

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

Amend Section 555 and add Section 555.1
Title 14, California Code of Regulations
Re: Cooperative Elk Hunting Areas

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).

BACKGROUND

The California Department of Fish and Wildlife (Department) has identified regulated hunting as a preferred tool to both manage elk populations and provide public recreation opportunities. The Fish and Game Commission (Commission) periodically considers the recommendations of the Department in establishing elk hunting regulations. Considerations included recommendations for adjusting tag quotas, setting hunt periods, modifying zone boundaries, and authorizing methods of take, among others, to help achieve management goals and objectives. 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.

Regulated harvest is an effective management tool to help reduce human-elk conflict to tolerable levels. The Department aims to provide public hunting opportunity to the greatest extent possible, however, in some cases, elk almost exclusively occupy privately owned property causing significant conflict issues yet may be unavailable for harvest to a majority of general public tagholders. While hunters awarded an elk tag via the Big Game Drawing are

authorized to harvest an elk, it does not authorize access to private property. Some properties are also not conducive to host public hunters through the SHARE program, yet still experience elk conflict. Tags issued under the PLM program are transferable but are often associated with a cost that precludes most hunters from participating. Furthermore, PLM properties enter into agreement with CDFW to manage habitat for the benefit of elk and other wildlife and is not a useful program to reduce unwanted elk activity. The efficacy of regulated harvest as a management tool in these areas may therefore be reduced due to land access constraints imposed on the general public, among other factors.

The Department has identified an opportunity to modify regulations within an existing framework, Section 555 Cooperative Elk Hunting Areas, to help reduce conflict and provide increased hunting opportunities for qualifying landowners. Chronic, elevated human-elk conflict, elk occupation of predominantly private property, and limited public hunting access has been documented by the Department in the Siskiyou, Northwestern, Mendocino, and Tehachapi Elk Hunt Zones.

CURRENT REGULATIONS

Regulations for Cooperative Elk Hunting Areas (elk “landowner (LO) tags”) are described in Section 555. The purpose of this program is to encourage protection and enhancement of elk habitat and provide eligible landowners with an opportunity for limited elk hunting on their lands. To be eligible for application, a person must own at least 640 acres of contiguous parcels within a cooperative elk hunting area that is open to the public, elk hunt zones as defined in Section 364, that shall be a minimum size of 5,000 acres. The number of LO tags issued annually shall not exceed 20% of the number of public license tags for the corresponding public hunt for the same tag designation type (i.e., antlerless, spike bull, bull, or either-sex).

Applicants must complete an application form to be received by the Department by the first business day following July 1. If the number of accepted applications exceeds the number of license tags available, the Department determines successful applicants and a list of alternates by conducting a random drawing from the pool of qualified applicants as soon as possible after the application deadline. Successful applicants who are awarded a tag are notified as soon as possible after completion of the drawing. Successful applicants can use the tag themselves, or transfer the tag to another individual. Applicants must submit the name, address, and valid California hunting license number of the designated elk license tag recipients to the Department by the first business day following August 1.

PROPOSED REGULATORY CHANGES

Amend Section 555

Subsection 555(a)

- Clarify distinction between 5,000 acres and 640 acres criteria
- Add sentence to clarify formula for allocating annual tag distribution relative to general methods public tags (sum of general methods public elk tags + SHARE elk tags issued annually)

- A cooperative elk hunting area is an area of private land located within the boundary of an area open to public elk hunting at least 5,000 acres (Fish and Game Code Section 1575) in size (elk hunt zones as identified in section 364). A cooperative elk hunting area must be composed of contiguous parcels of at least 640 acres within a hunting area that is open to the public.
- Amend this section to add: Public license tags shall equate to the sum of the general methods elk license tags under Section 364 and the SHARE elk license tags under Section 364.1 for the corresponding hunt and for the same designation issued annually.

Subsection 555(b)

- (b)(1): Move the location in the regulation, and update the following regional office addresses:

Region 3: 2825 Cordelia Rd, Suite 100 Fairfield 94594 (707) 428-2002

Region 5: 3883 Ruffin Road, San Diego 92123 (858) 467-4201

Region 6: 3602 Inland Empire Blvd., Ste C-220, Ontario 91764 (909) 484-0167

Clarify eligibility requirements regarding landownership as reiterated above for 555(a).

