

STATE OF CALIFORNIA  
DEPARTMENT OF FISH AND WILDLIFE  
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend sections 650 and 703,  
Title 14, California Code of Regulations  
Re: Scientific Collecting Permits

- I. Date of Initial Statement of Reasons:** March 14, 2017  
**Date of Amended Initial Statement of Reasons:** August 14, 2017  
**Date of Second Amended Initial Statement of Reasons:** September 6, 2017
- II. Date of Final Statement of Reasons:** October 10, 2017
- III. Dates and Locations of Scheduled Hearings:**

Public Hearing:	Date:	Monday, May 8, 2017 Time: 9:30 am – 11:30 am
	Location:	First Floor Auditorium Resources Building 1416 9th Street Sacramento, CA 95814

**IV. Update:**

The Department's 45-day public comment (notice) period for the Scientific Collecting Permit (SCP) rulemaking commenced with publication of the notice of the Initial Statement of Reasons (ISOR) ("Original Proposed Package") in the California Regulatory Notice Register No. Z-2017-0314-06, on March 24, 2017, and ended at 5:00pm on May 8, 2017. Two additional 15-day continuation notices and their amendments were published after the initial notice and are discussed below:

The First Continuation Notice changes to the Original Proposed Package (August 2017) address public comments and concern (from the 45-day comment period ending May 8, 2017) related to permitting take of terrestrial invertebrates, clarify how the proposed permit structure (General and Specific Use) would work for constituent groups such as environmental consultants, forest management companies and universities, and refine how the notification to the Department of planned field activities will function. These changes (as part of the Amended Proposed Package) are described in more detail below, and some smaller changes serve to:

1. Refine four definitions in subsection 650(b).
2. Clarify language for the statement of qualifications for SCP applicants in subsection 650(h).

3. Describe in greater detail the proposed permit structure and differences between the General and Specific use level permit types:
  - a. Subsection 650(i)(1): editorial clarifications based on changes in the regulations to the General Use applications - Inland Fisheries- form DFW 1379GF, Marine - form DFW 1379GM and Terrestrial Wildlife - form DFW 1379GW, and their respective amendment forms (DFW 1379GFA, GMA, and GWA).
  - b. Subsection 650(i)(2): revise language to allow for increased flexibility for the Specific Use permit in response to public comment (align Specific Use application form DFW 1379S with amendments made to subsection 650(i)(2)), and the respective amendment form (DFW 1379SA). Provide clarifying examples in the amended ISOR for this permit type.
4. Refine how the notification of field work or activity (subsection 650(o); form DFW 1379b) will function in response to public comment:
  - a. shorten the timeframe for notifying in advance of field activities (from 48 to 36 hours), clarifying detail needed on the form, and removing redundant language from the regulatory text, form.
5. Revise reporting requirements in response to comments for subsection 650(p) and the Mandatory Wildlife Report (MWR; form DFW 1379a)
  - a. Clarify that the MWR (DFW 1379a) serves as the method by which Permitholders would report that no activities were conducted, or no take and/or possession occurred during the permit period, and provide a checkbox on the form for such entry.
  - b. Other amendments to DFW 1379a, including reporting instructions to clarify how take associated with another Permitholder should be reported, and exceptions to needing to submit information via the MWR (i.e., for benthic macroinvertebrate work following established protocols endorsed by the Department).
6. Clarify implementation of the transfer of possession via the Chain of Custody form (DFW 1379c) in response to public comment.
7. Make minor editorial clarifications to the Standard Conditions for All SCPs (form DFW 1379d).
8. Add or clarify exemptions for situations not requiring a SCP under subsection 650(u) as follows:
  - a. 650(u)(1): Change the reference to tribal exception from Native American to federally recognized tribe, and removing specificity that possession of wildlife need not be for traditional, ceremonial or spiritual purposes;
  - b. 650(u)(2) and (3): Clarify language and authorities regarding vector control agencies and districts, and agricultural pest control agencies and districts operating under valid agreements with State agencies to include surveillance, prevention, monitoring, as well as control activities being exempt from needing a SCP.

