



Tracking Number: (_____)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: Thomas Wheeler

Address: 145 G St., Ste. A, Arcata, CA 95521

Telephone number: (707) 822-7711

Email address: tom@wildcalifornia.org

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Government Code § 11342.545; Fish and Game Code §§ 200, 332, 339

3. Overview (Required) - Summarize the proposed changes to regulations:

14 Cal. Code Regs. § 364.2

All elk hunting, excluding hunting conducted pursuant to a depredation permit issued by the California Department of Fish and Wildlife, in the Northwestern Elk Hunt Area is indefinitely suspended.

Alternatively, the same effect of the proposed regulation could be achieved by reducing the tags issued under 14 Cal. Code Regs §§ 364, 364.1 to zero.

4. Rationale (Required) - Describe the problem and the reason for the proposed change:

In early April 2020, the California Department of Fish and Wildlife discovered the presence of a novel disease, treponema-associated hoof disease, affecting the hooves of Roosevelt elk in Del Norte County. Shortly thereafter, on April 16, 2020, the California Fish and Game Commission approved new hunting regulations providing for tag numbers for elk in California. Unfortunately, the discovery of the disease was not disclosed to the Commission. Until the Department and Commission have the opportunity to consider the ramifications of the disease (including the cumulative effects of the disease together with approved hunting), ways to minimize the spread of the disease and measures to mitigate the harm to infected individuals and herds, it is necessary to



rein back elk hunting in the Northwest Elk Hunt Area. The proposed rule would institute a temporary moratorium on hunting elk within the infected area thereby providing time for the Department to issue a containment and management strategy. The proposed rule, as written, would continue to allow hunting pursued under a depredation permit issued by the Department.

As explained below, the disease may cause population declines in affected herds and the effects of the disease were never studied by the Commission before making its decision, in the mandated Elk Management Plan, or in the environmental impact documents prepared for the Commission.

TAHD May Affect Elk Populations

Research concerning the effects of the disease on local herd populations is scant. Existing information does raise a logical conclusion that the disease may affect herd populations by reducing the fitness of elk.

In an infected herd near Mount St. Helens, populations have declined by approximately 30-35% over a four-year period (2009-2013). (McCorquodale et al. 2014.) It is unclear what role the disease may have played in this decline because this period coincided with an effort to reduce the population of elk through increased hunting and severe weather in winter 2012. While researchers were unable to untangle the role of the disease in the population decline, the authors did note that the “seemingly logical assumption that some additional mortality risk is likely associated with advanced disease.” (McCorquodale et al. 2014.)

Additional research from Washington State is ongoing and a final report is anticipated in 2020. A preliminary report on findings, Hoenes et al. (2018), expresses why TAHD has the potential to inflict population-level impacts:

It is reasonable to assume that elk with advanced stages of TAHD have a decreased probability of survival because their infirmities may predispose them to predation, harvest, severe weather events, or other types of disease (Bender et al. 2008). For example, mule deer with chronic wasting disease (CWD), prior to developing obvious clinical signs, have been shown to be more vulnerable to predation (Miller et al. 2008, Krumm et al. 2009), vehicle collisions (Krumm et al. 2005), and possibly harvest (Conner et al. 2000). This is an important consideration because the growth rate of large ungulate populations, such as elk, is highly sensitive to changes in adult female survival (Nelson and Peek 1982, Eberhardt 2002) and strongly correlated with the production and survival of juveniles (Gaillard et al. 2000; see also Smith and Anderson 1998, Raithel et al. 2007). When adult female and juvenile survival are concurrently reduced, populations would be expected to decline (Gaillard et al. 2000; see also Bender et al. 2007, McCorquodale et al. 2014). Consequently, if TAHD reduces the survival of adult females and calves, it has the potential to have a negative effect on the population dynamics of impacted elk herds.

Preliminary results also raise concerns, although the author notes it is too soon to make any definitive statement about the effect of the disease. Among the preliminary conclusions:

Elk affected by TAHD have had lower levels of condition in December, lower pregnancy rates, lower lactation rates, and lower annual survival rates. Our estimates of IFBF in December indicate elk in the Mount St. Helens elk herd area continue to experience strong nutritional limitations during late-summer and autumn, regardless of disease status. Irrespective of proximate cause, 0.88 of the mortalities we have documented for elk affected by TAHD, have



included animals that had bone marrow content levels indicative of a severe negative energy balance. (Hoenes et al., 2018.)

