

State of California
Fish and Game Commission
Initial Statement of Reasons for Regulatory Action

Amend Sections 360 and 708.5
Title 14, California Code of Regulations
Re: Chronic Wasting Disease: Mandatory Testing and Late Season D7 Buck Hunt

I. Date of Initial Statement of Reasons:

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing:

Date: December 12, 2024

Location: San Diego, CA

(b) Discussion Hearing:

Date: February 12, 2025

Location: Sacramento, CA

(c) Adoption Hearing:

Date: April 16, 2025

Location: Sacramento, CA

III. Description of Regulatory Action

(a) Statement of Specific Purpose of Regulatory Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations (CCR).

The Fish and Game Commission (Commission) periodically considers the recommendations of the Department of Fish and Wildlife (Department) in amending deer hunting regulations. Considerations include recommendations for adjusting tag quotas, setting hunt periods, modifying area boundaries, authorizing methods of take, among others, to help achieve management goals and objectives for deer management. Section 360 provides descriptions of hunt area boundaries, season opening and closing dates, methods of take (e.g., general methods, archery only, apprentice), tag designations (bull, spike bull, antlerless, either-sex), tag quotas (total number of hunting tags to be made available), bag and possession limits, and special conditions. To maintain appropriate harvest levels and hunting quality, tags must be adjusted periodically in response to dynamic environmental, biological, and social conditions.

One such environmental condition is the confirmation of chronic wasting disease (CWD), for the first time, in two California mule deer populations in May 2024. Given these detections, the Department enacted emergency regulations in June 2024 to define Chronic Wasting Disease Management Zones (CMZs) and to require that deer hunters in affected hunt zones submit appropriate samples from their harvest for CWD testing.

The proposed changes focus on defining the outbreak and mitigation of CWD transmission in identified CMZs through mandatory testing and increased late-season hunter opportunity for buck hunting. The regulations governing cervid importation and movement, as well as mandatory testing in CMZs, were last modified in July 2024 (2024-0201-01S, 2024-0529-

02SR, 2024-0712-02E). Additional hunts in subsection 360(c) have not been added in at least 20 years, but subsection 360(c) was last amended in 2020 (2020-0518-01S) to adjust the season for the additional hunt J-10 (Fort Hunter Liggett Apprentice Either Sex-Deer Hunt).

The proposed amendments here represent the cumulation of the Department's internal discussion, application of [California's Chronic Wasting Disease Management Plan](#), and input from [Petition 2021-017](#). The proposed changes are necessary to address the recent detection of Chronic Wasting Disease in California, as well as to respond to hunter requests for late season hunts.

Background

Chronic Wasting Disease

Chronic wasting disease is caused by a misfolded, infectious protein called a prion. These prions concentrate in the central nervous system of an infected animal, but can be found in most tissues, secretions, and excretions including muscles (meat), lymphatics, blood, glandular fluids, saliva, feces, and urine, respectively. The disease is always fatal, there is no vaccine or treatment, and all cervid species native to North America – deer, elk, moose, and caribou – are susceptible. Despite efforts to manage and contain the disease, it has continued to spread due to prion ecology, limited management options, and anthropogenic movement of infectious animals or materials. Prions are extremely stable in the environment, remain infective for years to decades, and shed by infected animals long before they show any signs of disease. This can lead to seeding of the environment with infectious prions, an important factor in the spread and maintenance of CWD, before any diseased animals are seen on the landscape. Once established in an area, eradication of CWD has proven to be infeasible, if not impossible.

The detection of CWD in California will require changes of the Department's deer and elk management strategies. As CWD prevalence increases in a population, population growth rates (λ) can decrease and lead to population declines. Human dimensions research suggests that hunter participation may decrease in areas where CWD has been detected, particularly as CWD prevalence increases in a population. Decreasing hunter participation and tag sales, coupled with increasing costs to manage this disease could compound and significantly affect the Department's ability to manage CWD, deer, elk, and other species in California.

