

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018-AE93

Migratory Bird Hunting; Proposed Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 1998-99 Season**AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Proposed rule.**SUMMARY:** This rule proposes special migratory bird hunting regulations for certain tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 1998-99 migratory bird hunting season.**DATES:** The comment period for these proposed regulations will end on August 24, 1998.**ADDRESSES:** Comments should be sent to: Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, ms 634-ARLSQ, 1849 C St., NW., Washington, DC 20240. The public may inspect comments received, if any, during normal business hours in Room 634-Arlington Square Building, 4401 N. Fairfax Drive, Arlington, VA.**FOR FURTHER INFORMATION CONTACT:** Ron W. Kokel, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, (703/358-1838).**SUPPLEMENTARY INFORMATION:** In the March 20, 1998, **Federal Register** (63 FR 13748), the Service requested proposals from Indian tribes wishing to establish special migratory bird hunting regulations for the 1998-99 hunting season, under the guidelines described in the June 4, 1985, **Federal Register** (50 FR 23467). The Service developed guidelines in response to tribal requests for recognition of their reserved hunting rights and, for some tribes, recognition of their authority to regulate hunting by both tribal and non-tribal members on their reservations. The guidelines include possibilities for:

(1) On-reservation hunting by both tribal and non-tribal members, with hunting by non-tribal 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 to September 1 closed season mandated by the 1916 Migratory Bird Treaty with Canada. The guidelines apply to those tribes having recognized reserved hunting rights on Federal Indian reservations (including off-reservation trust lands) and on ceded lands. They also apply to establishing migratory bird hunting regulations for non-tribal members on all lands within the exterior boundaries of reservations where tribes have full wildlife management authority over such hunting or where the tribes and affected States otherwise have reached agreement over hunting by non-tribal members on lands owned by non-Indians within the reservation.

Tribes usually have the authority to regulate migratory bird hunting by nonmembers on Indian-owned reservation lands, subject to Service approval. The question of jurisdiction is more complex on reservations that include lands owned by non-Indians, especially when the surrounding States have established or intend to establish regulations governing hunting by non-Indians on these lands. In such cases, the Service encourages the tribes and States to reach agreement on regulations that would apply throughout the reservations. When appropriate, the Service will consult with a tribe and State with the aim of facilitating an accord. The Service also will consult jointly with tribal and State officials in the affected States where tribes wish to establish special hunting regulations for tribal members on ceded lands.

Because of past questions regarding interpretation of what events trigger the consultation process, as well as who initiates it, the Service provides the following clarification. The Service routinely provides copies of **Federal Register** publications to all State Directors, tribes and other interested parties. It is the responsibility of the States, tribes and others to notify the Service of any concern regarding any feature(s) of any regulations to the attention of the Service. When the Service receives such notification, we will initiate consultation.

Service guidelines provide for the continued harvest of waterfowl and other migratory game birds by tribal members on reservations where it has been a customary practice. The Service does not oppose this harvest, provided it does not take place during the closed season defined by the 1916 Migratory

Bird Convention with Canada, and does not adversely affect the status of the migratory bird resource.

Before developing the guidelines, the Service reviewed available information on the current status of migratory bird populations; reviewed the current status of migratory bird hunting on Federal Indian reservations; and evaluated the potential impact of such guidelines on migratory birds. The Service concluded that the impact of migratory bird harvest by tribal members hunting on their reservations is minimal.

One area of interest in Indian migratory bird hunting regulations relates to hunting seasons for non-tribal members on dates that are within Federal frameworks, but which are different from those established by the State(s) where the reservation is located. A large influx of non-tribal hunters onto a reservation at a time when the season is closed in the surrounding State(s) could result in adverse population impacts on one or more migratory bird species. The guidelines make this unlikely, however, because tribal proposals must include:

(a) Harvest anticipated under the requested regulations;

(b) Methods that will be employed to measure or monitor harvest (such as bag checks, mail questionnaires, etc.);

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

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

The Service may modify or establish regulations experimentally, after evaluation and confirmation of harvest information obtained by the tribes.

The Service believes the guidelines provide appropriate opportunity to accommodate the reserved hunting rights and management authority of Indian tribes while ensuring that the migratory bird resource receives necessary protection. The conservation of this important international resource is paramount. The guidelines should not be viewed as inflexible. In this regard, the Service notes that they have been employed successfully since 1985. The Service believes they have been tested adequately and therefore, made them final beginning with the 1988-89 hunting season. It should be stressed here, however, that use of the guidelines is not mandatory and no action is required if a tribe wishes to observe the hunting regulations established by the State(s) in which the reservation is located.

In summary, this document proposes 1998–99 season migratory bird hunting regulations for participating tribes.

Hunting Season Proposals From Indian Tribes and Organizations

For the 1998–99 hunting season, the Service received requests from nineteen tribes and Indian organizations appropriate for **Federal Register** publication. The Service actively solicits regulatory proposals from other tribal groups that are interested in working cooperatively for the benefit of waterfowl and other migratory game birds. The Service encourages tribes to work with us to develop agreements for management of migratory bird resources on tribal lands.

It should be noted that this proposed rule includes generalized regulations for both early- and late-season hunting. A final rule will be published in a late-August 1998 **Federal Register** that will include tribal regulations for the early-hunting season. The early season begins on September 1 each year and most commonly includes such species as mourning doves and white-winged doves. A final rule will also be published in a September 1998 **Federal Register** that will include regulations for late-season hunting. The late season begins on or around October 1 and most commonly includes waterfowl species.

In this current rulemaking, because of the compressed time frame for establishing regulations for Indian tribes and because final frameworks dates and other specific information are not available, the regulations for many tribal hunting seasons are described in relation to the season dates, season length and limits that will be permitted when final Federal frameworks are announced for early- and late-season regulations. For example, daily bag and possession limits for ducks on some areas are shown as "Same as permitted Pacific Flyway States under final Federal frameworks," and limits for geese will be shown as the same permitted by the State(s) in which the tribal hunting area is located.

The proposed frameworks for early-season regulations were published in the **Federal Register** on July 17, 1998 (63 FR 38700); early-season final frameworks will be published in mid-August. Proposed late-season frameworks for waterfowl and coots will be published in mid-August, and the final frameworks for the late seasons will be published in mid-September. The Service will notify affected tribes of season dates, bag limits, etc., as soon as final frameworks are established. As previously discussed, no action is required by tribes wishing to observe

migratory bird hunting regulations established by the State(s) where they are located.

The proposed regulations for the twenty tribes with proposals that meet the established criteria are shown below.

(a) Colorado River Indian Tribes, Colorado River Indian Reservation, Parker, Arizona (Tribal Members and Non-Tribal Hunters)

The Colorado River Indian Reservation is located in Arizona and California. The tribes own almost all lands on the reservation, and have full wildlife management authority.

In their 1998–99 proposal, dated May 21, 1998, the Colorado River Indian Tribes requested split dove seasons. They propose their early season begin September 1 and end September 15, 1998. Daily bag limits would be 10 mourning or 10 white-winged doves either singly or in the aggregate. The late season for doves is proposed to open November 21, 1998, and close January 4, 1999. A daily bag limit would be 10 mourning doves. The possession limit would be twice the daily bag limit. Shooting hours would be from one-half hour before sunrise to noon. Other special tribally set regulations would apply.

