30. DEER TAGGING AND REPORTING

Today's Item **Information** ☐ **Action** ☒

Authorize publication of notice of intent to amend deer tagging and reporting regulations.

Summary of Previous/Future Actions

- **Today's Notice hearing** **Dec 7-8, 2016; San Diego**
- Discussion hearing Feb 8-9, 2017; Santa Rosa
- Adoption hearing Apr 26-27, 2017; Los Angeles

Background

The proposed amendments in Section 708.5 are intended to clarify the methods by which hunters may comply with mandatory deer harvest reporting.

The amendments will:

- eliminate "in person" delivery of report cards to the DFW; and
- add a provision stating "If a report card is submitted by mail and not received by the DFW, it is considered not reported."

Significant Public Comments (N/A)

Recommendation

FGC staff: Support DFW recommendation to authorize publication of notice as proposed.

DFW: Authorize publication of notice as proposed in the Initial Statement of Reasons (ISOR) in Exhibit 1.

Exhibits

1. ISOR
2. DFW memo, received Nov 3, 2016

Motion/Direction

Moved by _____and seconded by _____ that the Commission authorizes publication of a notice of its intent to amend section 708.5, Title 14, CCR regarding deer tagging and reporting requirements.

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-Publication of Notice Statement)

Amend Section 708.5
Title 14, California Code of Regulations (CCR)
Re: Deer Tagging and Reporting Requirements

I. Date of Initial Statement of Reasons: September 28, 2016

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: December 8, 2016
Location: San Diego, CA

(b) Discussion Hearing: Date: February 8, 2017
Location: Santa Rosa, CA

(c) Adoption Hearing: Date: April 26, 2017
Location: Los Angeles, CA

III. Description of Regulatory Action:

(a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

1. It is necessary to delete from subsection 708.5(c)(1) that deer tag holders may submit their deer harvest report card "in person" since this is not an available option.

Each year about 180,000 deer tags are purchased by California hunters. All tag holders are obligated under the current regulation to report the results of their hunting effort, whether successful or unsuccessful. Currently the regulation specifies that one of the methods of satisfying the reporting requirement is to do so "in person at the address specified." However, the address specified on the tag is a post office box and not a physical location; furthermore, none of the Department's regional offices are staffed to take and process walk-in reports. Reports may be made online or by mail.

The Department also notes that license sales agents (private parties that can sell licenses and tags) cannot receive report cards. The Department expects the reporting rate could climb to an estimated 80% (about 144,000 reports) due to the new fee that will be assessed on any tag holder not reporting their hunting result as required. In order to comply with the reporting requirement, hunters will be selecting the method most suitable to their circumstances. It is therefore important that the

DRAFT

regulations be amended to delete the “in-person” option since it is not actually available.

2. It is necessary to clarify that the tag holder is responsible for assuring that mailed-in deer report cards are received by the Department.

   The Department will likely receive tens of thousands of report cards by mail annually, and there is a possibility of lost cards. However, it is not possible for the Department to track every mailed harvest report (and maintain a record of receipt) in the event reports are ‘lost in the mail.’ Tag holders may opt to use any certified delivery option, and have proof of receipt, but that is not required.

   Ultimately, the responsibility for reporting is on the tag holder. By accessing their online account from any web enabled device, library, home, office, etc., it is easy to confirm that the mailed report has been received and entered in the system. Any mailed report card not entered into the ALDS system is considered not reported and the non-reporting fee will be assessed.

Background:

Hunters (tag holders) must purchase a deer tag before engaging in deer hunting in the current season. Attached to the tag is a “report card.” Under the current regulation in Section 708.5 (amended July 1, 2015) the successful hunter places the tag on the antler or ear, as required, and detaches the report card for submission to the Department. The report card must be submitted no more than 30 days from the date of harvest or by January 31, whichever date is first. Other tag holders, who were either unsuccessful or did not hunt, must submit their report card with the information (unsuccessful or did not hunt) by January 31.