While CWD has never been linked to any human diseases, significant public health concerns remain due to many unknowns when it comes to prion diseases. For instance, increasingly sophisticated diagnostic and molecular assays have shown that there are multiple strains of CWD and that CWD prions can differentiate when passed through multiple hosts, creating new strains with altered host susceptibilities and disease characteristics. Indeed, the predominant CWD prion strain in Norway is different than the predominant strain in North America, with different characteristics. Additionally, CWD is in the same class of diseases as bovine spongiform encephalopathy (aka BSE or Mad Cow Disease), a prion disease of cows that was linked to variant Creutzfeldt-Jakob disease (vCJD), a neurodegenerative disease in people, through the consumption of BSE-tainted meat. Public health officials are recommending individuals and agencies do whatever possible to keep the agents of all known prion diseases from entering the human food chain.

The Department has been monitoring California deer and elk populations for CWD since 2000, testing over 6,500 deer and elk, and has been working to increase surveillance efforts with the voluntary help of hunters, taxidermists, and meat processors since 2018. Tests are done on postmortem samples and the majority of those come from hunter-harvested deer and elk, though we are only sampling and testing a small proportion of the deer and elk harvested in California. The first response action, following communication of the detections, is to enhance surveillance in the areas of the detections to determine the prevalence of CWD in the affected populations and the geographic extent of the infections. Hunter-harvested deer from the affected hunt zones is by far the most scalable and accessible source of samples for CWD testing. The Department will also increase its response to and sampling of other mortality sources or take. Enhanced surveillance in the affected populations is the necessary first step to providing better information to hunters, partners, and decision makers following these first detections of CWD in California. Knowing the prevalence and geographic extent will allow the Department to make informed decisions on CWD and deer management where CWD is detected.

Late Season (D7) Buck Hunt

Now that CWD has been detected in California, additional measures are essential to manage and mitigate its spread. The Department proposes a late-season buck hunt as a strategic tool to increase sampling of high-risk individuals, particularly mature bucks. This demographic is more likely to be CWD-positive and engage in high levels of social interaction during the rut, increasing transmission and disease spread risk. By targeting this segment of the population, we can better detect CWD cases and increase the likelihood of removing infected animals.

The hunt will enhance biological sampling efforts and target animals most likely to be CWD-positive, i.e. adult bucks. Collecting samples (e.g., retropharyngeal lymph nodes) from harvested animals is critical to:

- 1) meet the state's surveillance objectives,
- 2) better define an outbreak once CWD has been detected to inform management decisions, and
- 3) monitor that outbreak to assess management actions,

as outlined in [California's Chronic Wasting Disease Management Plan \(Munk et al. 2024\)](#).

Targeting mature bucks later in the hunt season and closer to peak breeding season increases the likelihood of removing infected individuals, decreasing transmission and decreasing disease prevalence within the population ([Conner et al. 2021](#)).

Finally, this hunt is being proposed in response to [Petition 2021-017](#) and public requests for additional hunting opportunities, as voiced during Commission meetings. These requests included calls for expanded hunts, and this proposed regulatory change will act as a pilot to evaluate both hunter interest and harvest success. Additionally, it provides the Department with a practical opportunity to refine its approach to establishing new hunts through the formal regulatory framework.

Existing Authorities

Current statutory authorities focus mostly on regulating the take, possession, or movement of animals and their parts and include:

F&G CODE Section 200 provides the Commission with the power to regulate the take or possession of birds, mammals, fish, amphibians, and reptiles.

F&G CODE Section 2118 provides that animals of the order Artiodactyla are considered wild animals. Animals of the family Cervidae are of the order Artiodactyla.

F&G CODE sections 2120 and 2122 authorize the Commission, in cooperation with CDFA, to adopt regulations regarding the entry, importation, possession, transportation, keeping, or confinement of wild animals that are “not normally domesticated in this state as determined by the Commission.”

F&G CODE Section 3950 provides a definition for game mammals: deer, elk, prong-horned antelope, black and brown or cinnamon bears, mountain lions, jackrabbits, and varying hares, brush rabbits and pygmy rabbits, and tree squirrels. Nelson bighorn sheep are game mammals only for the purposes of sport hunting as described in F&G CODE section 4902.

F&G CODE sections 4301-4371 provide guidelines for deer management, including taking of deer, possession and importation, hunting license tags, and archery hunting.

Current Regulations

Current Title 14, CCR regulations governing deer hunting and management and mitigation of disease transmission are as follows:

Section 264 provides conditions for the use of lights while hunting.

