

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

Amend subsections 300(a)(1)(D)5. and 6.; 300(a)(2)(D)3.; and 300(a)(3)(F)3.; and
Add Section 716

Title 14, California Code of Regulations
Re: Sage Grouse Preference Points and Draw

I. Date of Initial Statement of Reasons: March 26, 2018

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: April 19, 2018
Location: Ventura, CA

(b) Discussion Hearing: Date: June 21, 2018
Location: Sacramento, CA

(c) Adoption Hearing: Date: August 23, 2018
Location: Fortuna, 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:

The Department of Fish and Wildlife (Department) proposes to establish an electronic random drawing for sage grouse permits that will include a preference point system similar to the Big Game Preference Point process. Due to the very limited number of sage grouse hunting permits made available annually, the chances of being successfully drawn have been and continue to be very low in a purely random draw. A petition was filed with the Commission (Petition 2016-010) requesting establishment of a preference point component to increase the probability of drawing success for hunters who have previously (often over many years) applied but not been successfully drawn. The addition of preference points for past participants is necessary to fairly credit prior effort and to encourage continued drawing participation for this unique hunting experience. This new process will be conducted through the Automated License Data System (ALDS).

Proposed Regulations

Amend Section 300:

The current process for obtaining a sage grouse hunting permit will be deleted from subsection 300(a)(1)(D)5 and a reference will be made to the

provisions of the new Section 716 Sage Grouse Permit Application and Drawing Process.

The provisions in subsection 300(a)(1)(D)6 Falconry Only Permits, are deleted and moved to the new Section 716, subsection (b)(6).

Portions of subsections 300(a)(2)(D)3 and (a)(3)(F)3 are amended by deleting the word “free”: “... Hunting by ~~free~~ permit only...” this change provides consistency with other special hunts where the department does not specify that the permit is free but also clarifies that a permit is required to hunt sage grouse in addition to the existing Upland Game Bird Validation requirement. While the permit to hunt is free, it is only available to a successful draw applicant via a special drawing through the ALDS. Participating in the drawing (as provided in the new Section 716) will have a small application fee as currently set forth in subsection 702(c)(1)(X).

Portions of subsections 300(a)(2)(D)3 and (a)(3)(F)3 are amended by deleting the reference to the permit process in subsection 300(a)(1)(D)3 and referencing the permit process proposed in the new Section 716.

Add a new Section 716 as follows:

(1) A drawing shall be held annually for available sage grouse hunting permits.

(2) Establishes the ALDS application procedure:

- Applicants select their hunt zone choice,
- Applicants may apply as an individual, a party leader, or as a party member,
- ALDS assigns a Party Identification Number (PIN),
- Includes a procedure for falconry applications, and
- Accepts payment of the application fee.

(3) Establishes the drawing procedure. As with all other drawings in ALDS, each applicant PIN is assigned a computer generated random number and the applicants are then ranked in order from lowest to highest.

- Fifty percent (50%) of an individual zone permit quota shall be awarded using a preference point drawing. Accumulating points encourages applicants to continue to participate.
 - Each year, unsuccessful applicants will be awarded a preference point for the following year’s draw,
 - A point is accrued each year the applicant is unsuccessful in the draw, and
 - Applications are sorted by preference point value (highest to lowest) and then sorted by random number (lowest to

highest). Permits are awarded in the order (highest preference point with lowest random number) until the preference quota permits are exhausted.

- Fifty percent (50%) of the individual zone permit quota shall be awarded using a random drawing. Continuing to have a random draw allows all applicants (with or without points) a chance to be successful in the draw; in addition, this encourages the participation of new applicants.
 - In the random draw the first choice goes to the lowest number, and so forth.
- Successful applicants are notified and provided information related to their hunt,
- Successful applicants will have their preference points reduced to zero for the following year's draw,
- Customers (identified by their PIN) may view their current preference point values and application results on the Department's website, www.wildlife.ca.gov.

The Department will maintain records of preference points earned by individual applicants based on the Get Outdoors ID (GO ID) customer identification assigned by the ALDS.

