



CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
NOTICE OF PROPOSED RULEMAKING ACTION
Amend Sections 650 and 703
Title 14, California Code of Regulations
Re: Scientific Collecting Permits

August 16, 2024

PURPOSE OF THIS NOTICE

The purpose of this proposed regulatory change is to provide applicants for Scientific Collecting Permit (SCP) an up-to-date list of at-risk terrestrial invertebrates in California. The Department of Fish and Wildlife (Department) has determined that scientific, education, and propagation-related take of these at-risk animals should be regulated through the SCP process. Currently these invertebrates are included on the *California Terrestrial and Vernal Pool Invertebrates of Conservation Priority List (TVPICP List)*, dated June 12, 2017. This regulation change updates the *TVPICP List*, incorporated by reference in Section 650, to a list revised on January 1, 2024, based on the same criteria used to create the original list.

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:

Public Hearing:

Date: October 1, 2024, Tuesday, 11:00 a.m. - noon

Location: Teleconference Details will be provided at least seven days in advance of the meeting at www.wildlife.ca.gov/Notices/Regulations

WRITTEN COMMENT PERIOD

Written comments may be submitted at any time before or on October 1, 2024, by mail or email to the contact as follows:

California Department of Fish and Wildlife
Regulations Unit
Attn: Mike Randall, Analyst
P.O. Box 944209
Sacramento, CA 94244-2090
Email: Regulations@wildlife.ca.gov



INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

In accordance with Section 650, Title 14, CCR, the Department of Fish and Wildlife (Department) currently requires a Scientific Collecting Permit (SCP) for scientific, educational, and propagation related activities that involve terrestrial and vernal pool invertebrates that are listed on the *California Terrestrial and Vernal Pool Invertebrates of Conservation Priority List* (“*TVPICP List*”, dated June 12, 2017). The proposed amendments to Section 650 update the species specified on the list, removing species that no longer meet the criteria for inclusion and adding species that do meet the criteria. In total, 47 species will be removed and 9 added to the TVPICP List.

PURPOSE

The proposed regulatory change provides an applicant for SCPs an up-to-date list of at-risk terrestrial invertebrates in California. The criteria to develop the list remain unchanged, they still relate to the species’ NatureServe rankings as well as their Federal endangered, threatened, or candidate status. When the regulation was first adopted in 2018, the Department determined that the at-risk animals on the TVPICP List are subject to limited take for scientific research, education, or propagation and an SCP is required for any of these activities involving listed species. This regulation change updates the *TVPICP List* (dated January 2, 2024).

REGULATORY PROPOSAL

- A new subsection 650(a)(8) clarifies that SCP regulations do not apply to the take of any threatened, endangered, candidate, or fully protected species. The Department will not issue an SCP for any of these listed species.
- A new subsection 650(a)(9) updates the document “*Table 1- California Terrestrial and Vernal Pool Invertebrates of Conservation Priority List (TVPICP List)*”, incorporated by reference, with a revision date of January 2, 2024.
- Changes throughout Section 650 and Section 703 updating the revision dates of the *TVPICP List* and of Department forms (incorporated by reference) related to SCP.
- Subsection 650(i)(1)(D) clarifies that the Department “may” issue a General Permit for incidental take of species on the *TVPICP List*.
- Other minor grammatical changes are made in Section 650 to clarify the regulatory text.
- Section 703 is amended so that the SCP application and amendment forms (DFW 1379GW, DFW 1379GWA, DFW 1374S and DFW 1379SA), incorporated by reference in section 703, would also be updated to reference the new *TVPIVP List*.

These changes ensure the Department uses the most up-to-date science to protect vulnerable terrestrial invertebrate populations while ensuring that researchers do not



have to apply for SCPs for non-sensitive species whose risk status is no longer considered imperiled at the state level or that were either not federally listed or were downlisted. The change will help enhance the Department's ability to conserve California's terrestrial and vernal pool invertebrates, which perform essential functions like nutrient cycling and pollination, as well as form the basis for food webs for other terrestrial and aquatic wildlife.

BENEFITS OF THE PROPOSED REGULATIONS

The purpose of an SCP is to protect wildlife resources that may be substantially adversely affected by research, education, or propagation-related activities. By adding species that have been identified by NatureServe as more imperiled or that are listed under the federal Endangered Species Act, the list will better encompass at-risk invertebrates in the state. By removing species no longer considered at high risk, this change reduces the burden on researchers, educators, and others working on these species such that they may no longer need an SCP for their work.

CONSISTENCY AND COMPATIBILITY WITH EXISTING REGULATIONS

The Legislature has given the Department authority to issue SCPs 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). d

Department staff has conducted a review of the California Code of Regulations and has not identified any other State regulations that are inconsistent 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. The Department has reviewed its existing regulations in Title 14 of the California Code of Regulations and finds that the proposed regulation is neither inconsistent nor incompatible with the existing regulations in Title 14.

AUTHORITY AND REFERENCE

Section 650:

Authority: 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, 1907, 2000, 2000.5, 2002, 2010, 2012, 2013, 2021, 2080, 2081, 2353, 2582, 2583, 2835, 3007, 3503, 3503.5, 3511, 3960.4, 4004, 4150, 4155, 4700, 4810, 5050, 5515, 8598.3 and 12000, Fish and Game Code; Section 597, Penal Code; and Sections 36602 and 36710, Public Resources Code.