Section 265 prohibits the use of dogs for the take of deer during archery seasons and provides criteria and limitations for the use of dogs for the take of deer during general methods seasons.

Sections 350 and 351 provide definitions for big game and forked-horn buck, antlerless, and either-sex deer.

Section 352 provides hunting and shooting hours on big game.

Section 353 provides methods that are authorized for taking big game.

Section 354 provides definitions and regulations for methods of taking big game.

Sections 360 and 361 provide regulations for general methods and archery deer hunting.

Sections 450-460 provide general regulations for the management of deer, including conservation, hunting seasons, deer herd management units, management plans, and annual deadlines for Department recommendations (December 15) regarding deer hunting.

Section 681 provides regulations for the importation of live cervids.

Section 712 explicitly includes all members of the family Cervidae and defines “skull plate.”

Section 714 makes it unlawful to import or possess any material that contains or is labeled or advertised as containing any biological fluid derived from a cervid.

Emergency Regulations Adopted

The Commission adopted emergency regulations on June 19, 2024, which became effective on July 22, 2024, and will expire on January 22, 2025. The [emergency regulations](#) enacted the following changes:

Section 708.5; Deer Tagging, Reporting, and Testing Requirements.

Added subsection 708.5(e): Added a new subsection defining CWD Management Zones (CMZ) for purposes of implementing mandatory deer sampling in deer hunt zones where CWD has been detected in deer or is expected based on recent CWD detections in deer. (Figure 1).

Added subsection 708.5 (f): Added a new subsection requiring hunters who take a deer within a CMZ to provide the Department with samples for CWD testing. This subsection also prescribes the permissible methods for hunters to provide the Department with samples.

Added subsection 708.5 (g): Added a new subsection establishing the minimum amount of information that hunters subject to subsection (f) must provide the Department to accompany CWD samples.

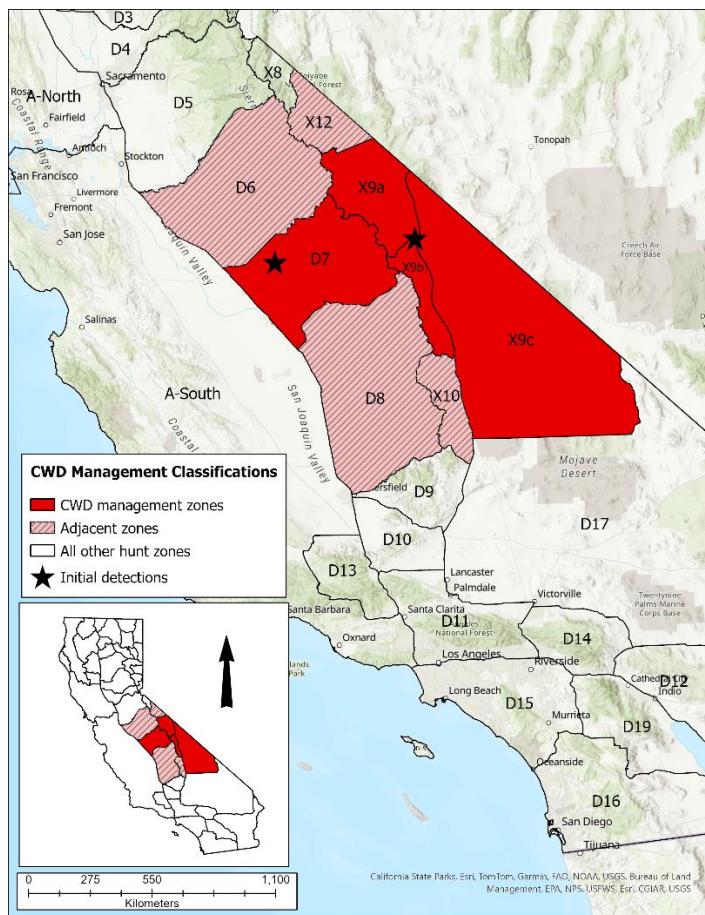


Figure 1. CWD Management Classifications

These emergency regulations will be allowed to expire on January 22, 2025, as the final deer season closure occurs at the end of November 2024. The following proposed regulations will provide a framework for mandatory testing for CWD (as in the previous emergency regulations), with amended language to enumerate the criteria for a hunt zone to be a CMZ.

