

**Title 14. Department of Fish and Game
Published July 27, 2012**

NOTICE OF PROPOSED RULEMAKING

The Department of Fish and Game (Department) proposed to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Department will hold a public hearing meeting on September 10, 2012, at the address of 1416 9th Street, Sacramento, California, from 1:30-3:30 PM in the first floor auditorium. The auditorium is wheelchair accessible. At the public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Department requests but does not require that the persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. All written comments must be received by the Department at this office no later than 5:00 p.m. on September 10th. All written comments must include the true name and mailing address of the commenter.

Written comments may be submitted by mail, fax, or e-mail, as follows:

Department of Fish and Game
Nicole Carion
601 Locust Street
Redding, CA 95811
Fax: (530) 357-3478
Email: ncarion@dfg.ca.gov

AUTHORITY AND REFERENCE

Fish and Game Code Section 2150.2 authorizes the Department to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific Sections 2150-2195 of the Fish and Game Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Fish and Game Code Section 2150.2 authorizes the department to establish fees for permits, permit applications, and facility inspections in amounts sufficient to cover the costs of administering, implementing and enforcing this chapter.

Existing regulations specify the conditions under which an individual or entity can lawfully possess restricted species in California. The proposed regulatory change provides for inspection and cost recovery. The fee for inspections would be based on the number of enclosures that a facility has, using actual inspection information that the Department gained from limited testing of the method on permitted facilities.

Additionally, there is a provision in regulation that essentially delegated Department authority for facility inspections to veterinarians and resulted in waived fees to permit holders. The Department has determined that the authority needs to be with the Department in order to properly comply with state law; and that the Department still had incurred costs/expenses even when a veterinarian exercised the approval. Consequently, the Department has not been recovering costs of the program as is specified in current statute.

The Department is not aware of any specific benefits that the adoption of this regulation would have pertaining to California worker safety. The department believes the adoption of the regulation benefits the health and welfare of California residents by ensuring captive wild animal regulations are complied with. By the department conducting the Restricted Species Facilities Inspections there will be a more consistent inspection process conducted by more appropriate personnel, law enforcement officers.

The Department is unaware of any inconsistencies or incompatibilities with state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The department has made the following initial determinations:

Mandate on local agencies or school districts: None.

Costs or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Costs or savings in federal funding to the state: None.

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. Considering the small number of permits issued over the entire state, this proposal is economically neutral to business and applies evenly to resident and nonresident permittees.

Cost impacts on a representative private person or business:

As the number of permitted persons for all Restricted Species permits is small (approximately 300 permittees statewide) the impacts are not consequential to the State. However, there will be cost impacts that a representative private person or business who is among the 300 permittees would necessarily incur in reasonable compliance with this proposed action. Fish and Game Code Section 2150.2 states the Department "shall establish fees... in amounts sufficient to cover the costs..." The reason that costs/person will increase is that previously, the Department did not inspect all facilities, which it must now do, or must now enter into an agreement to do. There is a high amount of Department staff time needed for reviewing/approving applications and/or conducting inspections. The inspection fees created by this mandated regulatory package will range from \$221.27 - \$2994.77 depending on the number of enclosures a permittee has. The majority of the permittees have less than 100 animals listed on their inventory of animals submitted to the Department placing them in a category where the maximum inspection fee would be \$512.22 annually. The annual increase in fees for the majority of the permittees will be almost \$600.00

annually. The facilities with the largest number of enclosures are mostly larger zoos or businesses.

Significant 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 regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Amendment of these regulations will not:

- (1) Create or eliminate jobs within California;
- (2) Create new businesses or eliminate existing businesses within California; or
- (3) Affect the expansion of businesses currently doing business within California

The Department is not aware of any specific benefits that the adoption of this regulation would have pertaining to California worker safety. The department believes the adoption of the regulation benefits the health and welfare of California residents by ensuring captive wild animal regulations are complied with. By the department conducting the Restricted Species Facilities Inspections there will be a more consistent inspection process conducted by more appropriate personnel, law enforcement officers.

CONSIDERATION OF ALTERNATIVES

The department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action 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 the law.

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

CONTACT PERSONS

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Nicole Carion
Address: 601 Locust Street
Redding, CA 96001
Telephone No.: 530-357-3986
Fax No.: 916-357-3478
E-Mail Address: ncarion@dfg.ca.gov

The backup contact person is:

Name: Eric Loft
Address: 1812 Ninth Street
Sacramento, CA 95811
Telephone No.: 916-445-3553
Fax No.: 916-445-4048
E-Mail Address: eloft@dfg.ca.gov

Website Access: Materials regarding this proposal can be found at:
www.dfg.ca.gov/news/pubnotice .

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Ms. Carion at the above address.

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

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at 1812 Ninth Street, Sacramento, CA 95811. As of the date this notice is published, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Mr Eric Loft.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Department may adopt the proposed regulations 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 regulations as revised. Please send requests for copies of any modified regulations to the attention of Mr. Eric Loft at the address indicated 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 contacting Mr. Eric Loft at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at: www.dfg.ca.gov/news/pubnotice .