Amended Proposed Regulatory Language

The proposed text is amended as follows: Added text is double underlined, ~~deleted text is double strikethrough.~~

Section 42.1 is hereby added to Title 14, California Code of Regulations to read as follows:

§ 42.1 Commercial Use and Possession of Native Rattlesnakes for Exhibition.

(a) Definitions. For the purposes of this section, the following definitions shall apply:

(1) Canine aversion training. The use of a native rattlesnake on display or accessible to a canine to shape canine behaviors with the intent of training the canine to recognize and avoid rattlesnakes.

(2) Commercial purpose. The use of native rattlesnakes for exhibition for financial gain or profit. As it pertains to this section, passive income derived from social media views, sponsorship or similar, is not a commercial purpose.

(3) Exhibition. The public display of native rattlesnakes including but not limited to use in film, entertainment, canine aversion training, safe handling training, or other commercial purpose.

(4) Facility. A location that is listed on the Commercial Use and Possession of Native Rattlesnakes For Exhibition Permit where native rattlesnakes are possessed, exchanged, imported, exported, purchased, sold, or propagated for commercial purposes.

(5) Handler. A person who:

(A) is identified on the permit as a person who may control rattlesnakes, and may be present when a native rattlesnake will be on display or exhibited outside of a secure enclosure, including a qualified permittee;

(B) is at least 18 years of age; and

(C) has a minimum of 500 hours experience with captive husbandry of snakes, including a minimum of 200 hours working with captive rattlesnakes or other venomous snakes. For the purposes of an application, the experience with captive rattlesnakes or other venomous snakes shall have been completed within 5 years prior to the date the application is received by the department.

(6) Native rattlesnake. The following species of rattlesnakes, including their subspecies that are indigenous to California and taxonomic successors: Western diamond-backed rattlesnake (*Crotalus atrox*), Mohave rattlesnake (*Crotalus scutulatus*), Western rattlesnake (*Crotalus oreganus*), Southwestern speckled rattlesnake (*Crotalus pyrrhus*), Sidewinder (*Crotalus cerastes*), and Panamint rattlesnake (*Crotalus stephensi*).

(7) Veterinarian of record. A veterinarian, currently licensed in the permittee's state of residency, who agrees in writing to provide and direct veterinary treatment for venomous reptiles.

(b) Unlawful without Exhibition Permit. Except as otherwise provided in these regulations, it shall be unlawful for a person without a valid Commercial Use and Possession of Native Rattlesnakes For Exhibition Permit ("Exhibition Permit") issued by the department to exhibit, exchange, import, export, purchase, sell, propagate, or transport native rattlesnakes for commercial purposes.

(c) Duration of Exhibition Permit. Exhibition Permits issued under this section shall be valid for a period of three (3) calendar years from date of issuance. Exhibition Permits are nontransferable.

(d) Exhibition permit application**.** For new facilities, submit the Exhibition Permit Application form provided by the department available on the department's website at https://wildlife.ca.gov/Licensing/Directory. ~~Submit~~ Each application shall be submitted with the required fees, including the nonrefundable application fee, the refundable inspection fee, and the refundable permit fee as specified in subsection (g), with the required attachments listed below to License and Revenue Branch, P.O. Box 944209, Sacramento, CA 94244-2090. When multiple facility locations are proposed, or there is a change in location, each location shall have a separate application. Incomplete applications and missing documents will result in the return of the application and refundable fees and a delay in the issuance of the Exhibition Permit. All of the following information and documents shall accompany an application for each new Exhibition Permit, renewal, or amendment:

(1) The applicant shall be a natural person and provide:

(A) GO ID number (see Section 700.4 for regulations pertaining to obtaining a GO ID number);

(B) Full name, gender, date of birth, hair color, eye color, height, weight; and

(C) Personal mailing address, telephone number, email address.

(2) The applicant shall provide the following information concerning the commercial use and exhibition of native rattlesnakes:

(A) Business name (if applicable);

(B) The physical facility location (where the rattlesnakes will be housed) and contact information at that location: mailing address, telephone number, email address.

(C) At least two handlers as defined in subsection (a) are required to be listed. List each handler's information as described in subsection (d)(1).

(3) A statement of purpose describing the planned uses and exhibition of the native rattlesnakes.

(4) Number of each species of native rattlesnakes in possession.

(5) The applicant shall attach the following written documents:

(A) Emergency Action Plan. Every facility that houses, or vehicle that contains, live native rattlesnakes shall have a written Emergency Action Plan that includes but is not limited to:

1. Protocol for bites, escape of rattlesnakes, and emergency facility evacuation;

2. List of the re-capture equipment available;

3. Description of humane lethal dispatch methods and a list of qualified personnel who are trained to carry out the methods ~~(see subsection 671.1(c))~~;

4. Description of mobile transport cages and equipment on hand; and

5. List of medical supplies or first aid kits and where they are located, readily available.

6. The Emergency Action Plan shall be titled, state a revision date and emergency telephone numbers including the local department regional office, 911, and local animal control agencies, updated annually, and posted in a conspicuous place. In the case of a vehicle, the plan shall contain telephone numbers of all department regional offices and local animal control agencies where exhibition will be performed.

