

## **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 Sections 200, 203, 219, 265, 331, 460, 1050, 3051, 3452, 3453, 3953 and 4334, Fish and Game Code and to implement, interpret or make specific Sections 200, 203, 203.1, 255, 265, 331, 332, 458, 459, 460, 713, 1050, 3051, 3452, 3453, 3953 and 4334; Title 14, California Code of Regulations, relating to annual mammal hunting regulations.

#### **Informative Digest/Policy Statement Overview – Section 360**

The Fish and Game Commission (Commission) periodically considers the recommendations of the Department of Fish and Wildlife (Department) in establishing deer regulations. Current regulations in Section 360, Title 14, California Code of Regulations (CCR), provide definitions, hunting zone descriptions, season dates, and deer license tag quotas. To achieve deer herd management goals and objectives and maintain hunting quality, it is periodically necessary to adjust quotas, seasons, and other criteria in response to dynamic environmental and biological conditions. The proposed regulatory action will amend Section 360 providing the number of tags and season dates for hunting in the 2021–2022 season.

Proposed Amendments: The recommended number of tags and season dates for deer hunting for 2021-2022 are presented in the proposed regulatory text of Section 360.

#### **1. Number of Tags**

The proposed action amends subsection 360(b)(4)(D) to reduce hunting tag numbers for the Zone X-3b, while maintaining previous year tag quotas for all other deer hunt zones. Recent population trends and hunter success suggest deer populations in the X-3b hunt zone have decreased. License tag numbers are based on input from Department regional staff and the public to address goals for the unit, including deer conservation and providing hunting opportunities.

The proposed amendment to the number of deer license tags in subsections 360 (b)(4) is necessary to allow the appropriate level of hunting opportunity and harvest of bucks in the population while achieving or maintaining the buck to doe ratios at, or near, objective levels set forth in the deer herd management plans. The number of deer license tags are based upon findings from the annual harvest and fall and spring surveys.

#### **2. Modify Season**

Existing regulations for Additional Hunts G-8 (Fort Hunter Liggett Antlerless Deer Hunt) and J-10 (Fort Hunter Liggett Apprentice Either-Sex Deer Hunt) provide for hunting to begin on October 3 and continue for two (2) consecutive days and reopen on October 10 and continue for three (3) consecutive days. The proposal would modify the season to account for the annual calendar shift. The proposal would change the season dates to open on the first Saturday in October and continue for two (2) consecutive days and reopen on the second Saturday in October and continue for three (3) consecutive days, except if rescheduled by the Commanding Officer with Department concurrence between the season opener and December 31.

## **Informative Digest/Policy Statement Overview – Section 363**

The Fish and Game Commission (Commission) periodically considers the recommendations of the Department of Fish and Wildlife (Department) in updating antelope regulations. Section 363 provides descriptions of hunting zones, season opening and closing dates, and tag quotas (total number of hunting tags to be made available), and special conditions for pronghorn antelope. To maintain appropriate harvest levels and hunting quality, tag must be adjusted periodically in response to dynamic environmental and biological conditions. Current regulations specify the number of pronghorn antelope hunting tags for the 2020 season—ranges that were last modified in 2017. The proposed regulatory action will amend subsection 363(m) providing the number of tags for hunting in the 2021–2022 season.

Proposed Amendments: The recommended quotas for pronghorn antelope hunting tags for 2021-2022 are presented in the proposed regulatory text of Section 363. Subsection 363(m) specifies pronghorn license tag quota ranges for each hunt, in accordance with management goals and objectives (Table 1).

### **1. Number of Tags**

The proposed action amends subsection 363(m) to reduce hunting tag numbers for the Likely Tables General Season buck tags in Period 1 and Period 2, while maintaining previous year tag quotas for all other pronghorn antelope hunt zones and seasons. Recent population trends and hunter success suggest pronghorn antelope populations in the Likely Tables have decreased, but pronghorn antelope populations in all other hunt zones are stable. The proposed amendment to number of antelope hunting tags in subsection 363(m) is necessary to allow for a biologically appropriate harvest of bucks and does in the pronghorn antelope population, and will achieve/maintain buck ratios at or above minimum levels specified in appropriate management plans (California Department of Fish and Game 1989). Proposed tag quotas provided in Table 1 (below) are final recommendations of the California Department of Fish and Wildlife and are within conservative ranges identified in the 2004 Final Environmental Document Regarding Pronghorn Antelope Hunting.

## **Informative Digest/Policy Statement Overview – Section 708.19**

The California Department of Fish and Wildlife (Department) manages elk, bighorn sheep, and pronghorn antelope resources in California. Elk hunting tags, bighorn sheep hunting tags, and pronghorn antelope hunting tags are required to hunt these species in California. The Department distributes hunting tags for elk, bighorn sheep, and pronghorn antelope annually via the big game drawing. Public demand for elk, bighorn sheep, and pronghorn antelope hunting tags exceeds the available opportunities; therefore, a modified preference point system was implemented in 2002, (currently Section 708.14) to provide preference to hunters who have applied for, but not received, tags in past drawings. Each year a hunter applies for an elk, bighorn sheep, or pronghorn antelope hunting tag and is not drawn, that hunter receives a preference point which gives that hunter preference in future drawings for that species. A portion of the tag quota for elk, bighorn sheep, and pronghorn antelope tags is allocated by preference point drawing each year. A portion of tags are issued randomly to allow some opportunity for new hunters and hunters that do not have enough preference points to draw through the preference point portion of the drawing.