Successful hunters have been required to report their harvest by submitting the report card to the Department by mail or online for many years. In previous years the average compliance (again noting that reporting was required of every successful hunter) was only about 30%. Non-compliance with the required reporting causes the Department to incur additional costs each year to complete its deer population surveys. Better reporting provides the Department with important deer population information critical for deer conservation.

With the Department’s outreach efforts (during the 2015-16 season) to inform hunters of this responsibility, the rate of reporting increased substantially to about 50% (approximately 90,000 tag holders). The Department has continued to issue press releases and email notifications to hunters regarding reporting requirements and the non-reporting fee, and will continue outreach efforts in order to achieve the highest possible rate of compliance.

Beginning with the 2016-17 season, in accordance with subsection 708.5(d), tag holders reporting late, or not reporting, will be assessed a non-reporting

DRAFT

fee of $21.60 (subject to annual increases per Fish and Game Code (FGC) Section 713) with the purchase of a tag for the following season, The Department estimates that with the effort to inform hunters and the fee in place, the compliance rate may be as high as 80%. Hunters may submit their report either by mailing in the completed report card, or by accessing their account online. Once the report is placed in the Department's system, any hunter can access their account online and determine whether the reporting information has been updated.

However, past experience with annual reporting indicates: 1) some tag holders will lose their report card; they may still access their online account to report; and 2) some tag holders will assert that the report card was submitted on time by mail, but the report information will not be in the system. Unless the tag holder utilizes some method of confirming delivery (i.e., Certified Mail, etc.), there will be no proof of receipt by the Department and the non-reporting fee will be assessed to the hunter's future tag purchase. In order to avoid the potential for disputes over unreturned report cards, it is essential that the Department amend the regulations to make it clear that report cards mailed, but not received by the Department, will be considered not reported and subject to the non-reporting fee. The proposed amendments are also needed for consistency with Department requirements for other report cards in Section 1.74, Title 14, CCR.

The proposed amendments to Section 708.5 are intended to clarify the methods by which hunters may comply with mandatory deer harvest reporting. The amendments will: 1) eliminate "in person" delivery of report cards to the Department; and 2) add a provision stating "If a report card is submitted by mail and not received by the department, it is considered not reported."

(b) Authority and Reference for Regulation:

Authority: Sections 200, 202, 203, and 1050, Fish and Game Code.
Reference: Sections 1050 and 4336, Fish and Game Code.

(Note: Some current citations of Authority or Reference have been deleted from the regulatory text to more accurately identify the applicable Fish and Game Code statutes.)

(c) Specific Technology or Equipment Required by Regulatory Change: None

(d) Identification of Reports or Documents Supporting Regulation Change: None

(e) Public Discussions of Proposed Regulations Prior to Notice Publication:

Fish and Game Commission Wildlife Resources Committee meeting held in Woodland on September 21, 2016.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

DRAFT

There is no reasonable alternative to the proposed action.

(b) No Change Alternative:

The “No Change Alternative” was considered and found inadequate to attain the project objectives. The current reporting system is inefficient and needs to be changed. The Deer program is not equipped or staffed to manually enter large numbers of in-person harvest reports or respond to customer disputes over report cards lost in the mail.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

(d) Description of Reasonable Alternatives That Would Lessen Adverse Impact on Small Business: None.

V. Mitigation Measures Required by Regulatory Action:

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

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made.

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, 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. The proposed action clarifies the methods available to individuals, not businesses, for the required reporting of their deer hunting activity.

(b) 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; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment:

The Commission anticipates benefits to the health and welfare of California residents and to the state’s environment. Hunting provides opportunities for multi-generational family activities and promotes respect for California’s environment by the future stewards of the State’s resources and the action

DRAFT

contributes to the sustainable management of natural resources. Improved deer tag reporting will also improve the Department's ability to sustainably manage deer populations in the state.

The proposed action will not have significant impacts on jobs or business within California because no significant changes in hunting activity levels are anticipated. The proposed action does not provide benefits to worker safety.

