

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 20****RIN 1018-AD08****Migratory Bird Harvest Information Program****AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Final rule.

SUMMARY: The Fish and Wildlife Service (Service) and State wildlife agencies (States) are cooperatively establishing a national Migratory Bird Harvest Information Program (Program). The Program requires licensed migratory game bird hunters to supply their names, addresses, and other necessary information to the hunting licensing authority of the State in which they hunt. The Program improves the quality and extent of information about the harvests of migratory game birds to better manage these populations. The Program requires hunters to have evidence of current Program participation (Program validation) on their person while hunting migratory game birds in participating States. Hunters' names and addresses will provide a sample frame for voluntary hunter surveys needed to improve harvest estimates for all migratory game birds. States will gather migratory bird hunters' names and addresses and the Service will conduct the harvest surveys. This specific action adds 7 States to the list of those participating in the Program, bringing the total to 17.

EFFECTIVE DATE: This rule takes effect on September 1, 1996.

FOR FURTHER INFORMATION CONTACT: Larry J. Hindman, Migratory Bird Harvest Information Program Coordinator, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, (410) 827-8612, FAX (410) 827-5186.

SUPPLEMENTARY INFORMATION: This final rule facilitates the collection of needed information about migratory game birds harvests. A proposed rule was published in the April 29, 1996, Federal Register (61 FR 18936). This final rule amends Section 20.20 of 50 CFR by adding Alabama, Georgia, Idaho, Illinois, Maine, Minnesota, Mississippi, Pennsylvania, Tennessee, and Vermont to the list of participating States. Licensed hunters, as a condition for hunting migratory game birds in these States, would be required to annually provide their names, addresses, and other necessary information to the

licensing authority of the State in which they hunt. This information will provide a nationwide sampling frame of migratory bird hunters, from which representative samples of hunters will be selected and asked to participate in voluntary harvest surveys that the Service will conduct annually.

The Service and States are currently implementing this Program over a 5-year period, starting with the 1994-95 hunting season. During this implementation, the Program's participation requirement will not apply on Federal Indian Reservations or to tribal members hunting on ceded lands. Participating States will provide the sample frame by annually collecting the name, address, and date of birth of each State licensed migratory bird hunter. To reduce survey costs and to identify hunters who hunt less commonly-hunted species, States will also request that each migratory bird hunter provide a brief summary of his or her migratory bird hunting activity for the previous year. States will send this information to the Service, and the Service will sample hunters and conduct national hunter activity and harvest surveys.

A notice of intent to establish the Program was published in the June 24, 1991, Federal Register (56 FR 28812). A final rule establishing the Program and initiating a 2-year pilot phase in three volunteer States (California, Missouri, and South Dakota) was published in the March 19, 1993, Federal Register (58 FR 15093). The pilot phase was completed following the 1993-94 migratory bird hunting seasons in California, Missouri, and South Dakota.

A State/Federal group was formed to evaluate Program requirements, the different approaches used by the pilot States, and the Service's survey procedures during the pilot phase. Their evaluation resulted in Program changes specified in a final rule, published in the October 21, 1994, Federal Register (59 FR 53334), initiating the implementation phase of the Program.

Currently, all licensed migratory game bird hunters in participating States are required to have a Program validation, indicating that they have identified themselves as migratory bird hunters and have provided the required information to the State wildlife agency. Hunters must provide the required information to each State in which they hunt migratory birds. Validations are printed on or attached to the annual State hunting license or on a State-specific supplementary permit.

The State/Federal technical group continues evaluating the Program to determine the adequacy and timeliness of the sample frame, time burden, cost,

and other impacts on hunters, State license agents, State wildlife agencies, and the Service. Current emphasis is on the time requirement for the sample frame and alternative survey methods for special groups of unlicensed hunters (e.g., junior and senior hunters).

Names, addresses, and other information are needed in time to distribute hunting record forms to selected hunters before they forget the details of their hunts. Previously, the Service's survey design required participating States to send the required information to the Service within 5 business days of the hunting license or permit issuance (10 business days if the information is in electronic form). Several States expressed concern that they could not meet this time requirement. The Service conducted an experiment during the 1994-95 hunting season to determine whether extending the time requirement would adversely affect the accuracy of survey results. Based on the results of that experiment, the Service now requires participating States to forward hunter information to the Service within 30 calendar days from the date of license or permit issuance.

The Service does not require hunters exempted from State permit and licensing requirements to participate in the Program. This would include junior hunters, senior hunters, landowners, and other special categories. Exemptions vary on a State-by-State basis. Excluding these hunters from the Program also excludes their harvest from the estimates which may result in serious bias. Thus States may require exempted hunters to participate; and the Service encourages States to provide any available information about these groups (for example, junior hunter safety course participant lists, names and addresses of landowners, State harvest estimates for exempted categories) to the Service for use in improving harvest estimates. Methodology may vary by State and will be incorporated into individual Memoranda of Agreement with the Service.

