

STAFF SUMMARY FOR AUGUST 24-25, 2016

33. UPLAND GAME BIRD DRAWING**Today's Item****Information** **Action**

Discuss proposed changes to establish an upland game bird special hunt drawing and fee.

Summary of Previous/Future Actions

- Notice hearing Jun 22-23, 2016; Bakersfield
- **Today's Discussion hearing Aug 24-25, 2016; Folsom**
- Adoption hearing Oct 19-20, 2016; Crescent City

Background

At this time, big game and waterfowl hunt drawings are conducted through the Automated License Data System (ALDS), which was implemented to centralize all data relating to hunting, fishing, commercial and other licenses and permits, and to collect related fees. Unfortunately, the drawing for Upland Game Bird Special Hunt is still conducted by DFW's Wildlife Branch staff. The proposed regulation establishes an electronic random drawing for Upland Game Bird Special Hunt reservations in the ALDS to provide the public with an up-to-date method to apply for wild bird hunting opportunities.

In addition, an application fee of \$5.00 will be established to recover all reasonable administrative and implementation costs of DFW relating to the drawing in accordance with Section 1050, Fish and Game Code. All licenses, tags, permits, reservations or other entitlements purchased via ALDS are subject to a three percent nonrefundable application fee in accordance with existing regulations. The fee is also subject to an annual adjustment in accordance with Section 713, Fish and Game Code.

Notice was published on Jul 15, 2016.

Significant Public Comments (N/A)**Recommendation (N/A)****Exhibits**

1. [DFW memo \(for reference\)](#)
2. [ISOR \(for reference\)](#)

Motion/Direction (N/A)

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION

2016 MAY 31 AM 11:19

Memorandum

Date: May 31, 2016

To: Valerie Termini
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director



Subject: **Agenda Item for the June 22-23, 2016, Fish and Game Commission Meeting
Re: Request to Publish Notice of the Commission's Intent to Add Section 715,
Upland Game Bird Special Hunt Drawing and Amend Section 702, Hunting
Applications, Tags, Seals, Permits, Reservations and Fees, Title 14, California
Code of Regulations.**

The Department of Fish and Wildlife (Department) requests that the Fish and Game Commission (Commission) authorize publication of notice of its intent to add Section 715 and amend Section 702, Title 14, California Code of Regulations.

The Department proposes to add a new Section 715 to establish an electronic random drawing for Upland Game Bird Special Hunt reservations in the Automated License Data System (ALDS). This drawing is currently conducted by staff in the Wildlife Branch. Establishing the random drawing in ALDS is necessary to ensure a fair and equitable distribution of limited hunts, control the cost of the process, and to place upland game bird drawing regulations in the same part of Title 14 as the big game and waterfowl drawings.

Section 702 is proposed to be amended to establish an Upland Game Bird Special Hunt drawing application fee of \$5.00 in subsection (c)(1)(X). This fee amount has been determined sufficient to recover all reasonable administrative and implementation costs of the Department and Commission relating to the drawing in accordance with Section 1050, Fish and Game Code (FGC).

If you have any questions or need additional information, please contact Craig Stowers, Game Program Manager, at (916) 445-3553 or by email at Craig.Stowers@wildlife.ca.gov. For the public notice, Senior Environmental Scientist, Karen Fothergill should be identified as the Department's point of contact for this rulemaking. Ms. Fothergill may be reached at (916) 716-1461, or by email at Karen.Fothergill@wildlife.ca.gov.

Attachments

ec: Stafford Lehr, Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr@wildlife.ca.gov

Valerie Termini, Executive Director
Fish and Game Commission
May 31, 2016
Page 2

Karen Miner, Acting Branch Chief
Wildlife Branch
Karen.Miner@wildlife.ca.gov

Craig Stowers, Game Program Manager
Wildlife Branch
Craig.Stowers@wildlife.ca.gov

Karen Fothergill, Senior Environmental
Scientist Specialist
Wildlife Branch
Karen.Fothergill@wildlife.ca.gov

Maria Melchiorre, Assistant Chief
License and Revenue Branch
Maria.Melchiorre@wildlife.ca.gov

Damian Sivak,
Automated License Data System (ALDS)
Damian.Sivak@wildlife.ca.gov

David Bess, Chief
Law Enforcement Division
David.Bess@wildlife.ca.gov

Patrick Foy, Captain
Law Enforcement Division
Patrick.Foy@wildlife.ca.gov

Wendy Bogdan, Chief Counsel
Office of the General Counsel
Wendy.Bogdan@wildlife.ca.gov

