

STAFF SUMMARY FOR JUNE 22-23, 2016

Motion/Direction

Moved by _____ and seconded by _____ that the Commission adopts the proposed changes to add Section 250.2 establishing a process to implement a nonlead ammunition coupon program.

State of California
Department of Fish and Wildlife

Memorandum

Date: March 18, 2016

To: Michael Yaun
Acting Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director



Subject: **Agenda Item for the April 13-14, 2016, Fish and Game Commission Meeting
Request for Notice Authorization to Add Section 250.2, Title 14, CCR, RE:
California Nonlead Ammunition Coupon Program**

Attached please find the Initial Statement of Reasons to add Section 250.2 to Title 14, California Code of Regulations.

This regulatory proposal would establish a Fish and Game Commission (Commission) process to implement a nonlead ammunition coupon program pursuant to Fish and Game Code subdivision (d)(1) and (d)(2) of Section 3004.5. The coupon program is intended to assist hunters in switching to nonlead ammunition prior to the statewide deadline of July 1, 2019 and to lessen the use of lead ammunition in the environment.

Upon establishing a Commission regulatory process, the Department of Fish and Wildlife proposes to submit a Pittman-Robertson grant request to the U.S. Fish and Wildlife Service to fund the program using non-state sources of funding.

If you have any questions regarding this item, please contact Eric Loft, Chief, Wildlife Branch, by telephone at (916) 445-3555 or by e-mail at eric.loft@wildlife.ca.gov. The public notice should identify Environmental Program Manager, Craig Stowers as the Department's point of contact for this rulemaking. Mr. Stowers can be reached at (916) 445-3553 or by e-mail at Craig.Stowers@wildlife.ca.gov.

Attachments

cc: Stafford Lehr, Acting Deputy Director
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Michael Yaun
Acting Executive Director
Fish and Game Commission
March 18, 2016
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included in the Department's budget as approved by the Department of Finance, the Legislature and the Governor to provide the required appropriation authority in the state budget act to expend these grant funds.

Research in Arizona has shown that the higher cost of nonlead ammunition can be a barrier to its use, and providing incentives to hunters to transition to nonlead ammunition increases its use without reducing the level of hunting activity. In order for the Department to apply for and ultimately grant the PR funds to implement a coupon program, the Commission needs to establish a nonlead ammunition coupon process in regulation.

Regulatory Proposal

Currently there are no regulations for a nonlead ammunition coupon program in California to assist hunters in switching to nonlead ammunition. This regulatory proposal would establish a new Section 250.2 in Title 14, CCR, outlining the process for implementing a nonlead ammunition coupon program to be administered by the Department through a grant program that uses non-state sources of funding.

Proposed Additions for Section 250.2, Title 14, CCR

The Commission will establish a process by which the Department implements a nonlead ammunition coupon program for providing nonlead ammunition to hunters as follows:

Subsection (a) states the purpose of this section:

- Establishes a nonlead ammunition coupon program using non-state funds as required by Fish and Game Code Section 3004.5.
- Provides eligible hunters with nonlead ammunition at no or reduced charge.
- Specifies the program will be administered by an agent of the Department to be selected through a public solicitation process.
- Specifies the awarding of non-state funds will be administered as a grant.
- Indicates that the Department will advertise the website where eligible hunters may apply.

Necessity: To implement the nonlead ammunition coupon program as required by FGC Section 3004.5(d), the proposed subsection specifies that the program will be administered by an agent of the Department selected through a public process and details that the agent would administer a website that the Department would advertise to eligible hunters. The proposed public solicitation process provides open bidding procedures, ensures the grant winner meets the PR fund's 25% fund

match requirement, and affirms the program will be implemented with non-state sources of funding.

Subsection (b) establishes the definitions used in this section:

- Eligible hunter is any hunter who meets all of the following requirements:
 - is 18 years of age or older as of July 1 of the applicable license year;
 - holds an appropriate permit tag; and
 - is not prohibited from possessing ammunition pursuant to Penal Code section 30305.
- Appropriate permit tag means a valid California tag, permit, or validation to hunt deer, elk, black bear, bighorn sheep, wild pig, pronghorn antelope, or upland game for the applicable license year.
- Applicable license year means the license year in which the drawing will occur.

