

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.