

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

Amend Section 502
Title 14, California Code of Regulations
Re: Waterfowl, Migratory; American Coot; and
Common Moorhen (Common Gallinule)

I. Date of Initial Statement of Reasons: October 4, 2017

II. Dates and Locations of Scheduled Hearings:

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| (a) | Notice Hearing: | Date: December 6, 2017
Location: San Diego, CA |
| (b) | Discussion Hearing: | Date: February 8, 2018
Location: Sacramento, CA |
| (c) | Adoption Hearing: | Date: April 19, 2018
Location: Ventura, CA |

III. Description of Regulatory Action:

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

The U.S. Fish and Wildlife Service (Service) annually establishes federal regulation frameworks (Frameworks) for migratory bird hunting. California, and other states, must set its waterfowl hunting regulations within the Frameworks. These Frameworks describe the earliest dates that waterfowl hunting seasons may open, the maximum number of days hunting can occur, the latest dates that hunting seasons must close, and the maximum daily bag limit. The proposed hunting season Frameworks for a given year are developed in the fall of the prior year. For example, the breeding populations (including the California Breeding Population Survey) and habitat conditions observed in 2017 and the regulatory alternatives selected for the 2017 hunting season will be used to develop the Frameworks for the 2018-19 season.

States may make recommendations to change federal framework regulations. These recommendations are made to Flyway Councils during August or September. The Councils may elect to forward recommendations to the Service. The Service may elect to incorporate proposed changes in the “framework” regulations. The Service

establishes the hunting framework regulations at a public meeting held in late October.

Sections 202 and 355 of the Fish and Game Code authorize the Fish and Game Commission (Commission) adopt annual regulations pertaining to the hunting of migratory birds that conform with, or further restrict, the regulations proscribed by the Service pursuant to its authority under the Migratory Bird Treaty Act. The Commission selects and establishes in State regulations the specific hunting season dates and daily bag limits within the Frameworks.

Current regulations in Section 502, Title 14, California Code of Regulations (CCR), provide definitions, hunting zone descriptions, season opening and closing dates, and daily bag and possession limits. The proposed Frameworks for the 2018-19 season were approved by the Flyway Councils and were considered for adoption at the Service's Regulation's Committee meeting October 17-18, 2017. The Frameworks allow for a liberal duck season which includes a 107 day season, 7 daily duck limit including 7 mallards but only 2 hen mallards, 2 pintails, 2 canvasbacks, 2 redheads, and 3 scaup (during an 86 day season). Duck daily bag limit ranges and duck season length ranges are provided to allow the Commission flexibility. (See tables in the Informative Digest for season and bag limits.) Lastly, Federal regulations require that California's hunting regulations conform to those of Arizona in the Colorado River Zone and those of Oregon in the North Coast Special Management Area.

The specific recommended regulation changes are:

- 1) Create the Klamath Basin Special Management Area in subsection 502(b)6. This change will cause the renumbering of subsequent special management areas in this section.

The Klamath Basin is within the Northeastern Zone. Goose depredation occurs throughout the Northeastern Zone but predominantly in Modoc and Lassen counties. Extended late white goose seasons have been established to allow hunting opportunity to coincide with the majority of geese present, which may alleviate goose depredation. During the late goose seasons, most public areas are closed. National wildlife refuges within the Klamath Basin are popular and heavily used by hunters. Creation of the Klamath Basin Special Management Area will allow the hunt days to occur during the general goose season (as opposed to the late goose seasons in the Northeastern Zone) when the public hunt areas are open. Removing the Klamath Basin from the Northeastern Zone will allow more flexibility to address depredation by establishing goose hunting seasons when the majority of birds are present. In addition, this change would also minimize harvest of Tule white-fronted geese which use the Klamath Basin in late winter and spring. The current three-year average

for the Tule goose population estimate is 10,600, one of the smallest goose populations in North America.

- 2) Allow the white-fronted goose season to be split into three segments in the Northeastern California Zone, subsection 502(d)(1)B.

