



THE WILDLIFE SOCIETY

Western Section

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April 17, 2015

CDFW Regulations Unit
1416 9th St., Room 1342-A
Sacramento, CA 95814
SCPPermits@wildlife.ca.gov

RE: Proposed Regulation Changes to Scientific Collecting Permits

ATTN: Ona Alminas

To Whom it May Concern:

The Wildlife Society is an international, non-profit, scientific and educational association dedicated to excellence in wildlife stewardship through science and education. The Western Section of The Wildlife Society (TWS-WS) is an organizational subunit consisting of 850 members and includes 14 chapters, of which 11 are geographically restricted to areas within California. Our members include wildlife biologists in government, private enterprise, academia and students. The subject regulations are integral to the functioning of many, if not most of our membership.

TWS-WS recognizes that the Department of Fish and Wildlife (Department) has the legal authority to require permits for the take of wildlife for scientific and educational purposes. Furthermore, TWS-WS believes this permitting process can be important in accomplishing the Department's role as trustee for the state's fish and wildlife resources. TWS-WS hopes the regulations governing Scientific Collecting Permits (SCP) and the Department's internal processing of those permits can achieve both the Department's needs while at the same time causing the least burden in both time and costs for wildlife practitioners.

TWS-WS recognizes that the Fish and Game Code (Section 1001) essentially exempts Department employees from being subject to the Scientific Collecting Permit requirements of Fish and Game Code Section 1002 or California Code of Regulations (CCR) Title 14 Section 650. While the Department's employees are not required by code and regulation to participate in the Scientific Collecting Permit process, TWS-WS believes that the Department should, in principle, consider the impacts that would occur if field staff were required to follow the SCP process required of other practicing wildlife biologists. TWS-WS believes that a process to report the Department staffs' collecting activities should be developed to assess the collecting pressure on species or populations. TWS-WS also believes it would benefit the scientific community if the collections made by Department staff were reported to the SCP database.

Attached is a version of the current Fish and Game Code and CCR 650 in a track-changes mode with recommended deletions in strike-through and recommended additions underlined. In the attached, TWS-WS also suggests in [brackets] issues that the Department needs to expand on to meet the needs

of TWS-WS membership. The remainder of this cover letter expands on some of the attached suggestions and offers comments for your consideration.

Our concerns center on time, costs, process/contents, and regulation ambiguity. These parameters are not independent, and solutions may require both regulatory language change as well as changes in Department processing protocols. Regarding application time, our suggested changes are based on an applicant who has developed a detailed study plan. In this case, the proposed activity is both intensive and extensive wherein a considerable portion of individuals of the focus species may be subject to repeated and / or intense capture and processing. A lengthy, extensive Department review of intensive capture activities may be warranted, especially when first proposed. However, after successful cycles of collecting and reporting, TWS-WS believes permit renewal should become essentially ministerial.

In cases where applicants are proposing activities that may be short in duration, or likely to only effect a very small portion of any species populations in ways that are minimally impactful, the Department's proposed processing times are excessive and could lead to project and permit delays. For example, consider a scenario when an SCP is needed to conduct presence/absence surveys wherein after the discovery of any target species, little additional survey is needed under the permit – an example might be a reconnaissance survey by a consulting firm or field work needed to complete a species habitat assessment. In such cases, it would be desirable if time frames required to review and approve permits for practicing biologists can be much shorter than the standard proposed. TWS-WS trusts the Department can find a way to accommodate both scenarios – matching the review period needed to a review time that considers the potential impacts. TWS-WS thinks it is important for the Department to find a way to facilitate the issuance of an SCP in a time frame and at a cost that enables biologists to conduct their work in a fully legal way meeting the intent of the SCP process and not trying to utilize more expedient alternatives (e.g., collecting under a Recreational Fishing License). A final way to minimize permit processing time is to recognize federal take permits issued for the same species as acceptable substitutes for the state's Scientific Collecting Permit. TWS-WS believes that acceptance of federal permits should be predicated on the Department receiving a copy of the federal permit which identifies the Department as a recipient of all the federal permit's mandated reports.

