

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-Publication of Notice Statement)

Amend Subsection 472
Title 14, California Code of Regulations (CCR)
Re: Nongame Animals, General Provisions

I. Date of Initial Statement of Reasons: April 29, 2016

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: June 23, 2016
Location: Bakersfield

(b) Discussion/ Adoption Date: October 20, 2016
Location: Eureka

III. Description of Regulatory Action:

(a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

1. It is necessary to amend subsection 472(a), Title 14, California Code of Regulations (CCR), in order to clarify the status of domestic pigeons (*Columba livia*) as a nongame bird.

The status of domestic pigeons is uncertain under existing law. Fish and Game Code (FGC) 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 unclear, the actual conditions under which they can be shot or taken is also unclear. FGC Section 3800 makes it unlawful to take nongame birds except as authorized by code or regulation. Adding domestic pigeons to subsection 472(a) will make clear their status as nongame birds and the conditions under which they can be taken.

The prohibition on the intentional take of racing pigeons as provided under FGC 3680 will be maintained.

2. It is necessary to extend the season for take of nonnative deer as set forth in subsection 472(b).

The purpose of this amendment is to create new hunting opportunities in order to reduce the populations of nonnative deer species to the benefit of all species that are native to California. Increasing populations of nonnative species have developed in many areas of California to the

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. 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.

The Commission anticipates benefits to the State's environment in the sustainable management of natural resources. The regulation will clarify the conditions for take of domestic pigeons to provide consistency in application on a statewide basis and create new hunting opportunities for nonnative deer. Hunting provides opportunities for multi-generational family activities and promotes respect for the continued existence of California's natural resources by the future stewards of the State's resources.

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of businesses, or the expansion of businesses in California. The Commission does not anticipate any benefit 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)

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 3800 and 4150 of the Fish and Game Code and to implement, interpret or make specific Sections 3800 and 4150 of said Code, proposes to amend Section 472, Title 14, California Code of Regulations, relating nongame animals general provisions.

Informative Digest/Policy Statement Overview

The status of domestic pigeons is uncertain under existing law. Fish and Game Code (FGC) 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 unclear, the actual conditions under which they can be shot or taken is also unclear. FGC Section 3800 makes it unlawful to take nongame birds except as authorized by code or regulation.

Increasing populations of nonnative species have developed in many areas of California to the 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. Current regulation permits the take of nonnative deer during the general deer season in the deer zone where they are found.

PROPOSED REGULATION

In order to clarify the status of domestic pigeons, the proposed amendment to subsection 472(a) specifies domestic pigeons are a nongame species which may be taken at any time and in any number except as specified.

In order to extend hunting opportunity and reduce populations of nonnative deer species, the proposed amendments to subsection 472(b) are necessary:

- (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 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 REGULATIONS

The Commission anticipates benefits to the health and welfare of California residents. 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.

The Commission anticipates benefits to the State's environment in the sustainable management of natural resources. The regulation will clarify the conditions for take of domestic pigeons to provide consistency in application on a statewide basis and create new hunting opportunities for nonnative deer. Hunting provides opportunities for multi-generational family activities and promotes respect for the continued existence of California's natural resources by the future stewards of the State's resources.

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.

EVALUATION OF INCOMPATIBILITY WITH EXISTING REGULATIONS:

Section 20, Article IV, of the State Constitution specifies that the Legislature may delegate to the Fish and Game Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to regulate the take of nongame birds and mammals (Sections 3800 and 4150, Fish and Game Code). No other State agency has the authority to promulgate nongame hunting regulations. The Commission 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.