

seasons can open, the maximum number of days hunting can occur, the latest hunting seasons must close, and the maximum daily bag limit, among other things. States must set migratory bird hunting regulations within the federal frameworks.

States may make recommendations to change federal framework regulations. These recommendations are made to Flyway Councils during March. The Councils may elect to forward these to the Service. The Service may elect to incorporate proposed changes in the “framework” regulations. For upland migratory hunting season regulations, the Service establishes the “framework” regulations in late June at a public meeting; however the publication of these decisions in the Federal Register does not occur until September. California is making one proposal (see proposal 2 below) to change federal frameworks that will require Flyway Council and Service approval pursuant to the process described above.

Four proposals are evaluated for regulation changes as follows:

1. Adjust annual number of sage-grouse hunting permits by zone.

Existing regulations of subsection 300(a)(1)(D)4 provide for the number of hunting permits in the East Lassen, Central Lassen, North Mono, and South Mono zones. This proposal changes the number of permits for all of these zones to a series of ranges for each zone from which a final number will be determined, based on spring lek counts. These ranges are necessary, as the final number of permits cannot be determined until spring lek counts are collected in April. Current regulations provide permit numbers for sage-grouse based on outdated population estimates from 2012 and need to be updated to reflect 2013 estimates.

In early spring, male sage-grouse are counted on all known leks in California, including leks within hunt zones and in non-hunted areas. These lek counts are used to estimate population size and a population model expands the count of males to predict the size of the fall population.

The numbers of permits ultimately recommended will be based on the following criteria (for each zone):

- a. Size and trend of the spring breeding population in each hunt zone based on lek counts conducted in March and April.
- b. The allowable harvest level will not exceed 5% of the predicted fall population but constrained by the following conditions.
- c. Ranges are established from 0-50 permits (these are two-bird permits) for both Lassen Zones and 0-100 permits (these are one-bird permits) for both Mono Zones.
- d. If the allowable harvest in any zone provides for a minimum number of permits to be recommended in any zone of 5 permits or less, no permits will be recommended for that zone.

In March 2010, the United States Fish and Wildlife Service determined that Greater sage-grouse are “warranted, but precluded” for protection under the Endangered Species Act (ESA) both statewide and as a Distinct Population Segment (DPS) in Mono County. The risks to sage-grouse are largely habitat-based. Hunting was not considered a high risk factor in the decision, which does not preclude states from continued hunting. In fact, no states have closed hunting as the result of the ESA decision, but most are now suggesting more conservative hunting regulations. The final listing rule for the Bi-State DPS will be made in fiscal year 2013 and for all of greater sage-grouse range in fiscal year 2015.

Concerns about the potential effects of hunting to sage-grouse through additive mortality have been expressed in the scientific literature, including studies from California. The Department responded to those concerns by reducing recommended permit numbers substantially as adopted by the Commission in 2007. Only the areas with the healthiest populations and best habitat are open to hunting. In fact, the areas that are closed to hunting are where sage-grouse populations continue to struggle, demonstrating that the greatest risks to sage-grouse are habitat-related. The permit system used in California is considered one of the most conservative and best controlled hunts in sage-grouse range.

On August 27, 2012, the Commission took emergency action to reduce the number of permits adopted earlier in the month for both the East Lassen and Central Lassen Hunt Zones to zero. This action was taken following the Rush Fire which encompassed more than 265,000 acres, mostly in the East Lassen Zone. This action was taken while the fire was still burning and in an abundance of caution to avoid any potential effect of hunting, both directly and indirectly, to the sage-grouse population. Those emergency regulations have expired and reverted back to the permit numbers previously adopted of 20 in East Lassen and 11 in Central Lassen. Wildfire is considered one of the highest risks to sage-grouse habitats, particularly in northeastern California. The Department is conducting intensive lek counts and surveys this spring to estimate the spring breeding population following this large-scale wildfire.