(c) Cost Impacts on Private Persons:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with this proposed action. Under the current regulation, hunters are required to report their deer hunting activity. The proposed action to amend the regulation clarifies the methods available to individuals for the required reporting and does not impose any additional cost to do so.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

(e) Other Nondiscretionary Costs/Savings to Local Agencies: None

(f) Programs Mandated on Local Agencies or School Districts: None

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed under Part 7 (commencing with Section 17500) of Division 4: None

(h) Effect on Housing Costs: None

VII. Economic Impact Assessment:

The proposed action will have no statewide economic or fiscal impact because the proposed action does not constitute any change in existing fees.

(a) Effects of the regulation on the creation or elimination of jobs within the State:

The regulation will not affect the creation or elimination of jobs because no significant changes in hunting activity levels are anticipated.

(b) Effects of the regulation on the creation of new businesses or the elimination of existing businesses within the State:

The regulation will not impact the creation of new businesses or the elimination of businesses because no significant changes in hunting activity levels are anticipated.

(c) Effects of the regulation on the expansion of businesses currently doing business within the State

The regulation will not affect the expansion of businesses currently doing business within the State because no significant changes in hunting activity levels are anticipated.

DRAFT

(d) Benefits of the regulation to the health and welfare of California residents:

The proposed regulation will benefit the health and welfare of California residents. Hunting provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of the State's resources and the proposed action contributes to the sustainable management of natural resources.

(e) Benefits of the regulation to worker safety.

The proposed regulation will not affect worker safety.

(f) Benefits of the regulation to the State's environment

It is the policy of the State to encourage the conservation, maintenance, and utilization of the State's living resources. The proposed action will further this core objective. The Commission anticipates benefits to the State's environment through improved management of deer populations made possible by increased reporting of deer hunting activity.

DRAFT

INFORMATIVE DIGEST
(Policy Statement Overview)

The proposed amendments in Section 708.5 are intended to clarify the methods by which hunters may comply with mandatory deer harvest reporting. The amendments will: 1) eliminate "in person" delivery of report cards to the Department; and 2) add a provision stating "If a report card is submitted by mail and not received by the department, it is considered not reported."

Benefits of the regulations

The proposed changes in reporting deer harvest will clarify that the Department cannot receive report cards "in person"; and that the responsibility for compliance, regardless of report cards lost in the mail, is on the hunter. This may provide an incentive for hunters to enter their own data online or to check their online accounts to assure compliance in a timely fashion. The report card contains important information which the Department uses to measure deer populations and other vital data essential to the exercise of its responsibilities.

Non-monetary benefits to the public

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

Consistency and Compatibility with State Regulations

The Fish and Game Commission, pursuant to Fish and Game Code Sections 200, 202 and 203, has the sole authority to regulate deer hunting in California. Commission staff has searched the California Code of Regulations and has found the proposed changes pertaining to deer tag reporting are consistent with Sections 1.74, 361, 701, 702, 708.5 and 708.6 of Title 14. Therefore the Commission has determined that the proposed amendments are neither inconsistent nor incompatible with existing State regulations.

DRAFT

Proposed Regulatory Text

Subsection (c) of Section 708.5 is amended to read:

§708.5. Deer Tagging and Reporting Requirements.

. . . [*Subsections (a) and (b)]*

(c) Harvest Report Card Return and Reporting Mechanisms.

(1) By mail ~~or in person~~ at the address specified on the harvest report card. A harvest report card returned by mail shall be postmarked by the date applicable to that card as specified in this section. If a report card is submitted by mail and not received by the department, it is considered not reported.

(2) Online through the department's internet license sales service website by the date specified in the section. Tag holders reporting online will be provided a confirmation number upon successful submission. The tag holder must record the provided confirmation number in the space provided on the harvest report card and retain the harvest report card until March 1 annually. Tags reported online must be surrendered to the department upon demand.

. . . [*Subsection (d)]*

Note: Authority cited: Sections 200, 202, 203, and ~~215, 219, 220,~~ 1050, ~~1572, 4336, 4340 and 10502,~~ Fish and Game Code. Reference: Sections ~~200, 201, 202, 203, 203.1, 207, 210, 215, 219, 220,~~ 1050 and 4336, ~~1570, 1571, 1572, 3950, 4336, 10500 and 10502,~~ Fish and Game Code.

