## TITLE 14. DEPARTMENT OF FISH AND WILDLIFE

[Notice published June 14, 2013]

## NOTICE OF PROPOSED RULEMAKING

**NOTICE IS HEREBY GIVEN** that the Department of Fish and Wildlife (Department) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action. 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.

### PUBLIC HEARING

The Department will hold a public hearing meeting on July 30, 2013, from 1:30-3:30 p.m., at the Resources Building located at 1416 9th Street, Sacramento, California, 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 the office below not later than 5:00 p.m. on July 30, 2013. 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 Wildlife
Mike Randall
1416 9th Street, Room 1208
Sacramento, CA 95814
Fax: (916) 653-9890
E-mail: mike.randall@wildlife.ca.gov

### AUTHORITY

Fish and Game Code sections 395, 396, 713, 1002, 1050, 1053, 2118, 2120, 2122, 2150, 2150.2 and 2157 authorize the Department to adopt these proposed regulations.

## REFERENCE

The proposed regulations implement, interpret, and make specific sections 355, 356, 395, 396, 398, 713, 1050, 1053, 2116, 2116.5, 2117, 2118, 2120, 2125, 2150, 2150.2, 2150.4, 2151, 2157, 2190, 2193, 2271, 3005.5, 3007, 3031, 3503, 3503.5, 3511, 3513, 3950, 10500, 12000 and 12002 of the Fish and Game Code.

Title 50, Code of Federal Regulations, Parts 21.29 and 21.30.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

### Background:

The Department of Fish and Wildlife (Department) and the Fish and Game Commission (Commission) are in the process of promulgating new regulations for the practice of falconry in California. In order to comply with federal requirements, the Commission adopted new regulations for the practice of falconry in the state on March 6, 2013, in Section 670, Title 14, CCR. The regulations currently proposed by the Department in Section 703 provide for the establishment of falconry fees and forms in accordance with the new provisions of Section 670. The effective date for the new regulations in both sections 670 and 703 is January 1, 2014.

The actions proposed will allow the Department to recover its costs for licensing, permitting and inspection activities associated with the practice of falconry in California. The action will increase the workload and costs to the Department; however these costs will be borne by the permit holders. Pursuant to sections 1050 and 2150.2 of the Fish and Game Code, the Department has set forth in Section 703 fees for permits, permit applications and facility inspections in amounts sufficient to cover the costs of administering, implementing, and enforcing the falconry regulations in Section 670.

Additionally, in accordance with Section 700.4, Title 14, CCR, all licenses, tags, permits, reservations or other entitlements purchased via the Automated License Data System (ALDS) shall be subject to a three percent nonrefundable application fee, not to exceed seven dollars and fifty cents ($7.50) per item, to pay the Department's costs for issuing that license, tag, permit, reservation or other entitlement. The total cost including ALDS will appear on the relevant form.

### Proposed Amendments To Section 703:

The Department is proposing to amend Section 703, Title 14, CCR, by adding a new subsection 703(b)(1) to provide falconry fees, forms and permits, in accordance with Section 670 which establishes a State falconry permitting program. The effective date for the new regulations in Section 703 is January 1, 2014 simultaneous with Section 670. The proposed regulatory changes are needed to allow the Department to recover its costs in implementing a falconry program in California.

The following is a summary of the fees proposed in Section 703(b)(1):

| 703(b)(1)(A) 2013-2014 Falconry Fees | New Fee (Eff. 1/1/14) |
|---|---|
| 1. License Application | $ 13.75 |
| 2. Examination | $ 50.00 |
| 3. Inspection Fee for 1 to 5 enclosures<br>Each enclosure over 5 | $ 259.00<br>$ 12.75 |
| 4. Re-inspection | $ 216.00 |
| 5. Data Entry of Federal Form 3-186A | $ 12.75 |
| 6. Special Raptor Capture Drawing Application | $ 7.50 |
| 7. Special Raptor Capture Permit | $ 12.75 |
| 8. Nonresident Falconer Raptor Capture Permit | $ 319.00 |

The forms are proposed to be incorporated by reference in Section 703(b)(1):

| 703(b)(1) Forms | New Form (date) |
|---|---|
| (B) Falconry License Renewal Application | FG 360 (New 2/13) |
| (C) New Falconry License Application | FG 360b (New 2/13) |
| (D) Apprentice Falconer's Annual Progress Report | FG 360c (New 2/13) |
| (E) Raptor Facilities and Falconry Equipment Inspection Report | FG 360d (New 2/13) |
| (F) Resident Falconer Raptor Capture Recapture and Release Report | FG 360f (New 2/13) |
| (G) Falconry Hunting Take Report | FG 360h (New 2/13) |
| (H) Special Raptor Capture Drawing Application | FG 360i (New 2/13) |
| (I) Nonresident Falconer Application for Raptor Capture Permit | FG 361 (New 2/13) |
| (J) Nonresident Falconer Raptor Capture Permit and Report | FG 361a (New 2/13) |

