

**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 Section 355 of the Fish and Game Code and 16USC 703 et seq., and to implement, interpret or make specific Section 355 of the Fish and Game Code and 16USC 703 et seq., proposes to amend Section 503, Title 14, California Code of Regulations, relating to Crop Damage and Nuisance Canada Geese.

Informative Digest/Policy Statement Overview

This proposed regulation change would add the control of nuisance Canada geese to the provisions addressing crop damage in Section 503 of Title 14, California Code of Regulations. Existing state regulations do not provide for the take of Canada goose nests or eggs, nor provide for their direct control except as authorized by the Commission under hunting regulations established in Section 502 of Title 14. The Federal government has preeminent authority to manage migratory birds pursuant to the Migratory Bird Treaty Act, and has adopted regulations permitting certain activities in certain parts of the country at specified times to alleviate the effects on humans by Canada geese. Changes in California regulations are necessary to implement these changes in federal rules.

In a Final Rule and Record of Decision issued August 10, 2006 the United States Fish and Wildlife Service issued a Depredation Order for resident Canada geese. This decision contained several parts, but only 3 portions affect the management of nuisance Canada geese in California. These are:

- 1) the Airport Control Order that provides airport managers the authority to control resident geese through: 1) trapping and relocation; 2) nest and egg destruction; 3) trapping and culling; or 4) other methods. Nests and eggs may be destroyed between March 1 and June 30 and other control methods may be used between April 1 and September 15;
- 2) the Nest and Egg Control Order that provides private landowners and managers of public lands the authority to take nests and destroy eggs when necessary to resolve injury to people, property, and/or agricultural crops. Nests and eggs may be destroyed between March 1 and June 30; and,
- 3) the Public Health Control Order that authorizes state wildlife agencies or their agents to conduct direct control activities whenever a direct threat to human health is acknowledged by any Federal, State or local public health agency. Nests and eggs may be destroyed between March 1 and June 30 and other control activities could occur between April 1 and August 31.

The proposed regulation would limit the Airport Control Order by requiring authorization by the Department before any trapping and relocation from airports could occur. The proposed regulation would also modify the Nest and Egg Control Order by requiring Department authorization for nest and egg control in all counties except Sonoma, Napa, Solano, Marin, Contra Costa, Alameda, San Francisco, San Mateo, Santa Clara, Santa Cruz, San Benito, Monterey, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange and San Diego. All other control actions identified under for the Pacific Flyway in the Depredation Order of Canada geese would be permitted in California.

Existing language in Section 503 is reformatted for clarity purposes.

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 Hubbs-Sea World Research Institute, Shedd Auditorium, 2595 Ingraham Street, San Diego, California, on February 8, 2008, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before February 1, 2008 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on February 5, 2008. All comments must be received no later than February 8, 2008, at the hearing in San Diego, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth 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 John Carlson, Jr., or Sherrie Koell at the preceding address or phone number. **Dr. Eric Loft, Chief, Wildlife Branch, Department of Fish and Game, phone (916) 445-3555, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 355 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 and 11346.8 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

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 will contribute to the reduction of economic damage caused by nuisance Canada geese.

- (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: None.
- (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: 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.

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 or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: December 7, 2007

John Carlson, Jr.
Executive Director