

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

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: December 28, 2015

II. Dates and Locations of Scheduled Hearings:

(a) Discussion Hearing: Date: December 10, 2015
Location: San Diego, CA

(b) Notice Hearings: Date: February 11, 2016
Location: Sacramento, CA

(c) Adoption Hearing: Date: April 14, 2016
Location: Santa Rosa, 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” for migratory bird hunting. These “frameworks” describe the earliest waterfowl hunting seasons can open, the maximum number of days hunting can occur, the latest hunting seasons must close, and the maximum daily bag limit, among other things. States must set waterfowl hunting regulations within the federal frameworks. Beginning with the 2016–17 hunting season, the Service is using a new schedule for establishing frameworks in October rather than the previous schedule (established in late July). This enables State agencies to select and publish season dates by April rather than August. This year, there will be a onetime overlap in the regulatory processes for the 2015–16 and 2016–17 seasons.

Under the new process, the proposed hunting season frameworks for a given year will be developed in the fall, of the prior year. For example, the breeding populations (including the California Breeding Population

Survey) and habitat conditions observed in 2015 and the regulatory alternatives selected for the 2015 hunting season will be used to develop the frameworks for the 2016-17 season.

States may make recommendations to change federal framework regulations. These recommendations are made to Flyway Councils during August or September. The Councils may elect to forward recommendations to the Service. The Service may elect to incorporate proposed changes in the “framework” regulations. The Service establishes the hunting framework regulations at a public meeting held in October.

Sections 202, 355 and 356 of the Fish and Game Code authorize the Fish and Game Commission (FGC) to annually adopt 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 Fish and Game Commission selects and establishes in State regulations the specific hunting season dates and daily bag limits within the federal 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 frameworks for the 2016-17 season have been approved by the Flyway Councils and adopted at the Service’s Regulation’s Committee meeting October 20-21, 2015. The 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, 2 pintail, 2 canvasback, 2 redheads, and 3 scaup (during an 86 day season). Duck daily bag limits ranges, duck season lengths ranges and goose season length ranges have been provided to allow the FGC flexibility. See tables in the Informative Digest for season and bag limits. Lastly, Federal regulations require that California’s hunting regulations conform to those of Arizona in the Colorado River Zone and with Oregon in the North Coast Special Management Area.

The specific recommended regulation changes are:

- 1) Changes in current subsection 502(d)1 propose to allow hunting on the Department’s Type C wildlife areas and public waters during the late season hunt in the Northeastern Zone.

The existing regulation allows hunting on private lands only. Public testimony was received requesting additional hunting opportunity on public lands during the late season. Allowing hunting on Type C wildlife areas and public waters should not harm the intent of the late season

hunts in Northeastern California; to eliminate goose depredation on private lands by hazing geese using hunting and making public lands available for goose use.

- 2) Changes in current subsection 502(d) propose to increase the total daily bag limit for geese in the Northeastern, Southern San Joaquin Valley, and the Balance of State zones from 25 to 30 geese per day; the Southern California Zone total daily bag limit for geese will increase from 18 to 23 geese per day. The daily bag limit for white geese will increase from 15 to 20 per day in the zones referenced.

Both Ross' geese and lesser snow geese populations (defined as white geese in Section 502(a)) in the Pacific Flyway are about 1,000,000 birds and are above their population goals (100,000 and 200,000 respectively). The Canadian Wildlife Service has proposed to designate both populations as overabundant because of the rapid population growth since 2003 and concern for the potential impacts to the breeding grounds in the Western Canadian Arctic. The Service and Pacific Flyway Council recognize that reducing the population is needed and increased the daily bag limit to 20 in 2013. California increased the daily bag limit to 15 in 2015 and would like to liberalize again. However, achieving a population reduction through hunting alone is not likely given the low numbers of hunters.

The increase in the white goose and total goose daily bag limits are intended to increase the harvest of geese, allow additional hunting opportunity, and potentially reduce depredation complaints.

- 3) Proposed changes in current subsection 502(d)(5)(D)8 increase the white goose daily bag limit in the Imperial County Special Management Area from 15 to 20 per day.

This change is intended to increase the harvest of white geese. See recommendation 1 above.

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

- 4) Proposed changes in current subsection 502(e) modify the age limit to participate in the Youth Waterfowl Hunting Days from 15 years of age and under to 17 years of age and under.

The federal frameworks were modified to allow the Youth Waterfowl Hunt age requirements to mimic that of individual states as long as the youth hunter is not 18 years of age or older.

- (b) 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.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None.

- (d) Identification of Reports or Documents Supporting Regulation Change:

2016 Draft Environmental Document Migratory Game Bird Hunting

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

This proposal was discussed at the Wildlife Resources Committee meeting held on September 9, 2015 in Fresno, CA.

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

- 1) Three alternatives were offered by the public regarding hunting in Morro Bay Special Management Area. 1) Eliminate all hunting during the Martin Luther King weekend during the Morro Bay Winter Bird Festival; 2) Change the start time for hunting to 8 AM on Saturdays and Sundays instead of 7 AM; and 3) Change the days of hunting to Wednesdays, Saturdays and Sundays..
- 2) An alternative was offered by the public regarding hunting on public lands during the Late Season for white geese in the Northeastern Zone. Allow hunting during the late season on Type C wildlife areas or other public (nonrefuge) lands.

