

TITLE 14. DEPARTMENT OF FISH AND WILDLIFE  
**NOTICE OF PROPOSED RULEMAKING**  
March 24, 2017

NOTICE IS HEREBY GIVEN that the Department of Fish and Wildlife (Department) proposes to adopt regulations regarding Scientific Collecting Permits (SCP) in sections 650 and 703, Title 14, California Code of Regulations. The proposed regulations will:

- Update the Department's existing SCP operations to be consistent with recent statutory changes,
- Revise the permitting structure for implementation in an online application system,
- Provide a revised fee schedule that mirrors the proposed permit structure,
- Incorporate by reference the updated SCP application, renewal and amendment forms, and
- Clarify administrative procedures as requested by the regulated community to improve the Department's review and issuance of SCPs.

The Department invites interested persons to submit comments and recommendations during the public comment period, and/or at the scheduled hearing. The Department will adopt the revised regulations after considering all comments, statements, and recommendations regarding the proposed action.

#### PUBLIC HEARING

The Department will hold a public hearing on Monday, **May 8, 2017, from 9:30 a.m. to 11:30 a.m.** at the Natural Resources Building, Resources Auditorium, 1416 9<sup>th</sup> Street, Sacramento, California. The Resources Auditorium is wheelchair accessible. At the public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Department requests, but does not require, that the persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments on the proposed action to the Department. All written comments must be received by the Department via mail, or e-mail, no later than **5:00 p.m. on May 8, 2017**, to the contact as follows:

California Department of Fish and Wildlife  
Regulations Unit - Scientific Collecting Permits  
Attn: Ona Alminas, Environmental Scientist  
1416 Ninth Street, Room 1342-A  
Sacramento, CA 95814  
Phone: 916-651-9167  
Email: [SCPPermits@wildlife.ca.gov](mailto:SCPPermits@wildlife.ca.gov)

**Section 650, Title 14, CCR**

Authority cited: Sections 702, 1002, 1002.5, 1003, 1050, 2860, and 4810, Fish and Game Code.

Reference: Sections 14, 22, 33, 45, 51, 54, 56, 79, 80, 86, 88, 89.5, 703.3, 710.5, 711.7, 713, 1001, 1002, 1006, 1008, 1017, 1050, 1050.1, 1050.3, 1050.5, 1052, 1054, 1054.2, 1603, 1700, 1755, 1764, 1801, 1802, 2000, 2000.5, 2002, 2010, 2012, 2013, 2021, 2080, 2081, 2353, 2582, 2835, 3007, 3503, 3503.5, 3511, 3960.4, 4004, 4150, 4155, 4700, 4810, 5050, 5515, 8598.3, and 12000, Fish and Game Code.

Section 482, 6025, 11408, Food and Agricultural Code

Section 597, Penal Code

Section 116110 and Section 116180(a), Public Health Code

Section 36602 and Section 36712, Public Resources Code

**Title 14, Section 703, CCR**

Authority cited: Sections 713, 1002, 1002.5, 1050, 1053, 1745, 2118, 2120, 2122, 2150, 2150.2 and 2157, Fish and Game Code.

Reference: Sections 395, 396, 398, 713, 1002, 1002.5, 1050, 1053, 1745, 2116, 2116.5, 2117, 2118, 2120, 2125, 2150, 2150.2, 2150.4, 2151, 2157, 2190, 2193, 2271, 3005.5, 3007, 3503, 3503.5, 3511, 3513, 3950, 10500, 12000 and 12002, Fish and Game Code; and Title 50, Code of Federal Regulations, Parts 21.29 and 21.30.

## INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW

Fish and Game Code (FGC) sections 1002, 1002.5 and 1003 authorize the California Department of Fish and Wildlife (Department) to issue Scientific Collecting Permits (SCPs) for the take and/or possession of wildlife for scientific, educational, and propagation purposes. The Department currently implements this authority through regulations in Section 650, Title 14, California Code of Regulations (CCR).

Existing regulations allow the Department to issue SCPs to individuals, students, and entities who take wildlife for scientific, educational, or propagation purposes. Due to chronic revenue and staffing shortfalls, the current SCP program has been operating short of the Department's goals. FGC sections 1002 and 1002.5 were amended effective 2013, in part to address funding problems, but also instituted other changes affecting permit administration and operation. Assembly Bill 2402 (Statutes of 2012, chapter 559) established a nonrefundable application fee of \$100 and a permit fee of \$300, while extending the permit duration from 24 months to 36 months. While these changes were intended to support dedicated SCP staff within the Department, revenues since the statutory change have been insufficient to support a basic and effective program.

