

COMMISSIONERS
Jim Kellogg, President
Discovery Bay
Richard Rogers, Vice President
Montecito
Michael Sutton, Member
Monterey
Daniel W. Richards, Member
Upland
Don Benninghoven, Member
Santa Barbara

ARNOLD SCHWARZENEGGER



Governor

JOHN CARLSON, JR.
EXECUTIVE DIRECTOR
1416 Ninth Street
Box 944209
Sacramento, CA 94244-2090
(916) 653-4899
(916) 653-5040 Fax
fgc@fgc.ca.gov

STATE OF CALIFORNIA
Fish and Game Commission

June 17, 2010

TO ALL AFFECTED AND INTERESTED PARTIES:

This is to provide you with a copy of the notice of proposed regulatory action relative to Sections 502 and 507, Title 14, California Code of Regulations, relating to waterfowl hunting, which will be published in the California Regulatory Notice Register on June 18, 2010.

Please note the dates of the public hearings related to this matter and associated deadlines for receipt of written comments.

Dr. Eric Loft, Chief, Wildlife Branch, Department of Fish and Game, telephone (916) 445-3406, and Assistant Chief Rob Allen, Enforcement Branch, telephone (916) 653-4094, have been designated to respond to questions on the substance of the proposed regulations.

Sincerely,



Sherrie Fonbuena
Associate Governmental Program Analyst

Attachment

BOARD OF SUPERVISORS
2010 JUN 18 AM 11:00

**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 sections 202 and 355 of the Fish and Game Code and to implement, interpret or make specific sections 202, 355, 356 and 3005 of said Code, proposes to amend sections 502 and 507, Title 14, California Code of Regulations, relating to waterfowl hunting, and provisions related to the take of migratory game birds

Section 502 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. Items 1 and 2 require changes in the federal regulations and must be approved by the Pacific Flyway Council at its meeting on July 23, 2010. Item 4 (including the table below) provides 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 29, 2010. 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 Department's proposals are as follows:

1. Increase the season length to 105 days for Large Canada geese in the Balance of State Zone, excluding the North Coast Special Management Area, and split the season into two segments.
2. Increase the Small Canada goose daily bag limit to 2-6 per day in the Northeastern Zone.
3. Open the Northern Brant and Balance of State Brant Special Management Areas on November 7.
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, 0-3 pintail, 0-3 canvasback, 0-2 redheads, 0-7 scaup. Possession limit double the daily bag.
	Pintail Canvasback Scaup	Between 0 & 105 days	
	Geese	100 days	8/ day, which may include: 6 white geese, 6 dark geese no more than 4 white-fronts, 2 Large Canada geese, 1-6 Small Canada goose. Possession limit double 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, 0-2 redheads, 0-7 scaup. Possession limit double the daily bag.
	Pintail Canvasback Scaup	Between 0 & 105 days	
	Geese	100 days	8/ day, which may include: 6 white geese, 6 dark geese no more than 4 white-fronted geese. Possession limit double 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 hen mallards or Mexican-like ducks, 0-3 pintail, 0-3 canvasback, 0-2 redheads, 0-7 scaup. Possession limit double 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 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 females, 0-3 pintail, 0-3 canvasback, 0-2 redheads, 0-7 scaup. Possession limit double 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 the daily bag.
Balance of State Zone <i>Season may be split for Ducks, Pintail, Canvasback, Scaup and Canada Geese.</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, 0-2 redheads, 0-7 scaup. Possession limit double the daily bag.
	Pintail Canvasback Scaup	Between 0 & 105 days	
	Geese	100 days (Large Canada geese 100-105 days)	8/ day, which may include: 6 white geese, 6 dark geese no more than 4 white-fronted geese. Possession limit double the daily bag.
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 the daily bag.
Humboldt Bay South Spit	All species	Closed during brant season	
Sacramento Valley	White-fronted geese	Open concurrently with general goose season through Dec 14	2/day. Possession limit double 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	Between 0 & 30 days, must end by Dec 15	2/day. Possession limit double the daily bag.
Balance of State Brant	Black Brant	Between 0 & 30 days, must end by Dec 15	2/day. Possession limit double the daily bag.
Imperial County <i>Season may be split</i>	White Geese	102 days	6/day. Possession limit double 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
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	Between 38 and 107 days	

Section 507 Informative Digest/Policy Statement Overview

Subsection 507 (c) of Title 14, CCR, prohibits the use of electronic or "mechanically operated spinning blade devices... or spinning wing decoys when attempting to take waterfowl between the start of the season and November 30th." The terms "mechanical" and "spinning blade devices" have caused confusion for hunters, as well as enforcement, as new decoys have been developed. "Mechanical" can include man-powered devices e.g. pull chords, spinning reels etc. "Spinning blades" include propellers below the surface of the water that are common among waterfowl decoys, but clearly not the target of the prohibition. Even the term "Spinning" is not clear as some decoys have wings that do not spin completely around an axis but pivot back and forth. The wording of the subsection dealing with spinning wing devices needs to be simplified so both enforcement personnel and the public understand the gear restriction.

The Department is proposing that the Commission clarify that the prohibited devices are devices that are either electronically-powered, or activated by anything other than natural wind, to directly or indirectly cause rotation of decoy wings or blades that simulate wings.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Lake Natoma Inn, Sierra Ballroom, 702 Gold Lake Drive, Folsom, California, on Thursday, June 24, 2010, at 8:30 a.m., or as soon thereafter as the matter may be heard.

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 at the Hotel Mar Monte, 1111 East Cabrillo Blvd., Santa Barbara, California, on Thursday, August 5, 2010, 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 July 30, 2010 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 August 2, 2010. All comments must be received no later than August 5, 2010 at the hearing in Santa Barbara, 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 Fonbuena at the preceding address or phone number. **Dr. Eric Loft, Chief, Wildlife Branch, Department of Fish and Game, phone (916) 445-3406, and Rob Allen, Assistant Chief, Enforcement Branch, phone (916) 653-4094, have 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 202 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.

Section 502: The proposed regulations are intended to provide additional recreational opportunity to the public. The response is expected to be minor in nature.

Section 507: This proposal is a clarification in language only and does not prohibit any current legal devices.

- (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, Government Code: 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. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

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: June 8, 2010

John Carlson, Jr.
Executive Director