

**TITLE 14. DEPARTMENT OF FISH AND WILDLIFE
NOTICE OF PROPOSED EMERGENCY ACTION**

November 22, 2022

NOTICE IS HEREBY GIVEN that the Department of Fish and Wildlife (Department) proposes to adopt the addition of Section 700.1 to Title 14, California Code of Regulations (CCR), implementing Assembly Bill (AB) 804. Section 3040 of the Fish and Game Code (FGC) requires the Department to adopt regulations designating two free hunting days per year.

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.

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.

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.

The proposed free hunting day regulations implement the program as required under

FGC Section 3040(a). Section 700.1, as listed by subsection, consists of the following:

- (a) definitions;
- (b) single license year;
- (c) requirements;
- (d) documents in possession;
- (e) species;
- (f) exceptions;
- (g) wild pigs;
- (h) limitations;
- (i) licensed supervising hunter; and
- (j) designation of dates.

After consideration of all public comments, objections, and recommendations regarding the proposed action, the Department may adopt the proposed regulations.

WRITTEN COMMENT PERIOD

Any interested person may present statements, arguments, or contentions, in writing, submitted via U.S. mail or e-mail, relevant to the proposed emergency regulatory action. Written comments submitted via U.S. mail or e-mail must be received at OAL within five days after the Department submits the emergency regulations to OAL for review.

Please reference submitted comments as regarding “Emergency Regulations: Free Hunting Days,” addressed to:

Reference Attorney
Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814
E-mail: staff@oal.ca.gov

and

California Department of Fish and Wildlife, Office of Communications, Education, and Outreach
Attn: Taylor Williams, R3 Program Manager
PO Box 944209, Sacramento, CA 94244-2090
Email: taylor.williams@wildlife.ca.gov

The Department anticipates it will submit the rulemaking to OAL between November 29 and December 5, 2022. For the status of the Department’s submittal to OAL for review, and the end of the five-day written submittal period, please consult OAL's website at <http://www.oal.ca.gov> under the heading “Emergency Regulations.”

AUTHORITY AND REFERENCE:

Authority: Section 3040, Fish and Game Code.

Reference: Section 3040, Fish and Game Code.

Informative Digest/Policy Statement Overview

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;
- 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 has delegated authority to the Department to adopt regulations establishing two free hunting days per year (Section 3040 of the FGC). The Department has reviewed existing regulations in Title 14, CCR and finds that the proposed regulations are neither inconsistent nor incompatible with existing State regulation. Department staff have searched the CCR and has found no other State regulations that implement free hunting days.

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ESTIMATE OF COST OR SAVINGS

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 DFW, are estimated to be \$15,000 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.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action should be directed to:

California Department of Fish and Wildlife, Office of Communications, Education,
and Outreach
Attn: Taylor Williams, R3 Program Manager
PO Box 944209
Sacramento, CA 94244-2090
Phone: (916) 203-1362
Email: taylor.williams@wildlife.ca.gov

The backup contact person is:

California Department of Fish and Wildlife, Regulations Unit
Attn: Chelle Temple-King, Senior Environmental Scientist
PO Box 944209
Sacramento, CA 94244-2090
Phone: (916) 902-9223

Email: Chelle.temple-king@wildlife.ca.gov

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Taylor Williams (see above for contact information).

AVAILABILITY OF THE INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Department will have the entire rulemaking file available online for inspection or upon request by contacting the Department at R3StatewidePrograms@wildlife.ca.gov. As of the date this notice is published, the rulemaking file consists of:

1. STD Form 400: Notice of Proposed Emergency Action
2. Emergency Statement
3. Proposed Text of the Regulation: Addition of Section 700.1, Title 14, CCR
4. Economic Impact Assessment (Form STD 399) and addendum

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The rulemaking file is available online at:
<https://www.wildlife.ca.gov/Notices/Regulations>

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received by the Department, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Taylor Williams (see above for further contact information). The Department would accept written comments on the modified regulations for 15 days after the date on which they are made available.