Proposed regulations

Proposed regulations comply with the Department's Deer Management Plan and California's Chronic Wasting Disease Management Plan.

Section 360 Deer

No changes to subsections (a) through (b).

Add subsection (c)(16) G-40 to establish a late season buck hunt in a portion of D-7.

Renumber subsections (16) through (44).

Establishing a late season buck hunt in deer hunt zone D-7, where CWD was recently detected, will serve as a strategic tool to increase sampling of mature bucks, the demographic most likely to be CWD-positive. These animals engage in high levels of social interaction during the breeding season, increasing transmission risk. By targeting this segment of the population, we can better detect CWD cases, aiding early detection and response efforts. This action aligns with objectives identified in California's Chronic Wasting Disease Management Plan (Munk et al. 2024) and public requests for expanded hunting opportunity submitted in Petition 2021-017 and at Commission meetings.

Section 708.5 Deer Tagging, Reporting, and Testing Requirements

No changes to subsections (a) through (d).

The proposed changes add subsections 708.5(e)-(h), as did the emergency regulations (2024-0712-02E) promulgated following the first CWD detections in California.

Add subsection (e) to define Chronic Wasting Disease (CWD) Management Zones (CMZs).

Based on the history and current understanding of CWD, it is likely, if not certain, that CWD will be detected in areas outside of the four hunt zones identified in the emergency regulations (D7, X9a, X9b, and X9c). In this proposal, what defines a CMZ is reframed to allow for new CMZs if CWD is detected outside of the currently affected zones to prevent delays in management actions. Adding a definition of a CMZ is necessary to adaptively manage the CWD outbreak in California over time, as target zones for mandatory testing will be variable based on current detections. Adaptive management is a cornerstone of the definition of "credible science" as defined in F&G CODE Section 33.

The defining criteria for inclusion as a CMZ are:

- (1) any deer hunt zones, excluding Zone A, in which a CWD-positive animal has been taken,

- (2) any deer hunt zones, excluding Zone A, within five miles of the location from where a CWD-positive animal was taken, and
- (3) any county within Zone A where a CWD-positive animal was taken, or is within five miles of where a CWD-positive animal was taken. The specified distance of five miles is necessary to create a biologically reasonable boundary for detections that fall on or near county or hunt zone boundaries. Zone A is too large and must be broken up into counties to create manageable CMZ boundaries.

Add subsection (f) define a “Testing CMZ” designated by the Department’s Director. This subsection allows for the Director to designate any CMZ for the mandatory testing requirement listed in subsection 708.5(g). As a CMZ is defined by 708.5(e)(1) through (3), rather than having the default of every CMZ requiring the submission of samples, it is of benefit to both the Department and to hunters to initiate or stop the mandatory submission of samples prior to the start of all hunt seasons (July 1 annually). Following identification of (a) hunt zone(s) as a CMZ (or a county in the case of Zone A), the Department can then determine if mandatory sampling is warranted based on the factors listed in proposed subsection (f). In situations where the Department has collected enough disease surveillance information to define a CWD outbreak and additional mandatory testing would not contribute any novel information to inform decision making, it would be beneficial for the Director to un-designate a Testing CMZ, which would result in a reduced burden on the hunter to cease submitting samples and a reduced cost on the Department for funding and staff time associated with receiving, processing, and analyzing samples. Other situations could include whether new sampling data is needed from a particular CMZ, and support management actions, such as direct sampling and targeted removal of CWD-positive animals, or adjustment to hunt zones for harvest, towards the overall protection of natural resources.

Add subsection (g) to establish a mandatory sampling requirement.

Mandatory testing is needed to enhance CWD surveillance within CMZs to determine prevalence and the geographic extent in affected areas, to clearly define the initial outbreak, and is one of the main objectives when responding to initial CWD detections as outlined in California’s Chronic Wasting Disease Management Plan (Munk et al. 2024). Knowing the prevalence and geographic distribution of a CWD outbreak informs decision makers and directs management actions. Tests are done on postmortem samples and the majority of those come from hunter-harvested deer and elk. Hunter-harvested deer from the affected hunt zones is by far the most scalable and accessible source of samples for CWD testing. The Department will also increase its response to and sampling of other mortality sources or take. Enhanced surveillance in the affected populations is the necessary first step to providing better information to hunters, partners, and decision makers following these first, and any future detections, of CWD in California. Knowing the prevalence and geographic extent will allow the Department to make informed decisions on CWD and deer management where CWD is detected.

