



1. Regulation of aircraft is not within the jurisdiction of the Fish and Game Commission, but rather the Federal Aviation Administration.
2. Existing rules recommending a 2000 foot elevation for aircraft over natural areas are adequate to protect resources.
3. The aviation community is adequately regulated and no additional regulations are necessary to protect resources.
4. The Department should work with the FAA to identify areas in need of protection and develop measures needed to accomplish this protection consistent with federal aviation rules and the FAA's jurisdiction.
5. The Department should work with the FAA to educate aviators on measures needed to protect resources.

Commission Response: The Department's intent in amending existing Subsection (a)(17), which prohibited aircraft, was to do the following:

1. Clarify the types of aircraft included in an existing prohibition
2. Prohibit aircraft from flying over any ecological reserve in any manner that is incompatible with the use or protection of the biological resources of the reserve
3. Delegate authority from the Commission to the Department to permit flying over an ecological reserve for law enforcement or management purposes
4. Prohibit parachuting over any ecological reserve.

In light of the public comments received, the Department withdraws these proposed amendments and will develop and propose appropriate language to amend this subsection for the protection of Ecological Reserves and associated resources in consultation with the FAA and aviator groups.

The Department received three letters via electronic mail in support of the proposed amendments to Section 630 from the following persons:

David Carlberg, President, Amigos de Bolsa Chica, October 25, 2007

Julian Vochelli, October 25, 2007

Julie Bixby, October 26, 2007

Commission Response: Support Noted.

#### VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:  
California Fish and Game Commission  
1416 Ninth Street  
Sacramento, California 95814

VIII. Location of Department Files:

Department of Fish and Game  
1416 Ninth Street  
Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

Designation of the properties and management as wildlife areas Section 550, Title 14, CCR. This alternative is inappropriate because of the purpose for which these properties are acquired and managed. The habitats and species require protection measures, public uses, and maintenance prescriptions, not provided for under Section 550.

(b) No Change Alternative:

By not adding these properties and providing special regulations, the appropriate level of protection and maintenance for the properties is not provided. Also, appropriate public use activities will not be enforceable unless the amendments are made.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective, and less burdensome to the affected private persons than the proposed regulation.

X. 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) 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. These

actions are proposed to provide maximum protection of wildlife and habitat, clarity to language and appropriate management for public use. These regulation changes are sufficiently minor that any economic impact, positive or negative, would not be significant.

- (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:

None

- (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:

None

- (h) Effect on Housing Costs:

None

## Updated Informative Digest/Policy Statement Overview

Currently, there are 125 ecological reserves designated in Section 630, Title 14, CCR, for the purpose of protecting threatened and endangered plants, animals and specialized habitat types. Section 630 provides general regulations for these reserves and special area regulations to protect resource values while permitting compatible public use of these areas.

The Department of Fish and Game (Department) proposes the following changes to general regulations in Section 630, Title 14:

Amend the prohibition of firearms to further prohibit devices capable of shooting a projectile for the protection of species, habitats and public safety.

Amend the prohibition of littering to include a prohibition of dumping for the protection of species, habitats, public health and safety.

Amend the prohibition of grazing on ecological reserves to allow grazing for habitat or vegetation management purposes. For clarity, this proposal includes the removal of all special area regulations allowing grazing for management purposes.

Amend the general regulation which prohibits operation of aircraft within any ecological reserve to clarify the types of aircraft included in the prohibition. An additional amendment would prohibit aircraft from flying over any ecological reserve in any manner that is incompatible with the use or protection of the biological resources of the reserve. Proposed amendments would also delegate authority from the Commission to the Department to permit flying over an ecological reserve for law enforcement or management purposes. Parachuting over any ecological reserve would also be prohibited.

Amend the general regulation which prohibits pets from entering a reserve unless on a leash of less than ten feet, or within a motor vehicle, except as provided for in individual area regulations to clarify that no person shall allow their pets to enter any ecological reserve except as provided in this section. This amendment is proposed to allow more effective enforcement of restrictions on pets.