The tribes also propose duck hunting seasons. The season would open on a Saturday and run for the maximum number of days allowed under the Pacific Flyway frameworks through January 17, 1998. The tribes propose the same season dates for coots and common moorhens. The daily bag limit for ducks, including mergansers, would be the same as that allowed in the Pacific Flyway. The possession limit would be twice the daily bag limit. The daily bag limit for coots and common moorhens would be 25, singly or in the aggregate. The possession limit for coots and common moorhens would be twice the daily bag limit.

For geese, the Colorado River Indian Tribes propose a season of November 21, 1998, through January 17, 1999. The daily bag and possession limits for geese would be 4.

In 1996, the tribe conducted a detailed assessment of dove hunting. Results showed approximately 16,100 mourning doves and 13,600 white-winged doves were harvested by approximately 2,660 hunters who averaged 1.45 hunter-days. Field observations and permit sales indicate that fewer than 200 hunters participate in waterfowl seasons. Under the proposed regulations described here and, based upon past seasons, the tribes

and the Service estimate harvest will be similar.

Hunters must have a valid Colorado River Indian Reservation hunting permit in their possession while hunting. As in the past, the regulations would apply both to tribal and non-tribal hunters, and non-toxic shot is required for waterfowl hunting. The Service proposes to approve the Colorado River Indian Tribes regulations for the 1998–99 hunting season.

(b) Confederated Salish and Kootenai Tribes, Flathead Indian Reservation, Pablo, Montana (Non-Tribal Hunters)

For the past several years, the Confederated Salish and Kootenai Tribes and the State of Montana have entered into cooperative agreements for the regulation of hunting on the Flathead Indian Reservation. The State and the tribes are currently operating under a cooperative agreement signed in 1990 that addresses fishing and hunting management and regulation issues of mutual concern. This agreement enables all hunters to utilize waterfowl hunting opportunities on the reservation. The tribes proposed special regulations for waterfowl hunting were submitted to the Service in a June 8, 1998, proposal.

As in the past, tribal regulations for non-tribal members would be at least as restrictive as those established for the Pacific Flyway portion of Montana. Goose season dates would also be at least as restrictive as those established for the Pacific Flyway portion of Montana.

Shooting hours for waterfowl hunting on the Flathead Reservation are sunrise to sunset. Steel, bismuth-tin, or other Federally-approved non-toxic shots are the only legal shotgun loads on the reservation for waterfowl or other game birds.

The requested season dates and bag limits are generally similar to past regulations. Harvest levels are not expected to change significantly. Standardized check station data from the 1993–94 and 1994–95 hunting seasons indicated no significant changes in harvest levels and that the large majority of the harvest is by non-tribal hunters.

The Service proposes to approve the tribes' request for special migratory bird regulations for the 1999–99 hunting season.

(c) Crow Creek Sioux Tribe, Crow Creek Indian Reservation, Fort Thompson, South Dakota (Tribal Members and Non-Tribal Hunters)

The Crow Creek Indian Reservation has a checkerboard pattern of land ownership, with much of the land

owned by non-Indians. Since the 1993–94 season, the tribe has selected special waterfowl hunting regulations independent of the State of South Dakota. The tribe observes migratory bird hunting regulations contained in 50 CFR part 20.

In a May 13, 1998, proposal, the tribe requested that a duck and goose season starting approximately October 3, 1998, and running until January 10, 1998, or for the maximum number of days allowed under final Federal frameworks, with the same daily bag and possession limits permitted by the final Federal frameworks. The season and bag limits would be essentially the same as last year, given the final Federal frameworks. In addition to the above goose season, the tribe has also proposed a light goose only season from February 17 through March 10, 1999.

The tribe expects harvest to be low because of the small number of hunters. In 1994–95, duck harvest was 48 birds, down from 67 in 1993–94. Goose harvest during recent past seasons has been less than 100 geese. Harvest for the 1998–99 coming season should be similar.

The tribe also requests a sandhill crane season from September 19 to October 25, 1998. Bag and possession limits would follow final Federal frameworks.

The Service proposes to approve the tribal requests provided that the tribe's light goose season is limited to no more than 107 days of hunting. Under the Migratory Bird Treaty, all non-tribal hunting season are limited to no more than 107 days. The Service also reminds the tribe that all sandhill crane hunters are required to obtain a Federal sandhill crane permit. As such, the tribe should contact the Service for further information on obtaining the needed permits. In addition, as with all other groups, the Service requests the tribe continue to survey and report harvest.

(d) Fond du Lac Band of Lake Superior Chippewa Indians, Cloquet, Minnesota (Tribal Members Only)

In 1996, for the first time, the Service and the Fond du Lac Band of Lake Superior Chippewa Indians cooperated to establish special migratory bird hunting regulations for tribal members. The Fond du Lac's May 27, 1998, proposal covers land set apart for the band under the Treaty of 1854 in northeast Minnesota.

The band's proposal for 1998–99 is essentially the same as that approved by the Service last year. Specifically, the Fond du Lac Band proposes a September 19 to November 22, 1998, season on ducks, mergansers, coots and

moorhens, and a September 5 to November 22, 1998, season for geese. For sora and Virginia rails, snipe, and woodcock, the Fond du Lac Band proposes a September 1 to November 22, 1998, season. Proposed bag limits would consist of the following:

Ducks

Daily Bag Limit: 20 ducks, including no more than 10 mallards (only 5 of which may be hens), 4 black ducks, 4 redheads, 4 pintails, and 2 canvasbacks.

Mergansers

Daily Bag Limit: 5 mergansers, including no more than 1 hooded merganser.

Geese

Daily Bag Limit: 10 geese.

Coots and Common Moorhens (Common Gallinules)

Daily Bag Limit: 20 coots and common moorhens, singly or in the aggregate.

Sora and Virginia Rails

Daily Bag and Possession Limit: 25 sora and Virginia rails singly, or in the aggregate.

Common Snipe

Daily Bag Limit: 8 common snipe.

Woodcock

Daily Bag Limit: 5 woodcock.

The following general conditions apply:

1. While hunting waterfowl, a tribal member must carry on his/her person a valid tribal waterfowl hunting permit.
2. Except as otherwise noted, tribal members will be required to comply with tribal codes that will be no less restrictive than the provisions of Chapter 10 of the Model Off-Reservation Code. Except as modified by the Service rules adopted in response to this proposal, these amended regulations parallel Federal requirements in 50 CFR part 20 as to hunting methods, transportation, sale, exportation and other conditions generally applicable to migratory bird hunting.
3. Band members in each zone will comply with State regulations providing for closed and restricted waterfowl hunting areas.
4. Possession limits for each species are double the daily bag limit, except on the opening day of the season, when the possession limit equals the daily bag limit, unless otherwise noted above. Possession limits are applicable only to transportation and do not include birds which are cleaned, dressed, and at a member's primary residence. For

purposes of enforcing bag and possession limits, all migratory birds in the possession or custody of band members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as having been taken on-reservation. All migratory birds which fall on reservation lands will not count as part of any off-reservation bag or possession limit.

