

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

Amend Subsection 360(d), Section 702 and Subsections 708(a)(2)(A), 708 (a)(2)(D),
708(b)(1), 708(c)(3). 708(d)(1), 708(g)(1)(K); and Add Subsections 708(g)(1)(L) and 708(h)

Title 14, California Code of Regulations
Re: Hunting Applications, Tags, Seals, Permits, Reservations and Fees:
and Big Game License Tag, Application, Distribution and Reporting Procedures

- I. Date of Initial Statement of Reasons: January 14, 2010
- II. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: February 4, 2010
Location: Sacramento
 - (b) Discussion Hearing: Date: March 3, 2010
Location: Ontario
 - (c) Discussion Hearing: Date: April 8, 2010
Location: Monterey
 - (d) Adoption Hearing: Date: April 21, 2010 (Teleconference)
Location: Sacramento
- 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. Fees For Hunting Applications, Tags, Seals, Permits, and Reservations

The fees for big game hunting applications, tags, seals, permits, and reservations are found in Section 702. Section 713 of the Fish and Game Code requires the Department to adjust license fees for changes in the cost of goods and services using the Implicit Price Deflator for State and Local Government Purchases of Goods and Services. This amendment will comply with Section 713, of the Fish and Game Code.
 2. Issuing Deer Tags

Repeal the exception that does not allow tags for C, D12 and D17 deer hunts to be distributed based on the date the tag quota filled in the

immediately preceding license year according to existing regulations. Based on 2009 deer tag issuance results and the classifications in existing regulations this proposal would result in C, D12, and D17 deer hunt tags being classified as premium deer hunt tags for 2010. Tags would be issued in the Department's annual big game drawing. Any tags available after the drawing would be issued the first business day after July 1.

3. Refund of Deer Tag Application Fees

Existing regulations specify that before a deer tag application is issued, the specific fee for the application must be paid. This proposed regulatory action would specify that fees paid for deer tag applications are not refundable under specific conditions.

This proposed regulatory action would specify that deer tag application fees are not refundable when a hunter applies in the Department's annual big game drawing, including when hunters only apply for a preference point. In addition, this change would prohibit refunding deer tag application fees for premium deer tags and for any tag in which the tag quota for the hunt has filled.

This proposal would allow the Department to refund nonresidents the difference in the fee between a nonresident and resident deer tag application when nonresident hunters apply in the Department's annual big game drawing, including when hunters only apply for a preference point .

The Department processes approximately 4,000 refunds for deer tag application fees for the annual big game drawing. Based on the fee for a 2010 Resident First Deer Tag Application (\$22.50), the Department would lose approximately \$90,000 in revenue, \$48,000 which would be used to fund the Department's Deer Program.

The Department's Deer Program activities are 100 percent funded by deer hunters' money. Under Fish and Game Code Section 4332, for each public deer tag sold in California, 54 percent of the fee is "reinvested" in the deer resource-about \$2 million annually. Without adequate funding and resources it would be difficult, if not impossible, to sustain California's deer hunting heritage. Management activities that benefit deer also benefit a host of other wildlife species.

4. Specify Successful Appellants Required to Pay Applicable Fees

Currently, regulations allow any person to appeal an incomplete, late and ineligible applications or applications submitted without the appropriate processing fee that were not included in the Department's big game

drawing. However, existing regulations do not specify that when an appeal is granted that the appellant is required to pay the applicable fees.

This regulatory proposal would require payment of the same applicable fees as if the appellant's application was entered in the Department's big game drawing.

5. Establish Provisions When Hunters Can Not Use Big Game License Tags

Existing regulations do not allow the Department to consider appeals for preference point retention. Every year hunters who were drawn for their first choice deer tag, elk antelope or big horn sheep tag in the Department's annual big game drawing are unable to hunt due to situations beyond their control. Hunters contact the Department wishing to retain their accumulated preference points and earn a preference point for the current year.

The most common reasons hunters can not hunt during the season are the hunter has been injured or recently been diagnosed with a serious illness or medical condition that requires immediate medical attention; the death of a close family member; or the hunter is called to active military duty.

This proposed regulatory action would allow the Department to restore hunters' accumulated preference point total and allow the hunter to earn one additional point for the current year for the species for which they were drawn.

Hunters who could not use their deer tags could return their tags for any reason and have their points restored.

This proposal offers two options for hunters who were drawn for an elk, antelope, or big horn sheep tag. Under the first option, the hunter could return the tag to the Department and have the points restored if the hunter has suffered a documented hardship. The second option would allow hunters could return the tag for any reason and pay a nonrefundable processing fee and points would be restored. Under each option, tags must be returned to the Department prior to the earliest opening date of the season the tag is valid for.

6. Establish Criteria for a Random Drawing for Fund-raising Big Game License Tags

Currently, the Department relies solely on nonprofit organizations to auction fund-raising big game license tags. This proposed regulatory auction would allow the Department to conduct a random drawing to distribute fund-raising license tags for deer, elk, pronghorn antelope and

bighorn sheep. Any resident or nonresident could apply for an unlimited number of opportunities for each license tag. Each opportunity for each species would cost \$5. Preference points would not be considered and unsuccessful applicants would not earn a preference point in the Department's random drawings for fund-raising big game tags. The Department would continue to offer fund-raising tags to nonprofit organizations for auction. The Department would consider conducting a random drawing for fund-raising tags in 2011.

(b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Section(s) 200, 202, 203, 215, 219, 220, 331, 332, 460, 1050, 1572, 3452, 3453, 4302, 4331, 4334, 4336, 4340, 4341 and 10502, Fish and Game Code.

