

Fishing permits for Heenan Lake specified in subsection 551(y) are no longer available from the Bishop office. Revisions are proposed to delete this location from the list of offices issuing these permits.

Due to public concern about the cost of the new special use permit fees, the Department proposes phasing in the fees to achieve full cost recovery over a three year period pursuant to sections 1050 and 1745, Fish and Game Code.

Proposed amendments noticed on March 24, 2014:

Revisions to subsection (i) of Section 550, Title 14, CCR, are proposed to retain this specific regional manager authority currently allowed in subsection 551(q)(47)(E).

Revision to 550(m) directs reader to 550(n) for rules regarding the use of dogs for hunting on CDFW lands.

Revisions to subsection (n) of Section 550, Title 14, CCR, are proposed to clarify that dogs are not required to be on a leash while engaged in authorized hunting, training or dog trials. The proposed revisions also clarify how dogs must be kept under control while on Department property for the purpose of hunting, training or participating in a dog trial, but outside of the parts of a property where those activities are authorized to take place.

Revisions to subsection (x) of Section 551, Title 14, CCR, are proposed to enact new federal reservation changes for Colusa and Sutter National Wildlife Refuges.

Revisions to subsection (y) of Section 551, Title 14, CCR, are proposed to remove the Department's Bishop office from the list of offices issuing fishing permits for Heenan Lake.

Revisions to subsection (a) of Section 703, Title 14, CCR, are proposed to phase in the special use permit fees over a three year period. Subsection (c) of Section 703 is also proposed to be revised to defer the annual fee adjustment requirement for the interim fees until the full fees have been in effect for one year.

Revisions to the Permit Application for Special Use of Department Lands (Form DFW 730) are proposed to reflect the phasing in of the permit fees.

VI. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Responses to Those Considerations:

Public Comments were received and are summarized in Attachment A.

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, CA 95814

VIII. Location of Department files:

Department of Fish and Wildlife
1812 Ninth Street
Sacramento, CA 95811

IX. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change:

No alternatives were identified

(b) No Change Alternative:

- 1) Regulation Clarification and Consolidation: The no change alternative would leave the regulations in Sections 550, 551, 552, 553, and 630, Title 14, CCR, as currently written - inconsistent, confusing, difficult to use and highly duplicative.
- 2) Special Use Permit: The no change alternative would maintain the current language without regulations requiring special use permits for events or special uses of Ecological Reserves or undesignated lands, and no specific direction in Title 14, CCR, for evaluating special use requests. The Department would not recover costs for the staff time required to review requests for special uses or events, negotiate the terms of feasible requests, and follow-up, as necessary, when conditions for special uses or events are not followed.
- 3) Designation of Ecological Reserves and Wildlife Areas: By not adding the properties described above to Title 14, CCR, the appropriate level of protection for the properties is not provided and the appropriate public uses for the property are not made clear to the public and Department staff.

(c) Consideration of Alternatives:

In view of the information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulations are proposed, would be as effective as, and less burdensome to the affected private persons than the proposed regulations, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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. The proposed regulations are intended to clarify existing regulations and will not substantially change existing activities on Department lands.

(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:

Because the proposed regulations will not substantially change existing activities on Department lands, the Commission does not anticipate any impact on the creation or elimination of jobs within the state, the creation or elimination of new or existing businesses, or the expansion of businesses in California.

(c) Cost Impacts on a Representative Private Person or Business:

Per proposed regulation subsection 550.5(d), Title 14, CCR, persons or organizations that apply for a special use permit would pay an appropriate permit fee based upon their proposed use. The proposed permit fee is \$122.50 for a Type 1 Special Use Permit, \$462.50 for a Type 2 Special Use Permit or \$536.00 for a Type 3 Special Use Permit. The permit fee recovers the Department's cost to review the permit application, coordinate with the applicant, develop terms and conditions, and issue the permit. An additional amount may be charged or a deposit may be required to recover other Department costs associated with a special use (e.g. site preparation, monitoring during the special use, clean up). Definitions of the types of special uses are in proposed subsection 550.5(d)(1), Title 14, CCR.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The reduction of duplication within the lands regulations is expected to reduce the number of pages in the regulation booklets which are published each year ("Hunting and Other Public Uses on State and Federal Areas"). This may save the state money in publishing costs.

The state would recover the cost of regulating special uses or events on Department land through the special use permit fee.