**Benefits of the proposed regulation:**

Regulations for the practice of falconry in California are contained in Title 14, CCR, Section 670 Under these regulations, the Department issues licenses and permits, inspects facilities, and monitors falconry activities. The new provisions of Section 703 set forth the necessary fees and forms in accordance with Section 670. The benefits of the proposed regulations are concurrence with Federal law, and sustainable management of the State's raptor populations while continuing to provide recreational opportunity. Fees proposed under Section 703 will ensure that adequate funding is available for the Department to continue issuing licenses, inspecting falconry facilities, and monitoring the capture and disposition of wild raptors for the practice of falconry.

**Consistency with existing regulations:**

The Fish and Game Commission adopted new regulations for falconry on March 6, 2013, in Section 670, Title 14, CCR. The new regulations were developed to meet federal requirements of the U.S. Fish and Wildlife Service as outlined in 50 CFR 21.29 and 21.30. The Department conducted a search of the CCR and the proposed regulations are neither inconsistent nor incompatible with existing State regulations related to the practice of falconry. The proposed regulations are compatible with existing federal falconry regulations.

**DISCLOSURES REGARDING THE PROPOSED ACTION:**

**Mandate on local agencies or school districts:** None

**Costs or savings to any state agency:** The fees established by the Department are in an amount sufficient to recover all reasonable administrative and implementation costs relating to the falconry program.

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

**Other nondiscretionary costs or savings imposed on local agencies:** None

**Costs or savings in federal funding to the state:** There are no related costs or savings in Federal Funding to the State.

**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 affect a relatively small number of individuals engaged in the practice of falconry in California, primarily for recreation. The Department anticipates that the proposed regulations will affect very few, if any, businesses that rely on raptors. Therefore 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.

**Effect on small business:** The Department concludes that the proposed regulations are unlikely to affect small business. The proposed action will affect a relatively small number of individuals engaged in the practice of falconry in California, primarily for recreation. The Department anticipates that the proposed regulations will affect very few, if any, businesses that rely on raptors.

**Cost impacts on a representative private person or business:** There will be costs to private persons (e.g. falconers) who are among the 575 current licensees, and new applicants, who must comply with this proposed regulation. However, generally, the new fees are not charged annually but are charged one-time dependent on the service extended by the state. Those one time fees, listed as 1-3, are: initial License Application, $13.75; Examination, $50.00; and initial Inspection, $259.00 (and $12.75 for addition enclosures); totaling $322.75. The re-inspection fee, 4, is only charged when there is a failed inspection. The other fees, listed as 5-8, are charged based on the falconer's request for the service.

The fees established by the Department are in an amount sufficient to recover all reasonable administrative and implementation costs relating to the falconry program.

**Significant effect on housing costs:** None

## RESULTS OF THE ECONOMIC IMPACT ANALYSIS

**Impact on the creation or elimination of jobs within the state, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses in California:**

The Department does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses, the expansion of businesses in California, or benefits to worker safety.

**Benefits of the regulation to the health and welfare of California residents, and the state's environment:**

The Department expects that the proposed regulations concerning falconry fees and permits will provide non-monetary benefits to the environment and to the health and welfare of California residents by improving the monitoring and reporting of raptor captures and the take of wildlife under a falconry permit. It is the policy of this state to encourage the conservation, maintenance, and utilization of existing raptor populations for their ecological values and for their use and enjoyment by the public. Adoption of a self-supporting falconry program in California, including raptor species harvest quotas and inspection of raptor housing facilities, supports preservation of sustainable raptor populations for their continued existence in California.

The Department does not anticipate benefits to worker safety, the prevention of discrimination, the promotion of fairness and social equity, or to the increase in openness and transparency in business and government.

## CONSIDERATION OF ALTERNATIVES:

The intent of the proposed regulation is to implement new Department fees and forms in accordance with the Commission's newly adopted falconry regulations in Section 670. 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 is proposed, would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

## MITIGATION MEASURES REQUIRED BY REGULATORY ACTION:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

## CONTACT PERSONS

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

The Department will have the entire rulemaking file available for inspection and copying at its office at 1416 9th Street, Sacramento. As of the date this notice is published, the rulemaking file consists of this notice, the proposed text of the regulations, the proposed Falconry Forms, the Economic Impact Analysis, the Economic and Fiscal Impact Assessment (STD. Form 399) and the Initial Statement of Reasons. Please direct requests for copies of the rulemaking file to Mike Randall as indicated above.

## AVAILABILITY OF DOCUMENTS ON THE INTERNET:

Website Access: The entire rulemaking file can be found at:
www.dfg.ca.gov/news/pubnotice

## 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 Mike Randall as 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 Mike Randall as indicated above.