

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Section 353
Title 14, California Code of Regulations (CCR)
Re: Methods Authorized for Taking Big Game

I. Date of Initial Statement of Reasons: November 2, 2015

II. Date of Final Statement of Reasons: April 17, 2016

III. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: December 10, 2015
Location: San Diego, California

(b) Discussion Hearing: Date: February 11, 2016
Location: Sacramento, California

(c) Adoption Hearing: Date: April 14, 2016
Location: Santa Rosa, California

IV. Update:

At its April 14, 2016, meeting in Santa Rosa, the Fish and Game Commission adopted the amendments to Section 353 as proposed. No modifications were made to the originally proposed language of the Initial Statement of Reasons.

V. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations:

One comment was received via oral testimony from Kathy Lynch (Lynch & Associates) regarding this rule-making at the Fish and Game Commission's meeting in Santa Rosa on April 14, 2016. Ms. Lynch supported the Department's efforts to use "industry language" regarding the definition of frangible and soft-nose or expanding bullets.

Department Response: The Commission adopted the regulation with the referenced language.

VI. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:

California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VII. Location of Department files:

Department of Fish and Wildlife
1416 Ninth Street
Sacramento, California 95814

VIII. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

No alternative was identified.

(b) No Change Alternative:

The “No Change Alternative” was considered and found inadequate to attain the project objectives. Retaining the current terminology without clear, concise definitions results in confusion on the part of hunters and creates a legal obstacle to enforcement of existing method of take restrictions.

(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 adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

IX. Mitigation Measures Required by Regulatory Action:

The regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

X. 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 action adds definitions to method of take regulations for big game in order to clarify regulations for law enforcement and legal applications, and eliminate possible confusion on the part of hunters. The proposal is economically neutral to business.

- (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 anticipates benefits to the health and welfare of California residents and to the state's environment. Hunting provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of the State's resources and the action contributes to the sustainable management of natural resources.

The proposed action will not have significant impacts on jobs or business within California and does not provide benefits to worker safety.

- (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

UPDATED INFORMATIVE DIGEST (Policy Statement Overview)

Amend Section 353, Title 14, California Code of Regulations (CCR), Methods Authorized for Taking Big Game. The purpose of the proposed amendments is to specifically require compliance with sections 353 and 250.1 when taking big game, and to clarify which cartridges may be used by defining “softnose or expanding projectile.”

The current regulations in Section 353, Title 14, CCR, provide method of take restrictions for big game using centerfire cartridges in rifles, pistols and revolvers. The projectiles used in these firearms are required to be “softnose or expanding.” However, these words are not defined in the regulation. While “softnose or expanding” is commonly accepted from the standpoint of bullet design and trade industry terminology, some have suggested that it could include frangible bullets. The lack of distinction between projectile types is confusing to hunters and difficult to interpret by law enforcement. Furthermore, frangible bullets are not an efficient and effective means to take big game.

The proposed regulation changes are as follows:

- 1) Add clause to subsection 353(a) specifically making it unlawful to use methods of take or projectiles for big game other than what is authorized in Sections 250.1 and 353;
- 2) Add a new subsection 353(b)(1) to define “softnose or expanding projectile” based upon design and common accepted terminology of mushrooming, bullet diameter increase and bullet weight retention; and
- 3) Add a new subsection 353(b)(2) to clarify that “frangible” bullets are not softnose or expanding projectiles.

Benefits of the regulations

The Commission anticipates benefits to the health and welfare of California residents and benefits to the State’s environment because the proposed regulation assists the Department in the sustainable management of California’s big game populations.

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 with State or Federal Regulations

The Commission, pursuant to Fish and Game Code Sections 200, 202 and 203, has the sole authority to regulate the hunting of big game species in California. Commission staff has searched the California Code of Regulations and has found the proposed regulations are consistent with the hunting of big game species, specifically Sections 360, 362, 363, 364, 365 and 368 of Title 14. Therefore the Commission has determined

that the proposed amendment is neither inconsistent nor incompatible with existing State regulations.

The proposed amendments are consistent with federal laws, which generally allow states to specify ammunition that is appropriate to be used for hunting purposes.

UPDATE

At its April 14, 2016, meeting in Santa Rosa, the Fish and Game Commission adopted the amendments to Section 353 as originally proposed in the Initial Statement of Reasons.

There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.