios for the modified La Panza (33mm:100ff) and new Gabilan (41mm:100ff) Hunt Zones are above the Elk Conservation and Management Plan objective (25mm:100ff) for the La Panza and Salinas/Fremont Peak Tule Elk Management Units. The observed bull:cow ratio for the new Central Coast Hunt Zone (29mm:100ff) is above the the Elk Conservation and Management Plan objective (25mm:100ff).

The Department recommends modifying the La Panza hunt zone to a smaller area, creating a new Gabilan Tule Elk Hunt Zone and General Methods Hunt from most of the Salinas/Fremont Peak Elk Management Unit and the full extent of the remaining La Panza Hunt Zone, and creating a new Central Coast Tule Elk Hunt Zone and General Methods Hunt, which will incorporate the Camp Roberts Tule Elk Management Unit. The modified and new zones will bound closed populations which will enhance regulated harvest assessment towards achieving management objectives outlined in the 2018 Elk Conservation and Management Plan.

Other changes

- Several non-substantive changes are proposed to provide consistency among Title 14 sections. These revisions are necessary to provide consistency and clarity in the regulatory language across the section
 - Amend subsections 364(a) through 364(q) to:
 - Consistently use a hyphen between place names, such as state and county lines.
 - Consistently use “along” for non-road boundaries, such as state and county lines, creeks, and the coastline.
 - Consistently use “on” for road boundaries.
 - Consistently refer to Interstates as “Interstate #.”
 - Consistently end zone boundary segments with a semicolon.
 - Consistently capitalize “County” when in reference to one or more specific counties; use lowercase “county line” when in reference to the county line.
 - Remove the word “California” from hunt names, as all hunts are located in California.
 - Consistently use “intersection” in zone boundaries in which roads meet; use “junction” when at least one non-road forms the boundary.
 - Consistently reference a numbered road first, then in parentheses, reference the name of the road, if applicable.
 - Consistently begin a hunt zone description with “In that (singular)/those (plural) portions...” and follow the county name(s) with “within a line.”
 - Consistently capitalize “Section” in zone boundaries.
 - Amend section 364(i) to:
 - Correct the spelling of “fundraising.”
 - Replace en- and em-dashes with hypens.
 - Insert colon after the hunt name.
 - Amend Section 364(r) to:

- Clarify that apprentice hunt tagholders under 18 years of age shall be accompanied by a nonhunting, licensed adult chaperone 18 years of age or older.
- Correct the spelling of “chaperone.”
- Amend Sections 364(r) through 364(aa) to:
 - Standardize season language.
 - Insert zeros in place of blank cells.
 - Remove the word “California” from hunt names, as all hunts are located in California.
 - Consistently use “continue” to describe the hunt season length.
 - Capitalize “Period” in reference to a hunt period, followed by a numeral.
 - Specify section number and hunt name for all hunts.
- Amend Sections 364(u), 364(w), and 364.1(l) to correct the spelling of “Tinemaha.”
- Amend Section 364(x) to correct the spelling of “muzzleloader.”
- Amend Section 364(z) to correct the spelling of “fundraising/er.”

(b) Goals and Benefits of the Regulation

The goals and benefits of the regulations are to help achieve management objectives related to current environmental, biological, and social conditions related to relevant elk populations.

(c) Authority and Reference Sections from Fish and Game Code for Regulation

Authority: Section(s) 200, 203, 203.1, 265, 332 and 1050, Fish and Game Code

Reference: Section(s) 325, 332, 1050, 1570, 1571, 1572, 1573 and 1574, Fish and Game Code

(d) Specific Technology or Equipment Required by Regulatory Change

None

(e) Identification of Reports or Documents Supporting Regulation Change

California Department of Fish and Wildlife. (2018). [2018 Elk Management Plan](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=162912&inline).
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=162912&inline>

(f) Public Discussions of Proposed Regulations Prior to Notice Publication

Wildlife Resources Committee, May 19, 2022

Wildlife Resources Committee, September 15, 2022

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

No alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

(b) No Change Alternative

If the proposed amendments are not adopted, elk conflict will continue and may increase in some areas, and result in increased requests for elk depredation permits to alleviate conflict; disease, including treponeme associated hoof disease (TAHD), may continue to spread resulting in significant animal welfare issues; non-native Rocky Mountain elk may continue to expand their range and result in overlap with endemic tule elk in the Owens Valley; hunt experience may continue to be poor for some hunters if the relevant antlerless and bull periods remain concurrent; hunt zone boundaries may not accurately reflect observed biological processes, resulting in inaccurate interpretation of harvest metrics, and a problematic boundary protrusion may be exploited in the future by hunters with a tag for the adjacent hunt zone. The Department will miss opportunity to gain additional age and genetic data, among other information, from harvested elk to assist in population monitoring, lessening the Department's ability to better understand and manage the populations that are currently unharvested.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no significant adverse effect on the environment, and therefore, no mitigation measures are required.

VI. Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States

The proposed regulation will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This regulatory action will not impose cost impacts that a representative business would necessarily incur in reasonable compliance with the proposed regulation.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment.

The Commission does not anticipate impacts on the creation or elimination of jobs within the state, the creation of new business, the elimination of existing businesses, or the expansion of businesses in California because the expected economic impacts of the proposed regulations are unlikely to be substantial enough to substantially stimulate demand for goods or services related to elk hunting. If greater numbers of hunters visit the areas in the state with increased opportunities, businesses that provide goods and services to elk hunters could benefit from small increases in sales. The Commission does not anticipate direct benefits to the general health and welfare of California residents, the environment, or to worker safety, however California residents will benefit generally through access to the expanded recreational opportunities created by the proposed changes.

(c) Cost Impacts on a Representative Private Person or Business

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State

The Department anticipates an estimated \$57,891 increase in tag sales revenue with the implementation of the proposed regulation for the potential sale of 111 resident elk tags and 1 non-resident elk tag.

(e) Nondiscretionary Costs/Savings to Local Agencies

None.

(f) Programs Mandated on Local Agencies or School Districts

None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code

None.

(h) Effect on Housing Costs

None.

VII. Economic Impact Assessment

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State

The Commission does not anticipate impacts on the creation or elimination of jobs within the state.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State

The Commission does not anticipate impacts on the creation of new business, the elimination of existing businesses within the state because the expected economic impacts of the proposed regulations are unlikely to be substantial enough to stimulate demand for goods or services related to elk hunting.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State

The Commission does not anticipate impacts on the expansion of businesses currently doing business within the state because the expected economic impacts of the proposed regulations are unlikely to be substantial enough to stimulate demand for goods or services related to elk hunting.

(d) Benefits of the Regulation to the Health and Welfare of California Residents

(e) Hunting is an outdoor activity that can provide several health and welfare benefits to California residents. Hunters and their families benefit from fresh game to eat, and from the

benefits of outdoor recreation, including exercise. People who hunt have a special connection with the outdoors and an awareness of the relationships between wildlife, habitat, and humans, and can be a family tradition and a bonding activity. Benefits of the Regulation to Worker Safety

The Commission does not anticipate impacts on worker safety.

(f) Benefits of the Regulation to the State's Environment

As set forth in Fish and Game Code section 1700, it is the policy of the state to encourage the conservation, maintenance, and utilization of fish and wildlife resources for the benefit of all the citizens of the state. The objectives of this policy include, but are not limited to, the maintenance of populations of elk to ensure their continued existence and supporting recreational opportunity. Adoption of scientifically-based elk seasons and tag quotas provides for the maintenance of elk populations to ensure those objectives are met. The fees that hunters pay for licenses and tags help fund wildlife conservation.

Informative Digest/Policy Statement Overview

Current regulations in Section 364 provide definitions, hunting zone descriptions, season opening and closing dates, methods of take (e.g., general methods, archery only, muzzleloader only), tag designations (e.g., bull, spike bull, antlerless, and either-sex), tag quotas (total number of hunting tags to be made available), and bag and possession limits for elk hunting. Section 364.1 provides season opening and closing dates, methods of take, tag designations, tag quotas, and bag and possession limits for elk hunting administered through the SHARE hunt program. Individuals are awarded an elk hunting tag through the Department's Big Game Drawing or SHARE hunt program drawing.

Harvest of an elk is authorized for an individual awarded a tag for a respective hunt zone or SHARE property and season. Tag quotas are established based on a variety of factors including population density and abundance, age and sex composition, elk distribution, and human-elk conflict levels, among other population objectives, factors, and considerations. The Department has identified the following areas where increased public elk hunting opportunities are feasible and support achievement of population objectives:

Tejon Rocky Mountain Elk Management Unit. Currently there is no hunt zone established which authorizes public elk harvest in the Tejon Rocky Mountain Elk Management Unit

Bear Valley and Cache Creek Tule Elk Hunt Zones. Current (2022) public tag quota for these zones are 1 antlerless tag and 2 bull tags (Bear Valley), and 1 apprentice bull tag, 2 antlerless tags, and 2 bull tags (Cache Creek).

Siskiyou Roosevelt Elk Hunt Zone. Current (2022) public tag quota for the Siskiyou Hunt Zone is 20 antlerless tags and 20 bull tags. The bull and antlerless hunt periods are concurrent.

Northwestern Roosevelt Elk Hunt Zone. Current (2022) public tag quota for the Northwestern Hunt Zone is 15 antlerless tags, 3 bull tags, and 3 either-sex tags.

La Panza Tule Elk Hunt Zone and Central Coast Tule Elk Management Unit. Current (2022) public tag quotas for the La Panza Hunt Zone is 1 apprentice antlerless tag, 11 antlerless tags across two hunt periods (5 and 6 tags, respectively), and 12 bull tags across two hunt periods (6 and 6, respectively). There is currently no authorized public elk harvest in the Central Coast Tule Elk Management Unit.

The proposed regulatory changes will:

Siskiyou Roosevelt Elk Hunt Zone. Set public tag quota for the Siskiyou Hunt Zone to 20 bull tags and 30 antlerless tags. Shift the bull season from September to October.

Northwestern Roosevelt Elk Hunt Zone. Set public tag quota for the Northwestern Hunt Zone to 25 bull tags, 15 antlerless tags, and 3 either-sex tags.

Bear Valley and Cache Creek Tule Elk Hunt Zones. Modify adjacent Hunt Zone boundaries to bound demographically and genetically interacting populations.

The goals and benefits of the regulations are to help achieve management objectives related to current environmental, biological, and social conditions related to relevant elk populations.

Tejon Rocky Mountain Elk Management Unit. Create a Tehachapi Rocky Mountain Elk Hunt Zone and General Methods Hunt, with tag allowances set at 5 bull and 10 antlerless.

La Panza Tule Elk Hunt Zone and Central Coast Tule Elk Management Unit. Decrease the size of the La Panza Hunt Zone, create a new Gabilan Tule Elk Hunt Zone, and create a new Central Coast Tule Elk Zone, which incorporates the existing Camp Roberts Tule Elk Management Unit. For each of the new Hunt Zones, create a General Methods Hunt, with tag allowances set at: 6 bull and 5 antlerless (La Panza Period 1), 6 bull and 5 antlerless (La Panza Period 2), 10 bull and 10 antlerless (Central Coast), and 4 bull and 6 antlerless (Gabilan).

Benefit of the Regulations:

The proposed regulatory action is designed to help achieve management objectives related to current environmental, biological, and social conditions, as outlined in the Elk Conservation and Management Plan.

Consistency and Compatibility with Existing Regulations:

Article IV, Section 20 of the State Constitution specifies that the Legislature may delegate to Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. Commission staff has searched the California Code of Regulations and has found no other state regulations that address the definitions, hunting zone descriptions, season opening and closing dates, methods of take (e.g., general methods, archery only, muzzleloader only), tag designations (e.g., bull, spike bull, antlerless, and either-sex), tag quotas (total number of hunting tags to be made available), and bag and possession limits for elk hunting. The Commission has reviewed its own regulations and finds that the proposed regulations are consistent with other big game mammal regulations in Title 14, CCR, and therefore finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

Proposed Regulatory Language

Section 364, Title 14, CCR, is amended to read:

§ 364. Elk Hunts, Seasons, and Number of Tags.

(a) Department Administered General Methods Roosevelt Elk Hunts:

(1) Siskiyou General Methods Roosevelt Elk Hunt:

(A) Area: In that portion of Siskiyou County within a line beginning at the junction of Interstate Highway 5 ~~with and~~ the ~~California-Oregon~~ California-Oregon state line; east along the California-Oregon state line to Hill Road at Ainsworth Corner; south ~~along on~~ on Hill Road to Lava Beds National Monument Road; south ~~along on~~ on Lava Beds National Monument Road to USDA Forest Service Road 49; south ~~along on~~ on USDA Forest Service Road 49 to USDA Forest Service Road 77; west ~~along on~~ on USDA Forest Service Road 77 to USDA Forest Service Road 15 (Harris Spring Road); south ~~along on~~ on USDA Forest Service Road 15 to USDA Forest Service Road 13 (Pilgrim Creek Road); southwest ~~along on~~ on USDA Forest Service Road 13 to Highway 89; northwest ~~along on~~ on Highway 89 to Interstate Highway 5; north ~~along on~~ on Interstate Highway 5 to the point of beginning.

(2) Northwestern ~~California~~ Roosevelt Elk Hunt:

(A) Area: In those portions of Humboldt and Del Norte ~~counties~~ Counties within a line beginning at the intersection of Highway 299 and Highway 96; north ~~along on~~ on Highway 96 to the ~~Del Norte-Siskiyou~~ Del Norte-Siskiyou county line; north along the ~~Del Norte-Siskiyou~~ Del Norte-Siskiyou county line to the ~~California-Oregon~~ California-Oregon state line; west along the California-Oregon state line to the Pacific ~~Coastline~~, coastline; south along the Pacific coastline to the ~~Humboldt-Mendocino~~ Humboldt-Mendocino county line; east along the ~~Humboldt-Mendocino~~ Humboldt-Mendocino county line to the ~~Humboldt-Trinity~~ Humboldt-Trinity county line; north along the ~~Humboldt-Trinity~~ Humboldt-Trinity county line to Highway 299; west ~~along on~~ on Highway 299 to the point of beginning.

(3) Marble Mountains General Methods Roosevelt Elk Hunt:

(A) Area: In those portions of Humboldt, Tehama, Trinity, Shasta and Siskiyou ~~counties~~ Counties within a line beginning at the intersection of Interstate Highway 5 and the ~~California-Oregon~~ California-Oregon state line; west along the California-Oregon state line to the Del Norte ~~County~~ county line; south along the Del Norte ~~County~~ county line to the ~~intersection~~ junction of the ~~Siskiyou-Humboldt~~ Siskiyou-Humboldt county line ~~lines~~; east along the ~~Siskiyou-Humboldt~~ Siskiyou-Humboldt county line ~~lines~~ line to Highway 96; south ~~along on~~ on Highway 96 to Highway 299; south ~~along on~~ on Highway 299 to the ~~Intersection of the~~ Humboldt-Trinity County Humboldt-Trinity county line; south along the ~~Humboldt Trinity County~~ Humboldt-Trinity county line to the ~~intersection of~~ intersection of Highway 36; east ~~along on~~ on Highway 36 to the ~~intersection of~~ intersection of Interstate 5; north on Interstate Highway 5 to the point of beginning.

(b) Department Administered General Methods Rocky Mountain Elk Hunts:

(1) Northeastern ~~California~~ General Methods Rocky Mountain Elk Hunt:

(A) Area: Those portions of Siskiyou, Modoc, Lassen, and Shasta ~~counties~~ Counties within a line beginning in Siskiyou County at the junction of the ~~California-Oregon~~ California-

Oregon state line and Hill Road at Ainsworth Corner; east along the ~~California-Oregon~~ California-Oregon state line to the ~~California-Nevada~~ California-Nevada state line; south along the ~~California-Nevada~~ California-Nevada state line to the ~~Tuledad-Red Rock-Clarks Valley Road~~ Tuledad-Red Rock-Clarks Valley Road (Lassen County Roads Road 506, 512 and 510) (Tuledad Road); west along the ~~Tuledad-Red Rock-Clarks Valley Road~~ on Lassen County Road 506 to Lassen County Road 512 (Red Rock Road); west on Lassen County Road 512 to Lassen County Road 510 (Clark's Valley Road); west on Lassen County Road 510 to Highway 395 at Madeline; west on Lassen County Road 527 (Ash Valley Road) to Highway 139/299 in Adin; south on Highway 139 Highway 299/139, then Highway 139 to the intersection of Highway 36 in Susanville; west on Highway 36 to the intersection of Interstate 5 in Red Bluff; north on Interstate 5 to Highway 89; southeast along on Highway 89 to USDA Forest Service Road 13 (Pilgrim Creek Road); northeast along on USDA Forest Service Road 13 to USDA Forest Service Road 15 (Harris Spring Road); north along on USDA Forest Service Road 15 to USDA Forest Service Road 77; east along on USDA Forest Service Road 77 to USDA Forest Service Road 49; north along on USDA Forest Service Road 49 to Lava Beds National Monument Road; north along on Lava Beds National Monument Road to Hill Road; north along on Hill Road to the point of beginning.

(2) Tehachapi Rocky Mountain Elk Hunt:

(A) Area: In those portions of Kern and Los Angeles Counties within a line beginning at the intersection of Highways 99 and 65; north on Highway 65 to the Kern-Tulare county line; east along the Kern-Tulare county line to Highway 395; south on Highway 395 to Highway 14; southwest on Highway 14 to Highway 138; west on Highway 138 to Interstate 5; north on Interstate 5 to Highway 99; north on Highway 99 to the point of beginning.

(c) Department Administered General Methods Roosevelt/Tule Elk Hunt:

(1) Mendocino General Methods Roosevelt/Tule Elk Hunt:

(A) Area: These portions in In that portion of Mendocino County within a line beginning at the Pacific Coastline coastline and the Mendocino/Humboldt County Mendocino-Humboldt county line south of Shelter Cove; east along the Mendocino/Humboldt County Mendocino-Humboldt county line to the intersection of the Humboldt, Mendocino, and Trinity County lines the Mendocino-Trinity county line; south and east along the Mendocino/Trinity County Mendocino-Trinity county line to the intersection of the Mendocino, Trinity, and Tehama County lines Mendocino-Tehama county line; south along the Mendocino County Mendocino-Glen county line, then the Mendocino-Lake county line to the intersection of Highway 20; north and west along on Highway 20 to the intersection of Highway 101 near Calpella; south along on Highway 101 to the intersection of Highway 253; southwest along on Highway 253 to the intersection of Highway 128; north along on Highway 128 to the intersection of Mountain View Road near the town of Boonville; west along on Mountain View Road to the intersection of Highway 1; south along on Highway 1 to the intersection junction of the Garcia River; west along the Garcia River to the Pacific Coastline coastline; north along the Pacific Coastline coastline to the point of beginning.

(d) Department Administered General Methods Tule Elk Hunts:

(1) Cache Creek General Methods Tule Elk Hunt:

(A) Area: ~~These~~ In those portions of Lake, Colusa and Yolo ~~counties~~ Counties within the following line: a line beginning at the junction of Highway 20 and Highway 16 the Colusa-Lake county line (County Line Ridge); south along the Colusa-Lake county line to the Yolo county line; east along the Yolo County line to Highway 16; south on Highway 16 to Reiff-Rayhouse Road; west on Reiff-Rayhouse Road to Morgan Valley Road; west on Morgan Valley Road to Highway 53; north on Highway 53 to Highway 20; west on Highway 20 to Forest Road 303; east on Highway 20 to the fork of Cache Creek; north on the north fork of Cache Creek to Indian Valley Reservoir; east on the south shore of Indian Valley Reservoir to Walker Ridge-Indian Valley Reservoir Access Road; east on Walker Ridge-Indian Valley Reservoir Access Road to Walker Ridge Road; north and east on Forest Road 303 to Walker Ridge Road; south on Walker Ridge Road to Highway 20; east on Highway 20 to the point of beginning.

(B) Special Conditions: All tagholders will be required to attend a mandatory orientation. Tagholders will be notified of the time and location of the orientation meeting upon receipt of their elk license tags.

(2) La Panza General Methods Tule Elk Hunt:

(A) Area: In those portions of San Luis Obispo, Kern, ~~Monterey, Kings, Fresno, San Benito,~~ and Santa Barbara ~~counties~~ Counties within a line beginning in ~~San Benito County~~ at the junction of Highway 25 and County Highway J1 near the town Pacines, south along Highway 25 to La Gloria road, west along La Gloria road, ~~La Gloria road becomes Gloria road,~~ west along Gloria road to Highway 101 near Gonzales, San Luis Obispo County at the intersection of Highway 101 and Highway 46; south along on Highway 101 to Highway 166 in San Luis Obispo County; east along on Highway 166 to Highway 33 at Maricopa in Kern County; north and west along on Highway 33 to Highway 198 at Coalinga in Fresno 46 in Kern County; north along Highway 33 to Interstate 5 in Fresno County, north along Interstate 5 to Little Panoche road/County Highway J1, southwest along Little Panoche road/County Highway J1 to the intersection of Little Panoche road/ County Highway J1 and Panoche road/County Highway J1 in San Benito County, northwest along Panoche road/County Highway J1; west on Highway 46 to the point of beginning.

(B) Special Conditions: All tagholders will be required to attend a mandatory orientation. Tagholders will be notified of the time and location of the orientation meeting upon receipt of their elk license tags.

(3) Central Coast General Methods Tule Elk Hunt:

(A) Area: In those portions of Monterey and San Luis Obispo Counties within a line beginning in Monterey County at the junction of Highway 1 and Elkhorn Slough; westward to the Pacific coastline at the Moss Landing Harbor mouth entrance; south along the Pacific coastline to the junction of the mouth of Santa Rosa Creek in San Luis Obispo County; south and east along Santa Rosa Creek to the bridge at Highway 1; south on Highway 1 to Highway 46; east on Highway 46 to Highway 101; north on Highway 101 to North Main Street in Salinas in Monterey County; south on North Main Street to Highway 183; north on Highway 183 to Highway 1; north on Highway 1 to the point of beginning, excluding the full extent of the Fort Hunter Liggett military installation.

(B) Special Conditions: All tagholders will be required to attend a mandatory orientation. Tagholders will be notified of the time and location of the orientation meeting upon receipt of their elk license tags.

(4) Gabilan General Methods Tule Elk Hunt:

(A) Area: In those portions of Monterey, San Benito, and Fresno Counties within a line beginning in Monterey County at the junction of the Pajaro River and the Pacific coastline; east along the Pajaro River to Highway 25; south on Highway 25 to San Felipe Road; south on San Felipe Road to San Benito Street; south on San Benito Street to Nash Road; east on Nash Road to Highway 25; south on Highway 25 to County Road J1 (Panoche Road) near the town of Paicines; southeast on County Road J1 to County Road J1 (Little Panoche Road); north on County Road J1 to Interstate 5 in Fresno County; south on Interstate 5 to Highway 33; south on Highway 33 to Highway 46; west on Highway 46 to Highway 101; north on Highway 101 to North Main Street in Salinas in Monterey County; south on North Main Street to Highway 183; north on Highway 183 to Highway 1; north on Highway 1 to the junction with Elkhorn Slough; westward to the Pacific coastline at the Moss Landing Harbor mouth entrance; north along the Pacific coastline to the point of beginning.

(B) Special Conditions: All tagholders will be required to attend a mandatory orientation. Tagholders will be notified of the time and location of the orientation meeting upon receipt of their elk license tags.

(3)(5) Bishop General Methods Tule Elk Hunt:

(A) Area: In that portion of Inyo County within a line beginning at the junction intersection of Highway 395 and Highway 6 in the town of Bishop; north and east along on Highway 6 to the junction of Silver Canyon Road; east along on Silver Canyon Road to the White Mountain Road (Forest Service Road 4S01) Forest Service Road 4S01 (White Mountain Road); south along the on White Mountain Road Forest Service Road 4S01 to Highway 168 at Westgard Pass; south and west along on Highway 168 to the junction of Highway 395; north on Highway 395 to the point of beginning.

(4)(6) Independence General Methods Tule Elk Hunt:

(A) Area: In that portion of Inyo County within a line beginning at the junction intersection of Highway 395 and Aberdeen Station Road; east on Aberdeen Station Road to its terminus at the southern boundary of Section 5, Township 11S, Range 35E; east along the southern boundary of sections 5, 4, 3, and 2, Township 11S, Range 35E to the Papoose Flat Road at Papoose Flat; south and east on Papoose Flat Road to Mazourka Canyon Road; south, south and then west on Mazourka Canyon Road to Highway 395; north along on Highway 395 to the point of beginning.

(5)(7) Lone Pine General Methods Tule Elk Hunt:

(A) Area: In that portion of Inyo County within a line beginning at the junction intersection of Highway 395 and Mazourka Canyon Road; east, east and then north on Mazourka Canyon Road to the Inyo National Forest Boundary at the junction of the southern boundary of Township 12S and the northern boundary of Township 13S; east along the southern boundary of Township 12S to Saline Valley Road; south on Saline Valley Road to

Highway 190; north, and then southwest on Highway 190 to the junction of Highway 395 at Olancho; north on Highway 395 to the point of beginning.

~~(6)~~(8) Tinemaha General Methods Tule Elk Hunt:

(A) Area: In that portion of Inyo County within a line beginning at the ~~junction~~ intersection of Highway 395 and Highway 168 in the town of Big Pine; north and east ~~along on~~ on Highway 168 to the ~~junction of the~~ Death Valley Road; south and east ~~along the on~~ on Death Valley Road to the ~~junction of the~~ Papoose Flat Road; south ~~along the on~~ on Papoose Flat Road to the southern boundary of Section 2, Township 11S, Range 35E; west along the southern boundaries of ~~sections 2, 3, 4 and 5~~ Sections 2, 3, 4, and 5 to the terminus of the Aberdeen Station Road in Section 5, Township 11S, Range 35E; south and west ~~along the on~~ on Aberdeen Station Road to Highway 395; north ~~along on~~ on Highway 395 to the point of beginning.

~~(7)~~(9) West Tinemaha General Methods Tule Elk Hunt:

(A) Area: In that portion of Inyo County within a line beginning at the ~~junction~~ intersection of Highway 395 and Highway 168 in the town of Big Pine; south ~~along on~~ on Highway 395 to the north junction of Fish Springs Road; south ~~along on~~ on Fish Springs Road to the ~~junction of~~ Highway 395; south ~~along on~~ on Highway 395 to Taboose Creek in Section 14, Township 11S, Range 34E; west along Taboose Creek to the Inyo County county line; north and west along the Inyo County county line to the ~~intersection~~ junction of Tinemaha Creek; east along Tinemaha Creek to the ~~intersection of~~ junction with McMurray Meadow Road; north on McMurray Meadow Road to the ~~intersection of~~ Glacier Lodge Road; north and east on Glacier Lodge Road to Crocker Avenue; east ~~along on~~ on Crocker Avenue to Highway 395; north ~~along on~~ on Highway 395 to the point of beginning.

~~(8)~~(10) Tinemaha Mountain General Methods Tule Elk Hunt:

(A) Area: In that portion of Inyo County ~~with a~~ within a line beginning at the intersection of Forest Service Road 9S21 (Glacier Lodge Road) (9S21) and Forest Service Road 9S03 (McMurray Meadow Road) (9S03); south on ~~McMurray Meadow Road~~ Forest Service Road 9S03 to the junction of Tinemaha Creek; west along Tinemaha Creek to the ~~Inyo County Inyo-Fresno county~~ Inyo-Tulare county line; north and west along the Inyo County county line to the southeast corner of Section 23, Township 10S, Range 32E; north along the eastern boundaries of sections 23, 14, 11, 2, Township 10S, Range 32E, and the eastern boundary of Section 36, Township 9S, Range 32E to Glacier Lodge Road; east ~~along on~~ on Glacier Lodge Road to the point of beginning.

~~(9)~~(11) Whitney General Methods Tule Elk Hunt:

(A) Area: In that portion of Inyo County ~~with a~~ within a line beginning at the intersection of Highway 395 and Onion Valley Road; south on Highway 395 to the ~~intersection of~~ Whitney Portal Road; west ~~along on~~ on Whitney Portal Road to the northern boundary of Section 36, Township 15S, Range 34E; west along the northern boundary of sections 36, 35, 34 and 33 Township 15S, Range 34 E to the ~~Inyo County Line~~ Inyo-Tulare county line; north along the ~~Inyo County Line~~ Inyo-Tulare county line to the ~~intersection~~ junction of Section 27 Township 13S, range 33E; east along the southern boundary of sections 27, 26 and 25 Township 13S, Range 33E; north along the eastern boundary of Section 25 Township 13S,

Range 33E to the ~~intersection of~~ Onion Valley Road; east ~~along on~~ Onion Valley Road to the point of beginning.

~~(10)~~(12) Goodale General Methods Tule Elk Hunt:

(A) Area: In that portion of Inyo County within a line beginning at the ~~junction intersection~~ of Highway 395 and Onion Valley Road; west ~~along on~~ Onion Valley Road to the ~~intersection junction~~ of the eastern boundary of Section 25 Township 13S, Range 33E; south along the eastern boundary of Section 25 Township 13S, Range 33E to the southern boundary of Section 25 Township 13S, Range 33E; west along the southern boundary of sections 27, 26, 25 Township 13S, Range 33E to the ~~Inyo County line~~ Inyo-Fresno county line; ~~North north~~ along the ~~Inyo County Line~~ Inyo-Fresno county line to Taboose Creek; east along Taboose Creek to the ~~intersection junction~~ of Highway 395; south ~~along on~~ Highway 395 to the point of beginning.

~~(11)~~(13) Grizzly Island General Methods Tule Elk Hunt:

(A) Area: Those lands owned and managed by the Department of Fish and Wildlife as the Grizzly Island Wildlife Area.

(B) Special Conditions: All tagholders will be required to attend a mandatory orientation. Tagholders will be notified of the time and location of the orientation meeting after receipt of their elk license tags.

~~(12)~~(14) Fort Hunter Liggett General Public General Methods Tule Elk Hunt:

(A) Area: That portion of Monterey County lying within the exterior boundaries of Fort Hunter Liggett, except as restricted by the Commanding Officer.

(B) Fort Hunter Liggett Special Conditions: See subsection 364(p).

~~(13)~~(15) East Park Reservoir General Methods Tule Elk Hunt:

(A) Area: In those portions of Glenn and Colusa ~~counties~~ Counties within a line beginning in Glenn County at the ~~junction intersection~~ of Interstate Highway 5 and Highway 162 at Willows; west ~~along on~~ Highway 162 (Highway 162 becomes Alder Springs Road) to the ~~Glenn-Mendocino County~~ Glenn-Mendocino county line; south along the ~~Glenn-Mendocino County~~ Glenn-Mendocino county line to the ~~Glenn-Lake County~~ Glenn-Lake county line; east and then south along the ~~Glenn-Lake County~~ Glenn-Lake county line to the ~~Colusa-Lake County~~ Colusa-Lake county line; west, then southeast along the ~~Colusa-Lake County~~ Colusa-Lake county line to Goat Mountain Road; north and east ~~along on~~ Goat Mountain Road to the ~~Lodoga-Stonyford Road~~ Lodoga-Stonyford Road; east ~~along the~~ on Lodoga-Stonyford Road the ~~Sites-Lodoga Road~~ Sites-Lodoga Road at Lodoga; east ~~along the~~ on Sites-Lodoga Road to the ~~Maxwell-Sites Road~~ Maxwell-Sites Road at Sites; east ~~along the~~ on Maxwell-Sites Road to Interstate Highway-5 at Maxwell; north ~~along on~~ Interstate Highway 5 to the point of beginning.

(B) Special Conditions:

1. All tagholders will be required to attend a mandatory orientation. Tagholders will be notified of the time and location of the orientation meeting after receipt of their elk license tags.

2. Access to private land may be restricted or require payment of an access fee.

3. A Colusa County ordinance prohibits firearms on land administered by the USDI Bureau of Reclamation in the vicinity of East Park Reservoir. A county variance currently allows for the use of muzzleloaders (as defined in Section 353) on Bureau of Reclamation land within the hunt ~~zone, hunters zone~~. Hunters are responsible for checking with county authorities for any change in the variance.

~~(14)~~(16) San Luis Reservoir General Methods Tule Elk Hunt:

(A) Area: In those portions of Merced, Fresno, San Benito, and Santa Clara ~~counties~~ Counties within a line beginning in Merced County at the ~~junction~~ intersection of Highway 152 and Interstate 5 near the town of Santa Nella; ~~Nella~~; west along on Highway 152 to Highway 156 in Santa Clara ~~County~~; County; southwest along on Highway 156 to Highway 25 near the town of Hollister in San Benito ~~County~~; County; south along on Highway 25 to County Road J1 (Panoche Road) in the town of ~~Paicine~~; Paicines; south and east along on County Road J1 to County Road J1 (Little Panoche Road, Road); North north and east along on County Road J1 (Little Panoche Road) to Interstate 5 in Fresno ~~County~~; County; north along on Interstate 5 to the point of beginning.

~~(15)~~(17) Bear Valley General Methods Tule Elk Hunt

(A) Area: in In those portions of Colusa, Lake, and Yolo ~~counties~~ Counties within a line beginning in Colusa County at the ~~junction~~ intersection of Interstate Highway 5 and ~~Maxwell Sites~~ Maxwell-Sites Road at Maxwell; west along on Maxwell-Sites Maxwell-Sites Road to the ~~Sites-Lodoga~~ Sites-Lodoga Road; west along the ~~Sites-Lodoga~~ on Sites-Lodoga Road to ~~Lodoga-Stonyford~~ Lodoga-Stonyford Road; west along ~~Lodoga-Stonyford~~ on Lodoga-Stonyford Road to Goat Mountain Road; west and south along on Goat Mountain Road to the Colusa-Lake ~~County~~ county line; south and west along the Colusa-Lake ~~County~~ county line to Forest Route M5; south along on Forest Route M5 to ~~Bartlett Springs Road~~ Forest Road 303; east along ~~Bartlett Springs Road to Highway 20~~ on Forest Road 303 to Walker Ridge Road; south on Walker Ridge Road to Highway 20; east on Highway 20 ~~to the fork of Cache Creek to the~~ Colusa-Lake county line (County Line Ridge); south along the Colusa-Lake county line to the Yolo county line; east along the Yolo county line to Highway 16; ~~north on the north fork of Cache Creek to Indian Valley Reservoir to Walker Ridge-Indian Valley Reservoir Access Road~~; east on ~~Walker Ridge-Indian Valley Reservoir Access Road to Walker Ridge Road~~; south on ~~Walker Ridge Road to Highway 20~~; east on ~~Highway 20 to Highway 16~~; south on Highway 16 to Rayhouse Road; south and west on Rayhouse Road to the Yolo-Napa ~~County~~ county line; east and south along the Yolo-Napa ~~County~~ county line to Road 8053; east on Road 8053 to County Road 78A; east on County Road 78A to Highway 16; east on Highway 16 to Route E4 at Capay; north and east on Route E4 to Interstate ~~Highway~~ 5; north on Interstate ~~Highway~~ 5 to the point of beginning.

