

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

Amend Sections 364 and 364.1  
Title 14, California Code of Regulations  
Re: Elk Hunting

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 elk hunting 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 elk. Section 364 provides descriptions of hunt zone boundaries, season opening and closing dates, methods of take (e.g., general methods, archery only, apprentice), tag designations (buck, doe), tag quotas (total number of hunting tags to be made available), bag and possession limits, and special conditions for elk. 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 elk tag quotas under Section 364(r-z). The last time these regulations were subject to a major amendment was 2022-2023. The proposed amendments here represent the cumulation of the Department's internal discussion/data analysis. Periodic adjustments of tag quotas in response to dynamic environmental and biological conditions are necessary to maintain sustainable populations of elk and hunt opportunities, as well as keeping with mandates and management recommendations. Unfortunately, administrative procedures and the Fish and Game Code require the Commission to receive proposed changes to existing regulations prior to the completion of surveys and analyses, thus necessitating a range of numbers. Analyses are scheduled for completion by March 2024. The

proposed changes are necessary to maintain sustainable hunt opportunities, consistency with management unit plan recommendations, and Fish and Game Code.

## **BACKGROUND**

Current regulations in Section 364 specify elk tag quotas for each hunt zone and establish hunt zone boundaries in accordance with management goals and objectives described in the Department's Elk Conservation and Management Plan. Similarly, current regulations in Section 364.1 specify elk tag quotas for each hunt zone that may be distributed to the public to allow access to hunt elk on specific properties that enter the Shared Habitat Alliance for Recreational Enhancement (SHARE) program. A limited number of public elk hunting tags are offered annually via the Big Game Drawing and SHARE program drawing, and public demand for elk hunting tags (as indicated by elk tag draw applications) has annually exceeded tag availability for the last ten years. In addition to harvest opportunity, public elk hunting also provides data that enhances the Department's ability to monitor elk populations including spatial, age, genetic, and disease information. As described in the Department's Elk Conservation and Management Plan (2018), the Department's goal is to increase elk hunting opportunities where feasible and compatible with population objectives, in which case recommendations will be offered to the Commission.

## **CURRENT REGULATIONS**

Individuals are awarded an elk hunting tag through the Department's Big Game Drawing or SHARE hunt program drawing. Harvest of an elk is authorized for an individual awarded a tag for a respective hunt zone or SHARE property and season. Tag quotas are established based on a variety of factors including population density and abundance, age and sex composition, elk distribution, and human-elk conflict levels, among other population objectives, factors, and considerations. The Department has identified several areas where increased public elk hunting opportunities under section 364 and section 364.1 are feasible and support achievement of population objectives.

Current laws governing 364 and 364.1 tag allocations for the identified areas are as follows:

- Grizzly Island General Methods Tule Elk Hunts: 364(u)(13)(A) through 364(u)(13)(M); 16 antlerless tags, 10 spike bull tags, 7 bull tags
- Siskiyou SHARE Roosevelt Elk Hunt: 364.1(i)(1); 2 bull tags, 2 antlerless tags
- Northwestern SHARE Roosevelt Elk Hunt: 364.1(i)(2); 34 bull tags, 34 antlerless tags
- Tehachapi SHARE Rocky Mountain Elk Hunt: 364.1(j)(2); 20 bull tags, 15 antlerless tags
- Mendocino SHARE Roosevelt/Tule Elk Hunt: 364.1(k)(1); 2 bull tags, 4 antlerless tags

## **PROPOSED REGULATIONS**

The proposed regulations are in compliance with CDFW's Elk Conservation and Management Plan (CDFW 2018):

### **Grizzly Island Tule Elk Hunt Zone Section 364(u)(13)(A) through 364(u)(13)(M)**

Amend subsections 364(u)(13)(J), 364(u)(13)(L), and 364(u)(13)(M) to increase bull harvest in Periods 10 (364(u)(13)(J)), 12 (364(u)(13)(L)), and 13 (364(u)(13)(M)).

Period 10: [4-5] bull; current 3

Period 12: [4-5] bull; current 3

Period 13: [2-4] bull: current 0

Grizzly Island Tule Elk Hunt Zone: Current (2023) public tag quota for the Grizzly Island Hunt Zone is 16 antlerless, 10 spike bull, and 7 bull tags. The observed bull (bb): cow (cc) ratio (86bb:100 cc) is above objective (50bb:100 cc). The Department recommends increased bull harvest with the addition of 4-8 bull tags across three hunt periods (Periods 10, 12, and 13). The intended results of this recommendation will provide more public hunt opportunity and help achieve the sex ratio objective.

### **Nonsubstantive Changes**

Additional changes are made in subsections 364(a) through (d) for punctuation and capitalization.

### **Siskiyou SHARE Roosevelt Elk Section 364.1(i)(1).**

Amend subsection 364.1(i)(1) to increase SHARE bull and antlerless harvest.

Siskiyou SHARE Roosevelt Elk Hunt Zone: current (2023) SHARE tags for the Siskiyou Hunt Zone is 2 bull and 2 antlerless tags. Elk populations in this hunt zone tend to concentrate on private property and human-elk conflict has exceeded tolerable levels in some areas. High elk density may also contribute to increased disease transmission.

The Department recommends adding 18 bull and 18 antlerless SHARE tags to result in a total of 40 (20 bull and 20 antlerless) SHARE tags. The intended results of this recommendation will provide more public hunt opportunity and reduce elk conflict.

