# 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: October 2, 2023

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing

Date: December 13, 2023 Location: San Diego, CA

(b) Discussion Hearing

Date: February 15, 2024 Location: Sacramento, CA

(c) Adoption Hearing

Date: April 18, 2024 Location: San Jose, 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 2023 and the regulatory alternatives selected for the 2023 hunting season will be used to develop the Frameworks for the 2024-25 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 2024-25 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 2024. 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 2024 survey. See the Summary of Proposed Waterfowl Hunting Regulations for 2024-25 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) Decrease the duck season length to 98 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 103 days. Adjusting the season length from 103 to 98 days is necessary for the upcoming season in order to close on January 31 and maintain a traditional opening Saturday in late October. 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.
- 2) Decrease the goose season length to 98 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 goose season length for the Southern San Joaquin Valley and Southern California zones is 103 days and 100 days in the Balance of State Zone. See item 1 above for the justification. This annual adjustment also results in modifications to Veterans and Active Military Personnel Waterfowl Hunting Days (VAMP Days) and falconry-only seasons.
- 3) Allow geese to be taken during VAMP Days in subsection 502(f)(B)4 for the Balance of

State Zone.

The existing regulation does not allow geese because all available hunting days in the Balance of State Zone were allocated prior to implementation of VAMP Days. See item 1 above. The decrease in the goose season to 98 days allows the option of goose hunting during VAMP Days in this zone while still offering the existing early and late goose seasons. See option 2 in regulatory text in subsection 502(f)(B)4. However, in future rulemakings, either modifying the timing or reducing the Late Season will need to be considered to allow goose hunting during VAMP Days in this zone.

4) Allow up to five days of falconry-only season in subsection 502(g)(1)(B) for the 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.

In addition, an alternative was offered by the public regarding timing of the Late Season for geese in subsection 502(d)(5)(B) for the Balance of State Zone, see item IV below. The proposal was to move the Late Season for geese to coincide with VAMP Days in subsection 502(f)(B)4. Two options have been provided for consideration to both subsections: option 1 retains the closure of geese on Type A and B wildlife areas during the Late Season and does not allow geese during VAMP Days; option 2 allows goose hunting during the Late Season on Type A and B wildlife areas and allows geese during VAMP 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 19, 2023, 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

An alternative was offered by the public regarding timing of the Late Season for geese in the Balance of State Zone. The proposal was to move the Late Season for geese to coincide with the VAMP Days. The current regulation for VAMP Days in this zone does not allow geese because all goose days have been allocated. This was discussed at the Wildlife Resources Committee (WRC) meeting on September 19, 2023. The WRC indicated further consideration of this proposal would be warranted.

The Department did not include this recommendation because the intent of the Late Season for geese. The Late Season was implemented for the 2011-12 season as a tool to alleviate crop depredation on private pasture lands due to increasing concerns raised by the agricultural community. The timing of the Late Season was placed in later February when geese were still present in large concentrations in the Balance of State Zone. Further, the Type A and B wildlife areas are closed during the Late Season so geese can move onto public lands.

The Department has recommended to maintain the timing and length for the Early and Late goose seasons, and a 98 day Regular Season for geese. This allows goose hunting during the two VAMP days (see item 3 above). However, in the following seasons (2025-26 and later) the Regular Season length may be subject to increases so excess goose days for VAMP Days is reduced or eliminated. For the 2025-26 season, the Late Season would have to be reduced to allow geese during VAMP Days in addition to ducks. Prior to moving the Late Season, the Department would like feedback from the agricultural community on the effectiveness of the regulation to alleviate crop depredation. The Department is concerned about reducing the effectiveness of the Late Season for geese, regulation complexity, and enforcement concerns.

## (b) No Change Alternative

The No Change Alternative would retain the 2023-24 regulations for the 2024-25 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; 98 days rather than 103 days for the 2024-25 season because of calendar progression. In addition, modifying the season length affects available days for falconry-only 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 2024-25 waterfowl hunting season dates and bag limits within the federal Frameworks. The total hunting season length of 107 remains the same, with only modifications to the season types (duck, goose or falconry-only) will have little to no impacts to jobs and/or businesses that provide services to waterfowl hunters. The Commission anticipates that the proposed 2024-25 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 2024-25 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 <a href="https://www.census.gov/content/dam/Census/library/publications/2014/demo/fhw11-nat.pdf">https://www.census.gov/content/dam/Census/library/publications/2014/demo/fhw11-nat.pdf</a> and the 2011 National Survey of Fishing and Hunting, and Wildlife-Associated Recreation Report for California can be found at <a href="https://www2.census.gov/programs-surveys/fhwar/publications/2011/fhw11-ca.pdf">https://www2.census.gov/programs-surveys/fhwar/publications/2011/fhw11-ca.pdf</a>.

