

STAFF SUMMARY FOR FEBRUARY 8-9, 2023

14. BIGHORN SHEEP HUNTING**Today's Item**Information Action

Discuss proposed amendments to Nelson bighorn sheep hunting regulations.

Summary of Previous/Future Actions

- Notice hearing Dec 14-15, 2022
- **Today's discussion hearing Feb 8-9, 2023**
- Adoption hearing Apr 19-20, 2023

Background

The Marble and Clipper mountains Nelson bighorn sheep populations have been subject to extreme drought, low recruitment, and respiratory disease in recent years. Based on current population data, the Commission may need to adopt regulation changes reducing hunt tag quotas to comply with statutorily-mandated maximum harvest levels found in California Fish and Game Code Section 4902.

In December 2022, the Commission authorized publication of a notice of proposed changes to Nelson bighorn sheep hunting regulations (Exhibit 3) for purposes of achieving a sustainable population of Nelson bighorn sheep in the Marble and Clipper mountains and meeting management recommendations in the existing "Clipper Mountains Management Unit Plan."

To allow for adjustments by the Commission during the 2023 rulemaking cycle, the Commission authorized a notice to amend Section 362 with a quota range of 0-5 for the Marble and Clipper mountains general lottery and 0-1 for the Marble, Clipper, and South Bristol mountains fundraising tag. Final changes to the regulations are expected to be adopted at the Commission's April 19-20, 2023 meeting.

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

1. [Department memo, received November 29, 2022](#)
2. [Economic and fiscal impact statement \(STD 399\)](#)
3. [Initial statement of reasons for regulatory changes and proposed regulatory text](#)

Motion (N/A)

State of California
Department of Fish and Wildlife

Memorandum

Date: November 28, 2022

Signed original on file,
Received November 29, 2022

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Submission of Initial Statement of Reasons for Agenda Item for the December 14-15, 2022, Fish and Game Commission Meeting to Amend Title 14, California Code of Regulations (CCR), Section RE: 362 Bighorn Sheep Hunting**

The Department of Fish and Wildlife (Department) requests that the Fish and Game Commission (Commission) authorize publishing notice of its intent to amend Section 362, Title 14, CCR. Based on bighorn sheep population data, the Department is proposing changes to bighorn sheep hunt tag allocations. The proposed changes to Section 362 includes amending subsection 362(d) to modify the hunt tag quota for the general lottery in the Marble and Clipper Mountains Hunt Zone 1 and a pertinent fundraising tag. Currently, the Marble and Clipper Mountains public tag quota is 5 tags, and 1 for the Marble, Clipper, and South Bristol Mountains Fundraising tag. For 2023, the proposed tag allocation for the Marble and Clipper Mountains is 1 tag for the public tag quota, and 0 ram for the Marble, Clipper, and South Bristol Mountains Fundraising Tag.

If you have any questions regarding these items, please contact Scott Gardner, Wildlife Branch Chief, at (916) 801-6257. The public notices for these rulemakings should identify Environmental Scientist Regina Vu as the Department's point of contact. She can be reached at (916) 516-2132.

ec: Chad Dibble, Deputy Director
Wildlife and Fisheries Division

Scott Gardner, Branch Chief
Wildlife Branch
Wildlife and Fisheries Division

Regina Vu, Desert Bighorn Sheep Coordinator
Wildlife Branch
Wildlife and Fisheries Division

Robert Pelzman, Captain
Law Enforcement Division

Melissa Miller-Henson, Executive Director
Fish and Game Commission
November 28, 2022
Page 2

Ona Alminas, Manager
Regulations Unit
Wildlife and Fisheries Division

Chelle Temple-King, Senior Regulatory Analyst
Regulations Unit
Wildlife and Fisheries Division

Ari Cornman, Wildlife Advisor
Fish and Game Commission

Maurene Trotter, Analyst
Fish and Game Commission

David Thesell, Manager
Fish and Game Commission

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON David Thesell	EMAIL ADDRESS fgc@fgc.ca.gov	TELEPHONE NUMBER 916 902-9291
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Amend Section 362, Title 14, California Code of Regulations, Re: Bighorn Sheep Hunting			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input checked="" type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input checked="" type="checkbox"/> c. Impacts jobs or occupations | <input checked="" type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input type="checkbox"/> h. None of the above (Explain below): |

