

---

## SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair  
2025 - 2026 Regular Session

---

### AB 1319 (Schultz) - Protected species: California Endangered Species Act

**Version:** July 10, 2025

**Urgency:** No

**Hearing Date:** August 18, 2025

**Policy Vote:** N.R. & W. 4 - 3

**Mandate:** Yes

**Consultant:** Ashley Ames

**Bill Summary:** This bill would require the California Fish and Game Commission to consider adopting emergency regulations to protect, under the California Endangered Species Act, certain federally-protected species in the event of a decrease in federal protection until December 31, 2031, as provided, among other provisions.

#### **Fiscal Impact:**

- Unknown but likely significant ongoing costs, potentially as much as \$10-12 million annually (General Fund, Fish and Game Preservation Fund, or other fund) for CDFW to implement the provisions of this bill, depending on the number of species that become eligible for listing under the California Endangered Species Act pursuant to AB 1319. Costs of around \$10 million is based on assuming a scenario where only about 10% of federally listed species are listed by the Commission under the emergency regulations under this bill in any one year.

#### **Background:**

*The California Department of Fish and Wildlife and Fish and Game Commission.* Existing law establishes the California Department of Fish and Wildlife (CDFW) and the California Fish and Game Commission (commission) in the California Natural Resources Agency. CDFW's mission statement 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." In general CDFW implements and enforces the regulations set by the commission, as well as providing biological data and expertise to inform the commission's decision-making process.

*The federal Lacey Act.* The Lacey Act, first enacted in 1900, is one of the oldest federal wildlife protection laws and combats trafficking of illegally taken wildlife, fish, or plants. The Lacey Act has been amended several times, including in 2008, when protections were extended to a broader range of plants and plant products – making it unlawful to import certain products without an import declaration. The 2008 amendments focus on illegal logging and harvesting of wild plants, practices often linked to terrorist funding, political instability, deforestation, and unlawful trade. The Lacey Act is administered by multiple federal agencies, including the Departments of the Interior, Agriculture, and Commerce. There are certain specific prohibitions in state law concerning the trafficking of ivory and the import of certain dead animal parts, such as from tigers, into the state for commercial purposes (see Penal Code §653o, among others).

*The federal Endangered Species Act (ESA) and the California Endangered Species Act (CESA).* ESA and CESA were enacted to prevent the extinction of fish, wildlife, plant,

and invertebrate species. Both acts rely on scientific analysis to determine which species face extinction and impose protections for those species. Although there are differences between ESA and CESA, the overarching intent of both is to regulate and impose mitigation on activities that could contribute to the extinction of species. Species are referred to as “listed” if they have been designated as “threatened” or “endangered” by either ESA or CESA.

According to the list of state- and federally-listed animal species that CDFW maintains, there are 60 species that are both state- and federally-listed, 38 species that are listed only under CESA, and 80 species that are listed only under the ESA. Those 80 species include two species of abalone, numerous species of butterfly, two species of cutthroat trout, populations of steelhead salmon, loggerhead sea turtle, and several whale species, among others.

Under CESA, anyone can file a petition with the commission proposing the listing of a particular species. After the commission receives a CESA listing petition, CDFW is responsible for completing a petition evaluation that includes a recommendation on whether the petition contains sufficient scientific information to indicate the petitioned action is warranted. Once the CDFW evaluation is completed, the commission, at a public meeting, has to decide whether to accept the petition. If the petition is accepted, the species becomes a candidate species and receives CESA protections, as provided. CDFW then has to prepare a peer-reviewed species status report based upon the best scientific information available. Once the status report is completed, the commission has to decide at a public hearing whether to petitioned action is warranted. If yes, the species will be “listed” and afforded relevant protections. If no, the species is removed from candidacy. The commission may also – through emergency regulations – seek to provide immediate conservation, preservation, or protection of birds, mammals, fish, amphibians, or reptiles (see Fish and Game Code (FGC) §399).

*Permitted take.* Incidental take permits (ITPs) are exceptions under CESA and ESA to enable prohibited take, subject to certain conditions, for an otherwise lawful activity. Because take must be fully mitigated under CESA, a state-issued ITP may require a higher level of mitigation than a federally-issued ITP. CESA provides a mechanism for CDFW to concur with a federal ITP if that ITP meets state standards through a “consistency determination.” ESA also provides a mechanism to permit incidental take for a federal agency whose project is likely to adversely affect a listed species. The federal agency is required to initiate a formal consultation with the US Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) to provide information regarding the impacts. After this consultation, the USFWS or NMFS will prepare a Biological Opinion which analyzes the impacts of the project. If USFWS or NMFS anticipate that the project will result in incidental take, the Biological Opinion is accompanied by an incidental take statement, which anticipates the amount of take, prescribes avoidance and minimization measures for the project, and exempts the project from ESA’s take prohibition.

