

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

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

- I. Date of Initial Statement of Reasons: November 15, 2018
- II. Date of Pre-adoption Statement of Reasons: April 4, 2019 and
Updated April 25, 2019
- III. Date of Final Statement of Reasons: May 16, 2019
- IV. 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) Discussion Hearing: Date: April 17, 2019
Location: Santa Monica
 - (d) Adoption Hearing: Date: May 16, 2019
Location: Teleconference
- V. Update:
 - (a) Number of tags

The original language proposed tag quota ranges for Nelson bighorn sheep hunting. The language has been modified to reflect the Department's final recommendation, specifying tag quotas within those ranges based upon completion of surveys and data analysis. At the commission's April 17, 2019 meeting the public and the commission were provided with final recommendations, and final tag quotas were provided to all interested and affected parties in a notice on April 19, 2019.

- (b) Establishment of the Newberry, Rodman and Ord Mountains Hunt Zone

The original proposal seeks to establish a Newberry, Rodman and Ord Mountains Hunt Zone. The language describing the zone boundaries has been modified for clarity and publicly noticed on April 19, 2019. The modifications were only for the boundary description and did not change the zone's boundaries.

- (c) The Commission adopted the proposed amendments at its May 16, 2019 teleconference meeting.

VI. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations:

Please see Attachment A for a summary of public comments received on amending Nelson bighorn sheep hunting regulations.

VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:
California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VIII. Location of Department Files:

Department of Fish and Wildlife
1416 Ninth Street
Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulatory Action:

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. Demand for Nelson bighorn sheep hunting is high (11,440 applicants for 19 tags in June 2018), The no-change alternative would not increase hunting opportunity and would preclude generation of additional 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 limit hunting opportunity and 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 retaining current regulatory language and would not reflect the changes necessary to clarify the regulations.

(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 adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

(d) Description of Reasonable Alternatives That Would Lessen Adverse Impact on Small Business: None

X. 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 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:

- (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.

Updated 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 are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate wildlife hunting regulations.

Tag quota determinations have been made, following completion of surveys and data analysis. Surveys and data analysis support the establishment of the Newberry, Rodman and Ord Hunt Zone based upon population size and current understanding of Nelson bighorn sheep health and recruitment. Zone boundaries for the Newberry, Rodman, and Ord Hunt Zone have been modified for clarity.

HUNT ZONE	NUMBER OF TAGS
Zone 1 - Marble Mountains	<u>5</u>
Zone 2 - Kelso Peak/Old Dad Mountains	0
Zone 3 - Clark/Kingston Mountain Ranges	<u>4</u>
Zone 4 - Orocopia Mountains	1
Zone 5 - San Gorgonio Wilderness	<u>0</u>
Zone 6 - Sheep Hole Mountains	0
Zone 7 - White Mountains	<u>6</u>

Zone 8 - South Bristol Mountains	<u>2</u>
Zone 9 – Cady Mountains	<u>2</u>
Zone 10 – Newberry, Rodman, Ord Mountains (New)	<u>6</u>
Open Zone Fund-Raising Tag	1
Marble/Clipper/South Bristol Mountains Fund-Raising Tag	1
Cady Mountains Fund-Raising Tag (New)	<u>1</u>
TOTAL	<u>29</u>

On April 19, 2019 the Fish and Game Commission provided in a notice to all interested and affected parties a notice of the following changes:

Subsection 362(a)(10), which includes the boundary description for Zone 10, has been simplified to make it easier to understand. There are no changes to physical location or size of the zone from what was originally noticed.

Tag quota determinations have been made, following completion of surveys and data analysis. Surveys and data analysis support the establishment of the Newberry, Rodman and Ord Hunt Zone based upon population size and current understanding of Nelson bighorn sheep health and recruitment. Zone boundaries for the Newberry, Rodman, and Ord Hunt Zone have been modified for clarity and will be included in a 15-day notice to interested and affected parties.

At its May 16, 2019 teleconference, the Commission adopted the text of the regulations as noticed, and as modified in its notice of April 19, 2019. There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.