Ann Malcolm, Asst. General Counsel
Office of the General Counsel
Ann.Malcolm@wildlife.ca.gov

Craig Martz, Program Manager
Regulations Unit
Wildlife and Fisheries Division
Craig.Martz@wildlife.ca.gov

Mike Randall, Analyst
Regulations Unit
Wildlife and Fisheries Division
Mike.Randall@wildlife.ca.gov

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Add Section 715 and Amend Section 702
Title 14, California Code of Regulations
Re: Upland Game Bird Special Hunt Drawing and Application Fee

- I. Date of Initial Statement of Reasons: April 29, 2016

- II. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: June 23, 2016
Location: Bakersfield, CA

 - (b) Discussion Hearing: Date: August 25, 2016
Location: Folsom, CA

 - (c) Adoption Hearing: Date: October 20, 2016
Location: Eureka, CA

III. Description of Regulatory Action:

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

The Department of Fish and Wildlife (Department) proposes to add a new Section 715 to Title 14, California Code of Regulations (CCR), to establish an electronic random drawing for Upland Game Bird Special Hunt reservations in the Automated License Data System (ALDS). Currently the draw is conducted by Wildlife Branch staff. Establishing the random drawing in ALDS is necessary to ensure a fair and equitable distribution of limited hunts, control the cost of the process, and to place upland game bird drawing regulations in the same part of Title 14 as the big game and waterfowl drawings.

At this time, big game and waterfowl hunt drawings are conducted through the ALDS. ALDS was implemented to centralize all data relating to hunting, fishing, commercial and other licenses and permits, and to collect related fees. Adding the Upland Game Bird Special Hunt will provide the public with an up-to-date method to apply for wild bird hunting opportunities. The ALDS drawing process:

- Provides great flexibility,
- Reduces error,
- Gives applicants the ability to select their first, second and third choice wild bird hunts,
- Quickly and accurately determines the successful applicants, and
- Provides for payment of the nonrefundable application fee set forth in amended Section 702.

The deadline for application will be 21 days prior to the first hunt date and the drawing will be conducted within 5 days following the deadline.

Season openers are subject to change, but typically are:

Early Season Dove	September
Pheasant	November
Fall Turkey	November
Spring Turkey	March
Spring Apprentice Turkey	March

However, there may be times when the first available hunt date would not be on the season opener. ALDS is flexible and programmed for all contingencies, such as zone closures (fire and other natural causes), date changes, etc.

Proposed Regulations

Add new Section 715 in two parts:

Subsection 715(a) establishes the application procedure. ALDS allows the applicant to select their top three choices for upland game bird hunting opportunity, easily apply as an individual, a party leader, or as a party member, and assigns a Party Identification Number (PIN). The system then accepts payment of the application fee.

Subsection 715(b) establishes the drawing procedure. As with all other drawings in ALDS, each applicant PIN is assigned a random number and the applicants are then ranked in order lowest to highest, with first choice going to the lowest and so forth until all reservations are exhausted. Successful applicants are notified and information related to their hunt is provided. All applicants (identified by their PIN) may view their ranking on the Department's website, wildlife.ca.gov.

Amend Section 702:

An application fee of \$5.00 will be established in a new subsection (c)(1)(X). This fee is an amount sufficient to recover all reasonable

administrative and implementation costs of the Department and Commission relating to the drawing in accordance with Section 1050, Fish and Game Code (FGC). All licenses, tags, permits, reservations or other entitlements purchased via ALDS are also subject to a three percent nonrefundable application fee in accordance with Section 700.4, Title 14, CCR. The fee will also be subject to an annual adjustment in accordance with Section 713, FGC.

- (b) Authority and Reference from Fish and Game Code for Regulation:

Section 715:

Authority: Section(s) 200, 203, and 1050, Fish and Game Code.

Reference: Section(s) 1050, 3500, 3682.1, and 3683, Fish and Game Code.

Section 702:

Authority: Sections 200, 202, 203, 215, 220, 331, 332 and 1050, Fish and Game Code.

Reference: Sections 200, 202, 203, 203.1, 207, 215, 219, 220, 331, 332, 713, 1050, 1055, 1055.1, 1570, 1571, 1572, 1573, 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, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change: None.
- (d) Identification of Reports or Documents Supporting Regulation Change: None
- (e) Public Discussions of Proposed Regulations Prior to Notice Publication:

No public meetings are being held prior to the notice publication. The 45-day comment period provides adequate time for review of the proposed amendments.