The ALDS was implemented to centralize all data relating to recreational hunting and fishing, commercial fishing, other licenses, and permits (including drawings), and to collect the fees associated with each. The ALDS application has operations that allow for many combinations of drawing types, is flexible and programmed for all contingencies, such as zone closures (fire and other natural causes), date changes, etc.

Adding the preference point component to the sage grouse permit draw will provide the public with an established method to apply for, and acquire, preference points for sage grouse hunting permits. The ALDS drawing process:

- Provides great flexibility,
- Reduces error,
- Quickly and accurately determines the successful applicants,
- Awards preference points to non-successful applicants, and
- Accepts and processes the payment of the nonrefundable application fee set forth in amended Section 702.

When permits are available, the Department will make applications available by July 10th. The deadline for application will be August 10th of each year, and the drawing will be conducted within 10 days following the deadline. The general season opens on the second Saturday of September and runs for two consecutive days.

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

Section 300:

Authority: Sections 200, 203, 265 and 355, Fish and Game Code.

Reference: Sections 200, 203, 203.1, 265, 270, 355 and 356, Fish and Game Code.

Section 716:

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

Sections 702, 1050, 1055.1, 3500, 3682.1, and 3683, Fish and Game Code.

(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:

The preference point proposal was discussed at the January 11, 2018 Wildlife Resources Committee meeting in Santa Rosa. It was explained that this potential change is consistent with the change requested in Petition 2016-20 which was approved by the at the commission at its December 2016 meeting. Given that the Department was also proposing changes to sage grouse permit quotas for the season beginning in September 2018 and this item would not be in place until the 2019 season, it was recommended that this proposal be a separate rulemaking package from the permit quota package that was noticed at the February 2018 Commission meeting. There were no public comments received on this proposal.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

No alternatives identified.

(b) No Change Alternative:

The Department would continue to conduct the drawings using the ALDS, but without a preference point system. This alternative would not address the petition request for a preference point accounting, and applicants would not increase their chance of being drawn after unsuccessful years of applying. Additionally, the application and drawing would still be free and the Department would not recover administrative fees for use of the ALDS as required by law.

(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.

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 businesses, including the ability of California businesses to compete with businesses in other states. The proposed action incorporates the sage grouse permit draw into the existing special hunt drawing process that includes preference points through the use of the ALDS. The proposed action will not impose costs on businesses and is not anticipated to change the number of hunting trips or expenditures thus it will be 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; 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. Adding the preference point component to the existing sage grouse permit drawing in the ALDS will provide the benefits of fairness and flexibility as well as important information necessary to properly manage sage grouse permits.

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses, or the expansion of businesses in California since the proposed action will not impact costs or revenues to businesses. The

Commission does not anticipate any benefits to worker safety since the proposed action will not affect working conditions.

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

Upland game bird hunters who choose to participate in the sage grouse hunt draw will pay a nonrefundable \$2.25 application fee, as currently set forth in subsection 702(c)(1)(X). The application fee was established per statute to recover all reasonable administrative costs of developing and implementing a draw with preference points for upland game bird hunts. The Commission is not aware of any cost impacts that a 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:

The proposed action will not induce changes in costs or savings to state agencies or in federal funding to the state. The anticipated sale of 500 to 1,000 items at \$2.25 each may result in an average increase in annual revenue of approximately \$1,688 for the first year and in the following two years. The projected fee revenue is set to recover all reasonable administrative costs to the Department to administer the sage grouse permit draw within the upland game bird system.

(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.

VII. Economic Impact Assessment:

The proposed regulatory action has been evaluated and it has been determined that the proposed action will not have a significant statewide adverse economic impact on individuals, businesses, or the state economy.

The proposed action incorporates the sage grouse permit draw into the existing special hunt drawing process that includes preference points through the use of the ALDS. The proposed action will not impose costs on businesses and is not anticipated to change the number of hunting trips or expenditures thus it will be economically neutral to businesses.

Upland game bird hunters who choose to participate in the seasonal draw for

sage grouse with a preference point system will pay a nonrefundable \$2.25 application fee. Approximately 500 to 1,000 hunters are anticipated to participate in the sage grouse draw with preference points.

