STATE OF CALIFORNIA
FISH AND GAME COMMISSION
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Section 601 and Subsection 702(a)(1)
Title 14, California Code of Regulations

Re: Enhancement and Management of Fish and Wildlife
and their Habitat on Private Lands and
Hunting Applications, Tags, Seals, Permits, Reservations and Fees

I. Date of Initial Statement of Reasons: July 3, 2013

II. Date of Final Statement of Reasons: December 17, 2013

III. Dates and Locations of Scheduled Hearings:

(a)	Notice Hearing:	Date:	October 2, 2013
		Location:	Ventura, CA
(b)	Discussion/Adoption:	Date:	December 11, 2013
		Location:	San Diego, CA

IV. Update:

No modifications were made to the originally proposed language of the Initial Statement of Reasons.

The Commission voted to adopt the proposed regulatory changes to CCR T-14 Sections 601 and Subsection 702(a)(1).

V. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations:

<u>Correspondence Received from Dan Matthews, November 29, 2013</u>

Mr. Matthews stated that he is supportive of “the general oversight of game wardens and their efforts to combat game crimes”, however, he did not agree “that it would be in the best interest of private property owners or CADFG to allow free and open access to private property.” His other comments suggested that his hunting guests had an expectation of privacy on private land without interference from officers.

Response to Dan Matthews comment:

The ISOR describes how the present regulation does not expressly allow Department law enforcement personnel access to properties enrolled in the PLM Program. The proposed addition of subsection 601(d)(3) will allow wardens to

make unannounced property visits anytime during each PLM's hunt season to ensure compliance with CDFW's regulations. Despite the perception that warden access is presently restricted, access to private lands by wildlife officers for the purpose of enforcing state game laws has long been upheld by the courts under the "Open Fields" doctrine. Many properties enrolled in the PLM Program consist of large acreages that cannot reasonably be patrolled without vehicle access. The proposed language requiring licensees to allow access by "providing a combination lock, keys to gates, or by allowing the department to place a lock on the gate", gives wildlife officers the ability to make routine patrols during the hunting season to deter poaching or trespass by unauthorized hunters (a problem described by Mr. Matthews) and to ensure that any take of wildlife on the property is consistent with the terms of the PLM license.

The private aspect of the property does allow only those with the permission of the landowner to hunt the property, but should not be viewed as exemption from following the laws and regulations of the state which are designed to protect the wildlife resources that belong to all of the people of the state.

The Department is glad to hear that there is a positive relationship with the local wildlife officer.

No other public comments, written or oral, were received during the public comment period.

VI. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:

California Fish and Game Commission
1416 Ninth Street, Room 1320
Sacramento, California 95814

VII. Location of Department Files:

Department of Fish and Wildlife
Law Enforcement Division
1416 Ninth Street, Room 1326
Sacramento, California 95814

VIII. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

Alternative 1: Implement all proposed amendments except the payment change. This would allow PLM operators to pay for tags by March 1st of each year instead of prior to receiving their tags.

This alternative was considered but rejected. Allowing PLM operators to pay in arrears results in a financial risk to the Department and creates an unnecessary

workload. Department personnel must compile and correlate documents to determine who has not paid and then coordinate with regional staff to collect the fees.

Alternative 2: Implement all proposed amendments, except changes to the procedures for issuing elk and antelope tags.

This alternative was considered but rejected. Maintaining the regulatory section pertaining to issuance of elk and antelope tags would continue to result in confusion for licensees/hunters and is an unnecessary restriction at this stage of the program's existence.

(b) No Change Alternative:

The no change alternative would result in the program continuing to be implemented under current regulations with continued confusion regarding deadlines and reporting requirements. The program would not be consistent with current Automated License Data System (ALDS) operation.

(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 the 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.

IX. 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 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 because the proposed regulatory change will not apply to businesses directly or indirectly. The amendments are administrative improvements to licensing procedures that will not reduce the number of visits to areas surrounding private lands participating in the PLM program. Licensee and hunter spending on gas, food, sporting equipment and other area businesses are not anticipated to change.

(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:

Because the proposed regulatory change makes only technical, administrative changes to the current regulations, it is not anticipated to impact visits or spending in the areas surrounding private lands. Since the number of visitors and the volume of spending are not anticipated to change, direct or indirect impacts on job creation or elimination; business creation, elimination or expansion are not expected.

The Commission anticipates benefits to 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. The Commission anticipates benefits to the State's environment in the sustainable management of natural resources.

Benefits to worker safety from the proposed regulation are not anticipated because the proposed regulation will not affect worker conditions.

The Private Lands Management Program (PLM) overall provides substantial environmental benefits by creating landowner incentives to improve habitat for wildlife on approximately 1 million acres of private lands in California.

(c) Cost Impacts on Representative Private Persons or Businesses:

The agency is not aware of any cost impacts that representative private persons or businesses 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:

The proposed regulations are expected to improve administrative procedures by eliminating unnecessary annual applications and approvals for PLMs. It is expected that these changes will improve program efficiency and allow existing staff to spend more time reviewing reports and inspecting habitat improvements on existing PLMs.

(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, Government Code: None

(h) Effect on Housing Costs: None

UPDATED Informative Digest/Policy Statement Overview

Current regulations in Section 601, Title 14, California Code of Regulations (CCR) describe the procedures required for the operation of the Private Lands Wildlife Habitat Enhancement and Management Area (PLM) Program. Current regulations specify tag reporting and payment requirements, initial year hunting restrictions, due dates, and annual reporting procedures.

Current regulations require licensees to sign an application annually. This is redundant paperwork for the landowner, Department and the Commission. Each Initial/5-Year Application and subsequent approval by the Commission licenses the PLM for 5 years. Modifying the language in subsection 601(b)(6) will reduce the workload on Department and Commission staff by removing the requirement for the annual application. Current regulations in subsection 702(a)(1) specify application forms for PLMs. These forms are consolidated and revised to reflect the propose amendments to Section 601.

The proposed regulatory changes will establish new tag reporting requirements, due dates, and replace tag applications with PLM vouchers. In addition, the proposed changes would allow elk and antelope hunting during the first year of enrollment in the PLM Program. Modifying tag reporting requirements will allow the PLM tag holder flexibility in validating and reporting the PLM tag. Replacing PLM tag applications with vouchers allows the use of the Automated License Data System (ALDS). Adding language to allow wardens to make unannounced property visits will deter poaching or trespass by unauthorized hunters and ensure compliance with existing laws and regulations. The proposed change to allow elk and antelope hunting the initial year of enrollment is intended to create consistency for all big game hunting.

Editorial changes are also proposed to improve the clarity and consistency of the regulations.

Benefits of the Regulations

The proposed changes to Section 601 will improve implementation of the PLM Program, increase flexibility for hunters to validate PLM tags and report their harvest, reduce workload for both Department staff and landowners, and improve compatibility with the Department's Automated License Data System. Overall, the PLM Program benefits the environment by providing incentives for landowners to improve wildlife habitat on approximately 1million acres of private lands.

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 or the increase in openness and transparency in business and government.

Evaluation of incompatibility with existing regulations

The proposed regulations in this rulemaking action are neither inconsistent nor incompatible with existing State regulations. A key word search in the California Code of Regulations resulted in no other State agency having the authority to promulgate Private Land Management Regulations. There are no comparable federal regulations.

Update:

No modifications were made to the originally proposed language of the Initial Statement of Reasons.

The Commission voted to adopt the proposed regulatory changes to CCR T-14 Sections 601 and Subsection 702(a)(1) at its December 11, 2013 meeting.