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

No alternatives were identified.

- (b) No Change Alternative:

The Department would continue to conduct the drawings by using Wildlife Branch staff. This method is subject to error and is costly because of the

personnel involvement which is not reimbursed with a fee at this time. The ALDS system was established to provide this service to the public fairly and at a low-cost.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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. 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.

VII. Economic Impact Assessment:

The proposed regulatory action has been evaluated and it has been determined that the proposed action will not have a significant statewide adverse economic impact on individuals, businesses, or the state economy.

The fees for the upland game bird special hunt drawing application are proposed to recover the reasonable administrative costs for the provision of the program.

The start-up and ongoing costs are detailed in the Table 1. Item Fee Calculation for Cost Recovery. Based on the data in Table 1, a fee of \$5.00 is proposed per drawing application. The payment of the fee is required as set forth in subsection 715(a)(3) and the fee amount will be listed in subsection 702(c)(1)(X), Hunting Applications, Tags, Seals, Permits, Reservations and Fees.

Table 1. Item Fee Calculation for Cost Recovery
 Upland Game Bird Special Hunt Drawing Application
 Number of items expected to be sold per year: 10,000

Start up Costs			
Cost Description	Hours	Rate	Total
Regulations unit staff	0	\$ 53.00	\$ -
ALDS IT support: Item setup/ configuration /reporting			
Sr. ISA	16	\$ 69.36	\$ 1,109.76
Associate Programmer Analyst	8	\$ 50.65	\$ 405.20
Program review or Item Setup and configuration	8	\$ 52.32	\$ 418.56
LED review & training (optional)	4	\$ 50.00	\$ 200.00
Communications , Outreach & Training			\$ -
Program specific Startup Costs			
Staff Time			
Classification I	0	\$ -	\$ -
Classification II	0	\$ -	\$ -
Fixed Costs			\$ -
Total Startup Costs			\$ 2,133.52
Amortized over 5 years:			\$ 426.70

Ongoing Costs			
Cost Description	Hours	Rate	Total
ALDS IT support: Item Review			
Sr. ISA	16	\$ 69.36	\$ 1,109.76
Associate Programmer Analyst	4	\$ 50.65	\$ 202.60
Program Staff Item review	8	\$ 52.32	\$ 418.56
LED review	4	\$ 43.24	\$ 172.96
Law Enforcement Costs	4	\$ 45.62	\$ 182.48
Program specific costs			
Application Printing (if applicable)			\$ -
Application review time Per Application (if applicable)			
Interpreter II, Environmental Scientist (ES) , Staff ES, Senior ES, or H	0	\$ 52.23	\$ -
Environmental Program Manager	0	\$ 67.59	\$ -
Regional Manager	0	\$ 76.88	\$ -
Office Technician	0	\$ 29.13	\$ -
Communications , Outreach & Training			\$ -
Program Operations Staff time (planning, labor, project tracking, etc)			
Classification I	200	\$ 50.00	\$ 10,000.00
Classification II	300	\$ 40.00	\$ 12,000.00
Program Operations Capital Outlay (vehicles, materials, etc)			\$ -
Harvest Report Data Entry Staff	0	\$ 19.21	\$ -
Harvest Data Analysis	0	\$ 46.18	\$ -
Fixed costs (Milage)	0	\$ 0.575	\$ -
Ongoing Costs Total			\$ 24,086.36
Amortized startup costs (from Above)			\$ 426.70
Overhead	35%		\$ 8,579.57
Item Total Annual Startup and Ongoing Costs			\$ 33,092.64
Item Startup and ongoing cost per transaction			\$ 3.31
Item Fee Calculation			
Item Startup and ongoing cost per transaction			\$ 3.31
ALDS System costs Per transaction			\$ 0.78
LRB Operations costs Per transaction			\$ 0.89
Item Fee			\$ 4.98
Item Fee (rounded to nearest .25) per FGC Section 713			\$ 5.00

- (a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State: The Commission does not anticipate any impacts to job creation or elimination within the state, because the proposed program will not reduce the number of hunters or hunting visits to areas of 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 any adverse impacts on the creation of new businesses or the elimination of existing businesses within the state, because the proposed program will not reduce the number of hunters or hunting visits to areas of the state.
- (c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business within the State: The Commission does not anticipate any adverse impacts on the expansion of businesses currently doing business within the state, because the proposed program will not reduce the number of hunters or hunting visits to areas of the state.
- (d) Benefits of the Regulation to the Health and Welfare of California Residents: The Commission anticipates benefits to the health and welfare of California residents. 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.
- (e) Benefits of the Regulation to Worker Safety: The Commission does not anticipate any benefits to worker safety because the proposed program will not have direct impacts on working conditions.
- (f) Benefits of the Regulation to the State's Environment: 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.
- (g) Other Benefits of the Regulation: None.

