

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE  
NOTICE OF PROPOSED RULEMAKING ACTION**

**ADD SECTION 685, PRESCRIBED HERBIVORY ON DEPARTMENT LANDS  
TO TITLE 14 OF THE CALIFORNIA CODE REGULATIONS**

August 9, 2024

In accordance with Fish and Game Code section 1010, the Department of Fish and Wildlife (“Department”) proposes to add Section 685, Prescribed Herbivory on Department Lands to Title 14 of the California Code of Regulations. Proposed Section 685 would clarify the Department’s authority to enter into service contracts for prescribed herbivory treatments, including targeted grazing, for fuels reduction and/or habitat restoration purposes on Department-managed lands. Furthermore, the proposed amendments will also specify the types of animals that can be used for prescribed herbivory treatments. The proposed changes are necessary to support and expand fire resiliency work in diverse vegetation communities on Department lands across the state.

The proposed regulation described below may be adopted after considering all comments, objections, and recommendations regarding the proposed action.

**PUBLIC HEARING**

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held virtually via webinar/teleconference on September 24, 2024. Instructions for participation in the webinar/teleconference hearing will be posted at <https://wildlife.ca.gov/Notices/Regulations/Prescribed-Herbivory> at least seven days in advance of the meeting.

**WRITTEN COMMENT PERIOD**

Written comments may be submitted at any time before or on September 24, 2024, by mail or email to the contact as follows:

California Department of Fish and Wildlife  
Regulations Unit  
Attn: Daphne Nandino, Regulatory Scientist  
P.O. Box 944209  
Sacramento, CA 94244-2090  
Email: [Regulations@wildlife.ca.gov](mailto:Regulations@wildlife.ca.gov)

**AUTHORITY AND REFERENCE**

Authority: Section 1010 Fish and Game Code.  
Reference: Sections 1010 and 1501.5, Fish and Game Code.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Department is currently implementing traditional grazing treatments on approximately 80,000 acres per year, and seeks to increase that amount to reduce wildfire risk, improve habitat quality, and help meet statewide goals set by the Governor’s Wildfire and Forest Resilience Task Force, EO N-82-20 (30X30 [Initiative](#)), and Natural and Working Lands

Strategies. To date, over \$80 million in one-time funding has been allocated to the Department to expand fuels reduction treatments across the state. Acres treated and specific activities conducted must be reported on a bi-annual basis to CNRA and is available for public review at [www.planscape.org](http://www.planscape.org). The Department and other state agencies are expected to quickly expand wildfire treatments to demonstrate the value of the substantial investment of one-time funds. Prescribed herbivory is a critical tool for treating the over 1.1 million acres of land the Department manages to reduce the risk of catastrophic wildfires.

Land use agreements that use a traditional grazing framework are currently the primary avenue for non-mechanical excess vegetation removal on Department lands. Under that model, lessees pay the Department to graze the grass so their cattle can consume that energetic food resource to grow and support reproduction.

The Department proposes to add section 685, Prescribed Herbivory on Department Lands, to Title 14 of the California Code of Regulations. Section 685 clarifies the authority to enter into service contracts for vegetation treatment activities using prescribed herbivory treatments, including targeted grazing, for fuels reduction and/or habitat restoration purposes on Department-managed lands. The proposed changes are necessary to support and expand fire resiliency work in diverse vegetation communities on Department lands across the state. In some circumstances, prescribed herbivory is a tool that is more feasible, cost-effective and less damaging to the environment than mechanical removal of overgrown vegetation.

## **BACKGROUND**

Targeted grazing and traditional livestock management use the same principles; however, they differ in their goals. Traditional livestock management is focused on sustainable livestock production and reproduction, whereas targeted grazing has a primary purpose of changing vegetation composition or structure. Targeted prescribed herbivory can provide both fuels reduction and desired ancillary benefits, such as increasing native plant densities and decreasing non-native species that might be unpalatable to cattle. The Department intends to utilize prescribed herbivory in different ways and conditions (e.g., # animals, type of animals, timing, type of vegetation species grazed) than are typical under the current standard revenue-generating land use agreements. Goat and sheep grazers, for example, are usually paid to bring their animals onto a property. They will generally consume more target species than cows at a lower cost. These animals are also more suited to working in riparian areas, which is a focal habitat type for fuels reduction for the Department.