The Band and the Service anticipate harvest will be fewer than 500 ducks and geese and 150 coots.

The Service proposes to approve the request for special migratory bird hunting regulations for the Fond du Lac Band of Lake Superior Chippewa.

(e) Grand Traverse Band of Ottawa and Chippewa Indians, Suttons Bay, Michigan (Tribal Members Only)

In the 1995–96 migratory bird seasons, the Grand Traverse Band of Ottawa and Chippewa Indians and the Service first cooperated to establish special regulations for waterfowl. The Grand Traverse Band is a self-governing, federally recognized tribe located on the west arm of Grand Traverse Bay in Leelanau County, Michigan. The Grand Traverse Band is a signatory tribe of the Treaty of 1836. The Service has approved special regulations for tribal members of the 1836 treaty's signatory tribes on ceded lands in Michigan since the 1986–87 hunting season.

For the 1998–99 season, the Grand Traverse Band of Ottawa and Chippewa Indians proposes a tribal member duck season that would run from September 20, 1998, through January 20, 1999. A daily bag limit of 10 would include no more than 1 pintail, 1 canvasback, 1 hooded merganser, 2 black ducks, 2 wood ducks, 2 redheads, and 5 mallards (only 2 of which may be hens).

For Canada geese, the tribe proposes a September 1 through November 30, 1998, and a January 1 through February 8, 1999, season. For white-fronted geese, brant, and snow geese, the tribe proposes an October 1 through November 30, 1998, season. The daily bag limit for all geese (including brant) would be 5 birds. Based on Service information, it is unlikely that any Canada geese from the Southern James Bay Population would be harvested by the tribe.

For woodcock, snipe, and sora rail, the tribe proposes a September 1 to November 14, 1998, season. The daily bag limit shall not exceed 5 birds per species.

All other Federal regulations contained in 50 CFR part 20 would apply.

The tribe proposes to closely monitor harvest through game bag checks, patrols, and mail surveys. In particular, the tribe proposes monitoring the harvest of Southern James Bay Canada geese to assess any impacts of tribal hunting on the population.

The Service proposes to approve the Grand Traverse Band of Ottawa and Chippewa Indian's requested 1998–99 special migratory bird hunting regulations.

(f) Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin (Tribal Members Only)

Since 1985, various bands of the Lake Superior Tribe of Chippewa Indians have exercised judicially recognized off-reservation hunting rights for migratory birds in Wisconsin. The specific regulations were established by the Service in consultation with the Wisconsin Department of Natural Resources and the Great Lakes Indian Fish and Wildlife Commission (GLIFWC, which represents the various bands). Beginning in 1986, a tribal season on ceded lands in the western portion of the State's Upper Peninsula was developed in coordination with the Michigan Department of Natural Resources, and the Service has approved special regulations for tribal members in both Michigan and Wisconsin since the 1986–87, hunting season. In 1987, the GLIFWC requested and the Service approved special regulations to permit tribal members to hunt on ceded lands in Minnesota, as well as in Michigan and Wisconsin. The States of Michigan and Wisconsin concurred with the regulations, although Wisconsin has raised some concerns each year. Minnesota did not concur with the regulations, stressing that the State would not recognize Chippewa Indian hunting rights in Minnesota's treaty area until a court with jurisdiction over the State acknowledges and defines the extent of these rights. The Service acknowledged the State's concern, but pointed out that the United States Government has recognized the Indian hunting rights decided in the Voigt case, and that acceptable hunting regulations have been negotiated successfully in both Michigan and Wisconsin even though the Voigt decision did not specifically address ceded land outside Wisconsin. The Service believes this is appropriate because the treaties in question cover ceded lands in Michigan (and Minnesota), as well as in Wisconsin. Consequently, in view of the above, the Service has approved special regulations since the 1987–88 hunting season on ceded lands in all three

States. In fact, this recognition of the principle of reserved treaty rights for band members to hunt and fish was pivotal in a Service decision to approve a special 1991–92 season for the 1836 ceded area in Michigan.

Recently, certain GLIFWC member bands have brought suit to resolve the issue of hunting, fishing and gathering rights in the Minnesota ceded areas covered under the 1837 and 1854 treaties. The Federal Government has intervened in support of the bands.

In a May 29, 1998, letter, the GLIFWC proposed off-reservation special migratory bird hunting regulations for the 1998–99 seasons. Details of the proposed regulations are shown below. In general, the proposal is essentially the same as the regulations approved for the 1997–98 season.

Results of the 1997–98 hunter survey show that 1,022 ducks and 183 geese were harvested under an anticipated harvest of 3,000 ducks and 900 geese. Under the proposed regulations, harvest is expected to be similar to last year and most likely would not exceed 3,000 ducks and 900 geese.

The Service believes that regulations advanced by the GLIFWC for the 1998–99 hunting season are biologically acceptable and recommends approval. If the regulations are finalized as proposed, the Service would request that the GLIFWC closely monitor the member band duck harvest and take any actions necessary to reduce harvest if locally nesting populations are being significantly impacted.

The Commission and the Service are parties to a Memorandum of Agreement (MOA) designed to facilitate the ongoing enforcement of Service-approved tribal migratory bird regulations. Its intent is to provide long-term cooperative application.

Also, as in recent seasons, the proposal contains references to Chapter 10 of the Migratory Bird Harvesting Regulations of the Model Off-Reservation Conservation Code. Chapter 10 regulations parallel State and Federal regulations and, in effect, are not changed by this proposal.

The GLIFWC's proposed 1998–99 waterfowl hunting season regulations are as follows:

Ducks

A. Wisconsin and Minnesota 1837 and 1842 Zones

Season Dates: Begin September 15 and end December 1, 1998.

Daily Bag Limit: 20 ducks, including no more than 10 mallards (only 5 of which may be hens), 4 black ducks, 4 redheads, 4 pintails, and 2 canvasbacks.

B. Michigan 1836 and 1842 Treaty Zones

Season Dates: Begin September 15 and end December 1, 1998.

Daily Bag Limit: 10 ducks, including no more than 5 mallards (only 2 of which may be hens), 2 black ducks, 2 redheads, 2 pintails, and 1 canvasback.

Mergansers

A. Wisconsin and Minnesota 1837 and 1842 Zones

Season Dates: Begin September 15 and end December 1, 1998.

Daily Bag Limit: 5 mergansers.

B. Michigan 1836 and 1842 Treaty Zones

Season Dates: Begin September 15 and end December 1, 1998.

Daily Bag Limit: 5 mergansers, including no more than 1 hooded merganser.

Geese: Canada Geese

A. Wisconsin and Minnesota 1837 and 1842 Zones

Season Dates: Begin September 15 and end December 1, 1998.

Daily Bag Limit: 10 Canada geese, minus the number of blue, snow or white-fronted geese taken.

B. Michigan, 1836 and 1842 Treaty Zones

Season Dates: Begin September 15 and end December 1, 1998. In addition, the same dates and season length permitted the State of Michigan during the Special September Canada goose Season.

