

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-Publication of Notice Statement)

Amend Subsection 362,
Title 14, California Code of Regulations (CCR)
Re: Nelson Bighorn Sheep

Date of Initial Statement of Reasons: September 24, 2013

II. Dates and Locations of Scheduled Hearings:

- (a) Notice Hearing: Date: December 11, 2013
Location: San Diego, CA
- (b) Discussion Hearings: Date: February 5, 2014
Location: Sacramento, CA
- (c) Adoption Hearing: Date: April 16, 2014
Location: Ventura, CA

III. Description of Regulatory Action:

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

1. Number of Tags

This proposed regulatory action initially provides for the number of tags for bighorn sheep hunting. Existing regulations specify the number of bighorn sheep hunting tags for each hunt. In accordance with management goals and objectives, and in order to maintain hunting quality, tag quotas for hunts need to be adjusted periodically. Final tag quotas for each zone will be identified and recommended to the Commission at the April 2014 adoption hearing based upon the Department's estimate of the population in each management unit.

Section 4902 of the Fish and Game Code specifies that the Commission may allow the take of no more than 15 percent of the mature Nelson bighorn rams estimated in the hunt areas in a single year, based on the Department's annual estimate of the population in each management unit.

In May-July 2013, *Mycoplasma ovipneumoniae* was detected in two of California's nine bighorn sheep management units (Marble/Clipper Mountains and Kelso Peak/Old Dad Mountains units). *Mycoplasma* is a respiratory pathogen of domestic sheep, domestic goats, bighorn sheep, and mountain goats that can both cause primary atypical pneumonia and

also predispose infected animals to secondary pneumonia with other agents.

Confirmed losses of sheep totaled about 30 animals but higher losses are suspected. Rugged terrain, high temperatures in August that limit field work, and monsoonal rains that dispersed sheep severely hampered the Department's efforts to determine the exact number of animals lost in this event. The cause or source of the bacteria has also not been determined.

In response to this disease outbreak, the Department and several partners are currently undertaking a study that will:

1. Mark up to 100 desert bighorn sheep to determine the distribution and prevalence of pneumonia in bighorn sheep populations in the Mojave National Preserve, Marble Mountains, and proximate mountain ranges.
2. Collect sick animals to perform disease testing to help identify pathogens, potential source areas, and movement of the disease through the Central Mojave and Southern Mojave metapopulation fragments.
3. Identify and, to the extent possible, remove any domestic sheep and goats, and other feral exotic bovids that could be sources of pathogens

Although the Department is developing a contract bid package in anticipation of recommencing aerial surveys for big game species (including bighorn sheep), administrative requirements may impact our ability to collect adequate survey information in time for final tag quota recommendations in April 2014. In the absence of helicopter survey information, the Department will use ground based surveys (vehicle and foot survey routes) and/or waterhole camera data to base tag quota recommendations to the Commission consistent with the following criteria as supported by management plans:

- 1) If the Department's annual population estimate for any of the individual management units is below 50 adult ewes and/or the ram/ewe ratio falls below 40:100, then the Department will recommend a 0 tag quota for the 2014 season in that unit.
- 2) If no substantial reduction in population is determined in the estimate of the annual population, then tag quotas will be recommended consistent with management plan guidelines and the statutory requirement that no more than 15% of the mature rams may be harvested through hunting, Fish and Game Code section 4902(a)(2).

To comply with Section 4902 and meet the objectives of the approved management plans for each unit, the Department has developed tag ranges for each hunt area. The proposed distribution of tags is presented

in the Informative Digest. The proposed tag ranges are biologically conservative by design to ensure that harvest is consistent with management plan guidelines for individual units and not more than 15 percent of the mature rams in any zone are taken. The Department's research indicates that aerial surveys do not detect all mature rams present. Results of the survey and monitoring efforts indicate that the ram populations are higher than the number observed during aerial surveys. The final number of tags will be recommended to the Commission at the adoption hearing in April 2014, based upon the Department's annual estimate of the population in each management unit.

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

Authority: Sections 200, 202, 203, 220, 1050, and 4902, Fish and Game Code.

Reference: Sections 200, 202, 203, 203.1, ~~207~~, 1050, 3950, and 4902, Fish and Game Code.