(B) A written program for adequate veterinary care, disease prevention, parasite control, and euthanasia and shall be established and maintained by the permittee. <u>This shall include verification of a veterinarian of record pursuant to this section.</u>

(6) Certification of the application with original signature of the applicant as follows:

"I certify under penalty of perjury that the information I have provided in this application and all supporting materials is true and correct. I certify that there are no criminal, civil, or administrative proceedings pending that would disqualify me from obtaining this Exhibition Permit. I understand that if I submit any false statement to the Department, my Exhibition Permit may be suspended or revoked or my application denied, and I may be subject to prosecution pursuant to Fish and Game Code Section 1054 or other applicable statutes or regulations." If an applicant signs the application electronically, the following language is included: "With accordance to California Civil Code §1633.5(b), I acknowledge that by providing my electronic signature for this form, I agree that my electronic signature is legal binding equivalent to a handwriting signature. I hereby confirm that my electronic signature represents my execution or authentication of this form, and my intent to be bound by it."

(7) Process. Within 60 days of receipt of the Exhibition Permit Application, the department shall issue the Exhibition Permit or notify the applicant of denial as set forth in subsection ~~(r)~~ <u>(o)</u>.

(e) Exhibition Permit renewal. To renew an Exhibition Permit, the permittee shall submit a completed Exhibition Permit Application with all required information and documentation as set forth in subsection (d), check the Renewal box, attach the annual report forms as set forth in subsection (j), and submit with the nonrefundable renewal application fee and refundable permit fee. The department shall not charge an inspection fee for a permit renewal. It is recommended that the permittee submit the renewal as early as possible to avoid delay, late fee or expiration of the permit. The application shall be postmarked no later than the date of permit expiration.

(1) Up to 45 calendar days after the valid Exhibition Permit expires, a permittee may apply to renew the permit by paying a nonrefundable late fee pursuant to subsection (g).

(2) Renewal applications postmarked later than 45 calendar days after the existing Exhibition Permit expired shall not be accepted, and a new permit application, including inspection fee, shall be submitted pursuant to subsection (d).

(f) Exhibition Permit amendment**.** The information provided by the permittee and approved by the department shall be kept current and accurate. Failure to keep the Exhibition Permit information current and accurate may result in revocation or suspension. Except for new facilities, an applicant amending their Exhibition Permit to add or change information ~~of~~ on their approved permit shall submit the Exhibition Permit Application no later than 14 business days before the changes are in effect. To do this, check the Amendment box, describe the proposed changes, send to the application form to the department's License and Revenue Branch, P.O. Box 944209, Sacramento, CA 94244-0002.

(g) Exhibition Permit fees. The department shall charge the following fees:

(1) General Fees. An applicant for a new permit shall submit the nonrefundable application fee, inspection fee and permit fee pursuant to subsection 703(a)(2)(C) with the completed Exhibition Permit Application form.

(2) Renewal Fees. An applicant renewing their permit shall submit the nonrefundable application fee and permit fee pursuant to subsection 703(a)(2)(C) with the completed Exhibition Permit Application form.

(3) Renewal Late Fee. An applicant submitting a renewal Exhibition Permit Application after the permit expiration date but not later than 45 days from the date of expiration shall submit the nonrefundable late fee, pursuant to subsection 703(a)(2)(C).

(4) Refund. The following situations apply for refunds.

(A) Resident and nonresident applicants. Upon denial of a new permit application, the department shall refund the inspection fee and permit fee.

(B) Resident applicants. Upon failing the new permit inspection, the Department shall refund the permit fee.

(C) Nonresident applicants. Upon approval of the application, the inspection fee and permit fee are nonrefundable (see subsection (i)(1)(C)).

(h) Acquisition of native rattlesnakes. A permittee may acquire a native rattlesnake for commercial purposes from: ~~the~~ the department~~,~~ ; organizations or persons who otherwise lawfully acquired and possessed the rattlesnake, including but not limited to a permitted wildlife relocation service, a biological supply house, a ~~licensed wildlife rehabilitation facility,~~ permitted wildlife rehabilitator; a municipal animal control agency~~,~~ ; or ~~from~~ other Exhibition Permit holders ~~free of charge~~. The acquisition of the rattlesnake must comply with other ~~regulations~~ laws as applicable.

(1) Native rattlesnakes acquired pursuant to this section shall only be transferred free of charge, except that the receiving person may be charged to recover actual transportation and shipping costs. If such costs are charged, the permittee transferring the native rattlesnake shall maintain all documentation and the amount received from the recipient, for a period of three years following the completion of the transfer. ~~;~~ ~~otherwise,~~

~~(2) a permittee may sell native rattlesnakes acquired in compliance with this regulation to other Exhibition Permit holders.~~

~~(3)~~ (2) Limits. No permittee shall possess more than ~~thirty (30)~~ fifty (50) native rattlesnakes in aggregate per facility, except for neonate native rattlesnakes bred at the permitted facility, which may be possessed for a period of one year following birth.

(3) Propagation. Permittees may propagate native rattlesnakes under this permit, but must comply with other laws as applicable.

(i) General conditions. Permittees are required to abide by the following minimum requirements:

(1) Inspections.

(A) Facilities in California shall pass an inspection to verify and ensure adherence to this section, including books, or other records. Inspections serve to verify compliance with this section and any applicable regulations, requirements and conditions, and to ensure health, safety and welfare of the public and rattlesnakes before the department will issue a permit.

