



Tracking Number: (_2022-02_)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission’s authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. **Person or organization requesting the change (Required)** Name of primary contact person: Matthew White. Address: [REDACTED] Telephone number: [REDACTED] Email address: [REDACTED]
2. **Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: [CCR T14]
3. **Overview (Required)** - Summarize the proposed changes to regulations: [This proposal is for the issuing of a new deer tag, Heritage Only, which would allow holders of the tag to hunt the A, B and D zones during their specified seasons. The additional geographic flexibility for these tag holders would come with a restriction of using only traditional weapons, defined as a longbow or recurve during the archery seasons or muzzleloading rifle in sidelock configuration only (matchlock, wheellock, flintlock or percussion) during the general seasons. Under this tag, deer hunters may not use modern weaponry, such as compound bows, in-line muzzleloaders or telescopic sights. See attached narrative for details.]
4. **Rationale (Required)** - Describe the problem and the reason for the proposed change: This tag is being proposed to offer more hunters the flexibility to adapt to the closures of large swaths of public lands during the deer hunting seasons. Currently, only archery hunters hunting under an Archery Only tag have such flexibility. This proposed Heritage Only tag, with its restricted method of take of traditional archery or traditional muzzleloading rifle/shotgun, places similar limits on the hunters’ effective range and ability to harvest a deer as a hunter using modern archery gear under an Archery Only tag. It is unlikely to affect the current harvest numbers in any zone. See attached narrative for details.



SECTION II: Optional Information : See enclosed proposal narrative.

5. **Date of Petition:** 01/27/2022

6. **Category of Proposed Change**

- Sport Fishing
- Commercial Fishing
- Hunting
- Other, please specify: [Click here to enter text.](#)

7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*

- XX Amend Title 14 Section(s):
354 Archery Equipment and Crossbow Regulations
361 Archery Deer Hunting
- Add New Title 14 Section(s):
355 Muzzleloading Equipment and Regulations for Heritage Only Tags
362 Muzzleloader Hunting with Heritage Only Tags.
- Repeal Title 14 Section(s): [Click here to enter text.](#)

8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** [Click here to enter text.](#)
Or Not applicable.

9. **Effective date:** If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: July 1, 2023

10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: See attached narrative with citations.

11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: No known impacts. Possible increase in deer tag revenue if more hunters decide to purchase an additional, Heritage Only tag, as a backup option if their primary hunting zone is closed. Revenue might be somewhat offset by the additional expense of creating any new educational materials, though those could be substantially mitigated by help from various non-profit organizations. See attached narrative for additional information.

12. **Forms:** If applicable, list any forms to be created, amended or repealed:

[Deer tag application would be amended to offer this additional tag.](#)



SECTION 3: FGC Staff Only

Date Received: 1/27/22

FGC staff action:

- Accept - complete
- Reject - incomplete
- Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: _____ |

Meeting date for FGC consideration: [Receive 2/16-17/22; ___ |

FGC action:

- Denied by FGC
- Denied - same as petition _____ |
- Granted for consideration of regulation change

Tracking Number

Proposal for New Deer CA Deer Tag – Heritage Tag

January 27, 2022

Objectives

1. To allow CA deer hunters to adapt to new public land closures by allowing them to hunt multiple zones.
2. To allow hunters who employ more difficult methods of take the ability to hunt multiple zones.
3. To ensure that these increased opportunities do not adversely impact local deer herds by significantly increasing success rates.

Summary

The proposed Heritage deer tag would allow hunters to hunt the A, B and D zones during the existing seasons and with the same bag and possession limits of one buck, forked horn or better as holders of zone specific tags for these areas. In this respect, it would be similar to the current Archery Only tag. However, the key feature of this tag would be a method of take restriction that limits hunters to traditional weapons, defined as either longbow or recurve during the archery seasons and sidelock (wheel, match, flint or percussion ignition) muzzleloaders during the general seasons. This would expand the geographic flexibility that many archery hunters currently enjoy to some rifle hunters, though with equally restrictive methods of take to ensure that deer populations are not adversely impacted in any zone that remains open during a public land closure.

