

**Commissioners**  
**Eric Sklar**, President  
Saint Helena  
**Jacque Hostler-Carmesin**, Vice President  
McKinleyville  
**Anthony C. Williams**, Member  
Huntington Beach  
**Russell E. Burns**, Member  
Napa  
**Peter S. Silva**, Member  
Chula Vista

STATE OF CALIFORNIA  
Edmund G. Brown Jr., Governor

**Valerie Termini, Executive Director**  
1416 Ninth Street, Room 1320  
Sacramento, CA 95814  
(916) 653-4899  
[www.fgc.ca.gov](http://www.fgc.ca.gov)

## Fish and Game Commission



*Wildlife Heritage and Conservation*  
Since 1870

### **15 Day Notice of California Notice Register 2016, No. Z2016-0705-03** **Re: Upland Game Bird Special Hunt Drawing and Application**

September 30, 2016

TO ALL INTERESTED AND AFFECTED PARTIES:

This is to provide you with a 15-day continuation notice of the notice of proposed regulatory action to add Section 715 and amend Section 702, Title 14, California Code of Regulations, relating to Upland Game Bird Special Hunt Drawing and Application Fee, which was published in the California Regulatory Notice Register on July 15, 2016. The proposed changes to the originally noticed language are shown in double underline/strikeout underline and are sufficiently related to the originally proposed text.

The changes reflect a reduction in the proposed application fee for the drawing has therefore been reduced from \$5.00 to \$2.25. In response to public comments received at the August 25, 2016 Discussion hearing, the Department of Fish and Wildlife (Department) reevaluated the proposed application fee for the Upland Game Bird Special Hunt Drawing and determined that staff costs for Wildlife Branch personnel are appropriately covered by Upland Game Stamp funds and should not be apportioned to the drawing fee. The number of projected drawing applications was also reduced from 10,000 to 6,200 based on the number of current drawing applications.

The date of the public hearing related to this matter, and associated deadlines for receipt of oral or written comments at the meeting to be held on October 20, 2016 in Eureka has not changed from the original notice. Additional information and all associated documents may be found on the Fish and Game Commission website at [www.fgc.ca.gov](http://www.fgc.ca.gov).

Karen Fothergill, Department of Fish and Wildlife, phone 916-716-1461, has been designated to respond to questions on the substance of the proposed regulations.

Sincerely,

A handwritten signature in cursive script, appearing to read "Caren Woodson".

Caren Woodson  
Associate Governmental Program Analyst  
Attachment

**TITLE 14. Fish and Game Commission**  
**AMENDED Notice of Proposed Changes in Regulations**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 202, 203, 215, 220, 331, 332 and 1050 of the Fish and Game Code and to implement, interpret or make specific Sections 200, 202, 203, 203.1, 207, 215, 219, 220, 331, 332, 713, 1050, 1055, 1055.1, 1570, 1571, 1572, 1573, 3500, 3682.1, 3683, 3950, 3951, 4302, 4330, 4331, 4332, 4333, 4336, 4340, 4341, 4652, 4653, 4654, 4655, 4657, 4750, 4751, 4752, 4753, 4754, 4755, 4902, 10500 and 10502 of said Code, proposes to amend Section 702 and add Section 715, Title 14, California Code of Regulations, relating to Upland Game Bird Special Hunt Drawing and Application Fee.

**Informative Digest/Policy Statement Overview**

A new Section 715, Upland Game Bird Special Hunt Drawing, is proposed to establish the application and drawing procedures for wild upland game bird hunt reservations in the Automated License Data System (ALDS). ALDS is the central location for the public to apply for all Department licenses and hunting opportunities. The ALDS drawing process provides more accuracy and flexibility to the public and allows applicants to easily select their first, second and third choice wild bird hunts. A fee of **\$2.25** per application for the Upland Game Bird Special Hunt Drawing is proposed to be added in Section 702.

**Benefits of the regulations**

The Commission anticipates benefits to the health and welfare of California residents. ALDS provides a single location for the public to apply for all department hunts including big game and waterfowl hunting opportunities. Data collected and compiled through ALDS will be accessible in a consistent format for the Department's use. Adding the Upland Game Bird Special Hunt Drawing to ALDS will provide the same benefits of fairness and flexibility as well as important information necessary to properly manage upland game bird populations.

The Commission anticipates benefits to the State's environment in the sustainable management of natural resources. The proposed regulation could reduce the time required to apply for Upland Game special hunting opportunities and will improve the accuracy of the data collection. Adoption of regulations to increase sustainable hunting opportunity provides for the maintenance of sufficient populations of upland game birds to ensure their continued existence.

**Non-monetary benefits to the public**

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business

and government.

