

State of California
Fish and Game Commission
Final Statement of Reasons for Regulatory Action

Amend Sections 250, 251.5, 252, 257.5, 258, 350, 352, 353, 401, 465.5, 679, 708.13

Add Sections 375, 376, 377, 378, 379

Repeal Section 368

Title 14, California Code of Regulations

Re: Exotic Game Mammals / Wild Pig Validations

I. Dates of Statements of Reasons

- (a) Initial Statement of Reasons Date: August 9, 2023
- (b) Final Statement of Reasons Date: February 19, 2024

II. Dates and Locations of Scheduled Hearings

- (a) Notice Hearing
Date: October 11-12, 2023 Location: San Jose
- (b) Discussion Hearing
Date: December 13-14, 2023 Location: San Diego
- (c) Adoption Hearing
Date: February 14-15, 2024 Location: Sacramento

III. Update

The Commission adopted these regulations at its February 14-15, 2024, meeting in Sacramento, CA. 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.

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

The Pre-Adoption Statement of Reasons (PSOR) included responses to unique comments received during the Public Notice period November 10, 2023 through January 15, 2024. Comments received on or after January 16, 2024 are summarized and responded to below.

- 1) Susan Ferry, 1/16/2024, comment received via email.

Comment: Hunting alone will not control wild pigs and efforts should involve trapping.

Response: It is understood that hunting alone will not eradicate wild pigs; however, changes to statute stemming from Senate Bill 856 – Wild Pig Validations (2022) and regulations from this rulemaking allow property owners to use hunting as a more efficient means to control wild pigs by removing take limits and financial barriers associated with individual tags. If a landowner wants to further their ability to take wild pigs with the use of approved trapping methods, they can apply for a depredation permit through a regional California Department of Fish and

Wildlife office following the guidelines in California Code of Regulations Title 14 § 401 - Issuance of Permit to Take Animals Causing Damage.

2) Joseph Chaves, 1/30/2024, comment received via email.

Comment: The five tags paid for within the lifetime hunting license with big game package are not monetarily equal to the validation.

Response: With the passing of Senate Bill 856- Wild Pig Validations in 2022, Fish and Game Code 3031.2(c)(1)(B) was amended to replace wild pig tags with the wild pig validation within the lifetime hunting license big game privilege package. Although the monetary cost of five wild pig tags issued under previous regulations is greater than the monetary cost of the new wild pig validation, the validation allows for unlimited take, which effectively enhances the value of this privilege for lifetime hunting package holders and purchasers of the annual validation. It is not within the purview of the Fish and Game Commission or Department of Fish and Wildlife to consider alternatives to the replacement of wild pig tags with a wild pig validation, or to consider alternative approaches to compensate customers retroactively for purchase of the lifetime big game hunting privilege issued under previous conditions. The Fish and Game Commission and the Department of Fish and Wildlife are required to observe the provisions of this statute.

V. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

No alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect and satisfy statute set forth in Senate Bill 856 (2022).

(b) No Change Alternative

The no change alternative would cause issues with consistency in language, not classify pigs under exotic game mammals, and potentially not allow the Department to issue validations in place of tags as outlined in statute in Senate Bill 856 (2022).

(c) Consideration of Alternatives

No reasonable alternative considered by the Fish and Game Commission or that has otherwise been identified and brought to the attention of the Fish and Game 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 regulation, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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 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 any significant adverse economic impacts directly affecting businesses, including the ability of California businesses to compete with businesses in other states because the proposed regulations will not impose new compliance costs.

- (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 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. No benefits to worker safety are anticipated. Benefits are anticipated to the general health and welfare of California residents and the state's environment by mitigating the potential spread of pig-borne diseases and environmental damage caused by wild pigs.

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

The agency 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. The proposed regulation will not affect any other state agency and the Department program oversight and Law Enforcement Branch workload is projected to be unchanged from currently existing budgets and resources. However, the Department anticipates license revenue changes with the switch from pig tags to pig validations.

- (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

Governor Newsom signed into law Senate Bill 856 (2022) – Wild Pig Validations sponsored by Senator Dodd from Napa. Most of the provisions of this bill are effective July 1, 2024. This bill made sweeping changes to Fish and Game Code (FGC) which included changes to laws regarding definitions, licensing, hunting take, captive hunting preserves and capture, possession, and release of wild pigs. The intent of his legislation is to give the public and the California Department of Fish and Wildlife (Department) more tools to manage wild pigs and the damage they cause to private property and the environment.

Following the lead of the legislature who made considerable amendments to FGC, the Department proposes a number of changes to California Code of Regulations, Title 14, Division 1, Subdivision 2, Chapter 3. This chapter has been historically Big Game, but under this proposal, would be changed to Big Game and Exotic Game Mammals. The first proposed change recommended by the Department follows suit with the removal of wild pigs from FGC Section 3950 (Game Mammals Defined), and the creation and addition of wild pigs to FGC Section 3965 (Exotic Game Mammals Defined), by the legislature. This change requires the Department to strike wild pigs from Title 14 section 350 (Big Game Defined), and associated sections 352 (Shooting Hours for Big Game), and 353 (Methods Authorized for Taking Big Game). The Department is proposing to repeal and renumber section 368 (Wild Pigs) to follow the new flow to this section.

