



Finding of Emergency and Statement of Proposed Emergency Regulatory Action

Re: Free Hunting Days

March 13, 2023

I. FINDING OF EMERGENCY

(Gov. Code, § 11346.1, subd. (b); Cal. Code Regs., tit. 1, § 50)

Pursuant to Government Code section 11346.1, subdivision (b), and California Code of Regulations, Title 1, section 50, a state agency may adopt emergency regulations if the agency makes a finding that the adoption of a regulation is necessary to address a situation calling for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.

Assembly Bill 804 authorizes the California Department of Fish and Wildlife (Department) to adopt emergency regulations to implement Fish and Game Code (FGC) Section 3040. Emergency rulemaking is necessary to fully implement FGC Section 3040 because the regular rulemaking process may not conclude prior to the July 1, 2023 deadline to designate two free hunting days per year.

The Department may adopt emergency regulations to implement this section in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare, as stated in subdivision (i)(2) of FGC Section 3040.

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, an emergency regulation adopted by the Department, or any amendments to it made by the Department pursuant to this section, shall stay in effect until revised by the Department.

Specific Facts Demonstrating the Existence of an Emergency and Need for Immediate Action

The Department has had authority to hold two free hunting days annually since 2012, when SB 1179 (2010) created FGC Section 3040, but has not implemented such free hunting days. The 2012 authority was permissive; the passage of AB 804 in 2021 requires that the Department designate two free hunting days per year by July 1, 2023 pursuant to FGC Section 3040.

The Department is proposing to add Section 700.1 to Title 14, CCR to fulfill the requirements of FGC Section 3040, clarifying terms and adding requirements and limitations of a Free Hunting Day registration. This regulation change will incorporate specific regulations pertaining to free hunting days, as legislated in AB 804, and clarify language used in other sections of Title 14, specifically the use of the terms “license,” “registration,” and “hunting license number.”

This proposed regulation supports the Recruit, Retain and Reactivate (R3) initiative by increasing public access to hunting opportunities. The R3 goals are to remove barriers to participation, increase access to social support and mentorship opportunities, and improve public perception of hunting and wildlife conservation activities. This legislation has the potential to help the Department address these goals and increase participation in hunting through mentorship and incentivized opportunities, implement and improve experiences, and provide greater access to and support for social support programming. Current hunters will have the opportunity to mentor and provide social support to new hunters and build relationships within the hunting community. This plays a vital role in moving beginner participants through the Outdoor Recreation Adoption Model (ORAM) to retain them and existing hunters who are at risk of participation lapse. Providing the social support required to develop hunting skills, and social and ethical competencies contribute to R3 goals. This regulation gives Californians an option to participate more easily by removing some of the barriers to cost and increasing mentorship access.

AB 804 makes the registration for free hunting days available to participants at no cost on the established days. One registration will be available through the Automated License Data System (ALDS), at any CDFW authorized license retailer, or CDFW’s online sales portal to each first-time participant and will be valid for both free hunting days in the license year. Participants will be required to provide proof of completed hunter education before obtaining their registration, but will not be required to obtain a hunting license (and thus are referred to throughout the regulatory text as “unlicensed hunter.” In the event a registration is lost or stolen, reprint options for the registration will be available at any authorized license retailer or CDFW’s online sales portal at no additional charge. An unlicensed hunter participating in free hunting days is allowed to take resident and migratory game birds, resident small game mammals, fur-bearing

mammals, and nongame mammals. The unlicensed hunter is exempt from the need to possess an upland game bird validation or state duck validation and can claim their Harvest Information Program (HIP) validation to accompany their free registration. Unlicensed hunters, who are 12 years of age or older, may purchase one wild pig tag or validation.

Necessity

700.1 (a) Definitions.

Subsection (a) includes definitions relative to this section including (a)(1) “Free Hunting Day Registration,” (a)(2) “Authorized Unlicensed Hunter” and (a)(3) “Licensed Supervising Hunter.” These definitions are necessary to clarify terms utilized elsewhere in the FGC, and are further discussed throughout the subsections of this regulation.

Subsection (a)(1) “Free Hunting Day Registration” defines the no-fee registration as a license which is available only to authorized unlicensed hunters for use on the two designated free hunting days of the license year for which the registration is issued by the Department. This definition is necessary to identify how participants may be eligible to receive a registration, the no-fee (zero cost) aspect, and the validity of the registration.

