

STAFF SUMMARY FOR JUNE 22-23, 2016

31. NONGAME**Today's Item**Information Action

Authorization to publish notice of intent to change nongame hunting regulations related to domestic pigeons and nonnative deer.

Summary of Previous/Future Actions

- **Today's Notice hearing** Jun 22-23, 2016; Bakersfield
- Adoption hearing Aug 24-25, 2016; Folsom

Background

According to Section 3800, Fish and Game Code (Code), it is unlawful to take nongame birds except as authorized by code or regulation. Unfortunately, the status of domestic pigeons remains uncertain under existing law. Code section 3680 implies that the shooting or taking of domestic pigeons is lawful, however, since their status (e.g. as the feral progeny of domestic birds) in the Code is unspecified, the actual conditions under which they can be shot or taken is unclear. The propose regulation aims to clarify their status as nongame birds and the conditions under which they may be taken. The prohibition on the intentional take of racing pigeons as provided under Code Section 3680 will be maintained.

In addition, increasing populations of nonnative species have developed in many areas of California to the detriment of our native wildlife. They compete with native species for the limited resources, forage, and habitat necessary for survival. They may also transmit diseases or parasites for which native species have no natural immunity or defenses. Current regulation permits the take of nonnative deer during the general deer season in the deer zone where they are found. The proposed regulation will create new hunting opportunities in order to reduce the populations of nonnative deer species by extending the hunting season beyond the general deer season and permitting take of nonnative deer, of either-sex, on any properties enrolled in Private Lands Wildlife Habitat Enhancement and Management (PLM) Programs where an authorized deer, elk, or pronghorn antelope season is open.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Authorize publication of the regulations notice as recommended by DFW.

DFW: Authorize publication of the notice.

Exhibits

1. [DFW Memo, received May 31, 2016](#)
2. [ISOR](#)
3. [DFW presentation](#)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to amend Section 472 concerning nongame hunting.

2016 MAY 31 AM 11:19

Memorandum

Date: May 31, 2016

To: Valerie Termini
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director



Subject: **Agenda Item for the June 22-23, 2016, Fish and Game Commission Meeting
Re: Request to Publish Notice of the Commission's Intent to Amend Section
472, General Provisions – Nongame, Title 14, California Code of Regulations.**

The Department of Fish and Wildlife (Department) requests that the Fish and Game Commission (Commission) authorize publication of notice of its intent to amend Section 472, Title 14, California Code of Regulations to:

- Clarify regulations regarding the take of domestic pigeons,
- Expand the seasons for taking nonnative deer on private lands, and
- Specify the conditions under which nonnative deer may be taken.

If you have any questions or need additional information, please contact Craig Stowers, Game Program Manager, at (916) 445-3553 or by email at Craig.Stowers@wildlife.ca.gov. For the public notice, Senior Environmental Scientist, Karen Fothergill should be identified as the Department's point of contact for this rulemaking. Ms. Fothergill may be reached at (916) 716-1461, or by email at Karen.Fothergill@wildlife.ca.gov.

Attachments

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detriment of our native wildlife. Nonnative deer species compete with native species for the limited resources, forage, and habitat necessary for survival. They may also transmit diseases or parasites for which native species have no natural immunity or defenses. (For example, hairless deer syndrome in native deer is associated with lice found naturally on fallow deer).

Current regulation, subsection 472(b), permits the take of nonnative deer [including: fallow (*Dama dama*), sambar (*Rusa unicolor*), sika (*Cervus nippon*), and axis (*Axis axis*) deer] during the general deer season in the deer zone where they are found. This proposed regulation change will extend the hunting season beyond the general deer season by additionally allowing the take of nonnative deer, of either-sex, on any properties enrolled in Private Lands Management Programs where an authorized deer, elk, or pronghorn antelope season is open.

The amendment of subsection 472(b) further clarifies that hunters taking nonnative deer must possess a valid hunting license in accordance with FGC Section 3007. However, no tag, stamp, or additional endorsement of any kind is required and no bag or possession limit applies. While the take and reduction of nonnative deer populations is considered beneficial by the Department, FGC Section 4304 provides that it is unlawful to allow “flesh normally eaten by humans to go to waste.” For the purpose of clarification, the regulatory text is amended stating that the flesh of nonnative deer should not go to waste.

The proposed amendments to subsection 472(b) specifically:

- (b) Extend the season for nonnative deer, of either sex, to include the deer, elk, and antelope seasons on any property authorized for hunting, and add that there is no bag or possession limit for nonnative species.
- (b)(1) Clarify that the possession of a valid CA hunting license is required for taking nonnative species; however, no tag, stamp, or additional endorsement of any kind is required
- (b)(2) Clarify that it is unlawful to needlessly waste the edible flesh of nonnative deer.

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

Authority: Sections 3800 and 4150 Fish and Game Code.

Reference: Sections 2003, 3007, 3680, 3800, 3801, 3801.5, 4150, and 4304, 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:

A public discussion was held at the Fish and Game Commission's Wildlife Resources Committee meeting held on September 9, 2015 in Fresno, California.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

No alternatives were identified.

(b) No Change Alternative:

Regarding the take of domestic pigeons, the no change alternative was considered and rejected because the regulation would continue to be confusing and applied inconsistently on a statewide basis.