In regards to the proposed changes from an individual or Entity application fee basis to a project fee basis, TWS-WS is concerned that this approach appears to be primarily motivated by revenue generation in response to recent fee hikes, rather than an administrative change to fund a streamlined permitting process. TWS-WS is also concerned that the change to a project basis will unduly impede some applicants from conducting valuable work necessary to protect and manage fish and wildlife resources. Some applicants such as researchers or professors may be able to comply with permitting on a project basis as their permit needs are related to one to several discrete or cyclic (annual, monthly) 'projects' over a known project duration that can be anticipated in advance. However, many other applicants such as consultants may be responsible for multiple 'projects' that require very short turn-around with little advance notice and their permit needs may only last from several days to a few months. This puts a substantial time and cost burden on those applicants who would be required under the proposed changes to reapply and wait for every new project, rather than the existing system that relies on the qualifications of the permittee (as determined in the review process) to warrant their working on multiple projects throughout the permit period.

Relative to reducing costs, TWS-WS believes there are a number of ways for cost and time savings. Again, SCP renewals that propose similar activities on the same species using similar methods should be treated as a ministerial process, especially as SCP holders prove themselves by meeting all permit terms.

TWS-WS believes that the administrative process of requiring SCP holders to be present and overseeing all field work can result in excessive extra permits for the same project and requiring prior Department approval of a list of other staff, students, or volunteers to work under a permit is burdensome and irrelevant to ensuring compliance with the intent and terms of the permit. The important factor is the qualifications of the on-site person(s) making decisions and following protocols and terms of the SCP as directed and under the responsibility of the SCP holder. Other staff whether permanently or temporarily employed, students and volunteers participating in field work should not need any permit nor require prior submittal and approval of their names. Permit fees should only be necessary to process changes for the on-site, on-the-ground project lead. It is noted that the application fee is not refundable; however, the permit fee is. TWS-WS recommends that a process be developed so this does not result in unnecessary administrative costs in cases where refunds of collected permit fees are needed if a permit is not used, merits being waived for any number of reasons determined by the Department, or a refund is sought by the applicant. This is especially true if application or renewal processing times cannot be reduced as some student applications are rendered moot if not approved in a timely manner.

Several comments regarding content and process may facilitate permit review, making permits more specific to applicant needs, and resolve some applicant concerns. The Department should explicitly institute a mechanism that notifies individuals when their application has been received, is considered complete, and its review is in process. TWS-WS believes that a cost-effective system should be developed using electronic submissions and a database system with automatic outgoing notices to applicants at each data entry point. Electronic applications should include the “standard conditions” and allow the applicant to identify those to which they are willing to accede. This would allow the Department to more quickly identify and discuss any additional conditions required by the state with the applicant. Using a process like this, the final SCP will be best tailored to the specific needs of the applicant which will make compliance and reporting clearer to all parties. The Department has the authority to require a minimum time for providing advance notification prior to taking specimens as a condition of the permit. TWS-WS finds this can often be problematic and is hopeful that the Department can ease this requirement through: 1) circulating all permits through the necessary Department field offices and functions; 2) only requiring specific, short term notices when and where they are obviously needed; and 3) assuring that notification to permit holders can be an automatically sent and do not require a written response as proof of compliance. Finally, TWS-WS notes that the regulations require that permittees carry the permit and amendments when conducting activity authorized by the permit. With the widespread use of cellular phones, tablets and laptops, TWS-WS believes this can be simplified by requiring that either a paper or electronic copy of the permit, associated MOUs, and only the most recent permit amendment be carried.

TWS-WS finds some ambiguity in the regulations that should be cleared up. The standards of the Department’s review of an application are not specified. Again, TWS-WS believes the review needs to match the review burden and permit with the likely biological consequences. For instance, applications to work with listed species or life stages known to be sensitive to human handling (e.g., Point Arena mountain beaver or maternity colonies of big-eared bats) merit far greater diligence in permitting than a proposal to trap small mammals where listed species are unlikely. The current regulations are unclear about the qualifications required of the PI or SCP applicant. Where there is little direct experience with a sensitive species, TWS-WS believes the Department should give weight to training offered by recognized experts and scientific societies, and similarly give deference to experience with species of similar sensitivity, biology, and methods. Further, TWS-WS believes it is important to the resources of the state to maximize the number of biologists the Department finds competent to conduct field research and TWS-WS is concerned about excessively constricted research pools for some species. The existing

regulations can be confusing regarding the permit being nontransferable but allowing individuals to take wildlife or marine plants while working under someone else's permit. Clarifying compliance with the terms of SCPs by PIs, sub-permittees, field staff, etc. remains a very important element of the needed revisions to the regulations.