Daily Bag Limit: 10 Canada geese, minus the number of blue, snow or white-fronted geese taken. In addition, the same bag limit permitted the State of Michigan during the Special September Canada goose Season.

Geese: Blue, Snow and White-fronted Geese

A. Wisconsin and Minnesota 1837 and 1842 Zones

Season Dates: Begin September 15 and end December 1, 1998.

Daily Bag Limit: 10 geese, minus the number of Canada geese taken.

B. Michigan 1836 and 1842 Treaty Zones

Season Dates: Begin September 15 and end December 1, 1998.

Daily Bag Limit: 10 geese, minus the number of Canada geese taken.

Other Migratory Birds: All Ceded Areas

A. Coots and Common Moorhens
(Common Gallinules)

Season Dates: Begin September 15 and end December 1, 1998.

Daily Bag Limit: 20 coots and common moorhens (common gallinules), singly or in the aggregate.

B. Sora and Virginia Rails

Season Dates: Begin September 15 and end December 1, 1998.

Daily Bag Limit: 25 sora and Virginia rails singly, or in the aggregate.

C. Common Snipe

Season Dates: Begin September 15 and end December 1, 1998.

Daily Bag Limit: 8 common snipe.

D. Woodcock

Season Dates: Begin September 8 and end December 1, 1998.

Daily Bag Limit: 5 woodcock.

General Conditions

1. While hunting waterfowl, a tribal member must carry on his/her person a valid tribal waterfowl hunting permit.

2. Except as otherwise noted, tribal members will be required to comply with tribal codes that will be no less restrictive than the provisions of Chapter 10 of the Model Off-Reservation Code. Except as modified by the Service rules adopted in response to this proposal, these amended regulations parallel Federal requirements in 50 CFR part 20 as to hunting methods, transportation, sale, exportation and other conditions generally applicable to migratory bird hunting.

3. Tribal members in each zone will comply with State regulations providing for closed and restricted waterfowl hunting areas.

4. Possession limits for each species are double the daily bag limit, except on the opening day of the season, when the possession limit equals the daily bag limit, unless otherwise noted above.

Possession limits are applicable only to transportation and do not include birds which are cleaned, dressed, and at a member's primary residence. For purposes of enforcing bag and possession limits, all migratory birds in the possession or custody of tribal members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as having been taken on-reservation. In Wisconsin, such tagging will comply with applicable State laws. All migratory birds which fall on reservation lands will not count as part of any off-reservation bag or possession limit.

5. Minnesota and Michigan—Duck Blinds and Decoys. Tribal members hunting in Michigan and Minnesota will comply with tribal codes that contain provisions that parallel applicable State laws concerning duck blinds and/or decoys.

(g) Jicarilla Apache Tribe, Jicarilla Indian Reservation, Dulce, New Mexico
(Tribal Members and Non-Tribal Hunters)

The Jicarilla Apache Tribe has had special migratory bird hunting regulations for tribal members and nonmembers since the 1986–87 hunting season. The tribe owns all lands on the reservation and has recognized full wildlife management authority. In general, the proposed seasons would be more conservative than allowed by the Federal frameworks of last season and by States in the Pacific Flyway.

In a May 13, 1998, proposal, the tribe proposed a 1998–99 waterfowl season opening date of October 3 and a closing date of November 30, 1998. Daily bag and possession limits would be the same as Pacific Flyway States. The tribe proposes a new, restrictive season on Canada geese with a 1-bird daily bag limit. Other regulations specific to the Pacific Flyway guidelines for New Mexico would be in effect.

The Jicarilla Game and Fish Department's annual estimate of waterfowl harvest is relatively small. In the 1996–97 season, estimated duck harvest was 816, a significant decrease from 1,234 in 1996–97. The species composition in the past has included mainly mallards, gadwall, wigeon, and teal. Northern pintail comprised only 2 percent of the total harvest in 1997.

The proposed regulations are essentially the same as were established last year, with the exception of an open season on Canada geese. The tribe anticipates the maximum 1998–99 waterfowl harvest would be around 1,000 to 1,400 ducks and 25 to 50 geese.

The Service proposes to approve the tribe's requested 1998–99 hunting seasons.

(h) Kalispel Tribe, Kalispel Reservation, Usk, Washington
(Tribal Members and Non-Tribal Hunters)

The Kalispel Reservation was established by Executive Order in 1914, and currently comprises approximately 4,600 acres. The tribe owns all Reservation land and has full management authority. The Kalispel Tribe has a fully developed wildlife program with hunting and fishing codes. The tribe enjoys excellent wildlife management relations with the State. The tribe and the State have an

operational Memorandum of Understanding with emphasis on fisheries but also for wildlife. The non-tribal member seasons described below pertain to a 176-acre waterfowl management unit. The tribe is utilizing this opportunity to rehabilitate an area that needs protection because of past land use practices, as well as to provide additional waterfowl hunting in the area.

In 1996, for the first time, the requested regulations also included a proposal for Kalispel-member only migratory bird hunting on Kalispel-ceded lands within Washington, Montana, and Idaho.

For the 1998–99 migratory bird hunting seasons, the Kalispel Tribe proposed, in a June 29, 1998, letter, tribal and non-tribal member waterfowl seasons. For non-tribal members, the tribe requests seasons which begin September 1, 1998 and end January 31, 1999. In that period, non-tribal hunters would be allowed to hunt on weekends, holidays and continuously in the month of December for a total of about 99 days. Hunters should obtain further information on days from the Kalispel Tribe. Daily bag and possession limits would be the same as those for the State of Washington. The tribe reports a 1997–98 non-tribal harvest of 6 ducks and 0 geese. Under the proposal, the tribe expects harvest to be similar to last year and less than 200 geese and 250 ducks.

All other State and Federal regulations contained in 50 CFR part 20, such as use of steel shot and possession of a signed migratory bird hunting stamp, would be required.

For tribal members on Kalispel-ceded lands, the Kalispel proposes outside frameworks for ducks and geese of September 1, 1998, through January 31, 1999. However, during that period, the tribe proposes that the season run continuously. Daily bag and possession limits would be the same as those for the States of Washington and Idaho. The tribe reports that there was no 1997–98 tribal harvest. Under the proposal, the tribe expects harvest to be less than 250 geese and 250 ducks.

Tribal members would be required to possess a signed Federal migratory bird stamp and a tribal ceded lands permit.

The Service proposes to approve the regulations requested by the Kalispel Tribe provided that the non-tribal seasons conform to final Federal frameworks for the Pacific Flyway. For the 1998–99 season, outside Federal frameworks in the Pacific Flyway are October 3, 1998, through January 17, 1999 for ducks and geese.

*(I) Klamath Tribe, Chiloquin, Oregon
(Tribal Members Only)*

The Klamath Tribe currently has no reservation, per se. However, the Klamath Tribe has reserved hunting, fishing and gathering rights within its former reservation boundary. This area of former reservation, granted to the Klamaths by the Treaty of 1864, is over 1 million acres. Tribal natural resource management authority is derived from the Treaty of 1864, and carried out cooperatively under the judicially enforced Consent Decree of 1981. The parties to this Consent Decree are the Federal Government, the State of Oregon and the Klamaths. The Klamath Indian Game Commission sets the seasons. The tribal biological staff and tribal Regulatory Enforcement Officers monitor tribal harvest by frequent bag checks and hunter interviews.

