

STATE-TRIBAL COOPERATION IN CALIFORNIA ENDANGERED SPECIES ACT LISTINGS

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California Department of Fish and Wildlife

- **The mission of the California Department of Fish & Wildlife is to manage California's diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment by the public.**
- **This mission includes habitat protection and maintenance in a sufficient amount and quality to ensure the survival of all species and natural communities.**
- **CDFW is also responsible for the diversified use of fish and wildlife including recreational, commercial, scientific, and educational uses.**

California Department of Fish and Wildlife

To fulfill this multi-faceted mission, CDFW:

- **Manages more than 1,000,000 acres of fish and wildlife habitat, including:**
 - **110 Wildlife Areas (700,000+ acres);**
 - **130 Ecological Reserves (200,000+ acres);**
 - **20 fish hatcheries (855 acres); and**
 - **500+ other properties (200,000+ acres).**

California Department of Fish and Wildlife

- **Works with the Fish and Game Commission to promulgate and enforce regulations throughout the state relating to:**
 - **Recreational hunting and fishing**
 - **Commercial fishing**
 - **Commercial trapping**
 - **Threatened and endangered species listings for fish and wildlife**
 - **Rare, threatened and endangered species listings for plants**
 - **Invasive species**

California Department of Fish and Wildlife

- **Issues regulatory permits and administers and enforces:**
 - **The Lake and Streambed Alteration Program (Fish & Game Code, § 1600, et seq.)**
 - **The Native Plant Protection Act (Fish & Game Code, § 1900, et seq.)**
 - **The California Endangered Species Act (Fish & Game Code, § 2050, et seq.)**
 - **The Natural Community Conservation Planning Act (Fish & Game Code, § 2800, et seq.)**

California Department of Fish and Wildlife

- **Employs approximately 400 Wildlife Officers to enforce:**
 - **State hunting and fishing laws and regulations;**
 - **State endangered species laws and regulations;**
 - **State water quality, oil spill, and pollution laws and regulations;**
 - **State criminal laws and regulations (CDFW Wildlife Officers are peace officers with general state criminal enforcement powers); and**
 - **Federal fish and wildlife laws (CDFW Wildlife Officers are cross-deputized by both the U.S. Fish and Wildlife Service and NOAA Fisheries).**

California Endangered Species Act

- **Regulatory component of CESA:**
 - **The Commission receives a petition to list or delist a species as threatened or endangered.**
 - **Within 90 days, the Department prepares an evaluation of the petition with a recommendation as to whether the species should be made a candidate for listing.**
 - **The Commission determines whether to grant candidacy status (candidate species gets full protection afforded to endangered and threatened species during the one-year candidacy period)**

California Endangered Species Act

- **Regulatory component of CESA:**
 - **Once a species is made a candidate, the Department has one year to conduct a status review and report back to the Commission with a recommendation as to final listing.**
 - **The Commission determines whether to list the species as either:**
 - **Endangered: A native species “which is in serious danger of becoming extinct throughout all, or a significant portion of its range.”**
 - **Threatened: A native species “that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of special protection and management efforts.”**

California Endangered Species Act

- **Public input into CESA listing process:**
 - **Petition the Commission to list or delist a species.**
 - **Provide input (including data on abundance, range, distribution, etc.) during Department's 90-day evaluation of the petition.**
 - **Submit oral or written comments to the Commission as to the candidacy decision.**
 - **Provide input (including data on abundance, range, distribution, etc.) during Department's one-year status review if the species is made a candidate.**
 - **Submit oral or written comments to the Commission as to the candidacy decision.**

California Endangered Species Act

- **Tribal involvement in CESA listing process:**
 - **Tribes will be notified by the Commission and the Department whenever the Commission receives a petition that may affect the Tribe's interests.**
 - **Affected tribes may request consultation with the Commission staff and the Department at any time during the Commission's listing process.**
 - **If the Commission and the Department are aware of a listing that will likely have a significant effect on one or more tribes, the Commission staff and the Department may request consultation.**
 - **A tribe or any of its members may also provide input and participate in the regular public process for CESA listings.**

California Endangered Species Act

- **Examples of information tribes may bring to the process:**
 - **Historic and contemporary information on the species population, range, and distribution (information may be scientific, traditional ecological knowledge, anecdotal, etc.).**
 - **Anecdotal or other information regarding threats to the species.**
 - **The tribe's historic interactions with and management of the species.**
 - **The tribe's current cultural practices with regard to the species and the tribe's needs in terms of take of the species.**

California Endangered Species Act

- **Administration and enforcement component of CESA:**
 - **“No person shall import into this state, export out of this state, or take, possess, purchase, or sell within this state, any species, or any part or product thereof, that the commission determines to be an endangered species or a threatened species, or attempt any of those acts.”**
 - **“Take” is defined as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.”**

California Endangered Species Act

- **Administration and enforcement component of CESA:**
 - **The Commission may authorize take during the candidacy period pursuant to Fish and Game Code section 2084.**
 - **The Department may authorize take for “scientific, educational, or management purposes” pursuant to Fish and Game Code section 2081(a).**
 - **The Department may authorize take “incidental to an otherwise lawful activity” pursuant to Fish and Game Code section 2081(b).**

California Endangered Species Act

- **Tribal take authorization:**
 - **If a tribe's interests will be affected by a candidacy listing, the tribe may request the Commission adopt a Section 2084 regulation exempting tribal take from the take prohibition during candidacy.**
 - **All Section 2084 regulations must go through a formal process under the Administrative Procedure Act and the California Environmental Quality Act.**
 - **Both the APA and CEQA have documentary requirements and rigid timelines.**
 - **For these reasons, a tribal request for a Section 2084 regulation must be received as early in the candidacy process as possible.**

California Endangered Species Act

- **Tribal take authorization:**
 - **Once a species is listed as endangered or threatened, a tribe may seek take authorization from the Department pursuant to:**
 - **Section 2081(a): Scientific, educational, or management purposes.**
 - **Tribal cultural take**
 - **Section 2081(b): Take incidental to an otherwise lawful activity.**
 - **Cannot authorize directed take.**
 - **Mitigation requirements.**

Contact Information

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