~~(16)~~(18) Lake Pillsbury General Methods Tule Elk Hunt:

(A) Area: in ~~these portions~~ In that portion of Lake County within a line beginning at the ~~junction of the Glenn-Lake County~~ Glenn-Lake-Mendocino county line and the ~~Mendocino County~~ line; south and west along the ~~Mendocino-Lake County~~ Mendocino-Lake county line to Highway 20; southeast on Highway 20 to the ~~intersection of Bartlett Springs Road~~; north and

east along on Bartlett Springs Road to the intersection of Forest Route M5; northwest on Forest Route M5 to the ~~colusa-Lake County Line~~ Colusa-Lake county line; northwest and east ~~on~~ along the ~~Colusa-Lake County Line~~ Colusa-Lake county line to the junction of the ~~Glenn-Colusa County Line~~ and the ~~Lake-Glenn County Line~~ Glenn county line; north and west ~~on~~ along the ~~Lake-Glenn County Line~~ Lake-Glenn County Line to the point of beginning.

~~(17)~~(19) Santa Clara General Methods Tule Elk Hunt:

(A) Area: ~~These~~ In those portions of Merced, Santa Clara, and Stanislaus Counties within the following line: a line beginning at the intersection junction of the Interstate 5 and the ~~San Joaquin/Stanislaus County~~ San Joaquin-Stanislaus county line; southeast along on Interstate 5 to the intersection of Highway 152; west along on Highway 152 to the intersection of Highway 101 near the town of Gilroy; north along on Highway 101 to the intersection of Interstate 680 near San Jose; north along on Interstate 680 to the intersection of the ~~Alameda/Santa Clara County~~ Alameda-Santa Clara county line; east along the ~~Alameda/Santa Clara County~~ Alameda-Santa Clara county line to the intersection of the ~~San Joaquin, Stanislaus, Alameda, Santa Clara County lines~~ junction of the San Joaquin-Stanislaus-Alameda-Santa Clara county lines; northeast along the ~~San Joaquin/Stanislaus County~~ San Joaquin-Stanislaus county line to the point of beginning.

~~(18)~~(20) Alameda General Methods Tule Elk Hunt:

(A) Area: ~~These~~ In those portions of Alameda and San Joaquin Counties within the following line: a line beginning at the intersection junction of the Interstate 5 and the ~~San Joaquin/Stanislaus County~~ San Joaquin-Stanislaus county line; southwest along the ~~San Joaquin/Stanislaus County~~ San Joaquin-Stanislaus county line to the intersection of the ~~San Joaquin, Stanislaus, Alameda, Santa Clara County lines~~ junction of the San Joaquin-Stanislaus-Alameda-Santa Clara county lines; west along the ~~Alameda/Santa Clara County Line~~ Alameda-Santa Clara county line to the intersection of Interstate 680; north along on Interstate 680 to the intersection of Interstate 580; east and south along on Interstate 580 to the intersection of Interstate 5; south along on Interstate 5 to the point of beginning.

(e) Department Administered General Methods Apprentice Elk Hunts:

(1) Marble Mountains General Methods Roosevelt Elk Apprentice Hunt:

(A) Area: The tag shall be valid in the area described in subsection 364(a)(3)(A).

(B) Special Conditions: Only persons possessing valid junior hunting licenses may apply for Apprentice Hunt license tags. Apprentice Hunt tagholders under 18 years of age shall be accompanied by a nonhunting, licensed adult ~~chaperon~~ chaperone 18 years of age or older while hunting.

(2) Northeastern ~~California~~ General Methods Rocky Mountain Elk Apprentice Hunt:

(A) Area: The tag shall be valid in the area described in subsection 364(b)(1)(A).

(B) Special Conditions: Only persons possessing valid junior hunting licenses may apply for Apprentice Hunt license tags. Apprentice Hunt tagholders under 18 years of age shall be accompanied by a nonhunting, licensed adult ~~chaperon~~ chaperone 18 years of age or older while hunting.

(3) Cache Creek General Methods Tule Elk Apprentice Hunt:

(A) Area: The tag shall be valid in the area described in subsection 364(d)(1)(A).

~~(B) Special Conditions:~~

~~1.~~

(B) Special Conditions: Only persons possessing valid junior hunting licenses may apply for Apprentice Hunt license tags. Apprentice Hunt tagholders under 18 years of age shall be accompanied by a nonhunting, licensed adult ~~chaperon~~ chaperone 18 years of age or older while hunting.

(4) La Panza General Methods Tule Elk Apprentice Hunt:

(A) Area: The tag shall be valid in the area described in subsection 364(d)(2)(A).

(B) Special Conditions:

1. All tagholders will be required to attend a mandatory orientation. Tagholders will be notified of the time and location of the orientation meeting after receipt of their elk license tags.

2. Only persons possessing valid junior hunting licenses may apply for Apprentice Hunt license tags. Apprentice Hunt tagholders under 18 years of age shall be accompanied by a nonhunting, licensed adult ~~chaperon~~ chaperone 18 years of age or older while hunting.

(5) Bishop General Methods Tule Elk Apprentice Hunt:

(A) Area: The tag shall be valid in the area described in subsection 364(d)~~(3)~~(5)(A).

(B) Special Conditions: Only persons possessing valid junior hunting licenses may apply for Apprentice Hunt license tags. Apprentice Hunt tagholders under 18 years of age shall be accompanied by a nonhunting, licensed adult ~~chaperon~~ chaperone 18 years of age or older while hunting.

(6) Grizzly Island General Methods Tule Elk Apprentice Hunt:

(A) Area: The tag shall be valid in the area described in subsection 364(d)~~(11)~~(13)(A).

(B) Special Conditions:

1. All tagholders will be required to attend a mandatory orientation. Tagholders will be notified of the time and location of the orientation meeting after receipt of their elk license tags.

2. Only persons possessing valid junior hunting licenses may apply for Apprentice Hunt license tags. Apprentice Hunt tagholders under 18 years of age shall be accompanied by a nonhunting, licensed adult ~~chaperon~~ chaperone 18 years of age or older while hunting.

(7) Fort Hunter Liggett General Methods General Public Tule Elk Apprentice Hunt:

(A) Area: The tag shall be valid in the area described in subsection 364(d)~~(12)~~(14)(A).

~~(B) Special Conditions: See subsection 364(p).~~

~~(f)~~

(B) Special Conditions:

1. See subsection 364(p).

2. Only persons possessing valid junior hunting licenses may apply for Apprentice Hunt license tags. Apprentice Hunt tagholders under 18 years of age shall be accompanied by a nonhunting, licensed adult ~~chaperon~~ chaperone 18 years of age or older while hunting.

(f) Department Administered Archery Only Elk Hunts:

(1) Northeastern ~~California~~ Archery Only Rocky Mountain Elk Hunt:

(A) Area: The tag shall be valid in the area described in subsection 364(b)(1)(A).

(B) Special Conditions: Elk may be taken with Archery Equipment only as specified in Section 354.

(2) Owens Valley Multiple Zone Archery Only Tule Elk Hunt:

(A) Area: The tag shall be valid in Bishop, Independence, Lone Pine, and Goodale, as ~~areas~~ described in subsections 364(d)(~~3~~)(5)(A), (d)(~~4~~)(6)(A), (d)(~~5~~)(7)(A) and (d)(~~10~~)(12)(A).

(B) Special Conditions: Elk may be taken with Archery Equipment only as specified in Section 354.

(3) Lone Pine Archery Only Tule Elk Hunt:

(A) Area: The tag shall be valid in the area described in subsection 364(d)(~~5~~)(7)(A).

(B) Special Conditions: Elk may be taken with Archery Equipment only as specified in Section 354.

(4) Tinemaha Archery Only Tule Elk Hunt:

(A) Area: The tag shall be valid in the area described in subsection 364(d)(~~6~~)(8)(A).

(B) Special Conditions: Elk may be taken with Archery Equipment only as specified in Section 354.

(5) Whitney Archery Only Tule Elk Hunt:

(A) Area: The tag shall be valid in the area described in subsection 364(d)(~~9~~)(11)(A).

(B) Special Conditions: Elk may be taken with Archery Equipment only as specified in Section 354.

(6) Fort Hunter Liggett General Public Archery Only Tule Elk Hunt:

(A) Area: The tag shall be valid in the area described in subsection 364(d)(~~12~~)(14)(A).

(B) Special Conditions:

1. See subsection 364(p).

~~(C)~~ 2. Elk may be taken with Archery Equipment only as specified in Section 354.

(g) Department Administered Muzzleloader Only Elk Hunts:

(1) Bishop Muzzleloader Only Tule Elk Hunt:

(A) Area: The tag shall be valid in the area described in subsection 364(d)(3)(5)(A).

(B) Special Conditions: Elk may be taken with muzzleloader equipment only as specified in Section 353.

(2) Independence Muzzleloader Only Tule Elk Hunt:

(A) Area: The tag shall be valid in the area described in subsection 364(d)(4)(6)(A).

(B) Special Conditions: Elk may be taken with muzzleloader equipment only as specified in Section 353.

(3) Fort Hunter Liggett General Public Muzzleloader Only Tule Elk Hunt:

(A) Area: The tag shall be valid in the area described in subsection 364(d)(12)(14)(A).

~~(B) Special Conditions: See subsection 364(p).~~

(B) Special Conditions:

1. See subsection 364(p).

~~(C) 2.~~ Elk may be taken with Muzzleloader Equipment only as specified in Section 353.

(h) Department Administered Muzzleloader/Archery Only Roosevelt Elk Hunts:

(1) Marble Mountains Muzzleloader/Archery Only Roosevelt Elk Hunt. Hunt:

(A) Area: The tag shall be valid in the area described in subsection 364(a)(3)(A).

(B) Special Conditions: Elk may be taken with archery or muzzleloader equipment only as specified in Sections 353 and 354.

(i) ~~Fund Raising~~ Fundraising Elk Hunts:

(1) ~~Multi-zone Fund Raising Elk Hunt.~~ Multi-zone Fundraising Elk Hunt:

(A) Area: The tag shall be valid in the areas described in subsections 364(a)(1)(A), (a)(2)(A), (a)(3)(A), (b)(1)(A), and (d)(2)(A).

(2) Grizzly Island ~~Fund Raising~~ Fundraising Tule Elk Hunt. Hunt:

(A) Area: The tag shall be valid in the area described in subsection 364(d)(11)(13)(A).

(B) Special Conditions: Advance reservations required by contacting the Grizzly Island Wildlife Area by telephone at (707) 425-3828.

(3) Owens Valley ~~Fund Raising~~ Fundraising Tule Elk Hunt. Hunt:

(A) Area: The tag shall be valid in Bishop, Independence, Lone Pine, Tinemaha, West Tinemaha, Tinemaha Mountain, Whitney, and Goodale as areas described in subsections 364(d)(3)(5)(A), (d)(4)(6)(A), (d)(5)(7)(A), (d)(6)(8)(A), (d)(7)(9)(A), (d)(8)(10)(A), (d)(9)(11)(A), and (d)(10)(12)(A).

(j) Military Only Elk Hunts. Hunts:

These hunts are sponsored by and tag quotas are set by the Department. The tags are assigned by and the hunts are administered by the Department of Defense.

(1) Fort Hunter Liggett Military Only General Methods Tule Elk Hunt:

(A) Area: The tag shall be valid in the area described in subsection 364(d)(12)(14)(A).

(B) Special Conditions: See subsection 364(p).

(2) Fort Hunter Liggett Military Only General Methods Tule Elk Apprentice Hunt:

(A) Area: The tag shall be valid in the area described in subsection 364(d)(12)(14)(A).

(B) Special Conditions:

1. See subsection 364(p).

~~(C)~~ 2. Only persons possessing valid junior hunting licenses may apply for Apprentice Hunt license tags. Apprentice Hunt tagholders shall be accompanied by a nonhunting, licensed adult ~~chaperon~~ chaperone 18 years of age or older while hunting.

(3) Fort Hunter Liggett Military Only Archery Only Tule Elk Hunt:

(A) Area: The tag shall be valid in the area described in subsection 364(d)(12)(14)(A).

(B) Special Conditions:

1. See subsection 364(p).

~~(C)~~ 2. Elk may be taken with Archery Equipment only as specified in Section 354.

(4) Fort Hunter Liggett Military Only Muzzleloader Only Tule Elk Hunt:

(A) Area: The tag shall be valid in the area described in subsection 364(d)(12)(14)(A).

(B) Special Conditions: See subsection 364(p).

(k) Bag and Possession Limit: Each elk tag is valid only for one elk per season and only in the hunt area ~~drawn~~ drawn, and an individual shall only be eligible for one elk tag per season through section 364.

~~(A)(l)~~ Definitions:

(1) Bull elk: Any elk having an antler or antlers at least four inches in length as measured from the top of the skull.

(2) Spike bull: A bull elk having no more than one point on each antler. An antler point is a projection of the antler at least one inch long and longer than the width of its base.

(3) Antlerless elk: Any elk, with the exception of spotted calves, with antlers less than four inches in length as measured from the top of the skull.

(4) ~~Either-sex~~ Either-sex elk: For the purposes of these regulations, ~~either-sex~~ either-sex is defined as bull elk, spike elk, or antlerless elk.

(m) Method of Take: Only methods for taking elk as defined in Sections 353 and 354 may be used.

(n) Tagholder Responsibilities:

(1) No tagholder shall take or possess any elk or parts thereof governed by the regulations except herein provided.

(2) The department reserves the right to use any part of the tagholder's elk for biological analysis as long as the amount of edible meat is not appreciably decreased.

(3) Any person taking an elk which has a collar or other marking device attached to it shall provide the department with such marking device within 10 days of taking the elk.

(o) The use of dogs to take or attempt to take elk is prohibited.

(p) Fort Hunter Liggett Special Conditions:

(1) All tagholders hunting within the exterior boundaries of Fort Hunter Liggett will be required to attend a mandatory hunter orientation. Tagholders will be notified of the time and location of the orientation meeting upon receipt of their elk license tags.

(2) Tagholders hunting within the exterior boundaries of Fort Hunter Liggett shall be required to purchase an annual hunting pass available from Fort Hunter Liggett.

(3) All successful tagholders hunting within the exterior boundaries of Fort Hunter will be required to have their tags validated on Fort Hunter Liggett prior to leaving.

(4) Due to military operations and training, the specified season dates within the exterior boundaries of Fort Hunter Liggett are subject to further restriction, cancellation, or may be rescheduled, between August 1 and January 31, by the Commanding Officer.

(q) [subsection reserved]

(r) Department Administered General Methods Roosevelt Elk Hunts

§	Hunt	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	5. Season
(1)(A)	<u>Siskiyou Antlerless</u>	0	20 <u>30</u>	<u>0</u>	<u>0</u>	Shall open on the Wednesday preceding the second Saturday in September and continue for 12 consecutive days.
<u>(1)(B)</u>	<u>Siskiyou Bull</u>	<u>20</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>Shall open on the Wednesday preceding the second Saturday in October and continue for 12 consecutive days.</u>

§	Hunt	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	5. Season
(2)(A)	Northwestern	3 <u>25</u>	15	3	<u>0</u>	Shall open on the first Wednesday in September and continue for 23 consecutive days.
(3)(A)	Marble Mountains	34	8	<u>0</u>	<u>0</u>	Shall open on the Wednesday preceding the second Saturday in September and continue for 12 consecutive days.

(s) Department Administered General Methods Rocky Mountain Elk Hunts

§	Hunt	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	5. Season
(1)(A)	Northwestern <u>Northeastern</u> California Bull	15	<u>0</u>	<u>0</u>	<u>0</u>	The bull season shall <u>Shall</u> open on the Wednesday preceding the third Saturday in September and continue for 12 consecutive days <u>days</u> .
(2)(A) <u>(1)(B)</u>	Northeastern California Antlerless	<u>0</u>	10	<u>0</u>	<u>0</u>	The antlerless season shall <u>Shall</u> open on the second Wednesday in November and continue for 12 consecutive days.
<u>(2)(A)</u>	<u>Tehachapi</u>	<u>5</u>	<u>10</u>	<u>0</u>	<u>0</u>	<u>Shall open on the first Saturday in September and continue for 30 consecutive days.</u>

(t) Department Administered General Methods Roosevelt/Tule Elk Hunts

§	Hunt	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	5. Season
(1)(A)	Mendocino	2	0	<u>0</u>	<u>0</u>	The season shall <u>Shall</u> open on the Wednesday preceding the fourth Saturday in September and continue for 12 consecutive days.

(u) Department Administered General Methods Tule Elk Hunts

§	Hunt	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	5. Season
(1)(A)	Cache Creek Bull	2	<u>0</u>	<u>0</u>	<u>0</u>	The Bull season shall <u>Shall</u> open on the second Saturday in October and continue for 16 consecutive days.
<u>(1)(B)</u>	<u>Cache Creek Antlerless</u>	<u>0</u>	2	<u>0</u>	<u>0</u>	The Antlerless season shall <u>Shall</u> open on the third Saturday in October and continue for 16 consecutive days.
(2)(A)	La Panza Period 1	6	5	<u>0</u>	<u>0</u>	Shall open on the second Saturday in October and extend <u>continue</u> for 23 consecutive day <u>days</u> .
<u>(2)(B)</u>	<u>La Panza Period 2</u>	6	6	<u>0</u>	<u>0</u>	Shall open on the second Saturday in November and extend <u>continue</u> for 23 consecutive days.
<u>(3)(A)</u>	<u>Central Coast</u>	<u>10</u>	<u>10</u>	<u>0</u>	<u>0</u>	<u>Shall open on the first Saturday in October and continue for 60 consecutive days.</u>

§	Hunt	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	5. Season
<u>(4)(A)</u>	<u>Gabilan</u>	<u>4</u>	<u>6</u>	<u>0</u>	<u>0</u>	<u>Shall open on the second Saturday in November and continue for 23 consecutive days.</u>
(3) <u>(5)(A)</u>	Bishop Period 3	0	0	<u>0</u>	<u>0</u>	Shall open on the third Saturday in October and extend <u>continue</u> for 9 <u>nine</u> consecutive days.
<u>(5)(B)</u>	<u>Bishop</u> Period 4	0	0	<u>0</u>	<u>0</u>	Shall open on the first Saturday in November and extend <u>continue</u> for 9 <u>nine</u> consecutive days.
<u>(5)(C)</u>	<u>Bishop</u> Period 5	0	0	<u>0</u>	<u>0</u>	Shall open on the first Saturday in December and continue for 9 <u>nine</u> consecutive days.
(4) <u>(6)(A)</u>	Independence Period 2	1	1	<u>0</u>	<u>0</u>	Shall open on the first Saturday in October and extend <u>continue</u> for 9 <u>nine</u> consecutive days.
<u>(6)(B)</u>	<u>Independence</u> Period 3	0	1	<u>0</u>	<u>0</u>	Shall open on the third Saturday in October and extend <u>continue</u> for 9 <u>nine</u> consecutive days.
<u>(6)(C)</u>	<u>Independence</u> Period 4	0	0	<u>0</u>	<u>0</u>	Shall open on the first Saturday in November and extend <u>continue</u> for 9 <u>nine</u> consecutive days.
<u>(6)(D)</u>	<u>Independence</u> Period 5	0	0	<u>0</u>	<u>0</u>	Shall open on the first Saturday in December and continue for 9 <u>nine</u> consecutive days.

§	Hunt	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	5. Season
(5) (7)(A)	Lone Pine Period 2	1	0	<u>0</u>	<u>0</u>	Shall open on the first Saturday in Period 2 October and extend <u>continue</u> for 9 <u>nine</u> consecutive days.
(7)(B)	<u>Lone Pine</u> Period 3	0	0	<u>0</u>	<u>0</u>	Shall open on the first Saturday in Period 2 October and extend <u>continue</u> for 9 <u>nine</u> consecutive days.
(7)(C)	<u>Lone Pine</u> Period 4	0	0	<u>0</u>	<u>0</u>	Shall open on the first Saturday in November and extend <u>continue</u> for 9 <u>nine</u> consecutive days.
(7)(D)	<u>Lone Pine</u> Period 5	0	0	<u>0</u>	<u>0</u>	Shall open on the first Saturday in December and continue for 9 <u>nine</u> consecutive days.
(6) (8)(A)	Tinehama <u>Tinemaha</u> Period 2	0	0	<u>0</u>	<u>0</u>	Shall open on the first Saturday in October and extend <u>continue</u> for 9 <u>nine</u> consecutive days.
(8)(B)	<u>Tinemaha</u> Period 3	0	0	<u>0</u>	<u>0</u>	Shall open on the third Saturday in October and extend <u>continue</u> for 9 <u>nine</u> consecutive days.
(8)(C)	<u>Tinemaha</u> Period 4	0	0	<u>0</u>	<u>0</u>	Shall open on the first Saturday in November and extend <u>continue</u> for 9 <u>nine</u> consecutive days.
(8)(D)	<u>Tinemaha</u> Period 5	0	0	<u>0</u>	<u>0</u>	Shall open on the first Saturday in December and continue for 9 <u>nine</u> consecutive days.

§	Hunt	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	5. Season
(7) (9)(A)	West Tinehama <u>Tinemaha</u> Period 1	1	0	<u>0</u>	<u>0</u>	Shall open on the second Saturday in September and extend <u>continue</u> for 16 consecutive days.
(9)(B)	<u>West Tinemaha</u> Period 2	0	0	<u>0</u>	<u>0</u>	Shall open on the first Saturday in October and extend <u>continue</u> for 9 <u>nine</u> consecutive days.
(9)(C)	<u>West Tinemaha</u> Period 3	0	0	<u>0</u>	<u>0</u>	Shall open on the third Saturday in October and extend <u>continue</u> for 9 <u>nine</u> consecutive days.
(9)(D)	<u>West Tinemaha</u> Period 4	0	0	<u>0</u>	<u>0</u>	Shall open on the first Saturday in November and extend <u>continue</u> for 9 <u>nine</u> consecutive days.
(9)(E)	<u>West Tinemaha</u> Period 5	0	0	<u>0</u>	<u>0</u>	Shall open on the first Saturday in December and extend <u>continue</u> for 9 <u>nine</u> consecutive days.
(8) (10)(A)	Tinehama <u>Tinemaha</u> Mountain Period 1	0	<u>0</u>	<u>0</u>	<u>0</u>	Shall open on the second Saturday in September and extend <u>continue</u> for 16 consecutive days.
(10)(B)	<u>Tinemaha</u> Mountain Period 2	0	<u>0</u>	<u>0</u>	<u>0</u>	Shall open on the first Saturday in October and extend <u>continue</u> for 9 <u>nine</u> consecutive days.

§	Hunt	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	5. Season
(10)(C)	<u>Tinemaha Mountain</u> Period 3	0	<u>0</u>	<u>0</u>	<u>0</u>	Shall open on the third Saturday in October and extend <u>continue</u> for 9 <u>nine</u> consecutive days <u>days</u> .
(10)(D)	<u>Tinemaha Mountain</u> Period 4	0	<u>0</u>	<u>0</u>	<u>0</u>	Shall open on the first Saturday in November and extend <u>continue</u> for 9 <u>nine</u> consecutive days.
(10)(E)	<u>Tinemaha Mountain</u> Period 5	0	<u>0</u>	<u>0</u>	<u>0</u>	Shall open on the first Saturday in December and continue for 9 <u>nine</u> consecutive days.
(9) (11)(A)	Whitney Period 2	1	0	<u>0</u>	<u>0</u>	Shall open on the first Saturday in October and extend <u>continue</u> for 9 <u>nine</u> consecutive days.
(11)(B)	<u>Whitney</u> Period 3	0	1	<u>0</u>	<u>0</u>	Shall open on the third Saturday in October and extend <u>continue</u> for 9 <u>nine</u> consecutive days <u>days</u> .
(11)(C)	<u>Whitney</u> Period 4	0	0	<u>0</u>	<u>0</u>	Shall open on the first Saturday in November and extend <u>continue</u> for 9 <u>nine</u> consecutive days.
(11)(D)	<u>Whitney</u> Period 5	0	0	<u>0</u>	<u>0</u>	Shall open on the first Saturday in December and continue for 9 <u>nine</u> consecutive days.

§	Hunt	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	5. Season
(10) (12)(A)	Goodale Period 1	1	0	<u>0</u>	<u>0</u>	Shall open on the second Saturday in September and extend <u>continue</u> for 16 consecutive days.
(12)(B)	<u>Goodale</u> Period 2	0	1	<u>0</u>	<u>0</u>	Shall open on the first Saturday in October and extend <u>continue</u> for 9 <u>nine</u> consecutive days.
(12)(C)	<u>Goodale</u> Period 3	0	1	<u>0</u>	<u>0</u>	Shall open on the third Saturday in October and extend <u>continue</u> for 9 <u>nine</u> consecutive days.
(12)(D)	<u>Goodale</u> Period 4	0	0	<u>0</u>	<u>0</u>	Shall open on the first Saturday in November and extend <u>continue</u> for 9 <u>nine</u> consecutive days.
(12)(E)	<u>Goodale</u> Period 5	0	0	<u>0</u>	<u>0</u>	Shall open on the first Saturday in December and continue for 9 <u>nine</u> consecutive days.
(11) (13)(A)	Grizzly Island Period 1	0	2	<u>0</u>	0	Shall open on the second Tuesday after the first Saturday in August and continue for 4 four consecutive days.
(13)(B)	<u>Grizzly Island</u> Period 2	0	0	<u>0</u>	2	Shall open on the first Thursday following the opening of period one <u>Period 1</u> and continue for 4 four consecutive days.

§	Hunt	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	5. Season
<u>(13)</u> (C)	<u>Grizzly Island</u> Period 3	0	0	<u>0</u>	0	Shall open on the first Tuesday following the opening of period two Period 2 and continue for 4 <u>four</u> consecutive days <u>days</u> .
<u>(13)</u> (D)	<u>Grizzly Island</u> Period 4	0	0	<u>0</u>	0	Shall open on the first Thursday following the opening of period three Period 3 and continue for 4 <u>four</u> consecutive days.
<u>(13)</u> (E)	<u>Grizzly Island</u> Period 5	0	0	<u>0</u>	0	Shall open on the first Tuesday following the opening of period four Period 4 and continue for 4 <u>four</u> consecutive days <u>days</u> .
<u>(13)</u> (F)	<u>Grizzly Island</u> Period 6	0	0	<u>0</u>	0	Shall open on the first Thursday following the opening of period five Period 5 and continue for 4 <u>four</u> consecutive days.
<u>(13)</u> (G)	<u>Grizzly Island</u> Period 7	0	0	<u>0</u>	0	Shall open on the first Tuesday following the opening of period six Period 6 and continue for 4 <u>four</u> consecutive days <u>days</u> .
<u>(13)</u> (H)	<u>Grizzly Island</u> Period 8	0	0	<u>0</u>	6	Shall open on the first Thursday following the opening of period seven Period 7 and continue for 4 <u>four</u> consecutive days <u>days</u> .

§	Hunt	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	5. Season
<u>(13)</u> (I)	<u>Grizzly Island</u> Period 9	0	4	<u>0</u>	0	Shall open on the first Tuesday following the opening of period eight <u>Period 8</u> and continue for 4 <u>four</u> consecutive days.
<u>(13)</u> (J)	<u>Grizzly Island</u> Period 10	3	0	<u>0</u>	0	Shall open on the first Thursday following the opening of period nine <u>Period 9</u> and continue for 4 <u>four</u> consecutive days.
<u>(13)</u> (K)	<u>Grizzly Island</u> Period 11	0	4	<u>0</u>	0	Shall open on the first Tuesday following the opening of period ten <u>Period 10</u> and continue for 4 <u>four</u> consecutive days.
<u>(13)</u> (L)	<u>Grizzly Island</u> Period 12	3	<u>0</u>	<u>0</u>	0	Shall open on the first Thursday following the opening of period eleven <u>Period 11</u> and continue for 4 <u>four</u> consecutive days.
<u>(13)</u> (M)	<u>Grizzly Island</u> Period 13	0	4	<u>0</u>	0	Shall open on the first Tuesday following the opening of period twelve <u>Period 12</u> and continue for 4 <u>four</u> consecutive days.
(12) <u>(14)</u> (A)	Fort Hunter Liggett-General Public Period 1	0	0	<u>0</u>	<u>0</u>	Shall open on the first Thursday in General Public November and continue for 9 <u>nine</u> consecutive days.

§	Hunt	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	5. Season
(14) (B)	<u>Fort Hunter Liggett General Public Period 2</u>	0	6	<u>0</u>	<u>0</u>	Shall open <u>on</u> November 25 and continue for 9 <u>nine</u> consecutive days.
(14) (C)	<u>Fort Hunter Liggett General Public Period 3</u>	8	0	<u>0</u>	<u>0</u>	Shall open on the fourth Tuesday in December and continue for 13 consecutive days.
(13) <u>(15)</u> (A)	East Park Reservoir	2	2	<u>0</u>	<u>0</u>	Shall open <u>on</u> the first Saturday in September and continue for 27 consecutive days.
(14) <u>(16)</u> (A)	San Luis Reservoir	0	0	5	<u>0</u>	Shall open on the first Saturday in October and continue for 23 consecutive days.
(15) <u>(17)</u> (A)	Bear Valley	2	1	<u>0</u>	<u>0</u>	Shall open on the second Saturday in October and continue for 9 <u>nine</u> consecutive days.
(16) <u>(18)</u> (A)	Lake Pillsbury Period 1	<u>0</u>	4	<u>0</u>	<u>0</u>	Shall open on the Wednesday preceding the second Saturday in September and continue for 10 <u>ten</u> consecutive days.
(18) (B)	<u>Lake Pillsbury Period 2</u>	2	<u>0</u>	<u>0</u>	<u>0</u>	Shall open <u>on the</u> Monday following the fourth Saturday in September and continue for 10 <u>ten</u> consecutive days.
(17) <u>(19)</u> (A)	Santa Clara	0	0	<u>0</u>	<u>0</u>	Shall open on the second Saturday in October and continue for 16 consecutive days.

§	Hunt	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	5. Season
(18) (20)(A)	Alameda	0	0	<u>0</u>	<u>0</u>	Shall open on the second Saturday in October and continue for 16 consecutive days.

(v) Department Administered Apprentice Hunts

§	Hunt	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	5. Season
(1)(A)	Marble Mountain General Methods Roosevelt Elk Apprentice	<u>0</u>	<u>0</u>	4	<u>0</u>	Shall open on the Wednesday preceding the second Saturday in September and continue for 12 consecutive days.
(2)(A)	<u>Northeastern California</u> General Methods Rocky Mountain Elk Apprentice	<u>0</u>	<u>0</u>	2	<u>0</u>	Shall open on the Wednesday preceding the third Saturday in September and continue for 12 consecutive days <u>days</u> .
(3)(A)	Cache Creek General Methods Tule Elk Apprentice	1	0	<u>0</u>	<u>0</u>	Shall open on the second Saturday in October and continue for 16 consecutive days.
(4)(A)	La Panza General Methods Tule Elk Apprentice	0	1	<u>0</u>	<u>0</u>	Shall open on the second Saturday in October and extend <u>continue</u> for 23 consecutive days.
(5)(A)	Bishop General Methods Tule Elk Apprentice Period 2	0	0	<u>0</u>	<u>0</u>	Shall open on the first Saturday in October and extend <u>continue</u> for 9 <u>nine</u> consecutive days.

§	Hunt	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	5. Season
(6)(A)	Grizzly Island General Methods Tule Elk Apprentice Period 1	<u>0</u>	2	<u>0</u>	0	Shall open on the second Tuesday after the first Saturday in August and continue for 4 <u>four</u> consecutive <u>days</u> <u>days</u> .
(6)(B)	<u>Grizzly Island</u> <u>General Methods</u> <u>Tule Elk Apprentice</u> Period 2	<u>0</u>	0	<u>0</u>	<u>0</u>	Shall open on the first Thursday following the opening of period one <u>Period 1</u> and continue for 4 <u>four</u> consecutive days.
(6)(C)	<u>Grizzly Island</u> <u>General Methods</u> <u>Tule Elk Apprentice</u> Period 3	<u>0</u>	0	<u>0</u>	0	Shall open on the first Tuesday following the opening of period two <u>Period 2</u> and continue for 4 <u>four</u> consecutive days.
(6)(D)	<u>Grizzly Island</u> <u>General Methods</u> <u>Tule Elk Apprentice</u> Period 4	<u>0</u>	0	<u>0</u>	0	Shall open on the first Thursday following the opening of period three <u>Period 3</u> and continue for 4 <u>four</u> consecutive days.
(7)(A)	Fort Hunter Liggett General Public General Methods Apprentice	1	1	<u>0</u>	<u>0</u>	Shall open on the fourth Tuesday in December and continue for 13 consecutive days.

(w) Department Administered Archery Only Hunts

§	Hunt	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	5. Season
(1)(A)	Northeastern California Archery Only	0	0	10	<u>0</u>	Shall open on the Wednesday preceding the first Saturday in September and continue for 12 consecutive days.