Why do we need another tag?

The last 2 years have seen both local and statewide closures of public lands during the deer hunting seasons. These closures are sometimes short in duration but can also last into the following season in areas within the burn scar. California's current tag system for non-lottery tags is geographically based – meaning that hunters are restricted to a tightly-defined geographic area when hunting deer. Because many people cannot simply move their hunt dates to accommodate these unpredictable events and may not be able to access their zone at all during the limited season, many tag holders must simply forego their planned hunts.

In 2013 the Rim Fire caused a tag quota reduction in zone D6, which ultimately led to the zone moving to a lottery drawing, locking some hunters out of this zone who would have otherwise hunted there. In 2020, the USFS closed down most of the D7 zone during the rifle season and parts of several other zones. 2021 several other fires closed down multiple D zones during the deer hunting season.

As fires and fire closures become more commonplace, we can expect that similar events will occur over the next decade that will adversely impact deer hunters who are limited to a tightly-defined geographic area. This may ultimately cause some hunter attrition or force hunters to conduct future hunts in other states, which may adversely affect tag revenues.

Although the public land closures that have occurred over the last two years are not instituted by CDFW or the FGC, the public often places the blame on CDFW since they are the main source of information about hunting. By offering a tag for rifle hunters that has more geographic opportunity, The FGC and

CDFW can show that they are listening and being responsive to hunters' needs under this new fire protocol while still acting responsibly in keeping harvest rates within allowable limits. While the current AO tag gives this geographic flexibility to those who limit themselves to any kind of archery equipment, there is no equivalent tag option for rifle hunters.

Why Traditional Weapons?

Modern compound bows have greatly expanded the effective range of bowhunters far beyond the effective range that was normal when archery seasons were first implemented. While this has given higher probability of harvesting a deer to those who use modern archery gear, it places traditional archers at a comparative disadvantage, especially during the general seasons. In general, traditional archers have an effective range of about 20-25 yards if they dedicate a significant amount of the year to practice. Modern archers, using compound bows, sighting aids and mechanical releases can double that effective range with just a few practice sessions per year. Success rates of hunters using modern archery gear are notably higher than those using traditional archery gear.

Similarly, technological developments in modern muzzleloaders offer little handicap to any open-sighted, single-shot, centerfire rifle. The shorter lock-time and simplicity of components allows these rifles to be quickly mastered, both expanding their effective range and lowering the required knowledge and skill barriers for their use in the field. In general, traditional, sidelock muzzleloaders have an effective range of about 80 yards while modern muzzleloaders are effective out to about 100-150 yards, assuming open sights are used.

As it happens, modern compound bows offer little disadvantage to traditional muzzleloaders since they have similar effective ranges. As hunting weapons, they are rough equivalents since the disadvantages of a compound bow, such as the extra motion of drawing the bow and the arrow flight time, also come with some significant advantages over traditional muzzleloaders, such as a bow's quieter flight (for possible follow-up shots), its resilience in wet weather and its more reliable firing. Yet, under the current tag offerings, hunters with modern archery equipment can hunt multiple zones under an AO tag while hunters wishing to use traditional muzzleloaders with similarly-limiting equipment cannot. If implemented, this proposal would allow hunters using similarly-limiting equipment a more similar opportunity.

Would a Heritage tag replace the current AO tag?

No. The proposed Heritage tag would be an additional tag offering, not a replacement of the current AO tag.

Does this proposal create a special season?

No. The Heritage tag would mirror the current season dates for each A, B and D zone.

Are there any changes proposed to the bag limit or possession limit?

No. Hunters would still be restricted to harvesting only one buck, forked-horn or better per tag, as is the norm for all the A, B and D zones.

What equipment would be permitted for the proposed Heritage tag holders?