1. The department may enter the facilities of any applicant or permittee where native rattlesnakes are housed, or may be housed, at any reasonable hour to inspect the animals and their enclosures, or required equipment, and to inspect, audit, or copy records required by this section.

2. The department shall deny the issuance of a permit to an applicant, or immediately suspend the permit of a permittee, who refuses to allow inspection of a vehicle, facility, permit, book, or other record required to be kept. A refusal to allow inspection may be inferred if, after three reasonable attempts within 30 days by the department, the applicant or permittee does not make the facility, permit, book, or other record available for inspection.

3. The department shall issue the Exhibition Permit, or reinstate a permit suspended or revoked pursuant to this section if the applicant or permittee, within 30 days after the first reasonable attempt, allows the department to inspect the facility, book, or other record to verify compliance with this section and all applicable permit terms and regulations, requirements, and conditions, and to ensure health, safety and welfare of the public and rattlesnakes.

(B) Nonresident Permit applicant. Upon successful approval of the Exhibition Permit Application, the nonresident applicant shall be issued the Exhibition Permit, subject to these additional conditions:

1. At least 48 hours prior to nonresident permittees entering the state in possession of native rattlesnakes, the permittee shall notify the department by email at permitting@wildlife.ca.gov. The notification to the department shall contain:

a. a list of handlers, permittees and employees who may have contact with the snakes;

b. permittee's current contact information that includes the permittee's mobile telephone number and email address;

c. number and description of the snakes being transported into the state, including the ~~age, sex, and~~ species and total length of each ~~the~~ snake~~s~~;

d. state border crossing location;

e. exhibiting locations within the state and projected itinerary of visit; and

f. description of the vehicle transporting the snakes that includes the vehicle's make, model, year, and license plate number.

2. If any of the above circumstances or travel details are altered, the permitee shall notify the department of any changes as soon as possible and prior to making entry into the state by emailing permitting@wildlife.ca.gov.

~~2~~3. Upon entry to California, the department may, depending on capacity, conduct an inspection of any vehicle, parcel, enclosure or container and the locations which are being used by the nonresident permittee for the exhibiting of native rattlesnakes under this permit.

~~3~~4. The inspection shall verify and ensure adherence to this section, all applicable permit terms and regulations, requirements, conditions, and the health, safety and welfare of the public and rattlesnakes. All other terms and conditions described in the permit and these regulations shall be adhered to.

(2) Native rattlesnakes that have been maintained in captivity pursuant to this permit shall not be released into the wild.

(3) Quarantine. ~~Whenever a facility obtains a new native rattlesnake,~~ Any newly obtained rattlesnake, including neonates ~~born~~ older than 31 days, ~~that (those) snake(s)~~ shall be quarantined (i.e., completely separated in their own enclosure) from other ~~animals~~ rattlesnakes for at least ~~one year~~ 90 days.

(4) Humane care and treatment. Permitted facilities that house live native rattlesnakes shall comply with the following provisions:

(A) All captive rattlesnakes being possessed under permit shall be kept in a locked exhibit or container which shall be located within a locked room, building, compound or enclosure.

(B) Snake hooks or tongs shall be present whenever handling native rattlesnakes.

(C) Enclosures.

1. All measurements must apply to the longest rattlesnake held in the enclosure. For non-rectangular enclosures, the ~~The~~ minimum ~~dimension of the longest side~~ perimeter of an enclosure containing native rattlesnakes shall be at least ~~three inches (3") longer than any~~ one and one half (1 ½) times the total length of the longest snake housed in the enclosure as measured on the inside of the top edge of the enclosure. For rectangular enclosures, the length must measure at

least two-thirds (2/3) the total length of the longest snake, and the width at least one half (½) the total length of any snake.

2. Temporary confinement. If a rattlesnake is removed from its primary enclosure for transportation, feeding, emergency, cleaning, or other permitted purpose, the snake shall be kept in a fully enclosed container with a secure and locked lid which has air holes or other means of ventilation, for no more than 48 hours. At all times, every snake must be able to turn around and reorient its body to remain upright and make adjustments. This 48 hour timeframe restarts once a snake has been provided a minimum of 12 hours in a qualifying enclosure as described in subsection (i)(4).
3. All enclosures shall be adequately ventilated to maintain the health of the native rattlesnake.
4. The enclosure substrate, such as, but not limited to, wood chips, bedding pellets, and gravel shall be maintained in a clean and healthy environment for each ~~animal~~ rattlesnake. The floor of the enclosure shall be constructed of non-abrasive material, and hiding areas such as caves or hide boxes shall be provided.
5. No more than two rattlesnakes may be contained in one enclosure unless they are within 31 calendar days from the date of birth.
6. The access door, container, and exhibit for snakes shall be labeled with the common and scientific name of the species and, if known, the subspecies, along with the number of ~~animals~~ rattlesnakes contained inside. The label shall be legibly marked with the warning in English, “Danger Venomous Snakes”, and in Spanish, “Peligro Serpientes Venenosa.”

(D) Food. Food shall be wholesome, palatable and free from contamination and shall be supplied in sufficient quantity and nutritive value to maintain the ~~animal~~ rattlesnake in good health.