Multiple prescribed herbivory projects will be implemented and expanded statewide in the next 5-10 years. The clarified authority provided by the proposed regulatory amendments will expand the contracting mechanisms available to the Department to work with grazers who can provide prescribed herbivory services, including goat and sheep herders that can be directed to graze site in ways that reduces fuels fire risk and also provides benefits to native plants and wildlife.

## **REGULATORY PROPOSAL**

In order to clarify authority and expand the contracting mechanisms available to the Department to work with grazers who can provide prescribed herbivory services, including goat and sheep herders, the Department proposes to add the following section:

Section 685. Prescribed Herbivory on Department Lands.

(a) For the purposes of vegetation fuels reduction or restoration of habitat, and for the benefit of the State, the department may enter into service contracts for prescribed herbivory treatments, including targeted grazing.

(b) Cattle, goats, and sheep may be used for prescribed herbivory treatments.

## **BENEFITS OF THE PROPOSED REGULATIONS**

The Department anticipates that this regulation will have positive impacts on reducing wildfire fuel risks, while providing continued opportunities to increase native plant densities and decreasing non-native species, especially those that might be unpalatable to cattle. The Department intends to utilize prescribed herbivory in different ways and conditions (e.g., number of and types of animals, timing, type of vegetation species grazed) than are typical under the current standard revenue-generating land use agreements. The clarified authority provided by the proposed regulatory amendments will expand the contracting mechanisms available to the Department to work with grazers who can provide prescribed herbivory services, including goat and sheep herders that can be directed to graze site in ways that reduces fuels fire risk and also provides benefits to native plants and wildlife.

## **CONSISTENCY AND COMPATIBILITY WITH EXISTING REGULATIONS**

The Legislature, through Fish and Game Code Section 1010, has authorized the Department, by and with the approval of the Department of General Services, to sell grazing permits or otherwise dispose of excess vegetation or other products, produced on lands acquired by the Department. Additionally, Fish and Game Code Section 1501.5 provides authority to enter into contracts for fish and wildlife habitat preservation, restoration, and enhancement with public and private entities whenever the department finds that the contracts will assist in meeting the department's duty to preserve, protect, and restore fish and wildlife. The proposed regulations are neither inconsistent nor incompatible with existing state regulations in Title 14. The Department has searched the regulations in all other titles of California Code of Regulations and has found no other regulations that set forth the requirements in the Department's proposed regulation.

## **DOCUMENTS INCORPORATED BY REFERENCE:**

None.

## **DOCUMENTS RELIED UPON:**

California Board of Forestry and Fire Protection, 2015. Prescribed Herbivory For Vegetation Treatment Projects, prepared by the Range Management Advisory Committee. Available from: <https://bof.fire.ca.gov/media/nc4n1xgj/4-4-rmac-prescribed-herbivory-white-paper.pdf>

State of California, 2021. Governor's Wildfire and Forest Resilience Action Plan, available from: <https://wildfiretaskforce.org/action-plan/>

State of California, 2020. Executive Order (EO) 82-20 (California's 30 x 30 initiative) –available from <https://www.gov.ca.gov/wp-content/uploads/2020/10/10.07.2020-EO-N-82-20-.pdf>

Air Resources Board, 2019. Draft California 2030 Natural and Working Lands Climate Change Implementation Plan (Natural and Working Lands Strategies). 86 pages, available from: <https://ww2.arb.ca.gov/resources/documents/nwl-implementation-draft>

## **DISCLOSURES REGARDING THE PROPOSED ACTION:**

### **Impact of the Regulatory Action/ Results of the Economic Impact Assessment**

The potential for significant statewide adverse economic impacts that might result from the proposed regulation 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:

The Department does not anticipate that the proposed action will have any statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed changes clarify the Department's authority to enter into service contracts for vegetation treatment activities using prescribed herbivory for fuels reduction and/or habitat restoration purposes on Department-managed lands. This action will increase the opportunities for commercial herbivory providers and thus, will likely induce positive economic impacts.

