

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR PROPOSED REGULATORY ACTION

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: January 4, 2019

- II. Dates and Locations of Scheduled Hearings
 - (a) Notice Hearing: Date: December 13, 2018
 Location: Oceanside, CA

 - (b) Discussion Hearing: Date: February 6, 2019
 Location: Sacramento, CA

 - (c) Adoption Hearing: Date: April 17, 2019
 Location: Santa Monica, 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 must set its waterfowl hunting regulations within the Frameworks. The 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 a majority of species and populations. For example, the breeding populations (including the California Breeding Population Survey) and habitat conditions observed in 2018 and the regulatory alternatives selected for the 2018 hunting season will be used to develop the Frameworks for the 2019-20 season.

States may make recommendations to change the Frameworks. These recommendations are made to flyway councils in August or September. The councils may elect to forward recommendations to the Service. The Service may elect to incorporate proposed changes in the Frameworks. The Service considers these and other recommendations at the Service's Regulation Committee public meeting held in late October. Proposed season Frameworks are typically published by mid-December and final Frameworks published by late February.

Section 355 of the Fish and Game Code authorizes the Fish and Game Commission (Commission) to adopt annual regulations pertaining to the hunting of migratory

birds that conform with, or further restrict, the regulations prescribed 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 2019-20 season were approved by the flyway councils and were considered for adoption at the Service's Regulations Committee meeting October 16-17, 2018. 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, 1 pintail, 2 canvasback, 2 redheads, and 3 scaup (during an 86 day season), closing no later than January 31. Duck daily bag limit ranges and duck season length ranges are provided to allow the Commission flexibility.

A range of season length and bag limit (zero bag limit represents a closed season) is also provided for black brant. The range is necessary, as the black brant Framework cannot be determined until the Pacific Flyway Winter Brant Survey is conducted in January 2019. The regulatory package is determined by the most current Winter Brant Survey, rather than the prior year survey. The regulatory package will be prescribed per the Black Brant Harvest Strategy pending results of the survey, well before the Commission's adoption meeting. See the table in the Informative Digest for the range of 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) Add Small Canada geese to the Regular Season in subsection 502(d)(1)(B) for the Northeastern California Zone.

The existing regulation only identifies Large Canada geese during the regular season. Small Canada geese were inadvertently omitted from the regular season when white-fronted goose seasons were modified in prior year rulemakings. Dark geese include both Small and Large Canada geese, and white-fronted geese. Dark geese remained listed under daily bag and possession limits but were removed from the regular season to accommodate the modified white-fronted goose seasons. This recommendation is to clarify the intent of the regulation and to maintain the hunting season for Small Canada geese in the zone.

- 2) Add Small Canada geese to Season in subsection 502(d)(6)(A)3 for the Klamath Basin Special Management Area.

See item 1 above for justification. This recommendation is to clarify the intent of the regulation and to maintain the hunting season for Small Canada geese in the special management area.

- 3) Open the Late Season for white geese two weeks after the close of the Regular Season in subsection 502(d)(6)(A)9 for the Imperial County Special Management Area.

The existing regulation opens the late season one week after the close of the regular season. The proposed change is intended to allow private landowners to use hunting as a tool to disperse geese and minimize depredation when the greatest concentration of white geese are present.

- 4) Allow 5 additional days of falconry-only season for the Balance of State Zone in subsection 502(f)(1)(B)2 and allow 2 additional days of falconry-only season for the Southern San Joaquin Valley Zone in subsection 502(f)(1)(B)3.

The existing regulations do not use all 105 days available in these zones and is intended to provide opportunity to falconers outside of the general hunting season (eliminates conflict with gun season) as discussed between the Department and the California Hawking Club on June 18, 2018. This recommendation maintains a 100-day duck season length.

An alternative requested by Commissioners at the notice hearing:

- 1) Add up to five days a year to the general duck and goose seasons by closing on January 31 instead of the last Sunday in January, as proposed by California Waterfowl at the December notice hearing. This alternative eliminates the existing and proposed falconry-only seasons.

(b) Goals and Benefits of the Regulation:

The goals and benefits of the regulations are to provide for the conservation and maintenance of sufficient waterfowl populations to ensure their continued existence.

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.

(c) 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.

(d) Specific Technology or Equipment Required by Regulatory Change: None.

(e) Identification of Reports or Documents Supporting Regulation Change: None.

(f) Public Discussions of Proposed Regulations Prior to Notice Publication:

This proposal was discussed at the Commission's Wildlife Resources Committee meeting held on September 20, 2018 and a public scoping session was held on October 18, 2018.

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change:

An alternative was offered by the public to use an additional 5 days (current regulations only use 100 of 105 days allowed in Frameworks) for the general duck and goose seasons in the Balance of State, Southern San Joaquin Valley and Southern California Zones, and close these seasons by closing on January 31 (Friday) rather than on the last Sunday in January, while maintaining the Saturday opener. This option has not been fully vetted by local county commissions and communities.