Consistency with State or Federal Regulations

The Fish and Game Commission, pursuant to Fish and Game Code Sections 200, 202 and 203, has the sole authority to regulate hunting in California. Commission staff has searched the California Code of Regulations and has found the proposed changes pertaining to reservation drawing selection for wild upland game bird hunting opportunities through ALDS to be consistent with the provisions of Title 14. Therefore the Commission has determined that the proposed amendments are neither inconsistent nor incompatible with existing state regulations.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Lake Natoma Inn Hotel & Conference Center, 702 Gold Lake Drive, in Folsom, California, on Wednesday August 25, 2016, at 8:00 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Red Lion Inn, 1929 4<sup>th</sup> Street, Eureka, California, on Wednesday, October 20, 2016, at 8:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before October 6, 2016, at the address given below, or by email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). **Written comments mailed, or emailed to the Commission office, must be received before 5:00 p.m. on October 14, 2016.** All comments must be received no later than **October 20, 2016**, at the hearing in Eureka, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Valerie Termini, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Valerie Termini or Caren Woodson at the preceding address or phone number. **Karen Fothergill, Department of Fish and Wildlife, phone (916) 716-1461 or email [Karen.Fothergill@wildlife.ca.gov](mailto:Karen.Fothergill@wildlife.ca.gov), has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, the regulatory language, the Notice, and other rulemaking documents, may be obtained from either the address above or on the Commission's website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

### **Impact of Regulatory Action/Results of the Economic Impact Assessment**

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 Business, 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 automates an existing hunt drawing process through the use of ALDS. This proposal is economically neutral to business.

- (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 benefits to the health and welfare of California residents. ALDS provides a single location for the public to apply for all department hunts including big game and waterfowl hunting opportunities. Data collected and compiled through ALDS will be accessible in a consistent format for the Department's use. Adding the Upland Game Bird Special Hunt Drawing to ALDS will provide the same benefits of fairness and flexibility as well as important information necessary to properly manage upland game bird populations.

The Commission anticipates benefits to the State's environment in the sustainable management of natural resources. The proposed regulation could reduce the time required to apply for Upland Game special hunting opportunities and will improve the accuracy of the data collection. Adoption of regulations to increase sustainable hunting opportunity provides for the maintenance of sufficient populations of upland game birds to ensure their continued existence. The Commission does not anticipate any impacts on the creation or elimination

of jobs, the creation of new business, the elimination of existing businesses, or the expansion of businesses in California. The Commission does not anticipate any benefits to worker safety.

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

The Department proposes a modest fee to recover reasonable costs of the drawing as required by statute. 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: None.

(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.

Effect on Small Business

It has been determined that the adoption of these regulations will not affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Valerie Termini  
Executive Director

Dated: September 30, 2016

**Commissioners**  
**Eric Sklar**, President  
Saint Helena  
**Jacque Hostler-Carmesin**, Vice President  
McKinleyville  
**Anthony C. Williams**, Member  
Huntington Beach  
**Russell E. Burns**, Member  
Napa  
**Peter S. Silva**, Member  
Chula Vista

STATE OF CALIFORNIA  
Edmund G. Brown Jr., Governor

**Valerie Termini, Executive Director**  
1416 Ninth Street, Room 1320  
Sacramento, CA 95814  
(916) 653-4899  
[www.fgc.ca.gov](http://www.fgc.ca.gov)

## Fish and Game Commission



*Wildlife Heritage and Conservation*  
Since 1870

September 30, 2016

### TO ALL INTERESTED AND AFFECTED PARTIES:

This is to provide you with a copy of the notice of proposed regulatory action to add Section 748.6, Title 14, California Code of Regulations, relating to standards for imposing penalty enhancements for illegal take of game with defined characteristics, which will be published in the California Regulatory Notice Register on September 30, 2016.

Please note the dates of the public hearings related to this matter and associated deadlines for receipt of written comments. Additional information and all associated documents may be found on the Fish and Game Commission website at [www.fgc.ca.gov](http://www.fgc.ca.gov).

Captain Patrick Foy, Law Enforcement Division, Department of Fish and Wildlife, phone 916-651-6692, has been designated to respond to questions on the substance of the proposed regulations.

Sincerely,

Caren Woodson  
Associate Governmental Program Analyst

Attachment

**TITLE 14. Fish and Game Commission  
Notice of Proposed Changes in Regulations**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by Section 12013.3 of the Fish and Game Code and to implement, interpret or make specific Section 12013.3 of said Code, proposes to add Section 748.6, Title 14, California Code of Regulations, relating to establishing standards for imposing penalty enhancements for illegal take of game with defined characteristics.