*Recent Trump Administration Executive Orders.* President Trump has signed multiple Executive Orders related to this bill. In January 2025, President Trump signed two related to the Central Valley Project (CVP) and State Water Project (SWP). The first, “Putting People over Fish,” states President Trump’s goal to deliver “enormous amounts of water” to the Central Valley and Southern California, and the second, “Emergency Measures to Provide Water Resources in California,” directs the Secretaries of the

Interior and Commerce to “immediately take actions to override existing activities that unduly burden efforts to maximize water deliveries” and directs the Secretary of the Interior to “expedite action related to any exemption under [ESA] for the long-term operation of the [CVP] and [SWP] for all applicable threatened and endangered species.” This Executive Order also allows the Secretaries of the Interior and Commerce to take action that is in line with the 2019 Biological Opinions for operation of the CVP and SWP, and states that the CVP may be operated “notwithstanding any contrary State or local laws.”

Further, the current federal administration has indicated its intention to weaken protections for biodiversity, particularly endangered and threatened species. Since January, President Trump has issued multiple executive orders with directives to weaken protections for species protected under the ESA, including mandating quarterly meetings of the Endangered Species Committee, also known as the “God Squad,” which can override ESA and authorize otherwise prohibited activities; sunset environmental protections to “unleash American energy;” and streamlining ESA to expand American Timber Production. In April, USFSW and NMFS proposed to rescind the regulatory definition of “harm” under ESA, which is frequently used to protect critical habitat for listed species.

**Proposed Law:** This bill would require the commission to consider adopting emergency regulations to protect, under CESA, certain federally-protected species in the event of a decrease in federal protection until December 31, 2031, as provided, among other provisions.

Specifically, this bill would:

1. Make it unlawful for a person in this state to transport, sell, offer for sale, possess with the intent to sell, receive, acquire, or purchase any fish, wildlife, or plant that was taken, possessed, transported, or sold in violation of any statute of the United States with regard to national or international trade of fish, wildlife, or plants in effect on January 19, 2025, unless otherwise authorized under state law. Exclude any cannabis or hemp as allowed under state law from this prohibition, as provided.
  - a. Sunset 1) on December 31, 2031, as provided.
  - b. Authorize any action brought to enforce 1) on or before December 31, 2031, to proceed to final judgment.
2. Define “federally listed species” to mean any species, subspecies, distinct population segment, or evolutionarily significant unit that was protected under the ESA at any time.
3. Require the commission, in order to ensure no backsliding as a result of a decrease in endangered or threatened species protections by the federal government, to consider whether to adopt a regulation that adds a federally listed species that is native to California to the list of endangered species or to the list of threatened species as an emergency regulation if the commission determines that a federal action after January 19, 2025, under the ESA results in a decrease

in protection for that federally listed species and state listing could provide protection, as provided.

- a. Require CDFW to promptly start a status review if the commission lists the species via emergency regulation.
  - b. Require the commission to determine whether to list the federally-listed species beyond duration of the emergency.
  - c. Authorize an emergency regulation adopted by the commission pursuant to this act to remain in effect for up to two years. Authorize the commission to terminate the emergency regulation earlier upon a finding that due to changed conditions, the emergency regulation is no longer necessary.
  - d. Repeal an emergency regulation immediately upon its termination by the commission.
4. Identify the following federal actions that occurred between January 19, 2025, and December 31, 2031, as warranting a commission determination of whether a decrease in protection of a federally listed species occurred:
  - a. An act of Congress to amend ESA or reduce protections for a federally-listed species.
  - b. A decision by the USFWS or the NMFS not to protect a federally-listed species.
  - c. A decision by either the USFWS or the NMFS to decrease protections for a federally-listed species listed under ESA that relies upon any amendments to regulations implementing ESA.
  - d. An action by the federal Endangered Species Committee, as specified.
  - e. The issuance of new biological opinions that have decreased protections than previously issued biological opinions.
  - f. A decision by the US Federal Courts to decrease protections for a federally-listed species.
5. Require the commission or CDFW, in authorizing the take of any federally-listed species during the pendency of the emergency regulation, to apply the protections provided by any federal biological opinions, incidental take permits, incidental take statements, or rules promulgated to the ESA in effect as of January 19, 2025, as provided.
6. Provide that an entity operating under a federal authorization for take in effect on or before January 19, 2025, for species listed pursuant to the emergency regulation, during the pendency of the emergency regulation, not be liable for criminal or civil penalties so long as the entities are in full compliance with their federal biological opinion, incidental take permit, incidental take statement,

conservation benefit agreement, or rules promulgated pursuant to ESA, as provided.

7. Require CDFW to monitor and report to the commission at least quarterly with respect to any actions of the federal government that may constitute an emergency, as provided. Require CDFW to provide a list of species that CDFW recommends for emergency listing. Require CDFW to recommend to the commission the priority order for processing emergency regulations.
8. Exempt authorizations by CDFW pursuant to 5) from the California Environmental Quality Act.
9. State legislative intent that the commission and CDFW will be provided sustainable funding sufficient to fully implement 2) – 10) and resulting obligations, as provided.
10. Require the commission to notify affected or interested persons of the adoption of any emergency regulation pursuant to this act, as provided.
11. Sunset 2) – 10) on December 31, 2031, as provided.
12. State that no reimbursement is required.

**Related Legislation:**

SB 1 (Atkins, 2019) would have prevented backsliding on certain federal environmental protections during the first Trump Administration. (This bill was vetoed by Governor Newsom.)

**-- END --**