***If any box in Items 1 a through g is checked, complete this Economic Impact Statement.
If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.***

Fish and Game Commission2. The _____ estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- Below \$10 million
 Between \$10 and \$25 million
 Between \$25 and \$50 million
 Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: 5Describe the types of businesses (Include nonprofits): Hunting Guides for bighorn sheepEnter the number or percentage of total businesses impacted that are small businesses: 100%4. Enter the number of businesses that will be created: 0 eliminated: 0Explain: Reduction in tags likely to reduce number of bighorn sheep guided hunts and a share of typical seasonal income.5. Indicate the geographic extent of impacts: Statewide
 Local or regional (List areas): Marble and Clipper Mountains6. Enter the number of jobs created: 0 and eliminated: 1 FTE jobDescribe the types of jobs or occupations impacted: Five hunting guides hire three temporary guided hunt aids per hunts. Temp jobs span 3.5 weeks x 15 temp jobs = 52 weeks or 1 full-time-equivalent (FTE) job.7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here? YES NOIf YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ 59,500
- a. Initial costs for a small business: \$ 11,900 Annual ongoing costs: \$ _____ Years: _____
- b. Initial costs for a typical business: \$ N/A Annual ongoing costs: \$ _____ Years: _____
- c. Initial costs for an individual: \$ N/A Annual ongoing costs: \$ _____ Years: _____
- d. Describe other economic costs that may occur: \$59,500 total income loss with possible 6 tag reduction which reduces the number of bighorn sheep guided hunts and an estimated \$11,900 in seasonal income for five guides.

2. If multiple industries are impacted, enter the share of total costs for each industry: 100% Game Hunt Guides

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ N/A

4. Will this regulation directly impact housing costs? YES NO

If YES, enter the annual dollar cost per housing unit: \$ _____

Number of units: _____

5. Are there comparable Federal regulations? YES NO

Explain the need for State regulation given the existence or absence of Federal regulations: Wildlife management within the state per Fish and Game Code section 4902(b)(2)

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ N/A

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: Benefits are to help achieve management objectives related to current environmental, biological, and social conditions, as outlined in the Marble and Clipper Mountains Management Plans to preserve the species and future hunt opportunities.

2. Are the benefits the result of: specific statutory requirements, or goals developed by the agency based on broad statutory authority?

Explain: Wildlife management within the state per Fish and Game Code section 4902(b)(2)

3. What are the total statewide benefits from this regulation over its lifetime? \$ \$74,034/year (tag sales)

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: N/A

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: No other alternatives were identified that would achieve wildlife management objectives.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ 74,034 Cost: \$ 59,500

Alternative 1: Benefit: \$ N/A Cost: \$ N/A

Alternative 2: Benefit: \$ N/A Cost: \$ N/A

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives:

Benefits = \$74,034/year, annual tag revenue reveals value of preserving bighorn sheep hunts. Cost = lost income to guides (\$9K x 5 public tags)+(\$14,500 x 1 fundraising tag)

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs?

YES NO

Explain: not applicable to wildlife management with hunt quotas

E. MAJOR REGULATIONS *Include calculations and assumptions in the rulemaking record.*

California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.

1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million? YES NO

*If YES, complete E2. and E3
If NO, skip to E4*

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

YES NO

If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

a. Funding provided in _____

Budget Act of _____ or Chapter _____, Statutes of _____

b. Funding will be requested in the Governor's Budget Act of _____

Fiscal Year: _____

2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

a. Implements the Federal mandate contained in _____

b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

3. Annual Savings. (approximate)

\$ _____

4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

5. No fiscal impact exists. This regulation does not affect any local entity or program.

6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT (CONTINUED)

B. FISCAL EFFECT ON STATE GOVERNMENT *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:

a. Absorb these additional costs within their existing budgets and resources.

b. Increase the currently authorized budget level for the _____ Fiscal Year

2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

3. No fiscal impact exists. This regulation does not affect any State agency or program.

4. Other. Explain The Department of Fish and Wildlife estimates up to \$74,034 reduction in sheep tag sales revenue in FY 2023/24 and ongoing until regulation change is superceded.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