**Informative Digest/Policy Statement Overview**

The Fish and Game Commission (Commission) proposes to implement the provisions of Fish and Game Code Section 12013.3 by adopting definitions of “trophy” deer, elk, antelope, bighorn sheep, and wild turkey for the purpose of enhanced fines and penalties for poaching animals meeting specified criteria as required below.

“(b) The Commission shall adopt regulations to implement this section, including establishing a trophy designation and monetary value based on the size or related characteristics of deer, elk, antelope, bighorn sheep, and wild turkey.”

This rulemaking process proposes to add Section 748.6 to Title 14, California Code of Regulations, to establish standards that can be used by the courts when imposing criminal fines in cases where individuals are convicted of the violations set forth in Fish and Game Code section 12013.3.

**Summary of Proposed Additions**

The Commission is proposing the following regulatory changes:

**Add Subsection (a) of Section 748.6**

For purposes of implementing the penalty enhancements set forth in Fish and Game Code section 12013.3, the following subsections will be added to Title 14 and animals meeting the criteria specified will be designated as trophies:

*Add subsection (1) In deer hunting zones A, all B zones, D10, D11, D13, D15, and D16, any deer with four or more points on either antler (excluding eye guards) or with an outside antler spread of at least sixteen inches. In all other deer hunting zones (all X zones, all C zones, and zones D3, D4, D5, D6, D7, D8, D9, D12, D14, D 17, D19), any deer with four or more points on either antler (excluding eye guards) or with an outside antler spread of at least twenty-two inches.*

For purposes of establishing a trophy standard for deer, California’s deer hunting zones are divided into two groups each with a different standard that qualifies as a trophy.

Deer zones A, all B zones, D10, D11, D13, D15, D16: Deer having four or more points on at least one side not including eye guards or an outside spread of 16 inches or greater.

For all X zones and all C zones, and zones D3, D4, D5, D6, D7, D8, D9, D12, D14, D 17, D19 (there is no D18 zone): Deer having four or more points on at least one side not including eye guards or an outside spread of 22 inches or greater.

*Add subsection (2) Any elk with five or more points on either antler (including eye guards);*

The standard for seven of the eight western states that have standards for elk was either five or six antler points on at least one side. In California, public outreach to elk hunting and wildlife management groups consistently supported a standard of at least five points on one side. A standard of five points on one side is a preferred and widely regarded as a trophy quality elk in California.

*Add subsection (3) Any pronghorn antelope with a horn that is at least fourteen inches in length;*

The standard for seven of the eight western states that have standards for antelope was a 14-inch horn on at least one side. In California, public outreach to big game hunting and wildlife management groups consistently supported a standard of at least one horn greater than or equal to 14 inches on one side. A 14-inch standard on at least one side is preferred and widely regarded as a trophy quality antelope.

*Add subsection (4) Any bighorn sheep ram as defined as follows: a male bighorn sheep (Ovis canadensis) having at least one horn, the tip of which extends beyond a point in a straight line beginning at the front (anterior) edge of the horn base, and extending downward through the rear (posterior) edge of the visible portion of the eye and continuing downward through the horn. All reference points are based on viewing the ram directly from a 90 degree angle from which the head is facing.*

The standards for bighorn sheep horn size in six of the western states surveyed were between a one-half to three-quarter curl on at least one side. Measurement standards vary with how those curl sizes are measured, however. California hunters who are drawn via lottery to hunt bighorn sheep have been held to a very high standard since sheep hunting was authorized. The standard for measurement is inflexible, is reliable for hunters on a visual basis, and is within the range of the one-half to three-quarter size curl standard used in several other states.

The Commission proposes to use the standard similar to what is stated in Section 362(c), Title 14, CCR. Relying upon strict language in 362(c), Title 14, CCR, however, would inadvertently omit Sierra Nevada bighorn sheep, a protected endangered species that is not hunted in California, so the language is modified to apply to all bighorn sheep in California.

A mature bighorn sheep ram is defined as follows: a male bighorn sheep (*Ovis canadensis*) having at least one horn, the tip of which extends beyond a point in a straight line beginning at the front (anterior) edge of the horn base, and extending downward through the rear (posterior) edge of the visible portion of the eye and continuing downward through the horn. All reference points are based on viewing the ram directly from a 90 degree angle from which the head is facing.

*Add subsection (5) Any wild turkey with either a spur that is at least one inch in length, or a beard (measured by the longest strand of one or more beards) that is eight or more inches.*

No other state uses a measurement standard for wild turkey, so the Department proposed and solicited input from several representatives of various non-governmental hunting and wildlife conservation organizations.

