

Proposed Regulatory Language

Section 257.5, Title 14, CCR, is amended to read:

§ 257.5. Prohibition Against Taking Resident Game Birds, Game Mammals, and Exotic Game Mammals by the Aid of Bait.

~~Except as otherwise provided in these regulations or in the Fish and Game Code, resident game birds, game mammals, and exotic game mammals may not be taken within 400 yards of any baited area.~~

(a) Bait. As used in this section, "bait" shall mean any shelled, shucked or unshucked corn, wheat or other grains, salt or any other feed, or cervid-derived biofluid, capable of luring attracting, or enticing resident game birds or mammals.

~~(a) Definition of Baited Area. As used in this regulationsection, "baited area" shall mean any area where baitshelled, shucked or unshucked corn, wheat or other grains, salt, or other feed whatsoever capable of luring, attracting, or enticing such birds or mammals is directly or indirectly placed, exposed, deposited, distributed, or scattered, and such area shall remain a baited area for ten days following complete removal of all baitsuch corn, wheat or other grains, salt, or other feed.~~

(c) It shall be unlawful to use lures or similar materials that contain or are labeled or advertised as containing any chronic wasting disease sensitive cervid biofluid as defined in Section 714, including but not limited to urine, feces, saliva, and scent gland secretions, to take any game bird or game mammal.

(b) Resident game birds, game mammals, and exotic game mammals may not be taken within 400 yards of any baited area, except forExceptions:

(1) The taking of domestically reared and released game birds on licensed pheasant clubs and other licensed game bird clubs;

(2) The taking of resident game birds, game mammals, and exotic game mammals on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly shocked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting;

(3) The taking of resident game birds and mammals on or over any lands where shelled, shucked or unshucked corn, wheat or other grain, salt, or other feed have been distributed or scattered as the result of bona fide agricultural operations or procedures, or as a result of manipulation of a crop or other feed on the land where grown for wildlife management purposes: provided that manipulation for wildlife management purposes does not include the distributing or scattering of grain or other feed once it has been removed from or stored on the field where grown.

NOTE: Authority cited: Sections 200, 203 and 265, Fish and Game Code.

Reference: Sections 110, 200, 201, 203, 203.1, 260, 265, 270, 275, 3800 and 3950, Fish and Game Code.

Section 475, Title 14, CCR, is amended to read:

§ 475. Methods of Take for Nongame Birds and Nongame Mammals.

Nongame birds and nongame mammals may be taken in any manner except as follows:

(a) Poison may not be used.

(b) Recorded or electrically amplified bird or mammal calls or sounds or recorded or electrically amplified imitations of bird or mammal calls or sounds may not be used to take any nongame bird or nongame mammal except coyotes, bobcats, American crows and starlings.

(c) Fallow deer, sambar deer, axis deer, sika deer, aoudad, mouflon, tahr and feral goats may be taken only with the equipment and ammunition specified in Section 353 of these regulations.

(d) Traps may be used to take nongame birds and nongame mammal only in accordance with the provisions of Section 465.5 of these regulations and sections 3003.1 and 4004 of the Fish and Game Code.

(e) No feed, bait or other material capable of attracting a nongame mammal may be placed or used in conjunction with dogs for the purpose of taking any nongame mammals. Nothing in this section shall prohibit an individual operating in accordance with the provisions of Section 465.5 from using a dog to follow a trap drag and taking the nongame mammal caught in that trap.

(f) The take or attempted take of any nongame bird or nongame mammal with a firearm shall be in accordance with the use of nonlead projectiles and ammunition pursuant to Section 250.1 of these regulations.

(g) It shall be unlawful to use lures or similar materials that contain or are labeled or advertised as containing any chronic wasting disease sensitive cervid biofluid as defined in Section 714, including but not limited to urine, feces, saliva, and scent gland secretions, to take any nongame bird or nongame mammal.

NOTE: Authority cited: Sections 200, 203, 265, 355, 3003.1, 3800 and 4150, Fish and Game Code.

Reference: Sections 110, ~~202~~, 203, 203.1, 265, 355, 356, 2055, 3003.1, 3004.5, 3800 and 4150, Fish and Game Code.

Section 676, Title 14, CCR, is amended to read:

§ 676. Fallow Deer Farming.

[No changes proposed to subsections 676(a) through (d)]

(e) Importation of Fallow Deer for Farming. Fallow deer shall not be imported into California for the purposes of farming, except as provided by this section~~these regulations~~.

