

Staff Summary for June 19-20, 2024
(For background purposes only)

13. Wildlife Rehabilitation

Today's Item

Information

Action

Consider authorizing publication of notice of intent to amend regulations regarding wildlife rehabilitation.

Summary of Previous/Future Actions

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| • Wildlife Resources Committee (WRC) vetting | September 15, 2022; WRC |
| • WRC vetting | May 17, 2023; WRC |
| • WRC vetting | September 21, 2023; WRC |
| • WRC vetting and recommendation | January 16, 2024; WRC |
| • Today's notice hearing | June 19-20, 2024 |
| • Discuss potential changes to noticed regulations (if proposed timing approved today) | August 14-15, 2024 |
| • Discussion hearing (if approved today) | October 9-10, 2024 |
| • Adoption hearing (if approved today) | December 11-12, 2024 |

Background

Under multiple authorities in California Fish and Game Code, the Commission adopts regulations governing wildlife rehabilitation; pursuant to those regulations, the Department oversees permitting for wildlife rehabilitators in the state through its Native Wildlife Rehabilitation Program. A wildlife rehabilitator provides animal care and rehabilitation of sick, injured, and orphaned native wildlife, as well as wildlife conservation education and outreach to diverse local communities. Currently, there are 80 permitted wildlife rehabilitators operating wildlife rehabilitation facilities in California, and sub-permittees operate approximately 550 satellite facilities; around 100,000 animals are rehabilitated every year by these facilities. Rehabilitated animals help to maintain and bolster wild native populations.

Current wildlife rehabilitation regulations, last updated in 2007, provide a definition of "wildlife rehabilitation facilities", specify application requirements for the Department to approve and issue a permit to wildlife rehabilitation facilities that meet standards set forth in *Minimum Standards for Wildlife Rehabilitation Manual* (3rd edition), provisions related to the operation of a wildlife rehabilitation facility, requirements for reporting dead or diseased animals, record keeping, the release of wildlife back into the wild, and compliance requirements with other restrictions and federal, state, city, or county laws.

The acceptable standards for wildlife rehabilitation facilities and veterinary care have changed since the last update of the regulations. The Department requests that the Commission amend the regulations to update standards for the care and possession of injured and diseased wildlife, address issues regarding animal welfare, provide clearer guidance to the public and wildlife rehabilitators, improve the Department's Native Wildlife Rehabilitation Program administration, and bolster Department authorities to take administrative action in the rehabilitation of native wildlife. As part of its proposal, the Department created *Native Wildlife*

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Rehabilitation 679 Regulations Manual (DFW 679 Manual) that provides both general program information and resources, as well as regulatory actions incorporated by reference in the draft regulations.

Draft Proposed Regulations

Note: Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations.

The draft proposed regulation changes include:

- Repeal Section 679, regulation for possessing wildlife and wildlife rehabilitation under which the Department and rehabilitation facilities currently operate.
- Add Section 679.1, establishing definitions for terms used in the wildlife rehabilitation regulations.
- Add Section 679.2, specifying requirements for transporting and confining live wild animals.
- Add Section 679.3, establishing the process and requirements for issuing and amending permits to temporarily possess wildlife for the purpose of rehabilitation.
- Add Section 679.4, establishing facility and enclosure standards for wildlife in rehabilitation. Chapter 2 of the DFW 679 Manual contains specific enclosure requirements.
- Add 679.5, establishing humane care standards for wildlife rehabilitation. Chapter 3 of the DFW 679 Manual establishes protocol and procedures that must be adhered to, to protect the welfare of each wild animal in the care of facilities.
- Add Section 679.6, establishing protocols for releasing rehabilitated animals into the wild.
- Add Section 679.7, establishing the process and requirements for inspecting wildlife rehabilitation facilities.
- Add Section 679.8, establishing procedures and requirements for seizing animals and the transfer, euthanasia, and release of seized animals.
- Add Section 679.9, establishing the processes for permit suspensions and revocations of sub-permits and variance requests, proof of service, requests for reconsideration, and appeals.

Draft Proposed Forms

- DFW 479, Native Wildlife Rehabilitation 679 Regulations Manual: This new manual is an easily accessible document that is free to the public and provides both general program information and resources, as well as regulatory actions incorporated by reference in the regulations. Only chapters 2 and 3 of the manual constitute regulatory action incorporated by reference.

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- DFW 480A, Wildlife Rehabilitation Permit Application: Establishes the wildlife rehabilitation permit application and clearly informs the applicant of required information necessary to be considered for a permit.
- DFW 480B, Wildlife Rehabilitation Sub-Permit Application: Standardizes information required for submission by a permittee to add a satellite facility operated by a sub-permittee.
- DFW 480C, Specialty Rehabilitation Authorization Form: Standardizes information required for submission by a permittee to receive authorization for specialty rehabilitation.
- DFW 480D, Permittee Notice of Revocation: Notice of revocation of a sub-permit specifying why a sub-permit is being revoked.
- DFW 481, Veterinarian of Record Agreement: Standardizes the process for providing required information specific to the “Veterinarian of Record.”
- DFW 482, Wildlife Rehabilitation List of Authorized Persons: Standardizes the process for providing required information of all individuals identified as an authorized person.
- DFW 483, Facility Emergency Action Plan: Standardizes the process for providing a written emergency plan for a facility.
- DFW 484, Authorization to Access Property: Standardizes the process for the applicant to provide authorization to the Department to access the property to conduct inspections.
- DFW 485A, Wildlife Rehabilitation Facility Inspection Form and DFW 485B, Satellite Facility Inspection Form: Standardizes the process for information to be collected by the Department during an inspection.
- DFW 485C, Wildlife Rehabilitation – Variance Request: Establishes the process of requesting a variance of any required enclosure construction design, size, or materials of specific caging requirements.
- DFW 486, Wildlife Rehabilitation Annual Report: Standardizes information to be submitted annually documenting facility rehabilitation activities for the prior calendar year.
- DFW 487, Certification of Animal Condition (Non-Releasability): Standardizes information required for certification of a non-releasable animal’s condition and request for permanent captive placement.