### **Northwestern SHARE Roosevelt Elk Section 364.1(i)(2).**

Amend subsection 364.1(i)(2) to increase SHARE bull and antlerless harvest.

Northwestern SHARE Roosevelt Elk Hunt Zone: current (2023) SHARE tags for the Northwestern Hunt Zone include 34 bull and 34 antlerless tags. Elk populations in this Hunt Zone tend to concentrate on private property and human-elk conflict has exceeded tolerable levels in some areas. High elk density may also contribute to increased disease transmission.

The Department recommends adding 6 bull and 26 antlerless SHARE tags to result in a total of 100 (40 bull and 60 antlerless) SHARE tags. The intended results of this recommendation will provide more public hunt opportunity, reduce disease transmission, and reduce elk conflict.

### **Tehachapi SHARE Rocky Mountain Elk Section 364.1(j)(2).**

Amend subsection 364.1(j)(2) to increase SHARE bull and antlerless harvest.

Tehachapi SHARE Rocky Mountain Elk Hunt Zone: current (2023) SHARE tags for the Tehachapi Hunt Zone include 20 bull and 15 antlerless tags. Elk populations in this Hunt Zone tend to concentrate on private property and human-elk conflict has exceeded tolerable levels in some areas.

The Department recommends adding 20 bull and 45 antlerless SHARE tags to result in a total of 100 (40 bull and 60 antlerless) SHARE tags. The intended results of this recommendation will provide more public hunt opportunity and reduce elk conflict.

**Mendocino SHARE Roosevelt/Tule Elk Section 364.1(k)(1).**

Amend subsection 364.1(k)(1) to increase SHARE bull and antlerless harvest.

Mendocino SHARE Roosevelt/Tule Elk Hunt Zone: current (2023) SHARE tags for the Mendocino Hunt Zone include 2 bull and 4 antlerless tags. Elk populations in this Hunt Zone tend to concentrate on private property and human-elk conflict has exceeded tolerable levels in some areas. High elk density may also contribute to increased disease transmission.

The Department recommends adding 18 bull and 26 antlerless SHARE tags to result in a total of 50 (20 bull and 30 antlerless) SHARE tags. The intended results of this recommendation will provide more public hunt opportunity, reduce disease transmission, and reduce elk conflict.

(b) Goals and Benefits of the Regulation

The proposed regulations will contribute to the sustainable management of elk populations in California while providing additional hunting opportunity in certain zones. Population objectives are maintained and managed in part by periodically modifying the number of hunting tags distributed.

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

Authority: Sections 200, 203, 203.1, 265, 332, and 1050, Fish and Game Code

Reference: Sections 325, 332, 1050, 1570, 1571, 1573, and 1574, Fish and Game Code

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

(e) Identification of Reports or Documents Supporting Regulation Change

California Department of Fish and Wildlife. (2018). 2018 Elk Management Plan. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=162912&inline>

(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 by or brought to the attention of 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 364 and 364.1 would remain unaddressed. Retaining the current number of tags for the hunts listed would not be responsive to changes in population status or levels of human-elk conflict.

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 or businesses 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 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: Non new costs/savings or change to federal funding are anticipated for state agencies. However, the Department is projected to experience higher elk tag sales that may result in revenue increases (see STD399 and Addendum).

- (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 proposed regulations are not anticipated to create impacts that are substantial enough to stimulate demand for goods or services related to elk 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 proposed regulations are not anticipated to create impacts that are substantial enough to stimulate demand for goods or services related to elk 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 elk to ensure their continued existence

and supporting recreational opportunity. Adoption of scientifically based elk seasons and tag quotas provides for the maintenance of elk 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 364 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 elk hunting. Currently, elk tags are distributed through four issuance types governed by different sections under Title 14. Issuance types for elk tags include Section 364 General Public tags awarded via the Big Game Drawing, Section 364.1 Shared Habitat Alliance for Recreational Enhancement (SHARE) tags, Section 555 Cooperative Elk Hunting Area "Landowner" tags, and Section 601 Private Lands Wildlife Habitat Enhancement and Management Area (PLM) tags. 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 an elk is authorized for an individual with a tag for a respective hunt zone and season or specific property, depending on the tag issuance type. Tag quotas are established based on a variety of factors including population density and abundance, age and sex composition, and distribution as well as environmental and social factors.

The proposed changes are as follows:

**Amend 364(u)** to modify hunt quotas for Grizzly Island Periods 10, 12, and 13.

**Amend 364.1(i-k)** to modify hunt quotas for Siskiyou, Northwestern, Tehachapi, and Mendocino SHARE elk hunts.

Periodic adjustments of tag quotas in response to dynamic environmental and biological conditions are necessary to maintain sustainable populations of elk 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 to the completion of surveys and analyses, thus necessitating a range of numbers. Analyses are scheduled for completion by March 2024.

Non-substantive editing and renumbering to improve the clarity and consistency of the regulatory language have been made in sections 364 and 364.1.

**Benefit of the Regulations:**

The goals and benefits of the regulations are to help maintain sustainable populations of elk, maintain sustainable hunt opportunities, and achieve management recommendations in existing unit plans.

**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 elk hunting (California Fish and Game Code sections 332 and 3951. No other state agency has the authority to adopt regulations governing elk hunting. 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 elk hunting regulations; therefore, the Commission has concluded that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.