(1) ~~Importation Application Requirement. A Fallow Deer Farming Importation Application, LRB 1676A (3/97), which is incorporated by reference herein, A Cervidae Importation Application as described in subsection 681(c) shall be completed in its entirety by permittees wishing to import~~obtain fallow deer stock from outside California. ~~The~~This application and documentation identified in subsections 676(e)(2) and (3)~~below~~ shall be submitted to the Department of Fish and ~~Game~~Wildlife, Wildlife Investigations~~Health~~ Laboratory, 1701 Nimbus Road, Suite D, Rancho Cordova, California 95670, or emailed to WHLab@wildlife.ca.gov. Application forms are available upon request at WHLab@wildlife.ca.gov~~this email address~~. The approved ~~Fallow Deer Farming Cervidae~~ Importation Application form must accompany the imported fallow deer stock.

(2) ~~Health Certificate Requirement. A health certificate issued by a U.S. Department of Agriculture accredited veterinarian or other person who has obtained a degree in veterinary medicine from a college or university accredited by the American Veterinary Medical Association in the state from which the fallow deer stock is being shipped shall accompany the imported fallow deer stock. This health certificate shall contain the methods used for testing, the results of the testing and be correlated to identifying markings on fallow deer tested. Health Certificate/Certificate of Veterinary Inspection. Pursuant to Section 681 of these regulations, Cervidae Importation Applications shall be submitted with a Certificate of Veterinary Inspection issued by a United States Department of Agriculture (USDA) accredited category II veterinarian licensed in the state the fallow deer is to be imported from. The Certificate of Veterinary Inspection shall accompany the imported fallow deer and shall include any disease test(s), the results of that testing, and individually identifying tags or markings on the tested fallow deer.~~

(3) ~~Copy of Official Test Results Required. A copy of the official results from tests conducted in the state of origin shall be submitted with the Fallow Deer Farming Importation Application form~~Cervidae Importation Application as defined in subsection 681(c)(1) of these regulations, obtainable by contacting the department's Wildlife Health Lab at WHLab@wildlife.ca.gov or (916) 358-2790. Information on the test ~~tests~~ methods used and ~~the~~ results for each fallow deer tested shall be included.

(4) Disease Tests Required.

(A) ~~Bovine Tuberculosis Testing. The herd of origin shall have undergone official testing for bovine tuberculosis within 24 months of importation of fallow deer, using a Single Cervical Tuberculin (SCT) Test or a Blood Tuberculosis (BTB) Test. All fallow deer six months of age or older shall be tested for tuberculosis within 120 days prior to entry into California and shall have been classified negative for tuberculosis based upon an official test. Bovine tuberculosis (bTB) testing. The herd of origin must have~~

undergone official testing for bovine tuberculosis within 24 months of importation of cervid(s), using a single cervical tuberculin (SCT) test or other USDA-approved bTB screening test for cervids. All cervids six months of age or older shall be tested for tuberculosis within 90 days prior to entry into California and shall have been classified negative for tuberculosis based upon an official test. However, cervids originating from a USDA bTB Accredited herd do not require testing for importation. (Note: It is recommended that cervids be tested 90-120 days after importation.)

~~(B) Brucellosis. The veterinarian issuing the health certificate shall attest that the fallow deer to be imported into California are not known to be infected with brucellosis and that the animals have not been in contact with animals of unknown brucellosis status. Fallow deer six months of age or older shall be tested for brucellosis within 30 days of entry into California.~~ Brucellosis testing. The USDA-accredited veterinarian issuing the Certificate of Veterinary Inspection shall attest that the cervid(s) being imported into California are not known to be infected with brucellosis and have not been in contact with animals of unknown brucellosis status. Sexually intact cervids six months of age or older shall be tested for brucellosis within 30 days prior to entry into California utilizing an official brucellosis laboratory test for Cervidae as determined by USDA. However, cervids originating from Certified Brucellosis-Free cervid herds do not require testing for importation.

(C) Other Disease Testing. The department shall reserve the right to require additional testing prior to importation when there is reason to believe other diseases, parasites or other health risks are present. The department shall provide written notification if such testing is required.

[No changes proposed to subsections 676(f) through (h)]

NOTE: Authority cited: Sections 1002, 2120, 2150, ~~and 2150.2,~~ and 2355, Fish and Game Code.

Reference: Sections 2116.5, 2120, 2124, 2150, 2150.2, 2150.4, 2150.5, 2151, 2185, 2186, 2187, 2189, 2190, 2350 and 2355, Fish and Game Code.

Section 681, Title 14, CCR, is added to read:

§ 681. Importation of Live Cervids.

