

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: February 15, 2012

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: April 11, 2012
Location: Eureka, CA

(b) Discussion Hearing: Date: June 20, 2012
Location: Mammoth Lakes, CA

(c) Adoption Hearing: Date: August 8, 2012
Location: Ventura, 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” in late July after they analyze current waterfowl population data and gather input from the public. These “frameworks” stipulate 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.

States may make recommendations to change federal framework regulations. These recommendations are made to Flyway Councils during March and July. The Councils may elect to forward these to the Service. The Service may elect to incorporate proposed changes in the “framework” regulations. For most waterfowl hunting season regulations, the Service establishes the “framework” regulations in late July at a public meeting; however the publication of these decisions in the Federal Register does not occur until September. California has made one proposal to change federal frameworks.

Sections 202, 355 and 356 of the Fish and Game Code authorize the Fish and Game Commission 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 their 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. Four changes are currently proposed for Section 502. Item 1 requires Flyway Council and Service approval pursuant to the process described above. Item 4 is proposed to provide notice that other framework regulations may change in 2012 when current biological information becomes available.

The four proposed changes are:

1. Increase the possession limit to triple the daily bag limit for brant, ducks, and geese in all zones.

The existing possession limits for brant, ducks, and geese are double the daily bag limit. The proposed change would increase the possession limits to triple the daily bag limit. Possession limits were established to limit possible wanton waste and overharvesting of migratory birds. These regulations extended from market hunting times in the early 1900s. However, due to the long history of waterfowl management since the passage of the Migratory Bird Treaty Act, these concerns have mostly diminished. Increasing the possession limit extends hunting opportunity to individuals who travel long distances who hunt multiple days during hunting seasons. This change is expected to have no impacts on any populations of ducks and geese in California or the Pacific Flyway. Flyway Council and Service approval is needed for this proposed change.

2. Amend the language in the Balance of State Zone Late Season goose hunt. To clarify the language as requested by the Fish and Game Commission's August 3, 2011, meeting and to maintain consistency, the Department proposes to add "During the Late Season, hunting is not permitted on wildlife areas listed in Sections 550-552 EXCEPT Type C wildlife areas in the North Central Region."

The hunting regulations for the Late Season goose hunt include the language "During the Late Season, hunting is not permitted on public lands." The intent of the language was to decrease crop depredation complaints on private lands by allowing hunting which would potentially move geese to wildlife areas. The intent was not to exclude navigable waterways or other public lands since minimal to no availability of refuge for geese occur on those areas, including Type C wildlife areas. There has been increasing concern by the agricultural community over geese depredating on pasture land, rice, and other crops in the Sacramento Valley. Both white-fronted geese and white geese are well above the population objectives established in the Pacific Flyway Management Plans. This Late Season hunt was not designed to provide additional hunting opportunity on Type A and B wildlife areas; it was

implemented as a management tool to haze geese off private land while geese were still present in large concentrations. Additional reasons for closing Type A and B wildlife areas to hunting during the Late Season include possible negative impacts to staging areas used by migratory birds, early nesting species, and preventing or delaying habitat enhancement projects. We are recommending allowing hunting on Type C areas in the North Central Region based on public comments provided during the 2011-12 season. Allowing Type C wildlife areas to be open during this Late Season hunt will not reduce the effectiveness of reducing crop depredation.

3. Amend the language in the North Coast and Imperial County Special Management areas (SMA) Late Season goose hunt. To clarify the language as requested by the Fish and Game Commission's August 3, 2011, meeting and to maintain consistency, the Department proposes to add "During the Late Season, hunting is not permitted on wildlife areas listed in Sections 550-552".

The hunting regulations for these Late Season goose hunts include the language "During the Late Season, hunting is not permitted on public lands." The intent of the language was to decrease crop depredation complaints on private lands by allowing hunting which would potentially move geese to wildlife areas. The intent was not to exclude navigable waterways or other public lands since minimal to no availability of refuge for geese occur on those areas. Both Aleutian Canada geese and white geese are well above the population objectives established in the Pacific Flyway Management Plans. Late Season hunts that do not allow hunting on wildlife areas in the North Coast and Imperial County Special Management areas have been in place for several years now, appear to be successful, and without complaints that wildlife areas are closed. Type A, B, and C wildlife areas provide significant goose forage and roost sites in the North Coast and Imperial County SMAs. Allowing Type A, B, and C wildlife areas in the SMAs to be open during the Late Season hunts would increase crop depredation on private lands. These Late Season hunts were not designed to provide additional hunting opportunities on wildlife areas; they were implemented as a management tool to haze geese off private land and onto limited public land where goose forage and roost sites are available. Additional reasons for closing wildlife areas to hunting during the Late Season include possible negative impacts to staging areas used by migratory birds, early nesting species, and preventing or delaying habitat enhancement projects.

