

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Sections 300 and 310.5
Title 14, California Code of Regulations
Re: Upland Game Birds

- I. Date of Initial Statement of Reasons: January 20, 2015
- II. Date of Final Statement of Reasons: August 17, 2015
- III. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: April 9, 2015
Location: Santa Rosa, CA
 - (b) Discussion Hearing: Date: June 11, 2015
Location: Mammoth Lakes, CA
 - (c) Adoption Hearing: Date: August 5, 2015
Location: Fortuna, CA

IV. Update:

The Commission's cover letter transmitting the Notice to interested and affected parties inadvertently referenced the wrong subject matter.

At the August 5 adoption hearing, no changes were made to the originally proposed language of the Initial Statement of Reasons, however the stated motion incorrectly referenced adoption of proposed changed to section 300(a)(1)(D)4. The final recommendation by the Department was for no change to subsection 300(a)(1)(D)4 for sage grouse, which was adopted by the Commission.

Two proposals were evaluated for regulation changes as follows:

- 1. The Department of Fish and Wildlife (Department) initially established a range for the number of sage grouse permits in subsection 300(a)(1)(D)4 because spring population surveys were not complete at the time the ISOR was prepared. Specific permit numbers were to be established following completion of spring lek counts. Analysis of that information enables the Department to project fall population size and appropriate numbers of permits for the 2015 season.

Considering the conservation status of the species and the impact of extended drought conditions on its habitat, the Department recommended no change in the current number of permits.

The Fish and Game Commission (FGC) adopted the recommendation of the Department for no change to current permit numbers for the 2015 sage grouse season:

East Lassen:	0 (2-bird) permits
Central Lassen:	0 (2-bird) permits
North Mono:	30 (1-bird) permits
South Mono:	0 (1-bird) permits

2. The FGC adopted the recommendation of the Department to amend Section 310.5 to add one hour to the end of shooting time for spring turkey hunters.

V. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Responses to Those Considerations:

1. Commenter: Center for Biological Diversity
Letter received May 28, 2015
Re: Upland Game Bird Regulations – Sage grouse hunting permits
These comments are focused on concern about the ‘high’ ranges (including as many as 50-100 birds) for sage grouse hunting in the ISOR.

Response: The Department utilized ranges in the ISOR because the annual population surveys were not yet available. Once the surveys are completed the Department will recommend specific quotas for the 2015 season. (The Department recommended and the Commission adopted 30 permits, no change, for the North Mono Zone; and zero permits, no change, for the remaining zones.)

2. Commenter: Jim Brown (Sportnlyf@aol.com)
Email received June 2, 2015
Re: Upland Game Bird Regulations – Pheasant regulation
Comments made regarding pheasant regulations.

Response: Pheasant quotas were not part of the Department’s proposal. The Department may consider overall pheasant regulation for potential change in future years based on ongoing research being conducted in the Central Valley.

3. Commenter: Jim Brown (Sportnlyf@aol.com)
Email received June 2, 2015
Re: Upland Game Bird Regulations – Dove regulations
Comments regarding Eurasian collared-dove season. There is concern that hunting the Eurasian collared dove immediately preceding the migratory dove opener is disruptive to the migratory mourning and white-winged dove.

Response: The Eurasian collared dove was not part of the Department's proposal. The Department is currently evaluating possible alternatives and may propose changes to the season for Eurasian collared dove in future years.

4. Commenter: Supervisor Larry Johnston, Mono County
Letter dated June 2, 2015, and oral comments made June 11.
Re: Upland Game Bird Regulations - Made oral comments in support of previous letter. Does not support continued hunting of sage-grouse in Mono County because of concerns about the listing potential of the Bi-State Distinct Population Segment. Considers sage-grouse hunting to be inconsistent with the commitments made to the USFWS to implement the Bi-State Conservation Plan and prevent a need for listing the species under ESA.

Response: The Department agrees that a highly conservative approach to sage-grouse hunting is prudent to prevent a need for listing sage-grouse under ESA and has provided such recommendations to the Commission. The Department recommended 0 permits for the South Mono Zone in 2015 because of concerns about recent population declines. However, the North Mono Hunt Zone has been at record high population levels in the past 4 years and the Department does not have any biologically-based reason not to provide hunting. (Note that the Department did recommend, and the Commission adopted, 30 permits - no change - for the North Mono Zone; and zero permits - no change - for the remaining zones.)

5. Commenter: Bill Gaines, National Wild Turkey Federation, et al.
Oral comments made June 11, 2015
Re: Upland Game Bird Regulations – Supports the Department's recommendations changing the wild turkey shooting hours. Desires at some future point to move the time to sunset if that can be justified.

Response: Support is noted. The Department will continue to work with all interested parties on the hunt times but there is no timeline at present for when such a modification could be justified.

6. Commenter: Mark Hennelly, CA Waterfowl Association
Oral comments made June 11, 2015
Re: Upland Game Bird Regulations – Supports the Department’s recommendations changing the wild turkey shooting hours and science-based allocation sage grouse permits due to environmental conditions.

