

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 of the Fish and Game Code and to implement, interpret, or make specific sections 265, 355 and 356 of said Code, proposes to amend Section 502, Title 14, California Code of Regulations, relating to Waterfowl.

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 for hunting of waterfowl. The proposed Frameworks for the 2022-23 season were approved by the four regional Flyway councils in August and at the U.S. Fish and Wildlife Service (Service's) Regulations Committee meeting in September. The Frameworks allow for a liberal duck season which includes: a 107-day season; a 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); and closing no later than January 31. The duck daily bag limits and season length, as well as the season lengths for geese, are provided as ranges below, to allow the Commission flexibility in determining the final regulations.

A range of season length and bag limit (zero bag limit represents a closed season) are 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 2022 because the regulatory package is determined by the most current Winter Brant Survey, rather than the prior year survey. The proposed season length and bag limit will be updated per the Black Brant Harvest Strategy pending results of the January 2022 survey. See the Summary of Proposed Waterfowl Hunting Regulations for 2022-23 table, below.

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 recommended changes to Section 502 are:

- 1) Increase the duck season length to 102 days 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.
- 2) Increase the goose season length to 102 days 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.
- 3) Shift two days from the Early Season for Canada goose to the Late Season in subsection 502(d)(5)(B) for the Balance of State Zone. This reduces the Early Season for Canada geese to three days and allows two days of hunting for Canada geese during the Late Season.
- 4) Allow up to two 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.

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. Continued benefits to jobs and/or businesses that provide services to waterfowl hunters will be realized with the continued adoption of waterfowl hunting seasons in 2022-23.

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.

Public Participation

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a webinar/teleconference meeting to be held on **Thursday, February 17, 2022**, at 8:30 a.m., or as soon thereafter as the matter may be heard. Instructions for participation in the webinar/teleconference meeting will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916-653-4899.

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 Monterey/Santa Cruz area of California, on **Thursday, April 21, 2022**, at 8:30 a.m., or as soon thereafter as the matter may be heard. The exact location of this meeting has not yet been determined. As soon as this information is available but not less than ten days before the hearing, a continuation notice will be sent to interested parties providing the exact location. The continuation notice will also be published on the Commission's website.

It is requested, but not required, that written comments be submitted by 5:00 p.m. on April 7, 2022 at the address given below, or by email to FGC@fgc.ca.gov. **Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on April 15, 2022.** All comments must be received no later than April 21, 2022, at the hearing in the Monterey/Santa Cruz area of 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 strikeout 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, Executive Director, Fish and Game Commission, 715 P 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 Melissa Miller-Henson or Maurene Trotter at FGC@fgc.ca.gov or at the preceding address or phone number. **Senior Environmental Scientist, Melanie Weaver, Department of Fish and Wildlife, (via email to melanie.weaver@wildlife.ca.gov or (916) 502-1139), has been designated to respond to questions on the substance of the proposed regulations.**

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 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 regulations are expected to maintain a similar level of recreational waterfowl hunting opportunity for the public, due to the shifting of 1-2 season days between early and late-season (e.g., Canada goose in Balance of State zone). Shifting of 1-2 days for general duck season affects available days for falconry seasons, which must also be adjusted annually so total season does not exceed 107 days.

- (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 2022-23 waterfowl hunting season dates and bag limits within the federal Frameworks. A consistent total hunting season length of 107 days and shifts in days amongst the season types suggest that the number of hunter-days remains similar to that in previous years, with little to no impacts to jobs and/or businesses that provide services to waterfowl hunters. The Commission anticipates that the proposed 2022-23 waterfowl hunting regulations provide benefit for the health and welfare of California residents by providing opportunity for outdoor activity. The Commission expects no benefits to work safety, but does expect benefit to the environment in that setting these regulations facilitates maintenance of sufficient waterfowl populations and their habitats while providing for the public's beneficial use and enjoyment. The most recent Service National Survey of Fishing, Hunting, and Wildlife-Associated Recreation for California estimated that migratory bird hunters contributed about \$169 million to the state economy during the 2011 migratory bird hunting season. However, minor variations in hunting regulations such as the ones proposed for waterfowl are, by themselves, unlikely to provide notable economic stimulus to the state. Businesses that support waterfowl hunting 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.

FISH AND GAME COMMISSION

Dated: January 14, 2022

Melissa Miller-Henson
Executive Director