4. Provide a range of waterfowl hunting season lengths (which may be split into two segments) between 38 and 107 days (including 2 youth waterfowl hunt days) for all hunting methods. A range of daily bag limits is also given for ducks in all zones. 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. See tables in the Informative Digest for season and bag limit ranges.

The existing waterfowl hunting regulations establish specific season dates

and daily bag limits for each zone. This proposal provides ranges for the season dates and daily bag limits. These ranges are necessary as the specific opening and closing dates and daily bag limits can not be proposed until the California Waterfowl Breeding Population Survey is completed in May and the Service has established federal regulation “frameworks” for the 2012/13 waterfowl hunting season. The Service will establish the frameworks in late July after the analysis of current waterfowl population survey, other data, and input from the Flyway Councils and the public.

The benefits of the proposed regulations are concurrence with Federal law and sustainable management of the waterfowl resources.

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.

- (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:

2012 Draft Environmental Document Migratory Game Bird Hunting

[Economic Impact Analysis](#)

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

No public meetings are being held prior to the notice publication. The 45-day comment period provides adequate time for review of the proposed amendments.

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:
No other alternatives were identified.

- (b) No Change Alternative:

1. The No Change Alternative would maintain the existing possession limits for brant, ducks, and geese in all zones.

2. The No Change Alternative would maintain the current language in the Balance of State Zone stating that the Late Season goose hunts are closed on “public areas.” The current language is not well-defined, creating uncertainty with the hunting public.
3. The No Change Alternative would maintain the current language in the North Coast and Imperial County SMAs stating that the Late Season goose hunts are closed on “public areas.” The current language is not well-defined, creating uncertainty with the hunting public.
4. The No Change Alternative would maintain the existing season lengths and dates, and duck and goose daily bag limits in all zones. The California Breeding Pair Survey has not been completed and analyzed and the federal frameworks have not been set. Changes in the existing regulations could result if specific dates and bag limits are proposed before the above items are completed.

(c) Consideration of Alternatives:

A reasonable alternative for the season length in the Sacramento Valley Special Management Area would be open currently with the opening of goose season through December 14. The existing regulation allows the Special Management Area to open concurrently with the general goose season through December 21. The season length was increased in 2011-12 to provide more hunting opportunity for Pacific white-fronted geese while still protecting the less numerous Tule white-fronted geese. However, opening of hunting season were delayed 1 week in the Sacramento Valley due to the delayed rice harvest on private properties. Harvest data collected by the Department indicated total estimated harvest for Tule white-fronted goose increased by approximately 40% during the 2011-12 hunting season. Furthermore, decreased storm events during this past winter decreased hunting success. The Sacramento Valley Special Management Area (SMA) is in place to restrict the harvest of Tule geese. While Pacific white-fronted geese are well above the flyway management goal of 300,000 (about 650,000), the current population estimate for Tule geese number approximately 14,500 but appears to be stable. The Department will be conducting a more thorough analysis after the 2012-13 season to determine if the extended season length in the Sacramento Valley SMA significantly increased harvest rates on Tule white-fronted geese. Harvest recommendations will continue to be based on the status of the less numerous Tule goose population.

V. Mitigation Measures Required by Regulatory Action:

Please refer to the 2012 Draft Environmental Document Migratory Game Bird Hunting (Waterfowl, Coots, Moorhens).

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 2012-13 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 continuation of adopting waterfowl hunting seasons in 2012-13. This is based on a 2006 US Fish and Wildlife national survey of fishing, hunting, and wildlife associated recreation for California. The report estimated that hunters contributed about \$188,600,000 to small businesses in California during the 2007 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 maintain or increase waterfowl, subsequently, the long-term viability of these same small businesses.

The Commission anticipates benefits to the health and welfare of California residents. The proposed regulations are intended to provide additional recreational opportunity to the public.

The Commission anticipates benefits to the environment by the sustainable management of California's waterfowl resources.

- (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.

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. In addition to the four proposals contained herein, the U.S. Fish and Wildlife Service (Service), after analysis of waterfowl population survey and other data, may change federal regulations; if this occurs, changes in existing and proposed regulations in California may be necessary. Changes in federal regulations for season opening and closing dates, elimination or creation of special management areas, season length, and daily bag limits for migratory birds may occur. Item 1 requires changes in the federal regulations and must be approved by the Pacific Flyway Council at its meeting on July 13, 2012. Item 4 (including the table below) provide a proposed range of season dates and bag limits for waterfowl. The Service will consider recommendations from the Flyway Council at their meeting on July 27, 2012. At this time, the California Waterfowl Breeding Population Survey has not been conducted and the Service has not established federal regulation “frameworks” which will occur in August after the analysis of current waterfowl population survey, other data, input from the Flyway Councils and the public. Also, minor editorial changes are proposed to clarify and simplify the regulations and to comply with existing federal frameworks.