Since sage-grouse were given candidacy under ESA in 2010, the Department has not recommended any increases in permits despite some of the highest spring breeding population counts ever recorded, particularly in Mono County, where a maximum of 30 permits were issued in each zone and estimated harvest was 20 birds for both zones. These harvest numbers are considered well below the 5% sustainable harvest recommended as conservative in the scientific literature. The Department will consider both the size and the trend of the breeding population when recommending permit numbers, which will not exceed 5% of the projected fall population and within the bounds of the 0-50 permits in both Lassen Zones and 0-100 permits on both Mono Zones.

This proposal also includes administrative changes to reflect the Department's name change and to update the web address where Internet sage grouse applications are located.

2. Increase the possession limit to triple the daily bag limit for band-tailed pigeon, doves, common snipe, pheasant, quail, sooty/ruffed grouse, and chukar statewide.

The existing possession limits for band-tailed pigeon, doves (mourning and white-winged), common snipe, pheasant, quail (mountain, California, and Gambel's), sooty/ruffed grouse, and chukar are double the daily bag limit. The proposed change would increase the possession limits to triple the daily bag limit for these species. Possession limits were established to limit possible wanton waste and overharvesting of migratory and resident upland game birds. These regulations extended from market hunting times in the early 1900s. However, due to the long history of migratory and resident upland game bird management since the passage of the Migratory Bird Treaty Act, these concerns have mostly diminished. Increasing the possession limit extends hunting opportunity to individuals who travel long distances and hunt multiple days during hunting seasons. This change is expected to have no impacts on any populations of resident or migratory or upland game birds in California or the Pacific Flyway. Flyway Council and Fish and Wildlife Service approval is needed for this proposed change with respect to migratory upland game birds. Resident upland game birds regulations are solely under authority of the state. This proposed change in possession limits is not proposed for resident upland game birds that currently have season limits versus possession limits, including: sage-grouse, wild turkey, and white-tailed ptarmigan.

3. Establish an early archery season for pheasants.

Current regulations provide for a 44-day general pheasant season (300(a)(1)(A)(1) and 60-day archery pheasant season (300(a)(2)(A)(1). The general pheasant season was increased from 30 days to 44 days in the early 2000s, but the 60-day archery season was not changed at the same time. The net result was a decrease from 30 days to 16 days of archery-only hunting. This proposal provides for more high quality archery-only pheasant hunting opportunity by establishing an early archery season.

The California Bowmen Hunters (CBH) have requested more pheasant hunting opportunity for archers, by moving the period for archery-only hunting to before the general hunting season. Archers contend that they cannot compete with shotgun hunters and they are less effective following the general season, thereby requesting an early season consistent with several other species. The CBH requested an archery season that opens the second Saturday in October, extending for 23 days and encompassing 4 weekends. The general season would then

open the second Saturday in November, following a 5-day period with no pheasant hunting. The Department supports this proposal as a Department proposal and notes that an earlier archery pheasant season does not apply to State Type A and Type B Wildlife Areas.

Pheasant harvest has declined significantly over the past 15 years, particularly on public areas open to hunting. Declines in pheasants in the Central Valley are considered to be the result of landscape loss of habitat primarily from changes in farming practices, including cleaner farming and large-scale flooding for rice decomposition. West Nile Virus is not thought to be a significant pathological concern to pheasants. The Department does not think that the few people hunting pheasants with archery equipment would have any additional impact to pheasant populations.

The Department agrees that an early-archery season for pheasants is more appropriate than the current late season. However, early season is some of the best opportunity for pheasant hunting, with birds becoming more wary and difficult to bag as the season progresses. The Department is also concerned about quality opportunity for the general season opener. Because of the large decline in pheasant harvest and great interest in pheasant hunting on state and federal areas, the Department is not recommending changes in land use regulations (Title 14, Sections 550, 551) that do not currently permit the use of archery equipment during the pheasant and waterfowl seasons. Therefore, this proposed regulation will primarily apply to private lands and lower use public areas, preserving pheasant hunting opportunities on high use public areas for the general season.

