

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 265 and 355, Fish and Game Code and to implement, interpret or make specific Sections 502 and 507; Title 14, California Code of Regulations, relating to annual waterfowl regulations.

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 daily bag and possession limits. The proposed Frameworks for the 2020-21 season were approved by the flyway councils and will be considered for adoption at the Service's Regulations Committee meeting October 8-9, 2019. 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 2 scaup (during an 86 day season; daily bag limit decrease from 3 to 2); and 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 2020. 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 recommended changes to Section 502 are:

- 1) Open the duck season on the second Saturday in October and close January 20 in subsection 502(d)(1)(B) for the Northeastern Zone. This recommendation reduces the duck season length to 103 days.
- 2) Open the duck season on the fourth Saturday of October and close January 31 in subsection 502(d)(2)(B) for the Southern San Joaquin Valley Zone, in subsection 502(d)(3)(B) for the Southern California Zone, and in subsection 502(d)(5)(B) for the Balance of State Zone. This recommendation reduces the duck season length to 100 days.
- 3) Open the regular goose season on the fourth Saturday in October and close January 31 in subsection 502(d)(2)(B) for the Southern San Joaquin Valley Zone and in subsection 502(d)(3)(B) for the Southern California Zone. This recommendation reduces the season length to 100 days.
- 4) Open the Late Season for geese on the weekend after the Youth Hunt Days in subsection 502(5)(B) for the Balance of State Zone and in subsection 502(d)(6)(A)9 for the Imperial County Special Management Area. If item 5 (below) is enacted, the Late Season for geese would occur after the Veterans and Active Military Personnel Waterfowl Hunting Days.

- 5) Designate two days as Veterans and Active Military Personnel Waterfowl Hunting Days (VAMP Days hereafter) for the Northeastern, Southern San Joaquin Valley, Southern California, and Balance of State zones. This recommendation creates a new subsection, 502(f)(1)(A)(B)(C)1-4 and renumbering will occur for the subsequent section (Falconry Take of Ducks subsection becomes 502(g)(1)).
- 6) Allow up to five days of falconry-only season in subsection 502(g)(1)(B)2. for the Balance of State Zone, in subsection 502(g)(1)(B)3. for the Southern San Joaquin Valley Zone and in subsection 502(g)(1)(B)4. for the Southern California Zone.

Current regulations in Section 507(a)(4), Title 14, CCR, continue to describe the shotgun size and shot shell type authorized for the taking of migratory game birds.

The Commission is recommending deleting the reference to lead and No BB which was already amended by legislation:

- 1) ... Shotgun shells may not be used or possessed that contain shot size larger than ~~No. BB~~ ~~in lead or T~~ shot in steel or other nontoxic shot approved by the U.S. Fish and Wildlife Service. All shot shall be loose in the shell.

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

Goals and Benefits of the Regulation:

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 2020-21.

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.

Consistency with State 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 Sections 502 and 507 are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate waterfowl hunting regulations.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Natural Resources Building Auditorium, First Floor, 1416 Ninth Street, Sacramento, California, on Friday, February 21, 2020, at 8:00 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 Natural Resources Building

Auditorium, First Floor, 1416 Ninth Street, Sacramento, California, on Thursday, April 16, 2020, at 8:00 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 noon April 10, 2020 at the address given below, or by email to FGC@fgc.ca.gov. All comments (both oral and written) must be received no later than April 16, 2020, at the hearing in Sacramento, California. If you would like copies of any modifications to this proposal, please include your name and mailing address. **Mailed comments should be addressed to Fish and Game Commission, P.O. Box 944209, Sacramento, CA 94244-2090.**

Availability of Documents

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikethrough format can be accessed through the Commission website at www.fgc.ca.gov. The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Melissa Miller-Henson, Acting Executive Director, Fish and Game Commission, 1416 Ninth Street, P.O. 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 Melissa Miller-Henson or Jon Snellstrom at the preceding address or phone number. **Melanie Weaver, Senior Environmental Scientist, has been designated to respond to questions on the substance of the proposed regulations. She can be reached at (916) 445-3717 or via email at Melanie.Weaver@wildlife.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 265 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, 11346.8 and 11347.1 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/Results of the Economic Impact Assessment

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 2020-21 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 2020-21 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.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

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, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Dated: December 24, 2019

FISH AND GAME COMMISSION
David Thesell
Program Manager