Necessity: To implement the nonlead ammunition coupon program as required by FGC Section 3004.5(d), the proposed subsection specifies that the program is available to permit holders with the appropriate permit tag, and clarifies eligibility requirements for hunters who may participate.

Subsection (c) provides drawing administration procedures:

- Any eligible hunter may apply to the Department's agent to be entered in the nonlead ammunition coupon program drawing.
- The drawing will be administered through a nonlead ammunition coupon program website that is operated by the Department's agent as established under a grant agreement.

Necessity: To implement the nonlead ammunition coupon program as required by FGC Section 3004.5(d), the proposed subsection clarifies drawing administration procedures for the agent of the Department. This subsection is needed because the Department is prohibited from using state funds for the nonlead ammunition coupon program.

Subsection (d) clarifies drawing procedures

- On at least a monthly basis from July 1 through December 31, eligible hunters who have applied will be randomly selected to receive a box of nonlead ammunition at reduced or no charge.
- The maximum number of eligible hunters drawn on a monthly basis will be determined based on the total funds available such that the number drawn each month, over the course of the six-month drawing period, will expend the total available funds in the year allocated.

- An average of no more than \$30 per box of nonlead ammunition will be used in determining the maximum number of eligible hunters drawn each month.

Necessity: To implement the nonlead ammunition coupon program as required by FGC Section 3004.5(d), the proposed subsection specifies the drawing will occur on a monthly basis to keep Department costs to a minimum, between July 1 and December 31 when the appropriate permit tags are issued concurrent with hunting seasons, and establishes the average cost of a box of ammunition. This cost is based on an approximation of average costs of a box of nonlead shotgun shells and of a box of centerfire cartridges. This subsection is necessary because it describes how the Department will determine the number of applicants to be selected during each drawing in order to expend the total grant funds for the applicable license year.

Subsection (e) specifies how the applicants can apply:

- To be considered, eligible hunters shall apply, at no charge, through a designated website developed and maintained by the Department's agent. Eligible hunters may apply as soon as the website is available, and must apply no later than December 1 in the applicable license year. The applicant must provide the following information, which the Department will use to verify eligibility for the drawing with the agent:
 - Name of applicant;
 - Applicant's date of birth;
 - Applicant's Document Number;
 - Mailing address and email for notification and shipping;
 - Preferred ammunition type from list of available ammunition;
 - and
 - Applicant's certification under penalty of perjury that he or she is not prohibited from possessing ammunition pursuant to of Penal Code section 30305.
- The drawing will be administered through a nonlead ammunition coupon program website that is operated by the Department's agent as established under a grant agreement.

Necessity: To implement the nonlead ammunition coupon program as required by FGC Section 3004.5(d), the proposed subsection specifies the information necessary to apply, requires all applications be in before the final draw of the hunting year, and how the Department will verify the eligibility of applicants through the Automated License Data System (ALDS). Contact information on applicants is necessary to notify the randomly selected applicants. Applicants will identify their preferred ammunition based on availability as determined by the agent.

Subsection (f) provides additional drawing procedures:

- The number of applicants to be selected during each drawing shall be determined by the Department's agent and will be published on the website after the program is established and available funding is known.
- An eligible hunter with an appropriate permit tag may not apply more than once, nor be awarded more than once, during a license year.
- Applications will be considered in each of the subsequent drawings after receipt until they are either drawn, or the drawing period ends.

Necessity: To implement the nonlead ammunition coupon program as required by FGC Section 3004.5(d), the proposed subsection specifies the number of applicants to be selected for each drawing and how applications will be considered. The Department does not yet have information on the total funding available, the number of hunters interested in participating, nor the average costs of ammunition for when the program is to be implemented. This subsection specifies how these items will be determined once a coupon program is implemented and available for applicants.

