

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

Amend Section 251.3
Title 14, California Code of Regulations
Re: Prohibition Against Feeding Big Game Mammals

I. Date of Initial Statement of Reasons: June 20, 2007

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: August 10, 2007
Location: Santa Barbara

(b) Discussion Hearing: Date: October 12, 2007
Location: Concord

(c) Adoption Hearing: Date: November 2, 2007
Location: Sacramento

III. Description of Regulatory Action:

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

Section 251.3 was originally adopted in 1996 because existing regulations did not specifically prohibit the feeding of big game mammals. The change was intended to reduce unnatural concentrations of mammals (thereby reducing the potential for disease), damage to private property, and public safety problems. The addition of language requiring certified mail and a seven day waiting period was proposed by the department and adopted by the commission and is inconsistent with all other requirements of public compliance with resource laws.

Currently, Section 251.3 of Title 14, CCR, requires that prior to a Department enforcement officer taking criminal action against a person for unlawfully feeding big game mammals, the regional manager of the area must first give official notice through certified mail to the person that they are in violation of the regulation. If the person does not stop feeding the big game mammal within seven days after he/she receives the certified mail notice, the enforcement officer can then take criminal action against

the person for the violation. Prior to taking enforcement action, an officer must be able to document the person has knowingly fed the big game mammal and the person has received the certified letter from the regional manager. If the person unlawfully feeding the big game mammal does not accept the certified written notice from the mail carrier or post office, the violation can conceivably continue without the enforcement officer being able to take any criminal action. This process is cumbersome and inefficient for the field enforcement officer and could delay action to protect the safety of the public.

The proposed wording for this section would make it illegal to knowingly feed big game. There would be no requirement for either sworn or non sworn department personnel to give a written warning informing a person they are in violation of the section. The enforcement officer will have the ability to use the discretion necessary to stop the illegal feeding of the big game species.

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

Authority: Sections 200, 202, 203 Fish and Game Code.

Reference: Sections 200, 202, 203, 203.1, 207, 215 and 220 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:

No public discussions were held prior to the Notice publication. There will be adequate time to review this proposal during the comment period contained in the Commission's regulatory process.

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

No other reasonable alternatives were identified.

(b) No Change Alternative:

The no change alternative was considered and rejected due to the wording of the current section involving non sworn personnel as well as the loop holes available to circumvent the regulation.

(c) Consideration of Alternatives:

None

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 regulation change is sufficiently minor that there would be no significant impact to 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:

None.

(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

(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:

None

(h) Effect on Housing Costs:

None

Informative Digest/Policy Statement Overview

Section 251.3 was originally adopted in 1996 because existing regulations did not specifically prohibit the feeding of big game mammals. The change was intended to reduce unnatural concentrations of mammals (thereby reducing the potential for disease), damage to private property, and public safety problems. The addition of language requiring certified mail and a seven day waiting period was proposed by the department and adopted by the commission and is inconsistent with all other requirements of public compliance with resource laws.

Currently Section 251.3 of Title 14, CCR, requires that prior to a Department enforcement officer taking criminal action against a person for unlawfully feeding big game mammals, the regional manager of the area must first give official notice through certified mail to the person that they are in violation of the regulation. If the person does not stop feeding the big game mammal within seven days after he/she receives the certified mail notice, the enforcement officer can then take criminal action on the person for the violation. Prior to taking enforcement action, an officer must be able to document the person has knowingly fed the big game mammal and the person has received the certified letter from the regional manager. If the person unlawfully feeding the big game mammal does not accept the certified written notice from the mail carrier or post office, the violation can conceivably continue without the enforcement officer being able to take any criminal action. This process is cumbersome and inefficient for the field enforcement officer and could delay action to protect the safety of the public.

The proposed wording for this section would make it illegal to feed big game. There would be no requirement for either sworn or non sworn department personnel to give a written warning informing a person they are in violation of the section. The enforcement officer will have the ability to use the discretion necessary to stop the illegal feeding of the big game species.