§	Hunt	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	5. Season
(2)(A)	Owens Valley Multiple Zone Archery Only	3	0	<u>0</u>	<u>0</u>	Shall open on the second Saturday in August and extend <u>continue</u> for 9 <u>nine</u> consecutive days.
(3)(A)	Lone Pine Archery Only Period 1	0	1	<u>0</u>	<u>0</u>	Shall open on the second Saturday in September and extend <u>continue</u> for 16 consecutive days.
(4)(A)	Tinehama Tinemaha Archery Only Period 1	0	0	<u>0</u>	<u>0</u>	Shall open on the second Saturday in September and extend <u>extend</u> for 16 consecutive days.
(5)(A)	Whitney Archery Only Period 1	0	0	<u>0</u>	<u>0</u>	Shall open on the second Saturday in September and extend <u>continue</u> for 16 consecutive days.
(6)(A)	Fort Hunter Liggett General Public Archery Only Either Sex	<u>0</u>	<u>0</u>	6	<u>0</u>	Shall open on the last Saturday in July and continue for 9 <u>nine</u> consecutive days.
<u>(6)(B)</u>	Fort Hunter Liggett General Public Archery Only Antlerless	<u>0</u>	8	<u>0</u>	<u>0</u>	Shall open on the First <u>first</u> Saturday in November and continue for 9 <u>nine</u> consecutive days.

(x) Department Administered Muzzleloader Only Tule Elk Hunts

§	Hunt	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	5. Season
(1)(A)	Bishop Muzzleloader Only Period 1	0	0	<u>0</u>	<u>0</u>	Shall open on the second Saturday in September and extend <u>continue</u> for 16 consecutive days.
(2)(A)	Independence Muzzleloader Muzzleloader Only Period 1	1	0	<u>0</u>	<u>0</u>	Shall open on the second Saturday in September and extend <u>continue</u> for 16 consecutive days.

§	Hunt	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	5. Season
(3)(A)	Goodale Muzzleloader Only Period 1	0	0	<u>0</u>	<u>0</u>	Shall open on the second Saturday in September and extend <u>continue</u> for 16 consecutive days.
(4)(A)	Fort Hunter Liggett General Public Muzzleloader Only	0	0	<u>0</u>	<u>0</u>	Shall open on the fourth Saturday in November and continue for 9 <u>nine</u> consecutive days.

(y) Department Administered Muzzleloader/Archery Only Hunts

§	Hunt	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	5. Season
(1)(A)	Marble Mountain Muzzleloader/ Archery Roosevelt Elk	<u>0</u>	<u>0</u>	10	<u>0</u>	Shall open on the last Saturday in October and extend <u>continue</u> for 9 <u>nine</u> consecutive days.

(z) ~~Fund Raising~~ Fundraising Elk tags

§	Hunt	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	5. Season
(1)(A)	Multi-zone Fund-Raising Fundraising Tags	1	<u>0</u>	<u>0</u>	<u>0</u>	Siskiyou and Marble Mountains Roosevelt Elk Season shall open on the Wednesday preceding the first Saturday in September and continue for 19 consecutive days. Northwestern Roosevelt Elk Season shall open on the last Wednesday in August and continue for 30 consecutive days. Northeastern Rocky Mountain Elk Season shall open on the Wednesday preceding the last Saturday in August and continue for 33 consecutive days. La Panza Tule Elk Season shall open on the first Saturday in October and extend <u>continue</u> for 65 consecutive days.
(2) (A)	Grizzly Island Fund-Raising Fundraising Tags	1	<u>0</u>	<u>0</u>	<u>0</u>	Shall open on the first Saturday in August and continue for 30 consecutive days.
(3) <u>(4)</u> (A)	Owens Valley Fund-Raising Fundraising Tags	1	<u>0</u>	<u>0</u>	<u>0</u>	Shall open on the last Saturday in July and extend <u>continue</u> for 30 consecutive day <u>days</u> .

(aa) Military Only Tule Elk Hunts

§	Hunt	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	5. Season
(1)(A)	Fort Hunter Liggett Military Only General Methods Early Season	0	0	<u>0</u>	<u>0</u>	The early season shall <u>Shall</u> open on the second Monday in August and continue for 5 <u>five</u> consecutive days and reopen on the fourth Monday in August and continue for 5 <u>five</u> consecutive days <u>days</u> .
(1)(B)	<u>Fort Hunter Liggett Military Only General Methods Period 1</u>	<u>0</u>	0	<u>0</u>	<u>0</u>	Shall open on the first Thursday in November and continue for 9 <u>nine</u> consecutive days.
(1)(C)	<u>Fort Hunter Liggett Military Only General Methods Period 2</u>	<u>0</u>	0	<u>0</u>	<u>0</u>	Shall open <u>on</u> November 22 and continue for 9 <u>nine</u> consecutive days.
(1)(D)	<u>Fort Hunter Liggett Military Only General Methods Period 3</u>	0	<u>0</u>	<u>0</u>	<u>0</u>	Shall open on the third Saturday in December and continue for 12 consecutive days.
(2)(A)	Fort Hunter Liggett Military Only General Methods Apprentice	0	0	<u>0</u>	<u>0</u>	Shall open on the third Saturday in December and continue for 12 consecutive days.
(3)(A)	Fort Hunter Liggett Military Only Archery Only Either Sex	<u>0</u>	<u>0</u>	0	<u>0</u>	Shall open on the last Saturday in July and continue for 9 <u>nine</u> consecutive days.
(4)(A)	Fort Hunter Liggett Military Only Muzzleloader Only	0	<u>0</u>	<u>0</u>	<u>0</u>	Shall open on the third Saturday in November and continue for 9 <u>nine</u> consecutive days.

NOTE: Authority cited: Sections 200, 203, 203.1, 265, 332 and 1050, Fish and Game Code.

Reference: Sections 332, 1050, 1570, 1571, 1572, 1573 and 1574, Fish and Game Code.

Section 364.1, Title 14, CCR, is amended to read:

§ 364.1. Department Administered Shared Habitat Alliance for Recreational Enhancement (SHARE) Elk Hunts

(a) Season: The overall season shall open on the August 15 and continue through January 31. Individual SHARE properties will be assigned seasons corresponding with management goals.

(b) Bag and Possession Limit: Each elk tag is valid only for one elk per season and only in the SHARE hunt area drawn, and persons shall only be eligible for one elk tag per season through ~~sections 364 or~~ 364.1.

(c) Individual property boundaries will be identified in the SHARE application package.

(d) Method of Take: Only methods for taking elk as defined in Sections 353 and 354 may be used.

(e) Tagholder Responsibilities: See subsection 364(n).

(f) The use of dogs to take or attempt to take elk is prohibited.

(g) Applicants shall apply for a SHARE Access Permit, and pay a nonrefundable application fee as specified in Section 602, through the department's Automated License Data System terminals at any department license agent, department license sales office, or online.

(h) Upon receipt of winner notification, successful applicants shall submit the appropriate tag fee as specified in Section 702 through any department license sales office or online through the department's Automated License Data System.

(i) Department Administered SHARE Roosevelt Elk Hunts

§	(A) Hunts	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	(B) Area
(1)	Siskiyou	2	2	<u>0</u>	<u>0</u>	(B) Area: The tag shall be valid in the area described in subsection 364(a)(1)(A).
(2)	Northwestern	34	34	<u>0</u>	<u>0</u>	(B) Area: The tag shall be valid in the area described in subsection 364(a)(2)(A).
(3)	Marble Mountain	1	2	<u>0</u>	<u>0</u>	(B) Area: The tag shall be valid in the area described in subsection 364(a)(3)(A).

~~(j)~~ (j) Department Administered General Methods SHARE Rocky Mountain Elk Hunts

§	(A) Hunts	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	(B) Area
(1)	Northwest California <u>Northeastern</u>	2	0	2	<u>0</u>	(B) Area: The tag shall be valid in the area described in subsection 364(b)(1)(A).

§	(A) Hunts	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	(B) Area
<u>(2)</u>	<u>Tehachapi</u>	<u>20</u>	<u>15</u>	<u>0</u>	<u>0</u>	<u>The tag shall be valid in the area described in subsection 364(b)(2)(A).</u>

(k) Department Administered SHARE Roosevelt/Tule Elk Hunts

§	(A) Hunts	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	(B) Area
(1)	Mendocino	2	4	<u>0</u>	<u>0</u>	(B) Area: The tag shall be valid in the area described in subsection 364(c)(1)(A).

~~(4)~~ (l) Department Administered SHARE Tule Elk Hunts

§	(A) Hunts	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	(B) Area
(1)	Cache Creek	2	1	<u>0</u>	<u>0</u>	(B) Area: The tag shall be valid in the area described in subsection 364(d)(1)(A).
(2)	La Panza	5	10	<u>0</u>	<u>0</u>	(B) Area: The tag shall be valid in the area described in subsection 364(d)(2)(A).
<u>(3)</u>	<u>Central Coast</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>The tag shall be valid in the area described in subsection 364(d)(3)(A).</u>
<u>(4)</u>	<u>Gabilan</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>The tag shall be valid in the area described in subsection 364(d)(4)(A).</u>
(3) <u>(5)</u>	Bishop	0	0	<u>0</u>	<u>0</u>	(B) Area: The tag shall be valid in the area described in subsection 364(d) (3) <u>(5)</u> (A).
(4) <u>(6)</u>	Independence	0	0	<u>0</u>	<u>0</u>	(B) Area: The tag shall be valid in the area described in subsection 364(d) (4) <u>(6)</u> (A).
(5) <u>(7)</u>	Lone Pine Period 2	0	0	<u>0</u>	<u>0</u>	(B) Area: The tag shall be valid in the area described in subsection 364(d) (5) <u>(7)</u> (A).
(6) <u>(8)</u>	Tinehama <u>Tinemaha</u>	0	0	<u>0</u>	<u>0</u>	(B) Area: The tag shall be valid in the area described in subsection 364(d) (6) <u>(8)</u> (A).

§	(A) Hunts	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	(B) Area
(7) <u>(9)</u>	West Tinehama Tinemaha	0	0	<u>0</u>	<u>0</u>	(B) Area: The tag shall be valid in the area described in subsection 364(d) (7) <u>(9)</u> (A).
(8) <u>(10)</u>	Tinehama Tinemaha Mountain	0	<u>0</u>	<u>0</u>	<u>0</u>	(B) Area: The tag shall be valid in the area described in subsection 364(d) (8) <u>(10)</u> (A).
(9) <u>(11)</u>	Whitney	0	0	<u>0</u>	<u>0</u>	(B) Area: The tag shall be valid in the area described in subsection 364(d) (9) <u>(11)</u> (A).
(10) <u>(12)</u>	Goodale	0	0	<u>0</u>	<u>0</u>	(B) Area: The tag shall be valid in the area described in subsection 364(d) (10) <u>(12)</u> (A).
(11) <u>(13)</u>	Grizzly Island	0	0	<u>0</u>	0	(B) Area: The tag shall be valid in the area described in subsection 364(d) (11) <u>(13)</u> (A).
(12) <u>(14)</u>	Fort Hunter Liggett	0	0	<u>0</u>	<u>0</u>	(B) Area: The tag shall be valid in the area described in subsection 364(d) (12) <u>(14)</u> (A).
(13) <u>(15)</u>	East Park Reservoir	1	1	<u>0</u>	<u>0</u>	(B) Area: The tag shall be valid in the area described in subsection 364(d) (13) <u>(15)</u> (A).
(14) <u>(16)</u>	San Luis Reservoir	2	3	<u>0</u>	<u>0</u>	(B) Area: The tag shall be valid in the area described in subsection 364(d) (14) <u>(16)</u> (A).
(15) <u>(17)</u>	Bear Valley	2	1	<u>0</u>	<u>0</u>	(B) Area: The tag shall be valid in the area described in subsection 364(d) (15) <u>(17)</u> (A).
(16) <u>(18)</u>	Lake Pillsbury	0	0	<u>0</u>	<u>0</u>	(B) Area: The tag shall be valid in the area described in subsection 364(d) (16) <u>(18)</u> (A).
(17) <u>(19)</u>	Santa Clara	0	<u>0</u>	<u>0</u>	<u>0</u>	(B) Area: The tag shall be valid in the area described in subsection 364(d) (17) <u>(19)</u> (A).

§	(A) Hunts	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags	(B) Area
(18) <u>(20)</u>	Alameda	0	<u>0</u>	<u>0</u>	<u>0</u>	(B) Area: The tag shall be valid in the area described in subsection 364(d) (18) <u>(20)</u> (A).

NOTE: Authority cited: Sections 332 and 1050, Fish and Game Code.

Reference: Sections 332, 1050 and 1574, Fish and Game Code.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON David Thesell	EMAIL ADDRESS fgc@fgc.ca.gov	TELEPHONE NUMBER 916 902-9291
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Amend Section 364, Title 14, California Code of Regulations, Re: Elk Hunting			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input checked="" type="checkbox"/> h. None of the above (Explain below): |

No new private sector compliance costs necessarily incurred***If any box in Items 1 a through g is checked, complete this Economic Impact Statement.******If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.***2. The _____ estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☐ Below \$10 million
- ☐ Between \$10 and \$25 million
- ☐ Between \$25 and \$50 million
- ☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: _____

Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total
businesses impacted that are small businesses: _____

4. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

5. Indicate the geographic extent of impacts: ☐ Statewide
☐ Local or regional (List areas): _____

6. Enter the number of jobs created: _____ and eliminated: _____

Describe the types of jobs or occupations impacted: _____

7. Will the regulation affect the ability of California businesses to compete with
other states by making it more costly to produce goods or services here? ☐ YES ☐ NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ _____

a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

c. Initial costs for an individual: \$ _____ Annual ongoing costs: \$ _____ Years: _____

d. Describe other economic costs that may occur: _____

2. If multiple industries are impacted, enter the share of total costs for each industry: _____

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements.
Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ _____4. Will this regulation directly impact housing costs? ☐ YES ☐ NO

If YES, enter the annual dollar cost per housing unit: \$ _____

Number of units: _____

5. Are there comparable Federal regulations? ☐ YES ☐ NO

Explain the need for State regulation given the existence or absence of Federal regulations: _____

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: _____

2. Are the benefits the result of: ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?

Explain: _____

3. What are the total statewide benefits from this regulation over its lifetime? \$ _____

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: _____

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ _____ Cost: \$ _____

Alternative 1: Benefit: \$ _____ Cost: \$ _____

Alternative 2: Benefit: \$ _____ Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ YES ☐ NO

Explain: _____

E. MAJOR REGULATIONS *Include calculations and assumptions in the rulemaking record.****California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.***1. Will the estimated costs of this regulation to California business enterprises **exceed \$10 million**? ☐ YES ☐ NO***If YES, complete E2. and E3******If NO, skip to E4***

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES ☐ NO*If YES, agencies are required to submit a [Standardized Regulatory Impact Assessment \(SRIA\)](#) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

DRAFT DOCUMENT**FISCAL IMPACT STATEMENT****A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____

Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____

Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____

- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT (CONTINUED)**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:☐ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☐ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☒ 4. Other. Explain The Department of Fish and Wildlife expects an additional \$57,891 in revenue from elk tag sales in FY 2023/24 and ongoing until regulation change is superceded.**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE

DocuSigned by:

6658B764CED347D

DATE

11/9/2022

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY



DATE

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE

STD 399 Addendum

Amend Section 364
Title 14, California Code of Regulations
Re: Elk Hunting

ECONOMIC IMPACT STATEMENT**Summary**

The proposed amendments would increase available elk tags (112 tags) and expand total elk hunt zones acreage (12,528,989 acres), resulting in increases in elk hunting opportunities, and potential reductions in private property owner conflicts with elk.

Table 1. Proposed Additional Elk Tags and Hunt Zone Acreage

Hunt Zone	Number of Additional Tags	Hunt Zone Acreage
Northwestern	22	2,412,822
Siskiyou	10	1,362,945
Bear Valley (modified)	0	496,865
Cache Creek (modified)	0	178,481
Gabilan (new)	10	2,370,013
Central Coast (new)	20	1,581,657
La Panza (modified)	0	1,657,396
Tehachapi (new)	50	2,468,810
Totals	112	12,528,989

A. ESTIMATED PRIVATE SECTOR COSTS IMPACTS

1. Answer (from STD 399): h. None of the above

No new private sector cost impacts are necessarily incurred by representative persons or businesses in reasonable compliance with the proposed regulatory amendments.

Individuals

The Department regulates hunting as a tool to both manage elk populations and provide public recreation opportunities. No change in fees or other nondiscretionary costs are introduced by the proposed amendments.

Over the previous ten years in which separate elk tag draw applications have been offered, there has been a substantial shortfall in number of tags issued compared to the

applications for the elk tag draws. The additional (112) elk tags offered may, all other things equal, improve the tag drawing odds. If the number of draw applications increase in kind, the odds may remain unchanged. However in the end, more hunters will receive tags as a result of the increased tag quotas and hunt zone acreage.

Businesses

If greater numbers of hunters visit the areas with increased opportunities, businesses that provide goods and services to hunters (fuel, food, accommodations, sporting goods and general retail) should benefit from increased sales. However, the net increase in hunting trips associated with 112 additional tags and is not anticipated to be substantial enough to significantly increase retail revenues across the state. A number of outside influences may impact the decision to hunt such as: weather, game abundance, gas prices, competing recreational activities, and other unknown factors beside tag availability. Some private property owners may benefit from the potential reduction in damage caused by elk herds as a result of proposed increases in tag quotas and hunting zone acreage.

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT

Answer: 5. No fiscal impact exists. This regulation does not affect any local entity or program.

B. FISCAL EFFECT ON STATE GOVERNMENT

4. Other. Explain:

The Commission estimates that the Department may have increased tag sales revenue totaling approximately \$57,891.40, in the 2023 elk hunting season.

Table 3. Department Potential Additional Elk Tag Revenue

Potential Additional Tag Revenue	2023 Proposed additional tags	2023 Fee	Total
Resident Elk Tag	+111	\$507.41	\$56,322.00
Non-Resident Elk Tag	+1	\$1,569.40	\$1,569.40
Grand Total			\$57,891.40

Notes: Estimates using data from CDFW License and Revenue Branch, 2022.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS

Answer: 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.



Proposed Elk Hunting Regulation Changes for 2023-24

Dr. Tom Batter

Elk and Pronghorn Coordinator

Game Conservation Program – Wildlife Branch

California Department of Fish and Wildlife

Fish and Game Commission Meeting

December 15, 2022

San Diego, CA

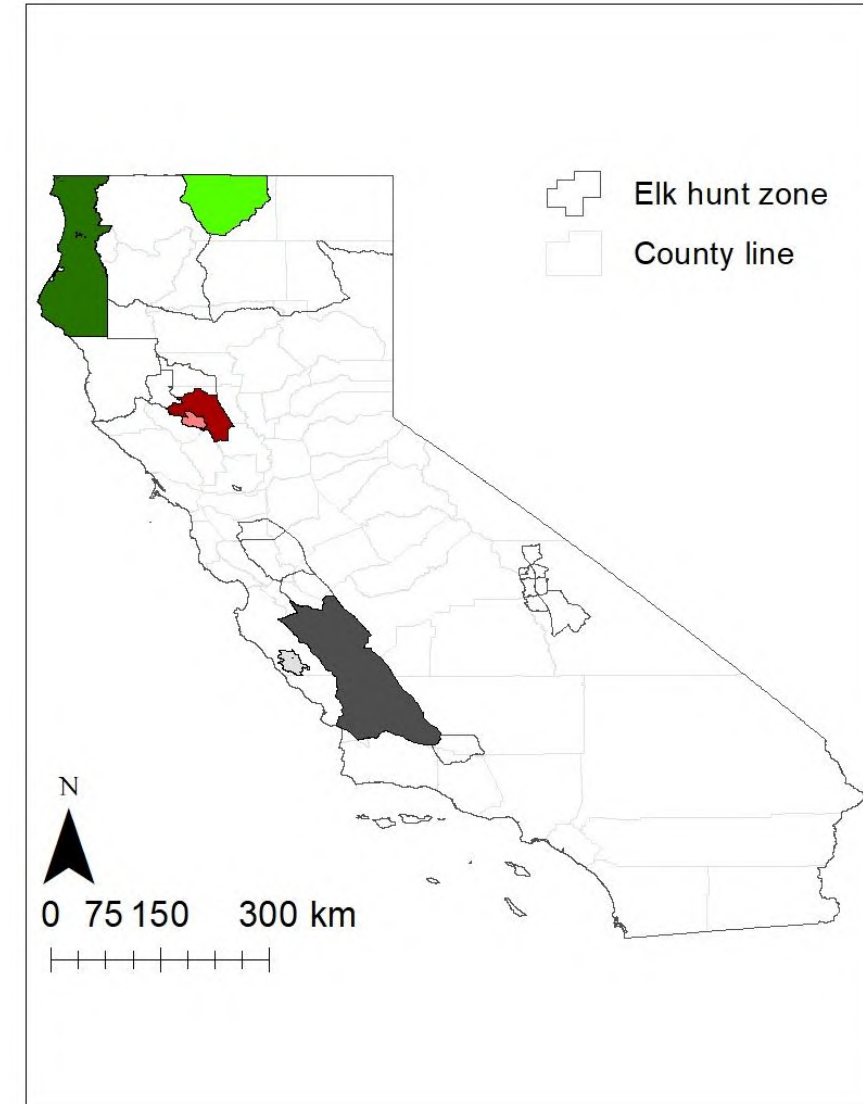
Background

- Elk populations are increasing and expanding/shifting range
- Human-elk conflict above tolerable levels
- Threat of disease and potential hybridization
- Bull:cow objectives not being met

Region 1 – Northern Region

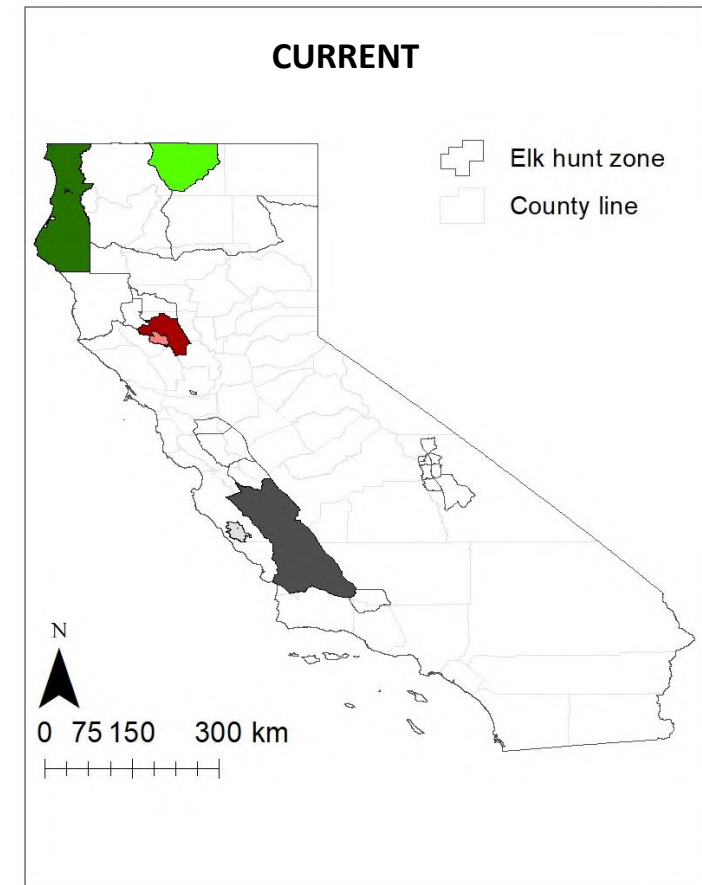
Region 2 – North Central Region

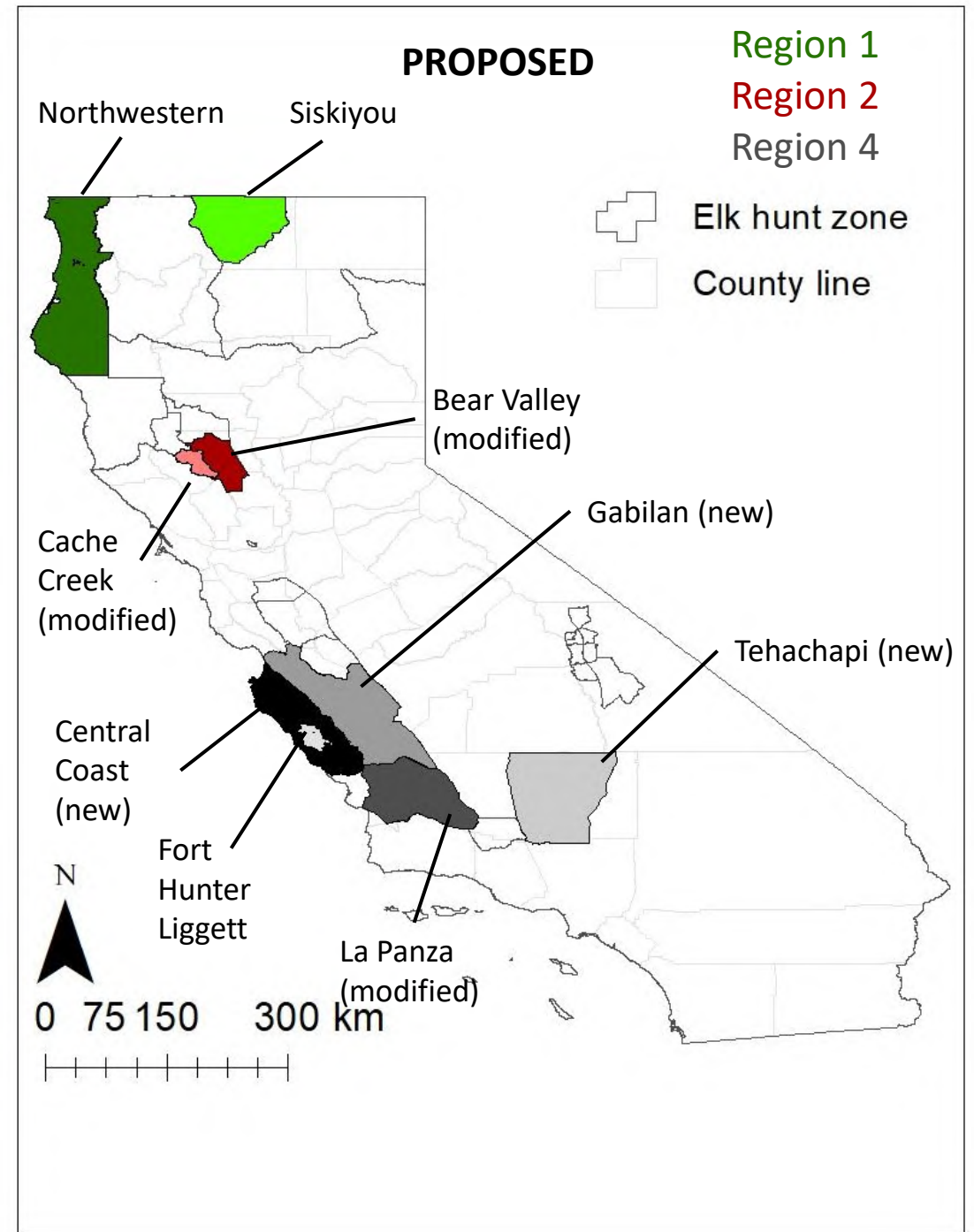
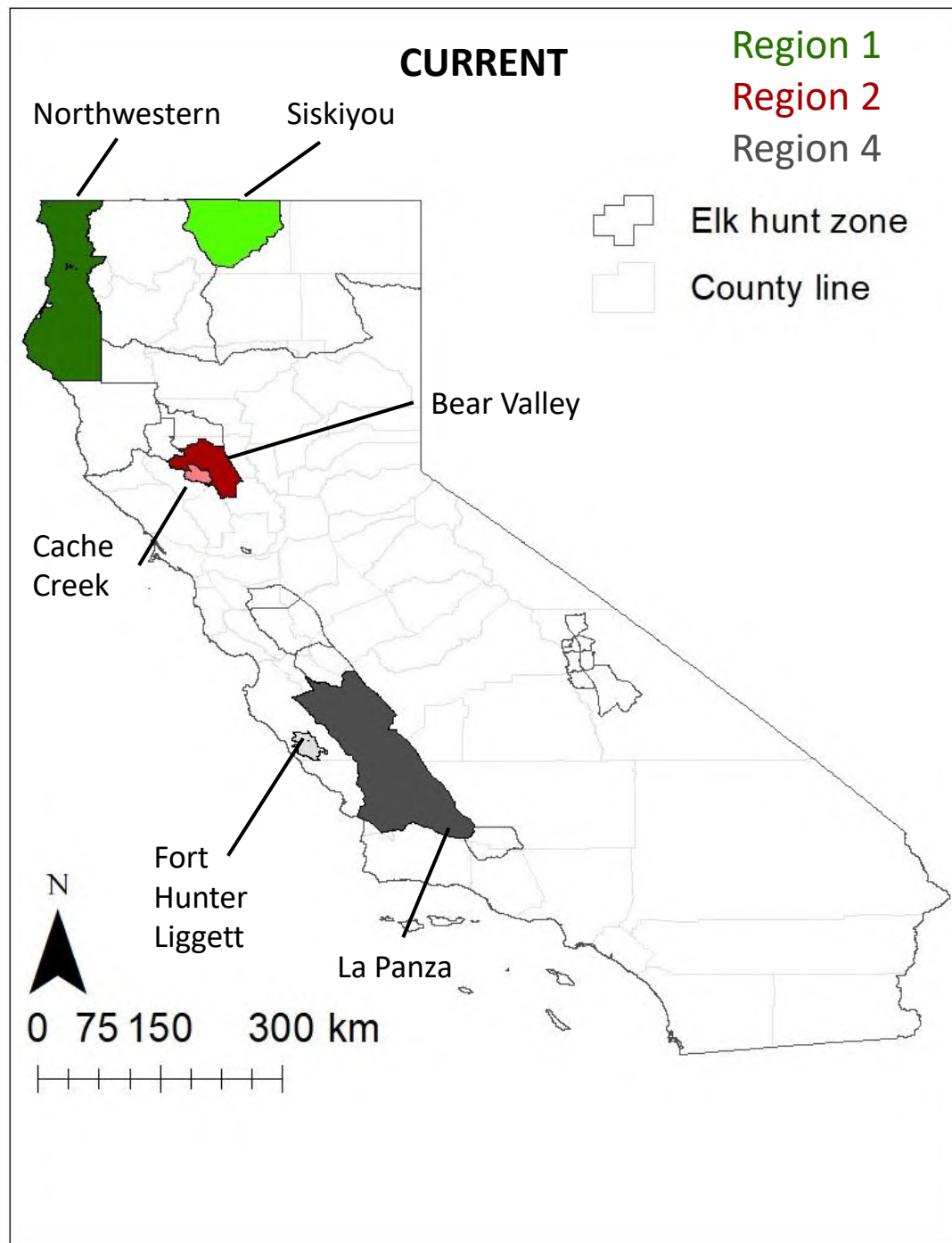
Region 4 – Central Region



2023-24 Elk Hunting Regulation Change Proposals

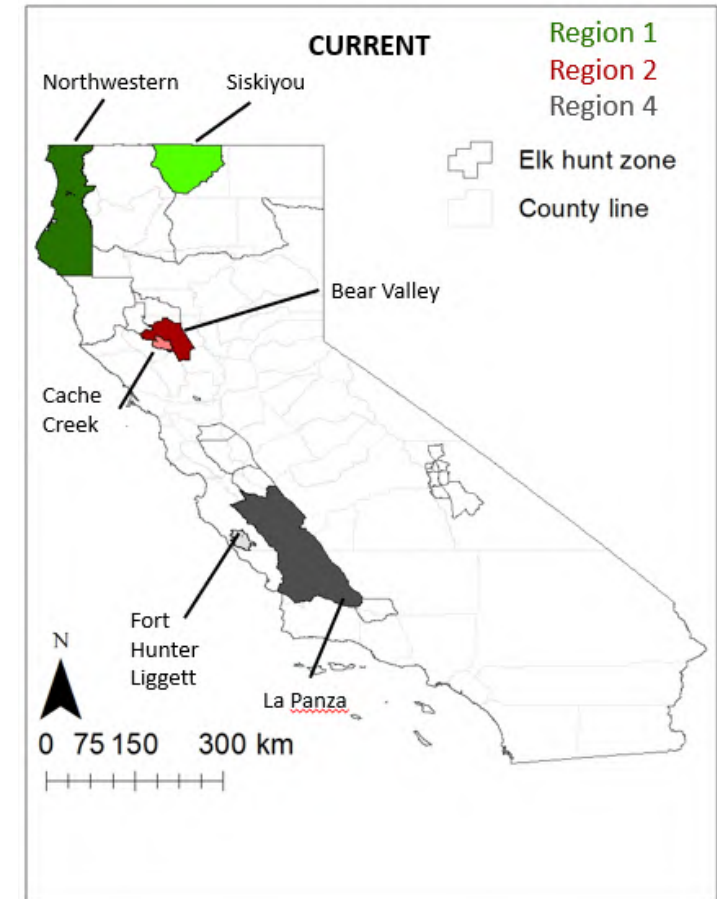
- Region 1 – **Northern Region:**
 - Increase tag quotas for 2 Roosevelt Elk Hunt Zones
 - Adjust season dates for 1 Roosevelt Elk Hunt Zone
- Region 2 – **North Central Region:**
 - Modify hunt zone boundaries for 2 adjacent Tule Elk Hunt Zones
- Region 4 – **Central Region:**
 - Establish 2 new Tule Elk Hunt Zones/General Methods hunts and modify boundary of 1 Tule Elk Hunt Zone
 - Establish 1 new Rocky Mountain Elk Hunt Zone/General Methods hunt





Current Public Tag Quotas

	2022 Quota	2022 Quota
Hunt Zone	Bull	Antlerless
Northwestern	3	15
Siskiyou	20	20
Bear Valley	2	1
Cache Creek	3 [^]	2
Gabilan	0	0
Central Coast	0	0
La Panza	12	12
Tehachapi	0	0



