

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

Amend Section 265
Title 14, California Code of Regulations (CCR)
Re: Use of Dogs for Pursuit/Take of Mammals or for Dog Training

Date of Initial Statement of Reasons: October 7, 2016

II. Dates and Locations of Scheduled Hearings:

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| (a) Notice Hearing: | Date: | October 20, 2016 |
| | Location: | Eureka, CA |
| | | |
| (b) Discussion Hearing: | Date: | December 8, 2016 |
| | Location: | San Diego, CA |
| | | |
| (c) Adoption Hearing: | Date: | February 8, 2017 |
| | Location: | Santa Rosa, CA |

III. Description of Regulatory Action:

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

Add a new subsection 265(d)(1):

Insert a provision prohibiting the use of treeing switches on dog collars when dogs are used as an aid in hunting. Treeing switches, sometimes called activity switches, are devices on the collar of a dog that incorporate a mercury or electronic switch. This equipment indicates the position of the dog's head with one signal provided remotely to a hunter if the dog's head is down and another signal provided to a hunter if the dog's head is up; this often helps the hunter know if the dog is tracking a scent (with the dog's head down) or looking up (such as when the dog is at the base of a tree with an animal in the tree).

Add a new subsection 265(d)(2):

Insert a provision prohibiting the use of global positioning system (GPS) equipped dog collars when dogs are used as an aid in hunting. Certain dog tracking systems rely on GPS equipped dog collars to transmit the location of the dog to a hunter to track and retrieve hunting dogs in the field while assisting a hunter.

In April 2016, the Fish and Game Commission (Commission) adopted changes to Section 265 authorizing the use of GPS collars and treeing switches for dogs aiding a hunter. The Public Interest Coalition filed a petition in Superior Court in Sacramento County (Case No. 34-2016-80002350) seeking a Writ of Mandate invalidating the Commission's action; the petition alleges that the Commission failed to comply with the procedural requirements of the California Environmental Quality Act (CEQA). The Commission has determined that further rulemaking may be necessary to resolve that litigation. The rulemaking and the related CEQA analysis will also help to further inform the Commission about issues related to regulating the use of dogs as an aid in hunting and associated equipment for those dogs. The proposed amended language would be necessary for such purposes.

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

Authority cited: Sections 200, 202, 203, 3960, 3960.2 and 3960.4, Fish and Game Code.

Reference: Sections 3960, 3960.2 and 3960.4, 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: None.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

No alternatives were identified.

(b) No Change Alternative:

The no change alternative was considered and rejected because it would not satisfy the allegations of the petition made by the Public Interest Coalition.

(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. The proposed regulations will affect a limited number of hunters who pursue mammals with dogs. These hunters may still use other, non-GPS radio collar technology to track and retrieve dogs during the hunt.

(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 proposed action will not have significant impacts 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. Sales of GPS collars are not anticipated to decrease as a result of the proposed regulation because GPS collars can still be used by dog owners in a wide variety of applications other than hunting. The Commission does not anticipate benefits to the health and welfare of California Residents, benefits to worker safety, nor to the State's environment.

(c) Cost Impacts on Representative Private Persons/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) Other 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: None.

(h) Effect on Housing Costs: None.

VII. Economic Impact Assessment

The proposed action will have no statewide economic or fiscal impact because the proposed action affects a relatively small number of individuals who hunt mammals with dogs. These hunters may still use radio collar technology to track and retrieve dogs during the hunt. There are no new costs necessarily incurred by a representative person or business to comply with this regulatory amendment, per APA (section 11342.535), wherein “cost impacts” are defined as those that a person “necessarily incurs in reasonable compliance with the proposed action.”

(a) Effects of the regulation on the creation or elimination of jobs within the State:

The regulation will not affect the creation or elimination of jobs because it is unlikely to cause an increase or decrease in hunting effort. Sales of GPS collars are not anticipated to decrease as a result of the proposed regulation because GPS collars can still be used by dog owners in a wide variety of applications other than hunting.

(b) Effects of the regulation on the creation of new businesses or the elimination of existing businesses within the State:

The regulation will not create new businesses or eliminate businesses within the State because it is unlikely to cause an increase or decrease in hunting effort or the manufacture and sale of GPS collars.

(c) Effects of the regulation on the expansion of businesses currently doing business within the State:

The regulation will not affect the expansion of businesses currently doing business in the State because it is unlikely to cause an increase or decrease in hunting effort or the manufacture and sale of GPS collars.

(d) Benefits of the regulation to the health and welfare of California residents:

The Commission anticipates benefits to the health and welfare of California residents. Hunting provides opportunities for multi-generational family activities and promotes respect for California’s environment by the future stewards of the State’s resources.

(e) Benefits of the regulation to worker safety.

The proposed regulation will not affect worker safety.

(f) 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 of the State. The Commission anticipates benefits to the State's environment in the sustainable management of natural resources.

INFORMATIVE DIGEST (Policy Statement Overview)

In April 2016, the Fish and Game Commission adopted changes to Section 265, Title 14, California Code of Regulations authorizing the use of GPS collars and treeing switches for dogs aiding a hunter. The Public Interest Coalition filed a petition in Superior Court in Sacramento County (Case No. 34-2016-80002350) seeking a Writ of Mandate invalidating the Fish and Game Commission's action. That petition alleges that the Commission failed to comply with the procedural requirements of CEQA. The Commission has determined that further rulemaking may be necessary to resolve that litigation. The rulemaking and the related CEQA analysis will also help to further inform the Commission about the issues related to regulating the use of dogs as an aid in hunting and associated equipment for those dogs. The proposed amended language would be necessary for such purposes.

Amend Section 265, Title 14, CCR, by adding new subsections (d)(1) and (d)(2) to prohibit the use of treeing switches and GPS collar equipment for dogs used in the taking of mammals.

Benefits of the regulations

The regulation prohibits the use of treeing switches or GPS equipped collars on dogs used for the pursuit/take of mammals.

Non-monetary benefits to the public

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

Consistency and Compatibility with State Regulations

The Fish and Game Commission, pursuant to Fish and Game Code Sections 200, 202 and 203, has the sole authority to regulate hunting in California. Commission staff has searched the California Code of Regulations and has found no other agency with the authority to regulate the use of dogs for hunting mammals. Therefore the Commission has determined that the proposed amendments are neither inconsistent nor incompatible with existing State regulations.