

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:

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing:

Date: December 12, 2024

Location: Sacramento, CA

(b) Discussion Hearing:

Date: February 12, 2025

Location: Sacramento, CA

(c) Adoption Hearing:

Date: April 16, 2025

Location: Sacramento, 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 California Fish and Game Commission (Commission) periodically considers the recommendations of the California Department of Fish and Wildlife (Department) in amending elk hunting regulations. Considerations include recommendations for adjusting tag quotas, setting hunt periods, modifying area boundaries, authorizing methods of take, among others, to help achieve management goals and objectives for elk. Section 364 provides descriptions of hunt area boundaries, season opening and closing dates, methods of take (e.g., general methods, archery only, apprentice), tag designations (bull, spike bull, antlerless, either-sex), 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.

Elk populations have been steadily increasing, especially in the northwestern areas of the state. In some Elk Management Units (EMUs) elk conflict has reached intolerable levels causing property damage and loss. Additionally, in the Lake Pillsbury EMU the local carrying capacity is estimated to be reduced following a planned dam removal.

The proposed changes focus on adding three archery-only elk hunts in Section 364(r), identifying corresponding tag quotas and hunt seasons for each in Section 364(w), amending existing tag quotas and seasons in Section 364 (u), extending a hunt season for SHARE elk hunts in conflict zones in Section 364.1, and expanding the Bear Valley SHARE elk hunt tag allotment. The last time these regulations were subject to major amendment was 2023-2024. The proposed amendments here represent the cumulation of the California Department of Fish and Wildlife's (Department) internal discussion as well as input from hunting constituents. The proposed changes expand on and maintain sustainable hunt opportunities, and are consistent with management unit plan recommendations and Fish and Game Code.

Background

Current regulations in Section 364 specify elk tag quotas for each hunt area and establish hunt area boundaries in accordance with management goals and objectives described in the Department's Elk Conservation and Management Plan (2018). Similarly, current regulations in Section 364.1 specify elk tag quotas for each hunt area 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. Regulated hunting is the recommended primary method of population control to alleviate elk conflict, as described in the Department's Elk Conservation and Management Plan (2018). 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.

A central theme in Commission Petition 2021-017 is to increase hunting opportunities where feasible, including archery only opportunities. The Commission adopted the Department's recommendation to grant in part and deny in part by the Commission on February 8, 2023, and the Department has incorporated some of the granted requests into this rulemaking. The department has received various public comments (President of the California Bowmen Hunters/State Archery Association (CBH/SAA), Chris Bowles, and Bill Gaines speaking on behalf of the Rocky Mountain Elk Foundation and CBH/SAA, Fish and Game Commission Meeting, December 2023) from constituents to apply hunting, including archery only methods, to address elk conflict, a concept which is consistent with the Elk Conservation and Management Plan (CDFW 2018). Comments also appealed that the Department consider temporally spacing opportunities to manage crowding and enhance hunter satisfaction (Fish and Game Commission Meeting, February 2024).

Existing Authorities

Current statutory authorities focus mostly on the take and possession of animals and include:

F&G Code Section 200 provides the Commission with the power to regulate the take or possession of birds, mammals, fish, amphibians, and reptiles.

F&G Code Section 203 specifies that the Commission has authority to promulgate regulations concerning open and closed seasons, bag and possession limits, hunt zones, methods of take, and restrictions based on physical distinctions.

F&G Code Section 203.1 requires the Commission to consider populations, habitat, food supplies, animal welfare, and other pertinent facts.

F&G Code Section 325 provides conditions by which the Commission may adopt special hunting seasons, provide for increased bag limits, or remove sex restrictions.

F&G Code Section 332 provides guidelines for the issuance of elk hunting tags, fundraising tags, a non-resident tag, and applicable tag fees.

F&G Code Section 1050 describes the process and procedure for assigning fees to hunting entitlements.

F&G Code Sections 1570-1577 establish the SHARE program and SHARE account, provide definitions, and permit voluntary agreements with landowners.

F&G Code Section 3950 provides a definition for game mammals: deer, elk, prong-horned antelope, black and brown or cinnamon bears, mountain lions, jackrabbits, and varying hares, brush rabbits and pygmy rabbits, and tree squirrels. Nelson bighorn sheep are game mammals only for the purposes of sport hunting as described in F&G Code section 4902.

F&G Code Section 3951 grants the Commission authority to promulgate regulations regarding the take and relocation of tule elk and mandates that the number of tule elk in the Owens Valley may not increase beyond 490.

F&G Code Section 3952 directs the Department to develop a statewide management plan that considers: geographic range of each elk subspecies, habitat conditions, human-wildlife conflict, alleviation of property damage, population viability; identifies high priority areas; and describes requirements for individual herd management plans.