Further details on the draft proposed changes are available in the initial statement of reasons, draft proposed regulatory language, and draft proposed DFW forms (exhibits 2 through 5). Today, the Department will present an overview of its recommendations.

Ongoing External and Internal Dialogue

Members of the wildlife rehabilitation community have continued to share with the Department additional suggested modifications to the draft proposed regulations; furthermore, Department staff and Commission staff have identified potentially necessary changes to the regulatory language and initial statement of reasons currently before the Commission. Hence, the Department and staff anticipate recommending additional changes to the DFW 679 Manual

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and draft proposed regulatory language that are not reflected in the versions presented today. Staff also believes additional time will be necessary to incorporate further changes and provide the public sufficient time to review the changes prior to a discussion. For example, potential recommended changes, in summary, include:

- Clarifications for definitions, including rehabilitation animal age classes;
- new restrictions on the movement of cervids, and disinfection protocols, to limit the spread of chronic wasting disease;
- modifications to the requirements and standards for authorized persons;
- clarifications for enclosure construction, materials, sizes, enrichment, and other specifications for certain mammal, bird, and herptile species;
- expanded requirements for amphibian and reptile treatment and care;
- accommodations for temporary wildlife enclosures;
- clarifications for Department actions with regard to permitting, revocation, and inspections;
- clarifications for administrative updates to permits and the process for removing personnel listed on permits, including establishing a 30-day grace period to obtain a new veterinarian of record if removed;
- clarifications to the fee table in Section 703; and
- other minor corrections, updates, and clarifications.

Next Steps

Given the dynamic nature of this proposed rulemaking, there are several potential pathways the Commission may choose to consider, including:

1. Approve publishing a notice of intent to amend regulations using the documents currently before the Commission, with the understanding that additional proposed changes will be captured in a future "clean up" rulemaking at some point in the next five years;
2. delay notice to a future meeting to allow further development and refinement of the rulemaking documents based upon ongoing dialogue;
3. approve publishing notice of the recommended regulations for a standard three-meeting process and request that staff present details of an additional notice for Commission approval at the discussion hearing; or
4. approve publishing notice of the recommended regulations for a four-meeting process and request that staff present details of a proposed additional notice for Commission consideration and potential approval at the meeting between the notice hearing (today) and the discussion hearing (proposed for October).

Significant Public Comments (N/A)

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Recommendation

Commission staff: Authorize publication of notice of intent to repeal Section 679, add sections 679.1, et al., and add chapters 2 and 3 of the DFW 679 Manual, as recommended by the Department and discussed today, without the further changes outlined in this summary under “Ongoing External and Internal Dialogue.” Additionally, direct staff to bring to the August 2024 Commission meeting for discussion and consideration the specific changes recommended for each of the ongoing dialogue items outlined in this summary, and schedule the discussion hearing for the October 2024 Commission meeting and the adoption hearing for December 2024.

Committee: WRC recommends that the Commission support a rulemaking regarding wildlife rehabilitation, to be noticed at the Commission’s June 2024 meeting.

Department: Authorize publication of notice of proposed changes to the regulations regarding the temporary possession of wildlife for the purposes of rehabilitation.

Exhibits

1. [Department memo, received May 29, 2024](#)
2. [Draft initial statement of reasons and attachments](#)
3. [Draft proposed regulatory language](#)
4. [Draft DFW 679 Manual \(Form DFW 479\)](#)
5. [Draft DFW forms](#)
6. [Draft economic and fiscal impact statement \(STD 399\) and addendum](#)
7. [Department presentation](#)

Motion

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to repeal Section 679, add sections 679.1 et al., and add chapters 2 and 3 of *Native Wildlife Rehabilitation 679 Regulations Manual* related to the temporary possession of wildlife and rehabilitation and release of wild animals, with the changes discussed today. Additionally, the Commission requests staff bring to the August 2024 meeting for Commission discussion and consideration the specific changes recommended for each of the ongoing dialogue items summarized in the staff summary. The schedule for this rulemaking is a discussion hearing in October and potential adoption in December.

OR

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to repeal Section 679, add sections 679.1 et al., and add chapters 2 and 3 of *Native Wildlife Rehabilitation 679 Regulations Manual*, related to the temporary possession of wildlife and rehabilitation and release of wild animals, with the changes discussed today, [*with or without*] the ongoing dialogue items summarized in the staff summary.