Add subsection (h) to describe the minimum information that hunters must provide with their sample.

This is necessary so that the Department obtains essential information for monitoring

the spread of CWD, such as the geographic location of the take, and to ensure the Department can contact hunters if CWD is detected in their harvest.

Add subsection (i) to indicate how and where the Department will provide current information on CWD detections in California, and current Testing CMZs as designated by the Director.

This is necessary to ensure hunters have a place to find appropriate and up-to-date information on CWD, and the status of their hunt zone to comply with mandatory testing.

(b) Goals and Benefits of the Regulation

The proposed regulations will contribute to the surveillance of deer populations in California CMZs. The proposed regulations will provide additional deer hunting opportunities.

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

Section 360:

Authority: Sections 200, 203, 265, 460, 3051, 3452, 3453, 3953 and 4334, Fish and Game Code. Reference: Sections 200, 203, 203.1, 255, 265, 458, 459, 460, 3051, 3452, 3453, 3953 and 4334, Fish and Game Code.

Section 708.5:

Authority: 200, 203, 265, and 1050

Reference: 1050, 2118, 3950, 4302, and 4336, Fish and Game Code

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

(e) Identification of Reports or Documents Supporting Regulation Change

- Association of Fish and Wildlife Agency (AFWA) Best Management Practices for Prevention, Surveillance, and Management of Chronic Wasting Disease Summary - [AFWA CWD BMPS 12 September 2018 FINAL.pdf \(fishwildlife.org\)](#)
- New York State Dept. of Environmental Conservation, Management Plan for White-Tailed Deer in New York State, 2021-2030, Appendix 3: Recommendation to Prohibit Cervid Biofluids in New York. - [Management Plan for White-tailed Deer in New York State 2021-2030 \(ny.gov\)](#)
- Escobar, L. E., S. Pritzkow, S. N. Winter, D. A. Grear, M. S. Kirchgessner, E. Domingues-Villegas, G. Machado, A. Townsend Peterson, C. Soto. 2019. The ecology of chronic wasting disease in wildlife. *Biological Reviews* 95(2):393-408. <https://doi.org/10.1111/brv.12568>
- Zabel, M. and A. Ortega. 2017. The ecology of prions. *Microbiology and Molecular Biology Reviews* 81:e00001-17. <https://doi.org/10.1128/MMBR.00001-17>
- Chiavacci, S. 2022. The economic costs of chronic wasting disease in the United States. *PLoS ONE* 17(12):e0278366. <https://doi.org/10.1371/journal.pone.0278366>
- Chronic Wasting Disease (CWD) | Prion Diseases | CDC. <https://www.cdc.gov/prions/cwd/index.html>
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J. P. Runge, T. D. Nordeen, M. J. Pybus, and M. W. Miller. 2021. The Relationship Between Harvest Management and Chronic Wasting Disease Prevalence Trends in Western Mule Deer. *Journal of Wildlife Diseases* 57:831–843.

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- Chiavacci, S. J. 2022. The economic costs of chronic wasting disease in the United States. *PLoS One* 17: e0278366. <https://doi.org/10.1371/journal.pone.0278366>
- Numerous other states’ CWD management plans accessible online through each state agency’s website, including but not limited to, New York, Montana, Idaho, and Washington.

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

- Wildlife Resources Committee, May 2024
- Wildlife Resources Committee, September 2024

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

No alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

(b) No Change Alternative

Without the proposed changes, the mandatory testing in CWD Management Zones, currently deer hunt zones D7, X9a, X9b, and X9c, would expire and the number of deer sampled and tested for CWD in affected areas would decrease significantly. A single year of robust disease surveillance data is insufficient to manage this disease effectively. Additionally, continued surveillance for this disease will be required to keep hunters informed, to adaptively manage,

and to inform species management. Without the late season D7 hunt, we would decrease our ability to selectively remove deer more likely to be CWD-positive. Removing infected deer has the benefit of decreasing transmission, decreasing environmental contamination, decreasing prevalence, and mitigating the spread of the disease.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no negative 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. This proposal is economically neutral to businesses.

