

TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 713, 1002, 1002.5, 1050, 1055, 2015, 2021, 2081, 2118, 2120, 2121, 2122, 2127, 2150.2, 2150.4, 2157, 2192, 2835, 3005.5, 3800, 4150, 4180, 5050, and 5060 of the Fish and Game Code and to implement, interpret or make specific sections 395, 396, 398, 716.3, 1002, 1002.5, 1008, 1018, 1050, 2000, 2116, 2116.5, 2117, 2118, 2120, 2125, 2150, 2150.2, 2150.4, 2151, 2157, 2190, 2193, 2271, 3005, 3005.5, 3007, 3503, 3503.5, 3511, 3513, 3950, 4155, 4800, 4801.5, 5060, 5061, 10500, 12000, 12002, and 12159 of said Code; Section 597 Penal Code; and Title 50 Code of Federal Regulations, Parts 14, 16, 17, 21.29, 21.30, 21.31, 22, and 23, and proposes to repeal Section 679 and add sections 679.1, 679.2, 679.3, 679.4, 679.5, 679.6, 679.7, 679.8, 679.9, and Chapter 2 and Chapter 3 of the Native Wildlife Rehabilitation 679 Regulations Manual, Title 14, California Code of Regulations (CCR), relating to the possession of wildlife and wildlife rehabilitation.

Informative Digest/Policy Statement Overview

Unless otherwise specified, all section references in this document are to Title 14, CCR.

California's wildlife rehabilitation program allows qualified individuals to care for sick, injured, and orphaned wildlife with the goal of releasing them back into the wild. Around 80 permitted facilities and 550 sub-permitted facilities currently rehabilitate about 100,000 animals per year. However, the regulations have not been updated since 2007 and no longer reflect best practices in animal care. The state is looking to modernize the program by creating new regulations that address these issues and better support both the wildlife rehabilitators and the animals they care for. The proposed changes to the regulations would repeal Section 679 and add sections 679.1 through 679.9 and incorporate by reference chapters 2 and 3 of a new wildlife rehabilitation best practices manual (DFW 479). These sections add definitions and implement regulations for the transportation of live wild animals, permitting for wildlife rehabilitation, facility and enclosure standards and variances, humane animal care standards, release of animals into the wild, inspection of wildlife rehabilitation facilities, seizure, transfer, euthanasia or release of seized animals, revocation of permits, and requests for reconsideration and appeals.

Benefit of the Regulations

It is the policy of this state to regulate the temporary possession and rehabilitation of native wildlife for release to the wild under the jurisdiction and influence of the state for the benefit of all the citizens of the state and to protect, conserve, and manage the state's most vulnerable wildlife resources. Ethical, skilled wildlife rehabilitators are true partners in conservation with the Department. The objectives of this policy include, but are not limited to, adoption of scientifically based wildlife rehabilitation practices and processes, the maintenance and support of wildlife rehabilitation facilities in California, sustainable management of wildlife resources to ensure their continued existence, in harmony with current standards, and increasing respect for and recognition of the service provided by wildlife rehabilitators. The benefits of the proposed regulations are consistent with the most current requirements and standards of wildlife rehabilitation, wildlife conservation goals, health and welfare of California residents, and promotion of ethical wildlife rehabilitation facilities.

Consistency and Compatibility with Existing Regulations

Section 20 of Article IV of the State Constitution specifies that the Legislature may delegate to the Fish and Game Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Commission has reviewed its own regulations and finds that the proposed regulatory action is neither inconsistent nor incompatible with existing state regulations.

The Commission has searched the California Code of Regulations and finds no other state agency regulations pertaining to the permitting of wildlife rehabilitation facilities.

Public Participation

Comments Submitted by Mail or Email

It is requested, but not required, that written comments be submitted on or before November 27, 2024 at the address given below, or by email to FGC@fgc.ca.gov. Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on December 6, 2024. If you would like copies of any modifications to this proposal, please include your name and mailing address. Mailed comments should be addressed to Fish and Game Commission, PO Box 944209, Sacramento, CA 94244-2090.