4. Other. Explain _____

FISCAL OFFICER SIGNATURE

DATE

DocuSigned by:

Dan Reagan

1/17/2023

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY

DATE

DocuSigned by:
 Melissa A. Miller-Henson
 Bryan Cash 1/18/2023

1/18/2023

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER

DATE



STD 399 Addendum
 Amend Section 362
 Title 14, California Code of Regulations
 Re: Nelson Bighorn Sheep Hunting

ECONOMIC IMPACT STATEMENT

Summary

The proposed amendments would decrease bighorn sheep tags by one to six tags. The change under consideration would reduce the total of 30 tags Bighorn Sheep tags down to 24-29 tags across hunt zones. The maximum loss of six tags would constitute a 20 percent decrease in bighorn sheep hunting opportunities. See Table 1.

Table 1. Proposed Bighorn Sheep Tag Changes

Hunt Zone or Tag Type	2021/22 Tag Quota	Proposed Tags for 2023/24 Hunt Year
Zone 1 – Marble and Clipper Mountains	5	0-5
Marble/Clipper/South Bristol Mountains Fundraising Tag	1	0-1
Total Tag Quota All Hunt Zones	30	24-29*

**The recommendation is to reduce the tag numbers by at least one. If the Commission chooses not to decrease the number of tags, the rulemaking will be withdrawn.*

A. ESTIMATED PRIVATE SECTOR COSTS IMPACTS

1. Answer (from STD 399): b. Impacts small businesses, c. Impacts jobs or occupations, g. Impacts individuals

Businesses

Five hunting guides that contract with bighorn sheep tag holders to provide guide services will lose the opportunity to compete for contracts for trips with five public tag hunters with drawn tags and one hunter with a fundraising tag due to the proposed reduction in tags. Bighorn sheep hunt guides typically hire (short-term) about three additional subcontracted guides per season to assist with packing, scouting, cooking, and other support for the duration of the scouting and hunting season that may span several months.

Businesses that provide other goods and services to hunters (fuel, food, accommodations, sporting goods and general retail) may incur small losses in sales revenue. However, the decrease in hunting trips associated with five fewer tags is not anticipated to be substantial enough to significantly decrease retail revenues across the state.

Individual Hunters

The Department manages bighorn sheep hunting to provide sustainable public recreation opportunities. No change in fees or other nondiscretionary costs for individual hunters are introduced by the proposed amendments.

A. 6. Enter the jobs eliminated: 1 full-time-equivalent job (or 15 temporary jobs)

Describe the types of jobs or occupations impacted: 5 bighorn sheep hunting guides would lose one to six hunting contract opportunities, and about 15 temporary hunt guides would lose short-term subcontracting opportunities to assist bighorn sheep hunts in the state. Five hunting guides hire an average of three temporary hunt aids per hunt. The temporary jobs typically span about 3.5 weeks x 15 temp jobs = 52 weeks or 1 full-time-equivalent job. Guides and hunting guide aids may off-set bighorn sheep hunt losses in opportunity by work with other game hunts and in other states.

D. 2. Summarize the total statewide costs and benefits from this regulation:

Benefits: \$74,034 per year. Annual draw application and tag revenue to the Department reveals a value that hunters are willing to pay to maintain bighorn sheep hunts. Tag sales revenue provides an expression of revealed preference for prospective hunters as it is an explicit monetary transaction specific to bighorn sheep. However, the tag revenue may underrepresent the full benefit of preserving bighorn sheep populations into the future since other members of the public are not presented with a distinct opportunity to monetize the value of bighorn sheep for their ecological value, for future sustainable hunts, for their existence value, or for other human values.

Costs: Hunt guides receive an average of \$9,000 per public drawn hunt and an average of \$14,500 for a fundraising tag hunt; with the loss of up to six hunts, the combined loss to all five bighorn sheep guides is estimated to be approximately $(\$9,000 \times 5)$ public tags + $(\$14,500 \times 1)$ fundraising tag = \$59,500, or a maximum of \$11,900 per guide in income opportunity losses.