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

(d) Identification of Reports or Documents Supporting Regulation Change:

Environmental Impact Assessment

(e) Public Discussions of Proposed Regulations Prior to Notice Publication:

The Department of Fish and Wildlife provided Public Scoping at November 7, 2012 Fish and Game Commission meeting in Los Angeles.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

1. Number of Tags

No alternatives were identified. Bighorn sheep license tag quotas must be changed periodically in response to a variety of biological and environmental conditions.

(b) No Change Alternative:

1. Number of Tags

The no-change alternative was considered and rejected because it would not attain project objectives of providing for hunting opportunities while maintaining bighorn sheep populations within desired population objectives. Retaining the current tag quota for each zone may not be responsive to biologically-based changes in the status of various herds. Management plans specify desired percentage harvest levels on an

annual basis. The no-change alternative would not allow for adjustment of tag quotas in response to changing environmental/biological conditions.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation 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.

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. The maximum number of tags available in the newly proposed range is at or below the number of tags analyzed in the 2011 and 2005 Final Environmental Documents Regarding Bighorn Sheep Hunting.

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:

None. It is unlikely that the proposed regulation will result in the creation or elimination of jobs within the state, cause the creation of new businesses or the elimination of existing businesses or result in the expansion of businesses in California because the overall number of tags issued is small and the resulting hunting effort is spread over a large geographic area.

(c) Cost Impacts on Private Persons:

The Commission is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action.

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

None.

(e) Other 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:

None.

(h) Effect on Housing Costs:

None.

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**INFORMATIVE DIGEST
(Policy Statement Overview)**

The existing regulation provides for limited hunting of 23 Nelson bighorn rams in specified areas of the State. The proposed change is intended to adjust the number of tags based on Department's annual estimate of the population in the management unit. The number of tags allocated for each of the nine hunt zones is based on the results of the Department's 2013 estimate of the bighorn sheep population in each zone. Tags are proposed to ensure the take of no more than 15 percent of the mature rams estimated in each zone. Final tag quota determinations will be completed by February of 2014 pending completion of analyses.

The following proposed number of tags was determined using the procedure described in Fish and Game Code Section 4902:

HUNT ZONE	Current Tag Allocation	Proposed Tag Allocation
Zone 1 - Marble/Clipper Mountains	4	0-4
Zone 2 - Kelso Peak/Old Dad Mountains	3	0-4
Zone 3 - Clark/Kingston Mountain Ranges	2	0-2
Zone 4 - Orocopia Mountains	1	0-2
Zone 5 - San Gorgonio Wilderness	1	0-3
Zone 6 - Sheep Hole Mountains	1	0-2
Zone 7 - White Mountains	3	0-5
Zone 8 - South Bristol Mountains	2	0-3
Zone 9 - Cady Mountains	3	0-4
Open Zone Fund-raising Tag	1	0-1
Marble/Clipper/South Bristol Mountains Fund-raising Tag	1	0-1
Kelso Peak/Old Dad Mountains Fund-raising Tag	1	0-1
TOTAL	23	0-32

Section 362, Title 14, CCR is amended to read:

§362. Nelson Bighorn Sheep.

(a) Areas:

(1) Zone 1 - Marble/Clipper Mountains: That portion of San Bernardino County beginning at the intersection of Kelbaker Road and the National Trails Highway; north on Kelbaker Road to the junction with Interstate Highway 40; east on Interstate Highway 40 to the intersection with National Trails Highway; southwest on National Trails Highway to junction with Kelbaker Road.

(2) Zone 2 - Kelso Peak and Old Dad Mountains: That portion of San Bernardino County beginning at the intersection of Kelbaker Road and the Union Pacific Railroad in Kelso; southwest along the Union Pacific Railroad to intersection with unnamed road at Crucero; north on unnamed road to the merging with Mojave Road; northeast on Mojave Road to the junction with Zzyzx Road; north on Zzyzx Road to intersection with Interstate Highway 15; northeast on Interstate Highway 15 to the intersection with Cima Road; south on Cima Road to the intersection with the Union Pacific Railroad in Cima; southwest on the Union Pacific Railroad to the intersection with Kelbaker Road in Kelso.