In a July 14, 1998, letter, the Klamath Tribe proposed season dates that run from October 1, 1998, through January 31, 1999. Daily bag limits would be 9 for ducks and 6 for geese with possession limits twice the daily bag limit. The daily bag and possession limit for coots would be 25. Shooting hours would be one-half hour before sunrise to one-half hour after sunset.

Based on the number of birds produced in the Klamath Basin, the tribe expects that this year's harvest will be similar to last year's. Information on tribal harvest suggests that more than 70 percent of the annual goose harvest is local birds produced in the Klamath basin.

The Service proposes to approve the regulations of the Klamath Tribe.

*(j) Lower Brule Sioux Tribe, Lower Brule Reservation, Lower Brule, South Dakota
(Tribal Members and Non-Tribal Hunters)*

The Lower Brule Sioux Tribe first established tribal migratory bird hunting regulations for the Lower Brule Reservation in 1994. The Lower Brule Reservation is about 214,000 acres in size and is located on and adjacent to the Missouri River, south of Pierre. Land ownership on the reservation is mixed, and until recently, the Lower Brule Tribe had full management authority over fish and wildlife via a MOA with the State of South Dakota. The MOA provided the tribe jurisdiction over fish and wildlife on reservation lands, including deeded and Corps of Engineers taken lands. However, the tribe is currently in litigation with the State of South Dakota regarding jurisdiction. A recent Federal District Court ruling and consequent Circuit Court decisions have jeopardized the

Tribal/State Agreement that had been in place from 1986 to 1996. At this time, the ruling is being appealed to the U.S. Supreme Court and a motion for a stay has been filed. For the 1998–99 season, the two parties have come to a tentative agreement and meetings between the Lower Brule Sioux Tribe and the South Dakota Department of Game, Fish and Parks are continuing. It is anticipated that an agreement will be established and management authority clarified to allow the public a clear understanding of the Lower Brule Sioux Wildlife Department license requirements and hunting season regulations. The Lower Brule Reservation waterfowl season is open to tribal and non-tribal hunters.

For the 1998–99 migratory bird hunting season, the Lower Brule Sioux Tribe proposes a duck and coot season length of 97 days, the same number of days tentatively allowed in the High Plains Management Unit for this season. The tribe's proposed season would run from October 3, 1998, through January 7, 1999. The daily bag limit would be 6 birds, including no more than 5 mallards (only 1 of which may be a hen), 1 pintail, 2 redheads, 2 wood ducks, 1 canvasback, 1 hooded merganser, and 1 mottled duck. The daily bag limit for coots would be 15. Possession limits would be twice the daily bag limits. The tribe also proposes a 2-day youth waterfowl weekend on September 26 and 27, 1998.

The tribe's proposed dark goose season would run from October 17, 1998, through January 10, 1999, with a daily bag limit of 3 dark geese, which may not include more than 1 white-fronted geese. The tribe's proposed light goose season would run from October 17, 1998, through January 10, 1999, and February 18 through March 10, 1999. The light goose daily bag limit would be 10. Possession limits would be twice the daily bag limits.

The tribe also proposes a tundra swan season running from October 17, 1998, to January 10, 1999 with a 1 tundra swan season bag limit.

In the 1997–98 season, hunters harvested an estimated 2,504 geese and 609 ducks. In 1994, duck harvest species composition was primarily mallard (57 percent), gadwall (10 percent), and green-winged teal (10 percent). Goose harvest is traditionally, 98 percent Canada geese.

The tribe anticipates a duck harvest similar to last year, a goose harvest similar to the target harvest level of 3,000 to 4,000 geese, and 3 to 5 tundra swans if its 1998–99 regulations are approved. All basic Federal regulations contained in 50 CFR part 20, including the use of steel shot, Migratory

Waterfowl Hunting and Conservation Stamp, etc., would be observed by the tribe's proposed regulations. In addition, the Lower Brule Sioux Tribe has an official Conservation Code that was established by Tribal Council Resolution on June 1982 and updated in 1996.

The Service proposes to approve the tribe's proposed regulations for the Lower Brule Reservation with two exceptions. First, Federal frameworks for tundra swan hunting in South Dakota do not allow tundra swan seasons west of the Missouri River because of concerns for the potential harvest of trumpeter swans. Thus, the Service cannot approve the tribe's requested tundra swan season. Second, the July 17, 1998, (63 FR 38700) proposed early-season frameworks provided for a 1-day special youth waterfowl hunt. Any special youth waterfowl hunt for non-tribal members should conform to the final Federal frameworks to be published in late August.

*(k) Navajo Nation, Navajo Indian Reservation, Window Rock, Arizona
(Tribal Members and Non-Tribal Hunters)*

Since 1985, the Service has established uniform migratory bird hunting regulations for tribal members and nonmembers on the Navajo Indian Reservation (in parts of Arizona, New Mexico, and Utah). The nation owns almost all lands on the reservation and has full wildlife management authority.

In a July 20, 1998, communication, the tribe proposed special migratory bird hunting regulations on the reservation for both tribal and non-tribal members for the 1998–99 hunting season for ducks (including mergansers), Canada geese, coots, band-tailed pigeons, and mourning doves. For waterfowl, the Navajo Nation requests the earliest opening dates and longest seasons, and the same daily bag and possession limits, permitted Pacific Flyway States under final Federal frameworks.

For both mourning dove and band-tailed pigeons, the Navajo Nation proposes seasons of September 1 through 30. The Navajo Nation also proposes daily bag limits of 10 and 5 for mourning dove and band-tailed pigeon, respectively. Possession limits would be twice the daily bag limits.

In addition, the nation proposes to require tribal members and non-members to comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 pertaining to shooting hours and manner of taking. In addition, each waterfowl hunter 16

years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face. Special regulations established by the Navajo Nation also apply on the reservation.

The Service proposes to approve the Navajo Nation request for these special regulations for the 1998–99 migratory bird hunting seasons.

(l) Oneida Tribe of Indians of Wisconsin, Oneida, Wisconsin (Tribal Members Only)

Since 1991–92, the Oneida Tribe of Indians of Wisconsin and the Service have cooperated to establish uniform regulations for migratory bird hunting by tribal and non-tribal hunters within the original Oneida Reservation boundaries. Since 1985, the Oneida Tribe's Conservation Department has enforced their own hunting regulations within those original reservation limits. The Oneida Tribe also has a good working relationship with the State of Wisconsin and the majority of the seasons and limits are the same for the tribe and Wisconsin.

In a May 19, 1998, letter to the Service, the tribe proposed special migratory bird hunting regulations. For ducks, the tribe described the general "outside dates" as being September 19 through November 15, 1998, inclusive. The tribe proposes a daily bag limit of 6 birds, which could include no more than 4 mallards (1 hen mallard), 5 wood ducks, 1 canvasback, 1 redhead, 2 pintails, and 1 hooded merganser.

