

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Section 362
Title 14, California Code of Regulations
Re: Nelson Bighorn Sheep

I. Date of Initial Statement of Reasons: November 15, 2018

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing: Date: December 13, 2018
 Location: Oceanside, CA

(b) Discussion Hearing: Date: February 6, 2019
 Location: Sacramento, CA

(c) Adoption Hearing: Date: April 17, 2019
 Location: Santa Monica, 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:

In accordance with management goals and objectives, and in order to maintain hunting quality, it is necessary to periodically consider tag quotas for hunting. Current regulations specify the number of bighorn sheep hunting tags for the 2018 season. This proposed regulatory action will amend subsection 362(d) providing the number of tags for bighorn sheep hunting in 2019.

Preliminarily, the tag numbers are presented as ranges (e.g., [0-3]) in the table in subsection 362(d) of the amended Regulatory Text. Final tag quotas recommendations for each zone will be identified and presented to the Fish and Game Commission and interested and affected parties prior to the adoption hearing, as soon as over-winter health of herds are assessed.

In order to maintain hunting quality, adjustments to the limited number of bighorn sheep tags, hunting zones, seasons, and conditions are necessary.

The specific recommended regulation changes are:

1) Number of Tags

Population estimates from recent surveys support an increase in tag quotas in several existing hunt zones. Final tag quotas for bighorn sheep cannot be determined until surveys are completed and all data are analyzed. Surveys

and analyses are scheduled for completion by Spring 2019. Final tag quotas will recommend a biologically appropriate harvest of bighorn sheep. Due to the timing of administrative procedures and requirements of the Fish and Game Code, the Department submits proposed regulatory changes to the Fish and Game Commission prior to completion of all surveys, necessitating a proposed range of tags. Monitoring continues and final tag quotas for each zone will be recommended in the Preadoption Statement of Reasons based upon findings from 2018-2019 fall/winter surveys.

2) Establishment of the Newberry, Rodman and Ord Hunt Zone

The proposed change adds this new bighorn sheep hunt zone in San Bernardino County. Bighorn sheep are widespread in San Bernardino County and the proposed change would increase the number of tags available and the geographic areas, or hunt zones, available for hunting.

Section 4902 of the Fish and Game Code authorizes the Commission to establish hunting regulations for mature Nelson bighorn rams in management units for which plans have been developed pursuant to Section 4901 of the Fish and Game Code. In an effort to expand biologically sound bighorn ram hunting opportunity consistent with the law, the proposed change creates one additional hunt zone consistent with Fish and Game Code Section 4902.

3) Reallocation of the Kelso Peak/Old Dad Mountains Fund-Raising Tag to the Cady Mountains Hunt Zone.

Existing regulations provide for allocation of a fund-raising tag in the Kelso Peak/Old Dad Mountains Hunt Zone. The Kelso Peak/Old Dad herd unit has experienced significant population decline following a recent outbreak of respiratory disease, and the Department continues to monitor the unit. The proposal would reallocate this tag to be valid in the Cady Mountains to maintain biologically sound hunting opportunities and continue to generate revenue.

This proposed regulatory action is consistent with providing fund-raising tags to generate revenue for bighorn sheep management projects. Fish and Game Code Section 4902 specifies that no more than 15 percent of the tags can be designated as fund-raising tags. In order to comply with Fish and Game Code Section 4902 and meet the objectives of the approved management plans for each unit, it is necessary to designate fund-raising tags for specific hunt zones.

4) Editorial Changes

Editorial changes are being made to update Department of Fish and Wildlife phone numbers.

(b) Goals and Benefits of the Regulation:

The goals and benefits of the regulations are to provide for the conservation and

maintenance of sufficient bighorn sheep populations to ensure their continued existence.

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.

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

Authority: Sections 200, 203, 265, 1050, and 4902, Fish and Game Code.

Reference: Sections 1050, 3950, and 4902, Fish and Game Code.

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

- (e) Identification of Reports or Documents Supporting Regulation Change:

Bighorn Sheep Management Plan: Newberry, Rodman, Ord Mountains Management Unit

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

This proposal was discussed at the Wildlife Resources Committee Meeting on September 20, 2018 and a public scoping session will be held in November 2018.

IV. Description of Reasonable Alternatives to Regulatory Action

- (a) Alternatives to Regulation Change:

No alternatives were considered.

- (b) No Change Alternative:

- 1) Number or Tags

The no change alternative was considered and rejected because it would not attain project objectives of providing for hunting opportunities while maintaining bighorn sheep populations within desired population objectives. Retaining the current tag quota for each zone may not be responsive to biologically-based changes in the status of various herds. Management plans specify desired percentage harvest levels. The no-change alternative would not allow for adjustment of tag quotas in response to changing environmental/biological conditions.

- 2) Establishment of the Newberry, Rodman, Ord Hunt Zone

The no-change alternative was considered and found inadequate to attain the program objective. Fish and Game Code Section 4902 provides for addition of

areas for hunting Nelson bighorn sheep. Nelson bighorn sheep hunting demand is high (11,440 applicants for 19 tags in June 2018), and this alternative would not increase hunting opportunity and would decrease revenue dedicated to bighorn sheep management.

- 3) Reallocation of the Kelso Peak/Old Dad Fund-Raising Tag to the Cady Mountains Hunt Zone.