- i. These exemptions are proposed to be removed in the Second Continuation Notice and the following subsection (u) renumbered, as discussed below.
      - c. 650(u)(5): further highlight that sediment as well as water sampling within certain habitat types, Marine Protected Areas and other Marine Managed areas or special closures is not allowed without a SCP;
      - d. 650(u)(7): add in the exemption that take and/or possession of most terrestrial invertebrates is exempt from needing a SCP, except for invertebrates that occur in vernal pool or other ephemeral waters that support vernal pool invertebrates (and that do not normally support finfish), or if covered on the California Terrestrial and Vernal Pool Invertebrates of Conservation Priority list (dated June 12, 2017, or any later amendments).
      - e. 650(u)(8): Add a modified provision from the existing 650 regulations to include mention that take and/or possession of common terrestrial plants and freshwater plants and algae do not require a SCP.
9. Minor editorial updates to Section 703, Title 14, CCR from the Original Proposed Package to revise all form dates from 03/01/17 to 07/01/17 for consistency with the revised forms listed above.
10. The SCP Fiscal Analysis (document supporting regulation change, revised June 2017, 17 pages) was updated from December 2016 with recent Department Special License data statistics, and some editorial clarifications. The Economic and Fiscal Impact Statement (form STD 399) was updated with input received in June 2017 from the Department of Finance, and to incorporate the latest license data statistics in the STD 399 Calculations Worksheet (attachment to the STD 399).

The following Second Continuation Notice changes to the Amended Proposed Package (September 2017) are proposed to address public comments and concerns (from the 15-day continuation period ending August 31, 2017) with potential regulatory conflicts with other state, county, or local public health and agricultural pest control agencies. These additional changes are described below:

1. Removal of two exemptions under subsection 650(u) because of statutory and regulatory authorities under which the following activities operate that are separate from the Department's statutory authority to permit the take of wildlife for scientific, educational, or propagation purposes, as specified in these regulations.
  - a. subsection 650(u)(2) exemption for surveillance, prevention, monitoring, or control of vectors and vector borne diseases when conducted pursuant to the California Health and Safety Code.
  - b. subsection 650(u)(3) exemption for agricultural pest control activities conducted pursuant to the California Food and Agricultural Code.

2. Renumber the (u)(4) to (u)(8) subsections to (u)(2) to (u)(6) in the regulations and on the forms in response to the above exemption removals.
3. Correct the taxonomy of Order Hymenoptera, Diptera and Hemiptera for the California Terrestrial and Vernal Pool invertebrates of Conservation Priority list (dated June 12, 2017), and provide a web address informing the regulated community for this list at <https://www.wildlife.ca.gov/Licensing/Scientific-Collecting>) in the regulations and on the forms.
4. Minor editorial updates to Section 703, Title 14, CCR and the DFW forms from the Amended Proposed Package as follows:
  - a. Update all references from subsection 703(d) to subsection 703(c) to replace the previous repealed subsection 703(c) for clarity.
  - b. Revise nine forms (DFW 1379GF, DFW 1379GM, DFW 1379GW, and DFW 1379S, and their respective amendment forms (DFW 1379GFA, GMA, GWA, and SA), along with DFW 1379a) to incorporate the regulatory revisions to subsections (u) and 703(c), and the addition of the web address from item 3 above.
    - i. The dates for these nine forms were also updated from 07/01/17 to 09/01/17.
5. Correct minor grammatical and typographic errors.

The Department adopted the final regulations as amended by the First and Second Continuation Notices shown above on October 9, 2017.

The Office of Administrative Law requested the following regulatory changes:

1. Removal of subsections 650(k)(2) and (3) and removal “**And Renewal**” from title due to the lack of adequate authority to have a permit duration longer than 36 months as specified under Fish and Game Code 1002(b).
2. The following changes to Section 650 are made to add clarity and improve public understanding:
  - a. Revised subsection (a)(3) to read: In compliance with Section 1054.2 of the Fish and Game Code, Authorized Individual(s) shall carry in their possession the permit, including any amendments to the permit, and a current List of Authorized Individuals, at all times when conducting any activity authorized in a permit issued under this Section. Such permit documents shall be shown upon request to any person authorized to enforce **the Fish and Game Code**.
  - b. Revised subsection (r) to read: (r) **Permit Denial**. The department, **in its sole discretion**, may deny a permit application, a portion of a permit application, or decline an application to amend or renew a permit, including for the reasons set forth in this subsection.
  - c. Revised subsection (r)(1)(G) to read: The applicant has not provided required information or related documents for the