- (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

The proposed application form, standard permit conditions and informational attachments that would be provided to the applicant are incorporated by reference into proposed Section 703(a). The permit application is titled "Permit Application for Special Use of Department Lands" (DFW 730 (New 01/14)). It is impractical to include the application and its attachments into the text of the regulations because it is nine pages long.

The Permit Application for Special Use of Department Lands (DFW730 (New 01/14)) 730a, 730b, and 730c was prepared and made available to the public for the 45 day comment period plus the additional 15 day comment period. The Permit Application for Special Use of Department Lands was posted on the Commission's website on November 22, 2013.

The Department's legal counsel reviewed the language in Section 550 (x) and determined that is sufficiently clear. There is not an official field test to determine when someone is under the influence of alcohol to the extent of being unsafe in a wildlife area campground or parking lot. It requires a certain amount of subjective decision making on the part of the Department's staff, similar to determining whether someone's behavior is "disorderly". Under the circumstances, the proposed language is considered to be adequately clear. This language went through public review in the original 2012 package and then two public review periods with the current package and no comments were received regarding this language.

Section 551(s) refers to big game drawing that was not referenced in the Initial Statement of Reasons. Due to high hunter demand that exceeds the available harvest quotas for deer, elk, antelope and bighorn sheep, the Department holds the Big Game Drawing each year to issue and distribute all premium deer hunt tags and elk, antelope and bighorn sheep tags Section 708.1 et seq.

A typographical error was made on page 18 of the Initial Statement of Reasons. The proposed Section 550(cc)(3)(A) includes authorization to possess and discharge a firearm as part of hunting dog-training in a designated area or with written authorization from the Department (typically a special use permit issued for a dog trial event). Section 550(cc)(3)(A) should be Section 550(cc)(2).

Typographical errors were made on page 28 of the Initial Statement of Reasons. The corrections are provided in the table below.

Proposed 551(q)	Existing 551(q)	Proposed 551(q)	Existing 551(q)
(1)	(74)(B),(C),(F)	(11)	(61)(F)
(2)	(40)(B)	(12)	(64) new
(3)	(59)(F),(J)	(13)	(49)(B)
(4)	(23)(E)	(14)	(67)(C)
(5)	(8)(B)	(15)	(31)(E)
(6)	(42)(B),(F)	(16)	(76)(B)
(7)	(75)(B)(4),(5)	(17)	(69)(D)
(8)	new	(18)	(36)(D)
(9)	(45)(B)	(19)	(55)(D)
(10)	(46)(A)	(20)	(36)(D)

At the December 11, 2013, Fish and Game Commission meeting, Patricia McPherson, representing Grassroots Coalition and Sierra Club, stated that she submitted a PowerPoint Presentation. The Commission did not receive the PowerPoint Presentation.

UPDATED INFORMATIVE DIGEST (Policy Statement Overview)

California Wildlife Areas and Ecological Reserves

The majority of acreage administered by the Department of Fish and Wildlife (Department) is included in either wildlife areas or ecological reserves. Wildlife areas are acquired primarily for wildlife conservation and providing opportunities for compatible recreational uses. There are currently 110 wildlife areas, encompassing approximately 711,726 acres. The authority for regulating wildlife areas is established in Fish and Game Code sections 1525 through 1530.

Ecological reserves are acquired primarily for the purpose of protecting rare and/or endangered native plant and animal species and specialized habitat types (Fish and Game Code Section 1580). Other purposes for the establishment of ecological reserves are the observation of native plants and animals by the general public and scientific research (Fish and Game Code Section 1584). There are currently 130 ecological reserve properties, encompassing approximately 212,640 acres. The authority for regulating ecological reserves is established in Fish and Game Code sections 1580 and 1584.

The Department also administers public access lands and properties which are not yet designated. The latter are typically properties that have been recently acquired but have not yet been designated as either wildlife areas or ecological reserves by the Fish and Game Commission (Commission).

Fish and Game Code Section 1745 describes the priority public uses for Department-managed lands as “hunting, fishing, wildlife viewing, wildlife photography, conservation education, and fish and wildlife research, except for ecological reserves where uses shall be considered on an individual basis.”