The Department is proposing to create four new sections for exotic game mammals directly related to sport hunting. To do this, exotic game mammals must be added to supporting regulations sections 250, 251.5, 252, 257.5 and 258. The first new section proposed is 375 (Exotic Game Mammals Defined), which characterizes such an animal as a mammal, nonnative to California, seen to be detrimental to the ecology and conservation of native species and their habitat. This section would list wild pigs, feral pigs, European wild pigs and their hybrids as the only group. Following Big Game as an example, the next section proposed is 376 (Shooting Hours for Exotic Game Mammals), followed by section 377 (Methods Authorized for Taking Exotic Game Mammals), and section 378 (Wild Pig), renumbered from 368, which defines the hunting season, bag and possession limits for wild pigs. The proposed section 379 (Prohibition on Feeding Exotic Game Mammals), places a prohibition on knowingly feeding exotic game mammals.

The Department proposes to amend Title 14 section 401 (Issuance of Permit to Take Animals Causing Damage), by allowing depredation permits for wild pigs to extend for up to five years rather than the current one-year scenario. This should reduce annual administrative duties for both the Department and permit holders. Another proposed amendment to section 401 include extends the reporting period to one year rather than monthly, which creates uniformity with new proposed reporting requirements for sport take per the requirements set forth in FGC Section 4657. The Department proposes to remove the tagging requirement for wild pigs taken under depredation permits and require individuals it to have their permit in their possession. Finally, the Department proposes to remove language related to wanton waste for pigs taken under a depredation permit.

The Department proposes to add exotic game mammals to Title 14 section 465.5 (Use of Traps), to indicate that exotic game mammals may not be taken with the use of steel-jawed traps. The addition of exotic game mammals to section 465.5 also means that the requirements for trap placement, trap marking and trap-check frequency ((g)(1)-(g)(5)), all apply to any body gripping trap set for an exotic game mammal, for the purposes described in this section.

The Department proposes to make changes Title 14 section 708.13 (Wild Pig License Tags), for conformity with statute, by replacing “tag” with “validation.” The Department also proposes a reporting method for sport harvest to address requirements in statute. Individual must report their take annually in the Automated License Data System before procuring a validation for the next hunting license year whether they have harvested wild pigs or not. The Department proposes reporting criteria of county, month and number taken facilitated in the Automated License Data System at the end of each license year.

The proposed changes to Title 14 are assumed to have little impact, if any, on businesses. Assessment of financial impacts to the Department indicates the Department may lose an estimated \$156,000 annually, after wild pig tags are transitioned to validations.

Benefits of the Proposed Regulations:

The benefits of this regulation stem from the ability to manage wild pigs separately from other big game mammal species through the creation of a new game classification “exotic game mammals,” and the designation of wild pig as the first exotic game mammal. The regulation benefits hunter’s ability to take pigs by replacing pig tags with a single validation that allows for unlimited take. The regulation benefits landowners by stating that the California Department of Fish and Wildlife cannot place any limitations on the number of pigs that a landowner can take with a depredation permit and by utilizing hunters to aid in taking nuisance pigs. This regulation seeks to mitigate environmental damage caused by wild pigs through the prohibition of any new contained hunting preserves, while grandfathering in existing facilities and prohibiting existing contained hunting preserve operations from being sold, transferred, or passed on. These regulations also require marking of released pigs which is intended to aid in identifying any pigs that escape from contained hunting preserves.

Consistency and Compatibility with Existing State Regulations:

The Legislature has delegated authority to the Commission to promulgate hunting regulations (FGC Sections 200 and 203) and with regard to management of the state’s mammal resources. Given SB 856 and the authority provided herein, no other state agency has the authority to promulgate such regulations for wild pigs. The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the CCR for any regulations regarding the adoption of fishing regulations and has concluded that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

UPDATE

Though not directly highlighted in the Initial Statement of Reasons (ISOR), the proposed regulations amended Section 401(g)(1) to include the California Department of Fish and Wildlife's Wildlife Incident Reporting System as an acceptable method for submitting required reports related to the take of wild pigs. This amendment was included to expand the available options for submitting required reports in the interest of convenience for permit-holders.

The Commission adopted these regulations at its February 14-15, 2024, meeting in Sacramento, CA. 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.

Following adoption, during review by the California Office of Administrative Law (OAL), the regulatory language in Section 708.13(c) was amended to mirror Fish and Game Code Section 4657(a). Though the regulatory effect of the new language does not differ from what was originally adopted by the Commission, changing it to mirror the provisions of law being put into regulation ensures consistency and prevents possible public confusion.

Lastly, during OAL review the entirety of Section 377(h) was struck from the regulatory language, as the Commission's authority to implement the provisions was not clearly established.