The existing regulations are confusing and in some cases would not best contribute to conserving the state's wildlife resource. TWS-WS believes that the SCP regulations should allow, and indeed require the salvage of an individual of any species (threatened, rare, endangered, candidate, fully protected) that inadvertently dies as a result of the permitted activity, even if it was not the focus of the permit. Obviously, logistics would be a reason to not do so (i.e., a mortality in the back country). That being said, CCR Section 650 (k) and (l) need to be restructured in their entirety to address this need. These sections seem to be designed to guide how museums and institutions maintain and transfer specimens. There is little direction in the regulations to guide permit holders on what to do when there is an inadvertent mortality during the conduct of SCP activities, resulting in lost opportunities to gain scientific knowledge when an unintended mortality occurs. Providing authority and direction in the regulations is needed to allow SCP conditions to address the reporting and disposition of accidentally killed wildlife while operating under an SCP.

TWS-WS understands that Scientific Collecting Permit regulations are difficult to craft in such a way as to meet every party's needs in the most efficient manner. Our review has been intended to provide some ideas in that direction. TWS-WS would like to thank the Department and its staff for their outreach to date on the proposed changes, including the Department's poster presented and mentioning during several sessions at the January 2015 TWS-WS annual conference, as well as the webinars the Department has held to date. If you have questions or would like further discussion of our comments, please contact Cynthia Perrine, TWS-WS Program Director at perrine.cynthia@gmail.com.

Sincerely,



Donald Yasuda
Certified Wildlife Biologist®
President, Western Section of The Wildlife Society

Enclosure

Fish and Game Code Excerpts

§1002. Issuance of Permits to Take or Possess Game for Specified Purposes

(a) The department may issue permits, subject to restrictions and regulations that the department determines are desirable, to take or possess, in any part of the state, for scientific, educational, or propagation purposes, mammals, birds and the nests and eggs thereof, fish, amphibians, reptiles, or any other form of plant or animal life.

(b) The department may issue a permit that is valid for 36 months from the date of issuance on the payment of a nonrefundable application fee of one hundred dollars (\$100) and a permit fee of three hundred dollars (\$300), as adjusted under Section 713. If there are no changes to species to be taken or possessed or methods there will be no application fee upon renewal.

(c) Notwithstanding subdivision (b), the department may issue a permit without fee that is valid for 12 months from the date of issuance to authorize only the banding of birds and the exhibition of live or dead wildlife specimens by public zoological gardens, scientific, or educational institutions.

(d)

(1) The department may issue a special student permit that is valid for 12 months from the date of issuance on the payment of a nonrefundable application fee of twenty-five dollars (\$25) and a permit fee of fifty dollars (\$50), as adjusted under Section 713, to any student in a school of collegiate level or a commercial fishing class who is required by an instructor to collect specimens used in laboratory work in the school under supervision and in connection with a course in wildlife research or in the conduct of wildlife investigations and studies on behalf of the public.

(2) All fish taken under permit for a commercial fishing class student shall be taken in accordance with state law, except that Sections 7850, 7880, and 7881 do not apply. All fish taken under a permit for a commercial fishing class student may be sold only to a person licensed to receive fish from commercial fishermen as provided in Section 8032 or 8033 or donated to a charitable institution. All funds received from the sale of the fish shall be used solely for the support of commercial fishing classes.

(e) The Department must issue or deny a permit application no later than 90 days from receipt of the application or the permit is deemed accepted as requested.

(f) The Department must issue a renewal of the permit within 45 days from receipt of renewal request, provided all reports are submitted 30 days prior to permit expiration. An expired permit for which a timely renewal request has been submitted will be deemed valid if the Department fails to issue the renewal within the 45 days.

(g) Salvage of dead wildlife, except big game mammals, threatened, rare, endangered or fully protected is permitted with a valid scientific collecting permit. Collection of any threatened, rare endangered or fully protected species is permissible if the permittee holds a valid Memorandum of Understanding from the Department.

