

State of California
Fish and Game Commission
Initial Statement of Reasons for 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: November 8, 2022

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing

Date: December 15, 2022

Location: San Diego, CA

(b) Discussion Hearing

Date: February 8, 2023

Location: Sacramento, CA

(c) Adoption Hearing

Date: April 19, 2023

Location: Fresno/Bakersfield, CA

III. Description of Regulatory Action

(a) Statement of Specific Purpose of Regulatory 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 shall 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 2022 and the regulatory alternatives selected for the 2022 hunting season will be used to develop the Frameworks for the 2023-24 season.

States may make recommendations to change the Frameworks. These recommendations are made to the four regional Flyway councils in late summer (July, August or September). Flyway 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 September or October. Proposed season Frameworks are typically published in the Federal Register 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 state regulations that specify hunting season dates and daily bag limits.

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 2023-24 season were approved by the Flyway councils in August and at the Service's Regulations Committee meeting in October. 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 2023. The black brant 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 2023 survey. See the Summary of Proposed Waterfowl Hunting Regulations for 2023-24 table in the Informative Digest/Policy Statement Overview for the range of season and bag limits.

Lastly, federal regulations provide that California's hunting regulations shall 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 103 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.

The existing duck season length for the referenced zones is 102 days. Closing on January 31 and maintaining a traditional opening Saturday in late October results in an annual adjustment to the season length; from 102 to 103 days for the upcoming season. In prior rulemakings, the Commission adopted the latest possible closing date of January 31 rather than the historical closing day of the last Sunday in January. This annual adjustment also results in modifications to falconry-only seasons; no days would be available for the upcoming season if items 3 and 4 are not approved.

- 2) Increase the goose season length to 103 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.

The existing goose season length for the referenced zones is 102 days. See item 1 above for the justification. This annual adjustment also results in modifications to falconry-only seasons; no days would be available for the upcoming season if items 3 and 4 are not approved.

- 3) Combine the Youth and Veterans and Active Military Personnel waterfowl hunting days in

subsections 502(e)(1)(B) and 502(f)(1)(B) for the Northeastern California, Southern San Joaquin Valley, Southern California and Balance of State zones.

The existing season dates for the Youth and Veteran and Active Military Personnel waterfowl hunting days for the referenced zone occur on separate weekends. Participation on these special hunt days tend to be low in all zones, based on public area hunt results. Given the low turnout, hunting areas will be able to accommodate both groups on the same weekend. In addition, goose hunting is closed during the Veteran Hunt Days in the Northeastern and Balance of State zones in existing regulations because all 107 days of goose hunting were allocated prior to the creation of this special hunt. Combining the Youth and Veteran special hunt days would promote more efficient operations on hunt areas, provide additional sanctuary prior to migration to northern breeding grounds, and allow Veteran and Active Military hunt participants the opportunity to hunt geese in addition to ducks in the Northeastern and Balance of State zones. Lastly, combining the special hunt days would free up two hunt days to be used for falconry-only season (see item 4).

- 4) Allow up to two days of falconry-only season in subsection 502(g)(1)(B) for the Northeastern California, Southern San Joaquin Valley, Southern California and Balance of State zones.

The existing regulation does not allow a falconry-only season because all available hunting days have been allocated. The length of the falconry-only season is contingent upon the number of days used for the general duck and goose seasons, in addition to the Youth and Veteran Hunt Days, as seasons cannot exceed 107 days. Combining the Youth and Veteran Hunt Days (see item 3) frees up two hunt days.

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

(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, while providing for balanced hunting opportunity, consistent with Commission and Department policies.

(c) Authority and Reference Sections from Fish and Game Code for Regulation

Authority: Section(s) 265 and 355, Fish and Game Code

Reference: Section(s) 265, 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 (WRC) meeting held on September 15, 2022, and a public scoping session will be held in late November 2022.

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

No alternatives identified.

(b) No Change Alternative

The No Change Alternative would retain the 2022-23 regulations for the 2023-24 season which may place the state out of compliance with federal regulations. This alternative was rejected because in prior rulemakings, the Commission preferred the latest possible closing date of January 31 and maintaining a traditional opening Saturday in late October. This results in an annual adjustment to the season length; 103 days rather than 102 days for the 2023-24 season because of calendar progression. In addition, modifying the season length affects available days for falconry seasons, and must also be adjusted annually so as not to exceed 107 days.