For geese, the tribe recommends a season between September 1 and December 31, 1998, with a Canada goose bag limit of 3 tribally-tagged geese per day. The tribe will reissue 3 tags when 3 birds are registered. The possession limit for Canada geese is 6. The tribe will also close the season during the gun deer season of November 21 to 29, 1998. If a quota of 150 geese is attained before the season concludes, the tribe will recommend closing the season early.

For woodcock, the tribe proposes a season between September 1 and November 15, 1998, with a daily bag and possession limit of 5 and 10, respectively.

The tribe proposes shooting hours be one-half hour before sunrise to sunset. Tribal members and non-tribal members hunting on the Reservation or on lands under the jurisdiction of the tribe will observe all basic Federal migratory bird hunting regulations found in 50 CFR, with the following exceptions: Indian hunters would be exempt from the purchase of the Migratory Waterfowl Hunting and Conservation Stamp (Duck

Stamp); and shotgun capacity would not be limited to 3 shells.

The Service proposes to approve the request for special migratory bird hunting regulations for the Oneida Tribe of Indians of Wisconsin. The Service again notes that the Oneida tribe has traditionally delayed the opening of their duck season to September 15 to avoid possible significant impacts on local nesting duck populations and commends the tribe for these conservation efforts.

(m) Point No Point Treaty Tribes, Kingston, Washington (Tribal Members Only)

For the first time in 1996, the Service and the Point No Point Treaty Tribes, consisting of the Skokomish, Port Gamble S'klallam, Jamestown S'klallam, and Elwha S'klallam tribes, cooperated to establish special regulations for migratory bird hunting. The four tribes have reservations located on the Olympic Peninsula in Washington. All four tribes have successfully administered tribal hunting regulations since 1985 and each tribe has a comprehensive hunting ordinance.

The tribes' July 20, 1998, proposal requests seasons for ducks, geese, brant, coots, snipe, and mourning doves. For ducks, coots, geese (including brant), and snipe, the tribes request a September 15, 1998, to January 15, 1999, season with a daily bag limit of 7 ducks, 25 coots, 4 geese (including no more than 2 brant or 3 light geese), and 8 snipe. The duck daily bag limit would include mergansers and could include no more than 2 hen mallards, 3 pintails, 1 canvasback, and 2 redheads. The season is closed on harlequin ducks and Aleutian Canada geese. All possession limits would be twice the daily bag limit. For mourning doves, the tribes propose a September 1 to September 30, 1998, season with a daily bag limit of 10.

Tribal harvest last year under similar regulations was approximately 110 ducks, 25 geese and 20 coots. The Service proposes to approve the Point No Point Treaty Tribes requested 1998–99 regulations.

(n) Shoshone-Bannock Tribes, Fort Hall Indian Reservation, Fort Hall, Idaho (Non-Tribal Hunters)

Almost all of the Fort Hall Indian Reservation is tribally-owned. The tribes claim full wildlife management authority throughout the reservation, but the Idaho Fish and Game Department has disputed tribal jurisdiction, especially for hunting by non-tribal members on reservation lands owned by non-Indians. As a

compromise, since 1985, the Service has established the same waterfowl hunting regulations on the reservation and in a surrounding off-reservation State zone. The regulations were requested by the tribes and provided for different season dates than in the remainder of the State. The Service agreed to the season dates because they seemed to provide additional protection to mallards and pintails. The State of Idaho concurred with the zoning arrangement. The Service has no objection to the State's use of this zone again in the 1998–99 hunting season, provided the duck and goose hunting season dates are the same as on the reservation.

In a July 29, 1998, proposal for the 1998–99 hunting season, the Shoshone-Bannock Tribes requested a continuous duck (including mergansers) season with the maximum number of days and the same daily bag and possession limits permitted Pacific Flyway States, under final Federal frameworks. The tribes propose that, if the same number of hunting days are permitted as last year, the season would have an opening date of October 4, 1998, and a closing date of January 11, 1999. Coot and snipe season dates would be the same as for ducks, with the same daily bag and possession limits permitted Pacific Flyway States. The tribes anticipate harvest will be between 2,000 and 5,000 ducks.

The tribes also requested a continuous goose season with the maximum number of days and the same daily bag and possession limits permitted Idaho under Federal frameworks. The tribes propose that, if the same number of hunting days are permitted as in previous years, the season would have an opening date of October 4, 1998, and a closing date of January 11, 1999. The tribes anticipate harvest will be between 4,000 and 6,000 geese.

Non-tribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20, pertaining to shooting hours, use of steel shot, and manner of taking. Special regulations established by the Shoshone-Bannock Tribes also apply on the reservation.

The Service notes that the requested regulations are nearly identical to those of last year and proposes they be approved for the 1998–99 hunting season.

(o) Squaxin Island Tribe, Squaxin Island Reservation, Shelton, Washington (Tribal Members Only)

The Squaxin Island Tribe of Washington and the Service have cooperated since 1995 to establish special tribal migratory bird hunting

regulations. These special regulations would apply to tribal members on the Squaxin Island Reservation, located in western Washington near Olympia, and all lands within the traditional hunting grounds of the Squaxin Island Tribe.

For the 1998–99 season, the tribe proposes establishing duck, coot, and snipe seasons that would run from September 15, 1998, through January 15, 1999. The daily bag limit for ducks would be 5 per day and could include only 1 canvasback. The season on harlequin ducks would be closed. For coots and snipe, the daily bag limit would be 25 and 8, respectively.

For geese, the tribe proposes establishing a season that would run from September 15, 1998, through January 15, 1999. The daily bag limit for geese would be 4 per day and could include only 2 snow geese and 1 dusky Canada goose. The season on Aleutian and Cackling Canada geese would be closed.

For brant, the tribe proposes establishing a September 15 to December 31, 1998, season with a daily bag limits of 2 birds per day. The tribe also proposes a September 15 to December 1, 1998, season for band-tailed pigeons with a daily bag limit of 2 per day.

In all cases, the possession limit would be twice the daily bag limit. Shooting hours would be from one-half hour before sunrise to one-half hour after sunset and steel shot would be required for migratory bird hunting. Further, the tribe requires all harvest be reported to their Natural Resources Office within 72 hours.

In 1995, the tribe reported that there was no harvest of any species. Tribal regulations are enforced by the tribe's Law Enforcement Department. The Service proposes to approve the Squaxin Island Tribe's requested 1998–99 special migratory bird hunting regulations.

(p) Swinomish Indian Tribal Community, LaConner, Washington (Tribal Members Only)

In 1996, the Service and the Swinomish Indian Tribal Community began cooperating to establish special regulations for migratory bird hunting. The Swinomish Indian Tribal Community is a federally recognized Indian tribe consisting of the Suiattle, Skagit, and Kikialos tribes. The Swinomish Reservation was established by the Point Elliott Treaty of 1855 and lies in the Puget Sound area north of Seattle, Washington.

The Tribal Community proposes an off-reservation duck, merganser, Canada goose, brant, and coot season opening

on the earliest possible date allowed by the final Federal frameworks for the Pacific Flyway and closing 30 days after the State of Washington closes. Daily bag and possession limits would be the same as those allowed by the State except that the Swinomish request an additional three birds of each species over that allowed by the State.

