

## **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, 203, 240, and 265 of the Fish and Game Code and to implement, interpret or make specific Sections 200, 203, 203.1, 265, 2005, and 4370, of said Code, proposes to amend Section 354, Title 14, California Code of Regulations, relating to Archery Equipment and Crossbow Regulations.

### **Informative Digest/Policy Statement Overview**

The California Department of Fish and Wildlife (Department) proposes two amendments to Section 354, Title 14, California Code of Regulations, which are related to law enforcement.

First, the provision in subsection 354(f) requires that a bow “cast a legal hunting arrow ... 130 yards”, however this is unenforceable since it is impossible to demonstrate inside a courtroom. There is a need for clarification of the regulation to require that archery equipment be strong enough to project an arrow at a rate that it will be lethal to the game mammal and also be enforceable. For clarity, the Department proposes requiring a draw weight of at least 40 pounds for a bow and 125 pounds for a crossbow to make it practical to demonstrate in the field and in a courtroom. Draw weight as used in archery sports is the measure of force required to draw the bow to a ready to fire position.

Second, the provision in subsection 354(h) states that “archers may not possess a firearm while hunting in the field during any archery season, or while hunting during a general season under the provisions of an archery only tag.” The subsection also provides an exception, by reference to Fish and Game Code 4370, which permits peace officers to carry a concealed firearm. The Department proposes an amendment allowing possession of a concealable firearm while hunting big game other than deer (consistent with Fish and Game Code section 4370) under the authority of an archery only tag, provided the hunter does not use that firearm in any way to take the game animal.

### **Non-monetary Benefits to the Public**

The Commission anticipates benefits to the health and welfare of California residents through the sustainable management of mammal populations. The Commission does not anticipate non-monetary benefits to 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 Existing Regulations**

The Commission has reviewed its regulations in Title 14, CCR, and conducted a search of other regulations on this topic and has concluded that the proposed amendments to Section 354 are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate hunting 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 Resource Building first floor auditorium, 1416 9<sup>th</sup> Street, Sacramento, California, on February 6, 2019 at 8:30 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 The City of Santa Monica Civic East Wing Auditorium, 1855 Main Street, Santa Monica, California, on April 17, 2019, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before **5:00 p.m.** April 4, 2019 at the address given below, or by email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on April 12, 2019. All comments must be received no later than April 17, 2019, at the hearing in Santa Monica, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

#### Availability of Documents

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission website at [www.fgc.ca.gov](http://www.fgc.ca.gov). 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 Melissa Miller-Henson or Jon Snellstrom at the preceding address or phone number. Patrick Foy, Captain, Law Enforcement Division, Department of Fish and Wildlife, (916) 651-6692, has been designated to respond to questions on the substance of the proposed regulations. Mailed comments should be addressed to Fish and Game Commission, PO Box 944209, Sacramento, CA 94244-2090.

#### 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 265 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, 11346.8 and 11347.1 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 amendment would not directly or indirectly impose any regulation on businesses.

- (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 no impacts on the creation or elimination of jobs within the state and no impact on the creation of new businesses or the elimination of existing businesses because the proposed amendment would not directly or indirectly impose any regulation on businesses. The Commission anticipates benefits to the health and welfare of California residents because the proposed amendment would enable the carrying of a firearm, while hunting big game other than deer (consistent with Fish and Game Code section 4370), in the event a person is threatened by a dangerous animal or person while archery hunting. The Commission does not anticipate impacts on worker safety. The Commission anticipates benefits to the State's environment by reducing non-lethal injuries to wildlife.

- (c) Cost Impacts on a Representative Private Person or Business:

The vast majority of hunters use bows that are set to a much higher draw weight than the proposed minimum set by the proposed regulation, so it would not affect them. A small percentage of hunters would choose to purchase a scale to measure their bow's draw weight to be sure they are in compliance with the law at a cost of about \$10 - \$20 each.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The proposed regulation would save many hours of investigative costs associated with a wildlife officer's attempt to prove a seized bow had insufficient strength to cast an arrow at least 130 yards. Time would be spent seizing the bow as evidence and documenting its seizure, finding a safe place to test the bow's ability to cast an arrow 130 yards, finding the arrow and measuring its flight distance once it is tested, then possibly returning the bow to the hunter at the direction of the court. Minimal hard costs to the Department would be associated with the proposed regulation change. California's wildlife officers who regularly work archery seasons may have to purchase bow measuring devices. It is estimated that approximately a quarter of the state's wildlife officers, or about 100 would have to purchase them at a total one-time cost to the state of \$1,000 - \$2,000.

- (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.

### 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: December 31, 2018

Melissa Miller-Henson  
Acting Executive Director