(3) Zone 3 - Clark and Kingston Mountain Ranges: That portion of San Bernardino and Inyo counties beginning at the intersection of Interstate Highway 15 and California State Highway 127 in Baker; north on California State Highway 127 to the junction with Old Spanish Gentry Road at Tecopa; southeast on Old Spanish Gentry Road to the junction with Furnace Creek Road; southeast on Furnace Creek Road to the junction with Mesquite Valley Road; north on Mesquite Valley Road to Old Spanish Trail Highway; north and east on Old Spanish Trail Highway to California/Nevada state line; southeast on California/Nevada state line to the intersection with Interstate Highway 15; southwest on Interstate Highway 15 to the junction with California State Highway 127.

(4) Zone 4 - Orocopia Mountains: That portion of Riverside County beginning at the intersection of Interstate Highway 10 and Cottonwood Springs Road; east on Interstate Highway 10 to the junction with Red Cloud Mine Road; south on Red Cloud Mine Road to the junction with the Eagle Mountain Mining Railroad; southwest on the Eagle Mountain Mining Railroad to the junction with the Bradshaw Trail; southwest on the Bradshaw Trail to the intersection with the Coachella Canal; west along the Coachella Canal to the junction with Box Canyon Road; northeast on Box Canyon Road to the junction with Cottonwood Springs Road; north on Cottonwood Springs Road to the intersection with Interstate Highway 10.

(5) Zone 5 - San Gorgonio Wilderness: That portion of Riverside and San Bernardino counties beginning at the intersection of Interstate Highway 10 and California State Highway 62, west on Interstate Highway 10 to the junction with California State Highway 30; north on California State Highway 30 to the junction with California State Highway 38; east and north on California State Highway 38 to the junction with Forest Service Route 1N01; east on Forest Service Route 1N01 to its joining with Pipes Road; east on Pipes Road to the junction with Pioneertown Road; southeast on Pioneertown Road to the junction with California State Highway 62; southwest on California State Highway 62 to the intersection with Interstate Highway 10.

(6) Zone 6 - Sheep Hole Mountains: That portion of San Bernardino County beginning at the junction of California State Highway 62 and Ironage Road; northwest on Ironage Road to the intersection with Amboy Road; north on Amboy Road to the intersection with National Trails Highway; east on National Trails Highway to the junction with Saltus Road; southeast on Saltus Road to the junction with unnamed road in Saltus that runs

through Cadiz Valley; southeast on unnamed road to the intersection with California State Highway 62; west on California State Highway 62 to the junction with Ironage Road.

(7) Zone 7 - White Mountains: That portion of Mono County within a line beginning at U.S. Highway 6 and the Mono-Inyo county line; northward on Highway 6 to the California-Nevada State Line; southeasterly along the California-Nevada State Line to the Mono-Inyo County Line; westward along the Mono-Inyo County Line to the point of beginning.

(8) Zone 8 - South Bristol Mountains: That portion of San Bernardino County beginning at the junction of Kelbaker Road and the National Trails Highway; west on the National Trails Highway to the intersection with Interstate Highway 40; east on Interstate Highway 40 to the junction with Kelbaker Road; south on Kelbaker Road to the point of beginning.

(9) Zone 9 - Cady Mountains: That portion of San Bernardino County beginning at the junction of Interstate Highway 40 and Newberry Road; north on Newberry Road to intersection with Riverside Road; East on Riverside Road to junction with Harvard Road; north on Harvard Road to junction with Interstate Highway 15; northeast on Interstate Highway 15 to junction with Basin Road; south on Basin Road to intersection with Union Pacific Railroad; east on Union Pacific Railroad to intersection with Crucero Road; south on Crucero Road to intersection with Interstate Highway 40; west on Interstate Highway 40 to the point of beginning.

(b) Seasons:

(1) Open Zone Fund-raising Tag: The holder of the fund-raising license tag issued pursuant to subsection 4902(d) of the Fish and Game Code may hunt:

(A) Zones 1 through 4, 6, 8 and 9: Beginning the first Saturday in November and extending through the first Sunday in February.

(B) Zone 5: Beginning the third Saturday in November and extending through the third Sunday in February.