- department to determine **whether** the application is complete, pursuant to subsection 650(e); and
- d. Revised subsection (s) to read: (s) **Permit Revocation, Suspension, or Modification by the Department.** The department, **in its sole discretion**, may revoke, suspend, or unilaterally amend or modify a permit, including for the reasons set forth in this subsection.
  - e. Revised subsection (t) to read: (t) **Requests for Reconsideration.** Any Permitholder who receives a notice of revocation, suspension, or modification of their permit, or a notice of denial of their permit application for a new permit, or permit renewal or amendment, may submit a written request for reconsideration to the department no later than 30 calendar days following the date of the notification, and shall set forth the reasons for the requested reconsideration. The department shall consider any information submitted with the request, and within 60 calendar days may, **in its sole discretion**, reverse or amend its decision, including based upon a mistake of fact, a mistake of law, or because the Permitholder takes corrective actions pursuant to new permit conditions or an agreement direction from the department.
  - f. Revised Reference to read “Section 36710, Public Resources Code”
3. Section 703 are made to add clarity and improve public understanding:
    - a. Revised 703(c)(1)(A) to read: All fees are subject to Section 713 of Fish and Game Code, and may be adjusted to include other fees required by license agents, **pursuant to Fish and Game Code Section 1055.**
    - b. Added 1055 to authority.

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

Pursuant to Government Code Sections 11346.4 and 11346.8 (Administrative Procedures Act), the Department conducted four pre-notice outreach prior to commencement of this rulemaking (as outlined in **Goal 5** of the rulemaking; pages 11-12, and 75-77 of the Second Amended ISOR), as well as the three notice periods detailed in **Table 1** below.

**Table 1. Summary of SCP rulemaking notices to the regulated community**

Package	Notice (Comment) Period	Comment Period Duration	No. Comment Letters	No. Individual Comments
Original Proposed ISOR	Mar. 24 – May 8, 2017	45 days	89	527
Amended ISOR (1 <sup>st</sup> Continuation Notice)	Aug. 14 – Aug. 31, 2017	18 days	25	66
Second Amended ISOR (2 <sup>nd</sup> Continuation Notice)	Sept. 18 – Oct. 3, 2017	15 days	1	1

The general response to comments from the three notice periods is attached as **Appendix A**. The specific responses to comments from the original notice period is attached as **Appendix B**. The specific responses to comments from the First Continuation Notice period is attached as **Appendix C**. The specific responses to comments from the Second Continuation Notice period is attached as **Appendix D**.

**VI. Location and Index of Rulemaking File:**

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

**VII. Description of Reasonable Alternatives to Regulatory Action:**

(a) Alternatives to Regulation Change:

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 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.

However, several different options for the proposed permit structure were discussed amongst SCP review programs and working group, Data Technology Division staff, **License and Revenue Branch (LRB)**, and others for programming development and implementation in an online application and data management system, but were ultimately rejected due to considerations in programming costs, reliance on the existing permit structure model, or cost-prohibitive fee structures. Thus implementing a permit structure focusing at the level of the three review programs (Inland Fisheries, Marine and Terrestrial Wildlife) for the General Use, and across all three programs for the Specific Use was supported and agreed upon by involved Department staff to give applicants the greatest flexibility in choosing the permit use level that works for their needs for the take and/or possession of wildlife for science, education, or propagation purposes.

With this in mind, two alternative approaches for a revised SCP permit structure were evaluated, based on Departmental data, intensive internal discussions, and input received during four pre-notice public outreach meetings:

1. "PI-based" SCP structure: This option would maintain the basic permitting structure of the existing SCP structure, where focusing on a person-based permit via a PI for an Entity and Individual permit is maintained (and

tracked via the permanent SC ID). This would continue tracking take activities to a single person, rather than to the reason that those activities are being conducted (i.e., a study or planned undertaking). As such, this alternative was rejected due to the Department's desired outcome to focus on the unit of the permit encompassing take and/or possession activities, with the ability to track such activities at the level of a study, when feasible (as with the proposed Specific Use level permit), rather than at the level of a person. This would have continued permitting of take by SCP on a PI-basis, where permit fees would be attached to a PI, and could include simple activities that are relatively straightforward to permit (e.g., low impact with common species), or a spectrum in between, up to very complicated requests that would continue requiring review from multiple SCP review programs. This alternative was estimated to be the most expensive to program from an IT development perspective, because permits would continue to be incomparable as permitted units in terms of complexity and consistency across the review programs. Lastly, this alternative was not estimated to achieve cost recovery priorities to fund the minimal staff required for SCP review, and would make permit fees exorbitantly high to attempt cost recovery, as identified in the attached SCP Fiscal Analysis. The General Use level permit attempts to maintain a person-based permit for those simple activities that are relatively straightforward to permit.