The Service will use the names and addresses only for conducting hunter surveys. Names and addresses will be deleted after the surveys. State uses of these names and addresses will be governed by State laws.

Under 5 U.S.C. 553(d)(3) at least 30 days is required for a rule to become effective unless an agency has good cause to make it sooner. The Service and the States are currently implementing this Program over a five-year period at the request of the International Association of Fish and

Wildlife Agencies. The States added by this rule to the list of participating States, Alabama, Georgia, Idaho, Illinois, Maine, Minnesota, Mississippi, Pennsylvania, Tennessee, and Vermont, have all prepared for a September 1 implementation date of the Program. Generally, migratory game bird hunting seasons may begin as early as September 1, 1996, and since migratory game bird hunters are required to have a Program validation on their person while hunting migratory game birds in these States, the Service believes this rule should be effective on September 1, 1996.

Review of Comments and the Service's Response

The Service received comments on the proposed rule from six States. All supported the Program, but requested a delay in their implementation date.

1. Implementation Phase—Schedule of State Participation

Comment: North Carolina requested implementation be delayed to 1997. North Carolina is considering a major license system change in 1997 and wants to implement the Harvest Information Program with this change. Arkansas, Colorado, Virginia, and Wisconsin requested implementation be delayed to 1998, due to anticipated changes in their licensing systems. South Carolina requested implementation be delayed to 1998 to obtain approval from their State legislature to implement the Program.

Service Response: The Service has consistently encouraged States to advance in the implementation schedule, and discourage any delays. However, the proposed delays by Arkansas, Colorado, North Carolina, Virginia, and Wisconsin are premised on improved license procedures that will better accommodate the Program. South Carolina's proposed delay is based on implementing the Program with the endorsement of their State legislature which will help ensure successful implementation. Thus, the Service agrees to North Carolina's Program implementation and implementation in 1998 for Arkansas, Colorado, South Carolina, Virginia, and Wisconsin.

NEPA Consideration

The Service considered the establishment of this Harvest Information Program and options in the "Environmental Assessment: Migratory Bird Harvest Information Program." Copies of this document are available from the Service at the address

indicated under the caption **FOR FURTHER INFORMATION CONTACT.**

Regulatory Flexibility Act and the Paperwork Reduction Act

On June 14, 1991, the Assistant Secretary for Fish and Wildlife and Parks concluded the rule would not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act 5 USC 601 *et seq.* This rule will eventually affect about 3–5 million migratory game bird hunters when it is fully implemented. It will require licensed migratory game bird hunters to identify themselves and to supply their names, addresses, and birth dates to the State licensing authority. Additional information will be requested in order that they can be efficiently sampled for a voluntary national harvest survey. Hunters will be required to have Program validation on their person while hunting migratory game birds.

The States may require a fee to cover their administrative costs. State hunting-license vendors range from small to very large entities. This rule should not economically impact any vendors/agents. Only migratory game bird hunters (individuals) must provide this information, so this rule should not adversely affect small entities.

The collection of information contained in this rule was approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018–0015. The Service requires information from licensed hunters before they can hunt migratory game birds.

The public reporting burden for this collection of information is estimated to average 0.015 hours per response. This includes the time needed to review instructions; search existing data sources; gather and maintain data; and complete and review the collection of information. Comments regarding the burden estimate or any other aspect of these reporting requirements should be directed to the Service Information Collection Clearance Officer, ms 224 ARLSQ, U.S. Fish and Wildlife Service, 1849 C Street, NW., Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project 1018–0015, Washington, DC 20503.

Executive Order 12866

This rule was not subject to Office of Management and Budget review under Executive Order 12866.

Executive Order 12612—Federalism

The regulations do not have significant Federalism effects as provided in Executive Order 12612. Due

to the migratory nature of certain bird species, the Federal Government was given responsibility for their management under the Migratory Bird Treaty Act. State harvest surveys presently cannot provide adequate national estimates of migratory game bird harvests for the following reasons: (1) Some States do not now conduct annual harvest surveys or maintain accessible lists of hunter names and addresses; (2) comparable information is not available from all States because States have different survey procedures; (3) many State license lists are not available in time to permit distribution of hunter records early in the hunting season; and (4) budget constraints often prevent States from conducting harvest surveys during certain years and may cause some States to eliminate them completely.