Provide a new general regulation which gives Department regional managers the authority to manage public uses on ecological reserves where those public uses are not provided for in Section 630 for the protection of species, habitats, public health and public safety.

The Department is requesting that this section be amended to add seven new ecological reserves to this listing to regulate public use and provide the best available protection for the species and habitats the properties were acquired to protect. Since

the properties contain sensitive species and important vegetation communities, and may act as linkages for other important protected lands, it is necessary and appropriate to provide this level of regulatory protection to prevent improper use and degradation of wildlife resources. In order to do this efficiently, the Department has a set of general regulations which apply to all ecological reserves. The seven new reserves are:

Big Table Mountain consisting of 1,107 acres in Fresno County for the protection of vernal pools and the numerous sensitive plant species that inhabit the area.

Buena Vista Creek consisting of 134 acres in San Diego County is proposed for designation as an ecological reserve for the conservation and enhancement of riparian habitat and adjacent uplands for the federally threatened California gnatcatcher, and for the state and federally listed endangered least Bell's vireo.

Palo Verde consisting of 1,352 acres in Riverside County is proposed for designation as an ecological reserve for the conservation of important riparian and wetland habitats in the lower Colorado River Basin.

Peninsular Ranges consisting of 2,385 acres in Riverside County is proposed for designation as an ecological reserve for the protection of the peninsular bighorn sheep, desert tortoise, least Bell's vireo and southwestern willow flycatcher.

Semitropic, consisting of 6,770 acres in Kern County is proposed for designation as an ecological reserve for the protection of shadscale scrub, alkali sink scrub and associated upland habitats for the San Joaquin kit fox, Tipton's kangaroo rat, San Joaquin antelope squirrel, burrowing owl, San Joaquin whipsnake, blunt-nosed leopard lizard, and Coast horned lizards.

Sky Valley, consisting of 1,739 acres in Riverside County, is proposed for designation as an ecological reserve for the protection of an important wildlife corridor connecting Joshua Tree National Park and the Coachella Valley Ecological Reserve, and habitat for the state and federally threatened desert tortoise. One special regulation is proposed for this reserve to allow upland game hunting.

Stone Ridge, consisting of 754 acres in Butte County, is proposed for designation as an ecological reserve for the protection of blue oak woodland, vernal pools and swales, clay flats, ephemeral and intermittent creeks, and associated uplands for mountain lion, black bear, western spadefoot, burrowing owl, ferruginous hawk, bald eagle, black-shouldered kite, the rare Adobe lily, the rare Butte County checkerbloom, Ahart's paronychia, and the federally endangered Butte County meadowfoam.

The Department is requesting the following special regulations for individual properties to give an additional level of protection, or to permit specific public uses not governed by

the general regulations based on management information gathered which shows these regulations are necessary to protect the habitat or species the properties support.

The Department proposes to amend special area regulations for the existing Ballona Wetlands Ecological Reserve to restrict entry to designated access points and prohibit pets for the protection of species and habitats. The posting of signs, flagging or any markings will also be prohibited to prevent nuisances to the reserve and local community. A special regulation will prohibit the use of model aircraft, rockets, vehicles and devices, including those that are remote controlled, motorized, combustion propelled, or non-motorized to protect species and habitats from disturbance, and to prevent wildfire.

A special regulation for Big Table Mountain Ecological Reserve will allow biological research and monitoring activities that are compatible with the primary purposes of the reserve.

The Department proposes to remove one special area regulation for the existing Burton Mesa Ecological Reserve that allows hunting for upland game, because in the course of developing its management plan for the reserve, the department has determined the reserve is not large enough to support adequate upland game populations or hunting opportunities. A new special regulation will prohibit horses and bicycles on the reserve for the protection of the sensitive Burton Mesa Chaparral and the species it supports.

The Department proposes to amend one special area regulation for the existing Carrizo Canyon Ecological Reserve that prohibits entry to the reserve from June 15 through September 30. The proposed regulation would extend the period during which entry is prohibited from January 1 through September 30 for the protection of bighorn sheep.