2. "Project-based" alternate SCP structure: Discussions during the pre-notice outreach period to the regulated community broached the idea of a "project-based" SCP that is currently implemented by certain other state wildlife agencies for their scientific take permitting. This would have entailed permitting of take by SCP to be considered on a project-basis, where permit fees would be attached to a project encompassing a particular set of activities, a study, or a planned undertaking under a PI and their authorized staff, and may only need review from one or two SCP review programs. This alternative was estimated to be the most affordable to build from an IT development perspective for an online application system. However, pre-notice discussion with the regulated community, and comments received on this proposed project-based structure suggested that this concept would work for some Permitholders or members of the regulated community, but not for others. This alternative inspired the Specific Use level permit for some aspects (the desired ability to track wildlife take to a particular set of activities, a study, or a planned undertaking), but it was decided that to retain flexibility for other applicants, that a complete switch to "project-based" permits would not work (i.e., maintaining the General Use as a person-based permit).
- (b) No Change Alternative:

Under the **No Change Alternative**, the current Section 650 of Title 14, **CCR**, would be retained, but would remain outdated and inconsistent with amended FGC sections 1002 and 1002.5 outlined in Goal 1 of this regulatory proposal. The SCP application would remain in PDF format, and the process for permit application by mail, scanning and importing into the SCP Database for permit review and issuance would remain inefficient and outdated. It is possible that fee revenues under the current permit structure may level out with time, but cost recovery objectives to fund the minimal staff identified by Alternatives 1D and 2D in the SCP Fiscal Analysis would not be achieved. The ramifications of the minimum cost recovery options to maintain the existing permit structure would potentially increase existing SCP application and permit fees by another 97% to fund minimum dedicated staff (from 2017 Individual and Entity fees of \$421.58, jumping to \$808.52, and from Student fees of \$79.32, jumping to \$151.35; refer to Attachment 3 of the SCP Fiscal Analysis). The **No Change Alternative** would not reliably achieve the Department's goal of reviewing and issuing permits within 90-100 days. Departmental SCP review program staff, as well as stakeholder groups, would continue to have biased understandings for the three purposes for which SCPs are issued (science, education, propagation), varied interpretations of definitions and terms used for permit review and issuance, the level of detail for application information requirements and content, interpretation of the concept of adequate supervision, and other differences. The **No Change Alternative** means that the goals laid out in this regulatory proposal would not be achieved.

(c) Consideration of Alternatives:

In view of current available information, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, or would be as effective and less burdensome to affected persons than the proposed regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

## VIII. 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. 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 as businesses by the regulatory proposal (most of which reside in California and conduct business here). The proposed fee structure for General and Specific Use level permits provides a streamlined set of options for applicants, and it is expected that some applicants will see a reduction in SCP fees as they might only be working within one permit use level for one taxonomic group (or amongst a single review program, e.g., birds and mammals under Terrestrial Wildlife). For example, the proposed General Use combined application and permit fee for Individual and Entities (\$230.10) is 45% lower than the existing 2017 combined SCP fees (\$421.58). Similarly, the Specific Use combined application and permit fee for Individual and Entities (\$340.70) is 19% lower than the 2017 combined SCP fees.

However, other applicants might see an increase in overall fees because they may need to obtain permits from multiple review programs to conduct their work (i.e., General Use), or for multiple studies or planned undertakings (i.e., Specific Use). The proposed structure represents a change from the current model for the SCP community, and may lead to the need for an estimated 33% of Permitholders to obtain multiple permits for take and/or possession activities, studies, or subsets of work previously approved under a single permit. The majority of these Permitholders fall within environmental consulting and public university categories, while the remainder of the estimated 66% of Permitholders may only need one permit. An estimated 32% of Permitholders in 2011-2014 were in the environmental consulting field, with lower percentages for public health, utilities (3.1%), other businesses and corporations (2.9%). The proposed permit structure triggering the need for more permits could be construed to be a fee increase, but the proposed SCP fees have been crafted with pre-notice public input in mind (while trying to balance basic necessary cost recovery to fund dedicated SCP staff) and are not anticipated to have a significant economic impact on businesses.

- (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:

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 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.

The proposed action supports the statutory responsibilities of the Department, as stated in FGC Section 1002, to issue permits for take of wildlife.

Departmental responsibilities as the trustee agency include management and protection of the state's fish and wildlife resources under FGC Section 1801, which indirectly contributes to 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.

(c) 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 multiple 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.