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT

Answer: 5. No fiscal impact exists. This regulation does not affect any local entity or program.

B. FISCAL EFFECT ON STATE GOVERNMENT

4. Other. Explain:

The Commission estimates that the Department will have decreased tag sales revenue ranging from \$500.25 to \$2,501.25 (with 1-5 fewer public drawn tags). Or, if the fundraising tag is also eliminated, then the total loss would range from approximately \$72,033.35 to a maximum of \$74,034.35 in the 2023/24 bighorn sheep hunting season.

Table 2. Department Bighorn Sheep Tags – Potential Revenue Losses

Tag Type	2023/24 Proposed Tag Reductions	2023 Fee	Revenue Loss
Public Draw Tag	1	\$500.25	\$500.25
Public Draw Tag	2	\$500.25	\$1,000.50
Public Draw Tag	3	\$500.25	\$1,500.75
Public Draw Tag	4	\$500.25	\$2,001.00
Public Draw Tag	5	\$500.25	\$2,501.25
Fundraising Tag Average* Revenue per Year	1	N/A	\$71,533.10
Maximum Grand Total			\$74,034.35

Notes: Estimates using data from CDFW License and Revenue Branch, 2022, for a resident hunter. *Average annual fundraising revenue for the last ten years.

Revenue to the Department's Big Game Management Account from Marble, Clipper, and South Bristol mountains bighorn sheep fundraising tag sales varies by year, as shown in Table 3. Over the previous ten-year period the average total fundraising tag revenue is \$71,533.10. No Marble/Clipper/South Bristol mountains bighorn sheep fundraising tags were offered for hunting seasons in the following years: 2014-15 through to 2017-18 and for the 2020-21 season. If the one fundraising tag was no longer available, the Department would experience an estimated \$71,533.10 reduction in revenue.

Table 3. Marble/Clipper/South Bristol Mountains Bighorn Sheep Fundraising Tag Revenue from 2012 to 2022.

Hunt Year	Method of Sale	Revenue
2012-2013	Auction via non-governmental organization	\$62,076.80
2019-2020	Auction via non-governmental organization	\$78,517.50
2022-2023	Auction via non-governmental organization	\$74,005.00
Average		\$71,533.10

Source: CDFW License and Revenue Branch, 2022.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS

Answer: 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

State of California
Fish and Game Commission
Initial Statement of Reasons for Regulatory Action

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

I. Date of Initial Statement of Reasons: January 17, 2023

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing

Date: December 15, 2022

Location: San Diego

(b) Discussion Hearing

Date: February 8, 2023

Location: Sacramento

(c) Adoption Hearing

Date: April 19, 2023

Location: Fresno/Bakersfield

III. Description of Regulatory Action

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

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations.

Background

The California Department of Fish and Wildlife (Department) manages bighorn sheep hunting to provide sustainable public recreation opportunities. The Fish and Game Commission (Commission) periodically considers the recommendations of the Department in establishing bighorn sheep hunting regulations. Considerations include recommendations for adjusting tag quotas, setting hunt periods, modifying zone boundaries, and authorizing methods of take, among others, to help achieve management recommendations.

Periodic adjustments of Nelson bighorn sheep hunting regulations, such as tag quotas, in response to dynamic environmental, and biological conditions are necessary to maintain consistency with management recommendations and Fish and Game Code. Fish and Game Code subdivision 4902(b)(2) states the Commission may not adopt regulations authorizing the sport hunting in a single year of more than 15 percent of the mature Nelson bighorn rams in a single management unit.

Current Regulations

Section 362 provides definitions, hunting zone descriptions, season opening and closing dates, tag quotas (total number of hunting tags to be made available), and bag and possession limits for bighorn sheep hunting. Individuals are awarded a bighorn sheep hunting tag through the Department's Big Game Drawing. A limited number of fundraising tags are also available for

purchase, usually by auction, via non-governmental organizations that assist the Department with fundraising.

Harvest of a bighorn sheep is authorized for an individual with a tag for a respective hunt zone and season. Tag quotas are established based on a variety of factors, including population density and abundance, age and sex composition, and distribution.