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 are expected to maintain a similar level of recreational waterfowl hunting opportunity for the public. Shifting days for general duck season affects available days for falconry-only seasons, which must also be adjusted annually so total season length 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 2023-24 waterfowl hunting season dates and bag limits within the federal Frameworks. A 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 2023-24 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 worker 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. 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

The proposed conformance to federal regulations is expected to maintain similar levels of hunting opportunity and activity as previous seasons such that little to no net impacts on the creation or elimination of jobs are anticipated within the state from the adoption of the proposed waterfowl hunting regulations for the 2023-24 season. The most recent Service National Survey of Fishing, Hunting, and Wildlife-Associated Recreation for California estimated that waterfowl hunters contributed about \$169,115,000 to businesses in California during the 2011 waterfowl hunting season. The proposed regulations in themselves should not affect the typical level of waterfowl hunting expenditures. Businesses within the state that provide goods and services to waterfowl hunters are generally small businesses employing few individuals and, like all small businesses, are subject to failure for a variety of causes. 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 National Survey is posted on the U.S. Census Bureau website

<https://www.census.gov/content/dam/Census/library/publications/2014/demo/fhw11-nat.pdf>

and the 2011 National Survey of Fishing and Hunting, and Wildlife-Associated Recreation Report for California can be found at <https://www2.census.gov/programs-surveys/fhwar/publications/2011/fhw11-ca.pdf>.

(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 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.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State

The proposed minor variations in season lengths 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 1801, it is the policy of the state to encourage the preservation, conservation, and maintenance of waterfowl resources for all citizens of the state. The objectives of this policy include, but are not limited to, maintenance of sufficient populations and their habitats, provide for beneficial use and enjoyment, to perpetuate the waterfowl resource for their intrinsic and ecological values, and to maintain diversified recreation use including sport hunting consistent with the status of this resource. Adoption of scientifically based waterfowl hunting regulations provides for the maintenance of sufficient waterfowl populations to ensure these objectives are met. Further, the fees that hunters pay for licenses and stamps fund wildlife conservation.

(g) Other Benefits of the Regulation

Hunting seasons provide an incentive for private landowners 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) 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 2023. The black brant 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 2023 survey. See the Summary of Proposed Waterfowl Hunting Regulations for 2023-24 table, below.

Lastly, Federal regulations provide that California's hunting regulations shall 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 103 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 103 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) Combine the Youth and Veterans and Active Military Personnel waterfowl hunting days in subsections 502(e)(1)(B) and 502(f)(1)(B) for the Northeastern California, Southern San Joaquin Valley, Southern California and Balance of State zones.
- 4) Allow up to two days of falconry-only season in subsection 502(g)(1)(B) for the Northeastern California, Southern San Joaquin Valley, Southern California and Balance of State zones.

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 2023-24.

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 2023-24

AREA	SPECIES	SEASONS	DAILY BAG & POSSESSION LIMITS
Statewide	Coots & Moorhens (Gallinules)	Concurrent w/duck season	25/day. 75 in possession
Northeastern Zone	Ducks	No longer than 103 days	[4-7]/day, which may include: [3-7] mallards no more than [1-2] females. 1 pintail, 2 canvasback, 2 redheads. Possession limit triple the daily bag.
Northeastern Zone <i>Season may be split for Scaup</i>	Scaup	No longer than 86 days	2 scaup. Possession limit triple the daily bag.
Northeastern Zone <i>Season may be split for Dark and White geese</i>	Geese	No longer than 105 days except for Canada geese which cannot exceed 100 days or beyond Jan 14	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	Ducks	No longer than 103 days	[4-7]/day, which may include: [3-7] mallards no more than [1-2] females. 1 pintail, 2 canvasback, 2 redheads. Possession limit triple the daily bag.
Southern San Joaquin Valley Zone <i>Season may be split for Scaup</i>	Scaup	No longer than 86 days	2 scaup. Possession limit triple the daily bag.