The historic and catastrophic 2020 fire season caused unprecedented public land closures including the temporary closure of all national forests in California beginning on September 9, 2020. The closure occurred before or during the hunting seasons for all the hunts addressed in the proposed regulation. This resulted in a loss of opportunity for hunters who had “once in a lifetime” elk, bighorn sheep, or pronghorn antelope hunting tags. Hunters used many years of accumulated preference points (in many cases 18 years of preference points) to obtain the required tags for the hunts specified in the proposed regulation.

The Department is proposing to add Section 708.19 to allow hunters who lost their opportunity to hunt in 2020 due to land closures caused by unprecedented fires to return specified elk, bighorn sheep, and pronghorn antelope tags for a refund, reinstatement of the preference points used to obtain the tag through the drawing, and earn one preference point for the license year. Hunters who request a refund would be required to pay the \$30.90 nonrefundable big game tag return processing fee specified in Section 702. This proposal would affect up to 110 hunters.

Minor editorial changes are also proposed to clarify and simplify the regulations and to comply with existing federal Frameworks.

### **Goals and Benefits of the Regulation:**

The benefits of the proposed regulations are consistency with federal law and the sustainable management of the State’s mammal resources. Positive impacts to jobs and/or businesses that provide services to mammal hunters will be realized with the continued adoption of mammal hunting seasons in 2021-22.

### **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 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 sections 360 and 363, and addition of Section 708.19 are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate mammal hunting regulations.

### **Public Participation**

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a webinar/teleconference hearing to be held on Tuesday, January 12, 2021, at 8:30 a.m., or as soon thereafter as the matter may be heard. Instructions for participation in the webinar/teleconference hearing will be posted at [www.fgc.ca.gov](http://www.fgc.ca.gov) in advance of the meeting or may be obtained by calling 916-653-4899.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a webinar/teleconference hearing to be held on Wednesday, February 10, 2021 at 8:30 a.m., or as soon thereafter as the matter may be heard.

Instructions for participation in the webinar/teleconference hearing will be posted at [www.fgc.ca.gov](http://www.fgc.ca.gov) in advance of the meeting or may be obtained by calling 916-653-4899.

It is requested, but not required, that written comments be submitted on or before February 8, 2021 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 February 9, 2021. All comments must be received no later than February 10, 2021, during the webinar/teleconference hearing. If you would like copies of any modifications to this proposal, please include your name and email or mailing address. Mailed comments should be addressed to Fish and Game Commission, PO Box 944209, Sacramento, CA 94244-2090.

### **Availability of Documents**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission website at [www.fgc.ca.gov](http://www.fgc.ca.gov). The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Melissa Miller-Henson, Acting Executive Director, Fish and Game Commission, 1416 Ninth Street, P.O. 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 Melissa Miller-Henson or Jon Snellstrom at the preceding address or phone number. **Brad Burkholder, Environmental Program Manager, has been designated to respond to questions on the substance of the proposed regulations. He can be reached at (916) 373-6619 or via email at [Brad.Burkholder@wildlife.ca.gov](mailto:Brad.Burkholder@wildlife.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. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 265 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4, 11346.8 and 11347.1 of the Government Code. 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 the approved final 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 Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

Sections 360 and 363 - 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 adjusts tag quotas for existing hunts. Considering the relatively small number of tags issued over the entire state, this proposal is economically neutral to business.

Section 708.19 - 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. Considering the relatively small number of tags to be returned from the elk and pronghorn antelope tags over the entire state, 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:

Sections 360 and 363 - The proposed action will not have significant impacts on the creation or elimination of jobs or the creation of new businesses or the elimination of existing businesses within California because it is unlikely to result in a change in hunting effort. The proposed action does not provide benefits to worker safety because it does not address working conditions.

Section 708.19 - 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 enough economic stimulus to the state.

The Commission anticipates benefits to the health and welfare of California residents. Hunting provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of the State's resources. The proposed action will not provide benefits to worker safety. The Commission anticipates benefits to the State's environment in the sustainable management of natural resources

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

Sections 360 and 363 - 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.

Section 708.19 - 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. A \$30.90 nonrefundable big game tag return processing fee per refund, as specified in Section 702, is deducted from the amount refunded. The choice to obtain a refund is not required and is purely discretionary for each individual.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State Sections 360 and 363 - None.

Section 708.19 - Under the proposed regulation, a total of 110 hunters could be eligible for tag refunds. Hunters would be required to pay the \$30.90 nonrefundable big game tag return processing fee specified in Section 702. There are 68 elk hunters (including four apprentice hunters), 3 resident and 1 non-resident bighorn sheep hunters, and 38 pronghorn antelope hunters who either did not hunt or did not harvest an animal during these hunts. At most, the Department would be required to issue 110 tag refunds for up to a net total of approximately \$35,092.49.

- (e) Nondiscretionary Costs/Savings to Local Agencies:

Sections 360, 363 and 708.19 None.

- (f) Programs Mandated on Local Agencies or School Districts

Sections 360, 363 and 708.19 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: Sections 360, 363 and 708.19

None.

- (h) Effect on Housing Costs:

Sections 360, 363 and 708.19 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

David Thesell  
Program Manager

Dated: December 24, 2020