(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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- 2) Decrease the goose season length to 98 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) Allow geese to be taken during Veterans and Active Military Personnel Waterfowl Hunting (VAMP) Days in subsection 502(f)(B)4. for the Balance of State Zone.
- 4) Allow up to five days of falconry-only season in subsection 502(g)(1)(B) for the Southern San Joaquin Valley, Southern California and Balance of State zones.

In addition, an alternative was offered by the public regarding timing of the Late Season for geese in subsection 502(d)(5)(B) for the Balance of State Zone. The proposal was to move the Late Season for geese to coincide with VAMP Days in subsection 502(f)(B)4. Two options have been provided for consideration in the regulatory text to both subsections: option 1 retains the closure of geese on Type A and B wildlife areas during the Late Season and does not allow geese during VAMP Days; option 2 allows goose hunting during the Late Season on Type A and B wildlife areas and allows geese during VAMP Days.

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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 2024-25.

#### 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 2024-25

SPECIES	SEASONS	DAILY BAG & POSSESSION LIMITS
Coots & Moorhens (Gallinules)	Concurrent w/duck season	25/day. Possession limit triple the daily bag.
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.
Scaup	No longer than 86 days  No longer than 105 days	2 scaup. Possession limit triple the daily bag. 30/day, which may include: 20 white geese, 10 dark
	Coots & Moorhens (Gallinules)  Ducks  Scaup	Coots & Moorhens (Gallinules)  Ducks  No longer than 103 days  Scaup  No longer than 105 days

AREA	SPECIES	SEASONS	DAILY BAG & POSSESSION LIMITS
for Dark and White geese		which cannot exceed 100 days or beyond Jan 12	geese, no more than 2 Large Canada geese. Possession limit triple the daily bag.
Southern San Joaquin Valley Zone	Ducks	No longer than 98 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 Season may be split for Scaup	Scaup	No longer than 86 days	2 scaup. Possession limit triple the daily bag.
Southern San Joaquin Valley Zone	Geese	No longer than 98 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 98 days	<ul><li>[4-7]/day, which may include:</li><li>[3-7] mallards no more than</li><li>[1-2] females.</li><li>1 pintail, 2 canvasback, 2 redheads.</li><li>Possession limit triple the daily bag.</li></ul>
Southern California Zone Season may be split for Scaup	Scaup	No longer than 86 days	2 scaup. Possession limit triple the daily bag.
Southern California Zone	Geese	No longer than 98 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.

AREA	SPECIES	SEASONS	DAILY BAG & POSSESSION LIMITS
Colorado River Zone Season may be split for Scaup	Scaup	No longer than 86 days	2 scaup. Possession limit triple the daily bag.
Colorado River Zone	Geese	No longer than 101 days	25/day, up to 20 white geese, up to 5 dark geese. Possession limit triple the daily bag.
Balance of State Zone	Ducks	No longer than 98 days	<ul> <li>[4-7]/day, which may include:</li> <li>[3-7] mallards no more than</li> <li>[1-2] females.</li> <li>1 pintail, 2 canvasback, 2 redheads.</li> <li>Possession limit triple the daily bag.</li> </ul>
Balance of State Zone Season may be split for Scaup	Scaup	No longer than 86 days	2 scaup. Possession limit triple the daily bag.
Balance of State Zone Season may be split for Dark and White Geese.	Geese	Early Season: 3 days (Canada goose only) Regular Season: no longer than 98 days Late Season: Canada geese no longer than 2 days and white-fronted and white geese no longer than 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 Season may be split	All Canada Geese	No longer than 105 days except for Large Canada geese which cannot exceed 100 days or extend beyond Jan 31	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	All	Closed during brant	
Spit (West Side)	species	season	
Klamath Basin	Dark and white geese	105 days except for Canada geese which cannot exceed 100 days or extend beyond Jan 12	30/day, which may include: 20 white geese, 10 dark geese only 2 may be a Large Canada goose.

AREA	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
			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 Season may be split	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	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 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	The Saturday following the closing of the regular duck season extending for 2 days.	Same as regular season
Balance of State Zone	Same as regular season	The second Saturday in February extending for 2 days.	Same as regular season
Southern San Joaquin Valley Zone	Same as regular season	The second Saturday in February extending for 2 days.	Same as regular season
Southern California Zone	Same as regular season	The second Saturday in February extending for 2 days.	Same as regular season

### **FALCONRY**

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