(C) Zone 7: Beginning the first Saturday in August and extending through the last Sunday in September.

(2) Marble/Clipper/South Bristol Mountains Fund-raising Tag: The holder of the fund-raising license tag issued pursuant to subsection 4902(d) of the Fish and Game Code may hunt:

(A) Zones 1 and 8: Beginning the first Saturday in November and extending through the first Sunday in February.

(3) Kelso Peak and Old Dad Mountains Fund-raising Tag: The holder of the fund-raising license tag issued pursuant to subsection 4902(d) of the Fish and Game Code may hunt:

(A) Zone 2: Beginning the first Saturday in November and extending through the first Sunday in February.

(4) Except as provided in subsection 362(b)(1), the Nelson bighorn sheep season in the areas described in subsection 362(a) shall be defined as follows:

(A) Zones 1 through 4, 6, 8 and 9: The first Saturday in December and extend through the first Sunday in February.

(B) Zone 5: The third Saturday in December and extend through the third Sunday in February.

(C) Zone 7: Beginning the third Saturday in August and extending through the last Sunday in September.

(5) Except as specifically provided in section 362, the take of bighorn sheep is prohibited.

(c) Bag and possession Limit: One mature ram defined as follows: a male Nelson bighorn sheep (*Ovis canadensis nelsoni*) having at least one horn, the tip of which extends beyond a point in a straight line beginning at the front (anterior) edge of the horn base, and extending downward through the rear (posterior) edge of the visible portion of the eye and continuing downward through the horn. All reference points are based on viewing the ram directly from a 90 degree angle from which the head is facing. A diagram showing the correct viewing procedure shall be distributed by the department to each successful applicant.

(d) Number of License Tags:

Nelson Bighorn Sheep Hunt Zones	Tag Allocation
Zone 1 - Marble/Clipper Mountains	4 <u>0-4</u>
Zone 2 - Kelso Peak/Old Dad Mountains	3 <u>0-4</u>
Zone 3 - Clark/Kingston Mountain Ranges	2 <u>0-2</u>
Zone 4 - Orocopia Mountains	4 <u>0-2</u>
Zone 5 - San Gorgonio Wilderness	4 <u>0-3</u>
Zone 6 - Sheep Hole Mountains	4 <u>0-2</u>
Zone 7 - White Mountains	3 <u>0-5</u>
Zone 8 - South Bristol Mountains	2 <u>0-3</u>
Zone 9 - Cady Mountains	3 <u>0-4</u>
Open Zone Fund-Raising Tag	4 <u>0-1</u>
Marble/Clipper/South Bristol Mountains Fund-Raising Tag	4 <u>0-1</u>
Kelso Peak/Old Dad Mountains Fund-Raising Tag	4 <u>0-1</u>
Total:	23 <u>0-32</u>

(e) Conditions:

(1) Nelson bighorn rams shall only be taken between one-half hour before sunrise and one-half hour after sunset.

(2) Only methods specified in sections 353 and 354, Title 14, CCR, for taking bighorn sheep may be used. (*see below*)

(3) Each tagholder shall possess a spotting telescope capable of magnification of 15 power (15X), which is not affixed to a rifle, while hunting.

(4) Successful general tagholders shall present the head and edible portion of the carcass of a bighorn ram to the department's checking station within 48 hours after killing the animal. All successful tagholders shall notify the department's Bishop office by telephone at (760) 872-1171 or (760) 413-9596 within 24 hours of killing the animal and arrange for the head and carcass to be examined.

(5) All successful bighorn sheep tagholders shall make the horns of each ram available to the department to be permanently marked in the manner prescribed by the department for identification purposes within 48 hours of killing the animal. The purpose of the permanent marking shall be to identify Nelson bighorn rams which were legally taken and which may be transported and possessed outside the areas described in subsection 362(a).

(6) The department reserves the right to take and use any part of the tagholder's bighorn ram, except the horns, for biological analysis as long as no more than one pound of edible meat is removed.

Note: Authority cited: Sections 200, 202, 203, 220, 1050, and 4902, Fish and Game Code. Reference: Sections 200, 202, 203, 203.1, 1050, 3950, and 4902, Fish and Game Code.

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