

“nongame mammals” in subsections (a) and (d) by clarifying that Section 2003, FGC, prohibits offering prizes or inducements for take of *all* mammals (game, nongame, and furbearers) in subsection (a), and, in subsection (d), permits prize offerings of less than \$500 only for the take of *game* mammals.

At issue here is how the statute should be interpreted, namely resolving the potential inconsistency as to how the word “game” applies to “birds” and “mammals” in subsections (a) and (d). The Commission reasons the word “game” preceding “birds” in subsection (a) was not intended to apply to “mammals” because the use of a comma between “birds” and “mammals” makes clear that “game” only applies to “birds” in this general prohibition. Subsection (a) is clearly a longstanding broad prohibition protecting game birds and *all* mammals, fish, reptiles, and amphibians. Turning to subsection (d), the Commission further reasons that in this later added subsection the word “game” preceding “birds” was intended to apply to “mammals.” If interpreted in this manner, FGC Section 2003 establishes a general prohibition of contests for all game birds and all mammals, and creates exceptions in subsections (b) through (d) for activities widely deemed acceptable because said activities are regulated through bag limits, seasons, and methods of take, and enforced by the Department. The proposed interpretation makes FGC Section 2003 a reasonable extension of the ongoing centuries-old practice of offering low stakes (i.e. under \$500) prizes for the regulated take of game species.

Deliberation by the public makes it clear that defining sportsmanlike conduct is an important outcome of this regulation. The introduction of prizes changes hunting behavior by inducing competition beyond that which would normally occur. Because game mammals are protected by bag limits, seasons, and methods of take, the offering of low-stakes prizes has not led to unsportsmanlike conduct, i.e. unregulated take, or waste.

The Commission views the alternative reading of FGC Section 2003 (d), permitting inducements for the unlimited take of furbearers and nongame mammals as unsportsmanlike and likely not the intent of the legislature in the 2004 amendment adding subsection (d). The Commission believes that offering inducements for hunting contests of animals with no regulated take does not reflect good sportsmanship, or the likely intent of the legislature. Therefore, the Commission believes the proposed changes to sections 465 and 472 clarify the proper interpretation of FGC Section 2003(d), and, recognize and encourage sportsmanlike behavior.

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

Section 465:

Authority cited: Sections 200, 202, 203, 3003.1 and 4009.5, Fish and Game Code.

Reference: Sections 200, 201, 202, 203, 203.1, 207, 215, 218, 220, 2003, 3003.1, 4000, 4002, 4003, 4004 and 4009.5, Fish and Game Code.

Section 472:

Authority cited: Sections 3800 and 4150, Fish and Game Code.

Reference: Sections 2003, 3800, 3801, 3801.5 and 4150, 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 predatory mammals (August 2013, and January 2014).

In addition, the Fish and Game Commission discussed hunting contests, including the banning of inducements at the April 2014 meeting in Ventura, and again at the June 2014 meeting in Fortuna.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

The alternative proposed during deliberations on this matter included the addition of a new section 250.1 to prohibit the offering of cash-value prizes or other inducements for hunting contests involving predatory non-game mammals and to clarify that predatory mammal would be defined as coyote, fox, and bobcat because these are the predatory mammals that are known to be the subject of hunting contests. The Commission does not have authority to supersede Section 2003, FGC.

(b) No Change Alternative:

Without a regulation change, uncertainty and public controversy will prevail concerning the application of Section 2003, FGC, to nongame mammals and furbearers.

(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 only clarifies application of a specific section of Fish and Game Code.

(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

Section 2003 of Fish and Game Code (FGC), subsection (a) prohibits offering prizes or other inducements “for the taking of game birds, mammals, fish, reptiles or amphibians in an individual contest, tournament or derby.” However, Section 2003, FGC, then goes on to provide limited exceptions to this rule. These exceptions permit take of game fish if permitted by the Department of Fish and Wildlife (Department), frog-jumping contests, fish contests conducted in the waters of the Pacific Ocean, and, in subsection (d), the offering of prizes “for the taking of game birds and mammals, if the total value of all prizes or other inducements is less than five hundred dollars (\$500).” The Commission’s proposed regulatory changes resolve the potential inconsistent treatment of “game” and “nongame mammals” in subsections (a) and (d) by clarifying that Section 2003, FGC, prohibits offering prizes or inducements for take of *all* mammals (game, nongame, and furbearers) in subsection (a), and, in subsection (d) permits prize offerings of less than \$500 only for the take of *game* mammals.

The Commission reasons the word “game” preceding “birds” in subsection (a) was not intended to apply to “mammals” because the use of a comma between “birds” and “mammals” makes clear that “game” only applies to “birds” in this general prohibition. Subsection (a) is clearly a longstanding broad prohibition protecting game birds and *all* mammals, fish, reptiles, and amphibians. Turning to subsection (d), the Commission further reasons that in this later added subsection the word “game” preceding “birds” was intended to apply to “mammals.”

The Commission views the alternative reading of subsection 2003(d), FGC, permitting inducements for the unlimited take of furbearers and nongame mammals as unsportsmanlike and likely not the intent of the legislature in the 2004 amendment adding subsection (d). The Commission believes that offering inducements for hunting contests of animals with no regulated take does not reflect good sportsmanship or the likely intent of the legislature. Therefore, the Commission believes the changes to sections 465 and 472 clarify the proper interpretation of subsection 2003(d), FGC, and recognize and encourage sportsmanlike behavior.

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 nongame mammals (Sections 203 and 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 offering prizes or other inducements for the take of furbearers and nongame animals.

Benefits of the Proposed Regulations

Adoption of clear instruction about the legal hunting of furbearers and nongame mammals provides for the conservation, maintenance, and utilization of the living resources of the state's wildlife under the jurisdiction of the state for the benefit of all the citizens of the state. The proposed regulations provide continued recreational opportunity to the public, afford opportunities for multi-generational family activities, and promote respect for California's environment by the future stewards of the State's resources. The fees that hunters pay for licenses and stamps are used for conservation.