Traditionally, most waterfowl opening and closing days occur on the weekend to allow hunting opportunities for hunters who work Monday through Friday and hunt on public hunt areas. Closing January 31 for the 2019-20 season uses 5 additional days allowed under the Frameworks. However, this alternative would eliminate the existing and proposed extended falconry season (requested by the California Hawking Club, June 18, 2018) because the season length would exceed what is allowed under the Frameworks. Falconers prefer to have a small number of days dedicated to falconry only to avoid conflicts with general (gun) seasons.

Closing on January 31 while maintaining a Saturday opener for the subsequent four seasons (through 2023-24) requires an annual adjustment to season length for both general and falconry seasons. The option would add between 0 and 5 additional weekdays for the general duck and goose seasons. This change. Making annual adjustments may confuse some hunters who prefer the traditional season ending datelast Sunday in January.

(b) No Change Alternative:

The No Change Alternative would not identify a season, or bag and possession limits for Small Canada geese in the Northeastern Zone.

The No Change Alternative would not identify a season, or bag and possession limits for Small Canada geese in the Klamath Basin Special Management Area.

The No Change Alternative would not open the late white goose season in the Imperial County Special Management Area two weeks after the close of the general season.

The No Change Alternative would not use 5 additional days of falconry-only season for the Balance of State Zone and not allow 2 additional days of falconry-only season for the Southern San Joaquin Valley Zone.

The No Change Alternative would not close on January 31 and not use an additional 5-days allowed under the federal frameworks.

(c) 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 2019-20 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 2019-20 waterfowl hunting season.

The most recent U.S. Fish and Wildlife national survey of fishing, hunting, and wildlife-associated recreation for California, 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 the same small businesses.

(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, Government Code: None.
- (h) Effect on Housing Costs: None.

VII. Economic Impact Assessment:

- (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 2019-20 season. The most recent U.S. Fish and Wildlife national survey of fishing, hunting, and wildlife-associated recreation for California, 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 the same small businesses. The 2011 report is posted on the U.S. Department of Commerce website https://wsfrprograms.fws.gov/Subpages/NationalSurvey/2011_Survey.htm.

- (a) 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 regulations pertaining to hunting 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.

- (b) 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.

- (c) 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.

(d) Benefits of the Regulation to Worker Safety:

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

(e) 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 waterfowl populations to ensure those objectives are met. The fees that hunters pay for licenses and stamps fund wildlife conservation.

(e) Other Benefits of the Regulation:

Hunting seasons provide an incentive for private land owners to maintain waterfowl habitat, mainly wetlands, that benefit waterfowl and other wetland dependent wildlife.

Informative Digest/Policy Statement Overview

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A range of season length and bag limit (zero bag limit represents a closed season) is also provided for black brant. The range is necessary, as the black brant Framework cannot be determined until the Pacific Flyway Winter Brant Survey is conducted in January 2019. The regulatory package is determined by the most current Winter Brant Survey, rather than the prior year survey. The regulatory package will be prescribed per the Black Brant Harvest Strategy pending results of the survey, well before the Commission's adoption meeting. See the table in the Informative Digest for the range of 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 Department's recommendations are as follows:

- 1) Add Small Canada geese to the Regular Season in subsection 502(d)(1)(B) for the Northeastern California Zone.
- 2) Add Small Canada geese to Season in subsection 502(d)(6)(A)3 for the Klamath Basin Special Management Area.
- 3) Open the Late Season for white geese two weeks after the close of the Regular Season in subsection 502(d)(6)(A)9 for the Imperial County Special Management Area.
- 4) Allow 5 additional days of falconry-only season for the Balance of State Zone in subsection 502(f)(1)(B)2 and allow 2 additional days of falconry-only season for the Southern San Joaquin Valley Zone in subsection 502(f)(1)(B)3.

An alternative requested by Commissioners at the notice hearing:

- 1) Maintain 100-day season length and use additional five days for falconry-only hunting (as discussed between DFW and California Hawking Club June 18, 2018).
 - 1) Or, add up to five days a year to the general duck and goose seasons and close these seasons by closing on January 31 instead of the last Sunday in January, as proposed by California Waterfowl at the December notice hearing. This alternative eliminates the existing and proposed falconry-only seasons.

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 2019-20.

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 2019-20			
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. 1 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. 1 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. Possession limit triple the daily bag.
Southern California 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. 1 pintail, 2 canvasback, 2 redheads, 3 scaup. Possession limit triple the daily bag.
	Scaup	86 days	
	Geese	No longer than 105 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	7/day, which may include: 7 mallards no more than 2 females or Mexican-like ducks. 1 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 & 105 days	[4-7]/day, which may include: [3-7] mallards no more than [1-2] females. 1 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.
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	Dark and white geese	105 days except for Canada geese which cannot exceed 100 days or extend beyond January 31.	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	No longer than 37 days and closing no later than Dec 14.	[0-2]/day. Possession limit triple the daily bag.
Balance of State Brant	Black Brant	No longer than 37 days and closing no later than Dec 15.	[0-2]/day. Possession limit triple the daily bag.
Imperial County <i>Season may be split</i>	White Geese	Up to 102 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 first or second Saturday in February following the closing of waterfowl season extending for 2 days.	Same as regular season
Southern California Zone	Same as regular season	The first or second Saturday in February 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 first or second Saturday in February 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