

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

Add Section 250.1
Title 14, California Code of Regulations
Re: Predator Hunting Contests

I. Date of Initial Statement of Reasons: May XX, 2014

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: April 16, 2014
Location: Ventura, CA

(b) Discussion Hearing: Date: June 4, 2014
Location: Fortuna, CA

(c) Discussion Hearing: Date: August 6, 2014
Location: San Diego, CA

(d) Adoption Hearing: Date: October 8, 2014
Location: Shasta

III. Description of Regulatory Action:

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

Existing code under 2003 provides definitions and establishes a general prohibition of contests, including mammal hunting contests if prizes or inducements exceed \$500 in total for any one event. Sections 202, 203, and 415 of the Fish and Game Code authorize the Fish and Game Commission to adopt regulations for hunting, which are under the sole jurisdiction of the state.

The proposed regulation would prohibit the offering of cash-value prizes or inducements for hunting contests involving predatory mammals to clarify the ambiguity generated from a lack of regulation which specifies the different rules of take for sport and depredation. For the purposes of this regulation predatory mammal is defined as coyotes, foxes, and bobcats, because these are the predatory mammals that are known to be the subject of hunting contests.

During initial vetting discussions, animal support organizations raised

concerns that predatory mammal contests promote unregulated killing of predatory mammals that could impact ecosystem function, foster wonton waste of animals, and create the circumstance by which a wolf may be killed accidentally. Sport hunters and contest enthusiasts argued these contests are an important depredation management tool, which significantly reduce predatory mammal numbers, and, by extension, minimize losses to livestock and game populations (primarily deer).

In regards to impacts to ecosystem function, there is no known evidence that these hunts are having such an impact. Likewise, there is also no known evidence that predatory mammals killed in these contest hunts are significantly reducing either livestock damage or game populations.

In regards to waste, because coyotes and foxes are not game animals, it is not a violation under existing law (code section 4304) to discard these animals without using them. The concept of waste as defined for sport take of game does not apply to animals being destroyed to alleviate damage being caused by them.

Concerning the potential unintentional take of wolf, there is no current data to assess the risk to a wolf coming into contact with one of these hunting contests and being accidentally killed.

There is ample evidence that these contests generate strong emotions on both sides of the argument. Ethical arguments are made that killing and not using the carcass is wasteful and unethical. Depredation killing allowed under the fish and game code is not considered sporting or hunting, instead the function is pest control. The law recognized coyotes as pests and as such allows for destruction to minimize property damage, which raises important questions: Should sport hunters that are dedicated to a code of ethics, including not wasting what they take, be used as pest control agents in the case of coyotes? Should sport hunting regulations be applied to what is essentially depredation hunting?

Sport hunters may be used to address depredation problems when the Department and the Commission have determined that the damage is the result of excessively high game populations. Under these circumstances the hunters operate under sport ethics and hunting rules. Yet, some of the sport hunting contests are being justified as depredation activities. This creates an ambiguity that could be harmful to the sport of hunting in the eyes of the general public.

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

Authority: Sections 200, 202, 203, and 4150 of the Fish and Game Code.

Reference: Sections 200, 202, 203, 203.1, 215, 220, and 4150 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:

- Economic Impact Assessment

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

The Wildlife Resources Committee of the Fish and Game Commission discussed banning hunting contests, including hunting contests for predators (August, 2013, and January, 2014). 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:

No Alternatives were identified.

(b) No Change Alternative:

Without a regulation change predator hunting contests would still be permitted to offer prizes and inducements not to exceed \$500.

(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.

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 is no known evidence that businesses generate substantial revenue from contest-related activity and the proposal is only for minor changes to current seasons and bag limits.

- (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 Commission does not anticipate benefits to the health and welfare of California residents, worker safety, or the environment.

- (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.

Informative Digest/Policy Statement Overview

Under current regulations (code section 2003), predatory mammal hunting contests are permissible as individual contests, tournaments, or derbies if the total value of all prizes or other inducements is less than five hundred dollars (\$500) for the individual contest, tournament, or derby.

Sport hunters may be used to address depredation problems when the Department and the Commission have determined that the damage is the result of excessively high game populations (Code section 325 and Title 14, sections 400). Under these circumstances the hunters operate under sport ethics and hunting rules. However, when the Department or Commission has made a determination of excessive populations, the depredation is structured to prevent the impression that it could look or function as a sporting activity. Yet, some of the sport hunting contests are being justified as depredation activities. This creates an ambiguity that could be harmful to the sport of hunting in the eyes of the general public.

The proposed regulation would prohibit the offering of cash-value prizes or inducements for hunting contests involving predatory mammals to clarify the ambiguity generated from a lack of regulation which specifies the different rules of take for sport and depredation. For the purposes of this regulation predatory mammal is defined as coyotes, foxes, and bobcats, because these are the predatory mammals that are known to be the subject of hunting contests.

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. Section 20, Article IV, of the State Constitution specifies that the Legislature may delegate to the Fish and Game Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to regulate take and possession of non-game mammals (section 4150). The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the California Code of Regulations and finds no other state agency regulations pertaining to predatory mammal contests.

Benefits of the Proposed Regulations

Adoption of this new regulation would prohibit predatory mammal hunting contests if inducements or prizes of any value are offered.

The Commission has determined that the proposed amendments are neither inconsistent nor incompatible with existing State regulations.

REGULATORY LANGUAGE

Section 250.1, Title 14, is added to read:

§ 250.1 Prohibition on prizes or inducements for hunting contests involving predatory mammals.

- (a) It is unlawful to offer any prize or other inducement as a reward for the taking of any predatory mammals in an individual contest, tournament, or derby.
- (b) The following definitions apply for the purposes of this section:
 - (1) Predatory mammals are: coyotes, foxes, and bobcats.
 - (2) Prizes and Inducements are items of monetary value.

Note:

Authority cited: Sections 200, 202, 203 and 4150, Fish and Game Code. Reference: Sections 200, 202, 203, 203.1, 215, 220, and 4150, Fish and Game Code.

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