Subsection (g) defines how the list of available ammunition will be created:

- The list of available ammunition will be provided on the agent's website and will be dependent on market availability.
- Coupons for nonlead ammunition will not be available in all calibers or in all shotgun shell gauges or loads.
- For purposes of this section, a box of nonlead ammunition is 20 centerfire cartridges or 25 shotgun shells.

Necessity: To implement the nonlead ammunition coupon program as required by FGC Section 3004.5(d), the proposed subsection clarifies that ammunition awarded will be based on availability and that shotgun shells or centerfire cartridges are considered as options for the coupon program. The Department and the agent cannot know in advance the market availability of shotgun or centerfire ammunition, or the average costs of each type.

Subsection (h) specifies how and when the program will begin:

- The program may be offered and implemented for license year 2017-18, and for subsequent license years, provided funding is available as determined by the Department.
- The program will be implemented only if the Department is successful at awarding a grant using non-state funding.

Necessity: To implement the nonlead ammunition coupon program as required by FGC Section 3004.5(d), the proposed subsection specifies when the program will begin. There remains uncertainty whether funding will be available, and whether there will be a successful grant to fulfill the coupon program. However, no grant opportunity can be offered without first having a regulation to establish a process for the coupon program.

Benefits of the regulation to the health and welfare of California residents

The proposed regulations are unlikely to directly affect the health and welfare of California residents.

Benefits of the regulation to worker safety

The Commission does not anticipate benefits to worker safety because this regulatory action does not address worker safety.

Benefits of the regulation to the State's environment

It is the policy of the State to encourage the conservation, maintenance, and utilization of the living resources under the jurisdiction and influence of the State for the benefit of all the citizens of the State. The Department anticipates minor benefits to the environment through reduced levels of lead that can be deleterious to wildlife, including threatened and endangered species, and the environment overall.

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

Authority: Section 3004.5, Fish and Game Code.

Reference: 3004.5, Fish and Game Code.

(c) Specific Technology or Equipment Required by Regulatory Change:

None

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

None.

(e) 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 reasonable alternatives given the requirement that the source of funds for the coupon program must be from a non-state source.

(b) No Change Alternative:

The statutory mandate to promulgate regulations is set forth in Fish and Game Code Section 3004.5(d)(1): "To the extent that funding is available, the commission shall establish a process that will provide hunters with nonlead ammunition at no or reduced charge." Since the Department has identified funding that could be available to meet the statutory mandate using non-state funding, the no change option is inconsistent with the statutory mandate.

(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 Commission does not anticipate significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

There are no businesses that are expected to be impacted by the proposed regulatory changes because the regulation only proposes a process that may or may not be implemented depending on the Department's ability to successfully

issue a grant for the coupon program.

If the nonlead coupon program is successful, the economic impact to the state is anticipated to be insignificant and would not adversely affect California businesses or their ability to compete with businesses in other states.

(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 significant impacts on the creation or elimination of jobs within the State as a result of this regulatory change or a resultant coupon program for nonlead ammunition. The program will not affect the availability or cost of nonlead ammunition in California, but will help offset the increased cost of nonlead ammunition for hunters.

The Commission does not anticipate benefits to the health and welfare of California residents because this regulatory action will not impact the health and welfare of California residents.

The Commission does not anticipate benefits to worker safety because this regulatory action does not address worker safety.

The Commission anticipates benefits to the environment because implementation would likely increase the use of nonlead ammunition by hunters, resulting in less lead being released into the environment.

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

The Commission anticipates reduced costs for nonlead ammunition for eligible private persons upon the coupon program implementation. Businesses and private persons, not involved in hunting, will not be impacted by any direct cost. In the event that a number of hunting trips are supported by the coupon program, private persons and businesses may experience positive indirect cost impacts through sustained hunter spending.

(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

VII. Economic Impact Assessment

If non-state funding is available, Fish and Game Code Sections 3004.5(d)(1) and (d)(2) require the Commission to establish a process to provide hunters with nonlead ammunition at no or reduced charge. To be able to apply for and ultimately grant the PR funds, the Department needs to establish a process in regulations adopted by the Commission. This regulatory action will enable the Department to address concerns expressed during the implementation of the nonlead ammunition regulations regarding the potential increase in compliance costs.

