

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

I. Date of Initial Statement of Reasons: October 1, 2023

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing:

Date: December 13, 2023

Location: San Diego, CA

(b) Discussion Hearing:

Date: February 15, 2024

Location: Sacramento, CA

(c) Adoption Hearing:

Date: April 18, 2024

Location: San Jose, CA

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 (CCR).

The Fish and Game Commission (Commission) periodically considers the recommendations of the Department of Fish and Wildlife (Department) in updating Nelson bighorn sheep regulations. Considerations include recommendations for adjusting tag quotas, setting hunt periods, modifying zone boundaries, authorizing methods of take, among others, to help achieve management goals and objectives for Nelson bighorn sheep. Section 362 provides descriptions of hunt zone boundaries, season opening and closing dates, and tag quotas (total number of hunting tags to be made available) for Nelson bighorn sheep. To maintain appropriate harvest levels and hunting quality, tags must be adjusted periodically in response to dynamic environmental, biological, and social conditions.

The proposed changes focus on Nelson bighorn sheep hunting tag quotas under Section 362(d). The last time these regulations were subject to major amendment was 2022-2023. The proposed amendments here represent the cumulation of the Department's internal discussions/data analysis. The proposed changes are necessary to maintain sustainable hunt opportunities, consistency with management unit plan recommendations, and Fish and Game Code. Subdivision (b)(2) of Fish and Game Code Section 4902 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, management recommendations are consistent with this mandate.

BACKGROUND

Current regulations in Section 362 specify Nelson bighorn sheep tag quotas for each hunt zone and establish hunt zone boundaries in accordance with management goals and objectives described in the management unit plans. The Department's goal is to increase bighorn sheep hunting opportunities where feasible and compatible with population objectives, in which case recommendations will be offered to the Commission.

CURRENT REGULATIONS

Current laws governing bighorn sheep hunting are as follows:

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 include amending Subsection 362(d) to modify hunt tag quotas for each zone to ranges as identified in the 2019 Environmental Document on Bighorn Sheep Hunting. Periodic adjustments of tag quotas in response to dynamic environmental, and biological conditions are necessary to maintain sustainable populations of bighorn sheep and hunt opportunities, as well as keeping with mandates and management recommendations. Unfortunately, administrative procedures and the Fish and Game Code require the Fish and Game Commission to receive proposed changes to existing regulations prior the completion of surveys and analyses, thus necessitating a range of numbers. Analyses are scheduled for completion by March 2024.

Additional changes are made in subsection 362(a) for punctuation and re-arrangement of certain language regarding the descriptions of the hunt zones adds clarity to how the hunt zone areas are described and consistency with other big game sections in Title 14.

Additional changes in subsection 362(b) clarify the duration of the hunt seasons per zone, and other corrections to punctuation throughout Section 362 are non-substantive.

(b) Goals and Benefits of the Regulation

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

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

Authority: 200, 203, 203.1, 265, 1050, and 4902 Fish and Game Code

Reference: 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:

- 2019 [Environmental Document Regarding Bighorn Sheep Hunting](#)

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

- Wildlife Resources Committee, May 2023
- Wildlife Resources Committee, September 2023

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

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

(b) No Change Alternative

Without the proposed changes, the outstanding issues concerning the regulations currently governing bighorn sheep hunting would remain unaddressed. The no change alternative was considered and rejected because it would not be consistent with maintaining bighorn sheep populations within desired population objectives. Subdivision (b) of Fish and Game Code Section 4902 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 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 adjusts tag quotas for existing hunts. Given the number of tags available and the area over which they are distributed, these proposals are 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 does not anticipate impacts on the creation or elimination of jobs within the state, the creation of new business, the elimination of existing businesses, or the expansion of businesses in California because the expected economic impacts of the proposed regulations are unlikely to be substantial enough to substantially stimulate demand for goods or services related to Nelson bighorn sheep hunting. If greater numbers of hunters visit the areas in the state with increased opportunities, businesses that provide goods and services to Nelson bighorn sheep hunters could benefit from small increases in sales. Conversely, if fewer tags are awarded and less hunters visit the areas in the state with decreased opportunities, businesses that provide goods and services to Nelson bighorn sheep hunters could be negatively affected from small decreases in sales. The Commission does not anticipate direct benefits to the general health and welfare of California residents, the environment, or to worker safety, however California residents will benefit generally through access to recreational opportunities created by the proposed changes.

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

The total net number of tags is anticipated to be same as the previous year, so no net economic impacts to individuals or to businesses that support Nelson bighorn sheep hunts are anticipated. As such, the Commission does not anticipate significant impacts on the representative private persons or businesses.

- (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

The Commission does not anticipate impacts on the creation or elimination of jobs within 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 impacts on the creation of new business, the elimination of existing businesses within the state because the expected economic impacts of the proposed regulations are unlikely to be substantial enough to stimulate demand for goods or services related to Nelson bighorn sheep hunting.

(c) 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 stimulate demand for goods or services related to Nelson bighorn sheep hunting.

(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, and can be a family tradition and a bonding activity.

(e) Benefits of the Regulation to Worker Safety

The Commission does not anticipate impacts on 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 populations of Nelson bighorn sheep to ensure their continued existence and supporting recreational opportunity. Adoption of scientifically tag quotas provides for the maintenance of Nelson bighorn sheep populations to ensure those objectives are met. The fees that hunters pay for licenses and tags help fund wildlife conservation.

Informative Digest/Policy Statement Overview

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

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 California Department of Fish and Wildlife (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 proposed changes are as follows:

Amend Subsection 362(d) to modify hunt tag quotas to ranges for each hunt zone.

Periodic adjustments of tag quotas in response to dynamic environmental and biological conditions are necessary to maintain sustainable populations of bighorn sheep and hunt opportunities, as well as keeping with mandates and management recommendations. Unfortunately, administrative procedures and the Fish and Game Code require the Fish and Game Commission to receive proposed changes to existing regulations prior the completion of surveys and analyses, thus necessitating a range of numbers. Analyses are scheduled for completion by March 2024.

Non-substantive editing to improve the clarity and consistency of the regulatory language has been made in section 362.

Benefit of the Regulations:

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

Consistency and Compatibility with Existing Regulations:

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. Section 20, Article IV, of the state Constitution specifies that the Legislature may delegate to the Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to adopt regulations governing nelson bighorn sheep (California Fish and Game Code Section 4902). No other state agency has the authority to adopt regulations governing Nelson bighorn sheep. The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the CCR for any regulations regarding the adoption of Nelson bighorn sheep regulations; therefore, the Commission has concluded that the proposed

regulations are neither inconsistent nor incompatible with existing state regulations.