(h) Cooperating state and federal agencies may be issued a memoranda of understanding in lieu of a Scientific Collecting Permit, allowing them to designate

supervisors, staff, temporary help and volunteers under a Principle Investigators permit.

(i) Individuals that are certified wildlife or fisheries biologists by a nationally recognized professional biological society will be deemed adequately trained to act as supervisors under a permittee.

(j) Except for candidate, threatened, rare, endangered or fully protected species, no additional permit or Memorandum of Understanding will be required where federal permits provide authority to take.

(2) All fish taken under permit for a commercial fishing class student shall be taken in accordance with state law, except that Sections 7850, 7880, and 7881 do not apply. All fish taken under a permit for a commercial fishing class student may be sold only to a person licensed to receive fish from commercial fishermen as provided in Section 8032 or 8033 or donated to a charitable institution. All funds received from the sale of the fish shall be used solely for the support of commercial fishing classes.

(k) It is not necessary for the holder of the permit to have a sport fishing or hunting license to collect any fish, amphibian, reptile, aquatic animal or plant, bird, or mammal for scientific, educational, or propagation purposes in this state.

(l) Nothing in this section authorizes any act which violates Section 597 of the Penal Code.

(m) A permit under this section does not authorize the taking of fish or mammals from the ocean waters of this state which are within the boundaries of any city if the city has filed with the department an objection to the taking.

(o) The adjustment of the nonrefundable application fee and permit fees pursuant to Section 713 that are specified in subdivisions (b) and (d) shall be applicable to permits issued on or after January 1, 2013.

(p) The department, by regulation, may adjust the amount of the fees specified in subdivisions (b) and (d) as necessary to fully recover, but not exceed, all reasonable administrative and implementation costs of the department relating to those permits.

(q) No permit under this section is required for species listed as threatened or endangered pursuant to the California Endangered Species Act, when an entity holds a valid permit or memorandum of understanding for the subject species and the proposed activities, issued pursuant to Section 2081.

(r) No permit under this section is required for fully protected species listed in Section 3511, 4700, 5050, or 5515 if the entity holds a valid memorandum of understanding issued by the department for the subject species and proposed activities, in accordance with the respective section.

(s) A permit or amendment issued pursuant to Section 1002 is not transferable between individuals or entities.

(t) If a permit holder fails to submit information or reports required in a permit, the department shall revoke an existing permit, and may decline to issue a permit to that person or entity in subsequent years.

§1002.5 Permits for Scientific Purposes; Approval of Temporary Employees and Volunteers; Fees

(a) The department may issue a permit pursuant to Section 1002 to an appropriate public, private, or nonprofit entity, or a person, as determined by the department, in the name of a principal scientific investigator or the permitted entity or person.

[There seems to be something missing here akin to qualified subpermittees and graduate students; i.e., this seems to go from a PI (in a) to temporary employees or volunteers (in b). What about other staff members that don't fit this designation. The suggested wording below may address this gap.]

(b) The department may approve individual permanent or temporary employees, students or volunteers to work under the permit, after receiving notification from the permittee. The permittee shall ~~have~~ assure adequate supervision is present when ~~over~~ any temporary employees or volunteers ~~approved~~ to work under the permit. An individual certified as a wildlife or fisheries biologist from a nationally recognized professional society is qualified to act as a supervisor.

(c) A permittee that allows a permanent or temporary employee, student or volunteer to work under a permit without approval from the department in accordance with this section is subject to Section 12000.

(d) The department shall charge a fee pursuant to subdivision (b) of Section 1002 for the issuance of a permit authorized by this section. If the department determines that the costs to issue a permit authorized by this section are greater than the costs to issue a permit pursuant to Section 1002, the department may charge a permit fee in an amount that is greater than the amount imposed by subdivision (b) of Section 1002 to recover those additional costs.

~~(e) The department may amend a permit issued under this section, including, but not limited to, the addition or removal of individual temporary employees or volunteers working under the permit, on the payment of a nonrefundable application fee of one hundred dollars (\$100), as adjusted under Section 713 or regulations adopted by the department.~~

§1003. Shipment, etc. of mammals taken under research permit.

Mammals, birds, and the nest and eggs thereof, fish and eggs thereof, reptiles, mollusks, crustaceans, or any other form of plant or animal life taken under the provisions of such a scientific or propagation permit may be shipped or transported anywhere within or without the state if prior written approval is obtained from the department and each such shipment is accompanied by the name, address, and permit number of the person holding the scientific or propagation permit.