### PROPOSED REGULATIONS

The Department is proposing to strike and replace the existing SCP regulations in Section 650 to overhaul and restructure the SCP program to be consistent with the 2012 statutory changes, update the permitting structure for implementation in an online application system, provide a revised fee schedule that mirrors the proposed permit structure, incorporate by reference the updated SCP application, renewal and amendment forms, and clarify administrative procedures as requested by the regulated community to improve the Department's review and issuance of SCPs.

The proposed changes in subsections (a) through (u) in the new Section 650 are intended to improve SCP efficiency and implementation by:

- Providing 26 definitions for specific terms used in statute and regulations, and clarifying the three purposes for which the Department may issue SCPs,
- Defining review programs to better align with the Department's organization to improve efficiency,
- Clarifying the information required in permit applications,
- Defining the responsibilities of Permitholders,
- Clarifying the persons and entities that are eligible for permits,
- Describing the role of Authorized Individuals, and the Principal Investigator in providing adequate supervision,
- Clarifying qualifications information to be submitted with the permit application,
- Establishing Marine, Fisheries, and Wildlife General Use Permits for low risk take activities involving common or abundant species,
- Establishing Specific Use permits for take activities associated with individual scientific, educational, or propagation efforts that are united by a common set of research goals or objectives. Specific Use permits may involve more invasive techniques and/or

- wildlife species of greater conservation value,
- Describing procedures for renewing existing permits prior to the expiration of the permit term to maintain continuity,
- Describing the process for amendments to General and Specific Use Permits,
- Clarifying the requirements for application forms and fees,
- Clarifying that all individuals named on a permit shall comply with the authorizations, terms and conditions and restrictions of the permit (including standard conditions, which apply to all permits),
- Describing the procedures for notifying the Department prior to conducting permitted activities in the field,
- Clarifying reporting requirements for Permitholders,
- Clarifying required documentation for possession or transfer of wildlife and/or parts thereof,
- Describing the circumstances under which the Department may deny a permit application or a request to amend or renew an existing permit,
- Clarifying permit suspension, revocation, and modification procedures,
- Outlining the procedures for requesting reconsideration following the suspension or revocation of an existing permit, and
- Identifying specific activities and situations that the Department has determined do not require a SCP.

In addition to the above changes to Section 650, the Department is proposing amendments to Section 703 to add a new subsection (d) Applications, Forms, and Fees for Multi-year Permits Valid at the Time of Issuance. Amendments to Subsection 703(d) are proposed to:

- Establish a fee structure for the new General Use and Specific Use permits, including application and amendment fees,
- Provide justification for the proposed fees,
- Identify, and incorporate by reference, the eight application and amendment forms for General Use and Specific Use permits, as well as four forms for reporting, notification, chain of custody, and standard conditions.

## BENEFITS OF THE PROPOSED REGULATIONS

The proposed regulations would meet five goals for Department improvements to SCP administration and operation, including update with recent revisions to statute, and provide an improved permit structure that can better meet cost recovery objectives. The regulations would also provide clarity to terms and application procedures which have been interpreted in various ways by stakeholders, and Department review staff, such as understandings for the three purposes for which SCPs are issued (science, education, propagation) and other concepts (e.g., adequate supervision and roles of Principal Investigators and others named or covered under a SCP). The proposed online system will also assist permit applicants by facilitating more rapid issuance of permits to meet Department operating procedures of 90-100 days via improvements planned with the new permit structure and online implementation, and are outlined in **Table 1** of the Initial Statement of Reasons. In addition, this regulatory proposal includes improvements for permit revocation and suspension, as well as clarity for law enforcement, and notification to regional biologists of planned field activities.

The proposed regulations will result in benefits to fish and wildlife resources through the development of an online application and reporting management system that will improve permit issuance as well as allow the Department to evaluate the potential effects of multiple researchers working on the same species in the same location. An electronic and online reporting system is planned to facilitate the Department's access and use information collected through SCPs for conservation and management purposes.

## CONSISTENCY AND COMPATIBILITY WITH EXISTING REGULATIONS

Department staff has conducted a review of the California Code of Regulations and determined that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. No other State agency has the statutory authority to authorize the take of wildlife for scientific, educational, or propagation purposes.