[^]1 bull apprentice tag

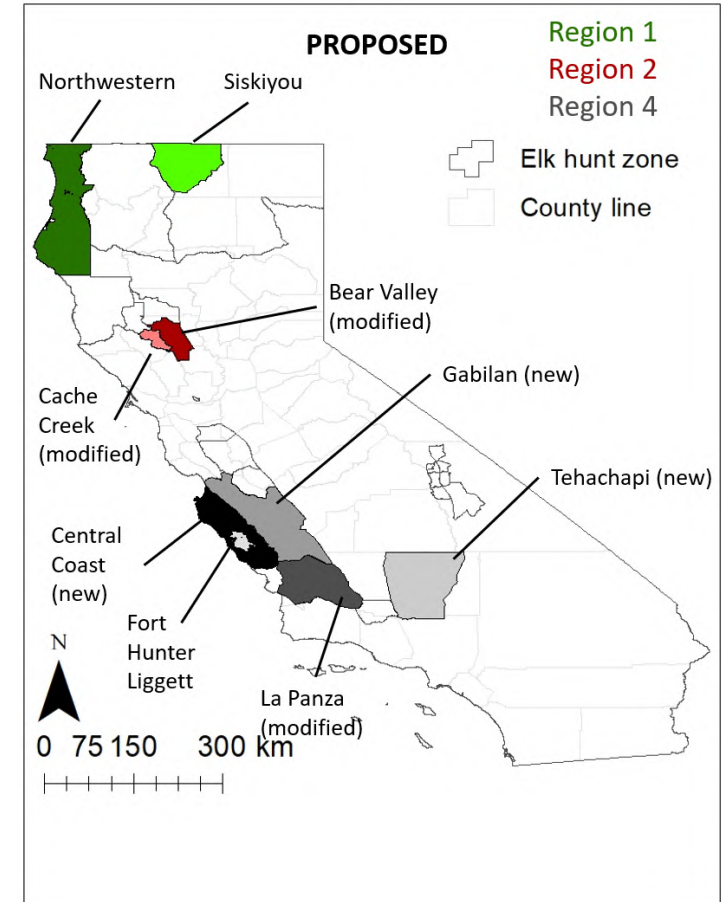


Proposed Changes to Public Tag Quotas

	2022 Quota	2022 Quota	Proposed Change	Proposed Change
Hunt Zone	Bull	Antlerless	Bull	Antlerless
Northwestern	3	15	+22	0
Siskiyou	20	20	0	+10
Bear Valley	2	1	0	0
Cache Creek	3^	2	0	0
Gabilan	0	0	+4	+6
Central Coast	0	0	+10	+10
La Panza	12	12	0	0
Tehachapi	0	0	+25*	+25*

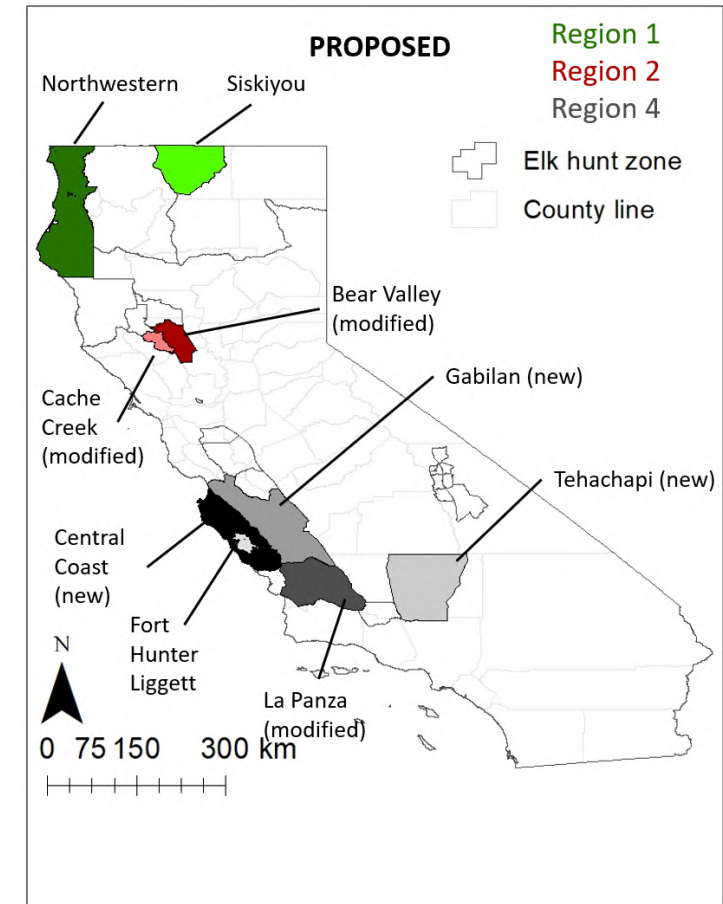
^1 bull apprentice tag

*20 bull and 15 antlerless will be assigned to the 364.1 SHARE program



Current and Proposed Public Tag Quotas

	2022 Quota		Proposed Change		2023 Quota	2023 Quota
Hunt Zone	Bull	Antlerless	Bull	Antlerless	Bull	Antlerless
Northwestern	3	15	+22	0	25	15
Siskiyou	20	20	0	+10	20	30
Bear Valley	2	1	0	0	2	1
Cache Creek	3^	2	0	0	3^	2
Gabilan	0	0	+4	+6	4	6
Central Coast	0	0	+10	+10	10	10
La Panza	12	12	0	0	12	12
Tehachapi	0	0	+25*	+25*	25*	25*



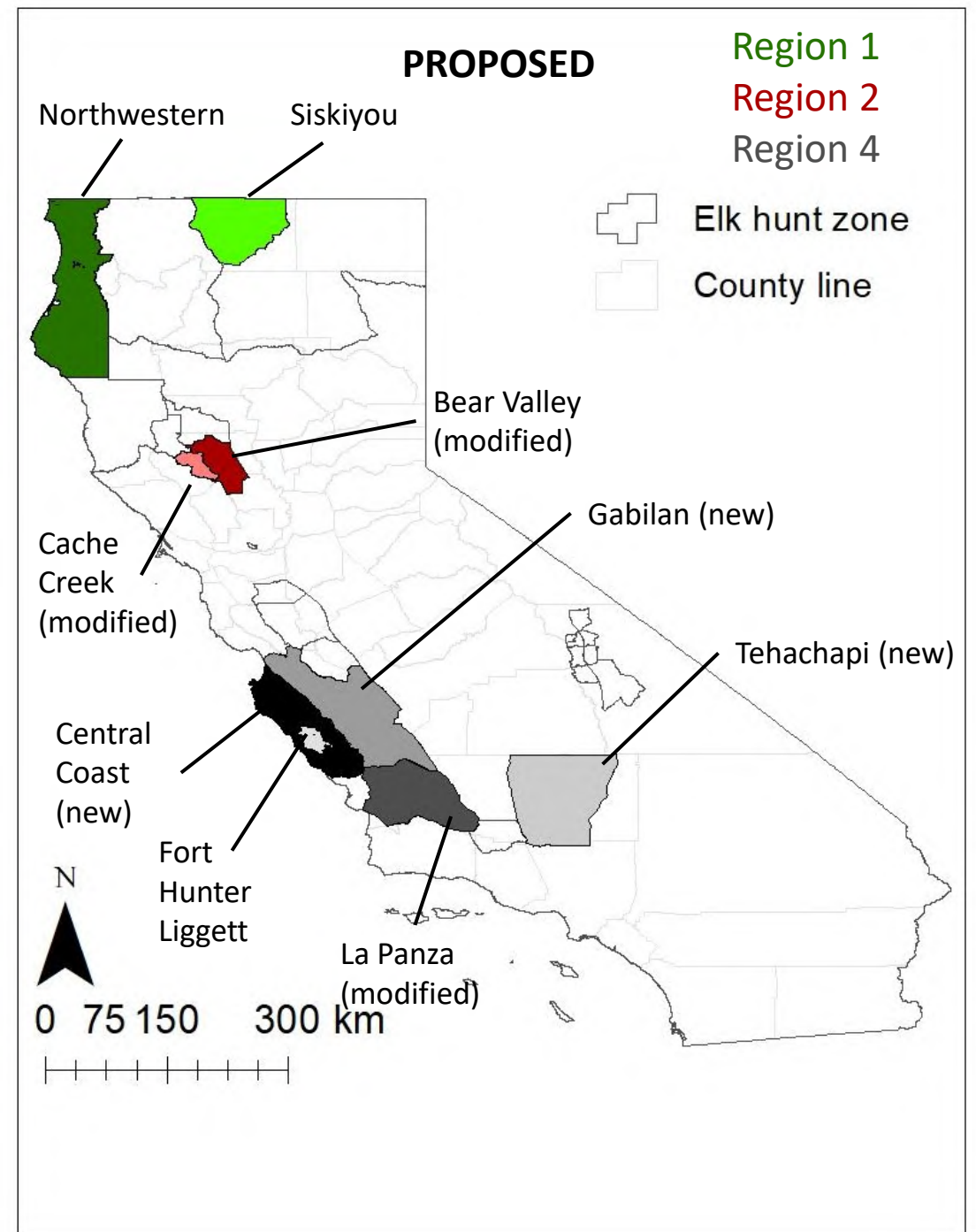
^1 bull apprentice tag

*20 bull and 15 antlerless will be assigned to the 364.1 SHARE program



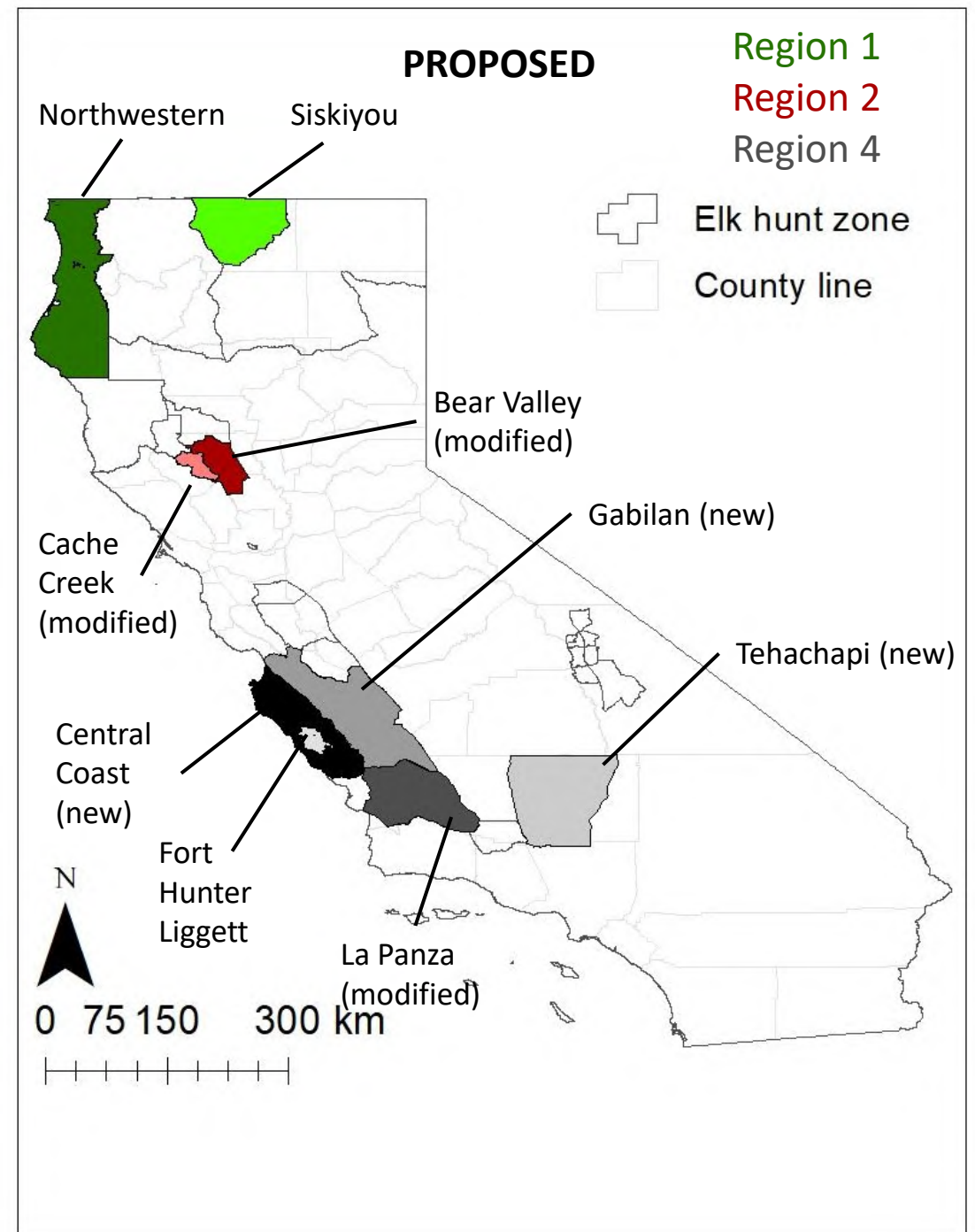
Intended Outcomes

- Provide increased public hunt opportunity
- Alleviate human-elk conflict
- Establish boundaries that reflect population dynamics
- Achieve bull:cow objectives
- Reduce disease transmission
- Prevent range overlap/hybridization across subspecies



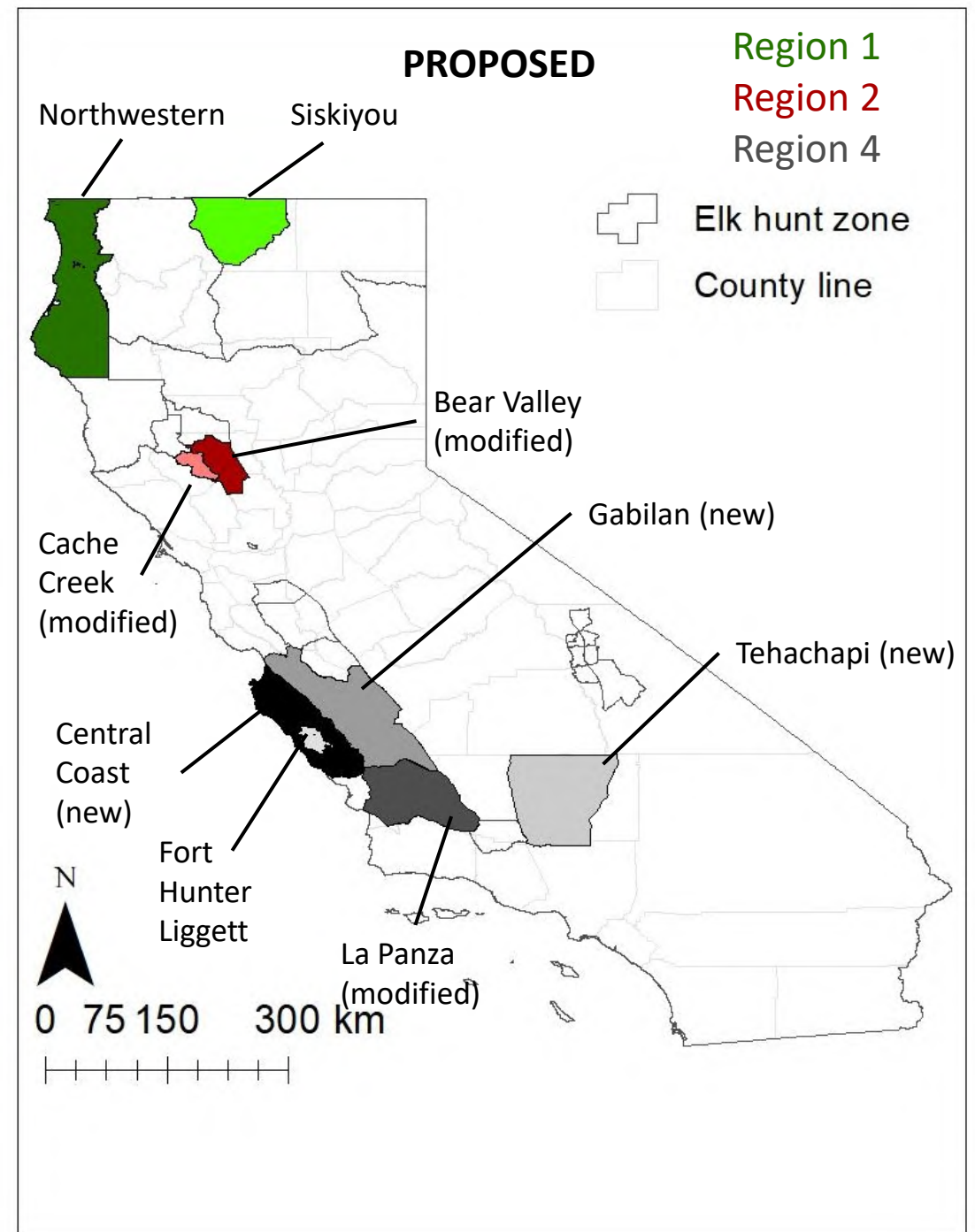
Tribal Outreach

- E-mail notice and hard copy letters sent to 315 Tribal representatives of 182 Tribes
- Response received from 10 Tribes to date
- 3 Tribes requested formal consultation



General Public Outreach

- E-mail notice to 105 local agencies, NGOs, and members of the general public
- Response received from 1 member of the general public
- Public member suggested longer season lengths





Dr. Tom Batter

Thomas.Batter@wildlife.ca.gov

Elk and Pronghorn Coordinator

Game Conservation Program – Wildlife Branch

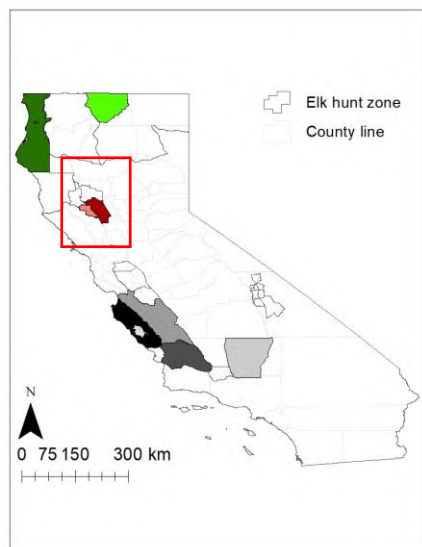
California Department of Fish and Wildlife

Fish and Game Commission Meeting

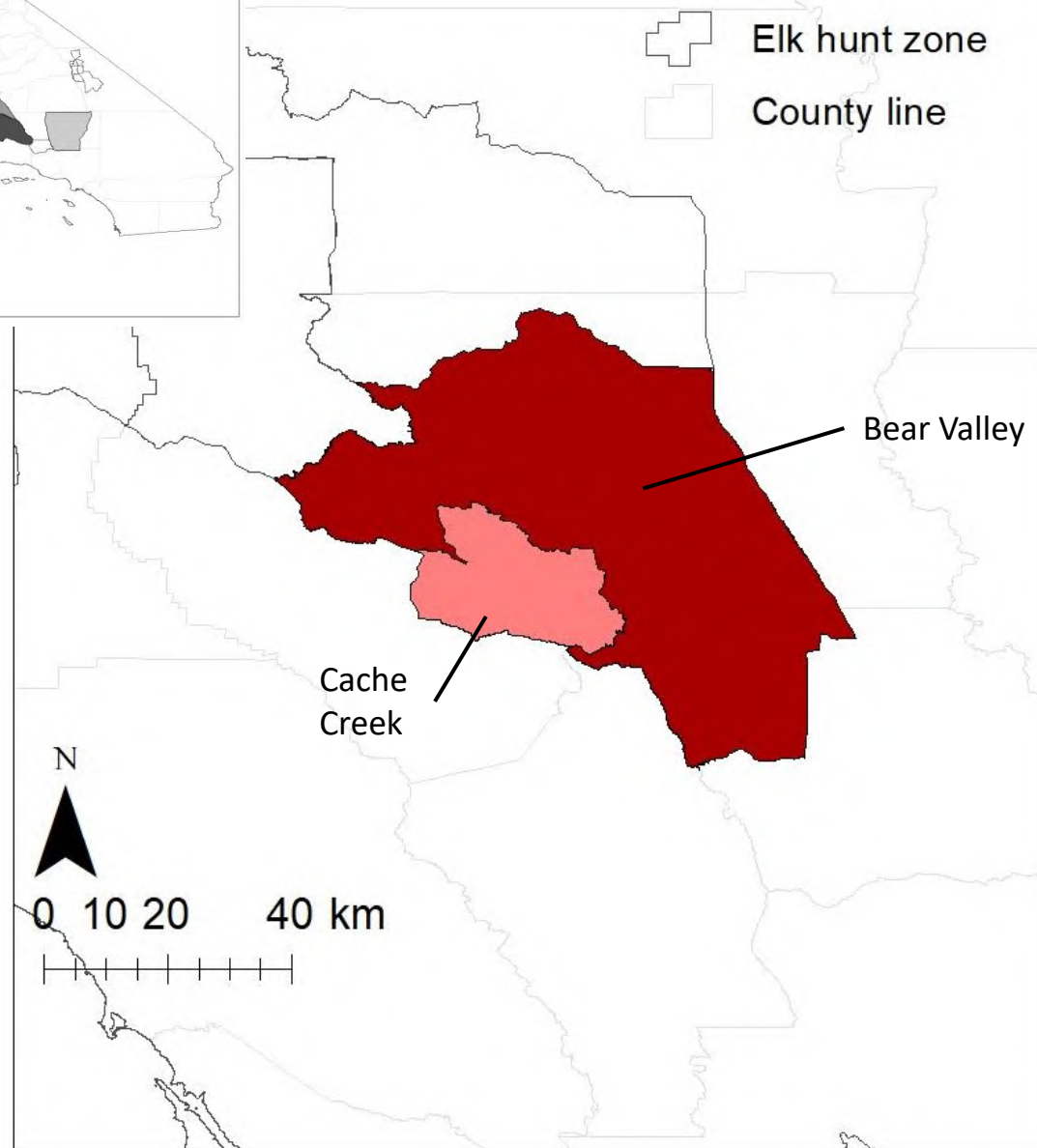
December 15, 2022

San Diego, CA

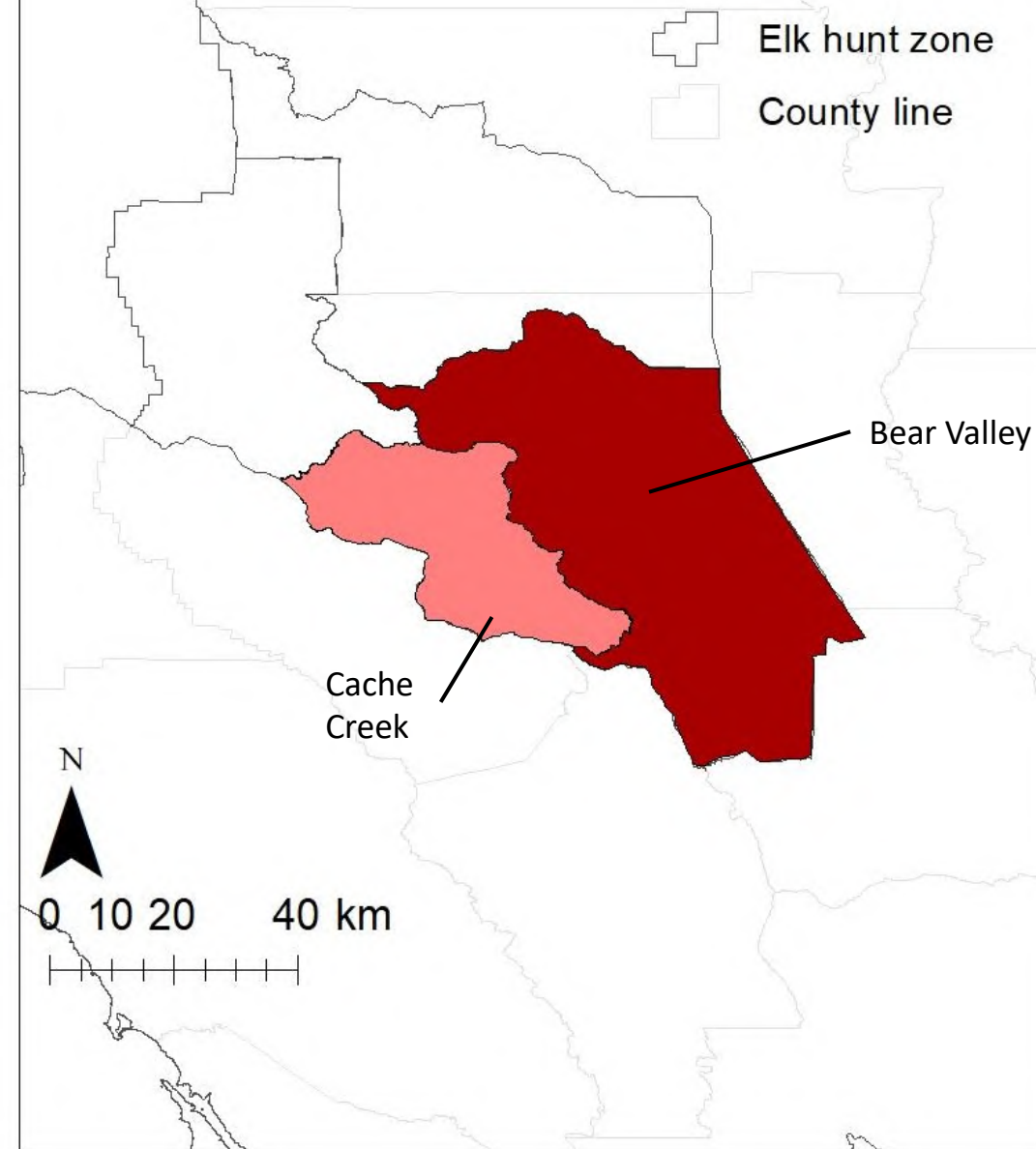


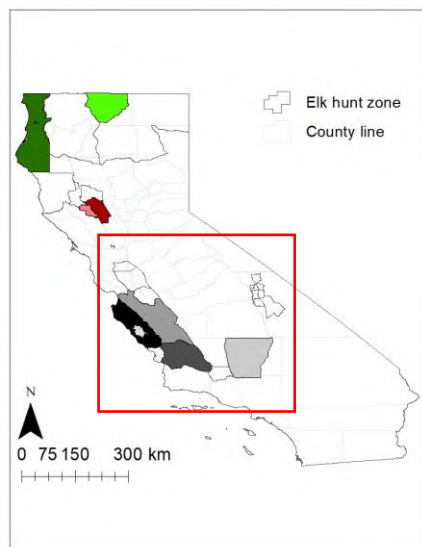


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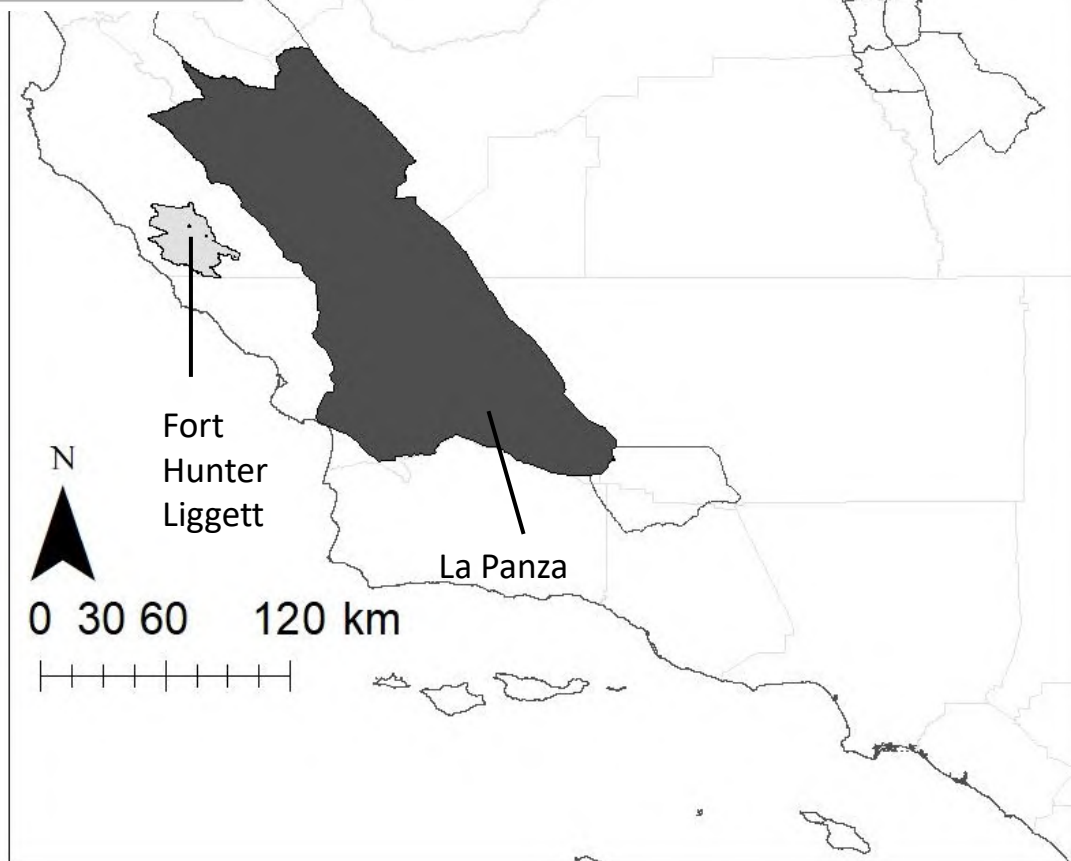
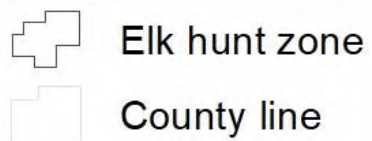


PROPOSED

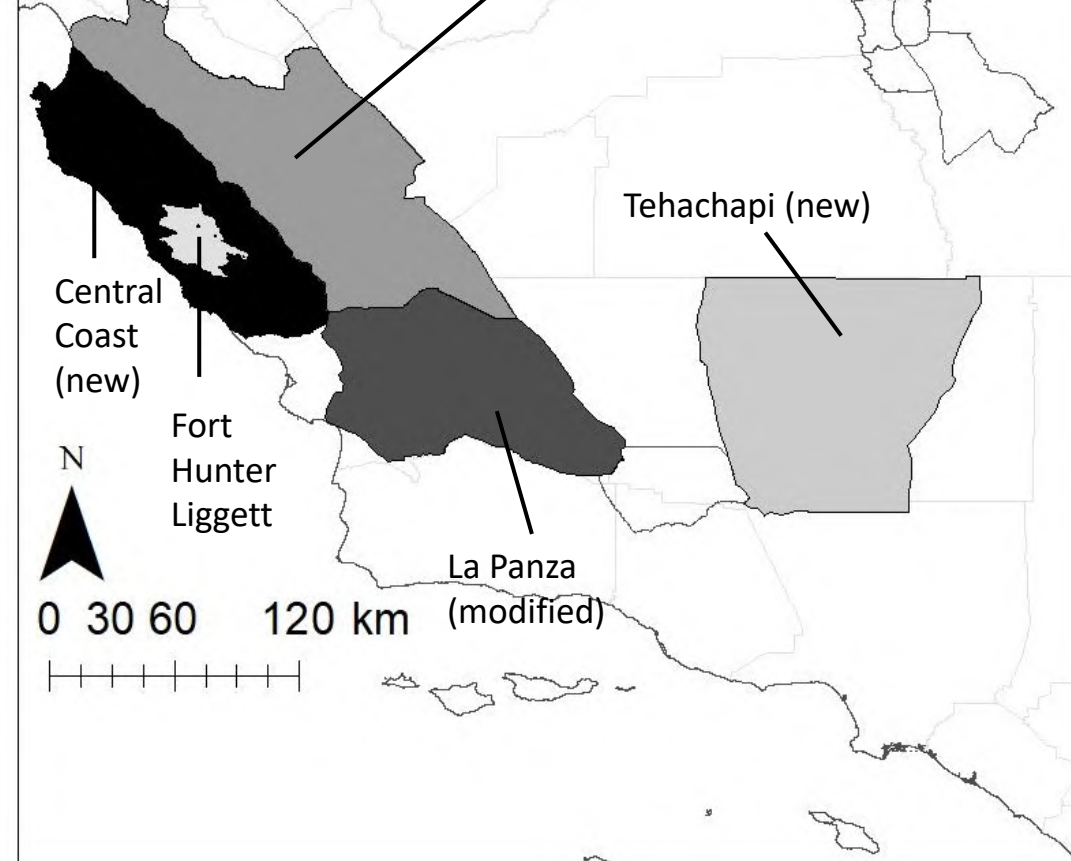
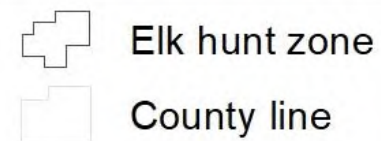




CURRENT



PROPOSED



FGC meeting, December 15, 2022, Agenda item # 17, "Elk Hunting"

Phoebe Lenhart [REDACTED]

Thu 12/01/2022 01:02 PM

To: FGC@public.govdelivery.com <FGC@public.govdelivery.com>;FGC <FGC@fgc.ca.gov>

Dear FGC,

In all due respect, I am requesting that any discussion "to amend" (Agenda item #17) "Elk Hunting" be re-scheduled to the FGC's February, 2023 meeting. The DFW has not provided the FGC and the public with their "materials" before the deadline for public comment, December 1, 2022. The DFW's "materials" are imperative in order to make an educated, scientific decision on the matter "to amend" the Roosevelt elk hunting regulations. Per the DFW, their "materials" regarding their request to amend 364 and 364.1 will not be available to the public and to the FGC until "shortly before or after the December 15, 2022 meeting".

Commissioners, the DFW is not submitting "materials" that are critical for informed decision making until 15 days AFTER the deadline for the public to submit comments! It even reads that the FGC, themselves, may or may not receive the DFW's materials in time for the FGC's meeting on December 15. I believe the negligent DFW and their untimely documents are an interference with the public's rights to fully participate in this government process (and in the FGC's ability to make sound decisions).