California Code of Regulations, Title 14 Excerpts

14 CCR § 650. **Scientific Collecting Permits.**

(a) General. Except as otherwise provided, it is unlawful to take or possess marine plants, live or dead birds, mammals, fishes, amphibians, or reptiles for scientific, educational, or propagation purposes except as authorized by a permit issued by the department. Notwithstanding Fish and Game Code Section 86, take includes capturing, marking, and releasing any animal.

(1) The department may authorize and limit the kind and number of specimens that may be taken, the type of equipment and methods used, the time and seasons for take, and the areas where take may occur.

(2) The permittee shall carry the permit and any amendments at all times when conducting any activity authorized by the permit.

(3) The department may amend the conditions of a permit at any time.

(4) No person shall take any candidate, threatened, endangered, or fully protected animal except persons who have a valid Memorandum of Understanding in writing with the department. Any such wildlife inadvertently taken shall be immediately released at the site of capture except migratory birds may be banded with a federal leg band before release. Any incidental mortality shall be reported as soon as practicable [note, a permit should allow salvage of incidental mortality of a T or E spp.]

(5) Individuals may receive specimens from a valid permit holder for the purposes of research provided the recipient is a member of a recognized research organization and has written proof the permit holder provided the specimen and that the Department of Fish and Wildlife has been notified of the transfer. No permit will be required by the recipient.

(b) Issuance of Permits.

(1) The department may issue permits to take wildlife and marine plants for bona fide scientific, educational, or propagation purposes to:

(A) Employees of local, state and federal agencies who take specimens in connection with their official duties.

(B) Faculty, professional staff, college level students of, or individuals hired by; public or private companies, educational institutions, zoological gardens or aquariums, in or out of state.

(C) Individuals conducting independent research.

(D) Individuals who take wildlife or marine plants for other permittees or pursuant to environmental protection documents required by law.

(E) Individuals who possess a valid federal Bird Marking and Salvage Permit. ~~Holders of this federal permit~~ are not required to obtain a state permit to take migratory birds, other than raptorial birds.

(F) Cooperating state and federal agencies may be issued a memoranda of understanding in lieu of a Scientific Collecting Permit, allowing them to designate supervisors, staff, temporary help and volunteers under a Principle Investigators permit.

(2) In processing permits, the department shall:

(1) Issue or deny a permit application no later than 90 days from receipt of the application or the permit is deemed approved as requested.

(2) Issue a renewal of the permit within 45 days from receipt of renewal request, provided all reports are submitted 30 days prior to permit expiration. An expired permit for which a timely renewal request has been submitted will be deemed approved if the Department fails to issue the renewal within the 45 days.

[There needs to be a way to fast track specific permit activities]

(c) Applicant Qualifications and Requirements.

(1) Individuals who take wildlife or ~~marine~~ plants for use by schools, museums, and other organizations shall submit a written statement signed by a minimum of two faculty members of the institution verifying the take is required by the institution.

(2) Students required to take wildlife or ~~marine~~ plants for educational purposes shall submit proof of sponsorship from a faculty member requiring the take.

(3) Persons who take birds protected by the U.S. Migratory Bird Treaty Act must also possess all required federal permits.

(4) A permit shall not be issued to anyone ~~under 18 years of age~~ to mark birds except holders of a federal Bird Marking and Salvage Permit or subpermit for students at the college level who must mark birds to meet an educational curriculum requirement and who have obtained the sponsorship of an instructor in such curriculum.

(5) [Being mostly focused on educational institutions, 1 through 4 don't cover a large number of TWS member's needs – i.e., consultants, lead agency staff, etc. What about collegiate degrees, demonstrated experience with the species in questions, surrogate/like species, successful completion of focused training sessions, and/or etc.]

(d) Marking. Mark means any activity which results in placement of a color dye or other identifying device on an animal.

(e) Application. Each person must submit a completed application on SCIENTIFIC COLLECTING PERMIT APPLICATION, Form FG1379 (5/95), which is incorporated by

reference herein. Application forms are available from the Department of Fish and Game, 3211 "S" Street, Sacramento, California 95816.