## DOCUMENTS RELIED UPON

1. SCP Fiscal Analysis, Department of Fish and Wildlife, December 2016, 17 pages.

## DOCUMENTS INCORPORATED BY REFERENCE

<b>Form Type</b>	<b>Form Name</b>	<b>Form No.</b>
1. Application	Scientific Collecting Permit, General Use – Application (Inland Fisheries)	DFW 1379GF – NEW 03/01/2017
2. Application	Scientific Collecting Permit, General Use – Application (Marine)	DFW 1379GM – NEW 03/01/2017
3. Application	Scientific Collecting Permit, General Use – Application (Terrestrial Wildlife)	DFW 1379GW – NEW 03/01/2017
4. Amendment	Scientific Collecting Permit, General Use – Amendment (Inland Fisheries)	DFW 1379GFA – NEW 03/01/2017
5. Amendment	Scientific Collecting Permit, General Use – Amendment (Marine)	DFW 1379GMA – NEW 03/01/2017
6. Amendment	Scientific Collecting Permit, General Use – Amendment (Terrestrial Wildlife)	DFW 1379GWA – NEW 03/01/2017
7. Application	Scientific Collecting Permit, Specific Use – Application	DFW 1379S – NEW 03/01/2017
8. Amendment	Scientific Collecting Permit, Specific Use – Amendment	DFW 1379SA – NEW 03/01/2017
9. Form	Scientific Collecting – Mandatory Wildlife Report	DFW 1379a – NEW 03/01/2017
10. Form	Scientific Collecting – Notification of Field Activity	DFW 1379b – NEW 03/01/2017
11. Form	Transfer of Possession – Chain of Custody	DFW 1379c – NEW 03/01/2017
12. Form	Scientific Collecting – Standard Conditions for all Permits	DFW 1379d – NEW 03/01/2017

## DISCLOSURES REGARDING THE PROPOSED ACTION

*Mandates on local agencies or school districts:* None anticipated.

*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 anticipated. However, teachers or educators who engage in work to take wildlife requiring an SCP from the Department may incur positive or negative cost impacts from fees ranging from \$230.10 for Individual and Entities for General Use level permits, to \$340.70 for Specific Use level permits per study or planned undertaking, depending on the nature of the take activities requested. In most cases, teachers or school districts promoting conservation education conduct take and/or possession activities within one wildlife taxonomic group, or among those groups within a single review program. In these instances, teachers or districts may not see a significant impact as a result of the proposed fee structure for General and Specific Use level permits, and may see a decrease in fees compared to 2017 combined fees (\$421.58).

*Costs or Savings to State Agencies:* None anticipated. Depending on the nature of the take activities requested, any state agency that engages in work to take wildlife requiring a SCP from the Department may experience improved permit turnaround of 90-100 days, and a fee reduction of approximately 19-45%. These may be positive, or negative cost impacts, depending on what activities need to be permitted, but the proposed General Use combined application and permit fee for Individual and Entities (\$230.10) is 45% lower than the existing 2017 combined SCP fee of (\$421.58), and the Specific Use combined application and permit fee for Individual and Entities (\$340.70) is 19% lower than the 2017 combined SCP fees.

*Nondiscretionary Costs/Savings to Local Agencies:* None anticipated. Depending on the nature of the take activities requested, any local agency that engages in work to take wildlife requiring a SCP from the Department may experience improved permit turnaround of 90-100 days, and a fee reduction of approximately 19-45%. These may be positive, or negative cost impacts, depending on what activities need to be permitted, but the proposed General Use fees (\$230.10) are 45% lower than the existing 2017 combined fees, and the Specific Use fees (\$340.70) are 19% lower than the 2017 combined fees.

*Costs or Savings in Federal Funding to the State:* There are no related costs or savings in Federal Funding to the State.

*Effect on Housing Costs:* None anticipated.

*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. In general, this regulatory proposal is not expected to result in a significant adverse economic impact on business, because among the potentially affected research institutions, non-profits, aquariums, independent researchers, and educators, only these organizations considered businesses (e.g., environmental consultants, utility companies,

timber/ forest management, biomedical research, etc.) involved in wildlife take requiring a SCP may be affected by the regulatory proposal (most of which reside in California and conduct business here). Additional information is available under Section VI of the Initial Statement of Reasons.

## RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

### *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:*

This regulatory proposal is not expected to result in the creation or elimination of jobs within the state, the creation of new businesses, the elimination of existing businesses, or the expansion of businesses in the state. The proposed action will not increase, and in some instances may decrease, compliance costs, along with reductions in application review time. The Department's initial determination that this regulatory proposal will not result in a significant adverse economic impact on business takes into consideration that if multiple SCPs are needed to conduct take and/or possession activities, studies, or planned undertakings (when one permit sufficed in the past), there is the possibility that businesses are securing contracts to conduct more varied types of work across different taxonomic groups, which in turn requires permitted take of those taxonomic groups. The proposed fee structure for General and Specific Use level permits constitutes a small share of total costs for a business contract or project; therefore, the proposed SCP fees are not anticipated to be sufficient to precipitate any change in the level of business activity.

### *Benefits to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:*

The Department does not anticipate substantial benefits to the health and welfare of California residents due to the proposed action. However, Departmental responsibilities as the trustee agency include management and protection of the state's fish and wildlife resources under FGC Section 1801, which may indirectly contribute to some benefits to the health and welfare of California residents and the state's environment. This regulatory proposal does not anticipate any benefits to worker safety because the proposed action will not affect working conditions.