The Community anticipates that the proposed regulations will result in the harvest of approximately 200 to 300 ducks, 25 to 50 Canada geese, 75 mergansers, 100 brant, and 50 coot. The Swinomish propose a tag and permit system to monitor harvest and will implement steps to limit harvest where conservation is needed. All tribal regulations will be enforced by tribal fish and game officers.

On reservation, the Tribal Community proposes a hunting season for the above mentioned species beginning on the earliest possible opening date and closing March 9, 1999. The Swinomish propose to manage harvest by a tagging system and anticipate harvest will be similar to that expected off reservation.

The Service believes the estimated harvest by the Swinomish will be minimal and will not adversely effect migratory bird populations. The Service proposes to approve the Tribal Community's proposed regulations for the 1998–99 season.

(q) The Tulalip Tribes of Washington, Tulalip Indian Reservation, Marysville, Washington (Tribal Members and Non-Tribal Hunters)

The Tulalip Tribes are the successors in interest to the tribes and bands signatory to the Treaty of Point Elliott of January 22, 1855. The Tulalip Tribes' government is located on the Tulalip Indian Reservation at Marysville, Washington. The tribes or individual tribal members own all of the land on the reservation, and they have full wildlife management authority. All lands within the boundaries of the Tulalip Tribes Reservation are closed to non-member hunting unless opened by Tulalip Tribal regulations.

In a July 22, 1998, letter, the Tulalip Tribes proposed tribal and non-tribal hunting regulations for the 1998–99 seasons. For ducks and coot, the proposed season for tribal members would be from September 15, 1998, through February 1, 1999. In the case of non-tribal hunters hunting on the reservation, the season would be the latest closing date and the longest period of time allowed for the State of Washington under final Pacific Flyway Federal frameworks. Daily bag and possession limits for Tulalip Tribal members would be 6 and 12 ducks,

respectively, except that for blue-winged teal, canvasback, harlequin, pintail, and wood duck, the bag and possession limits would be the same as those established for the State of Washington in accordance with final Federal frameworks. For non-tribal hunters, bag and possession limits would be the same as those permitted the State of Washington under final Federal frameworks. Non-tribal members should check with the Tulalip tribal authorities regarding additional conservation measures which may apply to specific species managed within the region.

For geese, tribal members are proposed to be allowed to hunt from September 15, 1998, through February 1, 1999. Non-tribal hunters would be allowed the longest season and the latest closing date permitted for the State of Washington under final Federal frameworks. For tribal hunters, the goose daily bag and possession limits would be 6 and 12, respectively, except that the bag limits for brant, cackling Canada geese and dusky Canada geese would be those established for the Pacific Flyway in accordance with final Federal frameworks. For non-tribal hunters hunting on reservation lands, the daily bag and possession limits would be those established in accordance with final Federal frameworks for the State of Washington. The Tulalip Tribes also set a maximum annual bag limit on ducks and geese for those tribal members who engage in subsistence hunting.

All hunters on Tulalip Tribal lands are required to adhere to shooting hour regulations set at one-half hour before sunrise to sunset, special tribal permit requirements, and a number of other tribal regulations enforced by the tribe. Non-tribal hunters sixteen years of age and older, hunting pursuant to Tulalip Tribes' Ordinance No. 67, must possess a valid Federal Migratory Bird Hunting and Conservation Stamp and a valid State of Washington Migratory Waterfowl Stamp. Both stamps must be validated by signing across the face.

Although the season length requested by the Tulalip Tribes appears to be quite liberal, harvest information indicates a total take by tribal and non-tribal hunters under 1,000 ducks and 500 geese, annually. The Service proposes approval of the Tulalip Tribes request for the above seasons. The Service requests that harvest be monitored closely and regulations be reevaluated for future years if harvest becomes too great in relation to population numbers.

(r) *White Mountain Apache Tribe, Fort Apache Indian Reservation, Whiteriver, Arizona (Tribal Members and Non-Tribal Hunters)*

The White Mountain Apache Tribe owns all reservation lands, and the tribe has recognized full wildlife management authority. The White Mountain Apache Tribe has requested regulations that are essentially unchanged from those agreed to for the 1997–98 hunting year.

The hunting zone for waterfowl is restricted and is described as: the entire length of the Black and Salt Rivers forming the southern boundary of the reservation; the White River, extending from the Canyon Day Stockman Station to the Salt River; and all stock ponds located within Wildlife Management Units 4, 6 and 7. Tanks located below the Mogollon Rim, within Wildlife Management Units 2 and 3 will be open to waterfowl hunting during the 1998–99 season. All other waters of the reservation would be closed to waterfowl hunting for the 1998–99 season.

For non-tribal and tribal hunters, the tribe proposes a continuous duck, coot, merganser, gallinule and moorhen hunting season, with an opening date of October 24, 1998, and a closing date of January 17, 1999. The tribe proposes a daily duck (including mergansers) bag limit of 4, which may include no more than 2 redheads or 1 canvasback and 1 redhead, 1 pintail, and 3 mallards (including no more than 1 hen mallard). The daily bag limit for coots, gallinules and moorhens would be 25 singly, or in the aggregate.

For geese, the season is proposing a season from October 24, 1998, through January 17, 1999. Hunting would be limited to Canada geese, and the daily bag limit would be 2.

Season dates for band-tailed pigeons and mourning doves would run concurrently from September 1 through September 10, 1998, in Wildlife Management Units 7 and 10, only. Proposed daily bag limits for band-tailed pigeons and mourning doves would be 3 and 8, respectively.

Possession limits for the above species are twice the daily bag limits. Shooting hours would be from one-half hour before sunrise to sunset. There would be no open season for sandhill cranes, rails and snipe on the White Mountain Apache lands under this proposal. A number of special regulations apply to tribal and non-tribal hunters, which may be obtained from the White Mountain Apache Tribe Game and Fish Department.

The Service proposes to approve the regulations requested by the tribe for the 1998–99 seasons.

(s) *Yankton Sioux Tribe, Marty, South Dakota (Tribal Members and Non-Tribal Hunters)*

On May 18, 1998, the Yankton Sioux Tribe submitted a waterfowl hunting proposal for the 1998–99 season. The Yankton Sioux tribal waterfowl hunting season would be open to both tribal members and non-tribal hunters. The waterfowl hunting regulations would apply to tribal and trust lands within the external boundaries of the reservation.

For duck (including mergansers) and coots, the Yankton Sioux Tribe proposes a season starting October 17, 1998, and running for the maximum amount of days allowed under the final Federal frameworks. Daily bag and possession limits would be the same as those adopted by the State of South Dakota.

For geese, the tribe has requested a dark geese (Canada geese, brant, white-fronts) season starting October 31, 1998, and ending January 31, 1999. The daily bag limit would be 3 geese (including no more than 1 whitefront or brant). Possession limits would be twice the daily bag limit. For snow geese, the proposed hunting season would start October 31, 1998, and end January 24, 1999. Daily bag and possession limits would be the same as those adopted by the State of South Dakota.

All hunters would have to be in possession of a valid tribal license while hunting on Yankton Sioux trust lands. Tribal and non-tribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20, pertaining to shooting hours and the manner of taking. Special regulations established by the Yankton Sioux Tribe also apply on the reservation.