- (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 Department does not anticipate adverse impacts on the creation or elimination of jobs within the state. The Department does not anticipate adverse impacts on the creation of new business, the elimination of existing businesses or the expansion of businesses in California. The proposed changes are to provide clarification of the Department's authority to enter into service contracts for vegetation treatment activities using prescribed herbivory for fuels reduction and/or habitat restoration purposes on Department-managed lands.

This regulatory change will likely increase the demand for goods and services related to prescribed herbivory that could positively impact job creation, induce the creation of new businesses, or the expansion of businesses in California. The Department does not anticipate any benefits to the health and welfare of California residents or to worker safety.

The Department anticipates benefits to the State's environment through improved procedures to support and expand fire resiliency work in diverse vegetation communities on Department lands across the state.

- (c) Cost Impacts on Representative Person or Business:

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

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

The Department anticipates increases in expenditures for prescribed herbivory contracts that will remain within existing budgets and resources. No changes to costs or savings to other state agencies or in federal funding are anticipated. See STD 399 Addendum for more detail.

(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.

### **EFFECT ON SMALL BUSINESS**

The proposed regulations may affect small businesses that enter into voluntary contracts or agreements with the Department.

### **RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

This regulatory change will likely increase the demand for goods and services related to prescribed herbivory that could positively impact job creation within the State.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

This regulatory change will likely increase the demand for goods and services related to prescribed herbivory that could induce the creation of new businesses with no elimination of existing businesses within the State.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

This regulatory change will likely increase the demand for goods and services related to prescribed herbivory that could induce the expansion of businesses currently doing business within the State.

(d) Benefits of the Regulation to the Health and Welfare of California Residents:

The Department does not anticipate impacts on the health and welfare of California residents.

(e) Benefits of the Regulation to Worker Safety:

The Department does not anticipate any benefits to worker safety from the proposed regulations because there is no impact on working conditions.

(f) Benefits of the Regulation to the State's Environment:

The Department anticipates benefits to the state's environment through improved procedures to support and expand fire resiliency work in diverse vegetation communities on Department lands across the state.

## **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternatives to the proposed regulation it considered or that have otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the regulation is proposed, or would be as effective 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.

The Department invites interested persons to present statements or arguments with respect to alternatives to the regulations during the written comment period.

## **AVAILABILITY OF RULEMAKING DOCUMENTS AND CONTACT PERSONS**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Department website at <https://wildlife.ca.gov/notices/regulations/>.

The proposed text (the "express terms") of the regulations, as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review at 715 P Street, Sacramento, CA 95814 (17<sup>th</sup> floor). The rulemaking file will be available electronically upon request by contacting the Department at [Regulations@wildlife.ca.gov](mailto:Regulations@wildlife.ca.gov). Inquiries concerning the regulatory process or requests for documents should be directed to:

California Department of Fish and Wildlife  
Daphne Nandino, Regulations Unit  
P.O. Box 944209  
Sacramento, CA 94244-2090  
Telephone: (916) 902-9276  
Email: [regulations@wildlife.ca.gov](mailto:regulations@wildlife.ca.gov)

Inquiries concerning the subject matter or substance of the proposed action should be directed to:

Michelle Selmon, Environmental Program Manager  
California Department of Fish and Wildlife  
P.O. Box 944209  
Sacramento CA 94244-2090  
Telephone: (916) 373-6613  
Email: [regulations@wildlife.ca.gov](mailto:regulations@wildlife.ca.gov)



As of the date this notice is published, the rulemaking file consists of:

1. STD Form 400
2. Notice of Proposed Action
3. Initial Statement of Reasons
4. Proposed Text of the Regulation: Addition of Section 685, Title 14, CCR
5. Economic and Fiscal Impact Assessment (Form STD 399) and addendum
6. Documents or Reports Supporting the Proposed Regulation Change

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

The rulemaking file is available online at:

<https://wildlife.ca.gov/Notices/Regulations/Prescribed-Herbivory>

**AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After considering all the timely and relevant comments received, the Department may adopt the proposed regulation 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 regulation as revised. Please send requests for copies of any modified regulation to the Regulations Unit at the address 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 the Regulations Unit at the address above.