Section 703:

Authority cited: Sections 713, 1002, 1002.5, 1050, 1055, 2118, 2120, 2122, 2150, 2150.2, 2157 and 5060, Fish and Game Code.



Reference: Sections 395, 396, 398, 713, 1002, 1002.5, 1050, 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, 5060, 5061, 10500, 12000 and 12002, Fish and Game Code; and Title 50, Code of Federal Regulations, Parts 21.29 and 21.30.

Documents Incorporated By Reference:

A couple documents are proposed to be updated, but remain incorporated by reference:

- California Terrestrial and Vernal Pool Invertebrates of Conservation Priority List (dated January 2024).
- Scientific Collecting Permit, General Use -- Application: form DFW 1379GW, Rev 01/2024
- Scientific Collecting Permit, Specific Use -- Application (form DFW 1379S, Rev 01/2024
- Scientific Collecting Permit, General Use -- Amendment: Terrestrial Wildlife (form DFW 1379 GWA, Rev 01/2024,
- Scientific Collecting Permit, Specific Use -- Amendment (form DFW 1379SA, Rev 01/2024

Documents Relied Upon:

Laband, D.N. and M. Nieswiadomy. 2006. Factors affecting species' risk of extinction: an empirical analysis of ESA and NatureServe listings. *Contemporary Economic Policy*, 24(1): 160-171.

Master, L. L., D. Faber-Langendoen, R. Bittman, G. A. Hammerson, B. Heidel, L. Ramsay, K. Snow, A. Teucher, and A. Tomaino. 2012. NatureServe Conservation Status Assessments: Factors for Evaluating Species and Ecosystem Risk. NatureServe, Arlington, VA.

Regan, T.J., L.L. Master, and G.A. Hammerson. 2004. Capturing expert knowledge for threatened species assessments: a case study using NatureServe conservation status ranks. *Acta Oecologica*, 26(2): 95-107.

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: None.

The Department does not anticipate significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states because the proposed regulation is largely



administrative in nature to improve the clarity and consistency of existing regulations that will not affect the demand for goods and services related to the collection of species for scientific research in California.

- (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: None.

The Department does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California because the proposed regulation is largely administrative in nature to improve the clarity and consistency of existing regulations that that will not affect the demand for goods and services related to the collection of species for scientific research in California. The Commission anticipates general benefits to the health and welfare of California residents, and no impacts to worker safety, and benefits to the state's environment.

- (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:

No costs or savings to state agencies or costs/savings in federal funding to the state is anticipated. Department program implementation costs are projected to be unchanged.

- (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

None. The Department anticipates that the proposed regulation will not have any cost impacts on small businesses. The majority of SCP holders are academic researchers, graduate students, and/or private researchers. Fewer are biological consultants, who may qualify as small businesses. However, this proposed action is not anticipated to have any new compliance costs since the permitholders are already complying with the regulations, and the proposed action updates the list of terrestrial and invertebrates requiring a permit, without changing any other aspects of permit acquisition.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Department concludes that the proposed regulation will not create additional job opportunities; result in the elimination of jobs or existing businesses, create new businesses, eliminate existing businesses, or expand businesses in the state.



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

The Department does not anticipate any impacts on the creation or elimination of jobs within the state because the proposed action is to improve the clarity and consistency of existing regulations that that will not affect the demand for jobs related to the collection of species for scientific research in California.

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

The Department does not anticipate any impacts on the creation of new businesses or the elimination of existing businesses within the state because this action will not affect the demand for goods and services related to the collection of species for scientific research within the state.

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

The Department does not anticipate any impacts on the expansion of businesses in California because this action will not affect the demand for goods and services related to the collection of species for scientific research within the state.

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

None. The cumulative effects of the changes statewide are expected to be neutral regarding 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 in California because this action will not affect working conditions.

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

The purpose of the regulation is to protect wildlife resources that may be substantially adversely affected by the project or activities authorized by the Scientific Collection Permit.

The cumulative effects of the changes statewide are expected to be minimal regarding the state’s environment.

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 (17th floor). The rulemaking file will be available electronically upon request by contacting the Department at Regulations@wildlife.ca.gov. Inquiries concerning the regulatory process or requests for documents should be directed to:

California Department of Fish and Wildlife
Mike Randall, Regulations Unit
P.O. Box 944209
Sacramento, CA 94244-2090
Telephone: (916) 902-9109
Email: regulations@wildlife.ca.gov

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

Hillary Sardinas, Senior Environmental Scientist
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P.O. Box 944209
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Telephone: (916) 594-6143
Email: regulations@wildlife.ca.gov

THE RULEMAKING FILE CONSISTS OF:

- Notice of Proposed Regulatory Action
- Initial Statement of Reasons
- Proposed Text of the Regulation:
 - Amendment of Section 650, Title 14, CCR
 - Amendment of Section 703, Title 14, CCR
- *Table 1- California Terrestrial and Vernal Pool Invertebrates of Conservation Priority List (TVPICP List)*, dated January 2, 2024
- Amended updated application forms incorporated by reference
- Economic and Fiscal Impact Assessment (Form STD 399) and addendum
- 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://www.wildlife.ca.gov/Notices/Regulations/650>



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Regulations Unit
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Sacramento, CA 94244-2090

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



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.