Further, Commissioners, this is NOT the first time that the DFW has been remiss in providing "materials" for the public to review before the deadline for public comments. If you will refer to a FGC meeting 3 years ago, the DFW submitted their report to the FGC one week after the deadline for public comment. Again, in the DFW's remiss, the department is obstructing the public's right to fully participate in this government process.

I think it is important that the FGC and the public have information on the population of the herds which will not be available until the elk hunting season ends on December 20, 2022. How can any science based increase in elk hunting quotas for the bulls and cows be determined without accurate populations of the small herds in Del Norte County? I believe a few of these herds are so small or underrepresented by bulls, that hunting should not be allowed. Thus, rescheduling any discussion about amending "elk hunting" would be more responsibly addressed by the public and the FGC in February, 2023.

Further, I think that it is crucial that the public and the FGC have current data on the number of Roosevelt elk (by gender and site) who have been euthanized due to TAHD. How is it possible to approve any increase in elk hunting quotas without knowing how quickly and where the TAHD is spreading? Again, rescheduling any discussion about amending "elk hunting" would be more accountable incorporating the number and location of euthanized Roosevelt elk.

In conclusion, I believe it is appropriate and absolutely necessary to postpone any discussion and decision on "amending" Elk Hunting (Agenda item #17) to the next FGC meeting in 2023. It is the public's right to have the DFW's "materials" available BEFORE the deadline for public comments. As, I

think the FGC, themselves, would appreciate having the DFW's documents before the day of the agenda item, December 15, 2022. Please, also, consider that this is not the first time the DFW has been late submitting their "materials", thus obstructing transparency and the public's ability to participate.

Sincerely,

Phoebe Lenhart

A solid black rectangular box used to redact the signature of Phoebe Lenhart.

Supporters for Del Norte Roosevelt Elk

Sent from my iPad

State of California
Department of Fish and Wildlife

Memorandum

Date: November 28, 2022

Signed original on file,
Received November 29, 2022

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Submission of Initial Statement of Reasons for Agenda Item for the December 14-15, 2022, Fish and Game Commission Meeting to Amend Title 14, California Code of Regulations (CCR), Section RE: 362 Bighorn Sheep Hunting**

The Department of Fish and Wildlife (Department) requests that the Fish and Game Commission (Commission) authorize publishing notice of its intent to amend Section 362, Title 14, CCR. Based on bighorn sheep population data, the Department is proposing changes to bighorn sheep hunt tag allocations. The proposed changes to Section 362 includes amending subsection 362(d) to modify the hunt tag quota for the general lottery in the Marble and Clipper Mountains Hunt Zone 1 and a pertinent fundraising tag. Currently, the Marble and Clipper Mountains public tag quota is 5 tags, and 1 for the Marble, Clipper, and South Bristol Mountains Fundraising tag. For 2023, the proposed tag allocation for the Marble and Clipper Mountains is 1 tag for the public tag quota, and 0 ram for the Marble, Clipper, and South Bristol Mountains Fundraising Tag.

If you have any questions regarding these items, please contact Scott Gardner, Wildlife Branch Chief, at (916) 801-6257. The public notices for these rulemakings should identify Environmental Scientist Regina Vu as the Department's point of contact. She can be reached at (916) 516-2132.

ec: Chad Dibble, Deputy Director
Wildlife and Fisheries Division

Scott Gardner, Branch Chief
Wildlife Branch
Wildlife and Fisheries Division

Regina Vu, Desert Bighorn Sheep Coordinator
Wildlife Branch
Wildlife and Fisheries Division

Robert Pelzman, Captain
Law Enforcement Division

Melissa Miller-Henson, Executive Director
Fish and Game Commission
November 28, 2022
Page 2

Ona Alminas, Manager
Regulations Unit
Wildlife and Fisheries Division

Chelle Temple-King, Senior Regulatory Analyst
Regulations Unit
Wildlife and Fisheries Division

Ari Cornman, Wildlife Advisor
Fish and Game Commission

Maurene Trotter, Analyst
Fish and Game Commission

David Thesell, Manager
Fish and Game Commission

STATE OF CALIFORNIA — DEPARTMENT OF FINANCE

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON David Thesell	EMAIL ADDRESS fgc@fgc.ca.gov	TELEPHONE NUMBER 916 902-9291
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Amend Section 362, Title 14, California Code of Regulations, Re: Bighorn Sheep Hunting			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input checked="" type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input checked="" type="checkbox"/> c. Impacts jobs or occupations | <input checked="" type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input type="checkbox"/> h. None of the above (Explain below): |

*If any box in Items 1 a through g is checked, complete this Economic Impact Statement.**If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.***Fish and Game Commission**2. The _____ estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☒ Below \$10 million
- ☐ Between \$10 and \$25 million
- ☐ Between \$25 and \$50 million
- ☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: 5Describe the types of businesses (Include nonprofits): Hunting Guides for bighorn sheepEnter the number or percentage of total businesses impacted that are small businesses: 100%4. Enter the number of businesses that will be created: 0 eliminated: 0Explain: Reduction in tags likely to reduce number of bighorn sheep guided hunts and a share of typical seasonal income.5. Indicate the geographic extent of impacts: ☐ Statewide
☒ Local or regional (List areas): Marble and Clipper Mountains6. Enter the number of jobs created: 0 and eliminated: <15 temp jobsDescribe the types of jobs or occupations impacted: Bighorn sheep hunting guides (5) and temporary guided hunt aids (15).7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here? ☐ YES ☒ NOIf YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ N/A
- a. Initial costs for a small business: \$ N/A Annual ongoing costs: \$ _____ Years: _____
- b. Initial costs for a typical business: \$ N/A Annual ongoing costs: \$ _____ Years: _____
- c. Initial costs for an individual: \$ N/A Annual ongoing costs: \$ _____ Years: _____
- d. Describe other economic costs that may occur: No new compliance costs are necessarily incurred. The proposed reduction in tags will reduce the number of bighorn sheep guided hunts and a share of typical seasonal income.
2. If multiple industries are impacted, enter the share of total costs for each industry: N/A
3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ N/A
4. Will this regulation directly impact housing costs? ☐ YES ☒ NO
If YES, enter the annual dollar cost per housing unit: \$ _____
Number of units: _____
5. Are there comparable Federal regulations? ☐ YES ☒ NO
- Explain the need for State regulation given the existence or absence of Federal regulations: Wildlife management within the state per Fish and Game Code section 4902(b)(2)
- Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ N/A

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: Benefits are to help achieve management objectives related to current environmental, biological, and social conditions, as outlined in the Marble and Clipper Mountains Management Plans to preserve the species and future hunt opportunities.
2. Are the benefits the result of: ☐ specific statutory requirements, or ☒ goals developed by the agency based on broad statutory authority?
Explain: Wildlife management within the state per Fish and Game Code section 4902(b)(2)
3. What are the total statewide benefits from this regulation over its lifetime? \$ \$73,534/year (tag sales)
4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: N/A

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: No other alternatives were identified that would achieve wildlife management objectives.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ \$73,534 Cost: \$ 50,500Alternative 1: Benefit: \$ N/A Cost: \$ N/AAlternative 2: Benefit: \$ N/A Cost: \$ N/A

3. Briefly discuss any quantification issues that are relevant to a comparison

of estimated costs and benefits for this regulation or alternatives: Benefits = \$73,534/year, annual tag sales revenue reveals value of preserving bighorn sheep hunts. Cost = lost income to guides (\$9K x 4 public tags)+(\$14,500 x 1 fundraising tag)

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a

regulation mandates the use of specific technologies or equipment, or prescribes specific

actions or procedures. Were performance standards considered to lower compliance costs?

☐ YES☒ NOExplain: not applicable to wildlife management with hunt quotas**E. MAJOR REGULATIONS** *Include calculations and assumptions in the rulemaking record.****California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.***1. Will the estimated costs of this regulation to California business enterprises **exceed \$10 million?** ☐ YES ☐ NO***If YES, complete E2. and E3******If NO, skip to E4***

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES☒ NO*If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____

Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____

Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____

- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT (CONTINUED)**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:☐ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☐ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☒ 4. Other. Explain The Department of Fish and Wildlife estimates a \$73,534 reduction in sheep tag sales revenue in FY 2023/24 and ongoing until regulation change is superceded.**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE

DocuSigned by:

6358B761C2D347D

DATE

11/29/2022

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY



DATE

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE

STD 399 Addendum

Amend Section 362
Title 14, California Code of Regulations
Re: Bighorn Sheep Hunting

ECONOMIC IMPACT STATEMENT**Summary**

The proposed amendments would decrease bighorn sheep tags by five tags from a total of 30 tags to 25 tags across hunt zones. This would constitute a 16.7 percent decrease in bighorn sheep hunting opportunities.

Table 1. Proposed Bighorn Sheep Tag Changes

Hunt Zone or Tag Type	2021/22 Tag Quota	Proposed Tags for 2023/24 Hunt Year
Zone 1 – Marble and Clipper Mountains	5	1
Marble/Clipper/South Bristol Mountains Fundraising Tag	1	0
Total Tag Quota All Hunt Zones	30	25

A. ESTIMATED PRIVATE SECTOR COSTS IMPACTS

1. Answer (from STD 399): b. Impacts small businesses, c. Impacts jobs or occupations, g. Impacts individuals

Businesses

Up to five (5) hunting guides that contract with bighorn sheep tag holders to provide guide services will lose the opportunity to compete for contracts for trips with four (4) public tag hunters with drawn tags and one (1) hunter with a fundraising tag due to the proposed reduction in tags. Bighorn sheep hunt guides typically hire (short-term) about three (3) additional subcontracted guides per season to assist with packing, scouting, cooking, and other support for the duration of the scouting and hunting season that may span several months.

Businesses that provide other goods and services to hunters (fuel, food, accommodations, sporting goods and general retail) may incur small losses in sales revenue. However, the decrease in hunting trips associated with five fewer tags is not anticipated to be substantial enough to significantly decrease retail revenues across the state.

Individual Hunters

The Department manages bighorn sheep hunting to provide sustainable public recreation opportunities. No change in fees or other nondiscretionary costs are introduced by the proposed amendments.

A. 6. Enter the jobs eliminated: 15 temporary jobs.

Describe the types of jobs or occupations impacted: 5 bighorn sheep hunting guides would lose four hunting contract opportunities, and about 15 temporary hunt guides would lose short-term subcontracting opportunities to assist bighorn sheep hunts in the state. Guides can off-set this loss in opportunity as they work with other species and in other states.

D. 2. Summarize the total statewide costs and benefits from this regulation:

Benefits: \$73,534/year. Annual tag sales revenue to the Department reveals a value that hunters are willing-to-pay to maintain four bighorn sheep hunts. This is an underrepresentation of the long-term benefit of preserving bighorn sheep populations into the future for their ecological value and for future sustainable hunts.

Costs: The hunt guides receive an average of \$9,000 per public drawn hunt and an average of \$14,500 for a fundraising tag hunt and with the loss of five hunts the combined loss to all bighorn sheep guides is estimated to be approximately \$50,500 over the hunting season ($\$9,000 \times 4$) public tags + ($\$14,500 \times 1$) fundraising tag = \$50,500 or approximately \$10,100 per guide in income opportunity losses.

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT

Answer: 5. No fiscal impact exists. This regulation does not affect any local entity or program.

B. FISCAL EFFECT ON STATE GOVERNMENT

4. Other. Explain:

The Commission estimates that the Department will have decreased tag sales revenue totaling approximately \$73,534, in the 2023/24 bighorn sheep hunting season.

Table 2. Department Bighorn Sheep Tag Revenue Estimates

Potential Tag Revenue Losses	2023/24 Proposed Tag Reductions	2023 Fee	Total
Resident sheep Tag	- 4	\$500.25	-\$2,001.00
Fund-Raising Tag Average*Revenue per Year	-1	N/A	-\$71,533.10
Grand Total			-\$73,534.10

Notes: Estimates using data from CDFW License and Revenue Branch, 2022.

*Average annual fundraising revenue for the last ten years.

Revenue to the Department's Big Game Fund from Marble, Clipper, and South Bristol Desert bighorn sheep fundraising tag sales varies by year as shown in Table 3. Over the previous ten-year period the average total fundraising tag revenue is \$71,533. No Marble/Clipper/South Bristol Desert bighorn sheep fundraising tags were offered for hunting seasons in the following years: 2014-15 through to 2017-18 and for the 2020-21 season.

Table 3. Marble/Clipper/South Bristol Desert Bighorn Sheep Fundraising Tag Revenue from 2012 to 2022.

Hunt Year	Method of Sale	Revenue
2012-2013	Auction via non-governmental organization	\$62,076.80
2019-2020	Auction via non-governmental organization	\$78,517.50
2022-2023	Auction via non-governmental organization	\$74,005.00
Average		\$71,533.10

Sources: CDFW License and Revenue Branch, 2022.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS

Answer: 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

State of California
Fish and Game Commission
Initial Statement of Reasons for Regulatory Action

Amend Sections 362
Title 14, California Code of Regulations
Re: Bighorn Sheep Hunting

- I. Date of Initial Statement of Reasons: November 4, 2022
- II. Dates and Locations of Scheduled Hearings
 - (a) Notice Hearing
Date: December 15, 2022 Location: San Diego
 - (b) Discussion Hearing
Date: February 8, 2023 Location: Sacramento
 - (c) Adoption Hearing
Date: April 19, 2023 Location: Fresno/Bakersfield
- III. Description of Regulatory Action
 - (a) Statement of Specific Purpose of Regulatory Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary.

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations.

Background

The California Department of Fish and Wildlife (Department) manages bighorn sheep hunting to provide sustainable public recreation opportunities. The Fish and Game Commission (Commission) periodically considers the recommendations of the Department in establishing bighorn sheep hunting regulations. Considerations include recommendations for adjusting tag quotas, setting hunt periods, modifying zone boundaries, and authorizing methods of take, among others, to help achieve management recommendations.

Periodic adjustments of bighorn sheep hunting regulations, such as tag quotas, in response to dynamic environmental, and biological conditions are necessary to maintain consistency with management recommendations and Fish and Game Code. Fish and Game Code subdivision 4902(b)(2) states the Commission may not adopt regulations authorizing the sport hunting in a single year of more than 15 percent of the mature Nelson bighorn rams in a single management unit.

Current Regulations

Section 362 provides definitions, hunting zone descriptions, season opening and closing dates, tag quotas (total number of hunting tags to be made available), and bag and possession limits for bighorn sheep hunting. Individuals are awarded a bighorn sheep hunting tag through the Department's Big Game Drawing. A limited number of fundraising tags are also available for

purchase, usually by auction, via non-governmental organizations that assist the Department with fundraising.

Harvest of a bighorn sheep is authorized for an individual with a tag for a respective hunt zone and season. Tag quotas are established based on a variety of factors, including population density and abundance, age and sex composition, and distribution.

Proposed Regulations

The proposed changes to Section 362 includes amending subsection 362(d) to modify the hunt tag quota for the general lottery in the Marble and Clipper Mountains Hunt Zone 1 (San Bernardino County) and a pertinent fundraising tag. Currently, the Marble and Clipper Mountains public tag quota is 5 tags, and 1 for the Marble, Clipper, and South Bristol Mountains Fundraising tag. For 2023, the proposed tag allocation for the Marble and Clipper Mountains is 1 tag for the public tag quota, and 0 ram for the Marble, Clipper, and South Bristol Mountains Fundraising Tag (Table 1).

Table 1. Proposed Bighorn Sheep Tag Changes

Hunt Zone or Tag Type	2021/22 Tag Quota	Proposed Tags for 2023/24 Hunt Year
Zone 1 – Marble and Clipper Mountains	5	1
Marble/Clipper/South Bristol Mountains Fundraising Tag	1	0
Total Tag Quota All Hunt Zones	30	25

The Marble and Clipper Mountains populations have been subject to extreme drought, low recruitment, and respiratory disease in recent years. Recent population estimates and minimum counts in the Marble and Clipper Mountains suggest population declines. Specifically, the Department's 2022 population estimate from the summer of 2022 was only 25 to 83 adult male sheep such that the mature (2-yrs+) population available for hunting could be less than 25 rams. Therefore, the current tag quota of 5 tags may exceed the 15% threshold allowable pursuant to Fish and Game Code subdivision 4902(d). Furthermore, annual surveys during 2015–2022 indicated between 0 and 0.18 lambs per ewe survived from the previous year to be counted as yearlings (i.e., recruitment). The minimum recruitment rate for a sustainable population is on the order of 0.20. Low recruitment rates are attributed to impacts from severe drought, and to impacts of a respiratory disease-causing pathogen (*Mycoplasma ovipneumoniae*) first detected in the Marble Mountains population in 2013. A tag quota reduction is proposed to maintain consistency with management unit plan recommendations and prevent a possible violation of Fish and Game Code.

(b) Goals and Benefits of the Regulation

The goals and benefits of the regulations are to help achieve management recommendations in existing unit plans, and so as not to exceed the 15 percent threshold identified in Fish and Game Code subdivision 4902(b)(2).

(c) Authority and Reference Sections from Fish and Game Code for Regulation

Authority: Section(s) 200, 203, 203.1, 265, 1050, and 4902 Fish and Game Code

Reference: Section(s) 1050, 3950, and 4902 Fish and Game Code

(d) Specific Technology or Equipment Required by Regulatory Change

None

(e) Identification of Reports or Documents Supporting Regulation Change

- Bleich, Vernon C., Vernoy, Robert L., Weaver, Richard A. (1987). Mountain Sheep Management Plan: Marble Mountains Management Unit, California Department of Fish and Wildlife.
- Pauli, Andrew M. and Bleich, Vernon C. (1992). Mountain Sheep Management Plan: Clipper Mountains Management Unit, California Department of Fish and Wildlife.

(f) Public Discussions of Proposed Regulations Prior to Notice Publication

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

No alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

(b) No Change Alternative

The no change alternative was considered and rejected because it would not be consistent with maintaining bighorn sheep populations within desired population objectives. Fish and Game Code subdivision 4902(b) and management unit plans specify desired harvest levels. Retaining the current tag quota for each zone may not be responsive to environmental and biological changes in the status of various herds. The no-change alternative would not allow for adjustment of tag quotas in response to changing environmental and biological conditions.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no significant adverse effect on the environment, and therefore, no mitigation measures are required.

VI. Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States

The Commission estimates that five hunting guides that contract with bighorn sheep tag holders to provide guide services will lose the opportunity to compete for contracts for trips with four hunters with drawn tags and one hunter with a fundraising tag due to the proposed reduction in tags. However, in sum, the proposed regulation is not anticipated to have a significant statewide adverse economic impact directly affecting business broadly, including the ability of California businesses to compete with businesses in other states. This regulatory action will not impose cost impacts that a representative individual hunter would necessarily

incur in reasonable compliance with the proposed regulation.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment.

The Commission does not anticipate the creation of jobs and anticipates the elimination of up to 15 temporary (short-term) jobs for hunting guide aids (sub-guides) within the state. No significant impacts to the creation of new business, the elimination of existing businesses, or the expansion of businesses in California are anticipated. The Commission does not anticipate direct benefits to the general health and welfare of California residents or to worker safety, but anticipates benefits to the environment.

- (c) Cost Impacts on a Representative Private Person or Business

The Commission estimates that five bighorn sheep guides will lose the opportunity to compete for contracts for hunting trips with four public tag hunters and one fundraising tag hunter due to the proposed reduction in tags for the affected hunt zone. The hunt guides receive an estimated average of \$9,000 per public drawn hunt and an average of \$14,500 for a fundraising tag hunt and with the loss of five hunts the combined loss to all bighorn sheep guides is estimated to be approximately \$50,500 over the hunting season ($\$9,000 \times 4$) public tags + ($\$14,500 \times 1$) fundraising tag = \$50,500 or approximately \$10,100 per guide in income opportunity losses.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State

The Department anticipates an estimated decline of \$73,534 in tag sales revenue with the implementation of the proposed regulation.

- (e) Nondiscretionary Costs/Savings to Local Agencies

None.

- (f) Programs Mandated on Local Agencies or School Districts

None.

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code

None.

- (h) Effect on Housing Costs

None.

VII. Economic Impact Assessment

- (a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State

The Commission estimates that that reduction in bighorn sheep tags could result in about 15 fewer subcontracted hunting guide temporary job opportunities within the state. No creation of jobs is anticipated.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State

The Commission estimates that up to five hunting guides that contract with bighorn sheep tag holders to provide hunting guide services will lose the opportunity to compete for contracts for trips with four hunters with drawn tags and one (1) hunter with a fundraising tag due to the proposed reduction in tags. Bighorn sheep hunt guides typically hire about three additional subcontracted guides to assist with packing, scouting, cooking, and other support for the duration of the scouting and hunting season that may span several months. The loss of income opportunities from guiding bighorn sheep hunts is not anticipated to induce the elimination of existing businesses and no creation of new businesses is anticipated.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State

The Commission does not anticipate impacts on the expansion of businesses currently doing business within the state because the expected economic impacts of the proposed regulations are unlikely to be substantial enough to increase the demand for goods or services related to bighorn sheep hunting.

(d) Benefits of the Regulation to the Health and Welfare of California Residents

The Commission does not anticipate impacts on the health and welfare of California residents.

(e) Benefits of the Regulation to Worker Safety

The Commission does not anticipate impacts on worker safety.

(f) Benefits of the Regulation to the State's Environment

The Commission anticipates incremental positive impacts to the state's environment.

VIII. Informative Digest/Policy Statement Overview

Current regulations in Section 362 provide definitions, hunting zone descriptions, season opening and closing dates, tag quotas (total number of hunting tags to be made available), and bag and possession limits for bighorn sheep hunting. Individuals are awarded a bighorn sheep hunting tag through the Department's Big Game Drawing. A limited number of fundraising tags are also available for purchase, usually by auction, via non-governmental organizations that assist the Department with fundraising.

Harvest of a bighorn sheep is authorized for an individual with a tag for a respective hunt zone and season. Tag quotas are established based on a variety of factors including population density and abundance, age and sex composition, and distribution. The Department has identified the following areas in which bighorn sheep hunting opportunities need to be reduced.

The proposed changes to Section 362 includes amending subsection 362(d) to modify the hunt tag quota for the general lottery in the Marble and Clipper Mountains Hunt Zone 1 and a pertinent fundraising tag. Currently, the Marble and Clipper Mountains public tag quota is 5 tags, and 1 for the Marble, Clipper, and South Bristol Mountains Fundraising tag. For 2023, the proposed tag allocation for the Marble and Clipper Mountains is 1 tag for the public tag quota, and 0 ram for the Marble, Clipper, and South Bristol Mountains Fundraising Tag.

The Marble and Clipper Mountains populations have been subject to extreme drought, low recruitment, and respiratory disease in recent years, and the most recent population estimates suggest a decline. Specifically, the Department's 2022 population estimate from the summer of 2022 was only 25 to 83 adult male sheep such that the mature (2-yrs+) population available for hunting could be less than 25 rams. Therefore, the current tag quota of 5 tags may exceed the 15% threshold. Furthermore, annual surveys during 2015–2022 indicated between 0 and 0.18 lambs per ewe survived from the previous year to be counted as yearlings (i.e., recruitment). The minimum recruitment rate for a sustainable population is on the order of 0.20. Low recruitment rates are attributed to impacts from severe drought, and to impacts of a respiratory disease-causing pathogen (*Mycoplasma ovipneumoniae*) first detected in the Marble Mountains population in 2013. For these reasons, a tag quota reduction is proposed to maintain consistency with management unit plan recommendations and prevent a possible violation of Fish and Game Code. Due to concerns regarding the low population and reproduction estimates, the Department recommends taking a precautionary approach by reducing the total tag quota to one tag for next year's season. Over the next year, we intend to follow up with more detailed analysis of the sheep trends and evaluation of possible causes.

Benefit of the Regulations:

The proposed regulatory action is designed to help achieve management objectives related to current environmental, biological, and social conditions, as outlined in the Marble and Clipper Mountains Management Plans, and to comply with the 15 percent threshold identified in Fish and Game Code 4902(b)(2).

Consistency and Compatibility with Existing Regulations:

Article IV, Section 20 of the State Constitution specifies that the Legislature may delegate to Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. Commission staff has searched the California Code of Regulations and

has found no other state regulations that address the tag quotas (total number of hunting tags to be made available), and bag and possession limits for bighorn sheep hunting. The Commission has reviewed its own regulations and finds that the proposed regulations are consistent with other big game mammal regulations in Title 14, CCR, and therefore finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

Proposed Regulatory Language

Section 362, Title 14, CCR, is amended to read:

§ 362. Nelson Bighorn Sheep.

. . . [subsections (a)(1), (a)(8), (b)(2) shown for context only]. . .

(a)(1) Zone 1—Marble/Clipper Mountains: That portion of San Bernardino County beginning at the intersection of Kelbaker Road and the National Trails Highway; north on Kelbaker Road to the junction with Interstate Highway 40; east on Interstate Highway 40 to the intersection with National Trails Highway; southwest on National Trails Highway to junction with Kelbaker Road.

. . . [No changes to subsections (a)(2) through (a)(7)]. . .

(a)(8) Zone 8 — South Bristol Mountains: That portion of San Bernardino County beginning at the junction of Kelbaker Road and the National Trails Highway; west on the National Trails Highway to the intersection with Interstate Highway 40; east on Interstate Highway 40 to the junction with Kelbaker Road; south on Kelbaker Road to the point of beginning.

. . . [No changes to subsections (a)(9) through (b)(1)]. . .

(b)(2) Marble/Clipper/South Bristol Mountains Fund-raising Tag: The holder of the fund-raising license tag issued pursuant to subsection 4902(d) of the Fish and Game Code may hunt:

(A) Zones 1 and 8: Beginning the first Saturday in November and extending through the first Sunday in February.

. . . [No changes to subsections (b)(3) through (c)]. . .

(d) Number of License Tags:

<i>Nelson Bighorn Sheep Hunt Zones</i>	<i>Tag Allocation</i>
Zone 1 – Marble/Clipper Mountains	5 <u>1</u>
Zone 2 – Kelso Peak/Old Dad Mountains	1
Zone 3 – Clark/Kingston Mountain Ranges	4
Zone 4 – Orocopia Mountains	1
Zone 5 – San Gorgonio Wilderness	0
Zone 6 – Sheep Hole Mountains	0
Zone 7 – White Mountains	6
Zone 8 – South Bristol Mountains	2
Zone 9 – Cady Mountains	2
Zone 10 – Newberry, Rodman, Ord Mountains	6
Open Zone Fund-Raising Tag	1
Marble/Clipper/South Bristol Mountains Fund-Raising Tag	4 <u>0</u>
Cady Mountains Fund-Raising Tag	1
Total:	30 <u>25</u>

. . . *[No changes to subsection (e)]. . .*

NOTE: Authority cited: Sections 200, 203, 203.1, 265, 1050 and 4902, Fish and Game Code.
Reference: Sections 1050, 3950 and 4902, Fish and Game Code.



Bighorn Sheep Hunting Regulations

15 December 2022

Presented to:

Fish and Game Commission

Presented by:

Regina Vu
Desert Bighorn Sheep Coordinator
Wildlife Branch



Background

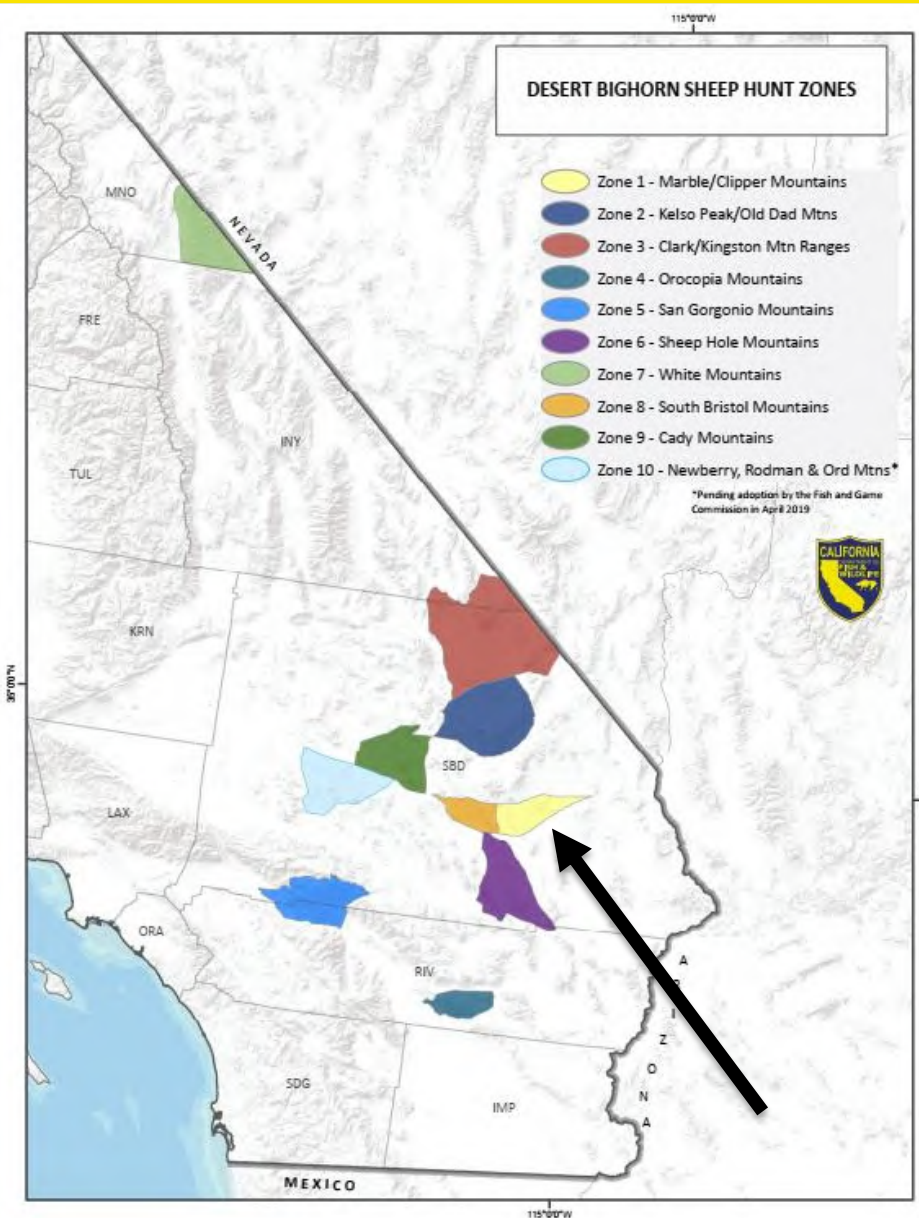
- Limited and conservative hunting opportunities
- Commission may authorize sport hunting of mature rams (Fish and Game Code 4902(b)(1))
- Harvest at or below 15% of the mature ram population





Population Monitoring

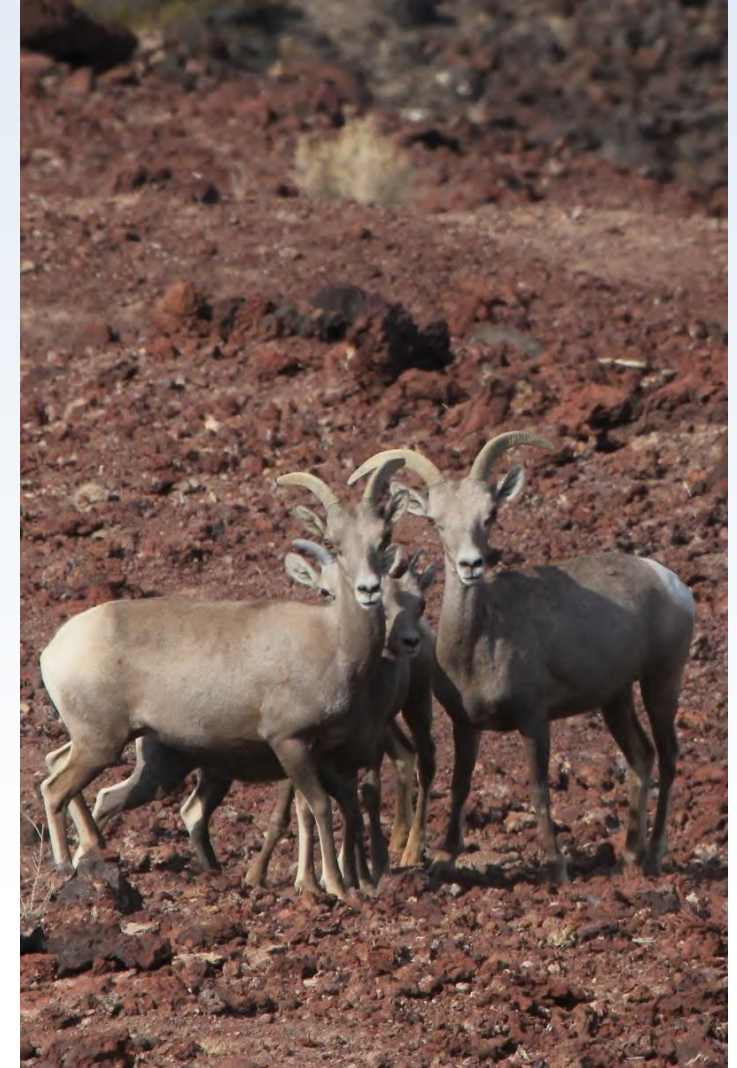
- Monitor populations in 10 hunt zones to set appropriate harvest levels
- Marble and Clipper Mountains populations have experienced disease and extreme drought
- Recently, summer camera data analyzed to produce a mark-resight estimate





2022 Population Estimates Zone 1

- Low population estimate for 2022
 - 25 to 83 adult male bighorn sheep
- Low recruitment for a sustainable population
 - Between 0 and 0.18 lambs per ewe





Proposal

- Reduce public and fundraising hunt tag quota in the Marble and Clipper Mountains hunt zone

Nelson Bighorn Sheep Hunt Zones	2022 Quota	Proposed Change	2023 Proposed Quota
Zone 1 – Marble and Clipper Mountains	5	-4	1
Marble, Clipper, and South Bristol Mountains Fundraising Tag	1	-1	0



Outreach

- A letter of notification regarding the proposed changes was sent to 322 tribal contacts on November 14, 2022
- The proposed changes were discussed with the Hunting and Conservation Coalition on November 10, 2022



Thank you!