The existing regulation allows the season for white-fronted geese to be split into two parts: Regular Season and Late Season. The proposed change would allow the season to be split into three parts, coinciding with the white goose season in the Northeastern Zone. White-fronted geese migrate through this zone in October and again in the late winter and spring. The three segments would allow hunting when the largest proportions of white-fronted geese are present. The population of Pacific white-fronted geese in the Pacific Flyway is estimated to be 735,643 birds, well above the population goal of 300,000 birds established in the Flyway Management Plan. Private landowners are concerned that white-fronted geese (in addition to white geese) are reducing crops available for harvest and grazing. The proposed change is intended to reduce depredation on private lands, disperse geese through hunting, and establish the hunting season to coincide when the largest goose concentrations are present.

Minor editorial changes are also proposed to clarify and simplify the regulations and to comply with existing federal Frameworks.

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

Authority: Sections 202 and 355, Fish and Game Code.

Reference: Sections 202, 355, and 356, 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:

This proposal was discussed at the Wildlife Resources Committee meeting held on September 13, 2017 in Riverside, CA.

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

No other alternatives were identified.

(b) No Change Alternative:

- 1) The No Change Alternative would not create a Klamath Basin Special Management Area.
- 2) The No Change Alternative would maintain the existing two-way split season for white-fronted geese in the Northeastern Zone.

(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.

(d) Description of Reasonable Alternatives That Would Lessen Adverse Impact on Small Business: 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 regulations would provide additional recreational opportunity to the public and could result in minor increases in hunting days and hunter spending on equipment, fuel, food and accommodations.

(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 does not anticipate any impacts on the creation or

elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California. The proposed waterfowl regulations will set the 2018-19 waterfowl hunting season dates and bag limits within the federal Frameworks. Little to minor positive impacts to jobs and/or businesses that provide services to waterfowl hunters may result from the proposed regulations for the waterfowl hunting season in 2018-19.

The most recent U.S. Fish and Wildlife national survey of fishing, hunting, and wildlife associated recreation for California (2016 data has not been released as of October 2017), estimated that migratory bird hunters contributed about \$169,115,000 to businesses in California during the 2011 migratory bird hunting season. The impacted businesses are generally small businesses employing a few individuals and, like all small businesses, are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed regulations is to sustainably manage waterfowl populations, and consequently, the long-term viability of these same small businesses.

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 by the sustainable management of California's waterfowl resources. The Commission does not anticipate any impacts to worker safety because the proposed amendments will not affect working conditions.

(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, Government Code: None.

(h) Effect on Housing Costs: None.

VII. Economic Impact Assessment

The proposed waterfowl regulations will set the 2018-19 waterfowl hunting season dates and bag limits within the federal Frameworks.

(a) Effects of the regulation on the creation or elimination of jobs within the state

Little to minor positive impacts on the creation of jobs within businesses that provide services to waterfowl hunters may result from the adoption of the proposed waterfowl hunting regulations for the 2018-19 season. The most recent U.S. Fish and Wildlife national survey of fishing, hunting, and wildlife associated recreation for California (revised 2014), estimated that waterfowl hunters contributed about \$169,115,000 to small businesses in California during the 2011 waterfowl hunting season. The impacted businesses are generally small businesses employing few individuals and, like all small businesses, are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed regulations is to sustainably manage waterfowl populations, and consequently, the long-term viability of these same small businesses. The 2011 report is posted on the US Dept. of Commerce website at https://wsfrprograms.fws.gov/Subpages/NationalSurvey/2011_Survey.htm.

(b) Effects of the regulation on the creation of new businesses or the elimination of existing businesses within the state

The proposed regulation is not anticipated to prompt the creation of new businesses or the elimination of existing businesses within the state. Minor variations in the bag limits as may be established in the regulations are, by themselves, unlikely to stimulate the creation of new businesses or cause the elimination of existing businesses. The number of hunting trips and the economic contributions from the trips are not expected to change substantially.

(c) Effects of the regulation on the expansion of businesses currently doing business within the state

The proposed minor variations in waterfowl bag limits are, by themselves, unlikely to stimulate substantial expansion of businesses currently doing business in the state. The long-term intent of the proposed regulations is to sustainably manage waterfowl populations, and consequently, the long-term viability of various businesses that serve recreational waterfowl hunters.

(d) Benefits of the regulation to the health and welfare of California residents

Hunting is an outdoor activity that can provide several health and welfare benefits to California residents. Hunters and their families benefit from fresh game to eat, and from the benefits of outdoor recreation including exercise. People who hunt have a special connection with the outdoors and an awareness of the relationships between wildlife, habitat, and humans. With that awareness comes an understanding of the role humans play in being

caretakers of the environment. Hunting is a tradition that is often passed from one generation to the next creating a special bond between family members and friends.