(E) Water. Potable water shall be checked and accessible to the ~~animals~~ rattlesnakes at all times or provided as often as necessary for the health and comfort of the animal. All water receptacles shall be clean and sanitary.

(F) Cleaning of enclosures. The enclosure shall be checked and excrement shall be removed from enclosures to maintain ~~animals~~ rattlesnakes in a healthy condition.

(G) Disinfection of enclosures. An enclosure shall be disinfected after ~~an animal~~ a rattlesnake with an infectious or transmissible disease is removed from it.

(5) Observation. Each ~~animal~~ rattlesnake shall be observed and its health documented at least twice a week ~~by the permittee~~ or ~~once a week~~every two weeks if the animal is in brumation. Records documenting these observations shall be maintained by the permittee for three consecutive years and be made available upon request by the department. Sick, diseased, stressed, or injured ~~animals~~ rattlesnakes shall be provided with care consistent with standards and procedures used by veterinarians, or humanely euthanized.

(6) Handling. ~~Animals~~ Rattlesnakes shall be handled carefully so as not to cause unnecessary discomfort, behavioral stress, or physical harm to the animals. At least two handlers shall be present when a rattlesnake under this permit is ~~on display or~~ exhibited outside of a secure enclosure. Snake hooks or tongs shall be utilized to move animals during exhibition.

(7) Exhibition. ~~Animals~~ Rattlesnakes shall be handled with sufficient distance allowed between animals and any viewing public so as to assure safety to both the public and the animals. ~~Persons who are not handlers are not permitted to touch any animals on exhibition.~~ Snake hooks or tongs shall be immediately accessible~~ and utilized to move animals on exhibition~~.

(A) Persons who are not handlers are not permitted to touch any rattlesnakes on exhibition.

(B) Subsection (A) notwithstanding, in the case of film exhibition and safe handling trainings, contact with rattlesnakes may be made by persons other than the handler under direct supervision of the handler, provided that public safety is maintained by the use of barriers, safety equipment or other appropriate envenomation mitigation measures.

(8) Additional terms and conditions. If the department determines that the purpose describing the planned uses and exhibition set forth in subsection (d)(3) poses a risk to human health and safety or to the welfare of ~~animals~~ rattlesnakes, and that additional permit terms or conditions would address the risk, the department may add such terms and conditions to a permit to mitigate the risk.

(j) Record Requirement. Every permittee shall keep accurate annual accounting records, in a form provided by the department, available on the department's website at https://wildlife.ca.gov/Licensing/Directory.

(1) Each annual record shall be maintained for three consecutive years from the most recent issuance or renewal of the permit. All required records shall be legible, in the English language and maintained at the permitted facility.

(2) A copy of the three annual records shall be submitted to the department with the Exhibition Permit Application for renewal as set forth in subsection (e). No permit shall be renewed unless the permittee submits the annual records.

(3) The record shall contain the following information:

(A) Permittee's name, identifying information, and Record year.

(B) The complete scientific name and number of all native rattlesnakes possessed by the permittee pursuant to this section, acquired, transferred, exchanged, propagated, and that have died during the previous year, along with the person's name, organization, or the Exhibition Permit number for the permitted acquisition source.

(C) For rattlesnakes that were distributed by the permittee, the recipient's name or organization or Exhibition Permit number to whom each native rattlesnake was transferred or exchanged.

(D) Each permittee shall complete and submit an annual report even if there is zero activity to report, or the permittee is not going to renew the Exhibition Permit. If the permittee is not going to renew the Exhibition Permit, the record(s) specified above shall be submitted within 30 days of the exhibition activity ending or the business closing.

(k) Shipments. All deliveries or shipments of live native rattlesnakes under authority of this section shall have a legible copy of the valid permit attached to the outside of the shipping container. The shipping container shall be conspicuously labeled: “Live Rattlesnakes — Handle With Care” and in Spanish “Las Serpientes De Cascabel Vivas - Extremar Precauciones.” This subsection does not supersede any federal, state, or local law or regulation or shipper’s requirements concerning shipment of live rattlesnakes.

(l) Escape. Permittees shall immediately report by telephone the escape of a rattlesnake possessed pursuant to this section to the department’s Law Enforcement Division at (916) 653-4094 and the nearest law enforcement agency of the city or county in which the rattlesnake escaped. For the purposes of this section, escape is the unintentional release and/or loss of control of a rattlesnake, that results in a handler being unable to recover and regain control of the rattlesnake.

(m) Serious injury or death. The permittee shall notify the department of any rattlesnake bite on domestic animals or humans from a rattlesnake possessed under their Exhibition Permit, or any bite suspected of being from a rattlesnake possessed under permit, within 24 hours to the Law Enforcement Division at (916) 653-4094. The permittee shall also provide a written report of the incident to the department within one week to the following email address: permitting@wildlife.ca.gov. The written report shall include the date and time of the incident, the full legal name and the contact information for persons involved, and a description of how the bite, or suspected bite may have occurred.

(n) Consistency with Federal, State, and local Laws. A permit issued pursuant to this section does not supersede any federal, state, or local law regulating or prohibiting native rattlesnakes or the activities authorized pursuant to an Exhibition Permit.

(o) Denial of an application.