The proposed regulations are expected to indirectly benefit the state's environment by increasing consistency and efficiency in the issuance of SCPs. The proposed regulations will result in benefits to fish and wildlife resources through the development of an online application and reporting management system that will improve permit issuance as well as allow the Department to evaluate the potential effects of multiple researchers working on the same species in the same location. An electronic and online reporting system is planned to facilitate the Department's access and use information collected through SCPs for conservation and management purposes.

### *Cost Impacts on a Representative Private Person or Business:*

An estimated 5.9% of Permitholders in 2011-2014 were independent researchers, educators, or self-employed in environmental consulting, research or other fields. In certain cases, representative private persons conduct business requiring take and/or possession activities within one wildlife taxonomic group, or for species within a review program, and

thus may not see a significant impact as a result of the proposed fee structure for General and Specific Use level permits, and may see a decrease in fees compared to current (\$421.58). In other situations, private persons may see a need to obtain multiple permits – where in the past an estimated 33% of Permitholders were permitted for more than one activity, study, or a planned undertaking in a single permit, and may now have to obtain multiple permits under the proposed structure. A private person or business may incur positive or negative cost impacts from SCP fees ranging from \$230.10 for Individual and Entities for General Use level permits, to \$340.70 for Specific Use level permits, depending on the nature of the activities requested.

*Business Report:*

A business report is not required by the proposed action.

*Effect on Small Business:* It has been determined that the adoption of these regulations may affect small business. The Department has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

An estimated 40% of the total businesses involved with SCPs are small businesses. These include primarily environmental consultants, for-profit educational institutions (e.g., aquariums or zoos), and independent researchers. Depending on the nature of the take activities requested, any small business that engages in work requiring a SCP may experience improved permit turnaround of 90-100 days, and a fee reduction of approximately 19-45%. These may be positive, or negative cost impacts, depending on what activities need to be permitted, but the proposed General Use fees (\$230.10) are 45% lower than the existing 2017 combined fees, and the Specific Use fees (\$340.70) are 19% lower than the 2017 combined fees.

## CONSIDERATION OF ALTERNATIVES

Considering the revenue history outlined in the SCP Fiscal Analysis and the inability following the 2013 fee increase to achieve the previously projected revenues estimated with the 2013 Budget Change Proposal (BCP), there is little flexibility for the program to move forward without a considerable overhaul of the SCP permitting structure. Because the proposed changes will restructure the permit itself and the corresponding fee schedule, require new forms, and require permit applicants to follow new procedures, changes in regulations are the only feasible alternative. The Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

## MITIGATION MEASURES FOR THE REGULATORY ACTION

As an improvement and clarification to Department processes associated with a long-standing program whose statutory purpose is related to science, education, or propagation, the Department has determined the regulatory proposal will not have a significant effect on the environment; therefore no mitigation measures are needed.



## CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Ona Alminas, Environmental Scientist  
California Department of Fish and Wildlife  
Regulations Unit  
1416 Ninth Street, Room 1342-A, Sacramento, CA 95814  
Phone: 916-651-9167  
Email: [SCPPermits@wildlife.ca.gov](mailto:SCPPermits@wildlife.ca.gov)

The backup contact person is:

Craig Martz, Environmental Program Manager  
California Department of Fish and Wildlife  
Regulations Unit  
1416 Ninth Street, Room 1342-A, Sacramento, CA 95814  
Telephone: 916-653-4674  
Email: [Craig.Martz@wildlife.ca.gov](mailto:Craig.Martz@wildlife.ca.gov)

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the Initial Statement of Reasons, the proposed regulatory text of the regulations, or other information upon which the rulemaking is based to Ona Alminas (see above for contact information).

## AVAILABILITY OF THE INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Department will have the entire rulemaking file available for inspection and copying at its offices at the above addresses. As of the date this notice is published, the rulemaking file consists of:

- Notice of Proposed Rulemaking,
- Initial Statement of Reasons,
- Proposed Regulatory Text (Section 650 and 703, CCR), including strikeout of the existing regulatory text,
- SCP Fiscal Analysis,
- Twelve (12) forms incorporated by reference into subsection 703(d), and
- Economic and Fiscal Impact Assessment (STD. Form 399).

## AVAILABILITY OF DOCUMENTS ON THE INTERNET

Website Access: The entire rulemaking file is available at:  
<https://www.wildlife.ca.gov/Notices/Regulations>

## AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the hearing, and considering all timely and relevant comments received, the Department

may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Ona Alminas as indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by checking the website at the link provided above, or contacting Ona Alminas as indicated above.