F&G Code section 4180 provides guidelines for the taking of fur-bearing mammals injuring property.

Current Regulations

Section 265 provides criteria and limitations for the use of dogs for the take of deer during general methods seasons.

Section 350 defines big game species.

Section 352 provides hunting and shooting hours on big game.

Section 353 provides methods that are authorized for taking big game.

Section 364 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 elk hunting.

Section 364.1 provides season opening and closing dates, methods of take, application instructions, tag quotas (total number of hunting tags to be made available), and bag and possession limits for Department administered Shared Habitat Alliance for Recreational Enhancement (SHARE) elk hunts.

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 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.

Proposed Regulations

The Department has identified several EMUs where increased public elk hunting opportunities under Section 364 and Section 364.1 are feasible and are supported by management objectives.

The proposed changes to sections 364 and 364.1 have been developed to increase hunter opportunity while allowing the Department to manage for sound biological levels by adding archery-only hunts, adjusting tag quotas (most shown as ranges), and extending the SHARE hunt season in identified conflict areas. The proposed regulations comply with the Department's Elk Conservation and Management Plan (CDFW 2018). Periodic adjustments of tag quotas or addition of hunts in response to dynamic environmental and biological conditions, and human-wildlife conflict are necessary to maintain hunt opportunities and keep with management ratios and recommendations. Surveys through the winter would continue to assess population status and will help inform final quota recommendations upon completion of data analysis. Unfortunately, administrative procedures and the Fish and Game Code require the Commission to receive proposed changes to existing regulations prior the completion of surveys and analyses, thus necessitating a range of numbers with this Initial Statement of Reasons. Final proposed tag quotas would be provided with the Final Statement of Reasons.

Section 364 Elk Hunts, Seasons, and Number of Tags

Add subsection 364(f)(7) to add an archery only elk hunt in the Central Coast Hunt area (CDFW Region 4). The elk population in the Central Coast EMU exceeds the population objective per the Elk Conservation and Management Plan (CDFW 2018) and is continuing to grow. The proposal is necessary to manage the increasing population and provide hunter opportunity, consistent with management objectives. The proposal is also responsive to hunter requests for new hunting opportunities.

Add subsection 364(f)(8) to add an archery only elk hunt in the La Panza Hunt area (CDFW Region 4). The elk population in the La Panza EMU exceeds the population objective per the Elk Conservation and Management Plan (CDFW 2018) and is continuing to grow. The proposal is necessary to manage the increasing population and

provide hunter opportunity, consistent with management objectives. The proposal is also responsive to hunter requests for new hunting opportunities.

Add subsection 364(f)(9) to add an archery only elk hunt in the Siskiyou Hunt area (CDFW Region 1). The Siskiyou EMU elk population can sustain additional harvest. The proposal is necessary to add additional hunt opportunities supported by the Elk Conservation and Management Plan (CDFW 2018) objectives. The proposal is also responsive to hunter requests for new hunting opportunities.

Amend 364(s)(2)(A) to increase bull tags in the General Methods Tehachapi Hunt (CDFW Region 4). The current tag allocation is 5 bull tags and 10 antlerless tags. The Tehachapi Hunt was established in the 2023 hunting season to mitigate increased abundance of non-native Rocky Mountain elk. These non-native elk were introduced as part of a fenced game farming operation in 1967; elk subsequently escaped the enclosure and have since increased in abundance and expanded their range beyond Tejon Ranch into surrounding communities in Kern County and the Southern Sierras.

Human-elk conflict has exceeded tolerable levels in some areas. Current abundance levels are above objectives outlined in the Elk Conservation and Management Plan (CDFW, 2018). Observed bull:cow ratios (47mm:100ff) are also above the Elk Conservation and Management Plan objective (25mm:100ff). Continued range expansion may result in non-native Rocky Mountain elk overlapping with endemic tule elk in the Owens Valley, resulting in hybridization between the two subspecies. This presents a threat to genetic integrity of the endemic tule elk population, and it is desirable to prevent hybridization between these subspecies from occurring as described in the Elk Conservation and Management Plan (CDFW, 2018).

To help address these concerns for the Tejon Elk Management Unit, the Department recommends increasing bull tags and reduce the likelihood of dispersing bulls in the Tehachapi Rocky Mountain General Methods Hunt to help achieve goals and objectives outlined in the Elk Conservation and Management Plan (CDFW, 2018).

Amend subsection 364(u)4(A) to increase the bull tags in the General Methods Gabilan Hunt (CDFW Region 4). The current tag allocation is 4, the proposal would increase the allocation by up to 6 bull tags. Continued population monitoring suggests the population can sustain increased take. A final tag quota recommendation will follow the completion of surveys and data analysis. The proposal is supported by Elk Conservation and Management Plan (CDFW, 2018) objectives and is necessary to pace harvest levels with population size. The proposal is also responsive to hunter requests for new hunting opportunities.