The Commission was Unable to Consider the TAHD During its April Deliberations

Although the disease was discovered in early April 2020, the Commission was seemingly not informed about its discovery before the April 16, 2020 meeting where the Department approved new elk tag quotas for the coming year. EPIC has an outstanding Public Records Act request with the Department to ascertain what was known and by whom by the date of this meeting.

Environmental advocates raised their alarm at the May 14, 2020 teleconference and the May 14, 2020 Wildlife Resources meeting. At these meetings, the Department expressed that the disease was a concern and that they were in talks with sister agencies in Oregon and Washington about the disease. Furthermore, at the meeting, the Department promised to produce a specific plan to address TAHD. This plan has not yet been issued.

The Statewide Elk Management Plan Does Not Consider TAHD

As directed by the California legislature, elk within the state are to be managed by a “statewide elk management plan.” Fish and Game Code § 3952. This plan is directed to consider, inter alia, “[m]ajor factors affecting elk within the state,” including disease. The current elk management plan, published by the Department in 2018, does not consider TAHD.

Environmental Impact Analysis Did Not Consider TAHD

Because the issue of TAHD was unknown to the Commission at the time, the environmental documents necessary for compliance with the California Environmental Quality Act failed to consider the direct and cumulative impacts of TAHD on the species. Without study, it is unknown what the impacts of the disease, together with other stressors, such as hunting, will be on the species.

Northcoast Elk are Irreplaceable

Northcoast Roosevelt elk are irreplaceable because these elk have not undergone hybridization with other elk subspecies. Although Roosevelt elk exist across four U.S. states (Alaska, California, Oregon, and Washington), the Northcoast population is perhaps the only that has not experienced recent hybridization with other sympatric elk species. (Meredith et al., 2007.) In other words, the Northcoast Roosevelt elk possess unique genetics and represent a “pure” Roosevelt elk without the effects of crossbreeding. For this reason, Meredith et al. (2007) has proposed that these elk constitute an “evolutionarily significant unit.” Population declines in herds of this region are therefore significant in a manner that similar declines in other areas would not be.

SECTION II: Optional Information

5. Date of Petition: June 10, 2020

6. Category of Proposed Change

Sport Fishing

Commercial Fishing

Hunting

Other, please specify: [\[Click here to enter text.\]](#)



- 7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*
 Amend Title 14 Section(s): Click here to enter text.]
 Add New Title 14 Section(s): 364.2
 Repeal Title 14 Section(s): Click here to enter text.]

- 8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** Click here to enter text.]
 Or Not applicable.

- 9. **Effective date:** If applicable, identify the desired effective date of the regulation.
 If the proposed change requires immediate implementation, explain the nature of the emergency: This petition is in response to a novel threat to Roosevelt elk in the Northwest Elk Management Area. Accordingly, we file this petition as an emergency petition and ask for the rule to come into effect immediately.

- 10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents:

Attached to this petition are the following publications concerning TAHD in Roosevelt elk:

Hoenes, B., George, B., Holman, E. and Stephens, N. 2018. Assessing the potential effects of treponeme associated hoof disease (TAHD) on elk population dynamics in Southwest Washington. Washington Department of Fish and Wildlife, Olympia, Washington USA.

McCorquodale, S. M., P. J. Miller, S. M. Bergh and E. W. Holman. 2014. Mount St. Helens elk population assessment: 2009-2013. Washington Department of Fish and Wildlife, Olympia, Washington, USA.

Meredith, E., Rodzen, J., Banks, J., Schaefer, R., Ernest, H., Famula, T., May, B. 2007. Microsatellite Analysis of Three Subspecies of Elk (*Cervus elaphus*) in California, *Journal of Mammalogy*, Volume 88, Issue 3, Pages 801–808, <https://doi.org/10.1644/06-MAMM-A-014R.1>

- 11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing:

Fiscal impacts of the proposed regulation are unknown.

- 12. **Forms:** If applicable, list any forms to be created, amended or repealed:

Click here to enter text.]

SECTION 3: FGC Staff Only

Date received: Click here to enter text.]

FGC staff action:



- Accept - complete
- Reject - incomplete
- Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: [_____]

Meeting date for FGC consideration: [_____]

FGC action:

- Denied by FGC
- Denied - same as petition [_____]

Tracking Number

- Granted for consideration of regulation change