DRAFT

State of California
Department of Fish and Wildlife

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION
2016 NOV - 3 AM 8:19

Memorandum

Date: November 3, 2016

To: Valerie Termini
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Agenda Item for the December 7-8, 2016 Fish and Game Commission Meeting Re: Request for Notice Authorization to Amend Section 708.5, Title 14, CCR, Deer Tagging and Reporting Requirements**

Attached is the Department of Fish and Wildlife's (Department's) proposal to amend Section 708.5 concerning reporting requirements for deer tag holders. The proposed amendments clarify that tags returned by mail, but not received by the Department, are considered unreported and therefore subject to the non-reporting fee.

Additionally, this memorandum describes staff's analysis of the use of a categorical exemption under the California Environmental Quality Act (CEQA).

Categorical Exemptions to Protect Natural Resources and the Environment

The Commission's adoption of the proposed regulations is an action subject to CEQA. The review by Department staff pursuant to CEQA Guidelines section 15061 leads staff to conclude that adoption of the regulations would properly fall within the Class 7 and Class 8 categorical exemptions (CEQA Guidelines sections 15307, 15308). These two exemptions are related to agency actions authorized by statute to protect natural resources and the environment. Accurate reporting of hunting results is necessary in order for the Department to have the information it needs to adequately manage sustainable deer populations.

No Exceptions to Categorical Exemptions Apply

As to the exceptions to categorical exemptions set forth in CEQA Guidelines section 15300.2, including the prospect of unusual circumstances and related effects, staff has reviewed all of the available information possessed by the Department relevant to the issue and does not believe adoption of the regulations poses any unusual circumstances that would constitute an exception to the categorical exemptions set forth above. Compared to the activities that fall within Class 7 and Class 8 generally, which include the given example of activities to maintain and enhance wildlife such as the current proposal, there is nothing unusual about the proposed regulations. In addition, even if there were unusual circumstances, no potentially significant effects on either a project-specific or a cumulative base are expected.

This regulation will not change the current level of hunting in the state, but will simply modify the methods by which hunters can report the results of their hunting activities to the Department. Therefore, staff does not believe that the Commission's reliance on the Class 7 and Class 8 categorical exemptions is precluded by the exceptions set forth in CEQA Guidelines section 15300.2.

If you have any questions or need additional information, please contact Acting Wildlife Branch Chief, Rick Mayfield at (916) 445-3555 or by email at Rick.Mayfield@wildlife.ca.gov. The public notice should identify Environmental Program Manager, Craig Stowers as the Department's primary contact for this rulemaking. Mr. Stowers can be reached at (916) 445-3553 or by email at Craig.Stowers@wildlife.ca.gov.

Attachment

ec: Stafford Lehr, Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr@wildlife.ca.gov

Rick Mayfield, Acting Chief
Wildlife Branch
Rick.Mayfield@wildlife.ca.gov

Craig Stowers
Game Program Manager
Wildlife Branch
Craig.Stowers@wildlife.ca.gov

Stuart Itoga, Senior Environmental
Scientist Supervisor
Wildlife Branch
Stuart.Itoga@wildlife.ca.gov

David Bess, Chief
Law Enforcement Division
David.Bess@wildlife.ca.gov

Wendy Bogdan, Chief Counsel
Office of the General Counsel
Wendy.Bogdan@wildlife.ca.gov

Maria Melchiorre, Assistant Chief
License and Revenue Branch
Maria.Melchiorre@wildlife.ca.gov

Richard Reyes, Program Manager
ALDS
Richard.Reyes@wildlife.ca.gov

Craig Martz, Program Manager
Regulations Unit
Wildlife and Fisheries Division
Craig.Martz@wildlife.ca.gov

Mike Randall, Analyst
Regulations Unit
Wildlife and Fisheries Division
Mike.Randall@wildlife.ca.gov