- Add (b)(2): This subsection is necessary for application materials to be clarified; these include the application form referenced in subsequent language, proof of ownership, proof of property size, and applicable fees.
- Add (b)(3): This subsection is necessary to list the information required within an application form that will be provided by the department. The requested information serves to provide the Department with necessary contact information, including name of first and second applicant, as well as the ability to cross reference to Department data systems (Driver's License number).
- (b)(4): Update the review and approval process, clarifying how lands will be verified.
- (b)(5): update a cross-reference to subsection 702 for elk license fees.

The Reference section under "Note" is updated as the fees referenced in Section 702 require a cross reference to Fish and Game Code Section 713 for annual adjustment pursuant to the Implicit Price Deflator.

Non-substantive editing and renumbering to improve the clarity and consistency of the regulatory language have been made in Section 555.

Add Subsection 555.1

- Describe and classify four "conflict zones"
- Reduce qualifying landowner criteria within identified conflict zones from 640 acres to 60 acres
- Increase antlerless tag distribution relative to public tags (general methods public elk tags + SHARE elk tags issued annually) from 20% to up to 100%
- Extend the hunt season through November 30th annually

Add: Subsection 555.1(a)

Begin this subsection with: Definition and Scope. In areas where landowners experience chronic, elevated levels of human-elk conflict as determined by the Department, landowner

tags shall be issued in a modified fashion distinct from Section 555(a) to help reduce unwanted human-elk conflict. Minimum size of a conflict zone cooperative elk hunting area shall be contiguous parcels of at least 60 acres in size. Within the conflict zones open to public elk hunting as described in Subsection 555.1(b), the number of conflict zone cooperative elk hunting license general methods antlerless tags issued shall be up to 100 percent of the number of public license general methods antlerless tags issued annually for the corresponding public hunt (i.e., a 1 to 1 public license antlerless tag to landowner antlerless tag ratio). The corresponding public hunt is comprised of the annual sum of general methods license tags issued across 364 and 364.1. Within a conflict zone cooperative elk hunting area, the remaining tag designations (i.e., spike bull, bull, or either-sex) shall be issued consistent with Section 555(a). Any elk zones described in Section 364 excluded from this subsection shall conform to all criteria described in Section 555.

Add: Subsection 555.1(b)

Begin this subsection with: For the purposes of these regulations, a conflict zone cooperative elk hunting area is an area of private land as described in Subsection 555.1(a) located within the boundary of an area open to public elk hunting as identified in subsections 364(a)(1)(A), 364(a)(2)(A), 364(b)(2)(A), and 364(c)(1)(A).

Add: Subsection 555.1(c)

Begin this subsection with: An elk license tag issued pursuant to the provisions of this subsection is valid commensurate with the first day of the general methods elk season in which the conflict zone cooperative elk hunting area occurs, as described under Section 364, through November 30th annually. All other provisions described under Section 555, including 555(b) shall apply to this subsection.

(b) Goals and Benefits of the Regulation

The goal and benefits of these regulations serve to update administration of the landowner tags through the Cooperative Elk Hunting Area program by updating the application instructions, correcting outdated references and provide clarification to eligibility within the regulation, and provide clarification for conflict zones to allow flexibility for active management.

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

Section 555

Authority: 1575, Fish and Game Code

Reference: 67, 713 and 1575, Fish and Game Code

Section 555.1

Authority: 1575, Fish and Game Code

Reference: 67 and 1575, Fish and Game Code

(d) Specific Technology or Equipment Required by Regulatory Change

None.

(e) Identification of Reports or Documents Supporting Regulation Change

None.

(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

Various issuance percentages relative to the tag designation type may be used to increase hunting opportunity. For example, under the proposed 555.1 bull tags could be issued at 50% of the public tags for the corresponding public hunt, 100% for antlerless, 50% for spike bull, and 50% for either-sex, or some variation thereof.

(b) No Change Alternative

Without the proposed changes, elk conflict will continue and may increase in some areas, and result in increased requests for elk depredation permits to alleviate conflict; disease, including treponeme associated hoof disease (TAHD), may continue to spread resulting in significant animal welfare issues; the Department will miss opportunity to gain additional age and genetic data, among other information, from harvested elk to assist in population monitoring, lessening the Department's ability to better understand and manage the affected populations.

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. Considering the relatively small number of deer landowner 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.

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 economic stimulus to the state.

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

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.

(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

This regulatory action is not anticipated to create any adverse impacts to businesses or the state economy.

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

The proposed regulation is not anticipated to prompt the creation of new businesses or the elimination of existing businesses within the state.

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

The proposed regulation changes are unlikely to impact expansion of businesses currently doing business in the state.

(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.