(f) Permit Revocation. The department may revoke, suspend or decline to renew a permit for failure to comply with the provisions of a permit or failure to comply with these regulations. Any person whose permit is denied, revoked, or suspended may request a hearing before the commission or a panel of three department Regional Managers or their designated staff to appeal the department's decision. The Departmental Panel members must have the species to be taken within their department regional boundaries or in adjacent regions. A Departmental Panel must convene a hearing no later than 30 days and complete its findings no later than 60 days from a request.

(g) Permit Nontransferable. Permits are not transferable. Persons may assist the permittee if the permittee confirms there is adequate other supervision or staff present to assure and overseeing the activities are accomplished to the standards equivalent to the permit's needs. A person overseeing the activities is certified as a wildlife or fisheries biologist issued by a nationally recognized professional biologist society shall be considered adequate supervision and staff. Students actively registered or employed as graduate students or post graduate students may act as supervisors under a faculty instructor or researcher that has trained and is responsible for the supervisor.

(h) Notification of Department Required Prior to Taking Specimens. The department shall circulate approved Scientific Collecting Permits to relevant department Region Offices and functions, and may deem that adequate notice in lieu of that described further in the section. Before taking any wildlife or marine plants, the permittee shall notify the department office designated in the permit and provide the following information; name and permit number; date, time and location of take; species, gear to be used, vehicle description, and number of persons in party. Such notification may be given by letter, electronic transmission, telephone or personal contact. The department may require a minimum time for providing the advance notification as a condition of the permit.

(i) Reporting of Specimens Taken. Permittees shall submit a completed report of activities within 30 days of expiration of the permit except the department may waive the reporting requirements. The waiver shall be in writing.

(1) The department shall accept the report in any of the following formats:

(A) Written on REPORT OF SPECIMENS COLLECTED, Form FG1379a (10/95), which is incorporated by reference herein, or;

(B) Written as a SPECIAL REPORT as designated in the conditions of the permit, or;

(C) Electronically in a format and to an address specified by the department, or;

(D) As otherwise required in writing by the department.

(2) No permit will be renewed unless the completed report is received by the department within 30 days of the expiration date of the permit, or as directed in writing by the department.

(3) Reports of wildlife or marine plants taken after submission of application for renewal shall be included in the next year's report.

(4) A permittee who instructs a commercial fishing class shall submit the report for the entire class. The report shall show the total number of each species of fish taken, the amount of fish sold and the price received therefor, the amount of fish donated to charitable institutions, and the name and address of such institutions. Students enrolled in commercial fishing classes shall not be required to submit an annual report.

(j) Inspection. Employees of the department or sponsors of permittees may inspect any collection at any time to determine whether or not the permittee is complying with the regulations.

(k) Disposition of Specimens. All accidentally killed wildlife remains the property of the state and must be disposed of as directed by the department.

~~The department may restrict the use and disposition of all wildlife taken under authority of a permit.~~

(1) Exemption to Permit Requirements for Possession of Dead Wildlife. The following are not required to possess a permit for accidentally killed and legally acquired wildlife; government accredited schools that are open to the public, government agencies, federally recognized native American groups, institutions or organizations engaged in bona fide scientific study of native wildlife if the specimens are readily available for use or viewing by the general public on a regular basis, any person or group with a valid permit issued by the federal government authorizing possession of specific wildlife, and nationally constituted youth organizations which have the study of native wildlife as an integral part of their national program. This exemption does not apply to accidentally killed big game mammals or to any threatened, rare, endangered or fully protected species.

(2) Initial actions. In addition to requirements for deposition of incidental mortalities, a permit may direct initial reporting, tagging, and temporary storage requirements pending deposition to an institution or agency.

(3) Records. The person who has the chief authority to act for any group, agency, or institution listed in section 650(b) shall maintain a permanent written record of the date of acquisition, the name and address of the person donating wildlife, how it was acquired, the species, sex, and number of animals, and the city and street address of the storage site. All records and wildlife must be maintained within California and shall be presented immediately to any employee of the department upon request.

(4) Transportation. Wildlife possessed pursuant to section 650(b) may not be transported from the storage site unless accompanied by a written document describing the animal or part thereof, listing the name of the person who has temporary possession, the purpose, and the date to be returned. The authorization must be written on organization letterhead, dated, and signed by the chief administrative officer.