Purpose of Amendments to Wildlife Area and Ecological Reserve Regulations

- (1) Currently public uses of Department lands are governed by sections 550, 551, 552, 553, and 630, Title 14, Code of Regulations (CCR). Cumulatively these sections contain hundreds of subsections with both general regulations (applicable to all or most lands) and specific regulations (applying only to one or a limited number of areas), mixed together in an often confusing and hard to find manner. Furthermore there are inconsistencies, duplication, and unnecessary regulations which need resolution.
- (2) This rulemaking action is being proposed to accomplish the following objectives:
 - Consolidate and improve the consistency and clarity of the regulations that govern public use of lands owned and/or managed by the Department of Fish and Wildlife, and remove existing regulations that are duplicative or unnecessary.
 - Clarify that restrictions on firearms on Department land do not prohibit the lawful possession of a concealed firearm by an active peace officer, a retired peace officer in lawful possession of an identification certificate issued pursuant

to Penal Code Section 25455, or the lawful possession of a concealed firearm pursuant to a concealed carry permit issued pursuant to Penal Code sections 26150 or 26155.

- Improve public safety and recreational opportunities without causing a significant effect on wildlife or habitat resources.
- Standardize the process used to issue special use permits for activities on Department land. Fees associated with Special Use Permits are proposed in Section 703(a), Title 14, CCR.

(3) To accomplish these objectives, the Commission proposes to amend and re-order these sections, and to add a new section, so that the public can more easily determine what uses are allowed upon which lands:

- General regulations that apply to all, or most, Department lands will be found in amended Section 550, Title 14, CCR.
- The addition of Section 550.5, Title 14, CCR, within this rulemaking action contains detailed information regarding entry permits, reservations and special use permits for Department lands.
- Specific regulations that pertain to Department lands designated as wildlife areas will be found in amended Section 551, Title 14, CCR. (Note that the current provisions of Section 553, Heenan Lake Wildlife Area, will be incorporated within Section 551. Section 553, Title 14, CCR, will therefore be repealed).
- Specific regulations for the nine National Wildlife Refuges that have also been designated as wildlife areas by the Commission will be found in amended Section 552, Title 14, CCR.
- Property-specific regulations for lands designated as ecological reserves will be found in amended Section 630, Title 14, CCR.
- Subsection 703(a)(2) is a new regulation within this rulemaking action which includes fees for special use permits and incorporates by reference "Permit Application for Special Use of Department Lands" (DFW 730, New 01/14).

(4) AMEND SECTION 550, Title 14, CCR. This rulemaking proposes the consolidation of generally applicable land regulations within an amended Section 550, Title 14, CCR. The most significant step in the proposed regulations is the combining of general regulations contained in the current sections 550, 551, and 630 into one set of regulations generally applicable to all Department lands as proposed in the new Section 550. These general regulations are for the protection of lands and natural resources.

Additionally, some regulations lack the information necessary to be as clear and understandable as possible. Language was changed or added in many subsections to improve the clarity of the regulations. Also 15 terms are defined in subsection 550(b) for the purpose of improving clarity. Subjects which were a particular focus in the effort to clarify the regulations included, but were not limited to: hunting, fishing, education, research, photography, and wildlife viewing.

- (5) ADD SECTION 550.5, Title 14, CCR. Requirements for reservations, entry permits, fees, passes, and special use permits will be moved to, or provided in, new Section 550.5, Title 14, CCR.

As the amended Section 550 will address the basic, general regulations for public use, a new added Section 550.5 will address detailed topics. These include the “how to” details and specific requirements for entry permits and passes; hunting area reservations, including moving those currently found in Section 551; and, special use permits. The proposed Section 550 will direct readers to appropriate subsections of Section 550.5 to obtain more details where necessary. The necessity for new regulations regarding entry permits, fees, passes and special use permits is summarized below:

550.5(b), Title 14, CCR: Reservations for Wildlife Viewing and Tours. The observation of native wildlife and habitats by the public is an appropriate use of many Department lands (Fish and Game Code Sections 1528, 1584, 1745). Certain properties have become very popular for wildlife or wildflower viewing opportunities. The new regulation establishes advance reservation opportunities if it is necessary to limit entry to these areas to protect sensitive natural resources.

550.5(c), Title 14, CCR: Entry Permits, Fees and Passes. This section is necessary for clarification about how to obtain passes that are exchanged for entry permits at Department lands. The Commission is authorized to prescribe the terms for issuing permits and other entitlements to use Department lands in Fish and Game Code Section 1050.