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 \$5.00 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.

PROPOSED REGULATORY LANGUAGE

Section 715 is hereby added to Title 14, CCR, to read as follows:

§ 715 Upland Game Bird Special Hunt Drawing.

(a) Upland Game Bird Special Hunts:

(1) The department shall establish the conditions of each hunt with consideration for hunter safety, hunt quality, and species abundance. The hunt conditions will include species, location, season, maximum party size, applicant attributes (age, disability, etc.), method of take and the number of reservations available.

(2) The department shall establish 'hunt groups' based on common conditions of hunts (species, season, method of take, etc.). Each hunt shall be assigned into a hunt group. The department will run a separate drawing for each hunt group.

(b) Upland Game Bird Special Hunt Application Procedures:

(1) Applicants may apply through the department's Automated License Data System (ALDS) at license agents, the department's license sales offices or on the department's website.

(2) An applicant may be a resident or nonresident and must possess an annual hunting license valid for the hunting season for which the applicant is applying.

(3) An applicant for an apprentice junior hunt must possess a junior hunting license valid for the hunting season for which the applicant is applying.

(4) Two-day nonresident hunting licenses shall not be used to apply for Upland Game Bird Special Hunt Drawings.

(5) The applicant shall submit a non-refundable fee as specified in Section 702 of these regulations for each drawing application submitted.

(6) An applicant may submit one application per hunt group with up to three hunt choices. An applicant may only be drawn once per hunt group.

(7) Applications must be submitted at least 21 days prior to the first hunt date for each hunt group.

(8) Each applicant shall specify if they are applying as an individual, as a party leader or if the applicant is joining an existing party.

(A) Each applicant applying as an individual or as a party leader shall be assigned a Party Identification Number from the department's Automated License Data System at the time of application.

(B) To apply as a party, the party leader shall apply first and provide the assigned Party Identification Number to the other party members.

(C) An applicant joining an existing party shall provide the Party Identification Number of the party leader. An applicant joining a party shall be assigned the same application choices in the same order as the party leader.

(c) Upland Game Bird Special Hunt Drawing Procedures:

(1) The department will conduct drawings by hunt group within five (5) business days following the application deadline for the hunt group.

(2) Draw-By-Choice Drawings. Each application shall be assigned a computer-generated random number. Each party application shall be assigned a single computer-

generated random number. Reservations are awarded to applications based on hunt choice and random number (lowest to highest) until the reservation quota has been met. A party application shall not be split to meet the number of reservations available. (3) Successful applicants will be notified. Unsuccessful applicants will be not be notified. Drawing results will be available on the department website, wildlife.ca.gov.

Authority: Section(s) 200, 203, and 1050, Fish and Game Code.

Reference: Section(s) 1050, 3500, 3682.1, and 3683, Fish and Game Code.

PROPOSED REGULATORY LANGUAGE

Section 702, Title 14, California Code of Regulations is amended to read as follows:

§ 702. Hunting Applications, Tags, Seals, Permits, Reservations and Fees.

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

(c) Hunting Tags

(1)	<i>Tag/Application</i>	<i>Processing Permit Fees</i>	<i>Processing Fees</i>
<i>... [No changes to subsections (c)(1)(A) through (W)]</i>			
(X)	<u>Upland Game Bird Special Hunt Drawing Application Fee</u>		<u>\$ 5.00</u>

(d) Pursuant to the provisions of Section 699, Title 14, the department shall annually adjust the fees of all licenses, stamps, permits, tags, or other entitlement required by regulations set forth in this section.

Note: Authority cited: Sections 200, 202, 203, 215, 220, 331, 332 and 1050, Fish and Game Code. Reference: Sections 200, 202, 203, 203.1, 207, 215, 219, 220, 331, 332, 713, 1050, 1055, 1055.1, 1570, 1571, 1572, 1573, 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, Fish and Game Code.