(1) Unless the department determines that an action less consequential than a denial, such as a written warning issued to the applicant, would likely not cause the applicant to cure a failure to comply an existing violation or not violate in the future, the ~~The~~ department shall deny an application for the issuance of a new, renewal or amendment of an Exhibition Permit if:

(A) an applicant has failed to comply with any requirement in these regulations to obtain a new, renewal or amendment of an Exhibition Permit; or

(B) an applicant, permittee or handler has violated any provision of the Fish and Game Code or any regulation adopted pursuant thereto after [Date to be filled in by OAL]; or

(C) an applicant, permittee or handler has violated federal law; or Penal Code section 597~~,~~; or a term or condition of the Exhibition Permit~~,~~; or has been convicted of a crime of moral turpitude~~; or~~ .

~~(C) The department determines that an action less consequential than a denial, such as a written warning issued to the applicant, would likely not cause the applicant to cure a failure to comply the future,~~

(2) Process. The department shall notify the applicant of the denial in writing via certified mail or electronic mail. The notice shall include the name of the permittee or person, any permit identification number(s), a description of the reasons for the denial, the required disposition of native rattlesnakes if any are in the applicant's possession, and the permittee or person's right to request, and instructions to submit a request for, reconsideration of the department's action.

(p) Revocation or Suspension of Permits.

(1) Unless the department determines that an action less consequential than a revocation or suspension, such as a written warning issued to the applicant, would likely not cause the applicant to cure a failure to comply an existing violation or not violate in the future, an~~,An~~ Exhibition Permit, and/or privilege to obtain an Exhibition Permit, may be revoked or suspended by the department, consistent with the following:

(~~A) A person violates the terms or conditions of the Exhibition Permit, or the person violates federal law, provisions of the Fish and Game Code, or any regulation adopted pursuant thereto, or Penal Code section 597~~.

(A) a person, permittee or handler has violated any provision of the Fish and Game Code or any regulation adopted pursuant thereto after [Date to be filled in by OAL]; or

(B) a person, permittee or handler has violated federal law; or Penal Code section 597; or a term or condition of the Exhibition Permit; or has been convicted of a crime of moral turpitude; and

~~(B)~~ (C) the person is a permittee, any person required to hold an Exhibition Permit, or the permittee's agent, a handler, employee, or person acting under the permittee's direction or control.

(2) Process. The department shall notify the permittee of any permit revocation or suspension action in writing via certified mail or electronic mail. The notice shall include the name of the permittee, any permit identification number(s), a description of the reasons for the revocation or suspension, the required disposition of native rattlesnakes if any are in the permittee's possession, and the permittee or person's right to request, and instructions to submit a request for, reconsideration of the department's action.

(q) Requests for Reconsideration. Any applicant or permittee who receives a notice of denial, revocation or suspension as specified herein may request reconsideration of the department's action by submitting their written request to the License and Revenue Branch, P.O. Box 944209, Sacramento, CA 94244-2090, or at SPU@wildlife.ca.gov, no later than 30 calendar days after the date of mailing or electronic mailing on the proof of service accompanying the department's notice, and shall set forth the reasons for the requested reconsideration. The department shall not consider a request for reconsideration that is received after the 30-calendar-day deadline. The department shall consider any information submitted with the request for reconsideration and, within 60 calendar days of receipt of the request, notify as provided in subsection (r) the permittee of its decision to affirm, reverse or amend its decision, including based upon a mistake of fact, a mistake of law, or because the permittee or person takes corrective actions pursuant to an agreement with the department.

(r) Proof of Service. All notices sent to an applicant or permittee pursuant to subsections (o)(2), (p)(2), and (q) shall include a proof of service that consists of a declaration of mailing, under penalty of perjury, indicating the date of mailing or electronic mailing of the department's notice.

(s) Appeals. Any permittee whose permit has been suspended or revoked by the department, and whose permit or privilege to obtain a permit was not reinstated after reconsideration by the department, may appeal the suspension or revocation to the commission. The request for appeal shall be received by the commission in writing no later than 30 calendar days after the date of mailing or electronic mailing on the proof of service accompanying the department's decision. Appeals shall be sent to the commission at fgc@fgc.ca.gov or P.O. Box 944209, Sacramento, California, 94244-2090. The commission shall not consider a request for appeal that is received after the 30-calendar-day deadline.

NOTE: Authority cited: Sections 200, 205, 1050 and 5061, Fish and Game Code. Reference: Sections 5060 and 7149.3, Fish and Game Code; Section 597, Penal Code; and Sections 11503 and 11506, Government Code.

Proposed Regulatory Language

Section 43, Title 14, California Code of Regulations is hereby amended to read as follows:

§ 43. Captive Propagation ~~and Commercialization~~ of Native Reptiles for Use as Pets.

(a) Native Reptile Captive Propagation Permit.

