

**TITLE 14. DEPARTMENT OF FISH AND WILDLIFE**

[Notice published August 23, 2013]

**NOTICE OF PROPOSED RULEMAKING**

BOARD OF SUPERVISORS

2013 AUG 26 A 10:41

**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 October 8, 2013, from 1:30 p.m. to 3:30 p.m. in the 12<sup>th</sup> floor Conference Room, 1206, at the Resources Agency Building located at 1416 9<sup>th</sup> Street, Sacramento, California. The Conference Room 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 October 8, 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:

California Department of Fish and Wildlife  
Micah Carnahan, Environmental Scientist  
1416 9<sup>th</sup> Street, Room 1211B  
Sacramento, CA 95814  
Fax: (916) 653-9890  
E-mail: [regulations@wildlife.ca.gov](mailto:regulations@wildlife.ca.gov)

**AUTHORITY:** Sections 713 and 1609, Fish and Game Code. Section 21089, Public Resources Code.

**REFERENCE:** Section 1609, Fish and Game Code. Sections 4629.6(c) and 21089, Public Resources Code.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

**Proposed Amendments to Section 699.5 Fees for Lake and Streambed Alteration Agreements:**

Existing law allows the Department to charge a fee to recover the costs it incurs to administer and enforce Fish and Game Code (FGC) Section 1600 *et seq.* Subsections 699.5(b), (c), (e), (f), (i), (j), and (k) specify fees which are subject to annual price adjustments in accordance with Fish and Game Code Section 713. These fees have not been adjusted since 2009. The Department proposes to adjust these fees by applying the annual price index for the four years 2010, 2011, 2012, and 2013 to these. The resulting increase will be approximately 9.5%.

Subsections 699.5(d) and (g) include fees which as of July 1, 2013, are no longer chargeable for timber harvest agreements by the Department pursuant to Public Resources Code Section 4629.6(c). To avoid any confusion, these fees will be deleted from the fee schedule and the following statement will be added to both subsections: "Pursuant to Public Resources Code section 4629.6, subdivision (c), no fee shall be required if the department received the notification after July 1, 2013. This includes a notification made to the department pursuant to Fish and Game Code section 1602 or section 1611."

**BENEFITS OF THE PROPOSED ACTION:**

The Department needs to adjust for inflation the fees specified in Section 699.5 in order to recover the total costs it incurs to administer and FGC Section 1600 *et seq.* If the Department does not adjust the fees, it will experience a budget shortfall that will affect its ability to administer and enforce these sections, the purpose of which is to protect and conserve the state's fish and wildlife resources

The Department does not anticipate benefits to the protection of worker safety, the prevention of discrimination, the promotion of fairness or social equity, or to the increase in openness and transparency in business and government. The Department anticipates nonmonetary benefits to the health and welfare of California residents through the protection of aquatic and riparian habitats and the fish and wildlife resources that depend on them.

The Department anticipates benefits to the environment. It is the policy of this state to encourage the conservation and maintenance of lakes and streams, and the fish and wildlife resources that depend on aquatic and riparian habitats, for their use and enjoyment by the public. The fee increases included in this rulemaking will enable the Department to recover its costs to administer and enforce FGC Section 1600 *et seq.*

**Evaluation of Incompatibility With Existing Regulations**

The Department has reviewed Title 14, CCR and has determined that the proposed amendments are neither inconsistent nor incompatible with existing state regulations.

**DISCLOSURES REGARDING THE PROPOSED ACTION:**

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

**Costs or savings to any state agency:** The proposed increase in fees will result in minor additional costs to state agencies conducting work subject to the Department's permitting jurisdiction under Section 1600 *et seq.*

**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:** None

**Significant effect on housing costs:** 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 to increase the fees in Section 699.5, Title 14, CCR, will affect a relatively small number of individuals, businesses, and agencies engaged in projects which would require lake and streambed alteration agreements with payment of the corresponding fees. The fees will increase by approximately 9.5%. The fee increase only takes into account the incremental Implicit Price Deflator over the past four years as authorized by statute. Considering the small number of agreements issued over the entire state, this proposal is economically neutral to business.

**Results of the Economic Impact Analysis**

The results of the Economic Impact Analysis do not indicate 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 the health and welfare of California residents or worker safety.

The Department anticipates benefits to the environment. It is the policy of this state to encourage the conservation and maintenance of lakes and streams, and the fish and wildlife resources that depend on aquatic and riparian habitats, for their use and enjoyment by the public. The fee increases included in this rulemaking will enable the Department to recover its costs to administer and enforce FGC Section 1600 *et seq.*

**Cost impacts on a representative private person or business:**

The Department does not anticipate any significant cost impact to private persons or businesses who must comply with this proposed rulemaking. The fees are presently set forth in Section 699.5 and were last updated in 2009. The increase over the past four years amounts to approximately 9.5% and will affect a relatively small number of individuals, businesses, and agencies engaged projects which would require lake and streambed alteration agreements.

**Business reporting requirement:** None.

**Effect on small business:** The Department concludes that the proposed increase in fees is likely to have minor effects on small business. The increase over the past four years amounts to approximately 9.5% and will affect a relatively small number of individuals and businesses engaged projects which would require lake and streambed alteration agreements.

**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 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 9<sup>th</sup> Street, Room 1260, Sacramento. As of the publication date of this notice, the rulemaking file consists of this notice, the proposed text of the regulations, 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 Micah Carnahan as indicated above.

**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 Micah Carnahan as indicated above. The Department will accept written comments on any 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 Micah Carnahan 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](http://www.dfg.ca.gov/news/pubnotice)