

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Section 670.5
Title 14, California Code of Regulations
Re: Animals of California Declared to Be Endangered or Threatened

I. Date of Initial Statement of Reasons: November 24, 2015

II. Date of Final Statement of Reasons: August 8, 2016

III. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: August 6, 2014
Location: San Diego

(b) Adoption Hearing: Date: February 11, 2016
Location: Sacramento

IV. Update:

At its February 11, 2016, meeting in Sacramento, the Fish and Game Commission adopted the regulations as described in the Notice of Proposed Action without any changes.

V. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations:

No public comments, written or oral, were received during the public comment period.

VI. 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

VII. Location of Department Files:

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

VIII. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

No alternatives were identified.

(b) No Change Alternative:

If the regulation change is not adopted, the Clear Lake hitch (*Lavinia exilicauda chi*) will have no formal State legal status, the position it held prior to the petition filing.

(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, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

(d) Description of Reasonable Alternatives That Would Lessen Adverse Impact on Small Business:

The Commission identified no reasonable alternative to the regulation that would lessen any adverse impact on small business.

IX. 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:

Although localized economic impacts could result from adding Clear Lake hitch to the list of threatened species, the Commission does not anticipate that there will be significant, statewide adverse economic impact on California businesses or significant costs to private or public entities due to the limited area affected by the listing.

(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 entire distribution of Clear Lake hitch is limited to the Clear Lake watershed. Because of this localized distribution, adding the Clear Lake hitch to the list of threatened species under CESA is unlikely to affect the creation or elimination of jobs or businesses within the state as a whole.

The Commission does not anticipate benefits to the health and welfare of California residents or to worker safety.

The Commission anticipates benefits to the environment by the protection of the Clear Lake hitch.

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

Designation of threatened or endangered status, per se, would not necessarily result in any significant cost to private persons or entities undertaking projects subject to public agency review and approval under the California Environmental Quality Act (CEQA), since impacts to Clear Lake hitch would have been evaluated as part of the CEQA lead agency's mandatory consideration of a project's impacts to biological resources and species of special concern.

Some costs to individuals associated with avoiding take or obtaining take authorization arose with the candidacy designation, which took place more than two years ago. Because the take prohibition for both candidate and listed species is the same, such costs would not be increased by the act of adding Clear Lake hitch to the threatened species list. However, individuals may have delayed actions in anticipation of a final listing decision by the Commission; therefore listing could increase such costs.

(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.

Updated Informative Digest/Policy Statement Overview

Section 670.5 of Title 14, California Code of Regulations (CCR), provides a list, established by the California Fish and Game Commission (Commission), of animals designated as endangered or threatened in California. The Commission has the authority to add or remove species from this list if it finds that the action is warranted.

As required by Fish and Game Code Section 2075.5, subsection (e)(2), the Commission must initiate proceedings in accordance with the Administrative Procedure Act to amend subsection (b)(2) of Section 670.5, to add Clear Lake hitch (*Lavinia exilicauda chi*) to the list of threatened animals.

In making the recommendation to list Clear Lake hitch pursuant to the California Endangered Species Act, the Department identified the following primary threats: 1) present or threatened modification or destruction of habitat; 2) predation; 3) competition; and 4) climate change. More detail about the current status of Clear Lake hitch can be found in the Report to the Fish and Game Commission, "A status review of Clear Lake hitch (*Lavinia exilicauda chi*)" (Department of Fish and Wildlife, May 28, 2014).

The proposed regulation will benefit the environment by protecting Clear Lake hitch as a threatened species.

Commission staff has searched the CCR and has found that the proposed regulation is neither inconsistent nor incompatible with existing state regulations. No other state entity has the authority to list threatened and endangered species.

UPDATE

At its February 11, 2016, meeting in Sacramento, the Fish and Game Commission adopted the regulations as described in the Notice of Proposed Action without any changes.

There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.