Reference: Section(s) 200, 201, 202, 203, 203.1, 207, 210, 215, 219, 220, 331, 332, 458, 459, 460, 713, 1050, 1570, 1571, 1572, 3950, 3951, 4302, 4330, 4331, 4332, 4333, 4334, 4336, 4340, 4341, 4652, 4653, 4565, 4655, 4657, 4750, 4751, 4752, 4753, 4754, 4755, 4756, 4902, 10500 and 10502, Fish and Game Code.

(c) Specific Technology or Equipment Required by Regulatory Change:

None.

(d) Identification of Reports or Documents Supporting Regulation Change:

Summary of C, D12 and D17 Tag Quotas, 2005-2009.

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

No public meetings are being held prior to notice publication.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

1. Fees For Hunting Applications, Tags, Seals, Permits, and Reservations

There is no reasonable alternative to the proposed action. Section 702 would not comply with the provisions of Section 713 of the Fish and Game Code that allow the Department to adjust the fees to compensate for increases in annual costs of goods and services.

2. Issuing Deer Tags

There is no reasonable alternative to the proposed action.

3. Refund of Deer Tag Application Fees

There is no reasonable alternative to the proposed action.

4. Specify Successful Appellants Required to Pay Applicable Fees

There is no reasonable alternative to the proposed action.

5. Establish Criteria For Appeals When Hunters Can Not Use Big Game License Tags

There is no reasonable alternative to the proposed action.

6. Establish Criteria for a Random Drawing for Fund-raising Big Game License Tags

There is no reasonable alternative to the proposed action.

(b) No Change Alternative:

1. Fee Adjustments for Hunting Applications, Tags, Seals, Permits, and Reservations

Under the no change alternative, Section 702 would not be in compliance with Fish and Game Section 713.

2. Issuing Deer Tags

The annual big game drawing is the Department's long-term method authorized in regulation to equitably distribute big game tags when the tag quota is low and there is high demand by hunters for those tags. The no change alternative does not provide that equity in distribution for the zones/hunts identified above.

3. Refund of Deer Tag Application Fees

Under the no change alternative the Department would continue to lose funding for deer management.

4. Specify Successful Appellants Required to Pay Applicable Fees

The no change alternative does not provide equity to applicants who applied correctly and on time for the Department's annual big game drawing and paid the required fees.

5. Establish Criteria For Appeals When Hunters Can Not Use Big Game License Tags

The no change alternative would not allow the Department to consider appeals from hunters to retain their accumulated preference points when due to unforeseen circumstances a hunter can not use a big game tag during the season.

6. Establish Criteria for a Random Drawing For Big Game License Tags

The no change alternative would not allow hunters a low cost opportunity to compete for big game license tags.

- (c) Consideration of Alternatives: In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

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 adjusts the issuance of deer tags. These proposals are economically neutral to business.

- (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:

None.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

- (e) 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.

**INFORMATIVE DIGEST
(Policy Statement Overview)**

Adjust the hunting fees in regulation as allowed under Fish and Game Code. Existing regulations provide for the issuance of deer tags based on when the tag quota for the hunt or zone filled during the previous license year. This regulatory proposal would repeal the exceptions for C, D12 and D17 deer tags. This proposal would specify requirements for hunters who appeal for preference points.

Option 1 would allow any hunter who was awarded an elk, antelope or big horn sheep tag in the big game drawing to return the tag under specific conditions. Option 2 would allow any hunter who was awarded an elk, antelope or big horn sheep tag in the big game drawing to return the tag to the Department for any reason upon payment of a nonrefundable processing fee.

Additionally, this proposed regulatory action would allow the Department to conduct a random drawing for fund-raising big game license tags.

2005- 2009 Summary of C, D12, and D17 Tag Quotas

Tag	Year	Tag Quota	Date Tag Quota Filled	Comments	Date of Drawing
C	2005	9,025	7/6/2005	Tag quota filled after the drawing	6/17/2005
	2006	9,025	6/27/2006	Tag quota filled after the drawing	6/17/2006
	2007	8,575	6/20/2007	Tag quota filled in third round of the drawing. 1,005 hunters drawn out of 3,390 3rd choice applicants	6/20/2007
	2008	8,575	6/18/2008	Tag quota filled in second round of the drawing. 3,504 hunters drawn out of 6,754 2nd choice applicants	6/18/2008
	2009	8,150	6/16/2009	Tag quota filled in second round of the drawing. 2,126 hunters drawn out of 6,052 2nd choice applicants.	6/16/2009
	D12	2005	950	7/19/2005	Tag quota filled after the drawing
	2006	950	7/10/2006	Tag quota filled after the drawing	6/17/2006
	2007	950	6/20/2007	Tag quota filled in third round of the drawing. 24 hunters drawn out of 77 3rd choice applicants	6/20/2007
	2008	950	6/12/2008	Tag quota filled prior to the drawing	6/18/2008
	2009	950	6/2/2009	Tag quota filled prior to the drawing	6/16/2009

2005- 2009 Summary of C, D12, and D17 Tag Quotas

Tag	Year	Tag Quota	Date Tag Quota Filled	Comments	Date of Drawing
D17	2005	500	6/17/2005	Tag quota filled in third round of the drawing. 36 hunters drawn out of 119 3rd choice applicants	6/17/2005
	2006	500	6/17/2006	Tag quota filled in second round of the drawing. 142 hunters drawn out of 184 2nd choice applicants	6/17/2006
	2007	500	6/8/2007	Tag quota filled prior to the drawing	6/20/2007
	2008	500	5/20/2008	Tag quota filled prior to the drawing	6/18/2008
	2009	500	5/15/2009	Tag quota filled prior to the drawing	6/16/2009