AREA	SPECIES	SEASONS	DAILY BAG & POSSESSION LIMITS
Southern San Joaquin Valley Zone	Geese	No longer than 103 days	30/day, which may include: 20 white geese, 10 dark geese. Possession limit triple the daily bag.
Southern California Zone	Ducks	No longer than 103 days	[4-7]/day, which may include: [3-7] mallards no more than [1-2] females. 1 pintail, 2 canvasback, 2 redheads. Possession limit triple the daily bag.
Southern California Zone <i>Season may be split for Scaup</i>	Scaup	No longer than 86 days	2 scaup. Possession limit triple the daily bag.
Southern California Zone	Geese	No longer than 103 days	23/day, which may include: 20 white geese, 3 dark geese. Possession limit triple the daily bag.
Colorado River Zone	Ducks	No longer than 101 days	7/day, which may include: 7 mallards no more than 2 females or Mexican ducks. 1 pintail, 2 canvasback, 2 redheads. Possession limit triple the daily bag.
Colorado River Zone <i>Season may be split for Scaup</i>	Scaup	No longer than 86 days	2 scaup. Possession limit triple the daily bag.
Colorado River Zone	Geese	No longer than 101 days	24/day, up to 20 white geese, up to 4 dark geese. Possession limit triple the daily bag.
Balance of State Zone	Ducks	No longer than 103 days	[4-7]/day, which may include: [3-7] mallards no more than [1-2] females. 1 pintail, 2 canvasback, 2 redheads. Possession limit triple the daily bag.

AREA	SPECIES	SEASONS	DAILY BAG & POSSESSION LIMITS
Balance of State Zone <i>Season may be split for Scaup</i>	Scaup	No longer than 86 days	2 scaup. Possession limit triple the daily bag.
Balance of State Zone <i>Season may be split for Dark and White Geese.</i>	Geese	Early Season: 3 days (Canada goose only) Regular Season: no longer than 100 days Late Season: Canada geese 2 days and white-fronted and white geese 5 days	30/day, which may include: 20 white geese, 10 dark geese. Possession limit triple the daily bag.

SPECIAL MANAGEMENT AREAS

AREA	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
North Coast <i>Season may be split</i>	All Canada Geese	No longer than 105 days except for Large Canada geese which cannot exceed 100 days or extend beyond the last Sunday in Jan	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 Jan 14	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.

AREA	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
Imperial County <i>Season may be split</i>	White Geese	No longer than 105 days	20/day. Possession limit triple the daily bag.

YOUTH WATERFOWL HUNTING DAYS (NOTE: To participate in these Youth Waterfowl Hunts, youth must be accompanied by a non-hunting adult 18 years of age or older. Federal regulations require that hunters must be 17 years of age or younger.)

AREA	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
Northeastern Zone	Same as regular season	No longer than 2 days occurring fourteen days before the opening of waterfowl season or after the duck season.	Same as regular season
Southern San Joaquin Valley Zone	Same as regular season	The first Saturday in February extending for 2 days.	Same as regular season
Southern California Zone	Same as regular season	The first Saturday in February extending for 2 days.	Same as regular season
Colorado River Zone	Same as regular season	The first Saturday in February extending for 2 days.	Same as regular season
Balance of State Zone	Same as regular season	The first Saturday in February extending for 2 days.	Same as regular season

Veterans and Active Military Personnel Waterfowl Hunting Days (NOTE: Veterans (as defined in Section 101 of Title 38, United States Code) and members of the Armed Forces on active duty, including members of the National Guard and Reserves on active duty (other than training), may participate.

AREA	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
Northeastern Zone	Ducks, Coots, and Moorhens, [Geese]	No longer than 2 days.	Same as regular season
Balance of State Zone	Ducks, Coots, and Moorhens	No longer than 2 days.	Same as regular season
Southern San Joaquin Valley Zone	Same as regular season	No longer than 2 days.	Same as regular season

AREA	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
Southern California Zone	Same as regular season	No longer than 2 days.	Same as regular season

FALCONRY

AREA	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
Northeastern Zone	Same as regular season	No longer than 107 days.	3/day. Possession limit 9
Balance of State Zone	Same as regular season	No longer than 107 days.	3/day. Possession limit 9
Southern San Joaquin Valley Zone	Ducks, Coots, and Moorhens	No longer than 107 days.	3/day. Possession limit 9
Southern California Zone	Same as regular season	No longer than 107 days.	3/day. Possession limit 9
Colorado River Zone	Ducks, Coots, and Moorhens	No longer than 107 days.	3/day. Possession limit 9