Regina Vu

Desert Bighorn Sheep Program

Game Conservation Program

Wildlife Branch

Regina.Vu@wildlife.ca.gov

Memorandum

Date: September 8, 2022

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Submission of Initial Statement of Reasons to Amend Title 14, California Code of Regulations (CCR), Section 700.4, Automated License Data System**

The Department of Fish and Wildlife (Department) requests that the Fish and Game Commission (Commission) authorize publishing notice of its intent to amend Section 700.4, Title 14, CCR. Based on the regulatory directive of Assembly Bill 817, the Department is proposing to amend Section 700.4 to include electronic display as part of the Automated License Data System (ALDS).

If you have any questions regarding these items, please contact Jay Rowan, Fisheries Branch Chief, at (916) 212-3164. The public notices for these rulemakings should identify Senior Environmental Scientist, Karen Mitchell, as the Department's point of contact. She can be reached at (916) 205-0520.

ec: Chad Dibble, Deputy Director
Wildlife and Fisheries Division

Jay Rowan, Branch Chief
Fisheries Branch
Wildlife and Fisheries Division

Craig Shuman, Regional Manager
Marine Region (Region 7)

Chris Stoots, Assistant Chief
Law Enforcement Division

Brian Owens, Acting Manager
Regulations Unit
Wildlife and Fisheries Division

Chelle Temple-King, Senior Regulatory Analyst
Regulations Unit
Wildlife and Fisheries Division
Tony Straw, Info Tech Sup II OOC

Melissa Miller-Henson, Executive Director
Fish and Game Commission
September 8, 2022
Page 2

License and Revenue Branch

Damian Sivak, ALDS Systems Specialist
License and Revenue Branch

Ari Cornman, Wildlife Advisor
Fish and Game Commission

David Haug, Analyst
Fish and Game Commission

David Thesell, Manager
FGC Regulations Unit

State of California
Fish and Game Commission
Initial Statement of Reasons for Regulatory Action

Amend Section 700.4
Title 14, California Code of Regulations
Re: Electronic License Display

I. Date of Initial Statement of Reasons: October 12-13, 2022

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing

Date: October 12-13, 2022 Location: Kings Beach

(b) Discussion Hearing

Date: December 14-15, 2022 Location: San Diego

(c) Adoption Hearing

Date: February 2023 Location: Sacramento

III. Description of Regulatory Action

(a) Statement of Specific Purpose of Regulatory Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations.

BACKGROUND

Section 1050 of the Fish and Game Code authorizes the California Fish and Game Commission (Commission) to determine the form of all licenses, permits, tags, reservations, and other entitlements and the method of carrying and displaying all licenses. The regulations are in sections 700 and 700.4.

Section 1050.4 of the Fish and Game Code authorizes the Department of Fish and Wildlife (Department) to provide an option to display a sport fishing license, validation, report card, or other sport fishing entitlement electronically on a mobile device.

Based on Section 1050 of the Fish and Game Code and the regulatory directive of AB 817, which creates Section 1050.4 of the Fish and Game Code, the Commission is proposing to amend Section 700.4 to include electronic display as part of the Automated License Data System (ALDS).

CURRENT REGULATIONS

The current regulations (existing Section 700) state every person, while engaged in taking any fish, amphibian, reptile, bird, or mammal shall have on their person or immediate possession a valid sport fishing or hunting license. ALDS allows license items to be printed instantly using

point of sale terminals at Department license agents and Department license sales offices (existing Section 700.4). ALDS also allows applicants to apply for licensing via the Internet, print out a temporary license, and receive a permanent license via mail. These options will remain available.

The proposed changes to Section 700.4 include the following: 1) adding language to allow the Department to accept electronic display of licenses on an official Department application; and 2) non-substantive changes to language and punctuation.

PROPOSED REGULATIONS

The regulatory changes the Commission is proposing are described below by subsection.

Subsection (f) Electronic License Display. Adds subsection (f) to allow the Department to accept electronic display of licenses on an official Department application.

Several non-substantive changes are proposed to provide consistency among Title 14 sections.

(b) Goals and Benefits of the Regulation

These regulations will allow the Department to accept proof of valid licenses using a mobile application as an alternative to carrying a paper license.

Technology has changed significantly and there has been an increased demand for electronic license display. Licensees may forget a paper copy of a license but are likely to have a mobile device. The regulatory action proposed herein will provide flexibility in the method licensees may use to verify license validity.

(c) Authority and Reference Sections from Fish and Game Code for Regulation

Authority: Section(s) 1050, 1050.4, Fish and Game Code

Reference: Section(s) 713, 1050, 1050.4, Fish and Game Code

(d) Specific Technology or Equipment Required by Regulatory Change

None.

(e) Identification of Reports or Documents Supporting Regulation Change

None.

(f) Public Discussions of Proposed Regulations Prior to Notice Publication

Wildlife Resources Committee: May 19, 2022

Marine Resources Committee: July 14, 2022

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

No alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

(b) No Change Alternative

If the proposed amendments are not adopted, the Department will continue to allow only paper copies for proof of valid licenses. This may result in licensees without proof of a valid license in their possession, as well as frustration that the Department has not modernized its practices.

(c) Description of Reasonable Alternatives that Would Lessen Adverse Impact on Small Business

None identified.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no significant adverse effect on the environment, and therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States

The proposed regulation will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This regulatory action will not impose cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulation.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment.

The Commission does not anticipate impacts on the creation or elimination of jobs within the state, the creation of new business, the elimination of existing businesses, or the expansion of businesses in California because the proposed regulations are unlikely to change the demand for goods or services related to sport fishing. The Commission does not anticipate direct benefits to the general health and welfare of California residents, the environment, or to worker safety, however, as stated above, the proposal would benefit California residents generally by expanding the options for proof of licensure to include electronic display.

(c) Cost Impacts on a Representative Private Person or Business

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State

The Department ALDS estimates a one-time implementation cost of \$448,975 to contract with

Aspira for the development of the electronic license display application that is fundamental to the proposed regulation. These costs are within existing budgets and resources.

No impact to federal funding to the state should occur. No nondiscretionary costs, or savings are anticipated for State agencies other than the Department due to this regulation change.

(e) Nondiscretionary Costs/Savings to Local Agencies

None.

(f) Programs Mandated on Local Agencies or School Districts

None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code

None.

(h) Effect on Housing Costs

None.

VII. Economic Impact Assessment

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State

The Commission does not anticipate impacts on the creation or elimination of jobs within the state because the proposed regulations are unlikely to change the demand for goods or services related to sport fishing.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State

The Commission does not anticipate impacts on the creation of new business, the elimination of existing businesses within the state because the proposed regulations are unlikely to change the demand for goods or services related to sport fishing.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State

The Commission does not anticipate impacts on the expansion of businesses currently doing business within the state because the proposed regulations are unlikely to change the demand for goods or services related to sport fishing.

(d) Benefits of the Regulation to the Health and Welfare of California Residents

The Commission does not anticipate impacts on the health and welfare of California residents.

(e) Benefits of the Regulation to Worker Safety

The Commission does not anticipate impacts on to worker safety.

(f) Benefits of the Regulation to the State's Environment

The Commission does not anticipate impacts to the state's environment.

Informative Digest/Policy Statement Overview

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations.

Section 1050 of the Fish and Game Code authorizes the California Fish and Game Commission (Commission) to determine the form of all licenses, permits, tags, reservations, and other entitlements and the method of carrying and displaying all licenses. The regulations are in Section 700 and 700.4.

Section 1050.4 of the Fish and Game Code authorizes the Department of Fish and Wildlife (Department) to provide an option to display a sport fishing license, validation, report card, or other sport fishing entitlement electronically on a mobile device.

Based on the regulatory directive of AB 817, which creates Section 1050.4 of the Fish and Game Code, the Commission is proposing to amend Section 700.4 to include electronic license display as part of the Automated License Data System (ALDS).

The proposed changes to Section 700.4 include the following:

Adds a new subsection to allow the Department to accept electronic display of licenses on an official Department application.

Makes non-substantive changes to language and punctuation.

BENEFIT OF THE REGULATIONS

These regulations will allow the Department to accept proof of valid licenses using a mobile application as an alternative to carrying a paper license.

Technology has changed significantly and there has been an increased demand for electronic license display. Licensees may forget a paper copy of a license but are likely to have a mobile device. The regulatory action proposed herein will provide flexibility in the method licensees may use to verify license validity.

CONSISTENCY AND COMPATIBILITY WITH EXISTING REGULATIONS

The Commission has reviewed its own regulations and finds that the proposed regulatory action is neither inconsistent nor incompatible with existing state regulations. The Commission has searched the California Code of Regulations and finds no other state agency regulations pertaining to the acceptable physical presentations of sport fishing and hunting licenses.

Proposed Regulatory Language

Section 700.4, Title 14 CCR, is amended to read:

§700.4. Automated Licenses Data System

...[No changes to subsections (a) through (e)]

(a) Defined: For the purposes of this Division the “Automated License Data System” or “ALDS” is an automated system that replaced the Department’s paper license inventory system. ALDS allows license items to be printed instantly using point of sale terminals and is available at Department license agents and Department license sales offices located throughout the state. ALDS also allows applicants to apply for licensing via the Internet.

(b) Get Outdoors Identification ~~Number~~ Number. The first time any applicant applies for any license, tag, permit, reservation or other entitlement via ALDS, the applicant shall receive a unique Get Outdoors Identification number (GO ID), ~~or “GO ID.”~~ The GO ID shall not be transferable to any other person.

(c) Identification Required; ~~Acceptable forms of~~. Any applicant applying for any license, tag, permit, reservation or other entitlement issued via ALDS shall provide valid identification. Acceptable forms of identification include:

- (1) Any license document or GO ID number previously issued via ~~ALDS~~ ALDS;
- (2) A valid driver’s license or identification card issued to him or her by the Department of Motor Vehicles or by the entity issuing driver’s licenses from the licensee’s state of ~~domicile~~ domicile;
- (3) US Birth ~~Certificate~~ Certificate;
- (4) US Certificate or Report of Birth ~~Abroad~~ Abroad;
- (5) Tribal Identification Card, as defined by each sovereign tribal ~~nation~~ nation;
- (6) Birth Certificate or passport issued from a US ~~Territory~~ Territory;
- (7) US ~~Passport~~ Passport;
- (8) US Military Identification Cards (Active or reserve duty, dependent, retired member, discharged from service, medical/religious ~~personnel~~) personnel);
- (9) Certificate of Naturalization or ~~Citizenship~~ Citizenship;
- (10) A foreign ~~government-issued~~ government-issued photo ~~identification~~ identification;

(d) Any applicant less than 18 years of age applying for any license, tag, permit, reservation or other entitlement issued via the ALDS shall provide valid identification. Acceptable forms of identification include:

- (1) Any form of identification described ~~above~~ above;
- (2) A parent or legal guardian’s identification as described ~~above~~ above;
- (e) Nonrefundable Application Fee

All licenses, tags, permits, reservations or other entitlements purchased via ALDS shall be subject to a three percent nonrefundable application fee, not to exceed seven dollars and fifty cents (\$7.50) per item, to pay the Department's costs for issuing ~~that~~ the license, tag, permit, reservation or other entitlement.

(f) Electronic License Display.

For any type of license, permit, reservation, registration, or other entitlement issued by the department where the license must be in the customer's immediate possession while engaging in the licensed activity, the department may accept licenses, permits, reservations, registrations, or other entitlements displayed through the official California Department of Fish and Wildlife mobile license application, if mobile display is available for the license type through the mobile license application.

NOTE: Authority cited: Sections 713, 1050 and 1054, Fish and Game Code. Reference: Sections 713, 1050 and 1054, Fish and Game Code.

Proposed Regulatory Language

Section 700.4, Title 14 CCR, is amended to read:

§700.4. Automated Licenses Data System

...[No changes to subsections (a) through (e)]

(a) Defined: For the purposes of this Division the “Automated License Data System” or “ALDS” is an automated system that replaced the Department’s paper license inventory system. ALDS allows license items to be printed instantly using point of sale terminals and is available at Department license agents and Department license sales offices located throughout the state. ALDS also allows applicants to apply for licensing via the Internet.

(b) Get Outdoors Identification ~~Number Number~~. The first time any applicant applies for any license, tag, permit, reservation or other entitlement via ALDS, the applicant shall receive a unique Get Outdoors Identification number (GO ID), or “GO ID.” The GO ID shall not be transferable to any other person.

(c) Identification Required; ~~Acceptable forms of~~. Any applicant applying for any license, tag, permit, reservation or other entitlement issued via ALDS shall provide valid identification. Acceptable forms of identification include:

(1) Any license document or GO ID number previously issued via ~~ALDS~~ ALDS;

(2) A valid driver’s license or identification card issued to him or her by the Department of Motor Vehicles or by the entity issuing driver’s licenses from the licensee’s state of ~~domicile~~ domicile;

(3) US Birth ~~Certificate~~ Certificate;

(4) US Certificate or Report of Birth ~~Abroad~~ Abroad;

(5) Tribal Identification Card, as defined by each sovereign tribal ~~nation~~ nation;

(6) Birth Certificate or passport issued from a US ~~Territory~~ Territory;

(7) US ~~Passport~~ Passport;

(8) US Military Identification Cards (Active or reserve duty, dependent, retired member, discharged from service, medical/religious ~~personnel~~) personnel);

(9) Certificate of Naturalization or ~~Citizenship~~. Citizenship;

(10) A foreign ~~government-issued~~ government-issued photo ~~identification~~ identification;

(d) Any applicant less than 18 years of age applying for any license, tag, permit, reservation or other entitlement issued via the ALDS shall provide valid identification. Acceptable forms of identification include:

(1) Any form of identification described ~~above~~ above;

(2) A parent or legal guardian’s identification as described ~~above~~. above;

(e) Nonrefundable Application Fee

All licenses, tags, permits, reservations or other entitlements purchased via ALDS shall be subject to a three percent nonrefundable application fee, not to exceed seven dollars and fifty cents (\$7.50) per item, to pay the Department's costs for issuing ~~that~~ the license, tag, permit, reservation or other entitlement.

(f) Electronic License Display.

For any type of license, permit, reservation, registration, or other entitlement issued by the department where the license must be in the customer's immediate possession while engaging in the licensed activity, the department may accept licenses, permits, reservations, registrations, or other entitlements displayed through the official California Department of Fish and Wildlife mobile license application, if mobile display is available for the license type through the mobile license application.

NOTE: Authority cited: Sections 713, 1050 and 1054, Fish and Game Code. Reference: Sections 713, 1050 and 1054, Fish and Game Code.

Section 700.4 of Title 14, California Code of Regulations related to the display of licenses

Tymeson, Chris [REDACTED]

Wed 11/09/2022 01:58 PM

To: FGC <FGC@fgc.ca.gov>

📎 1 attachments (204 KB)

CA Mobile Licenses.pdf;

Please find attached comments from SCI President Sven Lindquist on the proposed amendments to Section 700.4 of Title 14 regarding the display of licenses.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Chris Tymeson



Christopher J. Tymeson, J.D.
State and Local Liaison

safariclub.org | safariclubfoundation.org



Confidentiality Notice This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.



8 November 2022

California Fish and Game Commission
Samantha Murray, President
C/O FGC@fgc.ca.gov
715 P Street, 16th Floor
Sacramento, CA 95814

Re: Section 700.4 of Title 14, California Code of Regulations

Dear Commissioners and Executive Director Miller-Henson:

On behalf of Safari Club International, I would like to thank you for the opportunity to comment on the Department's proposed change to Section 700.4 of Title 14, California Code of Regulations.

The current version of the regulations requires every person engaged in taking fish, amphibians, reptiles, birds or mammals to have on their person or in their immediate possession a valid sport fishing or hunting license. Those licenses are available at point-of-sale locations or online, further requiring a printed temporary permit followed by a permanent license via regular mail. Many other states have moved toward electronic licenses available through mobile devices and SCI commends the Department on their proposed change that will greatly benefit hunters and anglers. In addition, there could be some long-term cost savings by reducing mailing costs, money that could otherwise go to furthering conservation or to offset the initial cost of implementation.

SCI believes that sound science-based conservation involving hunting as the primary management tool, while maximizing opportunities for all huntable species is necessary to the long-term health of wildlife. Hunters have long paid the way for conservation, both game and non-game wildlife, and maximizing opportunity for hunting is also key to long-term funding for all conservation. In short, hunting benefits wildlife conservation. In California, the latest numbers show that the state's hunters spent \$1.36 billion on hunting related purchases, support over 16,100 jobs, contribute \$1.2 billion to the state's GDP, and provide \$140 million in state and local taxes.

Thank you again for the opportunity to comment on the proposed changes to Section 700.4 of Title 14, of the California Code of Regulations. SCI is dedicated to protecting the freedom to hunt and we appreciate the continued partnership with the CDFW and the Commission.



Sincerely,

A handwritten signature in black ink that reads "Sven K. Lindquist". The signature is fluid and cursive, with the first name "Sven" and last name "Lindquist" clearly legible.

Sven Lindquist
President
Safari Club International

CALIFORNIA FISH AND GAME COMMISSION
RESOLUTION HONORING

William F. Berry

WHEREAS, the Waterfowler's Hall of Fame was established in 2006 to recognize those individuals who have made significant contributions to enhancing waterfowl and their habitats in California; and

WHEREAS, many wildlife professionals have dedicated their life's work to management and research to conserve waterfowl and their habitats; and

WHEREAS, many sportsmen and other conservationists have served a critical role in conserving our waterfowl resource by preserving, restoring, and enhancing natural habitats, managing agricultural habitats with wildlife in mind, and implementing other land uses specifically designed to benefit the waterfowl resource; and

WHEREAS, some sportsmen and other conservationists have significantly benefited the waterfowl resource by advocating legislation and other policies that provide needed resources for nesting and wintering waterfowl populations;

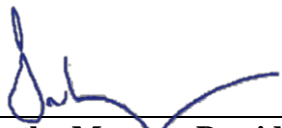
NOW THEREFORE, **BE IT RESOLVED**, that the California Fish and Game Commission hereby recognizes the addition of William F. Berry to the Waterfowler's Hall of Fame.

FURTHER, **BE IT RESOLVED**, that William F. Berry is recognized for his philanthropic support to numerous conservation groups. Bill is a member of California Waterfowl and a supporter of the Wood Duck and Youth Education Programs. Mr. Berry is also a member of Delta Waterfowl and Ducks Unlimited.

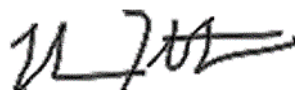
FURTHER, **BE IT RESOLVED**, William F. Berry is recognized for his support of lobbying efforts for California Waterfowl and supporting conservation education and training for youth and California politicians over the years.

FINALLY, **BE IT RESOLVED**, that William F. Berry, along with his son Derek, started the C. J. Berry Foundation emphasizing education and support of waterfowl conservation. William F. Berry is further recognized for his overall commitment to philanthropic support of wildlife and the protection of our natural resources.

DECEMBER 15, 2022



Samantha Murray, President



Erika Zavaleta, Vice President



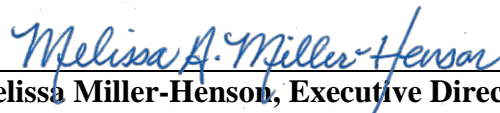
Jacque Hostler-Carmesin, Member



Eric Sklar, Member



Anthony Williams, Member



Melissa Miller-Henson, Executive Director

CALIFORNIA FISH AND GAME COMMISSION
RESOLUTION HONORING

Glenn Olson

WHEREAS, the Waterfowler's Hall of Fame was established in 2006 to recognize those individuals who have made significant contributions to enhancing waterfowl and their habitats in California; and

WHEREAS, many wildlife professionals have dedicated their life's work to management and research to conserve waterfowl and their habitats; and

WHEREAS, many sportsmen and other conservationists have served a critical role in conserving our waterfowl resource by preserving, restoring, and enhancing natural habitats, managing agricultural habitats with wildlife in mind, and implementing other land uses specifically designed to benefit the waterfowl resource; and

WHEREAS, some sportsmen and other conservationists have significantly benefited the waterfowl resource by advocating legislation and other policies that provide needed resources for nesting and wintering waterfowl populations;

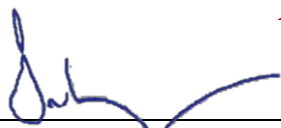
NOW THEREFORE, BE IT RESOLVED, that the California Fish and Game Commission hereby recognizes the addition of Glenn Olson to the Waterfowler's Hall of Fame.

FURTHER, BE IT RESOLVED, that the Fish and Game Commission recognizes Glenn Olson for his career that has spanned 40 years with the National Audubon Society. Since July 2009, Glenn has served in the role of Donal C. O'Brien Chair in Bird Conservation and Public Policy. In 2010, Glenn was appointed to the North American Wetland Conservation Act Council (NAWCA) and reappointed in 2016. He also serves on the Neotropical Migratory Bird Conservation Act Advisory Council and was on the Blue Ribbon Panel for Sustaining America's Wildlife, sponsored by the Association of Fish and Wildlife Agencies.

FURTHER, BE IT RESOLVED, that the Fish and Game Commission recognizes Glenn's leadership when he was Audubon's Senior Vice President and Director of Field Programs for being responsible for launching a network of 27 state programs across the country. He chaired and helped found the Central Valley Waterfowl (now All-Bird) Joint Venture and Chaired the CA Dept of Fish and Game's Raptor Management and Conservation Advisory Council.

FINALLY, BE IT RESOLVED, that the Fish and Game Commission recognizes Glenn, who has received Audubon's Charles H. Callison Award and the Golden Egret Award in recognition of his conservation efforts.

DECEMBER 15, 2022



Samantha Murray, President



Erika Zavaleta, Vice President



Jacque Hostler-Carmesin, Member



Eric Sklar, Member



Anthony Williams, Member



Melissa Miller-Henson, Executive Director

CALIFORNIA FISH AND GAME COMMISSION
RESOLUTION HONORING

Jim Seding, PhD

WHEREAS, the Waterfowler's Hall of Fame was established in 2006 to recognize those individuals who have made significant contributions to enhancing waterfowl and their habitats in California; and

WHEREAS, many wildlife professionals have dedicated their life's work to management and research to conserve waterfowl and their habitats; and

WHEREAS, many sportsmen and other conservationists have served a critical role in conserving our waterfowl resource by preserving, restoring, and enhancing natural habitats, managing agricultural habitats with wildlife in mind, and implementing other land uses specifically designed to benefit the waterfowl resource; and

WHEREAS, some sportsmen and other conservationists have significantly benefited the waterfowl resource by advocating legislation and other policies that provide needed resources for nesting and wintering waterfowl populations;

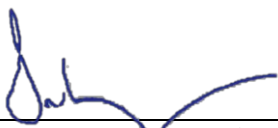
NOW THEREFORE, BE IT RESOLVED, that the California Fish and Game Commission hereby recognizes the addition of Jim Seding to the Waterfowler's Hall of Fame.

FURTHER, BE IT RESOLVED, that the Fish and Game Commission recognizes Jim Seding for earning his Ph.D. from the University of California, Davis. A student of Dennis Raveling, Dr. Seding has guided 30 graduate students and he is approaching 200 scientific publications.

FURTHER, BE IT RESOLVED, that the Fish and Game Commission recognizes Jim for working for the U.S. Fish and Wildlife Service. In 1984 he initiated the Tutakoke River project which begins its 40th year in 2023. This work has provided publications central to understanding the dynamics of the Black Brant population and was central to updating Bryant harvest information in the mid-1990s.

FINALLY, BE IT RESOLVED, that the Fish and Game Commission recognizes Jim Seding for his service on CWA's Tradition and Regulations Committee and for being actively involved in discussion and assessment of Adaptive Harvest Management in meetings organized by CWA at the Pacific Flyway level.

DECEMBER 15, 2022



Samantha Murray, President



Erika Zavaleta, Vice President



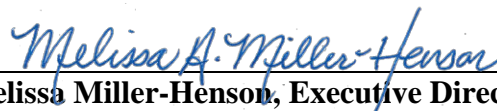
Jacque Hostler-Carmesin, Member



Eric Sklar, Member



Anthony Williams, Member



Melissa Miller-Henson, Executive Director

CALIFORNIA FISH AND GAME COMMISSION
RESOLUTION HONORING

Bob Shaffer

WHEREAS, the Waterfowler's Hall of Fame was established in 2006 to recognize those individuals who have made significant contributions to enhancing waterfowl and their habitats in California; and

WHEREAS, many wildlife professionals have dedicated their life's work to management and research to conserve waterfowl and their habitats; and

WHEREAS, many sportsmen and other conservationists have served a critical role in conserving our waterfowl resource by preserving, restoring, and enhancing natural habitats, managing agricultural habitats with wildlife in mind, and implementing other land uses specifically designed to benefit the waterfowl resource; and

WHEREAS, some sportsmen and other conservationists have significantly benefited the waterfowl resource by advocating legislation and other policies that provide needed resources for nesting and wintering waterfowl populations;

NOW THEREFORE, BE IT RESOLVED, that the California Fish and Game Commission hereby recognizes the addition of Bob Shaffer to the Waterfowler's Hall of Fame.

FURTHER, BE IT RESOLVED, that the Fish and Game Commission recognizes Bob Shaffer's commitment of over 40 years in federal service with a focus on wetland restoration and protection. His leadership in developing partnerships across the Central Valley Joint Venture forged many large wetland complexes across the valley.

FURTHER, BE IT RESOLVED, that the Fish and Game Commission recognizes Bob's twenty-six year effort with the Bureau of Reclamation highlighting his establishment of the Wetland Development Program. His efforts helped to qualify the importance of winter flooded rice and seasonal wetlands.

FINALLY, BE IT RESOLVED, that the Fish and Game Commission recognizes Bob's Fifteen-year focus as coordinator of the Central Valley Joint Venture in unifying partners to maximize the impact of individual partners strengths.

DECEMBER 15, 2022

Samantha Murray, President

Erika Zavaleta, Vice President

Jacque Hostler-Carmesin, Member

Eric Sklar, Member

Anthony Williams, Member

Melissa Miller-Henson, Executive Director

CALIFORNIA FISH AND GAME COMMISSION
RESOLUTION HONORING

Jimmy Smith

WHEREAS, the Waterfowler's Hall of Fame was established in 2006 to recognize those individuals who have made significant contributions to enhancing waterfowl and their habitats in California; and

WHEREAS, many wildlife professionals have dedicated their life's work to management and research to conserve waterfowl and their habitats; and

WHEREAS, many sportsmen and other conservationists have served a critical role in conserving our waterfowl resource by preserving, restoring, and enhancing natural habitats, managing agricultural habitats with wildlife in mind, and implementing other land uses specifically designed to benefit the waterfowl resource; and

WHEREAS, some sportsmen and other conservationists have significantly benefited the waterfowl resource by advocating legislation and other policies that provide needed resources for nesting and wintering waterfowl populations;

NOW THEREFORE, BE IT RESOLVED, that the California Fish and Game Commission hereby recognizes the addition of Jimmy Smith to the Waterfowler's Hall of Fame.

FURTHER, BE IT RESOLVED, that the Fish and Game Commission recognizes Jimmy Smith for his leadership of the diverse county, state and federal team that achieved the clean-up, public acquisition, re-opening, enhanced protection and ongoing effective management of the South Spit Humboldt Bay, which is now known as the Mike Thompson Wildlife Area. The work not only maintained the South Spit as an important habitat for brant, but Jimmy was a leading force in maintaining the hunting opportunity that the Spit provided.

FURTHER, BE IT RESOLVED, that the Fish and Game Commission recognizes Jimmy for assisting the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife in studies of migratory and resident waterfowl. He also facilitated the acquisition of the Salt River Unit of the Eel River Wildlife Area and other Humboldt Country areas, which provide opportunities for wetland, estuary, and upland restoration.

FINALLY, BE IT RESOLVED, that the Fish and Game Commission recognizes Jimmy Smith for his service on the Humboldt Bay Harbor Commission and the Humboldt County Board of Supervisors where he was Chair of the Board in 2003 and 2009. In November 2014, the Board of Supervisors named the Fields Landing Boat Launching Facility in Smith's honor.

DECEMBER 15, 2022


Samantha Murray, President


Erika Zavaleta, Vice President


Jacque Hostler-Carmesin, Member


Eric Sklar, Member


Anthony Williams, Member


Melissa Miller-Henson, Executive Director

CALIFORNIA FISH AND GAME COMMISSION

RECEIPT LIST FOR PETITIONS FOR REGULATION CHANGE: RECEIVED BY 5:00 PM ON DECEMBER 1, 2022

FGC - California Fish and Game Commission DFW - California Department of Fish and Wildlife WRC - Wildlife Resources Committee MRC - Marine Resources Committee

Tracking No.	Date Received	Name of Petitioner	Subject of Request	Short Description	FGC Receipt Scheduled	FGC Action Scheduled
2022-18	11/10/2022	John Burk	Game hunting: Deer season	Request to delay season start dates for Zones D-8, D-9 & D-10 to first Saturday in October.	12/14-15/2022	2/8-9/2023



Tracking Number: (_2022-18_)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: JOHN BURK

Address: [REDACTED]

Telephone number: [REDACTED]

Email address: [REDACTED]

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Fish & Game Code 203 (a)

3. Overview (Required) - Summarize the proposed changes to regulations: I am proposing adjusting the deer hunting season in zones D-8,9, & 10 by making the following change to:

[Section 360, Title 14, CCR](#) (Deer)

A, B, C, and D Zone Hunts.

Under D Zone sections (7), (8), & (9), and under the (B) season section of each: PROPOSE:

(B) Season: The season in Zone D-8, D-9 & D-10 shall open on the **first Saturday in October** and extend for 30 consecutive days.

4. Rationale (Required) - I have hunting in Southern California (Kern County) for 50 years and it has become obvious to all in this region the climate has been changing and fall temperatures are staying warmer longer into the year, making October of 2022 much like September of 2002. Temperatures, as I am sure you are aware, drastically affect deer migration and interaction behavior. We, in Kern County and specifically zones D-8, 9, & 10, are not seeing legal huntable bucks until late October/early November, after the legal hunting season ends, this year on October 23. In 2021 the deer tags issued total 8305 for the three (3) zones, the total reported bucks harvested in those same zones was 518 or



a 6% buck success rate. That success rate is very low even if some bucks were not reported. The change I propose would align the actual weather season with the hunting season of years past in this warm and more southern zone of California and help raise the success rate for paying hunters.

SECTION II: Optional Information

5. **Date of Petition:** 11-09-2022

6. **Category of Proposed Change**

- ☐ Sport Fishing
☐ Commercial Fishing
☒ Hunting
☐ Other, please specify: [Click here to enter text.](#)

7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*

- ☐ Amend Title 14 Section(s) [Section 360, Title 14, CCR](#)
☐ Add New Title 14 Section(s): [Click here to enter text.](#)
☐ Repeal Title 14 Section(s): [Click here to enter text.](#)

8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** [Click here to enter text.](#)

Or ☒ Not applicable.

9. **Effective date:** If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: 06/15/2023

10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: 2021 DEER HARVEST REPORTS ZONE D

11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: NONE

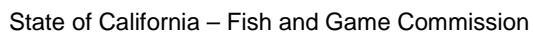
12. **Forms:** If applicable, list any forms to be created, amended or repealed:

[Click here to enter text.](#)

SECTION 3: FGC Staff Only

Date received: 11/10/2022

FGC staff action:



FGC 1 (Rev 06/19) Page 3 of 3

- Tracking Number

Meeting date for FGC consideration: Feb 8-9, 2023

Tracking Number

- ☐
- Granted for consideration of regulation change

CALIFORNIA FISH AND GAME COMMISSION PETITIONS FOR REGULATION CHANGE - ACTION ON DECEMBER 14-15, 2022

FGC - California Fish and Game Commission DFW - California Department of Fish and Wildlife WRC - Wildlife Resources Committee MRC - Marine Resources Committee

Grant: FGC is willing to consider the petitioned action through a process Deny: FGC is not willing to consider the petitioned action Refer: FGC needs more information before the final decision

Tracking No.	Date Received	Name of Petitioner	Subject of Request	Short Description	FGC Receipt	FGC Initial Action Date	Initial Staff Recommendation	Referral Date	Referred to	Final Staff Recommendation
2021-007	5/10/2021	Colin Gallagher	Wild pig	Request to revise authorized methods of take and designation for wild pig	6/15-16/2021	8/18/2021	REFER to DFW for review and recommendation the portions of the petition that are within FGC's authority. (a) REFER for inclusion in DFW's	8/18/2021	DFW	Defer action on the petition until the February 2022 Commission meeting.
2022-16	9/19/2022	Randal South	Waterfowl hunting: Prohibit hunting at Lake Earl Wildlife Area	Request to (1) ban waterfowl hunting at Lake Earl Wildlife Area as petitioner asserts both that hunting occurs within 150 yards of human habitation and hunters on the area are leaving waterfowl that have been killed; and (2) direct DFW to replace the county-operated breaching practice at Lake Earl with a solar powered aqueduct.	10/12-13/22	12/14-15/22	DENY: (1) California Fish and Game Code Section 3004 prohibits hunting or discharging a firearm or other deadly weapon while hunting within 150 yards of an occupied dwelling, and Fish and Game Code Section 4304 prohibits leaving through carelessness or neglect any game bird which is in the hunter's possession. The prohibitions already address the described conduct and DFW has been made aware of the concerns raised in the petition. (2) Neither FGC nor its staff have oversight over the administration of DFW; DFW is aware of the request.			



