

**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, 202 and 203 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 203, 203.1, 207, 215 and 220 of said Code, proposes to amend Section 251.3, Title 14, California Code of Regulations, relating to Prohibition Against Feeding Big Game Mammals.

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 that 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.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Crowne Plaza, Cedar Room, 45 John Glenn Drive, Concord, California, on Friday, October 12, 2007 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 Resources Building Auditorium, 1416 Ninth Street, 1st Floor, Sacramento, California, on Friday, November 2, 2007, 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 October 26, 2007 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on October 30, 2007. All comments must be received no later than November 2, 2007, at the hearing in Sacramento, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., 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 John Carlson, Jr., or Sherrie Koell at the preceding address or phone number. **Assistant Chief Rob Allen, Enforcement Branch, Department of Fish and Game, phone (916) 653-4094, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

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 202 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 and 11346.8 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

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 Business, 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 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) 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.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

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 or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

John Carlson, Jr.
Executive Director

Dated: August 28, 2007