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

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. For those Permitholders seeking to add more than eight Authorized Individuals (where review of those eight are included in permit fees), the flat Specific Amendment fee of \$89.28 allows the Permitholder to request a number more proposed Authorized Individuals, given Title 14, subsection 650(b)(19). This would bring the Specific Use fees to request more than eight Authorized Individuals to \$429.98, which is slightly higher than the existing 2017 combined SCP fee.

(e) 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.

(f) Programs Mandated on Local Agencies or School Districts:

None anticipated.

(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 anticipated.

(h) Effect on Housing Costs:

None anticipated.

## **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 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 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 requested by the regulated community to improve the Department's review and issuance of SCPs.

The proposed subsection (a) through (u) changes 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 (c) Applications, Forms, and Fees for Multi-year Permits Valid at the Time of Issuance. Amendments to subsection 703(c) 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.

The following First Continuation Notice changes to the Original Proposed Package (August 2017) address public comments and concern (from the 45-day comment period ending May 8, 2017) related to permitting take of terrestrial invertebrates, clarify how the proposed permit structure (General and Specific Use) would work for constituent groups such as environmental consultants, forest management companies and universities, and refine how the notification to the Department of planned field activities will function. These changes are described in more detail below, and some smaller changes include:

1. Refine four definitions in subsection 650(b).

2. Clarify language for the statement of qualifications for SCP applicants in subsection 650(h).
3. Describe in greater detail the proposed permit structure and differences between the General and Specific **Use** level permit types:
  - a. Subsection 650(i)(1): editorial clarifications based on changes in the regulations to the General Use applications - Inland Fisheries- form DFW 1379GF, Marine - form DFW 1379GM) and Terrestrial Wildlife -form DFW 1379GW), and their respective amendment forms (DFW **1379GFA, GMA, and GWA**).
  - b. Subsection 650(i)(2): revise language to allow for increased flexibility for the Specific Use permit in response to public comment (align Specific Use application form DFW 1379S with amendments made to subsection 650(i)(2)), and the respective amendment form (DFW 1379SA). Provide clarifying examples in the amended ISOR for this permit type.
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6. Clarify implementation of the transfer of possession via the Chain of Custody form (DFW 1379c) in response to public comment.
7. Make minor editorial clarifications to the Standard Conditions for All SCPs (**form DFW 1379d**).
8. Add or clarify **exemptions** for situations not requiring a SCP under subsection 650(u) as follows:
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- i. These exemptions are proposed to be removed in the Second Continuation Notice and the following subsection (u) renumbered as discussed below.
        - c. 650(u)(5): further highlight that sediment as well as water sampling within certain habitat types, Marine Protected Areas and other Marine Managed areas or special closures is not allowed without a SCP;
        - d. 650(u)(7): add in the exemption that take and/or possession of most terrestrial invertebrates is exempt from needing a SCP, except for invertebrates that occur in vernal pool or other ephemeral waters that support vernal pool invertebrates (and that do not normally support finfish), or if covered on the California Terrestrial and Vernal Pool Invertebrates of Conservation Priority list (dated June 12, 2017, or any later amendments).
        - e. 650(u)(8): Add a modified provision from the existing 650 regulations to include mention that take and/or possession of common terrestrial plants and freshwater plants and algae do not require a SCP.
9. Minor editorial updates to Section 703, Title 14, CCR from the Original Proposed Package to revise all form dates from 03/01/17 to 07/01/17 for consistency with the revised forms listed above.
10. The SCP Fiscal Analysis (document supporting regulation change, revised June 2017, 17 pages) was updated from December 2016 with recent Department Special License data statistics, and some editorial clarifications. The Economic and Fiscal Impact Statement (form STD 399) was updated with input received in June 2017 from the Department of Finance, and to incorporate the latest license data statistics in the STD 399 Calculations Worksheet (attachment to the STD 399).

The following Second Continuation Notice changes to the Amended Proposed Package (September 2017) are proposed to address public comments and concerns (from the 15-day continuation period ending August 31, 2017) with potential regulatory conflicts with other state, county, or local public health and agricultural pest control agencies. These additional changes are described below:

1. Removal of two exemptions under subsection 650(u) because of statutory and regulatory authorities under which the following activities operate that are separate from the Department's statutory authority to permit the take of wildlife for scientific, educational, or propagation purposes, as specified in these regulations.
  - a. subsection 650(u)(2) exemption for surveillance, prevention, monitoring, or control of vectors and vector borne diseases when conducted pursuant to the California Health and Safety Code.
  - b. subsection 650(u)(3) exemption for agricultural pest control activities conducted pursuant to the California Food and Agricultural Code.
2. Renumber the (u)(4) to (u)(8) subsections to (u)(2) to (u)(6) in the regulations and on the forms in response to the above **exemption** removals.