As proposed, During the archery seasons, only recurve bows or longbows (including Asiatic horsebows and short, plains-style longbows) of 40 lb draw weight or greater would be permitted. Bows should have only a single string or cable that is attached to the limb tips, flexible limbs, an increasing tension (stack) as the bow is drawn (no let-off of draw weight) and have no solid “wall” that limits the draw length. Clickers or other draw checks that alert the archer that a specific draw length has been reached would be permitted so long as they don’t prevent the bow from being drawn any further. Arrows should conform to existing regulations for archery deer hunting, as described in CCR T14-353.

During the general seasons only, muzzleloading rifles or shotguns with a closed breach and sidelock action that uses one of the following ignition sources:

- Wheel-lock
- Match-lock
- Flintlock
- Percussion/Cap-lock

Muzzleloading rifles and shotguns must also conform to the existing restrictions for caliber and projectiles, as described in CCR T14-353.

Archery equipment, as described above for use during the archery season under a Heritage tag would also be permitted during the general season.

Non-toxic and other projectile regulations

No changes to the current requirement for lead-free projectiles are proposed. Lead free projectiles are available from manufacturers. There are also lead free casting alloys that can be cast from home and effectively fired from traditional muzzleloaders. Likewise, arrows flung from traditional bows should conform to current regulations for archery equipment.

What equipment would be excluded for Heritage tag holders?

Compound bows, crossbows (except under a disabled archer’s permit), sling bows, centerfire firearms, in-line muzzleloaders, underhammer muzzleloaders, electronic-ignition muzzleloaders, centerfire firearms that have been converted to muzzleloaders, telescopic sights or any sighting systems other than open or peep sights (except under a disabled scope permit).

What about access for the disabled?

Current regulations allow for hunters to obtain a disabled archer’s permit to allow them to use a crossbow during the archery season or for hunting under an AO tag. No change is proposed to this system. However, a restriction of traditional crossbow (single string, no cams or pulleys, no let-off) can be used if desired.

Similarly, a disabled scope permit allows vision-impaired hunters to use a 1x scope during the state’s muzzleloading-only hunts. Therefore, similar rules should be in place for Heritage tag holders.

Who benefits from this opportunity?

The main beneficiaries of this proposed Heritage tag are rifle hunters, who stand to gain an opportunity to hunt multiple zones if they limit themselves to these traditional weapons. Secondly, traditional

archers would be able to continue to use their longbows and recurves during the archery seasons but would gain the ability to use traditional muzzleloaders during the general seasons. CDFW may see a nominal increase in tag sales if more deer hunters choose to purchase this Heritage tag as a second, backup option in case their regular zone is closed. The USFS may be granted a little bit of relief from hunters' complaints of forest closures if there are more geographically flexible options available.

Who is likely to lose from this opportunity?

Since no changes are proposed to the current AO tag and since AO tag holders already compete with rifle hunters during the general seasons, no archery deer hunter, whether using traditional or modern archery equipment, stands to lose any part of their existing hunting access or opportunities. Although users of modern muzzleloaders would not lose any of their existing opportunities, they would not benefit from this proposed Heritage tag.

What is being promoted by this new Heritage tag opportunity?

By making the Heritage tag available, CDFW will be promoting:

1. Responsiveness to the needs of our state's deer hunters to be able to move hunting locations based on fire closures.
2. Responsiveness to the USFS needs for localized closures due to wildfires.
3. Better woodsmanship among deer hunters.
4. Respect and reverence for ancestral and historical hunting methods over modern technological advantages.

Enforcement

Our regulatory system is largely based on voluntary compliance. Wardens may, when present, check hunter equipment and documentation. But there are few impediments to hunters using a firearm while hunting under an AO tag or for a hunter to possess a tag for one zone but take a deer in another. Therefore, since it is largely an honor-system now, the proposed Heritage tag does not cause any additional burden on law enforcement and no change is proposed to this system. Traditional archery and muzzleloading firearms are easily recognizable with distinct features that will not be an impediment to our wardens' understanding of the Heritage tag's restrictions.