The Department is providing two options for an early archery season for pheasants, both of which would start on the second Saturday in October. Because some general season hunters may have concerns about the effects of the 23 day early archery season as proposed by CBH, the Department is also providing a more conservative proposal for a 9 day season, encompassing 2 weekends. The CBH proposal would have 5 days of closure between the early archery and general season, the Department additional proposal would have 19 days between the two seasons. Additionally, the Department's more conservative option would only allow the take of roosters during the early archery season; archers are currently allowed to take up to one hen in the daily bag.

Option A is the Department proposal and contains the CBH proposal with no modifications. The Option A proposal is to move the archery-only hunting season that currently follows the closing of the general season to an archery-only season that opens prior to the general season. This proposal would open pheasant archery season on the second Saturday in October, extending for 23 days, then closing for 5 days, and reopening with the general season. Currently, there are 16 days of archery-only hunting for pheasants; this proposal would increase it to 23 days.

The Option B proposal is a more conservative approach modified from the CBH proposal that would also be acceptable to the Department. This option would establish an early archery season that opens the second Saturday in October extending for 9 days, while maintaining the current late archery-only season for pheasants. Additionally, this option would allow for the take of males-only during the early archery season, but continue to allow take of females by archers during the general season. This option would provide a longer period between closing of archery hunting and opening of the general season will provide for more quality openers for both archery and general seasons. Option B would increase the current 16 days of archery only pheasant hunting to 25 days.

4. Open Eurasian collared-dove season year-round in Imperial County

The existing state-wide season for Eurasian collared-dove under Section 300(b)(1)(B)1 is the same as mourning and white-winged dove, but with no bag or possession limits. The proposed change would open the season for Eurasian collared-dove year-round. Eurasian collared-doves are a resident, non-native invasive species not covered under the Migratory Bird Treaty Act and may be regulated by the State outside the Federal framework.

Since their expansion west from Florida in the 1980s, Eurasian collared-doves have colonized the southern states in great numbers. Following their expansion in these states, regulations for take have become very liberal with nine of the 13 states allowing Eurasian collared dove hunting year-round with no bag limit. Utah does not require a hunting license for the take of Eurasian collared-doves.

Imperial County provides some of the best dove hunting in California and attracts a large number of hunters from the Los Angeles and San Diego areas and has large areas of open land conducive to hunting. It is also the heaviest colonized area for Eurasian collared doves in the state. Allowing for a year-round season in Imperial County will greatly increase hunting opportunity in the southern state.

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

Authority: Sections 200, 202, 203, and 355 of the Fish and Game Code.

Reference: Sections 200, 202, 203, 203.1, 215, 220, 355, and 356 of the Fish and Game Code.

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

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

[Email containing proposal from Robert Moore of CBH to CDFW, dated 3/19/2013 requesting reconsideration of the early archery season as proposed above.](#)

[Economic Impact Analysis](#)

- (f) Public Discussions of Proposed Regulations Prior to Notice publication:

No public meetings are being held prior to the notice publication. The 45-day comment period provides adequate time for review of the proposed amendments.

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

There are no other reasonable alternatives to the proposed action that would be more effective in carrying out the purposes for which the regulation is proposed.

- (b) No Change Alternative:

Without a regulation change:

1. Sage-grouse permit numbers would not change from the previous year and would not be calculated based on current year data.
2. Possession limits for band-tailed pigeon, mourning dove, common snipe, pheasant, quail, sooty/ruffed grouse, and chukar would remain double the daily bag.
3. Pheasant archery season would follow the general season for 16 days.
4. Eurasian collared-doves would only be open during the same season as mourning doves with unlimited bag and possession limits.

- (c) Consideration of Alternatives: In view of the information currently possessed, no other reasonable alternative considered would be more effective in carrying out the purposes 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 the 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.

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.

There are no economic or business impacts foreseen or associated with the proposed regulation change.

