

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

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

I. Dates of Statements of Reasons

- (a) Initial Statement of Reasons Date: October 1, 2023
- (b) Pre-adoption Statement of Reasons Date: March 20, 2024
- (c) Final Statement of Reasons Date: April 29, 2024

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. Update

At its April 18, 2024 meeting, the Fish and Game Commission (Commission) adopted the proposed changes that focus on elk tag quotas under Section 364(r-z), as provided in the Final Regulatory Language, attached.

IV. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations

Comments from 12/13/23 to present.

| Comment Number | Name, Organization, Type, and Date | Comment Summary | Response |
|----------------|--|---|---|
| 1 | Chris Bowles (California Bowmen Hunters/State Archery Association, President, 12/13/23) | Supports big game hunting in California. Looking forward to working with the department on using archery as a tool for conflict management. | The Department acknowledges support for the proposal. |
| 2 | Bill Gaines (WSF, CDA, RMEF), 12/13/23 | In support of all proposed changes. Also, in support of archery as a tool to manage elk. | The Department acknowledges support for the proposal. |

| Comment Number | Name, Organization, Type, and Date | Comment Summary | Response |
|----------------|---|--|--|
| | | | |
| 3 | Bill Gaines (WSF, CDA, RMEF), 2/15/24 | In support of all proposed changes | The Department acknowledges support for the proposal. |
| 4 | J.R. Young, 2/15/24 | In support of all proposed changes | The Department acknowledges support for the proposal. |
| 5 | Marilyn Jasper, 2/15/24 | Asks the commission to be aware of a recent United Nations report called "State of the World's Migratory Species". | Comment noted. |
| 6 | Chris Bowles (California Bowmen Hunters/State Archery Association, President, RMEF, 4/18/2024 | Has concern regarding elk tags. Disappointed that no agreement has been reached regarding increased elk archery specific tags, or extended season archery hunting. Looking forward to working with CDFW staff on that next year. | Comment noted. |
| 7 | Siskiyou County Fish and Game Commission | The SCFGC is supportive of the SHARE program and would like to see it grow beyond the two existing private landowners currently enrolled within the Siskiyou EMU. The SCFGC has concerns about the size of SHARE properties and supports a minimum acreage of 640 acres unless there are special circumstances. The SCFGC recommends allowing adjacent properties to combine acreage to increase the | Thank you for reaching out with your inquiry. We appreciate your interest in the SHARE Program (Section 602). To clarify, there is no minimum acreage requirement for participation in the SHARE Program (Section 602). Additionally, the program does offer the flexibility for landowners to collaborate and participate in SHARE Program (Section 602) hunts collectively. It's important to note that the reduction in acreage from 640 acres is specific to the Cooperative Elk Hunting Program (Section 555) and not applicable to the SHARE program (Section 602). We hope this information |

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|----------------|--|--|---|
| | | size of the property enrolled in the program and does not recommend reducing the minimum acreage. | addresses your concerns, and please feel free to reach out if you have any further questions or require additional clarification. |
| 8 | Siskiyou County Fish and Game Commission | The SCFGC requests a meeting with the Department to review elk population data that allows for the current proposed increase in elk hunting tags, and, if the data support the proposed review, requests that tags are more evenly distributed to General Public Hunts, the SHARE program, and the Cooperative Hunting Area program. | Thank you for your inquiry into elk tags and programs. We acknowledge your request for a meeting to review the elk population data supporting the proposed increase in hunting tags. We are currently working on updating our population monitoring methods for Elk and will reach out to SCFGC when we have updates. We value collaboration and transparency, and we are open to discussing this matter further with you. We invite you to join in on a Wildlife Resources Committee meeting, where these topics can be brought before the Fish and Game Commission. Regarding your suggestion to distribute tags more evenly among General Public Hunts, the SHARE program, and the Cooperative Hunting Area program, we understand the importance of a reasonable distribution among programs. As part of our ongoing efforts to enhance hunting opportunities, we are actively considering ways to expand the SHARE program and provide broader access to hunting opportunities. We also note that the proposed increases in elk tags are to Section 364, part of the Grizzly Island Hunt, and is a Department Administered General Methods Tule Elk Public Hunt. |

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|----------------|------------------------------------|--|--|
| | | | Thank you once again for your engagement and constructive feedback. |
| 9 | Marie Kyle | The commenter also opposes the increases in Roosevelt elk hunting tags proposed to Section 364.1 through the SHARE program. | Thank you for your comment. The proposed increase in Roosevelt elk tags will contribute to the sustainable management of elk populations in Northern California. Existing elk herd management goals specify objective levels for the proportion of bulls to cows in the herds. These ratios are maintained and managed in part by periodically modifying the number of tags. The final recommended number of tags is based upon findings from annual harvest, herd composition counts, and population estimates where appropriate. In addition, the proposed increase in tags will relieve depredation damage to landowners. |
| 10 | Marie Kyle | The commenter urges the Commission to focus its efforts on alternatives that will allow the Department to balance the competing interests among stakeholders, and suggests elk translocation and the use of elk exclusion fences as long-term solutions for relief from property damage caused by elk. | Thank you for your inquiry. We appreciate your concern regarding the management of elk populations and the mitigation of human-elk conflicts. Because elk are a herd species, translocation may not resolve the underlying conflict. Translocation carries serious risks, including potential spread of pathogens and animal welfare concerns. While fencing is encouraged as a means of managing elk populations, it can be cost-prohibitive for landowners and may not fully address human-elk conflict. Approaches to mitigating conflict must be multipronged. |

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|----------------|------------------------------------|---|--|
| 11 | Phoebe Lenhart | Commenter objects to the proposal for hunting tags in the Northwestern zone for the Roosevelt elk in the SHARE program and states that the proposal does not appear to be based on scientific data and requests herd populations by location. | The proposed increases in Roosevelt Elk tags are based upon findings from annual harvest, herd composition counts, and population estimates where appropriate. The California Department of Fish and Wildlife does have current data showing a bull:cow ratio above management objectives and continued population growth. The current level of harvest that exists within the North Coast Elk Management Unit is not large enough to significantly change the population within any given hunt period. Data will be examined on a yearly basis to ensure that hunting pressure is supporting management objectives. |

The Department did not recommend any further amendments to the regulatory text based on comments received.

V. 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 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.

(c) Consideration of Alternatives

No reasonable alternative considered by the Fish and Game Commission or that has otherwise been identified and brought to the attention of the Fish and Game Commission would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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 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. The Commission expects that Californians will benefit generally from sustainable management of natural resources in the state.

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

None.

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

None. No 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.

Updated 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.

Update: At its April 18, 2024 meeting, the Commission adopted the proposal as detailed in the ISOR and as recommended in the pre-adoption memorandum, dated April 10, 2024. The adoption was made consistent with the Department's recommendation based on population surveys and analysis conducted in the spring of 2024.