(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 no impact on the creation or elimination of jobs within the state, no impact on the creation of new business, the elimination of existing businesses, or the expansion of businesses in California as minor variations in hunting regulations are, by themselves, unlikely to provide a substantial economic stimulus to the state. The Commission does not anticipate direct benefits to the general health and welfare of California residents or to worker safety but anticipates benefits to the environment through the preservation of the deer population.

(c) Cost Impacts on a Representative Private Person or Business

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with this proposed action. However, in complying with the reporting requirements for CWD in the CMZs hunters may incur a cost related to the transportation of a deer carcass, head, or lymph nodes to a testing facility. While the Department has limited information and data regarding how far hunters drive to reach a sampling station, meat processor, or taxidermist, the estimated range that a hunter is likely to drive to and from the facility is expected to be between 5-100 miles with an average expected driving distance of 52.5 miles. Applying the average California gas price of \$4.678 per gallon to the average expected driving distance of 52.5 miles, with the expectation that most hunters drive a truck or SUV with an average gas mileage of 18 miles per gallon in order to haul their gear and carcass(es), gives an estimated individual cost of \$13.64 in transportation costs for delivering a sample to a testing facility, meat processor, or taxidermist.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State

No new costs/savings or changes to federal funding are anticipated for state agencies.

The Commission anticipates that the proposed regulatory action will require additional expenditures of approximately \$475,900 to maintain the proposed mandatory testing of deer carcasses for CWD. The proposed action will require additional expenditures for a position to implement the proposed CWD testing program in the Wildlife Health Lab; however, this position is fully funded under a United States Fish and Wildlife Service grant for the 2025-26 hunting season and imposes no additional costs to the Department (see tables 1 and 2 in the STD. 399 and Addendum). These costs are expected to be absorbed within the Department's existing budget and performed by staff currently operating in the capacities described in Table 1 of the STD 399 Addendum. However, the Department is projected to experience higher deer tag sales that may result in revenue increases (see STD. 399 and Addendum). No other state agencies are anticipated to be affected by the proposed emergency regulatory action.

(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

VII. Economic Impact Assessment

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State

This regulatory action is not anticipated to induce the creation or elimination of jobs within the state.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State

The Commission does not anticipate impacts on the creation of new businesses, the elimination of existing businesses within the state because the expected economic impacts of the proposed regulations are unlikely to be substantial enough to stimulate demand for goods or services related to deer hunting.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State

The Commission does not anticipate impacts on the expansion of businesses currently doing business within the state because the expected economic impacts of the proposed regulations are unlikely to be substantial enough to stimulate demand for goods or services related to deer hunting.

(d) Benefits of the Regulation to the Health and Welfare of California Residents

Hunting is an outdoor activity that can provide several health and welfare benefits to California residents. Hunters and their families benefit from fresh game to eat, and from the benefits of outdoor recreation, including exercise. People who hunt have a special connection with the outdoors and an awareness of the relationships between wildlife, habitat, and humans, and can be a family tradition and a bonding activity. Further, given the potential implications for California's hunting and outdoor recreation economies, and for public consumption, tracking positive detections is necessary to keep known sources of infectious prions, e.g. CWD, out of the human food chain.

(e) Benefits of the Regulation to Worker Safety

The Commission does not anticipate impacts on worker safety.

(f) Benefits of the Regulation to the State's Environment

As set forth in Fish and Game Code section 1700, it is the policy of the state to encourage the conservation, maintenance, and utilization of fish and wildlife resources for the benefit of all the citizens of the state. The Commission anticipates benefits to the State's environment, in addition to those screening actions the Department is already taking, by taking this regulatory step to require testing of harvested animals from affected hunt zones. This regulatory action aims to help determine the prevalence and geographic extent of the outbreak for Department staff to provide updates to hunters. It is imperative to understand the prevalence and geographic distribution of this outbreak to better advise and implement effective management strategies. Finally, the adoption of scientifically based deer seasons and tag quotas provides for the maintenance of deer populations to ensure their continued existence and supporting recreational opportunity. The fees that hunters pay for licenses and tags help fund wildlife conservation.

(g) Other Benefits of the Regulation

The Commission does not anticipate other benefits from the proposed regulation.