The benefits of the proposed regulations are concurrence with Federal law, sustainable management of the waterfowl resources, positive impacts to jobs and/or businesses that provide services to waterfowl hunters will be realized with the continuation of adopting waterfowl hunting seasons in 2012-2013.

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.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate waterfowl hunting regulations.

The Department’s proposals are as follows:

1. Increase the possession limit to triple the daily bag limit for brant, ducks, and geese in all zones.
2. Amend the language in the Balance of State Zone Late Season goose hunt. To clarify the language as requested by the Fish and Game Commission’s August 3 meeting and to maintain consistency, the Department proposes to add "During the Late Season, hunting is not permitted on wildlife areas listed in Sections 550-552 EXCEPT Type C wildlife areas in the North Central Region."

3. Amend the language in the North Coast and Imperial County Special Management areas (SMA) Late Season goose hunt. To clarify the language as requested by the Fish and Game Commission's August 3 meeting and to maintain consistency, the Department proposes to add "During the Late Season, hunting is not permitted on wildlife areas listed in Sections 550-552".
4. Provide a range of waterfowl hunting season lengths (which may be split into two segments) between 38 and 107 days (including 2 youth waterfowl hunt days) for all hunting methods. A range of daily bag limits is also given for ducks in all zones. Federal regulations require that California's hunting regulations conform to those of Arizona in the Colorado River Zone. See table below for season and bag limit ranges.

Summary of Proposed Waterfowl Hunting Regulations

AREA	SPECIES	SEASONS	DAILY BAG & POSSESSION LIMITS
Statewide	Coots & Moorhens	Concurrent w/duck season	25/day. 25 in possession
Northeastern 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 but no more than 1-2 females,
	Pintail Canvasback Scaup	Between 0 & 105 days	0-3 pintail, 0-3 canvasback, 0-3 redheads, 0-7 scaup. Possession limit double-triple the daily bag.
	Geese	100 days	8/ day, which may include: 6 white geese, 6 dark geese no more than 2 Large Canada geese. Possession limit double-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, 0-3 pintail, 0-3 canvasback, 0- 3 redheads, 0-7 scaup. Possession limit double-triple the daily bag.
	Pintail Canvasback Scaup	Between 0 & 105 days	
	Geese	100 days	8/ day, which may include: 6 white geese, 6 dark geese. Possession limit double-triple the daily bag.
Southern California 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 hen mallards, 0-3 pintail, 0-3 canvasback, 0-3 redheads, 0-7 scaup. Possession limit double-triple the daily bag.
	Pintail Canvasback Scaup	Between 0 & 105 days	
	Geese	100 days	8/ day, up to 6 white geese, up to 3 dark geese. Possession limit double-triple the daily bag.
Colorado River Zone	Ducks	Between 38 & 105 days	4-7/day, which may include: 3-7 mallards no more than 1-2 females or Mexican-like ducks, 0-3 pintail, 0-3 canvasback, 0- 3 redheads, 0-7 scaup. Possession limit double-triple the daily bag.
	Pintail Canvasback Scaup	Between 0 & 105 days	
	Geese	Between 101 & 105 days	6/day, up to 6 white geese, up to 3 dark geese. Possession limit double-triple the daily bag.
Balance of State Zone <i>Season may be split for Ducks, Pintail, Canvasback, Scaup and Dark and White Geese.</i>	Ducks	Between 38 & 105 days	4-7/day, which may include: 3-7 mallards no more than 1-2 females,
	Pintail Canvasback Scaup	Between 0 & 105 days	0-3 pintail, 0-3 canvasback, 0-3 redheads, 0-7 scaup. Possession limit double-triple the daily bag.
	Geese	Early Season:5 days (CAGO only) Regular Season: 100 days Late Season: 5 days (whitefronts and white geese)	8/ day, which may include: 6 white geese, 6 dark geese. Possession limit double-triple the daily bag.

Summary of Proposed Waterfowl Hunting Regulations, Continued

SPECIAL AREA	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 can not exceed 100 days or extend beyond the last Sunday in January.	6/day, only 1 may be a Large Canada goose. Possession limit double-triple the daily bag. Large Canada geese are closed during the Late Season.
Humboldt Bay South Spit	All species	Closed during brant season	
Sacramento Valley	White-fronted geese	Open concurrently with general goose season through Dec 14-21	2/day. Possession limit double-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	From Nov 7 for 30 days	2/day. Possession limit double-triple the daily bag.
Balance of State Brant	Black Brant	From the second Saturday in November for 30 days	2/day. Possession limit double-triple the daily bag.
Imperial County <i>Season may be split</i>	White Geese	102 days	6/day. Possession limit double-triple the daily bag.
YOUTH WATERFOWL HUNTING DAYS	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 6-9
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	