(a) Cervid. Any live mammal, embryo, or gamete in the taxonomic family Cervidae. Cervids include but are not limited to sika deer, fallow deer, axis deer, white-tailed deer, mule deer, moose, caribou, reindeer, and elk.

(b) Prohibitions.

(1) It shall be unlawful to import into this state any species of cervid except as authorized and permitted by the department pursuant to this section.

(2) It shall be unlawful to import into this state any live species of cervid from any state where chronic wasting disease has been detected, according to credible science as defined in Fish and Game Code Section 33, unless otherwise authorized by the department under this section.

(c) Permit Applications and Requirements.

(1) Permit Application. Application for a cervid importation permit shall be made pursuant to the Cervidae Importation Application, DFW 1681 (NEW 04/23), which is incorporated by reference herein. Applications can be obtained by contacting the department's Wildlife Health Lab at WHLab@wildlife.ca.gov or (916) 358-2790. Issuance of a permit pursuant to this section does not obviate the need to obtain other applicable permits and approvals, including but not limited to restricted species permit(s) and/or a fallow deer farming permit.

(2) Requirements. Cervidae importation permit applicants shall comply with the following when submitting a cervid importation permit. Cervid gametes from a United States Department of Agriculture (USDA) bTB and Brucellosis-Free herd are not subject to the subsequent requirements in subsection (c)(2) and (c)(5).

(A) Health Certificate/Certificate of Veterinary Inspection. Cervidae Importation Applications shall be submitted with a Certificate of Veterinary Inspection issued by a USDA-accredited category II veterinarian licensed in the state the cervid is to be imported from. The Certificate of Veterinary Inspection shall accompany the imported cervid and shall include the disease test(s), the result(s) of that testing, and individually identifying tags or markings on the tested cervid.

(B) Bovine tuberculosis (bTB) testing. The herd of origin must have undergone official testing for bovine tuberculosis within 24 months of importation of cervid(s), using a single cervical tuberculin (SCT) test or other USDA-approved bTB screening test for cervids. All cervids six months of age or older shall be tested for tuberculosis within 90 days prior to entry into California and shall have been classified negative for tuberculosis based upon an official test. However, cervids originating from a USDA bTB Accredited herd do not require testing for importation. (Note: It is recommended that cervids be tested 90-120 days after importation).

(C) Brucellosis testing. The USDA-accredited veterinarian issuing the Certificate of Veterinary Inspection shall attest that the cervid(s) being imported into California are not known to be infected with brucellosis and have not been in contact with animals

of unknown brucellosis status. Sexually intact cervids six months of age or older shall be tested for brucellosis within 30 days prior to entry into California utilizing an official brucellosis laboratory test for Cervidae as determined by USDA. However, cervids originating from Certified Brucellosis-Free cervid herds do not require testing for importation.

(3) Disease Prevention and Control.

(A) Exposure to chronic wasting disease. The department is authorized to deny a cervid importation permit application for any cervid that the department determines, based on the most recent disease reports and credible science as defined in Fish and Game Code Section 33, may have been exposed to chronic wasting disease. The department shall notify the permittee in writing of such a determination, which shall include the rationale for its determination.

(B) Other Disease Testing. The department shall require as a condition on any cervid importation permit that additional testing be conducted if a state-licensed and USDA-accredited veterinarian determines that other diseases, parasites, or other health risks are present based on emerging disease threats. Disease testing requirements may be adjusted on a case-by-case basis based on animal welfare considerations and relative risk as established by credible science as defined in Fish and Game Code Section 33. The department shall notify the permittee in writing if such testing is required.

(4) Permit Term. Cervid importation permits issued under the provisions of this section shall be valid for a term of 30 days.

(5) Identifying Markings. Every cervid that is imported under a cervid importation permit shall be marked, so as to be individually identifiable, by an approved unique identifying method and reported to the department. Approved methods include electronic implants, tattoos, tamper resistant ear tags or a USDA-approved device that adheres to official identification numbering. The department may approve an alternative method if the permittee provides written justification from a state-licensed and USDA-accredited category II veterinarian, explaining the alternative method of unique identification and why other methods would be detrimental to the health or welfare of the animal(s).

(6) In making the determinations in subsections (c)(7) through (9) the department shall consider four factors:

(A) The applicant/permittee's history of violations;

(B) The willfulness of the violation;

(C) The nature, scope, and gravity of the violation; and

(D) The extent to which the permittee cooperated with the department to ensure compliance with the Fish and Game Code and regulations adopted pursuant thereto.