- (b) No Change Alternative:

- 1) The No Change Alternative would maintain the 2015-16 season lengths, dates, and daily bag limits in all zones. The federal frameworks were adopted at the U S Wildlife Service's Regulations Committee Meeting in October and are the basis for the Department's recommendations for the

2016-17 season. Maintaining the existing regulations may cause nonconformance to federal rules.

- 2) The No Change Alternative would maintain the existing regulations in the Morro Bay Special Management Area.
 - 3) The No Change Alternative would maintain the existing regulations for the Late Season for white geese in the Northeastern Zone.
 - 4) The No Change Alternative would maintain the existing total daily goose bag limits and the white goose daily bag limits.
 - 5) The No Change Alternative would maintain the existing age limit to participate in the Youth Waterfowl Hunting Days.
- (c) Consideration of Alternatives

Regarding the alternatives proposed for the Morro Bay Special Management Area: Current regulations (Section 506) already provide for a later morning start time (7 a.m. rather than ½ hour before sunrise in all other hunt zones in California) and a substantial portion of Morro Bay is not open for hunting. These limits on hunting in Morro Bay are consistent with the federal framework and the FGC's mandate to conserve wildlife and provide recreational opportunity. The FGC, after consideration, therefore rejects the alternatives proposing to further restrict waterfowl hunting in Morro Bay.

Regarding the alternative proposed for the Late Season for white geese in the Northeastern Zone: The original intent of the late goose seasons in the North Coast and Imperial special management areas and the Northeastern Zone were to "...reduce depredation on private lands and disperse through hunting geese" (as proposed in the Initial Statement of Reasons for Regulatory Action, April 2013). An increasing number of complaints about depredation have been received by the Department and FGC from private landowners and the Modoc and Lassen county fish and game commissions, which have requested a late season hunt. It is the policy of the Department (Fish and Game Code Section 1801) to alleviate economic losses caused by wildlife and to bring such losses within tolerable limits. Hunting is the only tool the Department can offer private landowners to minimize depredation (with the goal of hazing geese off of private lands and onto public lands). Higher bag limits have been approved for goose populations that exceed population objectives however there are too few hunters in California to effectively reduce the total number of geese; especially to levels that eliminate goose

depredation. The majority of waterfowl habitat and harvest occur on private lands. In order for the late season hunt to be effective in dispersing geese, public lands need to be closed so geese have a place to go. Opening all public lands may push geese to Oregon where depredation also occurs. Oregon and California agreed to have similar regulations (public hunting areas closed) on each side of the border so as not to move geese across the border. State Type C Wildlife areas could be opened in California with minimal effect to the intent of the late season hunts, however of the 18 type C areas within the Northeastern Zone; 12 are dominated by sagebrush and conifers, 4 are riparian habitat and 2 are seasonal wetlands. Opening up type C areas would not provide any real goose hunting opportunity during the late season. Opening up these public waters could be opened with minimal effect to the intent of the late season hunts. Other publicly owned lands that do provide goose use (habitat) should remain closed to hunting in order to provide an alternative to private land use. The Shared Habitat Alliance for Recreational Enhancement (SHARE) could be utilized to enroll private land owners to offer goose hunting however, statute requires participants willingly volunteer their land for public access. The Department cannot force land owners to participate in SHARE. SHARE hunts were implemented for the North Coast and Imperial Special Management Area late season goose hunts, but they were cancelled because of low land owner enrollment and hunter applicants. Lastly, this alternative was discussed during the 2015-16 season regulatory review and the FGC chose not to adopt this alternative.

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

- (d) 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 are intended to provide additional recreational opportunity to the public. The response is expected to be minor in nature.

- (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 2016-17 waterfowl hunting season dates and bag limits within the federal frameworks. Positive impacts to jobs and/or businesses that provide services to waterfowl hunters will be realized with the proposed regulations for the waterfowl hunting season in 2016-17. This is based on a 2011 US Fish and Wildlife national survey of fishing, hunting, and wildlife associated recreation for California. The report 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 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 these same small businesses.

The Commission anticipates benefits to the health and welfare of California residents. Hunting provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of the State's resources. The Commission anticipates benefits to the State's environment by the sustainable management of California's waterfowl resources. The Commission does not anticipate

any impacts to worker safety because the proposed amendments will not affect working conditions.

(c) Cost Impacts on a Representative Private Person or Business:

The Commission 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

The proposed waterfowl regulations will set the 2016-17 waterfowl hunting season dates and bag limits within the federal frameworks.

(a) Effects of the regulation on the creation or elimination of jobs within the state

Positive impacts to jobs and/or businesses that provide services to waterfowl hunters will be realized with the adoption of the proposed waterfowl hunting regulations for the 2016-17 waterfowl season. This is based on the 2011 U.S. Fish and Wildlife National Survey of Fishing, Hunting, and Wildlife-Associated Recreation for California (issued Feb. 2013). The report estimates that 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 these same small businesses. The 2011 report is posted on the US Dept. of Commerce website at <http://www.census.gov/prod/2013pubs/fhw11-ca.pdf>.

