

TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections: 200, 202, 203, 3960, 3960.2 and 3960.4 of the Fish and Game Code and to implement, interpret or make specific Sections 3960, 3960.2 and 3960.4 of said Code, proposes to amend Section 265, Title 14, California Code of Regulations, relating to Use of Dogs for Pursuit/Take of Mammals or for Dog Training

Informative Digest/Policy Statement Overview – Inland Fisheries

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.

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.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Hilton Garden Inn San Diego Mission Valley/Stadium, 3805 Murphy Canyon Road, San Diego, California, on Thursday, December 8, 2016 at 8:00 a.m.; or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in Santa Rosa, California, on February 8, 2017, at 8:00 a.m., or as soon thereafter as the matter may be heard (a specific location will be determined and provided to interested and affected parties). It is requested, but not required, that written comments be submitted on or before 5:00 p.m. on January 19, 2017 at the address given below, or by email to FGC@fgc.ca.gov. Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on February 3, 2017. All comments must be received no later than February 8,

2017, at the hearing in Santa Rosa, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

Availability of Documents

The Initial Statement of Reasons, text of the regulations, as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Valerie Termini, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Valerie Termini or Jon Snellstrom at the preceding address or phone number. **Craig Stowers, Environmental Program Manager, Department of Fish and Wildlife, phone (916) 445-3553**, has been designated to respond to questions on the substance of the proposed Use of Dogs for Pursuit regulations. Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout can be accessed through our website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Assessment

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.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Dated: November 1, 2016

Valerie Termini
Executive Director