Tracking Number: (_2021-007_)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: Colin Gallagher

Address: [REDACTED]

Telephone number: [REDACTED]

Email address: [REDACTED]

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested:

~~The Fish and Game Commission's regulatory process is governed by the California Administrative Procedure Act (APA). APA is a series of acts of the California Legislature, first enacted June 15, 1945. Chapter 3.5 of the APA requires California State agencies to adopt regulations in accordance with its provisions.~~

~~The Commission is the proper entity to review and act upon proposed changes to Fish and Game regulations. The interpretations and changes requested in this case have first been sent to staff for review and were also sent as a timely public comment on the May 11, 2021 Wildlife Resources Committee agenda item 4(a) – Discuss Potential Regulatory Options for 2021-2022 Seasons for Mammal Hunting. My comments are now sent to the Commission as a request (petition) for interpretation and change to regulations, after first having asked the Wildlife Resources Committee to recommend my proposals to the full Commission.~~

Authority cited: Sections 200, 203 and 265, Fish and Game Code, and in context of the proposal, note in particular Sections 200(a), 203(d), and 265 of Fish and Game Code. (Reference: Sections 2005, 2055, 3004.5 and 3950, Fish and Game Code.)

Authority for Commission to enact changes to California Code of Regulations Title 14, Section 353 (for 14 CCR § 353 subsection (c), 14 CA ADC § 353 subsection (c))

3. Overview (Required) - Summarize the proposed changes to regulations:



There should be rendered by the Commission an interpretation of Mammal Hunting Regulations §353. Methods Authorized for Taking Big Game subsection (c) so that it will be considered to be legal to utilize a BB device for hunting wild pig in California, so long as the BB device is at least .40 caliber in designation, or larger.

My second request is that the Commission alter the .40 caliber minimum designation formally to .30 minimum (whether for rifle centerfire, muzzleloader, or BB device) in 353(c).

Alternatively, the Commission could make a change that would require .357 caliber minimum for BB devices to hunt wild boar (this would not alter any California lead free regulations), and clarify that hunting boar with centerfire cartridges with softnose or expanding projectiles of .30 caliber or greater in designation is permitted (lead free would still be required as the law currently requires if we are using centerfire rounds).

My third request is distinct than my first and second and should be evaluated separately. This request is for an actual change, not an interpretation. This request, for a change in Mammal Hunting Regulations, is simply to remove wild pig (feral pigs, European wild pigs, and their hybrids (genus *Sus*)) from Big Game as defined in the Mammal Hunting Regulations at §350. I request that the Commission agendaize this change for discussion then finalize the change.

See also previous legislation on the matter from 2017 - 2018 (AB 2805):

https://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml?bill_id=201720180AB2805

4. Rationale (Required) -

item 1 rationale.

Currently it is not legal to hunt boar with a BB device in California. However, it is legal to own BB devices in California, and is legal to hunt with them for some animals in California such as turkey. It is legal in many other States to hunt boar with what are called "big bore airguns," which would be as proposed by this comment, BB devices as defined in law by California, with the caveat that the interpretation would require that the caliber equivalent for BB devices to be used on wild boar be .40 caliber in designation or larger.

This would not circumvent any hunter safety requirement, hunter license, or tag requirement in California, as all these laws still exist and would need to be followed regardless.

item 2 rationale.

to allow formally for flexibility of ammunition in the highly constrained market of lead-free products, ranging from .308 down to 7.62x39. This is due to the current language of 353(c) of Fish and Game Code which reads, "(c) Except for the provisions of the following subsections (d) through (j), big game may only be taken by rifles using centerfire cartridges with softnose or expanding projectiles; bow and arrow (see Section 354 of these regulations for archery equipment regulations); or wheellock, matchlock, flintlock or percussion type, including "in-line" muzzleloading rifles using black powder or equivalent black powder substitute, including pellets, with a single projectile loaded from the muzzle and at least .40 caliber in designation" - Currently the language of this provision appears flexible on centerfire cartridges but should be rewritten to expand the flexibility to allow for "centerfire, muzzleloader, and BB device" including any wheellock, matchlock, flintlock, or percussion type or "in-line" muzzleloaders as the case may be, to allow for use of those instruments to hunt big game with .30 caliber minimum designation. In the market, as some examples, the Airforce Texan BB device (big bore airgun) is available in .30, .357, and .45; the Benjamin Bulldog BB device is available in



.357, and the Umarex Hammer, a BB device (big bore airgun) can deliver three .50 caliber rounds one after the other. In the case of BB devices, California law does not require lead-free ammunition (though a few BB device users have explored it), in the case of firearms, it remains required when hunting.

The 7.62x39 round, one of which is perfectly suitable to take down a boar with (example: 7.62X39 RUSSIAN 123GR DT LEAD FREE SC-HP, 2400fps - 1574 ft./lbs), is roughly equivalent to a 30-30 and is essentially a .30 caliber round (7.85–7.9 mm (0.309–0.311") SAAMI 7.92 mm (0.312") CIP). The .308 Winchester, often used on big game, is (0.308" (7.8 mm)). The 7.62x54mmR, used by many in North America today who are owners of Mosin-Nagant bolt-action rifles, is the largest of the three ammunition types mentioned here, and the 7.62x39mm is the smallest cartridge in terms of case length, overall length, rim diameter, and case capacity. However, the 7.62x39 and 7.62x54mmR both have the same bullet diameter. 7.62x39mm factory loads typically use bullet weights in the 120-125 grain range, with 122 and 123 grain bullets being the most common. 7.62x54R factory loads most often use 147-203 grain bullets and 148, 150, and 180 grain bullets are the most popular. Finally, typical .308 Winchester factory loads use bullets in the 110-180 grain range. 150 grain, 165 grain, 168 grain, and 180 grain bullets are the most common. However, all of this ammunition in centerfire is very hard to find (normally out of stock for months) if you are looking for lead-free.

item 3 rationale.

The numbers of wild pigs are exceedingly high, there is damage from the growth of non-native species, and removing them from big game rules at §350 would help encourage more hunters to get back into the field.

SECTION II: Optional Information

5. Date of Petition: May 10, 2021

6. Category of Proposed Change

☐ Sport Fishing

☐ Commercial Fishing

• **Hunting**

☐ Other, please specify:

7. The proposal is to: (*To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>*)

• **Amend Title 14 Section(s): Division 1, Subdivision 2, Sections 350, 353, and 353(c).**

☐ Add New Title 14 Section(s):

☐ Repeal Title 14 Section(s):

8. If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition

Or ***Not applicable.***



9. **Effective date:** If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: I'd say it's kind of urgent. Desired effective date would be by end of July 2021.
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: N/A
11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: *Would increase your revenue based on increased anticipated hunter activity despite reduced tag revenue if implemented as proposed. Would result in greater number of license renewals, ammo purchases, and hunters accessing, using, and thus paying for the maintenance and conservation of public lands.*
12. **Forms:** If applicable, list any forms to be created, amended or repealed:
No new forms. If third proposal were to be adopted (see "third request" / "item 3 rationale"), would effectively repeal requirement to apply online for wild pig tag.

SECTION 3: FGC Staff Only

Date received: 5/21/2021

FGC staff action:

☒ Accept - complete

☐ Reject - incomplete

☐ Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: 5/26/21

Meeting date for FGC consideration: _____

FGC action:

☐ Denied by FGC

☐ Denied - same as petition _____

Tracking Number

☐ Granted for consideration of regulation change



Tracking Number: (2022-16)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: Randal South

Address:

Telephone number:

Email address:

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested:

- 1) Fish & Game Code (FGC), Chapter 2, Section 203
- 2) Fish & Game Code (FGC), Chapter 2, Section 219

3. Overview (Required) - Summarize the proposed changes to regulations:

- 1) Ban bird hunting at the Lake Earl Wildlife area. (Accepted) (Outside scope of FGC authority)
- 2) Replace county operated Lake Earl breaching practice with a solar powered aqueduct.

4. Rationale (Required) - Describe the problem and the reason for the proposed change:

Too close to human habitation, and consistent violation of the rule that requires hunters not to discharge their firearms within 150 yards of human habitation (FGC, Article 1, Section 3004).

(see attached brief supplement)

SECTION II: Optional Information

5. Date of Petition: 09-17-22

6. Category of Proposed Change

☐ Sport Fishing

☐ Commercial Fishing

☒ Hunting

☒ Other, please specify: Habitat Maintenance



7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*
☒ Amend Title 14 Section(s): Chapter 10, Section 625
☐ Add New Title 14 Section(s): [Click here to enter text.](#)
☐ Repeal Title 14 Section(s): [Click here to enter text.](#)
8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** [Click here to enter text.](#)
Or ☒ Not applicable.
9. **Effective date:** If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: 11-01-22, but no later than 11-01-23 if FGC and CDFW are unable to complete proposed amendments in the 2022 calendar year.
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Statement from petitioner, and following url --
<https://www.thepetitionsite.com/613/953/649/stop-bird-hunting-on-the-lake-earl-wildlife-refuge/>
11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: Ban on bird hunting will likely have a positive impact in terms of public revenue generated by Del Norte county (continued on attached)
12. **Forms:** If applicable, list any forms to be created, amended or repealed:
[Click here to enter text.](#)

SECTION 3: FGC Staff Only

Date received: 9/19/22

FGC staff action:

- ☒ Accept - complete
☐ Reject - incomplete
☐ Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: 10/5/22

Meeting date for FGC consideration: _____

FGC action:

- ☐ Denied by FGC
☐ Denied - same as petition _____
Tracking Number
☐ Granted for consideration of regulation change

Petition to The California Fish & Game Commission
(*Supplement* to FGC 1, Dated 09-16-22 [Revolving 06/19])

4. Rational (*continued*):

TO CLOSE TO HUMAN HABITATION

The petitioner supervises a youth hostel that shares a border with the Lake Earl Wildlife area, and guests commonly complain about the sound of gun shots during the hunting season. The petitioner's property is less than 200 feet from Lake Earl during the summer time, and part of the petitioner's property is submerged by Lake Earl during the flood season. Guests can not walk to the end of our property without concern about getting shot by duck hunters. As a result, it potentially jeopardizes revenue that Del Norte County receives from the operation since the hostel pays 10% transient occupancy tax on a quarterly basis to Del Norte County.

Similarly the home across the street from the Petitioner's property is occupied by a family that purchased the property from the Lamoore estate, and some of the Lamoore's have previously signed petitions objecting to hunting on CDFW property because it was too close to their property.

HUNTERS DO NOT TAKE HOME WHAT THEY KILL

The graphic images presented in the following URL demonstrate hunters don't take home their birds <https://www.thepetitionsite.com/613/953/649/stop-bird-hunting-on-the-lake-earl-wildlife-refuge/> These images were taken by the petitioner who started a petition on petitionsite.org after the local newspaper (Triplicate) refused to publish the story and images, but instead of leaving the dead birds for the local animal population to consume, CDFW and the county came by to pick them up quickly so that no one would know about it after receiving a complaint.

Other reasons justifying the end of bird hunting include poaching, hunter misconduct, and all of the reasons mentioned in the onsite petition that has as of today has more than 246,047 signatures -- 92,804 of those signatures are in California. The petition on the petitionsite.org provides an authoritative, and historical perspective that suggest that the construction of the road to the mouth of Lake Earl in 1971 changed the character of hunting, and the type of people that hunt in this area.

A detailed analysis of the problem as well as other problems from current bird hunting practices are described in detail on petitionsite.org

10. Supporting Documentation:

The issue of damage from breaching, and lack of breaching of the sand bar has been thoroughly aired as evidenced by the multitude of the following news articles on the matter, and the lawsuit filed against CDFW by property owners in the Ocean Shores area, etc :

<https://www.sfgate.com/bayarea/article/Beach-breach-battle-3052593.php>
<https://derrickjensen.org/culture-of-make-believe/lake-earl/>
<https://www.casemine.com/judgement/us/5914b319add7b0493476413f>
<https://ceqanet.opr.ca.gov/1989013110/8>

https://www.academia.edu/64658644/Barrier_Beach_Breaching_from_the_Lagoon_Side_With_Reference_to_Northern_California

The issue before FGC is not whether or not the water level should be breached during flood season, but best practices on how to do it. Historically the Army Core of Engineers “has not” reviewed aqueduct technology in this area. As a result, aqueduct technology should be incorporated into the Master Plan so as to minimize ecologic damage, damage to the water table, and enhance the usability of the lagoon by fish and birds.

11. Economic & Fiscal Impact:

Del Norte County’s Revenue will likely be enhanced by the ban on duck hunting since guests at the hostel pay a 10% transient occupancy tax to Del Norte County. The loss of revenue to the state from duck hunting license is not germane to the equation because CDFW has consistently refused to engage in discussions about other streams of revenue to them besides the meager amount of money they collect from duck hunting licenses at Lake Earl.

During previous discussions with CDFW, it was proposed that they consider offering organized bird tours for a fee which are already conducted on an informal basis by Ornithologist in the area. Additionally CDFW failed to rebuild their 100 year old farm house they purchased at the intersection of Lake Earl Drive, and Lakeview Drive after it burned down from a fire even though this was an insurable risk. The loss of this building reduced housing stocks in the area since it was capable of housing at least 12 people. Those 12 people inevitably would have provided a consistent source of revenue to CDFW. As a result, the issue of a loss of revenue from hunting licenses is not really germane since CDFW has chosen not to accept funding from other revenue streams.

Del Norte County’s economic impact from aqueduct construction is negligible. The county will save money on the cost of a bulldozer opening up the sand bar, save money on the cost of permits with various regulators, but will incur annual, or biannual costs in cleaning filters on the intake of the aqueduct which are needed in order to insure the aqueduct doesn’t suck up animal life when it dumps water into the ocean.

HABITAT PRESERVATION

CDFW should replace the process of breaching Lake Earl with a solar powered, pump driven, electric aqueduct, or similar apparatus as reviewed by the Army Core of Engineers.

The current breaching process of Lake Earl has significantly increased the salt level which is evident by the dying plant life that surrounds the lake including the death of large coniferous trees on its perimeter. Other concerns are potential contamination to the underground aquifer which many residents are dependent on since most of the county is on well water.

The result of piping the water over the sand bar is that the lake will desalinate over time as water is pumped from the lake without opening up the sand bar.

From: Colin Gallagher <[REDACTED]>

Sent: Friday, October 14, 2022 12:07 AM

To: FGC <FGC@fgc.ca.gov>

Subject: To all Fish and Game Commission Members Regarding Regulatory Petition 2021-007 (Petition to use Big Bore BB Devices as method of take for Wild Pig): Errors Entered Into The Record by Chad Dibble on October 13, 2022 in his Update on 2021-007, For Which ...

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

To all Fish and Game Commissioners - please see below inline.

----- Forwarded message -----

From: Colin Gallagher <[REDACTED]>

Date: Thu, Oct 13, 2022, 11:59 PM

Subject: Message for all Fish and Game Commission Members and Potentially Interested Persons Regarding Regulatory Petition 2021-007 (Petition to use Big Bore BB Devices as method of take for Wild Pig): Errors Entered Into The Record by Chad Dibble on October 13, 2022 in his Update on 2021-007, For Which This Email Provides Corrections

To: Cornman, Ari@FGC <[REDACTED]>

Cc: Bess, David@Wildlife <[REDACTED]>, Kelley, Garry@Wildlife

<[REDACTED]>, Gardner, Scott@Wildlife <[REDACTED]>,

<district3@co.monterey.ca.us>, California Chapter <california@backcountryhunters.org>,

[REDACTED] <[REDACTED]>, <[REDACTED]>, <director@wildlife.ca.gov>, McKeith,

Cynthia@FGC <[REDACTED]>, Miller-Henson, Melissa@FGC <[REDACTED]>

[REDACTED] >

From: Colin Gallagher

October 13, 2022

Regarding Regulatory Petition 2021-007: Errors Entered Into The Record by Chad Dibble on October 13, 2022 in his Update on 2021-007, For Which This Email Provides Corrections

My name is Colin Gallagher, and I am the author of Regulatory Petition 2021-007, which is anticipated to be set for a final decision date by the Commission in December 2022.

I am writing this email to correct the record due to the errors and clear mischaracterizations verbally entered into the record about my Regulatory Petition (2021-007) by Chad Dibble, Deputy Director of the Department in his update on my petition given to the Commission on October 13, 2022.

On the Fish and Game Commission's Item 19 of October 19, Chad Dibble, Deputy Director of the Department, stated that my Regulatory Petition was comprised of three requests.

He omitted that I asked the Commission not to approve every element of the request, but to consider approving it as an "either / or" form.

Chad Dibble stated as part of his presentation that (regarding his summary of the Department's view), "we do not believe that taking big game with a BB device is allowed." This statement was made in a dismissive way as though it should be a reason to dismiss the Regulatory Petition, **but in fact I know (as does nearly everyone in the State) that taking big game with BB devices is not allowed under current Fish and Game Code. That is why the Regulatory Petition was submitted to the Commission, because it is within the Commission's authority to approve BB devices as a method of take for wild pig.**

Authority cited in petition originally submitted to Commission: Sections 200, 203 and 265, Fish and Game Code, and in context of the proposal, note in particular Sections 200(a), 203(d), and 265 of Fish and Game Code. (Reference: Sections 2005, 2055, 3004.5 and 3950, Fish and Game Code.) Authority for Commission to enact changes to California Code of Regulations Title 14, Section 353 (for 14 CCR § 353 subsection (c), 14 CA ADC § 353 subsection (c))

Fish and Game Code Section 200:

(a) **There is hereby delegated to the commission the power to regulate the taking or possession of birds, mammals, fish, amphibians, and reptiles.**

(b) No power is delegated to the commission by this section to regulate either of the following:

(1) The taking, possessing, processing, or use of fish, amphibians, kelp, or other aquatic plants for commercial purposes.

(2) The taking or possession of a spike buck or spotted fawn. "Spotted fawn" means a deer one year of age or less that has spotted pelage. "Spike buck" means a male deer with unbranched antlers on both sides that are more than three inches in length.

(c) This section and any regulations adopted pursuant to this section have no effect on any provision of this code or any regulation adopted pursuant to this code that relates to a matter described in paragraph (1) of subdivision (b).

Fish and Game Code Section 203:

Any regulation of the commission pursuant to this article relating to resident game birds, game mammals and fur-bearing mammals may apply to all or any areas, districts, or portions thereof, **at the discretion of the commission**, and may do any or all of the following as to any or all species or subspecies:

(a) Establish, extend, shorten, or abolish open seasons and closed seasons.

(b) Establish, change, or abolish bag limits and possession limits.

(c) Establish and change areas or territorial limits for their taking.

(d) Prescribe the manner and the means of taking.

(e) Establish, change, or abolish restrictions based upon sex, maturity, or other physical distinctions.

Clearly, Chad Dibble is incorrect in stating simply that "taking big game with a BB device is not allowed." Certainly, it is not currently allowed under Fish and Game Code, but my Regulatory Petition submitted over two years ago properly asked the Commission to change the method of take since it is the Commission that decides whether BB devices can be allowed as a method of take for wild pig (as I requested), not the Department.

Chad Dibble also mischaracterized an element of item 3 (element 3 of my proposal in my petition). While laughing and dismissively chuckling about my petition, he claimed on October 13, 2022 before the Commissioners that the third part of my Regulatory Petition was solely about removing wild pig from big game classification. As he chuckled over this apparently ridiculous idea, he claimed that clearly the third part of my petition was not necessary since SB 856 will become operative, in his words, "rendering this request unnecessary."

But this clearly was a deeply inaccurate and profound mischaracterization of my Regulatory Petition.

Here is what I asked for (as quoted from my petition, which Chad Dibble either failed to read or intentionally misquoted to the Commission:

"There should be rendered by the Commission an interpretation of Mammal Hunting Regulations §353. Methods Authorized for Taking Big Game subsection (c) so that it will be considered to be legal to utilize a BB device for hunting wild pig in California, so long as the BB device is at least .40 caliber in designation, or larger."

"My second request is that the Commission alter the .40 caliber minimum designation formally to .30 minimum (whether for rifle centerfire, muzzleloader, or BB device) in 353(c)."

"Alternatively, the Commission could make a change that would require .357 caliber minimum for BB devices to hunt wild boar (this would not alter any California lead free regulations), and clarify that hunting boar with centerfire cartridges with softnose or expanding projectiles of .30 caliber or greater in designation is permitted (lead free would still be required as the law currently requires if we are using centerfire rounds)."

"My third request is distinct than my first and second and should be evaluated separately. This request is for an actual change, not an interpretation. This request, for a change in Mammal Hunting Regulations, is simply to remove wild pig (feral pigs, European wild pigs, and their hybrids (genus Sus)) from Big Game as defined in the Mammal Hunting Regulations at §350. I request that the Commission agendaize this change for discussion then finalize the change."

See also previous legislation on the matter from 2017 - 2018 (AB 2805):

https://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml?bill_id=201720180AB2805 "

Chad Dibble completely skipped the alternative to my second request (which I have long communicated to staff as being my preferred alternative, and which always was part of my Regulatory Petition as originally submitted to the Commission).

The alternative to my second request stated, "**Alternatively, the Commission could make a change that would require .357 caliber minimum**

for BB devices to hunt wild boar (this would not alter any California lead free regulations), and clarify that hunting boar with centerfire cartridges with softnose or expanding projectiles of .30 caliber or greater in designation is permitted (lead free would still be required as the law currently requires if we are using centerfire rounds)."

Obviously, if the Commission were to approve this alternative, it would be changing the method of take which is currently listed in Fish and Game Code and would thus be authorizing .357 minimum caliber BB devices as a method of take for wild pig.

There is NOTHING prohibiting the Commission from granting my request for this alternative. Any statement that Chad Dibble makes which suggests the Commission cannot (or should not) do so is completely wrong.

This above alternative (as submitted in my petition provided to the Commission formally in May 2021, though I have engaged the Commission on this issue since May 2017 prior to that) has been repeatedly communicated by me to Commission staff as the preferred alternative. **Furthermore, this alternative in my proposed Regulatory Petition is consistent with SB 856 which has become law.** SB 856 states in pertinent part, in new law section 3004.5(b),

“(b) Except as provided in subdivision (j), and as soon as is practicable as implemented by the commission pursuant to subdivision (i), but by no

later than July 1, 2019,
nonlead ammunition, as
determined by the
commission, shall be
required when taking all
wildlife, including game
mammals, exotic game
mammals, game birds,
nongame birds, and
nongame mammals, with
any **firearm**."

What does this mean? It is simple. Since a BB device is **not a firearm** under California law, and since nonlead restrictions do not apply to BB devices, the BB devices (**if the Commission approves my proposed alternative in the Regulatory Petition as a method of take for wild pig**) are not subject to lead free restrictions. Centerfire rifles, on the other hand, are firearms and are subject to lead free restrictions.

It is not enough for SB 856 to have become law, contrary to Chris Dibble's assertions. In order for my petition to become a reality - which I assert is necessary since hunters do need additional methods of take for wild pig - the Commission must act to approve my petition.

Furthermore, the 6mm size cap on what constituted a BB device was removed by prior legislation signed into law by then Governor Brown (as a result, big bore airguns were deemed to be legally equivalent to BB devices under California law -- see **Senate Bill No. 199, CHAPTER 915**, An act to amend,

repeal, and add Sections 16250 and 16700 of the Penal Code, relating to BB devices. -

[Approved

by Governor September 30, 2014. Filed with Secretary of

State September 30, 2014.]

Why should
California's be able
to legally own these
big bore BB devices
but be kept from
hunting wild pig
with them?

Why should people have to be limited to firearms to get repeated solid shots off on wild pigs and not have silent and simple alternatives such as airguns?

There is no good reason to deny this petition. If the

Commission is sincere about the "three R's" or whatever buzzword you are using to describe how you get new people into hunting, you need to give people more ways to do it and make it easy.

I have attached my petition in the complete form the Fish and Game Commission has made it available over the past few years. I see no reason to mischaracterize my Regulatory Petition

when the internet
shows clearly what
it is and when
repeated email and
verbal
correspondence
over the past few
years have clearly
shown that my
Petition asks for
something simple

which is within the
power of the
Commission to
grant.

Thank you for
reviewing this
message and I look
forward to a final
decision in
December 2022
from the

Commission. This waiting for a decision has gone on for years and it is really high time the Commission approve my Regulatory Petition.

Respectfully,
Colin Gallagher

From: Colin Gallagher [REDACTED] >
Sent: Thursday, October 13, 2022 7:53 AM
To: FGC <FGC@fgc.ca.gov>
Cc: Cornman, Ari@FGC <[REDACTED]>; Mckeith, Cynthia@FGC <[REDACTED]>; Miller-Henson, Melissa@FGC <[REDACTED]>
Subject: Comment on Item 12 for October 13, 2022 Fish and Game Commission meeting: General public comment for items not on the agenda Receive public comment regarding topics within the Commission's authority that are not included on the agenda.

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

From: Colin Gallagher
[REDACTED]
[REDACTED]

The following is my Comment on Item 12 for October 13, 2022 Fish and Game Commission meeting: General public comment for items not on the agenda Receive public comment regarding topics within the Commission's authority that are not included on the agenda.

(Note: The Commission may not discuss or take action on any matter raised during this item, except to decide whether to place the matter on the agenda of a future meeting (sections 11125 and 11125.7(a), California Government Code).)

It is requested by this message that the Commission place my regulatory petition - numbered 2021-007 - relating to BB devices (airguns) and wild pigs - on the agenda for a final decision at the next meeting of the Commission.

This is within the Commission's authority.

Authority cited in petition submitted to Commission: Sections 200, 203 and 265, Fish and Game Code, and in context of the proposal, note in particular Sections 200(a), 203(d), and 265 of Fish and Game Code. (Reference: Sections 2005, 2055, 3004.5 and 3950, Fish and Game Code.) Authority for Commission to enact changes to California Code of Regulations Title 14, Section 353 (for 14 CCR § 353 subsection (c), 14 CA ADC § 353 subsection (c))

Regulatory Petition 2021-007 would, if approved by the Commission, allow people to use BB devices with a minimum .357 caliber designation as a method of take for wild pig. My petition overview requested, in part, that "the Commission could make a change that would require .357 caliber minimum for BB devices to hunt wild boar (this would not alter any California lead free regulations), and clarify that hunting boar with centerfire cartridges with softnose or expanding projectiles of .30 caliber or greater in designation is permitted (lead free would still be required as the law currently requires if we are using centerfire rounds)."

With SB 856 having been signed into law, the State law will limit hunting of the "exotic" game category for wild pig to use of lead free ammunition, but **only if you are using firearms**. BB devices **do not legally constitute firearms** under California law and thus would be exempt from SB 856 prohibitions if the Commission were to add them as a method of take. (There is no legal prohibition that would keep the Commission from doing so, and it is in the public interest to do so.)

Notably, the BB devices can also be integrally suppressed (silencer added) by the manufacturer and sent directly to the hunter in California without burdensome forms, fees, months of wait, and taxes, since they are not a firearm. The

standard California silencer prohibition does not apply to BB devices, thus enabling the possibility of removal of more than one or several wild pigs before the rest of the group or passel can detect the shot and run away.

Respectfully,

Colin Gallagher

From: Colin Gallagher <[REDACTED]>
Sent: Thursday, October 13, 2022 6:46 AM
To: FGC <FGC@fgc.ca.gov>
Cc: Cornman, Ari@FGC <[REDACTED]>; Mckeith, Cynthia@FGC <[REDACTED]>; Miller-Henson, Melissa@FGC <[REDACTED]>
Subject: Comment on Agenda Item 18(B)(III) for October 13 of Fish and Game Commission Agenda, regarding Petition 2022-10: Request to authorize air guns as a method of take for deer.

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

From: Colin Gallagher
[REDACTED]
[REDACTED]

Please accept the following as my comment on Agenda Item 18(B)(III) for October 13 of Fish and Game Commission Agenda, regarding Petition 2022-10: Request to authorize air guns as a method of take for deer.

This is a late comment since I do not anticipate being able to be present in person on the call (please provide my comment to Commissioners and staff).

The individual author who petitioned the FGC in this case (who initiated Petition 2022-10) remarked in part of his petition overview that "If airguns can't be used for hunting cuz of lead they make non lead for the 50 cal it's copper" and further indicated in his rationale section, "it would be nice to hunt deer different ways like airguns slugs non lead copper or arrow guns please."

The .50 cal slug he refers to is a copper product made by only one company, which is perpetually out of stock because they cannot produce enough even to meet demand of those few who are interested in this unusual specialty product. This is a LeHigh product: <https://lehighdefense.com/our-technologies/controlled-fracturing.html>

Effectively for airguns the LeHigh slug is available only in .50 caliber since the dimensions of the other slugs they produce are not ideal for airguns of .357 (such as the Benjamin Bulldog) or .457 (such as the Texan SS), but even in .50 the LeHigh slug is not of any use to hunters as it is literally never in stock.

Similarly, the EcoSlug is even more limited as not only is it frequently out of stock for sometimes months at a time but it only is suitable for certain types of airguns - Seneca / Sam Yang Dragon Claw .50 caliber.

EcoSlug page:
<http://www.eco-slug.com/orderpellets.htm>

Finally, based on observations in the field from those who have used these lead free pellets with BB devices, their report produces a loud crack, and so apart from the issue of having to clean tin fragments out of a barrel, the noise is generally considered to be louder which is less advantageous to a hunter.

It would make no sense to approve a new method of take for deer only to make it impossible for deer hunters to use this method of take because the one company that makes a copper slug can't produce it

in quantities sufficient for the market, and to place those very few hunters who can somehow find such slugs at a disadvantage due to noise and impact on their equipment.

As another comment I have on this petition, while I support the idea of the use of airguns (technically referred to as "BB devices" in California law) to be added as an additional method of take in California for animals such as deer and wild pig, it is important to note that the BB device in California is not defined as a firearm and **is not subject to lead free pellet or slug limitations.**

This is an important distinction to make. There **is no need for any new imposition or lead free restriction on ammunition related to BB devices.** State law does not require it and furthermore, such slugs for the caliber one would hunt deer or pig with, do not exist (are not available in the market, as previously mentioned, with the exception of the LeHigh .50) for BB devices (airguns) if one in fact were to be authorized by the Commission to hunt with a BB device (airgun) in .357, .45, or .50 for deer or wild pig.

To substantiate this claim, one can look at the comprehensive list of lead free pellet products for BB devices (airguns). There are lead free pellets for .177, .22, and .25, but not for "big bore" calibers of airguns such as .357, .45, and .50. This is not reason to delay approval of regulatory petitions for use of BB devices (airguns) as a method of take for deer in the case of this petition or for wild pig in the case of another, similar petition. No delay of approval of petitions such as these should be made just to "wait and see if more lead free products come on the market." Rather, approve the petitions now and allow people the maximum possible flexibility to use whatever kind of BB device slugs (whether lead or non-lead) they can find for a BB device (airgun) of appropriate caliber for deer or wild pig. The minimum caliber should be .357.

Comprehensive list of airgun pellet products:

<https://airgunpelletdb.com/a-to-z/>

My regulatory petition - 2021-007 - relating to BB devices (airguns) and wild pigs, would, if approved by the Commission, allow people to use BB devices with a minimum .357 caliber designation as a method of take for wild pig. I ask that my petition be approved as well. My petition overview requested, in part, that "the Commission could make a change that would require .357 caliber minimum for BB devices to hunt wild boar (this would not alter any California lead free regulations), and clarify that hunting boar with centerfire cartridges with softnose or expanding projectiles of .30 caliber or greater in designation is permitted (lead free would still be required as the law currently requires if we are using centerfire rounds)." (By 'centerfire rounds' it is meant here a rifle round using gunpowder where the primer is located in the center of the casing base.)

Respectfully,

Colin Gallagher



County of Del Norte
Board of Supervisors
981 "H" Street, Ste. 200
Crescent City, California 95531

Phone
(707) 464-7204

Fax
(707) 464-1165

November 21, 2022

California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090

Re: Petition 2022-16 - Oppose

Dear Fish and Game Commission:

On November 8th, the Del Norte County Board of Supervisors was made aware, during the public comment period by a member of the public, about a petition pending before the Fish and Game Commission (Petition 2022-16) requesting: 1) "Ban on bird hunting at the Lake Earl Wildlife Area" and 2) "Replace county operated Lake Earl breaching practice with a solar powered aqueduct." Please be advised that the Board of Supervisors strongly opposes the Commission taking any action on either of these requests prior to formal consultation with the Board. Should the Commission however elect to take action on this petition prior to consultation occurring, the Board does wish to submit these comments for consideration.

The Lake Earl Wildlife Area is a popular destination that provides for a number of outdoor activities including waterfowl hunting, which is provided at Lake Earl under the authority of the Department of Fish and Wildlife. It is important to recognize that waterfowl hunting at Lake Earl has been responsibly enjoyed by multiple generations of residents and visitors to Del Norte County for many, many years. Moreover, this Board fully supports waterfowl hunting as a unique way in which the public can experience the natural world and become engaged in wildlife and habitat conservation efforts related specifically to waterfowl hunting. To indirectly learn that the Commission is considering action on a Petition requesting to ban waterfowl hunting at Lake Earl is incredibly disheartening to this Board as this action would have a profound impact on access to waterfowl hunting in Del Norte County and the broader region. It would not be an exaggeration to say that the consequences of removing this opportunity in Del Norte County would be devastating to the public including to the youth of this County who might never have the opportunity to become engaged in wildlife and habitat conservation efforts fueled by their waterfowl hunting experience as so many hunters have.

We have reviewed the claims in the submitted Petition and find them to be specious, at best.

Notably, the claims of *public safety being endangered by duck hunters, hunters leaving dead birds, poaching, and other hunter misconduct occurring at Lake Earl* is entirely without support in the Petition. To wit, the "Supporting Documentation" provided is quite simply reported news articles and opinion pieces relating primarily to the breaching of Lake Earl as well as a link to Notice of Determination filed pursuant to CEQA relating to the Lake and Streambed Alteration Agreement issued by CDFW. In essence, this Petition is entirely unsupported in its regard to a ban on waterfowl hunting in the Lake Earl Wildlife Area.

