

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

Amend Section 708.6
Title 14, California Code of Regulations
Re: Tag Countersigning and Transporting Requirements

I. Date of Initial Statement of Reasons: November 15, 2018

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing: Date: December 13, 2018
 Location: Oceanside, CA

(b) Discussion Hearing: Date: February 6, 2019
 Location: Sacramento, CA

(c) Adoption Hearing: Date: April 17, 2019
 Location: Santa Monica, 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:

Critical to the management of California’s game populations is the countersigning of deer and elk tags indicating that the animal has been legally taken and transported from the hunting area. Countersigning is done by an authorized person who physically signs their name to the tag attached to the deer or elk carcass. In subsection 708.6(c) it is necessary to clarify for the public and law enforcement that “firefighters employed on a full-time basis” are authorized to countersign, in addition to the other authorized persons listed in 708.6. Part time, volunteer, or other fire station personnel are not included and cannot countersign the tag.

The terms “validate” and “countersign” are currently used interchangeably throughout this section. Countersigning deer and elk tags involves having a designated person physically sign their name to the actual tag attached to the deer or elk carcass. The statute in 4341 FGC specifies that:

“Any person legally killing a deer in this state shall have the tag countersigned by ... a person designated for this purpose”.

Section 708.11, Title 14, CCR, specifies that

“... Elk tags shall be countersigned before transporting such elk, except for the purpose of taking it to the nearest person authorized to countersign the license tag...”

Deer and Elk License Tags also specify, respectively, that

“Hunter must have tag countersigned” and “Elk tags must be countersigned”

For this reason, the proposed amendments clarify that “countersign (-ed, -ing, etc.)” is the required action, and removes text references to “validate (-ed, -tion, etc.)”. Other minor edits and renumbering are also proposed.

Deer and elk hunting is a highly regulated activity by both statute and regulation. It serves the public to have control over the number of game tags authorized for hunters in certain zones and, once game are taken by hunters, to have them properly accounted for. The first tool wildlife managers use to account for game harvest is the countersign requirement per subsection 708.6(b). Wildlife officers who frequently conduct poaching investigations and need to differentiate between a poached and legally taken deer or elk will check for the proper use of tags. Poached game is rarely properly tagged and countersigned, so it can be an excellent piece of evidence during a poaching investigation. If the tag is countersigned by an authorized person, it can also be a vital piece of evidence in an investigation because there is a named potential witness to the poaching event.

The data collected by hunters and submitted via mandatory reporting, including having those tags, is critical to managing deer and elk populations year-to-year and contributes to the continued availability of deer and elk hunting opportunities.

The Department recognizes the challenge for a person who returns from a successful hunting trip and needs the tag countersigned and must take the game to the nearest person authorized to countersign the license tag on the route followed from the point where the game was taken. Section 708.6 provides a list of persons authorized to validate deer and elk tags. Those classifications of employees of various governmental and non-governmental employers presumes some form of accountability since the authorization is granted as a condition of their employment. There is a presumption that the employees will exercise that authority in accordance with regulation.

Under existing regulation, a certain classification of firefighter is authorized to countersign tags. Section 708.6(c)(1)(C)1. describes them as “County Firemen at and above the class of foreman”. Outside of Department of Fish and Wildlife employees and offices, fire stations are the most commonly known places for hunters to have game tags countersigned. For that reason, all California Department of Forestry and Fire Protection (CALFIRE) employees, regardless of rank or job duties, are authorized to validate tags.

Since this regulation was adopted (2011) there has been a long standing assumption by the public that all firefighters can countersign game tags regardless of rank, or whether they work for a county, city, or district. Unfortunately, current regulation does not authorize non-county firefighters to validate tags.

Proposed Amendments to Regulation

- Subsections (a), and (c). The proposed amendments clarify that the authorized persons “countersign” as the required action. Reference to “validation” of the tags is removed. While the terms have been used interchangeably, the Fish and Game Code 4341 (deer) and Section 708.11, Title 14, CCR, (elk) and the license tags themselves all require that the tag be “countersigned”.
- Subsection (b) is deleted and rewritten as (d).
- Subsection (c) is deleted since it is repetitive of the next subsection (c)(1).
- Subsection (c)(1) is renumbered (c).
- Subsections (c)(1)(A), (B), and (C) are renumbered (c)(1), (2), and (3), with minor editorial changes. In (c)(3) the department acronym CALFIRE is added for clarity.
- Subsections (c)(1)(a)4. and 5. the outdated state job titles of Plant Quarantine Inspectors are deleted and replaced with (c)(1)(D) and the current job titles.
- Subsection (c)(1)(C)1. is deleted and changed to (c)(3)(A) adding “Firefighters employed on a full-time basis, only when the deer or elk carcass is brought to their fire station.”
- Subsection (d) is added.
- Authority and Reference. Deletes repealed or unnecessary sections, the remaining sections are more closely related to FGC authority; and making specific those provisions related to the subject of regulating deer and elk tags.