Subsection (a)(2) “Authorized Unlicensed Hunter” defines the participant who holds a valid free hunting registration. This definition is necessary to identify free hunting day participants throughout this section.

Subsection (a)(3) “Licensed Supervising Hunter” defines individuals who must accompany an authorized unlicensed hunter on the designated free hunting days. This definition is necessary to identify the age and license requirements of the licensed supervising hunters as they will act as mentors to authorized unlicensed hunters on the free hunting days.

700.1 (b), (c), (d), (e), (f), (g), (h), (i), and (j).

Subsection (b) includes information on eligibility of participation for an authorized unlicensed hunter. This information is necessary to limit participants eligibility to only one license year, pursuant to FGC 3040.

Subsection (c) includes required information needed to obtain a free hunting day registration, including the requirements of California residency and proof of hunter education. This information is necessary to outline for participants to have the necessary documents available and ready to provide at the time of acquiring their free hunting day registration.

Subsection (d) mentions possession requirements and exceptions of licenses, tags, validations, report cards, federal entitlements and entry permits required to hunt the various species available during the authorized free hunting days, and states such documents must be carried in the hunter's possession. These requirements are necessary to identify for the authorized unlicensed hunter to understand expectations and various entitlements required for hunting various species in California.

Subsection (e) identifies the species an authorized unlicensed hunter is eligible to take on the designated free hunting days. These species are identified as upland and migratory game birds as defined in sections 300 and 502 of Title 14, resident small game as defined in Section 257 of Title 14, furbearing mammals as defined in FGC Section 4000, nongame mammals as defined in Section 472 of Title 14 and wild pigs as defined in Fish and Game Code Section 4650. These identifications are necessary to help authorized an unlicensed hunter understand that they are restricted to these specific species of take based on the legislative ruling and the designated dates of the two free hunting days.

Subsection (f) mentions that requirements, limitations, restrictions, conditions, statutes, rules and regulations are applicable to the holder of a valid hunting license, except as described in FGC Section 3040, subdivision (g). This subsection is necessary to explain that the requirements applying towards the holder of a valid hunting license also applies to an authorized unlicensed hunter, with the noted exceptions.

Subsection (g) prevents an authorized unlicensed hunters from applying for any drawing for any tag, reservation, or other hunting opportunity in which an annual hunting license is required to apply. This provision is necessary to maintain consistency with current short-term licensing and to ensure eligible applicants for draws are licensed to hunt on the tag or permit dates for which they are applying.

Subsection (h) requires an authorized unlicensed hunter to be accompanied by a licensed supervising hunter and outlines the requirements of the accompanying supervising hunter.

Paragraph (h)(1) requires the supervising hunter to accompany no more than one authorized unlicensed hunter at a time.

Paragraph (h)(2) requires the supervising hunter and authorized unlicensed hunter to remain in close visual and verbal contact with each other at all times so the supervising hunter may provide adequate direction and assume control of a firearm or other legal method of take being used, as specified in FGC 3040, respectively. These requirements are necessary to accompany the definition of a "licensed supervising hunter" as authorized unlicensed hunters are not permitted to participate in free hunting days without being accompanied by a licensed

supervising hunter. It is also necessary to outline these requirements as the licensed supervising hunter will also act as a mentor throughout the duration of the hunt for the authorized unlicensed hunter. Lastly, the licensed supervising hunter must be able to assume control of the firearm or other legal method of take used by the authorized unlicensed hunter, to ensure safety and compliance with laws and regulations at all times.

Subsection (i) outlines the director will designate the two free hunting dates and they will be published annually in department hunting regulation publications. This designation is necessary for free hunting day participants to know where to look for the exact dates of the free hunting days annually through Department hunting regulation publications.

Subsection (j) lists the proposed regulation effective date, which is necessary to include for consistency with subdivision (a) of FGC Section 3040.

Technical, Theoretical, and/or Empirical Studies, Reports, or Documents Relied Upon

[California Department of Fish and Wildlife \(Department\) Recruit, Retain, Reactivate \(R3\) Action Plan \(January 2019\).](#)

The Proposed Regulation Does Not Differ or Conflict with Federal Law

The proposed regulation does not differ substantially or conflict with an existing comparable federal regulation or statute.