Proposed Regulations

The proposed changes to Section 362 includes amending subsection 362(d) to modify the hunt tag quota for the general lottery in the Marble and Clipper Mountains Hunt Zone 1 (San Bernardino County) and a pertinent fundraising tag. Currently, the Marble and Clipper Mountains public tag quota is 5 tags, and 1 for the Marble, Clipper, and South Bristol Mountains Fundraising tag. For 2023, the proposed tag allocation for the Marble and Clipper Mountains is [0-5] tags for the public tag quota, and [0-1] rams for the Marble, Clipper, and South Bristol Mountains Fundraising Tag (Table 1). The tag quotas are provided as ranges to allow the Commission flexibility in determining final regulations.

Table 1. Proposed Bighorn Sheep Tag Changes

Hunt Zone or Tag Type	2021/22 Tag Quota	Proposed Tags for 2023/24 Hunt Year
Zone 1 – Marble and Clipper Mountains	5	[0-5]
Marble/Clipper/South Bristol Mountains Fundraising Tag	1	[0-1]
Total Tag Quota All Hunt Zones	30	[24-29*]

**The recommendation is to reduce the tag numbers by at least one. If the Commission chooses not to decrease the number of tags, the rulemaking will be withdrawn.*

The Marble and Clipper Mountains populations have been subject to extreme drought, low recruitment, and respiratory disease in recent years. Recent population estimates and minimum counts in the Marble and Clipper Mountains suggest population declines. Specifically, the Department’s 2022 population estimate from the summer of 2022 was only 25 to 83 adult male sheep such that the mature (2-yrs+) population available for hunting could be less than 25 rams. Therefore, the current tag quota of 5 tags may exceed the 15% threshold allowable pursuant to Fish and Game Code subdivision 4902(d). Furthermore, annual surveys during 2015–2022 indicated between 0 and 0.18 lambs per ewe survived from the previous year to be counted as yearlings (i.e., recruitment). The minimum recruitment rate for a sustainable population is on the order of 0.20. Low recruitment rates are attributed to impacts from severe drought, and to impacts of a respiratory disease-causing pathogen (*Mycoplasma ovipneumoniae*) first detected in the Marble Mountains population in 2013. A tag quota range is proposed that will allow consistency with management unit plan recommendations and prevent a possible violation of Fish and Game Code.

(b) Goals and Benefits of the Regulation

The goals and benefits of the regulations are to help achieve management recommendations in existing unit plans, and so as not to exceed the 15 percent threshold identified in Fish and Game Code subdivision 4902(b)(2).

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

Authority: Section(s) 200, 203, 203.1, 265, 1050, and 4902 Fish and Game Code

Reference: Section(s) 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

- Bleich, Vernon C., Vernoy, Robert L., Weaver, Richard A. (1987). Mountain Sheep Management Plan: Marble Mountains Management Unit, California Department of Fish and Wildlife.
- Pauli, Andrew M. and Bleich, Vernon C. (1992). Mountain Sheep Management Plan: Clipper Mountains Management Unit, California Department of Fish and Wildlife.

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

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

No alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

(b) No Change Alternative

The no change alternative was considered and rejected because it would not be consistent with maintaining bighorn sheep populations within desired population objectives. Fish and Game Code subdivision 4902(b) and management unit plans specify desired harvest levels. Retaining the current tag quota for each zone may not be responsive to environmental and biological changes in the status of various herds. The no-change alternative would not allow for adjustment of tag quotas in response to changing environmental and biological conditions.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no significant adverse effect on the environment, and therefore, no mitigation measures are required.

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 Commission estimates that five hunting guides that contract with bighorn sheep tag holders to provide guide services will lose the opportunity to compete for contracts for trips with five hunters with drawn tags and one hunter with a fundraising tag due to the proposed reduction in tags. However, in sum, the proposed regulation is not anticipated to have a

significant statewide adverse economic impact directly affecting business broadly, including the ability of California businesses to compete with businesses in other states. This regulatory action will not impose cost impacts that a representative individual hunter would necessarily incur in reasonable compliance with the proposed regulation.