For the extended seasons for take of nonnative deer, the no change alternative was considered and rejected because it would not allow for the management of these nonnative species; negative impacts to native species populations and their habitats would continue to occur.

(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 are unlikely to increase or decrease current levels of hunting effort in California.

- (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. Hunting provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of the State's resources. The Commission anticipates benefits to the State's environment in 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 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 amendments will clarify the regulation regarding the take of domestic pigeons, and extend the season for the take of nonnative deer. There are no costs to businesses or persons.

- (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 increase or decrease current levels of hunting effort in California.

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

The regulation will not impact the creation of new businesses or the elimination of businesses because it is unlikely to increase or decrease current levels of hunting effort in California.

- (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 within the State because it is unlikely to increase or decrease current levels of hunting effort in California.

- (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. The proposed action will further this core objective.

INFORMATIVE DIGEST (Policy Statement Overview)

Title 14, CCR does not currently address the take of domestic pigeons and limits the take of nonnative deer species (including fallow, sambar, sika, and axis deer) to the general deer season. The proposed amendments will clarify the regulation regarding the take of domestic pigeons, and extend the season for the take of nonnative deer.

The proposed amendments to subsection 472(a) will include domestic pigeons as a nongame species that can be taken by any means at any time.

The proposed amendments to subsection 472(b) specifically:

- (b) Extend the season for nonnative deer, of either sex, to include the deer, elk, and antelope seasons on any properties enrolled in Private Lands Management Programs authorized for hunting, and add that there is no bag or possession limit for nonnative species.
- (b)(1) Clarify that the possession of a valid CA hunting license is required for taking nonnative species; however, no tag, stamp, or additional endorsement of any kind is required.
- (b)(2) Clarify that it is unlawful to needlessly waste the edible flesh of nonnative deer.

Benefits of the proposed amendments

The regulation will clarify the conditions for take of domestic pigeons to provide consistency in application on a statewide basis. Establishing specific regulations regarding the take of nonnative deer species will create new hunting opportunities and help reduce negative impacts on native species populations and habitats by reducing populations of competing nonnative species.

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 Fish and Game Commission, pursuant to Fish and Game Code Sections 200, 202 and 203, has the sole authority to regulate hunting in California and the take of species in general in California. Commission staff has searched the California Code of Regulations and has found the proposed changes pertaining to the general provisions of the nongame section consistent with the provisions of Title 14. Therefore, the Commission has determined that the proposed amendments are neither inconsistent nor incompatible with existing State regulations. There are no related federal rules.

REGULATORY TEXT

Section 472, Title 14, CCR, is amended to read:

§ 472. General Provisions.

Except as otherwise provided in Sections 478, 485, and subsections (a) through (d) below, nongame birds and mammals may not be taken.

(a) The following nongame birds and mammals may be taken at any time of the year and in any number except as prohibited in Chapter 6: English sparrow, starling, domestic pigeon, *Columba livia*, (except as prohibited in Fish and Game Code section 3680), coyote, weasels, skunks, opossum, moles and rodents (excluding tree and flying squirrels, and those listed as furbearers, endangered or threatened species).

(b) Fallow, sambar, sika, and axis deer, of either sex, may be taken ~~only~~ concurrently with the general deer season and on properties where an authorized deer, elk, or pronghorn antelope season is open. There is no bag or possession limit for deer taken pursuant to this subsection.

(1) It shall be unlawful to take any deer pursuant to this subsection without a valid hunting license in possession, but no tag, stamp, or additional endorsement of any kind is required.

(2) It shall be unlawful to detach or remove only the head, hide, or antlers of any deer taken pursuant to this subsection, or to leave through carelessness or neglect any portion of the flesh normally eaten by humans to go to waste.

... [No changes to subsections (c) through (e)]

Note: Authority cited: Sections ~~355~~, 3800 and 4150, Fish and Game Code. Reference: Sections ~~355~~, 2003, 3007, 3680, 3800, 3801, 3801.5, and 4150, and 4304, Fish and Game Code.

Nongame Animals – General Provisions Recommendations Section 473

Scott Gardner
Wildlife Branch
Fish and Game Commission Meeting
June 23, 2016: Agenda Item 29

Proposal #1 – Rock Dove



Why Change Proposed

- Status in FGC unclear; rock doves (*Columba livia*) are only mentioned in FGC §3680 which states they may be taken only by mistake while hunting band-tailed pigeons (*Patagioenas fasciata*);
- Proposal would specify rock doves are a non-game animal and permit their take year-round with no bag or possession limits;
- **Goal of the proposal is to eliminate enforcement issues by clarifying their nongame status and defining the circumstances for take.**

Proposal #2 – Non-Native Deer



Fallow deer (*Dama dama*)



Sika deer (*Cervus nippon*)



Sambar deer (*Rusa unicolor*)



Axis deer (*Axis axis*)

Why Change Proposed

- All species included in regulation are non-native;
- Compete with native ungulates for resources;
- Carry disease and parasites for which native species have established no natural defense (“hairless deer syndrome”);
- Populations are expanding;
- Current regulations only permit take during the general season in the deer zone they are inhabiting;
- Proposal permits take in deer zones where an extended season has been approved (i.e., pursuant to PLM’s) without need for a tag or limited by bag/possession limits;
- **Goal of proposal is to create new hunting opportunities in order to reduce the population of nonnative ungulates and benefit California’s native ungulates.**