The Proposed Regulation is Not Inconsistent or Incompatible with Existing State Regulations

The Legislature may delegate to Department such powers relating to the protection and propagation of fish and game as the Legislature sees fit. Department staff has searched the California Code of Regulations and has found no other state regulations that direct the use of free hunting days. The Department has reviewed its own regulations and finds that the proposed regulations are consistent with hunting regulations in Title 14, CCR, and therefore finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

Benefits of the Proposed Regulation

The proposed emergency regulation will aid the Department in quickly implementing the two free hunting days by July 1, 2023. With the changes in these regulations and allowance of the free hunting days, the Department can further R3 efforts by increasing public access and providing hunters mentorship opportunities.

II. AUTHORITY AND REFERENCE

Authority cited: Section 3040, Fish and Game Code. Reference: Section 3040, Fish and Game Code.

III. OTHER MATTERS PRESCRIBED BY STATUTE

(Gov. Code, § 11346.5, subd. (a)(4))

The Department's operations are primarily prescribed by the hundreds of provisions set forth in the California Fish and Game Code and Title 14, California Code of Regulations. Other bodies of law that govern the Department include, but are not limited to, the Government and Penal Codes.

IV. LOCAL MANDATE DETERMINATION

(Gov. Code, § 11346.5, subd. (a)(5))

The Department has determined that adoption of California Code of Regulations, Title 14, Section 700.1 does not impose a new mandate on local agencies or school districts.

V. ESTIMATE OF COST OR SAVINGS

(Gov. Code, § 11346.5, subd. (a)(6))

This emergency rulemaking will not result in any costs or savings to local agencies or school districts and does not affect federal funding to the state. Costs to the state, specifically the Department, are estimated to be \$2,400 in one-time ALDS programming costs. There is a potential for increases in Department revenue in subsequent years if new hunters are retained and purchase annual hunting licenses.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

(Gov. Code, § 11346.5, subd. (a)(3))

California Governor Gavin Newsom signed into law AB 804 (Dahle, Chapter 413, Statutes of 2021), also known as the "Free Hunting Days" legislation on September 30, 2021. The Department is proposing to add Section 700.1 to the Title 14, California Code of Regulations as the bill requires the Director of the California Department of Fish and Wildlife (Department) to designate and implement two free hunting days per year by July 1, 2023. During a free hunting day, a California resident may hunt if accompanied by a licensed hunter who has been issued a valid hunting license. An unlicensed hunter may participate in free hunting days for only one license year and must have completed all requirements to participate. AB 804 makes the registration for free hunting days available to participants at no cost on the established days. Registration will be available through the Automated License Data System (ALDS), at any Department

authorized license retailer, or the Department's online sales portal to first-time participants.

The proposed regulation would add Section 700.1 to Title 14, California Code of Regulations (CCR) to establish two free hunting days each year. Upon the effective date of these regulations, there will be two free hunting days each year. The following is a summary of the new regulations proposed in Section 700.1:

- Define "Free Hunting Day Registration," "Authorized Unlicensed Hunter," and "Licensed Supervising Hunter;"
- Specify eligibility and validity of a free hunting day registration;
- Specify department requirements for issuing a free hunting day registration to authorized unlicensed hunters and identify the requirement of having completed a hunter education course;
- Specify tag, validation, report card, federal entitlement, and entry permit requirements;
- Specify allowable species of take for free hunting days;
- Specify requirements, limitations, restrictions, conditions, statutes, rules and regulations all authorized unlicensed hunters must follow and those they are exempt from by possessing a free hunting day registration;
- Identify requirements for an authorized unlicensed hunter using a free hunting day registration to take wild pigs;
- Specify prohibition of authorized unlicensed hunters from participating in drawings for any tag, reservation or other hunting opportunity where an annual hunting license is required;
- Specify requirements of a licensed supervising hunter; and
- Specify that the director will determine annual dates for Free Hunting Days and dates will be published annually in department hunting regulation publications.

Benefits of the Proposed Regulation

The proposed emergency regulation will aid the Department in quickly implementing the two free hunting days by July 1, 2023. With the changes in these regulations and allowance of the free hunting days, the Department can further R3 efforts by increasing public access and providing hunters mentorship opportunities.

Consistency and Compatibility with Existing Regulations

The Legislature may delegate to Department such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated authority to the Department to adopt regulations establishing two free hunting days per year (Section 3040 of the FGC). Department staff have searched the California Code of Regulations and has found no other state regulations that free hunting days. The Department has reviewed its own regulations and finds that the proposed regulations are consistent with hunting regulations in Title 14, CCR, and therefore finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.