(b) Effects of the regulation on the creation of new businesses or the elimination of existing businesses within the state

The result of the regulations on the creation of new businesses or the elimination of existing businesses within the state will be neutral. Minor variations in the bag limits as may be established in the regulations 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 them are expected to remain more or less the same.

(c) Effects of the regulation on the expansion of businesses currently doing business within the state

The long-term intent of the proposed regulations is to sustainably manage waterfowl populations, and consequently, the long-term viability of small businesses that serve recreational waterfowl hunters. Minor variations in the bag limits as may be established in the regulations are, by themselves, unlikely to stimulate substantial expansion of these existing businesses.

(d) Benefits of the regulation to the health and welfare of California residents

Hunting is an outdoor activity that can provide several benefits for those who partake in it and for the environment as well. The fees that hunters pay for licenses and stamps are used for conservation. In addition, the efforts of hunters can help to reduce wildlife depredation on private lands. Hunters and their families benefit from fresh game to eat, and from the benefits of outdoor recreation. 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 on 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 will not impact working conditions.

(f) Benefits of the regulation to the state's environment

It is the policy of this 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 populations of waterfowl to ensure those objectives are met.

(g) Concurrence with other Statutory Requirements:

Not applicable

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 establish daily bag and possession limits for waterfowl hunting.

The frameworks for the 2016-17 season have been approved by the Flyway Councils and adopted at the Service Regulation's Committee meeting October 20-21, 2015. 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, 2 pintail, 2 canvasback, 2 redheads, and 3 scaup (during an 86 day season). Duck daily bag limits ranges, duck season lengths ranges and goose season length ranges have been provided to allow the FGC flexibility. Lastly, Federal regulations require that California's hunting regulations conform to those of Arizona in the Colorado River Zone and with Oregon in the North Coast Special Management Area. Based on the frameworks, the Department of Fish and Wildlife (Department) provides an annual recommendation to the Fish and Game Commission.

The Department recommendations are as follows:

1. Changes in current subsection 502(d)1 propose to allow hunting on the Department's Type C wildlife areas and public waters during the late season hunt in the Northeastern Zone.
2. Changes in current subsection 502(d) propose to increase the total daily bag limit for geese in the Northeastern, Southern San Joaquin Valley, and the Balance of State zones from 25 to 30 geese per day; the Southern California Zone total daily bag limit for geese will increase from 18 to 23 geese per day. The bag limit for white geese will increase from 15 to 20 per day in the zones referenced.
3. Proposed changes in current subsection 502(d)(5)(D)8 increase the white goose daily bag limit in the Imperial County Special Management Area from 15 to 20 per day.
4. Proposed changes in current subsection 502(e) modify the age limit to participate in the Youth Waterfowl Hunting Days from 15 years of age and under to 17 years of age and under.

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 concurrence 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 2016-17.

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

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, and Dark and White Geese. White 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, 2 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, 2 pintail, 2 canvasback, 2 redheads, 3 scaup. Possession limit triple the daily bag.
	Scaup	86 days	
	Geese	No longer than 100 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 & 100 days	4-7/day, which may include: 3-7 mallards no more than 1-2 females, 2 pintail, 2 canvasback, 2 redheads, 3 scaup. Possession limit triple the daily bag.
	Scaup	86 days	
	Geese	No longer than 100 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, 2 pintail, 2 canvasback, 2 redheads, 3 scaup. Possession limit triple the daily bag.
	Scaup	86 days	
	Geese	101 days	14/day, up to 10 white geese, up to 4 dark geese. Possession limit triple the daily bag.

Summary of Proposed Waterfowl Hunting Regulations, Continued			
AREA	SPECIES	SEASONS	DAILY BAG & POSSESSION LIMITS
Balance of State Zone <i>Season may be split for Ducks, Pintail, Canvasback, Scaup and Dark and White Geese.</i>	Ducks	Between 38 & 100 days	4-7/day, which may include: 3-7 mallards no more than 1-2 females, 2 pintail, 2 canvasback, 2 redheads, 3 scaup. Possession limit triple the daily bag.
	Scaup	86 days	
	Geese	Early Season: 5 days (CAGO 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	
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	Open Nov 8 extending for 37 days	2/day. Possession limit triple the daily bag.
Balance of State Brant	Black Brant	Open Nov 9 extending for 37 days	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		The Saturday following the closing of waterfowl season extending for 2 days.	
Southern California Zone		The Saturday following the closing of waterfowl season extending for 2 days.	
Colorado River Zone		The Saturday following the closing for waterfowl season extending for 2 days.	
Balance of State Zone		The Saturday following the closing of waterfowl season extending for 2 days.	
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		Between 38 and 107 days	
Southern San Joaquin Valley Zone		Between 38 and 107 days	
Southern California Zone		Between 38 and 107 days	
Colorado River Zone	Ducks only	105 days	