Hunter spending on traditional ammunition is typically about four percent of total equipment and trip expenditures. As the prohibition of the use of lead ammunition is phased in, ammunition costs that include the price difference from traditional ammunition, search costs, and recalibration costs have been estimated to rise to as much as seven percent of total annual hunting expenditures.

The increased share of spending on ammunition and increased search costs, such as wait periods for back orders and so on, could reportedly cause some hunters to hunt less often. The proposed nonlead coupon program is intended to reduce any such costs to transitioning to nonlead ammunition that may have posed an impediment to continued participation in hunting. Additionally, as hunters increase their experience with the nonlead ammunition, competency should increase thus further minimizing concerns expressed about performance differences. These effects should together encourage hunting activity at the same or possibly increased levels. Hunter spending may then continue to

support hunting supply retail, lodging, campground, restaurant, and fuel businesses enroute and near hunting areas.

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

The Commission does not anticipate any significant impacts on the creation or elimination of jobs within the State as a result of this regulatory change or a resultant coupon program for nonlead ammunition. The program will not affect the availability or cost of nonlead ammunition in California, but will help offset the anticipated increased cost of nonlead ammunition for hunters.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The Commission does not anticipate significant statewide adverse economic impact directly affecting business, including the creation of new businesses or the elimination of existing businesses.

There are no businesses that are expected to be impacted by the proposed regulatory changes because the regulation only proposes a process that may or may not be implemented depending on the Department's ability to successfully issue a grant for the coupon program. If successful, the direct economic impact to the state is very small and would not significantly affect California businesses or their ability to compete with businesses in other states.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The Commission anticipates the potential for some expansion of businesses currently doing business in California that manufacture or sell nonlead ammunition. Hunting guides and/or shooting ranges that may aid in the acquisition and transition to the use of nonlead ammunition may also have the potential to expand.

(d) Benefits of the Regulation to the Health and Welfare of California Residents:

The Commission does not anticipate benefits to the health and welfare of California residents because this regulatory action will not impact the health and welfare of California residents.

(e) Benefits of the Regulation to Worker Safety:

The Commission does not anticipate benefits to worker safety because this regulatory action does not address worker safety.

(f) Benefits of the Regulation to the State's Environment:

The Commission anticipates benefits to the environment through the better management of toxic lead substances that can be deleterious to wildlife, including threatened and/or endangered species.

(g) Other Benefits of the Regulation:

None.

Informative Digest/Policy Statement Overview

Assembly Bill 711 (Chapter 742, Statutes of 2013) amended Section 3004.5 of the Fish and Game Code and required the Fish and Game Commission (Commission) to promulgate regulations requiring the use of nonlead ammunition when taking all wildlife with a firearm not later than July, 2019. On April 9, 2015, the Commission adopted new regulations in Section 250.1, Title 14, CCR, to phase-in the statutory requirement for nonlead ammunition by July, 2019. If non-state funding is available, Fish and Game Code sections 3004.5(d)(1) and (d)(2) require the Commission to establish a process that will provide hunters with nonlead ammunition at no or reduced charge.

The Department of Fish and Wildlife (Department) has identified a potential non-state source of funding as the U.S. Fish and Wildlife Service's Wildlife and Sport Fish Restoration program, Wildlife Restoration Account, commonly referred to as the Pittman-Robertson (PR) fund. The PR fund is an appropriate source of funding for this program because the funding for it is based on federal excise fees levied against the purchase of ammunition and firearms. Hunters have been supporting a significant portion of the PR funds available for wildlife conservation since 1937.

To be able to apply for and ultimately grant the PR funds, the Department needs an established process in regulations adopted by the Commission. This regulatory proposal would establish a new Section 250.2 in Title 14, CCR, for the Commission process to implement a nonlead ammunition coupon program administered by the Department.