- (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 any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California

The proposed upland game regulations will have positive impacts to jobs and/or businesses that provide services to hunters in 2013-2014. The best available information is presented in the 2006 National Survey of Fishing, Hunting, and Wildlife associated recreation for California, produced by the U.S. Fish and Wildlife Service (USFWS) and National Census Bureau, which is the most recent survey completed. The report estimates that hunters spent about \$964,054,000 on hunting trip-related trips and equipment expenditures in California in 2011. Most businesses will benefit from these regulations, and those that may be impacted are generally small businesses employing few individuals and, like all small businesses, are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed regulations is to maintain or increase upland game populations, and subsequently, the long-term viability of these same small businesses.

The Commission anticipates benefits to the health and welfare of California residents. The proposed regulations are intended to provide additional recreational opportunity to the public.

The Commission does not anticipate any non-monetary benefits to worker safety.

The Commission anticipates benefits to the environment by the sustainable management of California's upland game resources.

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

The agency is not aware of any cost impacts that a representative private person or business 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) 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.

Informative Digest/Policy Statement Overview

Current regulations in Title 14, California Code of Regulations (CCR) provide general hunting seasons for taking resident game birds under Section 300(a), and for migratory upland game birds under Section 300(b). The Department is recommending four regulation changes under these sections as follows:

1. Adjust annual number of sage-grouse hunting permits by zone.

Current regulations under subsection 300(a)(1)(D)4 provide a number of permits for the general sage-grouse season in each of 4 zones. These specific numbers are replaced by a range of numbers for the 2013 season as listed below. The final number will be proposed in June after spring lek counts are completed and annual data are analyzed.

Permit ranges for sage-grouse hunting in 2013:

East Lassen: 0-50 (two-bird) permits
Central Lassen: 0-50 (two-bird) permits
North Mono: 0-100 (one-bird) permits
South Mono: 0-100 (one-bird) permits

This proposal also includes administrative changes to reflect the Department's name change and to update the web address where Internet applications for sage grouse are located.

2. Increase the possession limit to triple the daily bag limit for band-tailed pigeon, doves, common snipe, pheasant, quail, sooty/ruffed grouse, and chukar statewide.

Current regulations provide possession limits at double the daily bag for the following resident and migratory upland game birds: 300(a)(1)(A)(2) for pheasant; 300(a)(1)(B)(2) for quail; 300(a)(1)(C)(2) for chukar; 300(a)(1)(E)(2) for sooty/ruffed grouse; 300(b)(1)(A)(2) for band-tailed pigeon; 300(b)(1)(B)(2) for doves; and 300(b)(1)(C)(2) for common snipe. This proposal would increase possession limits to triple the daily bag for each of these species or groups of species as referenced in the above sections.

3. Establish an early archery season for pheasants.

Current regulations provide for a 44-day general pheasant season (300(a)(1)(A)(1) and 60-day archery pheasant season (300(a)(2)(A)(1). The general pheasant season was increased from 30 days to 44 days in the early 2000s. However, the 60-day archery season was not changed at the same time. The net result was a decrease from 30 days to 15 days of archery-only hunting. This proposal provides two options for additional quality archery-only pheasant hunting opportunity by establishing an early archery-only season. Option A is proposed by the Department and provides an early archery season beginning the second Saturday in October extending for 23 days and eliminating the current late archery season. Option B provides an early archery season beginning the second Saturday in October and extending for 9 days, with a bag limit of 2 males per day, and maintaining the current late archery season.

4. Open Eurasian collared-dove season year-round in Imperial County.

Current regulations provide for a Eurasian collared-dove season during the same period as other doves with no bag or possession limits under section 300(b)(1)(B)1. This proposal opens the hunting season for Eurasian collared-doves year-round. Eurasian collared doves are a resident, non-native invasive species not covered under the Migratory Bird Treaty Act and may be regulated by the state outside the Federal frameworks.

Minor editorial changes are also provided for consistency and clarity.

Benefits of the Proposed Regulations

Adoption of sustainable upland game seasons, bag and possession limits provides for the maintenance of sufficient populations of upland game to ensure their continued existence.

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate upland game hunting regulations.