Amend subsection 364(u)(18) to add new periods and increase the Lake Pillsbury bull and antlerless tag quotas (CDFW Region 2). There are currently two hunt periods: the first period (u)(18)(A) with 4 antlerless tags, and the second period (u)(18)(B) with 2 bull tags. The proposal would adjust the 2 bull tags to 0-4 antlerless tags, and adjust the season accordingly to fit in the hunts without overlap, and add 3 hunt periods (u)(18)(C), (u)(18)(D), and (u)(18)(E) for Lake Pillsbury.

New subsections (u)(18)(C), (u)(18)(D), and (u)(18)(E) add 0-8 antlerless tags, and add 0-2 bull tags in succession from second Saturday in September through October as additional hunt opportunities. Scott Dam, which creates Lake Pillsbury, will be decommissioned and reduce carrying capacity in the EMU. The proposal is necessary to reduce elk population size as dam removal approaches. The proposal is also responsive to hunter requests for new hunting opportunities.

Add subsection 364(w)(7)-(9) to identify the novel archery only elk hunts described above for 364(f) for Central Coast Archery Only Tule Elk Hunt, La Panza Archery Only Tule Elk Hunt, and Siskiyou Archery Ony Roosevelt Elk Hunt. These amendments are necessary to identify tag allocations and seasons for the proposed archery hunts.

Section 364.1 Department Administered Shared Habitat Alliance for Recreational Enhancement (SHARE) Elk Hunts

Amend 364.1(a) to extend the SHARE elk hunt season in two conflict zones (subsections 364(a)(2)(A) Northwestern Hunt Zone and 364(c)(1)(A) Mendocino Hunt Zone), as described in Section 555.1. The existing season opens August 15 and continues through January 31. The proposal would extend this season from July 1 to June 30, extending it from 4.5 months to year-round. The proposal is necessary to address intolerable levels of elk conflict in conflict zones. The proposal is also responsive to hunter requests for new hunting opportunities.

Amend subsection 364.1(l)(17) to increase the antlerless tags SHARE tag allotment for the Bear Valley Hunt (CDFW Region 2). There is currently 1 SHARE antlerless tag for Bear Valley, and the proposal would add 0-6 antlerless tags. This change is necessary to add veritable hunt opportunities to the Bear Vally EMU, where the elk population heavily occupies private land versus public land. The proposal is also responsive to hunter requests for new hunting opportunities.

Other changes

F&G Code Section 325 is proposed to be added to the authority section cited for Section 364 and as a reference for Section 364.1 to support the need to reduce elk numbers in certain areas.

(b) Goals and Benefits of the Regulation

The proposed regulations will contribute to the sustainable management of elk populations in California. Population objectives are maintained and managed in part by periodically modifying the number of hunting tags distributed. The proposed regulations will provide additional elk hunting opportunities and alleviate elk conflict.

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

Section 364

Authority: 200, 203, 203.1, 265, 325, 332, and 1050, Fish and Game Code

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

Section 364.1

Authority: Sections 332 and 1050, Fish and Game Code.

Reference: Sections 332, 1050 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). Elk Conservation and Management Plan: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=162912&inline>
- Petition 2021-017: [January 13, 2022 Wildlife Resources Committee Meeting Binder](#)

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

- Petition 2021-017 Elk Workshop, January 2022
- Wildlife Resources Committee, May 2024
- Wildlife Resources Committee, September 2024

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 and expands certain hunt opportunities. 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 because the expected economic impacts of the proposed regulations are unlikely to be substantial enough to significantly stimulate demand for goods or services related to elk hunting. As previously mentioned, periodic or annual adjustments of tag quotas in response to dynamic environmental, biological, or social conditions are necessary to maintain hunt opportunities, as well as keeping with management recommendations. If greater numbers of hunters visit the areas in the state with increased annual opportunities, businesses that provide goods and services to elk hunters could benefit from small increases in sales for that license year. 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:

No new costs/savings or changes 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 businesses or the elimination of existing businesses within the state because the potential economic impacts of

the proposed regulations vary annually as tag quotas or hunts change, and are unlikely to be substantial enough to stimulate demand for goods or services related to elk hunting in the long run due to annual variability.

(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 potential economic impacts of the proposed regulations vary annually as tag quotas or hunts change, and are unlikely to be substantial enough to stimulate demand for goods or services related to elk hunting in the long run due to annual variability.

(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. Where feasible, regulated hunting is also a direct means of addressing elk conflict on private lands and meeting hunter requests for new hunting opportunities.

(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.