PROPOSED CHANGES

- The Commission will establish a process by which the Department implements a nonlead ammunition coupon program to provide nonlead ammunition with no or reduced cost to hunters using non-state funds as required by Fish and Game Code Section 3004.5.
- Eligible hunter is any hunter who meets all of the following requirements:
 - Is 18 years of age or older as of July 1 and holds a valid permit tag to hunt deer, elk, black bear, bighorn sheep, wild pig, pronghorn antelope, or upland game; and
 - is not prohibited from possessing ammunition pursuant to Penal Code section 30305.
- The program will be administered by an agent of the department and awarding of non-state funds will be administered as a grant. The department's agent will be selected through a public solicitation process.
- The coupon program will award nonlead ammunition to hunters through monthly random drawings of valid applicant names until all allocated funds for the program in the license year are exhausted. The number of applicants to draw and select each month shall be determined by the Department's agent, and

announced on their website after the program is established and available funding is known.

- Hunters drawn for the coupon program will be able to select no more than one box of nonlead ammunition from a list of available and certified nonlead ammunition. A box of nonlead ammunition is 20 centerfire cartridges or 25 shotgun shells.
- The program may be offered and implemented for license year 2017-18, and for subsequent license years, provided funding is available as determined by the department.

BENEFITS OF THE PROPOSED ACTION:

The proposed action will provide an incentive for hunters to start using nonlead ammunition in advance of it being mandated by regulation in July 2019. This will result in less lead released into the environment from hunting. Additionally, the proposed action will slightly reduce the hardship on hunters having to switch to nonlead ammunition by providing it to successful applicants. Encouraging the use of nonlead ammunition may help sustain hunting activity levels, fees from which support wildlife conservation. While the proposed action will not satisfy all hunters who are opposed to the lead ammunition ban, it demonstrates the Commission and Department's commitment to work toward a practical and less disruptive implementation of the nonlead statute as recommended by the Governor in his signing message for this legislation.

EVALUATION OF INCOMPATIBILITY WITH EXISTING 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 the take of wildlife including methods. No other State agency has the authority to promulgate such regulations. The Commission has searched the CCR for any regulations regarding nonlead ammunition and has found no such regulation; therefore the Commission has concluded that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Commission has searched the Code of Federal Regulations and finds that the proposed regulation is neither inconsistent nor incompatible with existing federal regulations.

Regulatory Language

Add Section 250.2, Title 14, CCR, as follows:

§ 250.2. Nonlead Ammunition Coupon Program Process

(a) These regulations establish a nonlead ammunition coupon program using non-state funds to provide eligible hunters with nonlead ammunition at no or reduced charge. The program will be administered by an agent of the department and awarding of non-state funds will be administered as a grant. The department's agent will be selected through a public solicitation process and upon selection of an agent, the department will advertise a website address where eligible hunters may apply.

(b) For the purposes of this section, the following definitions apply:

(1) "Eligible hunter" is any hunter who meets all of the following requirements:

(A) is 18 years of age or older as of July 1 of the applicable license year;

(B) holds an appropriate permit tag; and

(C) is not prohibited from possessing ammunition pursuant to Penal Code section 30305.

(2) Appropriate permit tag means a valid California tag, permit, or validation to hunt deer, elk, black bear, bighorn sheep, wild pig, pronghorn antelope, or upland game for the applicable license year.

(3) "Applicable license year" means the license year in which the drawing will occur.

(c) Any eligible hunter may apply to the department's agent to be entered in the nonlead ammunition coupon program drawing. The drawing will be administered through a nonlead ammunition coupon program website that is operated by the department's agent as established under a grant agreement.

(d) On at least a monthly basis from July 1 through December 31, eligible hunters who have applied will be randomly selected to receive a box of nonlead ammunition at reduced or no charge. The maximum number of eligible hunters drawn on a monthly basis will be determined based on the total funds available such that the number drawn each month, over the course of the six-month drawing period, will expend the total available funds in the year allocated. An average of no more than \$30 per box of nonlead ammunition will be used in determining the maximum number of eligible hunters drawn each month.