(e) Benefits of the regulation to worker safety

The regulations will not affect worker safety because they do not address working conditions.

(f) Benefits of the regulation to the state's environment

As set forth in Fish and Game Code section 1700, it is the policy of the state to encourage the conservation, maintenance, and utilization of waterfowl resources for the benefit of all the citizens of the state. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of waterfowl to ensure their continued existence and the maintenance of a sufficient resource to support recreational opportunity. Adoption of scientifically-based waterfowl seasons, bag and possession limits provides for the maintenance of sufficient populations of waterfowl to ensure those objectives are met. Additionally, the fees that hunters pay for licenses and stamps fund wildlife conservation.

Informative Digest/Policy Statement Overview

Current regulations in Section 502, Title 14, California Code of Regulations (CCR), provide definitions, hunting zone descriptions, season opening and closing dates, and establish daily bag and possession limits for waterfowl hunting.

California, and other states, must set its waterfowl hunting regulations within the federal Frameworks. The Frameworks for the 2018-19 season have been approved by the Flyway Councils and will be considered for adoption at the United States Fish and Wildlife Service Regulation's Committee meeting on October 17-18, 2017. The proposed Frameworks allow for a liberal duck season which includes a 107 day season, 7 daily duck limit including 7 mallards but only 2 hen mallards, 2 pintails, 2 canvasbacks, 2 redheads, and 3 scaup (during an 86 day season). Duck daily bag limit ranges, duck season length ranges and goose season length ranges have been provided to allow the Commission flexibility. Lastly, Federal regulations require that California's hunting regulations conform to those of Arizona in the Colorado River Zone and with those of Oregon in the North Coast Special Management Area. Based on the Frameworks, the Department of Fish and Wildlife (Department) provides an annual recommendation to the Commission.

The Department's recommendations are as follows:

1. Create the Klamath Basin Special Management Area in subsection 502(b)6. This change will cause the renumbering of subsequent special management areas in this section.
2. Allow the white-fronted goose season to be split into three segments in the Northeastern California Zone subsection 502(d)(1)B.

Minor editorial changes are also proposed to clarify and simplify the regulations and to comply with existing federal Frameworks.

Benefits of the regulations

The benefits of the proposed regulations are consistency with federal law and the sustainable management of the State's waterfowl resources. Positive impacts to jobs and/or businesses that provide services to waterfowl hunters will be realized with the continued adoption of waterfowl hunting seasons in 2018-19.

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.

Evaluation of incompatibility with existing regulations

The Commission has reviewed its regulations in Title 14, CCR, and conducted a search of other regulations on this topic and has concluded that the proposed amendments to Section 502 are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate waterfowl hunting regulations.