(7) Denial of Application. The department may deny a cervid importation permit for failure to comply with the Fish and Game Code or any regulations adopted pursuant thereto to promote compliance with the law and applicable regulations and ensure that applicants can be trusted to comply with the requirements for cervid importation.

(8) Revocation. The department may revoke a cervid importation permit issued pursuant to this section at any time for failure to comply with the terms and conditions of a cervid importation permit, the Fish and Game Code, or this section.

(9) Reconsideration.

(A) An applicant who receives a notice of denial from the department of a permit application under subsection (c)(7) or a revocation of a permit under subsection (c)(8) may submit a written request sent to Wildlife Health Lab at WHLab@wildlife.ca.gov for reconsideration to the department no later than 30 calendar days following the date of the notification, and shall state the reasons for the requested reconsideration.

(B) The department shall evaluate any information submitted with the request and determine if a reversal of the department's decision is warranted based on all available information and the factors set forth in subsection (c)(6).

(10) Written notice of the department's determination of reconsideration shall:

(A) Explain in writing the basis for the department's determination and the effective date of the denial, or the effective date of the revocation, or the determination of a request for reconsideration according to (c)(9); and

(B) Be sent by email and certified mail using the email and mailing addresses included in the form DFW 1681 submitted by the applicant.

(d) Fees. There is no Cervidae Importation Application fee or importation permit fee associated with cervid importation under this section.

(e) Retention of Health Records. The permittee shall maintain all health records of individual cervids for a minimum of three years. Any person holding a cervid importation permit issued pursuant to this section shall exhibit any records required to be maintained by these regulations upon the request of any department employee.

(f) Inspection. Live cervids imported into California shall be inspected by the department or its designee after notice is provided, either at the place of entry into the state or at other locations within the state, if the department determines that inspection is necessary to ensure compliance or mitigate disease risk.

(g) Any live cervid imported in violation of this section shall be seized or denied entry into this state by the department. An animal that is seized may be taken to another location by the department or seized in place.

NOTE: Authority cited: Sections 1002, 1050, 2120, 2122, 2150, 2150.2, 2355 and 3005.5, Fish and Game Code.

Reference: Sections 13.5, 33, 80, 200, 1001, 1008, 2118, 2118.2, 2118.4, 2120, 2121, 2122, 2193, 2350, 2353, 2355, 3219, 4011 and 4150, Fish and Game Code.

Section 712, Title 14, CCR, is amended to read:

§ 712. Restriction of Importation of Hunter-Harvested Deer and Elk Carcasses.

It is unlawful to import, or possess any hunter harvested ~~deer or elk (cervid)~~ cervid carcass or parts of any cervid carcass imported into the State, such as deer, elk, moose, caribou, reindeer, and other species of the Family Cervidae, except for the following ~~body parts~~:

(a) portions of meat with no part of the spinal column, brain or head attached (other bones, such as legs and shoulders, may be attached).

(b) hides and capes (no spinal column, brain tissue or head may be attached).

(c) clean skull plates (no brain tissue may be present, pursuant to Section 714 of these regulations) with antlers attached, if present. For the purpose of this section, the skull plate is defined as the paired bones (frontal, parietal, and temporal bones) that make up the top portion of the skull surrounding the brain and, in antlered animals, from which the paired antlers extend.

(d) antlers with no meat or tissue attached, except legally harvested and possessed antlers in the velvet stage are allowed, if no meat, brain or other tissue is attached.

(e) finished taxidermy mounts with no meat or tissue attached (antlers in the velvet stage are allowed if no meat, brain or other tissue is attached).

(f) upper canine teeth (buglers, whistlers, ivories).

NOTE: Authority cited: Sections 200, 203, ~~240~~ and 2355, Fish and Game Code.

Reference: Sections 200, 203 and 2355, Fish and Game Code.

Section 714, Title 14, CCR, is added to read:

§ 714. Prohibition Against Possession of Cervid Biofluid.

(a) For the purposes of this section, chronic wasting disease sensitive cervid biofluid refers to, but is not limited to, urine, feces, saliva, and scent gland secretions derived from a cervid.

(b) It is unlawful to import, use, or possess any product that is derived from, contains, or is labeled or advertised as containing any chronic wasting disease sensitive cervid biofluid.

(c) The prohibitions set forth in subsection (b) do not apply to parts retained on a field-dressed cervid legally harvested in California.

NOTE: Authority cited: Sections 200, 203 and 2355, Fish and Game Code.

Reference: Sections 80, 200, 203 and 2355, Fish and Game Code.