What about potential increases in crippling losses?

By and large, crippling from hunter error is largely an issue of the hunter's mindset. In other words, hunters lacking in discipline or judgment will take unethical shots with whatever weapon they hold in their hands at the time. Those who are unwilling to invest the time and attention to learning the limits of traditional equipment are better suited to using the AO tag and a modern compound bow, which can be more quickly mastered. It is more likely that these unskilled hunters will simply fail to get close enough to take a shot at a legal buck at all than that they will take a shot and wound their prey since the limits imposed by traditional equipment give the animal a significant opportunity for escape without a single arrow loosed or shot fired.

What educational resources should be available for the public to learn about the proposed Heritage tag, its regulations and the limits of this kind of equipment?

The CA Hunter Education Program is currently building its library of webinars for the public and posting them on its website. Some of these videos are being produced by CDFW but there are also efforts to use videos made by non-profit conservation organizations, such as Backcountry Hunters and Anglers, at little to no cost to CDFW. While no deer tag offered today requires additional coursework, some area-specific hunts require a meeting to explain the limits and methods of these hunts. Similar orientation meetings may be offered for a Heritage tag system whereby hunters must participate in an online briefing before being issued their tag. Again, while there would be some cost to CDFW to produce such a video, working with non-profit conservation organizations could significantly reduce this expense. While requiring coursework may or may not be feasible, the Hunter Education Program should make every effort to educate hunters about this type of equipment, safety, its use and its limitations to promote safe and ethical practices.

Fire risks from muzzleloading firearms

Since the Heritage tag is being proposed as a partial response to public land closures stemming from wildfires, it is important to address the potential risk from sparks issuing from muzzleloading firearms. Thankfully, the USFS has published a research paper on this issue.¹ They determined that the risk was extremely low and they were unable to simulate a wildfire ignition during their tests. Therefore, it is very unlikely that the USFS would voice an objection based on increased risk of wildfire. The USFS report should be referenced if or when any other agency voices an objection based on fire risk.

Tag Quota

Like the the current AO tag, the proposed Heritage tag should have a generous quota. Success rates are likely to be very low – low enough to grant wide availability without any lottery. Currently there are 100,000 Archery Only Tags available for purchase with less than 10,000 purchased during the 2020 deer season. If the Commission or CDFW does not wish to create any additional tags, the proposed Heritage Only tag quota could be taken from the remaining 90,000 unused Archery Only tags with no effect on their availability. Splitting the 100,000 quota into 50,000 Archery Only and 50,000 Heritage Only would grant the wide availability of both and neither is likely to sell out.

Do other states have similar tags?

No other state has a tag that is identical to the proposed deer Heritage tag. However, several states have geographically-limited hunt units that allow extended seasons for hunters using only traditional archery or traditional muzzleloading rifles. A few examples are:

- *West Virginia Mountaineer Heritage Season* – an extended season in January for deer, bear and turkey hunters using recurve bow, longbow, flintlock rifle or percussion cap-lock rifle.²
- *Oklahoma* – McAllister Army Ammunition Plant – a deer hunt unit under a lottery system that has dedicated seasons for traditional archery only. Initially, the unit allowed any archery equipment to be used during the archery season. However, compound bows were excluded in 1989 due to the higher success rates (17.8% compound vs 10.7% traditional) of hunters using them.³

¹ https://www.fs.fed.us/rm/pubs_other/rmrs_2009_haston_d001.pdf

² <https://wvdnr.gov/wp-content/uploads/2021/07/2021-22-Hunting-Regulations.pdf>, page 34

³ <http://wp.auburn.edu/deerlab/wp-content/uploads/2014/05/591997-SEAFWA.pdf>

- Idaho – dedicated primitive weapons hunts for elk, available by lottery within a specified geographic area.
- Pennsylvania – dedicated, 2-week flintlock-only season. Season has been in place since 1974.

Submitted by:

Matthew D White