Response: Support is noted
7. Commenter: Joseph Bolling
Oral comments made June 11, 2015
Expressed concerns about the possible impact that banning bobcat trapping might have on sage-grouse populations.

Response: Comments received but not part of the Department’s proposal.
8. Commenter: Robert Thomas, Private Citizen
Oral comments made June 11, 2015

Refer to comment and response 7.
9. Commenter: Dwayne Rossi, Private Citizen
Oral comments made June 11, 2015

Refer to comment and response 7.
10. Commenter: Bill Gaines, National Wild Turkey Federation, et al.
Oral comments made August 5, 2015
Re: Upland Game Bird Regulations – Supports the department’s recommendations changing the wild turkey shooting hours. Desires at some future point to move the time to sunset if that can be justified.

Response: Support is noted. The Department will continue to work with all interested parties on the hunt times but there is no timeline at present for when such a modification could be justified.
11. Commenter: Mark Hennelly, CA Waterfowl Association
Oral comments made August 5, 2015
Re: Upland Game Bird Regulations – Supports the Department’s recommendations changing the wild turkey shooting hours and limited sage grouse permits due to environmental conditions.

Response: Support is noted.

12. Commenter: Kimberly Richards
Oral comments made August 5, 2015

Asks that the Commission consider listing the sage grouse as an endangered species under the California Endangered Species Act.

Response: The Department is aware of the national debate concerning a federal listing. However, for a listing to occur in California a petition in accordance with CESA should be submitted to the Fish and Game Commission.

VI. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:
California Fish and Game Commission
1416 Ninth Street, Room 1320
Sacramento, CA 95814

VII. Location of Department files:

Department of Fish and Wildlife
1812 Ninth Street
Sacramento, CA 95811

VIII. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

No Alternatives were identified.

(b) No Change Alternative:

1. Considering the conservation status of the species and the impact of extended drought conditions on its habitat, the CDFW recommended no change in the current number of permits. The Fish and Game Commission adopted the recommendation of the CDFW maintaining the current sage grouse permit numbers for the 2015 season.
2. Shooting time for spring turkey hunting would not change; additional hunting opportunity would not be realized by adding an hour to the end of shooting time.

(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.

IX. 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, because the regulations propose only minor changes to bag limits and shooting hours.

(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 the proposed action would have on the creation or elimination of jobs or businesses in California or on the expansion of businesses in California; and, does not anticipate benefits to worker safety, because the regulations propose only minor changes to bag limits and shooting hours.

The Commission anticipates benefits to the health and welfare of California residents. The proposed regulations are intended to provide continued recreational opportunity to the public. Hunting provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of the State's resources.

The Commission anticipates benefits to the environment by the sustainable management of California's upland game resources. The fees that hunters pay for licenses and stamps are used for conservation.

(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 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.

UPDATED Informative Digest/Policy Statement Overview

Current regulations in Title 14, California Code of Regulations (CCR), provide general hunting seasons for taking resident and migratory upland game birds under Section 300. Current regulations in Title 14, CCR, under Section 310.5 establishes shooting times for all upland game birds. The Department of Fish and Wildlife (Department) is recommending two 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 four zones. At this time the Department has proposed a range of permits specific for all four hunt zones. The final permit numbers will be proposed in June after spring lek counts are completed and annual population data are analyzed. Permit ranges for sage grouse hunting in 2015 are recommended as follows:

- a. East Lassen: [0-50] (two-bird) permits
- b. Central Lassen: [0-50] (two-bird) permits
- c. North Mono: [0-100] (one-bird) permits
- d. South Mono: [0-100] (one-bird) permits

2. Increase shooting time provided for spring turkey hunters under Section 310.5 by one hour; shooting time would end at 5:00 pm instead of at 4:00 pm as provided under current regulation.

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 Fish and Game Commission, pursuant to Fish and Game Code Sections 200, 202, and 203, has the sole authority to regulate upland game bird hunting in California. Commission staff has searched the California Code of Regulations and has found the proposed changes pertaining to hunting of resident game birds are consistent with Sections 550-553, 630, 703 and 4501 of Title 14. Therefore the Commission has determined that the proposed amendments are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to adopt upland game bird hunting regulations in California.

UPDATE

There have been no changes in applicable laws from the laws and effects described in the Notice of Proposed Action.

1. The Fish and Game Commission (FGC) adopted the recommendation of Department for no change to current permit numbers for the 2015 sage grouse season in subsection 300(a)(1)(D)4.:

- a. East Lassen: 0 (2-bird) permits**
- b. Central Lassen: 0 (2-bird) permits**
- c. North Mono: 30 (1-bird) permits**
- d. South Mono: 0 (1-bird) permits**

2. The FGC adopted the Department's recommendation to amend Section 310.5 to add one hour to the end of shooting time for spring turkey hunters.