550.5(d), Title 14, CCR: Special Use Permits. Proposed subsection 550(d) explains that Special Use Permits are required for organized events or gatherings on Department lands. There currently are no statewide procedures for making or processing requests for Special Use Permits. There is also no mechanism for the Department to recover costs incurred by processing requests for Special Use permits. Section 550.5 is proposed to fulfill the need to have statewide methods for requesting and processing Special Use Permits for Department lands and also to explain new associated fees associated with Special Use Permits

- (6) AMEND SECTION 551, Title 14, CCR. Specific regulations for individual wildlife areas are proposed in amended Section 551, Title 14, CCR.

In the existing regulations specific regulations for wildlife areas are listed by property and not by type of use. If a person is interested in a particular type of use it is necessary to read the regulations for every wildlife area to learn where that use is allowed or where use restrictions exist. To make it easier for readers to find regulations regarding a use, the property-specific regulations for wildlife areas have been reorganized within the amended Section 551, primarily by type of use and secondarily by property. For most uses, the property-specific regulations are organized into tables, with each table dedicated to one or two types of uses. New regulations regarding visitor hours, hunter safety, firearms, dogs, and other restrictions are also proposed in this section to improve public safety.

Designation of a New Wildlife Area

The Department designates recently acquired lands described as wildlife areas in accordance with Fish and Game Code Sections 1525 and 1526. The list of all Department lands designated wildlife areas are included in the proposed amendment to subsection 551(b) and all future acquired wildlife areas will be added there. The property proposed at this time for designation in subsection 551(b)(8) is Burcham and Wheeler Flats Wildlife Area, Mono County.

- (7) AMEND SECTION 552, Title 14, CCR. Specific regulations for National Wildlife Refuges that are also designated as wildlife areas by the Commission are proposed in amended Section 552, Title 14, CCR.

All of the regulations in proposed subsection 552(a)(1) through 552(a)(5) correspond to the same numbered regulations in existing subsection 552(a). Following proposed subsection 552(a)(5), we inserted the regulations for the Sacramento River National Wildlife Refuge as subsection 552(a)(6). The regulations that are currently subsections 552(a)(6) through 552(a)(8) are proposed to be renumbered as 552(a)(7) through 552(a)(9). The regulations for the Sacramento River National Wildlife Refuge (SRNWR) were moved from subsection 551(q)(34) to subsection 552(a)(6) in order to consolidate into one location, all of the site-specific regulations for National Wildlife Refuges that are also wildlife areas that have been designated by the Commission. Existing subsection 552(a)(9) is proposed for deletion because the Department no longer manages the hunting program for the subject refuge (Stone Lakes National Wildlife Refuge), nor does the Department have any other management authority or responsibility for that refuge.

As previously discussed in more detail under Proposed Section 552, the language regarding camping in proposed subsections 552(a)(1)(D), (2)(E), (5E), and (9)(D) has been changed from the corresponding existing regulations ((552)(a)(1)(D), (2)(D), (5)(E), and (8)(E)). The existing subsections do not allow for any camping or tents on the subject refuges. This conflicts with the federal regulations (50 CFR 32.24, October 1, 2012) which allows "overnight" camping (meaning one night) on the nights before waterfowl shoot days, but only in campers, motorhomes or trailers and only in the hunter check-station parking area. The proposed changes eliminate the conflicts with both the federal regulations, and also with the decades-long practice of allowing camping under these restricted circumstances for the subject refuges.

- (8) REPEAL SECTION 553, Title 14, CCR, Heenan Lake Wildlife Area. As part of consolidating the regulations, all of Section 553 is proposed for deletion. Existing Section 553 includes site specific fishing and boating regulations for a single property, Heenan Lake Wildlife Area. These regulations are proposed to be incorporated into proposed subsection 551(l) which, when adopted, will also include property-specific regulations regarding boating.
- (9) AMEND SECTION 630, Title 14, CCR. Specific regulations pertaining to individual ecological reserves are proposed in amended Section 630, Title 14, CCR.

In the existing regulations specific regulations for ecological reserves are listed by property and not by type of use. If a person is interested in a particular type of use it is necessary to read the regulations for every ecological reserve to learn where that use is allowed or where use restrictions exist. To make it easier for readers to find regulations regarding a use, the property-specific regulations for ecological reserves have been reorganized within the amended Section 630, primarily by type of use and secondarily by property. For most uses, the property-specific regulations are organized into tables, with each table dedicated to one or two types of uses. New regulations are also proposed to improve public safety.