3. Correct the taxonomy of Order Hymenoptera, Diptera and Hemiptera for the California Terrestrial and Vernal Pool invertebrates of Conservation Priority list (dated June 12, 2017), and provide a web address informing the regulated community for this list at <https://www.wildlife.ca.gov/Licensing/Scientific-Collecting> in the regulations and on the forms.
4. Minor editorial updates to Section 703, Title 14, CCR and the DFW forms from the Amended Proposed Package as follows:
  - a. Update all references from subsection 703(d) to subsection 703(c) to replace the previous repealed subsection 703(c) for clarity.
  - b. Revise nine forms (DFW 1379GF, DFW 1379GM, DFW 1379GW, and DFW 1379S, and their respective amendment forms (DFW **1379GFA**, **GMA**, **GWA**, and SA), along with DFW 1379a) to incorporate the regulatory revisions to subsections (u) and 703(c), and the addition of the web address from item 4 above.
    - i. The dates for these nine forms were also updated from 07/01/17 to 09/01/17.
5. Correct minor grammatical and typographic errors.

**The Department adopted the final regulations as amended by the First and Second Continuation notices shown above on October 9, 2017.**

**The Office of Administrative Law requested the following regulatory changes:**

1. Removal of subsections 650(k)(2) and (3) and removal “**And Renewal**” from title due to the lack of adequate authority to have a permit duration longer than 36 months as specified under Fish and Game Code 1002(b).
2. The following changes to Section 650 are made to add clarity and improve public understanding:
  - a. Revised subsection (a)(3) to read: In compliance with Section 1054.2 of the Fish and Game Code, Authorized Individual(s) shall carry in their possession the permit, including any amendments to the permit, and a current List of Authorized Individuals, at all times when conducting any activity authorized in a permit issued under this Section. Such permit documents shall be shown upon request to any person authorized to enforce **the Fish and Game Code**.
  - b. Revised subsection (r) to read: (r) **Permit Denial**. The department, **in its sole discretion**, may deny a permit application, a portion of a permit application, or decline an application to amend or renew a permit, including for the reasons set forth in this subsection.
  - c. Revised subsection (r)(1)(G) to read: The applicant has not provided required information or related documents for the department to determine **whether** the application is complete, pursuant to subsection 650(e); and
  - d. Revised subsection (s) to read: (s) **Permit Revocation, Suspension, or Modification by the Department**. The department, **in its sole**

- discretion**, may revoke, suspend, or unilaterally amend or modify a permit, including for the reasons set forth in this subsection.
- e. Revised subsection (t) to read: (t) **Requests for Reconsideration**. Any Permitholder who receives a notice of revocation, suspension, or modification of their permit, or a notice of denial of their permit application for a new permit, or permit renewal or amendment, may submit a written request for reconsideration to the department no later than 30 calendar days following the date of the notification, and shall set forth the reasons for the requested reconsideration. The department shall consider any information submitted with the request, and within 60 calendar days may, **in its sole discretion**, reverse or amend its decision, including based upon a mistake of fact, a mistake of law, or because the Permitholder takes corrective actions pursuant to new permit conditions or an agreement direction from the department.
  - f. Revised Reference to read “Section 36710, Public Resources Code”
3. Section 703 are made to add clarity and improve public understanding:
- a. Revised 703(c)(1)(A) to read: All fees are subject to Section 713 of Fish and Game Code, and may be adjusted to include other fees required by license agents, **pursuant to Fish and Game Code Section 1055**.
  - b. Added 1055 to authority.

## Benefits of the Proposed Regulations

The proposed regulations would meet five goals for Department improvements to SCP administration and operation, including **an** 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 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**

The Legislature has given the Department authority to issue scientific collection permits for the take or possession of any plant or animal life, for scientific, educational, or propagation purposes, by an appropriate public, private, or nonprofit entity, or a person (Fish and Game Code sections 1002 and 1002.5). Department staff has conducted a review of the California Code of Regulations, and has not identified any other State regulations that are inconsistent or incompatible with the Department's authority to permit the take of wildlife for the above purposes, in any part of the State. Other State entities may require permission to take wildlife under their respective authorities. However, receiving permission from those State entities does not preclude the need for a Department-issued SCP, nor would the Department's permitting program conflict with other state entities managing the take of wildlife under their respective authorities.