(g) Other Benefits of the Regulation

Increased equity of opportunity in premium zones, updated language and information that will facilitate the landowner application process.

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).

The California Department of Fish and Wildlife (Department) has identified regulated hunting as a preferred tool to both manage elk populations and provide public recreation opportunities. The Fish and Game Commission (Commission) periodically considers the recommendations of the Department in establishing elk hunting regulations. 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.

Regulated harvest is an effective management tool to help reduce human-elk conflict to tolerable levels. The Department aims to provide public hunting opportunity to the greatest extent possible, however, in some cases, elk almost exclusively occupy privately owned property causing significant conflict issues yet may be unavailable for harvest to a majority of general public tagholders. The efficacy of regulated harvest as a management tool in these areas may therefore be reduced due to land access constraints imposed on the general public, among other factors.

The Department has identified an opportunity to modify regulations within an existing framework, Section 555 Cooperative Elk Hunting Areas, to help reduce conflict and provide increased hunting opportunities for qualifying landowners. Chronic, elevated human-elk conflict, elk occupation of predominantly private property, and limited public hunting access has been documented by the Department in the Siskiyou, Northwestern, Mendocino, and Tehachapi Elk Hunt Zones.

The proposed changes are as follows:

Amend Section 555(a)

- Clarify distinction between 5,000 acres and 640 acres criteria
- Add sentence to clarify formula for allocating annual tag distribution relative to general methods public tags (sum of general methods public elk tags + SHARE elk tags issued annually)
- A clarification that a cooperative elk hunting area is an area of private land located within the boundary of an area open to public elk hunting at least 5,000 acres (Fish and Game Code Section 1575) in size (elk hunt zones as identified in section 364). A cooperative elk hunting area must be composed of contiguous parcels of at least 640 acres within a hunting area that is open to the public.
- Public license tags shall equate to the sum of the general methods elk license tags under Section 364 and the SHARE elk license tags under Section 364.1 for the corresponding hunt and for the same designation issued annually.

Amend subsection 555(b)

- (b)(1): Move the location in the regulation, and update the following regional office addresses:

Region 3: 2825 Cordelia Rd, Suite 100 Fairfield 94594 (707) 428-2002

Region 5: 3883 Ruffin Road, San Diego 92123 (858) 467-4201

Region 6: 3602 Inland Empire Blvd., Ste C-220, Ontario 91764 (909) 484-0167

Clarify eligibility requirements regarding landownership as reiterated above for 555(a).

- Add (b)(2): This subsection is necessary for application materials to be clarified; these include the application form referenced in subsequent language, proof of ownership, proof of property size, and applicable fees.
- Add (b)(3): This subsection is necessary to list the information required within an application form that will be provided by the department. The requested information serves to provide the Department with necessary contact information, including name of first and second applicant, as well as the ability to cross reference to Department data systems (Driver's License number).
- (b)(4): Update the review and approval process, clarifying how lands will be verified.
- (b)(5): update a cross-reference to subsection 702 for elk license fees.

The Reference section under "Note" is updated as the fees referenced in Section 702 require a cross reference to Fish and Game Code Section 713 for annual adjustment pursuant to the Implicit Price Deflator.

Non-substantive editing and renumbering to improve the clarity and consistency of the regulatory language have been made in Section 555.

Add Section 555.1

- Describe and classify four "conflict zones"
- Reduce qualifying landowner criteria within identified conflict zones from 640 acres to 60 acres
- Increase antlerless tag distribution relative to public tags (general methods public elk tags + SHARE elk tags issued annually) from 20% to up to 100%
- Extend the hunt season through November 30th annually

Benefit of the Regulations:

Elk conflict exceeds tolerable levels in some areas. Elk almost exclusively occupy privately owned property in some hunt zones, causing significant conflict issues yet may be unavailable for harvest to a majority of general public tagholders. The efficacy of regulated harvest as a management tool in these areas may therefore be reduced due to land access constraints imposed on the general public, among other factors. Chronic, elevated human-elk conflict, elk occupation of predominantly private property, and limited public hunting access has been documented by the Department in the Siskiyou, Northwestern, Mendocino, and Tehachapi Elk Hunt Zones. Modifying regulations within an existing framework, Section 555 Cooperative Elk Hunting Areas, will provide increased hunting opportunities for qualifying landowners and serve to help reduce human-elk conflict.

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 landowner tags (California Fish and Game Code Section 1575). No other state agency has the authority to adopt regulations governing landowner tags. 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 landowner tag regulations; therefore, the Commission has concluded that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.