Existing regulations in Section 630 give authority to the Department, partner agencies or organizations, to conduct management actions on ecological reserves. Because the Department already has statutory authority for these activities, these existing regulations are duplicative and unnecessary and have therefore been proposed for deletion.

Designation of Six New Ecological Reserves

The Department proposes designations of recently acquired lands described as ecological reserves in accordance with Fish and Game Code Section 1580. Ecological reserves will continue to be designated through addition to existing subsection 630(b), Title 14, CCR, under the proposed regulations. The properties proposed for designation as ecological reserves include:

- Subsection 630(b)(8), Bakersfield Cactus Ecological Reserve, Kern County
- Subsection 630(b)(30), Cambria Pines Ecological Reserve, San Luis Obispo County
- Subsection 630(b)(69), Liberty Island Ecological Reserve, Solano County
- Subsection 630(b)(106), San Antonio Valley Ecological Reserve, Santa Clara County
- Subsection 630(b)(114), Sands Meadow Ecological Reserve, Tuolumne County
- Subsection 630(b)(130), Vernalis Ecological Reserve, San Joaquin County

- (10) AMEND SECTION 703(a), Title 14, CCR to add subsection 703(a)(2) Permits for Special Use of Department Lands. An application form for requesting a Special Use Permit is proposed to be incorporated by reference into Section 703(a). The title of the application is "Permit Application for Special Use of Department Lands" (Form DFW 730 (New 01/14). This application is referred to in proposed subsection 550.5(d), which when adopted, will provide regulations regarding the process for obtaining a Special Use Permit. The application included attachments that provide information about Special Use Permits, standard terms and conditions, and a supplementary form for commercial or fund-raising events.

Section 703(a) also includes the fees that would be associated with Special Use Permits. The fees are proposed to recover Department costs of evaluation and processing special use permit applications.

Benefits of the Regulation

The proposed regulations will make it easier for the public to understand and follow the rules that apply to Department lands. The Department also anticipates non-monetary benefits to public safety as a result of the changes to regulations proposed in this rulemaking. Proposed amendments to Section 552 will resolve existing conflicts with federal regulations on National Wildlife Refuges that are also designated as wildlife areas by the Commission.

Consistency with State Regulations

The proposed regulations in this rulemaking action are neither inconsistent nor incompatible with existing state regulations. The primary purpose of the proposed regulations is a re-ordering and clarification of existing regulations.

The Department has determined that clarifying changes to the regulations would address some of the concerns raised by constituents at the Commission's December 2013 and February 2014 meetings.

The Fish and Game Commission at the April 16, 2014 meeting in Ventura adopted the amended regulations and the modifications as discussed below with no further changes.

For Lower Sherman Island Wildlife Area only, the Regional Manager may determine whether decoys may be left in the field. Revisions to subsection (i) of Section 550, Title 14, CCR, are proposed to retain this specific regional manager authority currently allowed in subsection 551(q)(47)(E).

Revision to 550(m) directs reader to 550(n) for rules regarding the use of dogs for hunting on CDFW lands.

Revisions to subsection (n) of Section 550, Title 14, CCR, are proposed to clarify where and how dogs are to be kept under control on Department lands. Specifically, the revisions pertain to dogs on Department lands for the purpose of hunting, training or participating in a dog trial. Recent federal changes were made to the number of hunters allowed per reservation at Colusa and Sutter National Wildlife Refuges (NWR).

Revisions to subsection (x) of Section 551, Title 14, CCR, are proposed to align state regulations with the federal changes for Colusa and Sutter National Wildlife Refuges.

Revisions are proposed to subsection (y) of Section 551, Title 14, CCR, to delete the Bishop office from the list of offices issuing fishing permits for Heenan Lake.

Due to public concern about the cost of the new special use permit fees, the Department is proposing to phase in the time required to achieve full cost recovery pursuant to sections 1050 and 1745, Fish and Game Code. Revisions to Section 703, Title 14, California Code of Regulations (CCR), are proposed to

phase in the special use permit fees over a three year period, and the Permit Application for Special Use of Department Lands” (Form DFW 730) is proposed to be revised to reflect the phasing in of the special use permit fees.

In addition, revisions are proposed to subsection (c) of Section 703 to defer the annual fee adjustment requirement for the interim fees until the full fees have been in effect for one year.