(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 the creation of jobs and anticipates the elimination of up to 1 full-time-equivalent (FTE) job comprised of 15 temporary (3.5 week) jobs for hunting guide aids (sub-guides) within the state. No significant impacts to the creation of new business, the elimination of existing businesses, or the expansion of businesses in California are anticipated. The Commission does not anticipate direct benefits to the general health and welfare of California residents or to worker safety, but anticipates benefits to the environment.

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

The Commission estimates that five bighorn sheep guides will lose the opportunity to compete for contracts for hunting trips with four public tag hunters and one fundraising tag hunter due to the proposed reduction in tags for the affected hunt zone. The hunt guides receive an estimated average of \$9,000 per public drawn hunt and an average of \$14,500 for a fundraising tag hunt and with the loss of six hunts the combined loss to all bighorn sheep guides is estimated to be approximately \$59,500 over the hunting season ($\$9,000 \times 5$) public tags + ($\$14,500 \times 1$) fundraising tag = \$59,500 or approximately \$11,900 per guide in income opportunity losses.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State

The Department anticipates an estimated decline of \$73,534 in tag sales revenue with the implementation of the proposed regulation.

(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

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

The Commission estimates that that reduction in bighorn sheep tags could result in about one FTE job comprised of 15 fewer subcontracted hunting guide temporary job opportunities within the state. No creation of jobs is anticipated.

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

The Commission estimates that five hunting guides that contract with bighorn sheep tag holders to provide hunting guide services will lose the opportunity to compete for contracts for trips with five hunters with drawn tags and one hunter with a fundraising tag due to the proposed reduction in tags. Bighorn sheep hunt guides typically hire about three additional subcontracted guides to assist with packing, scouting, cooking, and other support for the duration of the scouting and hunting season that may span several months. The loss of income opportunities from guiding bighorn sheep hunts is not anticipated to induce the elimination of existing businesses and no creation of new businesses is anticipated.

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

The Commission does not anticipate impacts on the expansion of businesses currently doing business within the state because the expected economic impacts of the proposed regulations are unlikely to be substantial enough to increase the demand for goods or services related to bighorn sheep hunting.

(l) Benefits of the Regulation to the Health and Welfare of California Residents

The Commission does not anticipate impacts on the health and welfare of California residents.

(m) Benefits of the Regulation to Worker Safety

The Commission does not anticipate impacts on worker safety.

(n) Benefits of the Regulation to the State's Environment

The Commission anticipates incremental positive impacts to the state's environment.

Informative Digest/Policy Statement Overview

Current regulations in Section 362 provide definitions, hunting zone descriptions, season opening and closing dates, tag quotas (total number of hunting tags to be made available), and bag and possession limits for bighorn sheep hunting. Individuals are awarded a bighorn sheep hunting tag through the Department's Big Game Drawing. A limited number of fundraising tags are also available for purchase, usually by auction, via non-governmental organizations that assist the Department with fundraising.

Harvest of a bighorn sheep is authorized for an individual with a tag for a respective hunt zone and season. Tag quotas are established based on a variety of factors including population density and abundance, age and sex composition, and distribution. The Department has identified the following areas in which bighorn sheep hunting opportunities need to be reduced.

The proposed changes to Section 362 includes amending subsection 362(d) to modify the hunt tag quota for the general lottery in the Marble and Clipper Mountains Hunt Zone 1 and a pertinent fundraising tag. Currently, the Marble and Clipper Mountains public tag quota is 5 tags, and 1 for the Marble, Clipper, and South Bristol Mountains Fundraising tag. For 2023, the proposed tag allocation for the Marble and Clipper Mountains is [0-5] tags for the public tag quota, and [0-1] rams for the Marble, Clipper, and South Bristol Mountains Fundraising Tag.