Summary of Proposed Waterfowl Hunting Regulations for 2018-19

AREA	SPECIES	SEASONS	DAILY BAG & POSSESSION LIMITS
Statewide	Coots & Moorhens	Concurrent w/duck season	25/day. 75 in possession
Northeastern Zone <i>Season may be split for Ducks, Pintail, Canvasback, Scaup, Dark Geese and White Geese. White geese and dark geese may be split 3-ways.</i>	Ducks	Between 38 & 105 days	[4-7]/day, which may include: [3-7] mallards no more than [1-2] females. 2 pintail, 2 canvasback, 2 redheads, 3 scaup. Possession limit triple the daily bag.
	Scaup	86 days	
	Geese	No longer than 105 days	30/day, which may include: 20 white geese, 10 dark geese, no more than 2 Large Canada geese. Possession limit triple the daily bag.
Southern San Joaquin Valley Zone <i>Season may be split for Ducks, Pintail, Canvasback and scaup</i>	Ducks	Between 38 & 105 days	[4-7]/day, which may include: [3-7] mallards no more than [1-2] females. 2 pintail, 2 canvasback, 2 redheads, 3 scaup. Possession limit triple the daily bag.
	Scaup	86 days	
	Geese	Between 38 & 105 days	30/day, which may include: 20 white geese, 10 dark geese. Possession limit triple the daily bag.
Southern California Zone <i>Season may be split for Ducks, Pintail, Canvasback and Scaup</i>	Ducks	Between 38 & 100 days	[4-7]/day, which may include: [3-7] mallards no more than [1-2] females. 2 pintail, 2 canvasback, 2 redheads, 3 scaup. Possession limit triple the daily bag.
	Scaup	86 days	
	Geese	No longer than 100 days	23/day, which may include: 20 white geese, 3 dark geese. Possession limit triple the daily bag.
Colorado River Zone <i>Season may be split for Ducks, Pintail, Canvasback and Scaup</i>	Ducks	101 days	[4-7]/day, which may include: [3-7] mallards no more than [1-2] females or Mexican-like ducks. 2 pintail, 2 canvasback, 2 redheads, 3 scaup. Possession limit triple the daily bag.
	Scaup	86 days	
	Geese	101 days	24/day, up to 20 white geese, up to 4 dark geese. Possession limit triple the daily bag.
Balance of State Zone <i>Season may be split for Ducks, Pintail, Canvasback, Scaup and Dark and White Geese.</i>	Ducks	Between 38 & 100 days	[4-7]/day, which may include: [3-7] mallards no more than [1-2] females. 2 pintail, 2 canvasback, 2 redheads, 3 scaup. Possession limit triple the daily bag.
	Scaup	86 days	
	Geese	Early Season: 5 days (Canada goose only) Regular Season: no longer than 100 days Late Season: 5 days (whitefronts and white geese)	30/day, which may include: 20 white geese, 10 dark geese. Possession limit triple the daily bag.

Summary of Proposed Waterfowl Hunting Regulations, Continued			
SPECIAL MANAGEMENT AREAS	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
North Coast <i>Season may be split</i>	All Canada Geese	105 days except for Large Canada geese which cannot exceed 100 days or extend beyond the last Sunday in January.	10/day, only 1 may be a Large Canada goose. Possession limit triple the daily bag. Large Canada geese are closed during the Late Season.
Humboldt Bay South Spit (West Side)	All species	Closed during brant season	
Klamath Basin (NEW)	Dark and white geese	105 days except for Large Canada geese which cannot exceed 100 days or extend beyond the last Sunday in January.	30/day, which may include: 20 white geese, 10 dark geese only 2 may be a Large Canada goose. Possession limit triple the daily bag.
Sacramento Valley	White-fronted geese	Open concurrently with general goose season through Dec 21	3/day. Possession limit triple the daily bag.
Morro Bay	All species	Open in designated areas only	Waterfowl season opens concurrently with brant season.
Martis Creek Lake	All species	Closed until Nov 16	
Northern Brant	Black Brant	Open Nov 8 extending for 37 days	2/day. Possession limit triple the daily bag.
Balance of State Brant	Black Brant	Open Nov 9 extending for 37 days	2/day. Possession limit triple the daily bag.
Imperial County <i>Season may be split</i>	White Geese	Up to 103 days	20/day. Possession limit triple the daily bag.
YOUTH WATERFOWL HUNTING DAYS	(NOTE: To participate in these Youth Waterfowl Hunts, federal regulations require that hunters must be 17 years of age or younger and must be accompanied by a non-hunting adult 18 years of age or older.)		
	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
Northeastern Zone	Same as regular season	The Saturday fourteen days before the opening of waterfowl season extending for 2 days.	Same as regular season
Southern San Joaquin Valley Zone	Same as regular season	The Saturday following the closing of waterfowl season extending for 2 days.	Same as regular season
Southern California Zone	Same as regular season	The Saturday following the closing of waterfowl season extending for 2 days.	Same as regular season
Colorado River Zone	Same as regular season	The Saturday following the closing for waterfowl season extending for 2 days.	Same as regular season
Balance of State Zone	Same as regular season	The Saturday following the closing of waterfowl season extending for 2 days.	Same as regular season
FALCONRY OF DUCKS	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
Northeastern Zone	Same as regular season	Between 38 and 105 days	3/day. Possession limit 9
Balance of State Zone	Same as regular season	Between 38 and 107 days	3/day. Possession limit 9
Southern San Joaquin Valley Zone	Same as regular season	Between 38 and 107 days	3/day. Possession limit 9
Southern California Zone	Same as regular season	Between 38 and 107 days	3/day. Possession limit 9
Colorado River Zone	Same as regular season	105 days	3/day. Possession limit 9