Department Recommendation

The Department believes it is reasonable to expand the category of firefighter that can countersign game tags by amending the subsection to describe them as “firefighters employed on a full-time basis”. Describing them as firefighters updates the outdated use of the term “firemen” and expands the classification of ranks to include all firefighters employed on a full-time basis. It continues to exclude volunteer firefighters who may not have the same level of accountability as full-time firefighters which is consistent with current regulation. It maintains existing regulatory requirements that the authority be granted only to deer and elk brought to a fire station.

Wildlife managers and law enforcement officers from the Department believe expanding the authority to countersign tags to include all firefighters will make it easier for the public to follow the law and increase the number of reliable witnesses in the event of an investigation of poaching.

(b) Goals and Benefits of the Regulation:

Wildlife managers and law enforcement officers from the Department believe expanding the authority to countersign tags to include all firefighters will make it easier for the public to follow the law and increase the number of reliable witnesses in the event of an investigation of poaching.

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

Note: Authority cited: Sections 200, 203, 332, and 4331, Fish and Game Code.

Reference: Sections 332, 4302, 4330, 4333, 4336, 4340, and 4341, Fish and Game Code.

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

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

A regulation change petition was submitted to the California Fish and Game Commission in October of 2016 – labeled 2016-028. The author of the petition, Sean Campbell, a firefighter who had been countersigning tags for 30 years, stopped providing this public service because there was confusion over the term “foreman”. Members of his fire department wanted to stay in strict compliance with the regulation and the petition was submitted to the Commission requesting clarification.

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

The regulation change proposal was reviewed by the Wildlife Resources Committee on September 20, 2018 and garnered no public opposition.

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change: None.

(b) No Change Alternative:

The regulation would remain the same authorizing county firemen to countersign but excluding other firefighters, which has caused problems with the public who assume their local fire department can perform this task.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no adverse 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 expands the list of authorized firefighters able to perform a service for the public.

- (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 proposed regulation will not result in the creation or elimination of jobs within the state, cause the creation of new businesses or the elimination of existing businesses or result in the expansion of businesses in California, because it only expands the list of authorized firefighters able to perform a service for the public.

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, these provisions provide other opportunities for the public to comply with the regulation of hunting.

- (c) Cost Impacts on Representative Private Persons/Business:

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:

The proposed action will have no statewide economic or fiscal impact because the proposed action would implement a Departmental administrative process to increase efficiency that will only affect the work tasks of Department and Commission staff.

- (e) Other Nondiscretionary Costs/Savings to Local Agencies: No nondiscretionary costs are passed on to local agencies (city, district, or county fire departments) since the authorized action of countersigning the deer or elk tag is entirely discretionary to the local firefighter and department. No costs have been associated with the occasional public request to have a tag countersigned by the listed public officials.
- (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 would implement a Departmental administrative process to increase efficiency that will only affect the work tasks of Department and Commission staff. The proposed alternative process to set big game tag quotas would reduce the annual regulatory workload, and permit both the Commission and the Department to devote staff resources to achieve other core missions.

- (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 the proposed action does not change the level of hunting activity in California.

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

The regulation will not promote the creation of new businesses or the elimination of businesses within the State because the proposed action does not change the level of hunting activity in California.

- (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 in the State because the proposed action does not change the level of hunting activity in California.

- (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. Hunting provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of the State's resources.

- (e) Benefits of the regulation to worker safety:

The proposed regulation would 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 living resources. The Commission anticipates benefits to the State's environment in the sustainable management of natural resources, these provisions provide other opportunities for the public to comply with the regulation of hunting.

Informative Digest/Policy Statement Overview

Critical to the management of California's game populations is the countersigning requirement of deer and elk tags by an authorized person who physically signs their name to the tag attached to the deer or elk carcass. In subsection 708.6(c), Title 14, CCR, Deer and Elk Tags, Persons Authorized to Validate, it is necessary to clarify for the public and law enforcement that "firefighters employed on a full-time basis" are authorized to countersign, an addition to the other authorized persons found in 708.6(c). Part time, volunteer, or other fire station personnel are not included and cannot sign the tag. The added text maintains the existing regulatory requirement that the countersigning may be done only for deer and elk brought to a fire station.

Wildlife managers and law enforcement officers from the Department believe expanding the authority to countersign tags to include all firefighters will make it easier for the public to follow the law and increase the number of reliable witnesses in the event of an investigation of poaching.

The amendment also clarifies that the authorized persons "countersign" as the required action; corrects outdated state job titles of Plant Quarantine Inspector; clarifies that the provisions apply both to deer and elk tags; and other minor editorial changes.

Non-monetary Benefits to the Public

The Commission anticipates benefits to the health and welfare of California residents through the sustainable management of mammal populations. The Commission does not anticipate non-monetary benefits to worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government. The Commission anticipates benefits to the State's environment in the sustainable management of natural resources, these provisions provide other opportunities for the public to comply with the regulation of hunting.

Consistency and Compatibility with Existing Regulations

The Commission has reviewed its regulations in Title 14, CCR, and conducted a search of other regulations on this topic and has concluded that the proposed amendments to Section 708.6 are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate hunting regulations.