(e) To be considered, eligible hunters shall apply, at no charge, through a designated website developed and maintained by the department's agent. Eligible hunters may apply as soon as the website is available, and must apply no later than December 1 in the applicable license year. The applicant must provide the following information, which the department will use to verify eligibility for the drawing with the agent:

(1) Name of applicant;

(2) Applicant's date of birth;

(3) Applicant's Document Number as printed on their hunting license for the license year in which the drawing will occur;

(4) Mailing address and email for notification and for receiving a coupon or box of ammunition;

(5) Preferred ammunition type from the list of available ammunition as identified on the agent's nonlead ammunition coupon program website; and

(6) Applicant's certification under penalty of perjury that he or she is not prohibited from possessing ammunition pursuant to of Penal Code section 30305.

(f) The number of applicants to be selected during each drawing shall be determined by the department's agent and will be published on the website after the program is established and available funding is known. An eligible hunter with an appropriate permit tag may not apply more than once, nor be awarded more than once, during a license year. Applications will be considered in each of the subsequent drawings after receipt until they are either drawn, or the drawing period ends.

(g) The list of available ammunition will be provided on the agent's website and will be dependent on market availability. Coupons for nonlead ammunition will not be available in all calibers or in all shotgun shell gauges or loads. For purposes of this section, a box of nonlead ammunition is 20 centerfire cartridges or 25 shotgun shells.

(h) The program may be offered and implemented for license year 2017-18, and for subsequent license years, provided funding is available as determined by the department. The program will be implemented only if the department is successful at awarding a grant using non-state funding.

Note: Authority cited: Section 3004.5, Fish and Game Code. Reference: Section 3004.5, Fish and Game Code.

VENTANA WILDLIFE SOCIETY

Conserving Native Wildlife and their Habitats

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MLS

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May 20, 2016

Michael Yaun
Acting Executive Director
Fish and Game Commission
1416 Ninth Street, Box 944209
Sacramento, California 94244-2090

Re: Proposed Regulations, Nonlead Ammunition Coupon Program



Dear Michael Yaun,

Ventana Wildlife Society supports the California Fish and Game Commission to establish a non-lead ammunition coupon program to compensate California hunters. For the last five years, we have conducted seasonal drawings for hunters in the California Condor range, and have provided more than 3,400 boxes of free, certified non-lead ammunition. Surveys indicate that our program has greatly improved opinions of non-lead ammunition quality and has made many hunters more willing to use it. Providing non-lead ammunition free or at reduced cost during the AB 711 implementation period really does make a difference.

Based on our experience providing non-lead ammunition to California hunters, we offer the following comments on your proposed process. The \$30 average you propose for a box of non-lead ammunition is low. Our average cost for a box of non-lead centerfire ammunition is \$40, even with a considerable discount provided with our Cabela's business account. The vast majority of factory-loaded centerfire non-lead ammunition costs more than \$30. For the hunter's convenience and to encourage maximum participation, we recommend that the compensation be enough to cover the entire cost of the box. By doing this, you will reach a slightly smaller quantity of hunters, but the quality of the experience will be greater for each.

We also recommend that your agent provides ammunition (through a retailer) to the hunter rather than a coupon. Offering redeemable coupons places greater responsibility on a retailer for ensuring that lead ammunition is not allowed at a point of sale, and requires greater administrative costs for the agent in establishing coupon redemption procedures with a multitude of retailers. Once receiving a coupon through a drawing, some hunters might be reluctant to take the next step in redeeming the coupon, especially if they are compelled to visit an unfamiliar retailer, or if the coupon does not cover the cost of their desired product.

We avoid these concerns by providing ammunition to the hunter in a one-stop drawing. Our procedure: we accept online entries (the hunter pre-selects a product from a menu), we randomly select winners, order the desired non-lead product with a retailer having that product in stock, pay the retailer for the product, then monitor the shipment directly from the retailer to the hunter's address. We verify that all winners are at least 18, and we always ensure that only certified non-lead ammunition is distributed. Because the process is simple for the hunter, with no cost obligation on their part, we receive maximum participation and satisfaction. Although using coupons would also benefit hunters and facilitate full implementation of AB 711, we recommend a drawing system that distributes ammunition rather than coupons.