Meetings

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the River Lodge Conference Center, 1800 Riverwalk Drive in Fortuna, California, which will commence at 8:30 a.m. on Wednesday August 14, 2024 and may continue at 8:30 a.m., on August 15, 2024. This meeting will also include the opportunity to participate via webinar/teleconference. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916-653-4899. Please refer to the Commission meeting agenda, which will be available at least 10 days prior to the meeting, for the most current information.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Natural Resources Headquarters Building, Auditorium, 715 P Street Sacramento, California, which will commence at 8:30 a.m. on October 9, 2024 and may continue at 8:30 a.m., on October 10, 2024. This meeting will also include the opportunity to participate via webinar/teleconference. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916-653-4899. Please refer to the Commission meeting agenda, which will be available at least 10 days prior to the meeting, for the most current information.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Natural Resources Headquarters Building, Auditorium, 715 P Street Sacramento, California, which will commence at 8:30 a.m. on December 11, 2024 and may continue at 8:30 a.m., on December 12, 2024. This meeting will also include the opportunity to participate via webinar/teleconference. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916-653-4899. Please refer to the Commission meeting agenda, which will be available at least 10 days prior to the meeting, for the most current information.

Availability of Documents

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 Commission website at www.fgc.ca.gov. The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative,

Melissa Miller-Henson, Executive Director, Fish and Game Commission, 715 P Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above-mentioned documents and inquiries concerning the regulatory process to Melissa Miller-Henson or Jenn Bacon at FGC@fgc.ca.gov or at the preceding address or phone number. **Vicky Monroe, Senior Environmental Scientist Supervisor, California Department of Fish and Wildlife, has been designated to respond to questions on the substance of the proposed regulations. Ms. Monroe can be reached at (916) 358-2790 or RehabWildlife@wildlife.ca.gov.**

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Assessment

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action 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 Business, 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. The proposed action will remedy the incomplete and inadequate specific provisions described in the current regulation.

- (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 Commission does not anticipate any impacts on creation or elimination of jobs, the creation of new businesses, the elimination of existing businesses or the expansion of businesses in California because the proposed amendments will increase support and guidance to permitted wildlife rehabilitation facilities and provide consistency of standards and requirements for compliance. The Commission anticipates benefits to the health and welfare of California residents and worker safety by requiring site-specific conditions necessary to protect native wildlife, agriculture interests, animal welfare, human health and safety such as enhanced biosecurity protocols, improved caging requirements, and standardized reporting protocol for animals known or suspected to have a communicable disease.

The new regulations will benefit the environment by expanding the Department's authority to consider potential impacts on native wildlife when issuing permits and increase protections to native wildlife temporarily possessed for the purposes of rehabilitation and release to the wilds of the State. Existing Section 679 fails to explicitly state that the Department shall issue or renew a permit only if the wildlife rehabilitation facility meets all required standards and site-specific conditions necessary to protect native wildlife, agriculture interests, animal welfare, and/or human health and safety. The new regulations require the most current wildlife rehabilitation standards and scientifically based requirements, and fully consider potential impacts to the environment and other resource users prior to issuing a permit.

(c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any unreasonable cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Fish and Game Code Section 1050(e) provides that the Department "may establish fees and may adjust statutorily imposed fees by regulation for the filings, permits, determinations, or other department actions described in Section 711.4, 1002, or 1609. "Fees established by the department shall be in an amount sufficient to recover all reasonable administrative and implementation costs of the department relating to the program with regard to which the fee is paid." The most recent year fee amounts per Fish and Game Code Section 713 will be updated on the forms that are proposed for amendments in this rulemaking. For example, in 2021, the non-refundable application fee was \$41.00 with a refundable inspection fee of \$114.54. For 2022, the non-refundable application fee was adjusted for inflation to \$58.50 in accordance with Fish and Game Code Section 713 with a refundable inspection fee of \$162.25. For 2023, the non-refundable application fee was adjusted for inflation to \$65.41 with a refundable inspection fee of \$181.28. For 2024, the non-refundable application fee was adjusted to \$69.01, which shall include a 3% non-refundable ALDS fee (Section 700.4(e)), and refundable inspection fee of \$191.32.

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

None. No change in costs or savings for state agencies is expected as a direct result of the proposed amendments to Section 679. The Department has estimated that the initial rulemaking process, transition period, improved oversight, and support to permittees throughout the state by the Department's Native Wildlife Rehabilitation Program will continue to engage staff time, particularly program staff in the Department's Wildlife Health Laboratory. The Department oversees 80 wildlife rehabilitation facilities and approximately 550 satellite facilities each year. The program and staff time costs will remain unchanged and are within currently existing budgets and resources.

(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

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulation in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, 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.

FISH AND GAME COMMISSION

Dated: **July 19, 2024**

Melissa Miller-Henson
Executive Director