During the 1997–98 hunting season, the tribe reported that 54 non-tribal hunters took 225 Canada geese, 30 snow geese, and 60 ducks. Tribal members harvested less than 75 geese and 50 ducks.

The Service concurs with the Yankton Sioux proposal for the 1998–99 hunting season.

Public Comment Invited

The Service intends that adopted final rules be as responsive as possible to all concerned interests and wants to obtain comments from all interested areas of the public, as well as other government agencies. Such comments, and any additional information received, may lead to final regulations that differ from these proposals. However, special circumstances involved in the

establishment of these regulations limit the amount of time the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: the need to establish final rules before September 1, 1998, and the unavailability until late July of specific reliable data for each year's status of waterfowl. Therefore, the Service believes allowing comment periods past the dates specified is contrary to the public interest.

E.O. 12866 requires each agency to write regulations that are easy to understand. The Service invites comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the "Supplementary Information" section of the preamble helpful in understanding the proposed rule? What else could the Service do to make the rule easier to understand?

Send a copy of any comments that concern how this rule could be made easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, D.C. 20240. Comments may also be e-mailed to: Exsec@ios.doi.gov

Comment Procedure

It is the policy of the Department of the Interior to afford the public an opportunity to participate in the rulemaking process, whenever practical. Accordingly, interested persons may participate by submitting written comments to the Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634-ARLSQ, 1849 C Street, NW., Washington, D.C. 20240. The public may inspect comments during normal business hours at the Service's office in Room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, VA. The Service will consider all comments received and will try to acknowledge received comments, but may not provide an individual response to each commenter.

Public Comments Received

The Service received two comments regarding the Notice of Intent published

on March 20, 1998, which announced rulemaking on regulations for migratory bird hunting by American Indian tribal members. The South Dakota Department of Game, Fish, and Parks (South Dakota) commented on the proposal by the Lower Brule Sioux Tribes. South Dakota questioned whether a tundra swan permit would be required or whether all licensed waterfowl hunters would be allowed to take a swan during the Tribes' proposed tundra swan season. They further questioned whether hunters would be queried after the season to determine the harvest, age ratio, date and location of kill, and unretrieved kill. South Dakota also believed that any special youth season on tribal land should conform to the same framework allowed for the State's youth hunting season.

The Wisconsin Department of Natural Resources (Wisconsin) commented on the GLIFWC's proposal. Wisconsin suggested monitoring the impact of the daily bag limit on giant Canada goose restoration efforts and that the Service and GLIFWC initiate and complete studies to show that current GLIFWC duck regulations have no negative impact on local populations before expanding hunting opportunities during time periods when local birds are most vulnerable. Wisconsin also requested that tribal members honor the noon opening for shooting hours for the first day of the State's duck season and comply with the State's open water hunting restrictions.

NEPA Consideration

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)), the "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES-75-74)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975, (40 FR 25241). A supplement to the final environmental statement, the "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (SEIS 88-14)" was filed on June 9, 1988, and notice of availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582), and June 17, 1988 (53 FR 22727). Copies of these documents are available from the Service at the address indicated under the caption **ADDRESSES**. In addition, an August 1985 Environmental Assessment titled "Guidelines for Migratory Bird Hunting

Regulations on Federal Indian Reservations and Ceded Lands" is available from the Service.

Endangered Species Act Considerations

Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531-1543; 87 Stat. 884), provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" (and) shall "insure that any action authorized, funded or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat * * *". Consequently, the Service has initiated section 7 consultation under the Endangered Species Act for the proposed migratory bird hunting seasons including those which occur on Federally recognized Indian reservations and ceded lands.

The Service will include findings from these consultations in a biological opinion and may cause modification of some regulatory measures proposed in this document. The final rule will reflect any modifications. The Service's biological opinion resulting from its Section 7 consultation are public documents available for public inspection in the Service's Division of Endangered Species and Office of Migratory Bird Management, U.S. Fish and Wildlife Service, at the address indicated under the caption **ADDRESSES**.

Regulatory Flexibility Act

In the March 20, 1998, **Federal Register**, the Service reported measures it took to comply with requirements of the Regulatory Flexibility Act. One measure was to prepare a Small Entity Flexibility Analysis (Analysis) in 1996 documenting the significant beneficial economic effect on a substantial number of small entities. The Analysis estimated that migratory bird hunters would spend between \$254 and \$592 million at small businesses. Copies of the Analysis are available upon request from the Office of Migratory Bird Management. The Service is currently updating the 1996 Analysis with information from the 1996 National Hunting and Fishing Survey.

Executive Order (E.O.) 12866

This proposed rule is not economically significant and was not subject to review by the Office of Management and Budget (OMB) under E.O. 12866.

Paperwork Reduction Act

The Service examined these proposed regulations under the Paperwork Reduction Act of 1995 and found no information collection requirements. The various recordkeeping and reporting requirements imposed under other hunting regulations established in 50 CFR part 20, subpart K, are utilized in the formulation of migratory game bird hunting regulations. OMB has approved these information collection requirements and assigned clearance numbers 1018-0015 (expires 08/31/1998) and 1018-0023 (expires 09/30/2000). The Service may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

The Service has determined and certifies in compliance with the requirements of the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this proposed rulemaking will not impose a cost of \$100 million or more in any given year on local or State government or private entities.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this proposed rule, has determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

Taking Implication Assessment

In accordance with Executive Order 12630, these rules, authorized by the Migratory Bird Treaty Act, do not have significant takings implications and do not affect any constitutionally protected property rights. These rules will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise privileges that would be otherwise unavailable; and, therefore, reduce restrictions on the use of private and public property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal government has been given responsibility over these species by the Migratory Bird Treaty Act. The Service annually prescribes frameworks from which the States make selections and employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more

restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulation. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 12612, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Government-to-Government Relationship With Tribes

Due to the migratory nature of certain species of birds, the Federal government has been given responsibility over these species by the Migratory Bird Treaty Act. Thus, in accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951) and 512

DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects on Indian trust resources. However, by virtue of the tribal proposals contained in this proposed rule, we have consulted with all the tribes affected by this rule.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Based on the results of soon to be completed migratory game bird studies, and having due consideration for any data or views submitted by interested parties, this proposed rulemaking may result in the adoption of special hunting regulations for migratory birds beginning as early as September 1, 1998, on certain Federal Indian reservations, off-reservation trust lands, and ceded lands. Taking into account both reserved hunting rights and the degree to which tribes have full wildlife management authority, the regulations only for tribal members or for both tribal and non-tribal members may differ from those established by States in which the reservations, off-reservation trust lands, and ceded lands are located. The

regulations will specify open seasons, shooting hours, and bag and possession limits for rails, coot, gallinules (including moorhen), woodcock, common snipe, band-tailed pigeons, mourning doves, white-winged doves, ducks (including mergansers) and geese.

The rules that eventually will be promulgated for the 1998-99 hunting season are authorized under the Migratory Bird Treaty Act (MBTA) of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 *et seq.*), as amended. The MBTA authorizes and directs the Secretary 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.

Dated: August 7, 1998.

Stephen C. Saunders,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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