We are extremely pleased that you are supporting California hunters through this program. Feel free to contact us anytime if we can help or if you would like to discuss program options.

Sincerely,



Kelly Sorenson
Executive Director
Ventana Wildlife Society
<http://www.ventanaws.org/ammunition/>



June 7, 2016

VIA ELECTRONIC MAIL

California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090
Via email: fgc@fgc.ca.gov

RE: Proposed Addition of Section 250.2 (Non-lead Ammunition Coupon Program)

Dear President Sklar and Commissioners,

On behalf of The Humane Society of the United States, Audubon California, and Defenders of Wildlife and our California members and supporters, we write to express our strong support for the addition of Section 250.2, establishing a non-lead ammunition coupon program. This program advances the purpose of Assembly Bill 711, the 2013 legislation that mandated the California Fish and Game Commission (“Commission”) to promulgate regulations to require the use of non-lead ammunition for all wildlife hunting no later than July 1, 2019. We support the proposed non-lead ammunition coupon program as it will help ensure the success of the forthcoming non-lead ammunition restrictions and accelerate the transition of use from toxic, lead ammunition to non-lead ammunition.

Lead bans are successful at reducing lead in the environment and protecting wildlife. In 1991, the US Fish and Wildlife Service required nontoxic shot for waterfowl hunting, saving approximately 1.4 million ducks in a single fall flight within six years of implementation.¹ It has been identified as the single most effective tool used by individual hunters to conserve waterfowl in North America.² California’s 2008 non-lead requirement for big game hunting in the critically endangered California condor territory lowered blood lead levels in species like golden eagles and turkey vultures within a single year.³ Universal adoption of the use of non-lead ammunition is needed to successfully remove a major source of lead introduced into the environment. If even a small percentage of hunters are using

¹ Anderson, W. L., Havera, S. P., & Zercher, B. W. (2000). Ingestion of lead and nontoxic shotgun pellets by ducks in the Mississippi Flyway. *The Journal of Wildlife Management*, 64(3), 848-857.

² Thomas, V. G. (2009). The policy and legislative dimensions of non-toxic shot and bullet use in North America. In R. T. Watson, M. Fuller, M. Pokras, and W. G. Hunt (Eds.). *Ingestion of Lead from Spent Ammunition: Implications for Wildlife and Humans*. The Peregrine Fund, Boise, Idaho, USA.

³ Kelly, T. R., Bloom, P. H., Torres, S. G., Hernandez, Y. Z., Poppenga, R. H., Boyce, W. M., & Johnson, C. K. (2011). Impact of the California lead ammunition ban on reducing lead exposure in golden eagles and turkey vultures. *PLoS One*, 6(4), e17656.

lead ammunition, the opportunity remains for the deposition of lead in the environment and for wildlife to be exposed to the toxin. For example, in condor populations, if even one percent of scavenged carcasses are tainted with spent lead ammunition, there is a 30-50 percent chance of exposure each year to a single condor.⁴

In conjunction with California's phased-in ban on lead ammunition, this coupon program will accelerate the transition to non-lead ammunition and alleviate some hunters' concerns. While non-lead ammunition coupon programs are not able to induce universal adoption of the use of non-lead ammunition, they are more successful than education programs alone at inducing adoption of the use of non-lead ammunition.⁵ Hunters may be more amenable to switching to non-lead ammunition if the new ammunition choices are introduced such that initial costs are reduced and if availability concerns are addressed.⁶ Thus, a non-lead ammunition coupon program, as proposed by the Department, provides hunters with an opportunity to overcome some of the cost and performance concerns associated with transitioning to non-lead ammunition.