The no-change alternative was considered and found inadequate, because it would continue to allocate a fund-raising tag in the Kelso Peak/Old Dad Hunt Zone, where current monitoring suggests population decline, and hunting is currently not supported. The no-change alternative would unnecessarily restrict revenue dedicated to the management and enhancement of bighorn sheep and their habitats.

- 4) Editorial Changes

The no-change alternative for the proposed administrative changes was considered and rejected. This alternative would result in regulations which would not reflect the necessary changes.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no negative impact on the environment and therefore would not require mitigation measures.

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 regulations adjust tag quotas for existing hunts and establish a new hunt zone to provide additional public recreational opportunity and could result in minor increases in hunting days and hunter spending on equipment, fuel, food, and accommodations. Given that the proposed regulation may introduce, at the most, a small increase in the overall number of tags available and the area over which they are distributed, the proposed regulations are anticipated to be economically neutral to slightly beneficial for 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 no to minor positive impact on the creation or elimination of jobs within the state, and 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 enough economic stimulus to the state. The Commission anticipates benefits to the health and welfare of California residents because hunting is an outdoor activity that can provide exercise, a greater awareness of the connections between wildlife and habitat, and fresh game to eat. The proposed regulation will not affect worker safety. The Commission anticipates benefits to the state's environment through the maintenance of sufficient populations of bighorn sheep to ensure their continued existence.

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

The agency 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

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

No impacts to minor positive impacts on the creation of jobs within businesses that provide services to bighorn sheep hunters may result from the adoption of the proposed bighorn sheep hunting regulations for the 2019-20 season.

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

The proposed regulation is not anticipated to prompt the creation of new businesses or the elimination of existing businesses within the state. Minor variations in

regulations pertaining to hunting are, by themselves, unlikely to stimulate the creation of new businesses or cause the elimination of existing businesses. The number of hunting trips and the economic contributions from the trips are not expected to change substantially.

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

The proposed variations in bighorn sheep tag quotas are, by themselves, unlikely to stimulate substantial expansion of businesses currently doing business in the state. The long-term intent of the proposed regulations is to sustainably manage bighorn sheep populations, and consequently, the long-term viability of various businesses that serve recreational bighorn sheep hunters.

(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. With that awareness comes an understanding of the role humans play in being caretakers of the environment. Hunting is a tradition that is often passed from one generation to the next creating a special bond between family members and friends.

(e) Benefits of the Regulation to Worker Safety:

The proposed regulation will not affect 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 objectives of this policy include, but are not limited to, the maintenance of sufficient populations of bighorn sheep to ensure their continued existence and the maintenance of a sufficient resource to support recreational opportunity. Adoption of scientifically-based bighorn sheep seasons and tag quotas provides for the maintenance of sufficient bighorn sheep populations to ensure those objectives are met. The fees that hunters pay for licenses and tags fund wildlife conservation.

(g) Other Benefits of the Regulation:

Hunting seasons provide incentives for private landowners to maintain habitat for desert bighorn sheep and other desert dependent species.

Informative Digest/Policy Statement Overview

The current regulation in Section 362, Title 14, CCR, provides for limited hunting of Nelson bighorn rams in specified areas of the State. The proposed change is intended to adjust the number of tags available for the 2019 season based on bighorn sheep spring population surveys conducted by the Department.

Final tag quota determinations will be made pending completion of all surveys and data analyses.

HUNT ZONE	NUMBER OF TAGS [proposed range]
Zone 1 - Marble Mountains	[0-5]
Zone 2 - Kelso Peak/Old Dad Mountains	[0-4]
Zone 3 - Clark/Kingston Mountain Ranges	[0-4]
Zone 4 - Orocopia Mountains	[0-2]
Zone 5 - San Gorgonio Wilderness	[0-3]
Zone 6 - Sheep Hole Mountains	[0-2]
Zone 7 - White Mountains	[0-6]
Zone 8 - South Bristol Mountains	[0-3]
Zone 9 – Cady Mountains	[0-4]
Zone 10 – Newberry, Rodman, Ord Mountains (New)	[0-6]
Open Zone Fund-Raising Tag	[0-1]
Marble/Clipper/South Bristol Mountains Fund-Raising Tag	[0-1]
Cady Mountains Fund-Raising Tag (New)	[0-1]
TOTAL	[0-42]

Other Amendments:

- Establishment of the Newberry, Rodman and Ord Hunt Zone: The proposed change adds this new bighorn sheep hunt zone in San Bernardino County.
- Reallocation of the Kelso Peak/Old Dad Mountains Fund-Raising to the Cady Mountains: The Kelso Peak/Old Dad herd unit has experienced significant population decline following a recent

outbreak of respiratory disease. The proposal would reallocate this fund-raising tag to be valid in the Cady Mountains Hunt Zone.

- Amend the contact telephone number that is no longer in use for the program. The proposed Editorial Change provides a current contact phone number.

Benefits of the regulations

The benefits of the proposed regulations are consistency with statute and the sustainable management of the State's wildlife resources.

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.

Evaluation of incompatibility with existing regulations

The Commission has reviewed its regulations in Title 14, CCR, and conducted a search of other regulations on this topic and has concluded that the proposed amendments to are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate wildlife hunting regulations.