

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
FINAL 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.

Add Section 716

Title 14, California Code of Regulations

Re: Sage Grouse Preferential Points and Draw

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

II. Date of Final Statement of Reasons: October 4, 2018

III. 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

IV. Update:

At its August 23, 2018 meeting, the Fish and Game Commission (Commission) adopted regulations, as set forth in an Initial Statement of Reasons dated March 26, 2018. The adopted amendments to Section 300, Upland Game Birds, delete the draw process for obtaining sage grouse permits. The adopted addition of Section 716 Sage Grouse Permit Application and Drawing Process, sets forth the new permit draw process.

No modifications were made to the originally proposed regulatory language in the Initial Statement of Reasons. There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.

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

a) Comment Source: Mark Hennelly, California Waterfowl Association, public testimony on April 19, 2018.

Supports proposal as an equitable approach to issuing permits given the

low number of permits typically available and the high public demand.

Department Response: Support noted. The Commission adopted the Department's recommendations.

- b) Comment Source: Bob Gardner, Chair, Mono County Board of Supervisors, letter dated June 19, 2018.

Does not support the hunting of sage grouse in Mono County, because the Bi-State Distinct Population Segment is being considered for protection under the federal Endangered Species Act.

Department Response: This rulemaking does not establish permit numbers for sage-grouse hunting. The Department previously recommended to the Commission zero (0) permits for sage-grouse hunting state-wide. This rulemaking is in response to a public petition and is administrative in nature. Moving the current permit process from Section 300 to Section 716 and establishing application procedures with an associated fee is consistent with other upland game bird hunting procedures.

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
Sacramento, California 95814

VII. Location of Department Files:

Department of Fish and Wildlife
1416 Ninth Street
Sacramento, California 95814

VIII. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulatory Action:

No alternatives were 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 preference point accounting, and applicants would not see an improvement in their chances 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 adopted 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 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:

The Commission adopted a modest fee of \$2.25 to recover reasonable costs of the drawing as required by statute. The Commission 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, Government Code: None

(h) Effect on Housing Costs: None

Updated 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.

UPDATE

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