The two most reliable reference points for measuring wild turkey used by hunters and biologists



are the beard and spur lengths. The wild turkey beard is most prevalent on the males, is similar in look to a long tuft of hair, hence the term “beard” but in actuality is a group of modified feathers. Between 10 and 20 percent of females also have beards, but they are not usually as long, and an even lower percentage of hens have spurs.

The average lifespan of wild turkey is three years and it takes the average male bird, called a Tom, this long to develop a beard to reach a length of eight or more inches, and for the spurs to reach a length of at least one inch. Most hunters consider a bird with either of these two physical characteristics of this size a “trophy” sized animal.

Add Subsection (b) of Section 748.6

For purposes of measuring the attributes listed in Subsection (a) Section 748.6, to designate a game mammal or wild turkey a trophy, the following subsections will be added to Title 14:

*Definitions.*

- (1) A point is a projection of the antler at least one inch long and longer than the width of its base.*
- (2) The outside antler spread is measured between perpendiculars at a right angle to the center line of the skull at the widest part, whether across the main beams or points.*
- (3) An eye guard is a projection on the lower one-third of the antler.*
- (4) The length of a pronghorn antelope horn is measured with a flexible measuring tape along the center of the outer curve from the tip of the horn to a point in line with the lowest edge base, using a straight edge to establish the line end.*
- (5) The length of a wild turkey's beard is the distance from the turkey's skin to the tip of the longest strand of one or more beards, and the length of a spur is measured along the outside curve of the spur.*

The definitions section clarifies how the size characteristics are technically defined. They rely upon commonly used measurement standards in the hunting and outdoors industry, as well as insure that the regulations are clear and legally enforceable.

Add Subsection (c) of Section 748.6

For purposes of assessing penalties as set forth in Fish and Game Code section 12013.3(a), the following subsection will be added to Title 14 to aide in determining the appropriate fine within the range:

*In determining the monetary value of any fine imposed pursuant to Fish and Game Code section 12013.3, courts should consider the totality of the circumstances, including but not limited to, the degree to which the standards set forth in subsection (a) are exceeded, and any prior violations of the defendant.*

This subsection will implement Fish and Game Code Section 12013.3 by encouraging courts to consider the degree by which the trophy standards are exceeded in determining the amount of criminal fines.

**Benefits of the Proposed Regulations**

The Commission anticipates benefits to the health and welfare of California residents. Participation in hunting opportunities and the general positive support from representatives of legitimate ethical hunting organizations fosters conservation through education and appreciation

of California's wildlife.

The Commission anticipates benefits to the environment by initiating a greater deterrence to poaching crimes and increased penalties associated with poaching offenders. It is the policy of the State to encourage the conservation, maintenance, and utilization of its living resources. The proposed regulations will further this core objective.

### **Consistency and Compatibility with Existing Regulations**

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to adopt hunting regulations (Fish and Game Code, sections 200, 202 and 205). The proposed regulations are consistent with general hunting regulations in Chapters 1 and 3 of Subdivision 2 of Division 1, Title 14, CCR. No other State agency has authority to regulate the methods and the manner by which wildlife may be taken.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Hilton Garden Inn San Diego Mission Valley/Stadium, at 3805 Murphy Canyon Road, in San Diego, California, on December 8, 2016, at 8:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before November 22, 2016, at the address given below, or by email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on December 2, 2016. All comments must be received no later than December 8, 2016, at the hearing in San Diego, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

### Availability of Documents

The rulemaking file, which includes the text of the regulations, Initial Statement of Reasons, as well as all related documents upon which the proposal is based, are on file and available for public review from the agency representative, Valerie Termini, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Valerie Termini or Caren Woodson at the preceding address or phone number. **Captain Patrick Foy, Law Enforcement Division, Department of Fish and Wildlife, phone 916-651-6692, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout can be accessed through our website at <http://www.fgc.ca.gov>.

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

**Impact of Regulatory Action/Results of the Economic Impact Assessment**

The potential for fiscal and 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 Business, 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, because the proposed regulations only imposes penalty enhancements for activity which is already illegal.

- (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 does not anticipate any significant impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California because the proposed regulations do not add new uses or remove existing uses.

The Commission anticipates benefits to the health and welfare of California residents. Participation in hunting opportunities and the general positive support from representatives of legitimate ethical hunting organizations fosters conservation through education and appreciation of California's wildlife.

The Commission does not anticipate any benefits to worker safety.

The Commission anticipates benefits to the State's environment. It is the policy of the State to encourage the conservation, maintenance, and utilization of the living resources. The proposed action will further this core objective.

- (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 the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

- (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.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Dated: August 30, 2016

Valerie Termini  
Executive Director