(1) ~~Permit Required. Except for pet shops as provided in subsection 43(f), every person, who, for commercial purposes, sells, possesses, transports, imports, exports or propagates native reptiles pursuant to subsection 43(c), or who propagates native reptiles for noncommercial purposes pursuant to subsection 43(b), shall have a native reptile propagation permit that has not been revoked or suspended issued to that person.~~ Unlawful Without Native Reptile Captive Propagation Permit. Except for pet shops as provided in subsection 43(f), it is unlawful to possess, transport or propagate native reptiles for noncommercial use as pets pursuant to subsection 43(b), or to sell, possess, transport, import, export or propagate for commercial use as pets pursuant to subsection 43(c), without holding a valid Native Reptile Captive Propagation Permit that has not been revoked or suspended. For the purposes of this section, "pet" means "a native reptile used for pleasure rather than utility." The permit or a legible copy of the permit shall be in the immediate possession of the permittee while native reptiles are being displayed to the public, taken, transported, or sold. The permit or a legible copy of the permit shall be kept where captive propagated native reptiles are maintained. No permit is required for the purchase and possession of ~~subspecies of~~ native reptiles authorized pursuant to subsection 43(c).

(2) Permit application. Application for a permit shall be made on a Native Reptile Captive Propagation Permit Application, ~~FG 391B (8/02)~~ form DFW 391b~~which is incorporated by reference herein. Application forms are available from the Department of Fish and Game, License and Revenue Branch, 3211 S Street, Sacramento, California 95816; Telephone (916) 227-2244. The application form shall be completed in its entirety, including information on the species and/or subspecies proposed for propagation, the location of the rearing facility and other related information~~. The applicant shall submit the application form as follows:

(A) Application form. Obtain an application form DFW 391b provided by the department and available at www.wildlife.ca.gov/Licensing/Directory.

(B) The application form shall be completed in its entirety, including information on the species and/or subspecies proposed for propagation, the location of the rearing facility and other related information as follows:

1. Applicant and Facility Information. Full name, date of birth, physical address, mailing address (if different), telephone number, email address, Automated License Data System (ALDS) Get Outdoors ID (GO ID) (or a required form of identification listed pursuant to subsection 700.4(c) for the department to create an ALDS customer profile for the applicant), facility name if applicable, facility physical address, facility mailing address if different, facility telephone number, facility email address, and facility website, if applicable.

2. Location of rearing facility. Check the location of the rearing facility: garage, shed, bedroom, basement, other (to be filled in by applicant).

3. Commercial propagation. List the cumulative totals of all native reptiles (males and females) in possession for which captive propagation authorization is being sought for commercial use as pets. Include date and source from which each reptile was acquired.

4. Noncommercial propagation. List the cumulative totals (males and females), common and scientific name of all native reptiles in possession for which captive propagation authorization is being sought for noncommercial use as pets. Include date and source from which each reptile was acquired.

5. Certification of the application with original signature of the applicant as follows:

"I certify that I have read, understand, and agree to abide by all conditions of this permit, the applicable provisions of the Fish and Game Code (FGC), and the regulations promulgated thereto. I certify that I am not currently under any Fish and Wildlife license or permit revocation or suspension, and that there are no other legal or administrative proceedings pending that would disqualify me from obtaining this permit. I agree that if I make any false statement as to any fact required as a prerequisite to the issuance of this permit, I may be subject to prosecution pursuant to FGC Section 1054 and any other applicable statute or regulation, and and the commission may suspend or revoke my permit or the Department may deny my permit application." If an applicant signs the application electronically, the following language is included: "With accordance to California Civil Code §1633.5(b), I acknowledge that by providing my electronic signature for this form, I agree that my electronic signature is legal binding equivalent to a handwriting signature. I hereby confirm that my electronic signature represents my execution or authentication of this form, and my intent to be bound by it."

(C) Permit fee. An applicant for a new or renewal permit shall submit the permit fee with the completed application form. The permit fee shall be the basic fee set forth in subsection 699(b), of these regulations. This fee shall be annually adjusted pursuant to Section 713 of the Fish and Game Code.

(D) Applicants shall mail the completed permit application form, permit fee, and required documents to the California Department of Fish and Wildlife, Attn: License and Revenue Branch, P.O. Box 944209, Sacramento, CA, 94244-2090.

(3) Term of Permit. Permits issued under the provisions of this section shall be valid from January 1 through December 31 or, if issued after the beginning of such term for the remainder thereof.

(4) Denial. The department may deny a permit to any person who fails to comply with the provisions of a permit or any regulations pertaining to native reptiles. Any person denied a permit may request a hearing before the commission to show cause why his/her permit should be issued.

(5) Revocation. The commission, after proper notice and providing for an opportunity to be heard, may revoke or suspend a permit for a violation of the Fish and Game Code, or Title 14, CCR, or any federal law or regulation pertaining to reptiles.

~~(6) Permit Fee. The permit fee shall be the basic fee set forth in subsection 699(b), Title 14, California Code of Regulations. This fee shall be annually adjusted pursuant to Sections 713 of the Fish and Game Code.~~

~~(7)~~(6) Albino Native Reptiles. Albino reptiles are defined as individual native reptiles lacking normal body pigment and having red or pink eyes. No permit is required for the possession, propagation, importation, exportation, transportation, purchase or sale of captively-bred native albino reptiles or amphibians. The provisions of ~~section~~ Section 5.60 apply to the taking and possession of albino native reptiles from the wild.