While we are choosing to use this opportunity to address the Petition's request to ban waterfowl hunting at Lake Earl, to be clear, the Board of Supervisors opposes both elements of the submitted Petition. That being said, while we find the "Supporting Documentation" provided for the waterfowl hunting ban to be specious, we find the request to replace the mechanized method of breaching Lake Earl with construction of an aqueduct to be outside the purview of the Commission. As such, we will reserve our comments on that element of the Petition for the proper time and place, but please know that the Board finds that element of the Petition to be equally unwarranted and we urge the Commission to reject it on the basis of it being outside the authority of the Commission. Should you require any further information please contact us.

Respectfully,



Gerry Hemmingsen, Chairman
Board of Supervisors

CC: Senator Mike McGuire
Assemblymember Jim Wood
Sidd Nag, Rural County Representatives of California
Karen Lange, Shaw Yoder Antwih Schmelzer & Lange
Mark Hennelly, California Waterfowl Association

Del Norte Waterfowlers
c/o 300 Kelly Rd
Crescent City, CA 95531
707-458-8785

11/23/2022

California Fish and Game Commission
PO Box 944209
Sacramento, CA 94244-2090

RE: Petition 2022-16 to ban waterfowl hunting on the Lake Earl Wildlife Area in Del Norte County, California – Oppose

Dear California Fish and Game Commission,

I am writing on behalf of the Del Norte Waterfowlers (DNWF), a local 100 member strong advocacy group for waterfowl hunting in Del Norte County, Ca. Our Mission Statement is to “Provide a collective public voice for local waterfowl hunters”. Our Objectives are to: “Promote and expand local waterfowl hunting access; promote and expand local waterfowl hunting opportunity; promote local wetland conservation and enhancement; promote local youth hunter opportunities; provide input to local, regional, state, and federal government offices and officials; provide input to Non-Governmental Organizations (NGOs) - CWA, DU, Grange, etc.; promote responsible use of public and private lands; promote sound management of public lands whereby increasing waterfowl conditions and numbers.”

The DNWF stand in opposition to “petition 2022-16 to ban waterfowl hunting on the Lake Earl Wildlife Area” that is before the California Fish and Game Commission. The petitioner’s allegation of hunter carelessness, wanton waste, and shooting of non-game animals by waterfowl hunters over decades are unfounded. The described acts are illegal and most assuredly would have been dealt with by CDFW Wardens when/if reported and if true. No evidence was given of any widespread illegal actions by waterfowl hunters. The DNWF condemn any illegal action of waterfowl hunters, but equally condemn accusations of widespread illegal activities without a factual basis.

The petitioner’s residence/youth hostel is 150 yards from the shoreline of Lake Earl and there is at least 50 yards of flooded thick tules before open water is reached. Hunting in that general area is by boat and takes place at the tule edge next to the open lake waters. Between the petitioners house/youth hostel and the lakeshore are 150 yds of mostly spruce and alder forest. If the petitioner did not want to live next to a State

wildlife area which has been hunted for decades, and centuries if you go back far enough, why did he choose to buy a home and start a business there?

The petitioners noise complaint seems mostly rooted in an imagined potential loss of income because some guests may be concerned about shooting noises. The Lake Earl Wildlife Area consist of 2 lakes and associated wetlands and creeks that have been hunted by local residents going back 100s of years. It is also safe to say that the guest can also hear live firing at times all year round from Pelican Bay State Prison roughly 2 miles away, as well as from other State Law Enforcement personnel that routinely shoot for training and qualification purposes on the LEWA. Should we shut those down as well?

Hunting is one tenet of the North American Model of Wildlife Management. It is on hunters to follow the prescribed rules and regulation related to hunting, and the general public needs to understand that legal hunting is a management tool for that Model of Wildlife Management that is acknowledged and respected around the world.

On October 18, 2022 at a CDFW Outreach Meeting in Smith River, Del Norte County, CA the Del Norte Waterfowlers submitted 277 "opposition to hunting closure" written comments to CDFW related to a 100 acre hunting closure on part of the Lake Earl Wildlife Area. Suffice it to say that those 277 comments will equally apply to this proposed closure of the entire LEWA. I am sure CDFW can furnish those comment to the Commission if requested.

In the last 25 years local waterfowl hunters have lost access to and hunting opportunity on over 1500 acres of public land. The LEWA is the only remaining public area available to waterfowl hunters in our very rural county. The loss of hunting opportunity and access on the LEWA would end public waterfowl hunting in Del Norte County.

Thank You,

Jeffrey F. Reed

Jeff Reed

For the Del Norte Waterfowlers

From: Sebastian Garcia [REDACTED]
Sent: Wednesday, November 30, 2022 11:29 PM
To: FGC <FGC@fgc.ca.gov>
Subject: Oppose Petition 2022-16

You don't often get email from [REDACTED]. [Learn why this is important](#)

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Dear Fish and Game Commission,

I am writing to you as a public land waterfowl hunter in the state of California asking you to please reject Petition 2022-16 which would ban waterfowl hunting on Lake Earl in Del Norte County. The public in Del Norte County already has limited access to hunt in the area and it would be devastating for those who choose waterfowl hunting as their preferred form of recreation.

The petitioners hardly have a valid argument when it comes to justifying their stance on prohibiting waterfowl hunting on the lake. Waterfowl hunting has occurred on this lake for decades and if it were an issue, action would have been taken long ago. Waterfowlers respect this area and want our way of life to be preserved. Even if there were irresponsible and unethical hunters at the lake, the hunters who frequent the area would most certainly call them out and turn them in.

The hunting community cares more about these public lands than any other group and to take their right to hunt away would be more detrimental than good to Lake Earl. In addition to devastating Lake Earl, this could have a negative effect on other areas in the state where the North American Model of Wildlife Conservation is in place and has been for decades. It is a proven model that works for the conservation of our lands and wildlife and giving in to the petitioners could set a dangerous precedent for our great state.

I appreciate the Commission's time and hope you take my comments into consideration.

Best,

Sebastian Garcia

[REDACTED]

California Fish and Game Commission
Non-Regulatory Requests for Action - Updated November 26, 2022

FGC - California Fish and Game Commission DFW - California Department of Fish and Wildlife
WRC - Wildlife Resources Committee MRC - Marine Resources Committee

Date Received	Name of Requestor	Subject of Request	Short Description	FGC Receipt Scheduled	FGC Initial Action Scheduled	Initial Staff Recommendation
9/16/2022	Randal South	Lake Earl	Requests that the breaching practice at Lake Earl be replaced by a solar powered aqueduct.	10/12-13/22	12/14-15/22	This request is outside of the purview and authority of FGC and DFW. DFW is aware of the request. No further action necessary.
9/22/2022	Karen Emanuel	Veganism	Requests that FGC make commitments to promoting the vegan economy.	10/12-13/22	12/14-15/22	FGC supports proper stewardship and sustainable utilization of native plants as well as wildlife and fish. No further action needed.

California Fish and Game Commission
Wildlife Resources Committee (WRC) Work Plan
Scheduled Topics and Timeline for Items Referred to WRC
Updated December 7, 2022

TOPICS	CATEGORY	Sep 2022	Jan 2023	May 2023
Periodic Regulations				
Upland (Resident) Game Birds	Regulatory	X/R		X
Mammal Hunting	Regulatory	X/R		X
Waterfowl Hunting	Annual Regulatory	X/R		X
Central Valley Sport Fishing	Annual Regulatory	X/R		X
Klamath River Basin Sport Fishing	Annual Regulatory	X/R		X
Inland Sport Fishing	Regulatory	X/R	X/R	X
Regulations & Legislative Mandates				
Falconry	Referral for Review			
Preference Points and Refunds for Hunting Tags	Regulatory	X/R	X/R	
Restricted Species	Regulatory			
Wildlife Rehabilitation	Regulatory	X	X/R	
Upland Game Hunting Draws	Regulatory	X	X/R	
Chronic Wasting Disease	Regulatory		X/R	
Wildlife Areas/Public Lands	Regulatory		X	
Special Projects				
American Bullfrog and Non-native Turtle Stakeholder Engagement Project	Referral for Review	X	X	X
Bear Management Plan Development	Information	X	X	X
Regulation Change Petitions				
Petition 2021-017	Referral for Review	X/R	X/R	

KEY: X Discussion scheduled X/R Recommendation developed and moved to FGC

CDFW Celebrates 50 Years Of Wild Trout Waters

October 24, 2022



State Designation Protects and Enhances California's Wild Trout Fisheries While Providing Unique Angling Opportunities for the Public

The California Department of Fish and Wildlife (CDFW) is celebrating the 50th anniversary of the first designated “Wild Trout Waters” in the state, a pioneering wild trout conservation and management practice at the forefront of the nation’s modern environmental movement of the 1960s and 1970s and a designation still benefitting California anglers today.

The California Fish and Game Commission created CDFW’s Wild Trout Program in 1971 at the urging of California Trout, the nonprofit, San Francisco-based wild trout conservation organization formed the same year. CDFW’s Wild Trout Program – today called the Heritage and Wild Trout Program – was created in recognition of the need to protect and enhance the state’s wild trout fisheries while also maintaining wild trout fishing opportunities for the public. The program was born at a time when the national consciousness was becoming attuned to negative impacts on natural resources, including population declines among fish, wildlife and plant species.

In 1972, the Commission designated 17 streams as Wild Trout Waters and has added to those waters every year since. Under the California Fish and Game Code, the Commission is required to add at least 25 miles of stream and at least one lake to the program annually. Among those first 17 Wild Trout Waters were portions of the North Fork American River, Hat Creek, Fall River, the Eel River, the Owens River and Hot Creek. Many of the first designated wild trout fisheries are still recognized today by trout anglers throughout the country.

“The founders of the Heritage and Wild Trout Program were truly visionary a half century ago, and we certainly owe them a huge thanks for the conservation of these very special places

and these very special fish,” said CDFW Director Charlton H. Bonham. “What I most appreciate about the program is its dynamism. It continues to grow and adapt, adding more waters and more special fishing opportunities every year while managing through our contemporary environmental challenges the founders of this program never could have imagined – a changing climate, epic drought, devastating wildfires and a human population approaching 40 million California residents.”

“This anniversary is a huge milestone,” said Curtis Knight, executive director of California Trout. “CalTrout has been proud to promote and partner with CDFW on the Heritage and Wild Trout Program since its inception. We believe this program was progressive and cutting-edge when it was established in the 1970s. Today it has evolved and continues to be one of the most effective fish water policies in the country.”



Hat Creek in Shasta County is forever linked with CDFW's Heritage and Wild Trout Program as one of the first streams in the state designated as a "Wild Trout Water." CDFW photo.

Earlier this month, the Commission added two new waters to the program: The North Fork Mokelumne River, which flows through portions of Alpine, Amador and Calaveras counties, and Silver Lake in Tulare County have both been designated as Wild Trout Waters.

Since its founding, the main charge of the program has been to manage and enhance California's wild, self-sustaining trout populations. The program was expanded in 1988 to

include conservation of native trout species within their historic ranges and renamed the Heritage and Wild Trout Program. In 2003, the [Heritage Trout Challenge](#) was launched to encourage anglers to explore waters that support native trout species. Anglers that catch any six of the state's qualifying 10 native trout species from their historic drainages are recognized by CDFW with a personalized award for their accomplishments.

Over the years, CDFW's Heritage and Wild Trout Program has had far-reaching impacts on fisheries management and angling culture by:

- Raising awareness and education of California's native trout species
- Driving monitoring and formal management plans for trout
- Fostering a catch-and-release fishing ethic that today is commonplace as the standard practice to protect self-sustaining wild trout and other fisheries
- Managing for genetic integrity by avoiding stocking hatchery trout into designated waters and working to prevent hybridization
- Serving as an example for other states to promote fishing and conservation of their own native trout species and catch-and-release fishing. The 12-state, [Western Native Trout Challenge](#), for example, was modeled after CDFW's Heritage Trout Challenge.

More information is available by visiting the [Heritage and Wild Trout Program web page](#).

Klamath River Upstream Of Interstate 5 Reopened To Adult Chinook Salmon Harvest

November 8, 2022



The California Department of Fish and Wildlife (CDFW) has announced that recreational fishing for adult, fall-run Chinook salmon on the Klamath River has reopened between Interstate 5 near Hornbrook and 3,500-feet below the Iron Gate Fish Hatchery in Siskiyou County.

The Iron Gate Fish Hatchery has received more than 8,000 returning, fall-run Chinook salmon this month, which triggers the reopening of recreational fishing for adult Chinook salmon within the stretch of river per CDFW's [2022-2023 California Supplemental Sport Fishing Regulations](#).

Recreational anglers will be able to harvest two Chinook salmon, but no more than one adult greater than 23 inches per day in this reach. The possession limit is six Chinook salmon with no more than three adults. Reopening this stretch of the Klamath River is designed to allow

anglers to catch surplus hatchery Chinook salmon now that the number of adults needed for spawning has been achieved at the hatchery.

The only other sector of the Klamath-Trinity rivers that remain open for adult Chinook salmon harvest is the lower Trinity River from the Denny Road bridge at Hawkins Bar downstream to the confluence with the Klamath River. The take of jack Chinook salmon less than or equal to 23 inches is allowed in all areas of the Klamath Basin with the exception of the mouth of the Klamath River, which is closed for the remainder of the year. The daily bag limit for jack Chinook salmon in these areas is two fish per day and no more than six in possession.

Anglers can monitor the quota status of open and closed sections of the Klamath and Trinity rivers by calling CDFW's information hotline at (800) 564-6479.

For more information regarding Klamath River fishing regulations, please consult CDFW's 2022-2023 California Freshwater Sport Fishing Regulations and the 2022-2023 California Supplemental Sport Fishing Regulations available at wildlife.ca.gov/regulations.

CDFW Offers Veteran-Specific Hunting And Fishing Resources And Reduced-Fee Hunting And Fishing Licenses To Disabled Veterans

November 11, 2022



The California Department of Fish and Wildlife (CDFW) thanks California veterans for their service to and sacrifice for our country.

Since the 1990s, CDFW has offered reduced-fee hunting and fishing licenses to both resident and nonresident disabled veterans, as per Fish and Game Code, section 7150. Any honorable discharged, disabled veteran with a 50 percent or greater service-connected disability who wants to hunt birds or mammals or go fishing in California is eligible. The 2023 Disabled Veteran or Recovering Service Member Sport Fishing License and 2023 Disabled Veteran or Recovering Service Member Hunting License cost will be \$9.46 when purchased at a CDFW license agent. To prequalify for a Disabled Veterans hunting or fishing license, customers must submit a letter from the Veteran's Administration to a CDFW license sales office. Subsequent licenses may be purchased online or from a license sales agent.

Throughout the year, many California based nonprofit organizations and groups offer special hunting and fishing opportunities for veterans. A list of organizations and groups offering programs can be found on the Recruit, Retain, Reactivate webpage (wildlife.ca.gov/R3) under both the Hunting and Fishing tabs. Please note, these are not complete lists and specific opportunities are not endorsed by CDFW.

For veterans located in the Stockton area, CDFW will be participating in the Assembly District 13 Veterans Stand Down event on November 22, 2022, from 9 a.m. to 2 p.m., at Martin Luther King Plaza in Stockton, California. CDFW staff will be on site to answer questions regarding the above mentioned reduced-fee licenses, job opportunities and additional questions related to hunting and angling. This event is open to the public and more information can be found here: <https://a13.asmdc.org/event/20221122-2022-veterans-stand-down-event>

Additional information on reduced-fee fishing licenses can be found here: wildlife.ca.gov/Licensing/Fishing#44521417-free--reduced-fee

Additional information on reduced-fee hunting licenses can be found here: wildlife.ca.gov/Licensing/Hunting#994193-reduced-fee

Fishing and hunting regulations and more information about licenses are available on the CDFW website: wildlife.ca.gov/Regulations

To learn more about becoming a hunter or angler, or additional resources regarding hunting and angling, visit our Recruit, Retain, Reactivate webpage at: wildlife.ca.gov/R3

CDFW Announces The Availability Of \$200 Million In New Grant Funding Under Drought, Climate And Nature-Based Solutions Initiatives

November 30, 2022



The California Department of Fish and Wildlife (CDFW) has announced the availability of over \$200 million in new funding for multi-benefit ecosystem restoration and protection projects under Drought, Climate and Nature-Based Solutions Initiatives. This new funding for restoration and protection of critical habitat and watersheds statewide also supports key initiatives including conserving 30 percent of California's lands and coastal waters by 2030 under California's 30x30 initiative, Nature-Based Solutions, and increasing the pace and scale of restoration through Cutting the Green Tape.

CDFW has also launched a [new online application portal](#) to receive applications for grant funding under these new initiatives. As part of its Cutting the Green Tape efforts, this streamlined application and review process will remain available on an ongoing basis, allowing applicants to submit one application for consideration under multiple funding streams. CDFW is accelerating the review and approval process under this funding with the goal to review and approve the award for grants for selected projects within 30 days of receipt. Following awards, CDFW will work to develop agreements for awarded projects.

“The time to act is right now because California’s ecosystems face dire conditions for our species,” said CDFW Director Charlton H. Bonham. “This funding is absolutely the push we all need to put some largescale projects across the finish line.”

An overview of the new funding available for restoration, including grants, is as follows:

Drought Emergency: Protecting Salmon - \$100 million

In response to current drought conditions, the California Legislature authorized \$100 million to allow CDFW to protect and restore salmon in 2022 and 2023. This funding will support restoration and protection projects that enhance salmon resiliency to drought and climate change.

CDFW also plans to dedicate \$20 million of this funding within the Klamath River Watershed to projects demonstrating support from and collaboration with Tribes and landowner interests. This \$20 million will be available as follows:

- Up to \$10 million available for projects within the Scott River and its tributaries; and
- Up to \$10 million available for projects within the Shasta River and its tributaries

Nature-Based Solutions

Governor Gavin Newsom’s [2020 Executive Order N-82-20](#) outlines a comprehensive and results-oriented agenda to expand nature-based solutions across California, advancing an approach to restoration that works with and enhances nature to help address societal challenges. Two new programs within CDFW will work toward this goal.

Wetlands and Mountain Meadows Restoration

As part of the [Nature-Based Solutions Initiative](#), up to \$54 million is available for projects that restore or enhance wetlands and mountain meadow ecosystems with quantifiable greenhouse gas reduction benefits, consistent with the Natural and Working Lands Climate Smart Strategy (PDF)(opens in new tab) and Pathways to 30x30(opens in new tab). The program will also support pilot projects for CDFW's forthcoming Beaver Restoration Program.

Wildlife Corridors

Up to \$42 million under Nature-Based Solutions will be available for CDFW for connectivity planning and implementation projects consistent with the [State Wildlife Action Plan](#), the state’s efforts on connectivity, and the [Fish Passage Annual Legislative Report](#) or efforts to allow fish and wildlife the freedom to roam in California by accelerating fish and wildlife corridor projects.

Addressing Climate Impacts

Up to \$35 million is available to support projects addressing urgent degrading water and habitat conditions due to climate change impacts, including for grants. Eligible uses of these funds include purchasing water from willing sellers to benefit wildlife, protecting instream

flows, building water conservation projects, implementing emergency restoration activities and conservation strategies identified in the State Wildlife Action Plan with a priority on actions that protect the Species of Greatest Conservation Need identified in the plan.

CDFW has developed a single set of General Grant Program Guidelines with an overview of eligible project types, priorities and information on the application process, available at wildlife.ca.gov/Conservation/Watersheds/Restoration-Grants/Concept-Application. Applications submitted under these new initiatives may also be considered for further evaluation under CDFW's Proposition 1 and Proposition 68 Grant Programs, and a separate call for projects will also be released for these programs in early 2023.

More information about these funding opportunities, including guidelines and how to apply, general information about CDFW's grant programs, as well as a schedule for upcoming grant solicitations, once available, can be found at wildlife.ca.gov/Grants.

Commissioners
Samantha Murray, President
La Jolla
Erika Zavaleta, Vice President
Santa Cruz
Jacque Hostler-Carmesin, Member
McKinleyville
Eric Sklar, Member
Saint Helena
Anthony Williams, Member
Huntington Beach

STATE OF CALIFORNIA
Gavin Newsom, Governor

Fish and Game Commission



*Wildlife Heritage and Conservation
Since 1870*

Melissa Miller-Henson
Executive Director
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(916) 653-4899
[fgc@fgc.ca.gov](mailto:fqc@fgc.ca.gov)
www.fgc.ca.gov

November 3, 2022

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-232, U.S. Capitol
Washington, DC 20515

The Honorable Steny Hoyer
Majority Leader
U.S. House of Representatives
H-107, U.S. Capitol
Washington, DC 20515

The Honorable Kevin McCarthy
House Republican Leader
U.S. House of Representatives
H-204, U.S. Capitol
Washington, DC 20515

Re: Support for federal legislation to phase out drift gill nets

Dear Madam Speaker, Majority Leader Hoyer, and Republican Leader McCarthy:

On behalf of the California Fish and Game Commission (Commission), I write to express our support for legislation that phases out the use of large-mesh drift gill nets offshore California. In 2018, the Commission wrote a similar letter after Governor Jerry Brown signed complementary state legislation establishing a voluntary transition program to phase out drift gillnet gear and state-issued permits in California waters (Senate Bill 1017; Chapter 844, Statutes of 2018). Today, the Commission again supports federal efforts to harmonize California and federal drift gill net actions.

The drift gillnet fishery is managed at the federal level by the Pacific Fishery Management Council (PFMC) through regulations implemented by the National Marine Fisheries Service. Historically, a state-issued drift gillnet shark and swordfish permit has also been required to participate in the fishery and to land in California swordfish caught with drift gill nets. However, the Commission recently became aware that *a state-issued permit is not required for commercial take in federal waters with a valid federal drift gillnet permit*; fish caught with gill nets under a federal permit can also be landed in California. As a result, the California gear transition program will not eliminate the gear offshore California as intended.

In recent years, PFMC has been actively engaged in evaluating alternative gear, including deep-set buoy gear, which could help open additional access for California fishermen to fish with minimal bycatch and encourage gear transition. This year, the Commission also approved

The Honorable Nancy Pelosi,
Honorable Steny Hoyer, and
Honorable Kevin McCarthy
November 3, 2022
Page 2

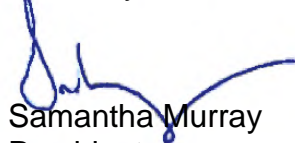
an experimental fishing permit to expand testing of deep-set buoy gear in state waters. The Commission supports further efforts to test and implement alternative gear that reduces bycatch of non-target species, including threatened and endangered sea turtles.

Sustainable coastal fishing communities are a priority for the Commission and to Californians. In support of healthy fishing communities and diverse marine ecosystems offshore California, the Commission supports a transition from large-scale, commercial drift gillnet fishing to deep-set buoy and other alternative gear with minimal bycatch in a manner that also supports sustained fishery participation and economic stability.

For these reasons, we support federal legislation that will phase out drift gill nets, consistent with California state legislation. Further, we support the allocation of federal grant money to provide drift gillnet fishermen with additional resources to transition to more sustainable and selective gear. The Commission requests that the U.S. House of Representatives advance these two goals by supporting and passing relevant legislation.

Thank you for your continued work on this important issue.

Sincerely,



Samantha Murray
President

cc: The Honorable Dianne Feinstein, Member, U.S. Senate
The Honorable Alex Padilla, Member, U.S. Senate
The Honorable James P. McGovern, Chairman, Committee on Rules, U.S. House of Representatives
The Honorable Raúl M. Grijalva, Chair, Committee on Natural Resources, U.S. House of Representatives
The Honorable Ted Lieu, Member, U.S. House of Representatives
Wade Crowfoot, Secretary, California Natural Resources Agency
Charlton Bonham, Director, California Department of Fish and Wildlife

Memorandum

Date: November 18, 2022

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **December 2022 Request for Changes to the Fish and Game Commission's Timetable for Anticipated Regulatory Actions**

The Department of Fish and Wildlife (Department) requests the following change to the Fish and Game Commission's (Commission's) 2022/2023 regulatory timetable:

1. Add a rulemaking, "Bighorn Sheep Hunting," to amend Section 362 to decrease tag quotas for two hunts. Recent population estimates and minimum counts in the Marble and Clipper Mountains suggest population declines of Nelson bighorn sheep. Pursuant to Fish and Game Code subdivision 4902(b), the Commission may not authorize the sport hunting in a single year of more than 15 percent of the mature Nelson bighorn rams in a single management unit. Thus, a tag quota reduction for Zone 1 is proposed to reduce from five rams to 1, and eliminate the single hunt for the Marble/Clipper/South Bristol Mountains Fundraising tag to maintain consistency with Fish and Game Code.

The proposed meeting schedule is notice at the December 2022 meeting, discussion at the February 2023 meeting, and adoption at the April 2023 meeting.

If you have any questions or need additional information, please contact the Regulations Unit Manager, Ona Alminas, at Regulations@wildlife.ca.gov or 916-902-9222.

ec: Chad Dibble, Deputy Director
Wildlife and Fisheries Division

David Bess, Chief
Law Enforcement Division

Scott Gardner, Branch Chief
Wildlife Branch

Ona Alminas, Program Manager
Regulations Unit

Melissa Miller-Henson, Executive Director
Fish and Game Commission
November 18, 2022
Page 2

Fish and Game Commission:

David Thesell, Program Manager
Fish and Game Commission

California Fish and Game Commission: Perpetual Timetable for Anticipated Regulatory Actions

December 5, 2022

Items proposed for change are shown in blue underlined or strikeout font

Regulatory Change Category	Title 14 Section(s)	FGC San Diego Dec 14, 2022	FGC San Diego Dec 15, 2022	WRC Los Angeles Area January 12, 2023	FGC Sacramento February 8, 2023	FGC San Joaquin February 9, 2023	MRC Monterey / Santa Cruz Area March 16, 2023	TC Fresno / Bakersfield Area April 18, 2023	FGC Fresno / Bakersfield Area April 19, 2023	FGC Fresno / Bakersfield Area April 20, 2023	FGC Teleconference May 17, 2023	WRC Monterey / Santa Cruz Area May 17, 2023	FGC Sacramento June 14, 2023	FGC Sacramento June 15, 2023	MRC Sonoma / San Francisco Bay Area July 20, 2023	TC Smith River Area / North Coast August 21, 2023	FGC Smith River Area / North Coast August 22, 2023	FGC Smith River Area / North Coast August 23, 2023	WRC Chico Area September 21, 2023	FGC San Jose Area October 11, 2023	FGC San Jose Area October 12, 2023	MRC San Jose Area November 16, 2023	TC San Diego Area December 12, 2023
Central Valley Sport Fishing (Annual)	7.40(b)(4), (43), (66), (80)				N				D		A				E 7/16								
Klamath River Basin Sport Fishing (Annual)	7.40(b)(50)				N				D		A					E 8/15							
Waterfowl (Annual)	502		N		D				A						E 7/1								
Harvesting of Kelp and Other Aquatic Plants, Commercial Marine Algae Management Policies	165, 165.5, 705.1			E 1/1				This file was withdrawn from OAL on 9/16. An effective date of 1/1 is now anticipated.															
Low Flow Fishing Restrictions Due to Drought Conditions Emergency (90-day Extension)	7.40(b)(40)(A)1., 8.00(a), 8.00(b)																						
Game Fish Contests	230	This file was withdrawn from the OAL on 8/12. Resubmittal and Effective Date Pending.																					
Sport Fishing Regulation Updates	2.00, 2.25, 2.30, 5.00, 5.15, 5.20, 5.41, 5.75, 5.79, 5.85, 5.87, 5.88, 7.00, 7.40, 7.50, 8.00, 29.85			E 1/1																			
Recreational Fishing Regulations for Federal Groundfish and Associated Species	1.91, 27.20, 27.25, 27.30, 27.35, 27.40, 27.45, 27.50, 27.51, 28.26, 28.27, 28.28, 28.29, 28.47, 28.48, 28.49, 28.54, 28.55, 28.56, 28.58, 28.65, 28.90			E 1/1																			
Recreational Sub-Bag Limits for Vermilion, Copper and Quillback Rockfishes Emergency (Second 90-Day Extension)	28.55			EE 1/2																			
Pre-Existing Structures in Marine Protected Areas (MPAs), Marine Managed Areas (MMAs), and Special Closures	632								N					D									
Implementation of AB 817 (Electronic Display of Licenses)	700.4		D		A										E 7/1								
Recreational Hoop Net Regulations Emergency	29.80										EE 4/29 5/2												
Recreational Hoop Net Regulations Emergency (First 90-Day Extension)	29.80					A					E 4/29 5/2					EE 7/28 7/31							
Recreational Hoop Net Regulations Emergency (Second 90-Day Extension)	29.80													A		E 7/28 7/31							
Commercial and Recreational Take of California Spiny Lobster; Recreational Hoop Net Requirements for Take of Crustaceans	29.80, 29.90, 29.91, 121, 121.5, 122, 122.1, 122.2, 705	N				D			A										E 9/1				
Elk Hunting	364, 364.1		N		D				A						E 7/1								
Bighorn Sheep Hunting	362		N		D				A						E 7/1								
Southern California Steelhead 2084 Emergency	749.13																						
Southern California Steelhead 2084 Emergency (First 90-day extension)	749.13				EE 2/13																		
Southern California Steelhead 2084 Emergency (second 90-day extension)	749.13		A		E 2/13						EE 5/14												

Rulemaking Schedule to be Determined	Title 14 Section(s)	FGC San Diego Dec 14, 2022	FGC San Diego Dec 15, 2022	WRC Los Angeles Area January 12, 2023	FGC Sacramento February 8, 2023	FGC Sacramento February 9, 2023	MRC Monterey / Santa Cruz Area March 16, 2023	TC Fresno / Bakersfield Area April 18, 2023	FGC Fresno / Bakersfield Area April 19, 2023	FGC Fresno / Bakersfield Area April 20, 2023	FGC Teleconference May 17, 2023	WRC Monterey / Santa Cruz Area May 17, 2023	FGC Sacramento June 14, 2023	FGC Sacramento June 15, 2023	MRC Sonoma / San Francisco Bay Area July 20, 2023	TC Smith River Area / North Coast August 21, 2023	FGC Smith River Area / North Coast August 22, 2023	FGC Smith River Area / North Coast August 23, 2023	WRC Chico Area September 21, 2023	FGC San Jose Area October 11, 2023	FGC San Jose Area October 12, 2023	MRC San Jose Area November 16, 2023	TC San Diego Area December 12, 2023
Santa Cruz Harbor Salmon Fishing (FGC Petition 2016-018)	TBD																						
European Green Crab (FGC Petition 2017-006)	TBD																						
Wildlife Areas/Public Lands ⁴	TBD																						
Possess Game / Process Into Food	TBD																						
American Zoological Association / Zoo and Aquarium Association	671.1																						
Night Hunting in Gray Wolf Range (FGC Petition #2015-010)	474																						
Shellfish Aquaculture Best Management Practices	TBD																						
Ban of Neonicotinoid Pesticides on Department Lands (FGC Petition 2017-008)	TBD																						
Ridgeback Prawn Incidental Take Allowance	120(e)																						
North Yuba River Special Fishing Regulations (FGC Petition 2021-020) ⁸	TBD																						
Commercial Take of Pacific Herring: Lampara Bail Nets ⁷	163, 163.1																						

KEY
FGC = California Fish and Game Commission MRC = FGC Marine Resources Committee WRC = FGC Wildlife Resources Committee TC = FGC Tribal Committee OAL = Office of Administrative Law
EM = Emergency EE = Emergency Expires E = Anticipated Effective Date RED "X" = expedited OAL review EUP = Effective Upon Filing w/ Secretary of State
N = Notice Hearing D = Discussion Hearing A = Adoption Hearing V = Vetting R = Committee Recommendation
4 = Includes FGC Petition 2018-003 6 = Includes FGC Petition 2019-012 7 = Includes FGC Petition 2020-015 8 = To be included in a future sportfishing regulations update

California Fish and Game Commission
Potential Agenda Items for the February 2023 Commission Meeting
December 8, 2022

The next Commission meeting is scheduled for February 8-9, 2023 in Sacramento and via webinar/teleconference. This document identifies potential agenda items for the meeting, including items to be received from Commission staff and the California Department of Fish and Wildlife (Department).

Wednesday, February 8: Wildlife- and inland fisheries-related and administrative items

1. General public comments for items not on the agenda (day 1)
2. Election of Commission president and vice president
3. Committee assignments
4. Commission executive director and Department reports (Department director's report and Law Enforcement Division report)
5. Determine whether listing western Joshua tree (*Yucca brevifolia*) as threatened under CESA is warranted
6. Notice: Central Valley sport fishing (annual)
7. Notice: Klamath River Basin sport fishing (annual)
8. Discuss: Waterfowl hunting (annual)
9. Discus: Elk hunting
10. Adopt: Electronic display of licenses via mobile application
11. Approve: Game fish contests
12. Action on wildlife and inland fisheries petitions for regulation change
13. Action on wildlife and inland fisheries non-regulatory requests from previous meetings
14. Items of interest from previous meetings (wildlife)
15. Committee and Department reports (Wildlife Resources Committee, Department Wildlife and Fisheries Division, and Ecosystem Conservation Division)
16. Executive (closed) session

Thursday, February 9: Marine-related and administrative items

17. General public comment for items not on the agenda (day 2)
18. Justice, equity, diversity and inclusion
19. Receive and consider approving The Cultured Abalone Farm, LLC's updated five-year kelp harvest plan (2023-2027)
20. Receive decadal management review of the statewide network of marine protected areas
21. Receive and consider Sub Sea Sonics Experimental Fishing Permit (EFP) application to test timed and acoustic release pop-up gear systems in the California Dungeness crab fishery

22. Consider approving request from Lance (Jeff) Maassen to renew permit for commercial harvest of *Sargassum horneri*
23. Discuss: Commercial and Recreational Take of California Spiny Lobster; Recreational Hoop Net Requirements for Take of Crustaceans
24. Adopt: Recreational hoop net regulations emergency (first 90-day extension)
25. Action on marine petitions for regulation change
26. Action on marine non-regulatory requests from previous meetings
27. Items of interest from previous meetings (marine)
28. Committee and Department reports (Marine Resources Committee, Department Marine Region, and Tribal Committee)
29. Administrative items (legislation and other agency regulations, rulemaking timetable, next meeting)