The Marble and Clipper Mountains populations have been subject to extreme drought, low recruitment, and respiratory disease in recent years, and the most recent population estimates suggest a decline. Specifically, the Department's 2022 population estimate from the summer of 2022 was only 25 to 83 adult male sheep such that the mature (2-yrs+) population available for hunting could be less than 25 rams. Therefore, the current tag quota of 5 tags may exceed the 15% threshold. Furthermore, annual surveys during 2015–2022 indicated between 0 and 0.18 lambs per ewe survived from the previous year to be counted as yearlings (i.e., recruitment). The minimum recruitment rate for a sustainable population is on the order of 0.20. Low recruitment rates are attributed to impacts from severe drought, and to impacts of a respiratory disease-causing pathogen (*Mycoplasma ovipneumoniae*) first detected in the Marble Mountains population in 2013. For these reasons, a tag quota range is proposed that will allow consistency with management unit plan recommendations and prevent a possible violation of Fish and Game Code. Due to concerns regarding the low population and reproduction estimates, the Department is taking a precautionary approach by proposing the option of reducing the total tag quota by up to six tags for next year's season. The Department will consider minimum population viability recommendations in unit planning documents for the Marble and Clipper Mountains units, and the desert bighorn sheep population statewide when recommending harvest tag quotas.

Benefit of the Regulations:

The proposed regulatory action is designed to help achieve management objectives related to current environmental, biological, and social conditions, as outlined in the Marble and Clipper Mountains Management Plans, and to comply with the 15 percent threshold identified in Fish and Game Code 4902(b)(2).

Consistency and Compatibility with Existing Regulations:

Article IV, Section 20 of the State Constitution specifies that the Legislature may delegate to Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. Commission staff has searched the California Code of Regulations and has found no other state regulations that address the tag quotas (total number of hunting tags to be made available), and bag and possession limits for bighorn sheep hunting. The Commission has reviewed its own regulations and finds that the proposed regulations are consistent with other big game mammal regulations in Title 14, CCR, and therefore finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

Proposed Regulatory Language

Section 362, Title 14, CCR, is amended to read:

§ 362. Nelson Bighorn Sheep.

. . . *[subsections (a)(1), (a)(8), (b)(2) shown for context only]. . .*

(a)(1) Zone 1—Marble/Clipper Mountains: That portion of San Bernardino County beginning at the intersection of Kelbaker Road and the National Trails Highway; north on Kelbaker Road to the junction with Interstate Highway 40; east on Interstate Highway 40 to the intersection with National Trails Highway; southwest on National Trails Highway to junction with Kelbaker Road.

. . . *[No changes to subsections (a)(2) through (a)(7)]. . .*

(a)(8) Zone 8 — South Bristol Mountains: That portion of San Bernardino County beginning at the junction of Kelbaker Road and the National Trails Highway; west on the National Trails Highway to the intersection with Interstate Highway 40; east on Interstate Highway 40 to the junction with Kelbaker Road; south on Kelbaker Road to the point of beginning.

. . . *[No changes to subsections (a)(9) through (b)(1)]. . .*

(b)(2) Marble/Clipper/South Bristol Mountains Fund-raising Tag: The holder of the fund-raising license tag issued pursuant to subsection 4902(d) of the Fish and Game Code may hunt:

(A) Zones 1 and 8: Beginning the first Saturday in November and extending through the first Sunday in February.

. . . *[No changes to subsections (b)(3) through (c)]. . .*

(d) Number of License Tags:

<i>Nelson Bighorn Sheep Hunt Zones</i>	<i>Tag Allocation</i>
Zone 1 – Marble/Clipper Mountains	5 0-5
Zone 2 – Kelso Peak/Old Dad Mountains	1
Zone 3 – Clark/Kingston Mountain Ranges	4
Zone 4 – Orocopia Mountains	1
Zone 5 – San Gorgonio Wilderness	0
Zone 6 – Sheep Hole Mountains	0
Zone 7 – White Mountains	6
Zone 8 – South Bristol Mountains	2
Zone 9 – Cady Mountains	2
Zone 10 – Newberry, Rodman, Ord Mountains	6
Open Zone Fund-Raising Tag	1
Marble/Clipper/South Bristol Mountains Fund-Raising Tag	4 0-1
Cady Mountains Fund-Raising Tag	1
Total:	39 [24-29]

. . . *[No changes to subsection (e)]. . .*

NOTE: Authority cited: Sections 200, 203, 203.1, 265, 1050 and 4902, Fish and Game Code.
Reference: Sections 1050, 3950 and 4902, Fish and Game Code.