(b) ~~Non-commercial~~ Noncommercial Native Reptile Captive Propagation for Use as Pets. The department may authorize the possession, transportation and propagation of no more than three species and no more than 30 individuals in the aggregate including progeny for use as pets under a ~~native reptile propagation permit~~ Native Reptile Captive Propagation Permit. Within the overall limit of 30 individuals, the department may authorize no more than four of any one species to be taken from the wild. Individuals may be taken only by the methods authorized by ~~section~~ Section 5.60. Native reptiles possessed pursuant to this subsection may not be purchased or sold (including bartered, exchanged, or traded).

(c) ~~Propagation and Possession for~~ Commercial Native Reptile Captive Propagation for Use as Pets ~~Purposes~~. Native reptiles may not be sold, possessed, transported, imported, exported or propagated for commercial use as pets, ~~purposes, except as provided in sections 40(f) and, 42~~ except as follows:

(1) Species and subspecies Authorized. Pursuant to the provisions of this section, only the following species and subspecies, and their taxonomic successors, may be sold, possessed, transported, imported, exported or propagated for commercial ~~purposes~~ use as pets:

(A) California kingsnake (*Lampropeltis californiae*);

(B) California subspecies of the gophersnake (*Pituophis catenifer*): Great Basin gophersnake (*Pituophis catenifer deserticola*), Pacific gophersnake (*Pituophis catenifer catenifer*), San Diego gophersnake (*Pituophis catenifer annectens*), and Sonoran gophersnake (*Pituophis catenifer affinis*);

(C) Northern ~~three-lined~~ rosy boa (*Lichanura ~~orcutii~~ orcutti*).

(2) Bill of Sale. All animals sold pursuant to this section must be accompanied by a numbered bill of sale which shall contain the name and permit number of the permittee, the complete scientific name of each native reptile sold and the name and address of the buyer. A copy of the bill of sale shall be retained by the buyer.

(d) Addition or Removal of reptiles authorized for commercial propagation. The following information shall accompany a request to add or remove a reptile to the list that may be commercially propagated:

(1) A review of scientific literature documenting the population status of the species in California.

~~(1)~~(2) Caging and care guidelines for the animal in captivity.

~~(2)~~(3) Analysis of the effects of broodstock collection methods on wild populations.

~~(3)~~(4) Analysis of the effects on wild reptile populations of released or escaped reptiles bred under this program.

~~(4)~~(5) Evaluation of the commercial market for the proposed species.

(e) Limits. Except as otherwise authorized, no person shall take or possess native reptiles taken from the wild in excess of the bag and possession limits specified in ~~section~~ Section 5.60. There are no possession limits for captively-bred native reptiles authorized by subsection 43(c) for persons possessing a ~~native reptile propagation permit~~ Native Reptile Captive Propagation Permit or for which the person has a bill of sale as required in subsection 43(c)(2).

(f) Pet Shops ~~(1)~~ Defined. A “pet shop” means a permanent place of business, licensed by a city or county, that is open to the public and maintains normal business hours, where pet animals are kept for retail sale. An “owner or operator” means the person who owns or is in charge of the pet shop.

~~(2)~~(1) Exemption. Pet shop owners or operators or their employees or agents, are not required to obtain a ~~native reptile propagation permit~~ Native Reptile Captive Propagation Permit to purchase, transport directly from the point of purchase to the pet shop, possess or resell native reptiles purchased from a permittee pursuant to subsection 43(c). This exemption applies only to native reptiles sold by the pet shop from the premises of the pet shop.

~~(3)~~(2) Records of Purchases. The owner or operator of a pet shop shall retain a legible copy of the bill of sale at the pet shop for each native reptile acquired while the animal is at the pet shop and for two years thereafter. The bill of sale shall contain the permittee’s name and ~~permit~~ Native Reptile Captive Propagation Permit number ~~of the native reptile and amphibian permittee~~ from which the animals were purchased or acquired, the date acquired and the scientific name and number of each species or subspecies of animals acquired.

~~(4)~~(3) Records of Sales. Each native reptile sold by pet shops shall be accompanied by a numbered bill of sale which shall contain the name and address of the pet shop, the date sold and the scientific name and number of each species or subspecies sold. A copy of the bill of sale shall be retained at the pet shop for two years from the date of sale.

~~(5)~~(4) Effect of Violation. No native reptiles shall be sold from any pet shop whose owner or operator, or any employee or agent selling native reptiles from the pet shop, has been convicted of a violation pertaining to native reptiles within the previous three years.

(g) Humane Care and Treatment. Permittees shall comply with the following provisions:

(1) Enclosures.

(A) The perimeter of the enclosure for snakes 33 inches or less shall be 1.5 times the length of the snake.

(B) The perimeter of the enclosure for snakes more than 33 inches in length shall be 1.25 times the length of the snake.

(C) The perimeter shall be measured on the inside of the top edge of the enclosure.

(D) Snakes may be kept in ~~smaller cages or containers~~ enclosures that do not meet the minimum perimeter requirements for 31 days from the date of birth or hatching and while being transported or displayed at trade shows.

(E) All enclosures shall be adequately ventilated to maintain the health of the native reptiles.

(F) The enclosure substrate shall facilitate the ability to maintain a clean and healthy environment for each animal. The floor of the enclosure shall be constructed of non-abrasive material, and hiding areas such as caves or hide boxes shall be provided.

(2) Food. Food shall be wholesome, palatable and free from contamination and shall be supplied in sufficient quantity and nutritive value to maintain the animal in good health.