We have every confidence that the ammunition industry will meet the demand for non-lead ammunition. The availability of non-lead ammunition at the local retail level is heavily influenced by the phase-in of regulations requiring non-lead ammunition.⁷ The 1991 federal law requiring the use of non-lead ammunition for the taking of waterfowl phased-in the requirement over an extended period of time, allowing the industry to increase production. Sensible regulation like California's, which allows a phase-in period for requiring non-lead ammunition, allows manufacturers and retailers to meet the demands of the hunting community.

The Pittman-Robertson fund is an appropriate source of funding for this program. Pittman-Robertson is funded by federal excise fees levied against the purchase of ammunition and firearms and is used to fund wildlife restoration programs. Protecting wildlife from lead poisoning would help achieve the goal of restoring wildlife. This proposed use of Pittman-Robertson funds is consistent with prior

⁴ Finkelstein, M. E., et al. (2012). Lead poisoning and the deceptive recovery of the critically endangered California condor. *Proceedings of the National Academy of Sciences*, 109(28), 11449-11454.

⁵ Chase, L., & Rabe, M. J. (2015). Reducing Lead on the Landscape: Anticipating Hunter Behavior in Absence of a Free Nonlead Ammunition Program. *PloS one*, 10(6), e0128355.

⁶ Epps, C. W. (2014). Considering the switch: Challenges of transitioning to non-lead hunting ammunition. *The Condor*, 116(3), 429-434.

⁷ Thomas, V. G. (2014, December). Availability and use of lead-free shotgun and rifle cartridges in the UK, with reference to regulations in other jurisdictions. In *Oxford Lead Symposium* (p. 85).

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applications of the fund. In 2005, Arizona provided lead-free ammunition coupons to big game hunters in condor habitat using funds from Pittman-Robertson.⁸

We would advise the Commission to consider expanding the scope of the proposed non-lead ammunition coupon program. The intent of AB 711 is to ensure that lead-free ammunition be used in the take of *all* wildlife. According to AB 711, which created FGC Sec 30045 b.: “nonlead ammunition, as determined by the commission, shall be required when taking *all wildlife* [emphasis added], including game mammals, game birds, nongame birds, and nongame mammals, with any firearm.”⁹ As currently envisioned, eligibility for the coupon program excludes those who may take wildlife without a hunting license. Expanding the program to cover anyone taking wildlife with a firearm in California would expand its reach and yield environmental and animal welfare benefits.

We urge the Commission to approve the Department’s proposed non-lead ammunition coupon program.

Sincerely,



Pamela Flick
California Representative
Defenders of Wildlife



Mike Lynes
Director of Public Policy
Audubon California



Courtney Fern
California State Director and Community Relations Liaison
The Humane Society of the United States

cc: Jennifer Fearing, Fearless Advocacy, Inc.

⁸ “Condors and Lead,” Arizona Game and Fish Department, available at:
http://www.azgfd.gov/w_c/california_condor_lead.shtml.

⁹ California Fish and Game Code 3004.5.b, available at:
[http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=FGC§ionNum=3004.5](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=FGC§ionNum=3004.5;);
AB 711 Bill Text, available at:
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201320140AB711.

Nonlead Ammunition Coupon Program

Adding Section 250.2

Section 3004.5 of the Code provides for establishing a process to provide hunters with nonlead ammunition at no or reduced cost, but provided that no State funds are used.

There are 3 key steps that have to occur for a program to exist:

- 1) FGC establishes a process in regulation.
- 2) Department secures a USFWS PR grant; and, in turn, develops a public solicitation notice that would provide the opportunity to implement the coupon program.
- 3) External entity bids on the grant opportunity including committing a 25% match in funding from a non-state/federal source.



How are we proposing the coupon program to work?

- Department would enter into an agreement with a grantee who would administer the program.
- ALDS would export a list of eligible hunters (big game and upland game hunters) during the license year. ALDS will send monthly updates of eligible hunters through December.
- Grantee would advertise and host a website for the drawing (one per month from July through December) for hunters to apply.
- In the application, hunters will select from the available choices, a box of ammunition to be sent (or a coupon to redeem from the grantee), from the list of available ammunition.
- Hunters enter drawing once per year, and are in the running for the year unless selected.