Payment of an application fee is required, as set forth in subsection 716(b)(4), in the amount listed in subsection 702(c)(1)(X), Upland Game Bird Special Hunt Drawing Application Fee of \$2.25. The fee recovers the reasonable administrative costs for the provision of drawing programs in accordance with Section 1050, FGC.

- (a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State: The Commission does not anticipate any impacts to the creation or elimination of jobs within the state, because the proposed program will not reduce the number of hunters or hunting visits to areas of the state.
- (b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses within the State: The Commission does not anticipate any adverse impacts on the creation of new businesses or the elimination of existing businesses within the state, because the proposed drawing process will not reduce the number of hunters or hunting visits to areas of the state.
- (c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business within the State: The Commission does not anticipate any adverse impacts on the expansion of businesses currently doing business within the state, because the proposed drawing process will not reduce the number of hunters or hunting visits to areas of the state.
- (d) Benefits of the Regulation to the Health and Welfare of California Residents: The Commission anticipates benefits to the health and welfare of California residents. Adding the preference point component to the existing sage grouse permit drawing in the ALDS will provide fairness for applicants and more information to equitably manage sage grouse permits.
- (e) Benefits of the Regulation to Worker Safety: The Commission does not anticipate any benefits to worker safety because the proposed action will not have any impacts on working conditions.
- (f) Benefits of the Regulation to the State's Environment: The Commission anticipates benefits to the State's environment in the sustainable management of natural resources. Adoption of regulations to increase sustainable hunting opportunity provides for the maintenance of sufficient populations of game birds to ensure their continued existence.
- (g) Other Benefits of the Regulation: None.

Informative Digest/Policy Statement Overview

The Department of Fish and Wildlife (Department) proposes to establish an electronic random drawing for sage grouse permits that will include a preference point system similar to the Big Game Preference Point process. Due to the very limited number of sage grouse hunting permits made available annually, the chances of being successfully drawn have been and continue to be very low in a purely random draw. A petition was filed with the Commission (Petition 2016-010) requesting establishment of a preference point component to increase the probability of drawing success for hunters who have previously (often over many years) applied but not been successfully drawn. The addition of preference points for past participants is necessary to fairly credit prior effort and to encourage continued drawing participation for this unique hunting experience. This new process will be conducted through the Automated License Data System (ALDS).

- Section 300 will be amended, deleting the current draw described in subsection 300(a)(1)(D)5 and a reference will be made to the provisions of the new Section 716 Sage Grouse Permit Application and Drawing Process
- Subsection 300(a)(2)(D)6 Falconry Only Permits is deleted and moved to the new Section 716(b)(6).
- Section 716 will be added, setting forth the draw requirements and the addition of preference points for past participants. This new process will be conducted through the Automated License Data System (ALDS).
 - Fifty percent (50%) of the individual zone permit quota shall be awarded using a preference point drawing. This fairly credits prior effort and encourages continued drawing participation for this unique hunting experience.
 - Fifty percent (50%) of the individual zone permit quota shall be awarded using a random drawing. Continuing to have a random draw allows all applicants (with or without points) a chance to be successful in the draw; this encourages the participation of new applicants.

Benefits of the regulations

The Commission anticipates benefits to the health and welfare of California residents. The ALDS provides a single location for the public to apply for all department hunts including big game, upland game special hunts and waterfowl hunting opportunities. Data collected and compiled through the ALDS will be accessible in a consistent format for the Department's use. Adding the sage grouse drawing with preference points to the ALDS will provide the same benefits of fairness and flexibility as well as important information necessary to properly manage upland game bird populations.

The Commission anticipates benefits to the State's environment in the sustainable management of natural resources. Adoption of regulations to increase sustainable hunting opportunity provides for the maintenance of sufficient populations of game birds to ensure their continued existence.

Consistency with State or Federal Regulations

The Fish and Game Commission, pursuant to Fish and Game Code Sections 200 and 203, has the sole authority to regulate hunting in California. Commission staff has searched the California Code of Regulations and has found the proposed changes pertaining to preference points for wild sage grouse hunting opportunities through the ALDS to be consistent with the provisions of Title 14. Therefore the Commission has determined that the proposed amendments are neither inconsistent nor incompatible with existing state regulations.