The regulations do not have a substantial direct effect on fiscal capacity; do not change the roles or responsibilities of Federal or State Governments; and do not intrude on State policy or administration. Therefore, these regulations have no significant Federalism effects and do not warrant the preparing of a Federalism Assessment. In fact, they promote Federal/State cooperation and reduce duplication of survey efforts.

These regulations do not constitute a significant regulatory action as defined by Executive Order 12866. Therefore an assessment of their effects on State governments, under the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), is not required. The States may require a handling fee from licensed migratory bird hunters to cover the administrative costs of implementing the Program. Thus these regulations will not have a significant economic impact on the States.

Executive Order 12360—Taking of Individual Property Rights

Executive Order 12360 discussed guidelines for the taking of individual property rights. These regulations, authorized by the Migratory Bird Treaty Act, do not affect any constitutionally-protected property rights. They would not result in the physical occupancy, physical invasion, or regulatory taking of any property.

Authorship

The primary author of this rule is Larry J. Hindman, Office of Migratory Bird Management.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and record keeping requirements, Transportation, Wildlife.

For the reasons set out in the preamble, 50 CFR Part 20 is amended as set forth below.

PART 20—[AMENDED]

1. The authority citation for Part 20 continues to read as follows:

Authority: 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j.

2. Section 20.20 is amended by revising paragraphs (b) and (e) to read as follows:

§ 20.20 Migratory Bird Harvest Information Program.

* * * * *

(b) General provisions. Each person hunting migratory game birds in Alabama, California, Georgia, Idaho, Illinois, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, and Vermont must identify himself or herself as a migratory bird hunter and give his or her name, address, and date of birth to the respective State hunting licensing authority and must have on his or her person evidence, provided by that State, of compliance with this requirement.

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(e) Implementation schedule. The Service continues to implement the Program over the next 2-year period from 1997–1998. States must participate on or before the following schedule:

1997—Arizona, Florida, Kentucky, Ohio, North Carolina, and Texas.

1998—Alaska, Arkansas, Colorado, Connecticut, Delaware, Indiana, Iowa, Kansas, Louisiana, Massachusetts, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Rhode Island, South Carolina, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

Dated: August 27, 1996.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

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50 CFR Part 20

RIN 1018–AD69

Migratory Bird Hunting; Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 1996–97 Early Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes special early season migratory bird hunting regulations for certain tribes on Federal Indian reservations, off-reservation trust lands and ceded lands. This responds to tribal requests for U.S. Fish and Wildlife Service (hereinafter Service) recognition of their authority to regulate hunting under established guidelines. This rule allows the establishment of season bag limits and, thus, harvest at levels compatible with populations and habitat conditions.

EFFECTIVE DATE: This rule takes effect on September 1, 1996.

ADDRESSES: The public may inspect comments received, if any, on the proposed special hunting regulations and tribal proposals during normal business hours in Room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. The public should send communications regarding the documents to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Room 634–ARLSQ, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, (703/358–1714).

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), authorizes and directs the Secretary of the Department of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

In the August 16, 1996, Federal Register (61 FR 42730), the Service proposed special migratory bird hunting regulations for the 1996–97 hunting season for certain Indian tribes, under the guidelines described in the June 4, 1985, Federal Register (50 FR 23467). The guidelines responds to tribal requests for Service recognition of their reserved hunting rights, and for some tribes, recognition of their authority to regulate hunting by both tribal members and nonmembers on their reservations. The guidelines include possibilities for:

(1) On-reservation hunting by both tribal members and nonmembers, with hunting by nontribal members on some

reservations to take place within Federal frameworks but on dates different from those selected by the surrounding State(s);

(2) On-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and

(3) Off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits.

In all cases, the regulations established under the guidelines must be consistent with the March 10–September 1 closed season mandated by the 1916 Migratory Bird Treaty with Canada.

In the March 22, 1996, Federal Register (61 FR 11986), the Service requested that tribes desiring special hunting regulations in the 1996–97 hunting season submit a proposal including details on:

(1) Requested season dates and other regulations to be observed;

(2) Harvest anticipated under the requested regulations;

(3) Methods that will be employed to measure or monitor harvest;

(4) Steps that will be taken to limit level of harvest, where it could be shown that failure to limit such harvest would impact seriously on the migratory bird resource; and

(5) Tribal capabilities to establish and enforce migratory bird hunting regulations.

No action is required if a tribe wishes to observe the hunting regulations established by the State(s) in which an Indian reservation is located. The Service has successfully used the guidelines since the 1985–86 hunting season. The Service finalized the guidelines beginning with the 1988–89 hunting season (August 18, 1988, Federal Register [53 FR 31612]).

Although the proposed rule included generalized regulations for both early- and late-season hunting, this rulemaking addresses only the early-season proposals. Late-season hunting will be addressed in late-September. As