A proposed amendment for the existing Carrizo Plains Ecological Reserve will split the existing Chimineas Unit into two units, the South Chimineas Unit and the North Chimineas Unit. This will allow for more effective regulation of public use on these areas. A special regulation is also proposed to prohibit hunting of coyote and ground squirrel on the South Chimineas and North Chimineas Units to protect against incidental take of San Joaquin kit fox and burrowing owl on these areas. In addition, a special regulation will require a permit for access to the South Chimineas Unit, and the return of any issued permits to the Department upon departure from the area. This regulation will allow the Department to effectively regulate public use and sustain high quality hunting opportunities.

The Department proposes to amend special area regulations for the existing Coal Canyon Ecological Reserve to allow horses and bicycles only on designated trails. Access will not be allowed on the designated trails within 72 hours of any weather event that produces  $\frac{1}{4}$  inch of precipitation in any 24 hour time period, or any such event that produces  $\frac{1}{2}$  inch of precipitation with in any 72 hour time period. This restriction will

protect habitats and the species, and prevent damage to the trail. This special regulation is consistent with regulations for neighboring properties of the Cleveland National Forest and Chino Hills State Park. Consistency in these regulations will allow the Department to benefit from the enforcement actions of U.S. Forest Service and Chino Hills State Park enforcement staff.

The Department proposes to amend an existing special area regulation for the existing Cosumnes River Ecological Reserve to clarify that in allowing farming under permit from the Department consistent with the primary purpose of the reserve, the farming shall be for management purposes. The amendments further clarify that in allowing such farming, the Department may exercise exceptions to subsections (a) (4) prohibiting motor vehicles except on designated roads and parking areas and (a) (11) prohibiting the introduction of species.

The Department proposes to amend an existing special area regulation for the existing Magnesia Spring Ecological Reserve that prohibits entry to the reserve from June 15 through September 30. The proposed regulation would extend the period during which entry is prohibited from January 1 through September 30 for the protection of bighorn sheep. In addition, the Department proposes to amend a special regulation to allow employees of the City of Palm Desert to enter the reserve in the performance of official duties. A new special regulation for the reserve will define a year-round trail route open to pedestrians and bicycles for the protection of bighorn sheep.

Special regulations for Palo Verde Ecological Reserve will allow farming for management purposes consistent with the primary purpose of the reserve, and restrict access to restoration areas and the lower floodplain for the protection of these important areas. Additional special regulations will allow management activities such as burning, use of pesticides and the use of related equipment by cooperating agencies. Biological and archaeological research as well as the collection of plants and animals for educational purposes will also be allowed. A special regulation will prohibit horseback riding for the protection of important habitats. In addition, hunting of rabbit, dove, quail and waterfowl will also be allowed on the reserve.

A special regulation for Peninsular Ranges Ecological reserve will allow upland game hunting.

The Department proposes to add one special area regulation for the existing Santa Rosa Plateau Ecological Reserve to prohibit smoking on the reserve, except when inside a vehicle. This special regulation will protect species, habitats and neighboring communities from the threat of catastrophic wildfire and reduce the incidence of littering on the reserve.

A special regulation for Semitropic Ecological Reserve is proposed to allow the Department to issue permits for research or monitoring activities that are compatible with the purposes of the reserve.

A special regulation for Sky Valley will allow upland game hunting.

A special regulation for Stone Ridge Ecological Reserve will prohibit entry to the reserve for the protection of sensitive species and habitats. The Department may grant access to the reserve with written permission for purposes of environmental education and biological research.

The Department proposes removing Dairy Mart Ponds and Pismo Lake ecological reserves from the existing list of ecological reserves because they are no longer owned or managed by the Department.

Two administrative amendments are proposed. The listing for Phoenix Field Ecological Reserve is stricken and replaced elsewhere in the list to correct an alphabetizing error. The list of ecological reserves is also re-numbered, and the subsections for several areas are re-lettered to account for the addition and deletion of reserves and amendments to special area regulations. In addition, editorial changes are proposed to improve the clarity and consistency of the regulations.

**At its November 2, 2007 meeting, the Commission approved the proposed amendments to Section 630, except those pertaining to Subsection (a)(17) Aircraft.**