(3) Water. Potable water ~~must~~ shall be accessible to the animals at all times or provided as often as necessary for the health and comfort of the animal. All water receptacles shall be clean and sanitary.

(4) Cleaning of enclosures. Excrement shall be removed from enclosures as often as necessary to maintain animals in a healthy condition.

(5) Disinfection of enclosures. An enclosure shall be disinfected after ~~After~~ an animal with an infectious or transmissible disease is removed ~~an enclosure, that enclosure shall be disinfected~~.

(6) Pest control. ~~Programs~~ A written program of disease prevention and parasite control, euthanasia and adequate veterinary care shall be established and maintained by the permittee.

(7) Observation. Animals shall be observed at least twice a week by the permittee or once a week if the animals are in ~~hibernation~~ brumation. Sick, diseased, stressed, or injured animals shall be provided with care consistent with standards and procedures used by veterinarians or humanely destroyed.

(8) Handling. Animals shall be handled carefully so as not to cause unnecessary discomfort, behavioral stress, or physical harm to the animal.

(h) Records. Every permittee shall keep accurate annual accounting records for three consecutive years, in which all of the following shall be recorded:

(1) The complete scientific name and number of all native reptiles purchased, received, sold, delivered, taken and possessed.

(2) The person from whom the native reptiles were purchased or received.

(3) The person to whom the native reptiles were sold or delivered.

(4) The date the native reptiles were purchased, received, sold, delivered or taken.

(5) The price paid or received.

(6) The dates and numbers of eggs laid.

(7) The dates and numbers of births or hatchings.

(8) The dates and cause of death of each mortality.

(i) Annual Report Requirement. All required records shall be legible and in the English language and maintained within the State of California. A copy of the annual records form required in subsection 43(h), provided by the department and available at www.wildlife.ca.gov/Licensing/Directory, shall be submitted to the department by December 31 of each year by mail to the California Department of Fish and Wildlife, Attn: License and Revenue Branch, P.O. Box 944209, Sacramento, CA 94244-0002 or via electronically at www.licenses.wildlife.ca.gov/internetsales/. ~~No permit shall be renewed unless the records or a signed statement that no species and/or subspecies of native reptiles were purchased, received, sold, delivered, taken or possessed during the year is submitted.~~

(1) No permit shall be renewed unless the permittee submits the annual records specified in subsection 43(h). Permittees that do not submit the annual report will have their exhibition privileges suspended until the permittee is in compliance.

(2) Each permittee shall submit an annual report even if there is zero activity to report, or the permittee is not going to renew the permit. If the permittee is not going to renew the permit, the record(s) specified above shall be submitted within 30 days of the business closing.

~~(j) Confidentiality of Records. The information required in subsections 43(h)(2), (3), and (5) contained in the records and reports filed with the department pursuant to subsection 43(i) shall be confidential and shall not be disclosed to the public.~~

~~(k)~~ (j) Inspection. ~~The department may enter the premises of any permittee where reptiles are maintained, or reasonably may be maintained, at any reasonable hour to inspect reptiles , and enclosures and to inspect, audit or copy records and receipts required by this section. Refusal to allow an inspection may be grounds for revocation of the permit by the Commission.~~

(1) The department shall conduct an inspection of a facility during a reasonable time of the day and any day of the week when a permittee is present and such a person shall allow the department access to inspect any area of a facility, enclosure, equipment, records, and any animal and parts thereof during the inspection. The department may inspect, audit or copy records and receipts required by this section.

(2) The department shall deny or revoke a permit if the permittee refuses to allow an inspection by the department.

(A) A refusal to allow an inspection shall be inferred if: after three reasonable attempts by the department to schedule an inspection, such a person is unavailable for inspection; or such a person refuses to allow the department to fully inspect any area of a facility, enclosure, equipment, records, and any animal and parts thereof.

(B) The department shall reinstate a permit if the permittee allows the department to conduct an inspection and no violations of these regulations are observed during that inspection.

NOTE: Authority cited: Sections 200, 205, ~~265, 275,~~ 5061 and 6896, Fish and Game Code. Reference: Sections 75, 200, 205, ~~265, 275,~~ 5060 ~~5061~~ and 6896, Fish and Game Code.

Proposed Regulatory Language

Section 703 is hereby amended to read as follows:

§ 703. Miscellaneous Applications, Tags, Seals, Licenses, Permits, and Fees.

(a) Applications, Forms and Fees for January 1 through December 31 (Calendar Year).

. . . *[No changes to subsections (a)(1) through (a)(2)(B)]*

(C) 2027 Commercial Use and Possession of Native Rattlesnakes for Exhibition. All fees are subject to Section 713 of Fish and Game Code.

1. Application Fee	Resident Nonresident	$312.00
2. Inspection fee	Resident Nonresident	$415.75
3. Permit Fee	Resident Nonresident	$144.00
4. Renewal Fee Renewal Late Fee	Resident Nonresident	$144.00

… [No changes to subsections (a)(3) through(c)]

NOTE: Authority cited: Sections 713, 1002, 1002.5, 1050, 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 21.82 and 21.85; and Opinion of the United States Court of Appeals, 9th Circuit (*Stavrianoudakis, et al. v. USFWS, et al.*, (2024) 108 F.4th 1128).