

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 20**

RIN 1018-AI30

Migratory Bird Hunting; Supplemental Proposals for Migratory Game Bird Hunting Regulations; Notice of Meetings**AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Proposed rule; supplemental; reopening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service (hereinafter Service or we) proposed in an earlier document to establish annual hunting regulations for certain migratory game birds for the 2002–03 hunting season. This supplement to the proposed rule provides the regulatory schedule; announces the Service Migratory Bird Regulations Committee and Flyway Council meetings; provides Flyway Council recommendations resulting from their April meetings; and provides new information and reopens the comment period on the proposed regulatory alternatives for the 2002–03 duck hunting seasons.

DATES: Comments on the proposed regulatory alternatives for the 2002–03 duck hunting seasons must be submitted by June 21, 2002.

The Service Migratory Bird Regulations Committee will meet to consider and develop proposed regulations for early-season migratory bird hunting on June 19 and 20, 2002, and for late-season migratory bird hunting on July 31 and August 1, 2002. All meetings will commence at approximately 8:30 a.m. You must submit comments on the proposed migratory bird hunting-season frameworks for Alaska, Hawaii, Puerto Rico, the Virgin Islands, and other early seasons by July 30, 2002; and for proposed late-season frameworks by August 30, 2002.

ADDRESSES: The Service Migratory Bird Regulations Committee will meet in room 200 of the U.S. Fish and Wildlife Service's Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. Send your comments on the proposals to the Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634-ARLSQ, 1849 C Street, NW., Washington, DC 20240. All comments received, including names and addresses, will become part of the public record. You may inspect

comments during normal business hours in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Robert J. Blohm, Acting Chief, or Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358-1714.

SUPPLEMENTARY INFORMATION:**Regulations Schedule for 2002**

On March 19, 2002, we published in the **Federal Register** (67 FR 12501) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and dealt with the establishment of seasons, limits, and other regulations for migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. This document is the second in a series of proposed, supplemental, and final rules for migratory game bird hunting regulations. We will publish proposed early-season frameworks and final regulatory alternatives for the 2002–03 duck hunting seasons in early July and late-season frameworks in early August. We will publish final regulatory frameworks for early seasons on or about August 20, 2002, and those for late seasons on or about September 15, 2002.

Service Migratory Bird Regulations Committee Meetings

The Service Migratory Bird Regulations Committee will meet June 19–20, 2002, to review information on the current status of migratory shore and upland game birds and develop 2002–03 migratory game bird regulations recommendations for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands. The Committee will also develop regulations recommendations for special September waterfowl seasons in designated States, special sea duck seasons in the Atlantic Flyway, and extended falconry seasons. In addition, the Committee will review and discuss preliminary information on the status of waterfowl.

At the July 31 and August 1, 2002, meetings, the Committee will review information on the current status of waterfowl and develop 2002–03 migratory game bird regulations recommendations for regular waterfowl seasons and other species and seasons not previously discussed at the early-season meetings.

In accordance with Departmental policy, these meetings are open to public observation. You may submit

written comments to the Service on the matters discussed.

Announcement of Flyway Council Meetings

Service representatives will be present at the individual meetings of the four Flyway Councils this July. Although agendas are not yet available, these meetings usually commence at 8 a.m. on the days indicated.

Atlantic Flyway Council: July 22–26, Sheraton Burlington Hotel & Conference Center, Burlington, Vermont.

Mississippi Flyway Council: July 26–30, Marriott Hotel, Baton Rouge, Louisiana.

Central Flyway Council: July 22–26, DoubleTree Hotel/Downtown, Omaha, Nebraska.

Pacific Flyway Council: July 22–26, Lakeside Lodge, Pinedale, Wyoming.

Review of Public Comments

This supplemental rulemaking describes Flyway Council recommended changes based on the preliminary proposals published in the March 19, 2002, **Federal Register** (67 FR 12501). We have included only those recommendations requiring either new proposals or substantial modification of the preliminary proposals. This supplement does not include recommendations that simply support or oppose preliminary proposals and provide no recommended alternatives. We will consider these recommendations later in the regulations-development process. We will publish responses to all proposals and written comments when we develop final frameworks. In addition, this supplemental rulemaking contains new information relative to the proposed regulatory alternatives for the 2002–03 duck hunting seasons. We have included all Flyway Council recommendations received through May 1, 2002, relating to the development of these alternatives.

We seek additional information and comments on the recommendations in this supplemental proposed rule. New proposals and modifications to previously described proposals are discussed below. Wherever possible, they are discussed under headings corresponding to the numbered items identified in the March 19, 2002, proposed rule. Only those categories requiring your attention or for which we received Flyway Council recommendations are discussed below.

1. Ducks

Categories used to discuss issues related to duck harvest management are: (A) General Harvest Strategy, (B)

Regulatory Alternatives, including specification of framework dates, season length, and bag limits, (C) Zones and Split Seasons, and (D) Special Seasons/Species Management.

A. General Harvest Strategy

Council Recommendations: The Atlantic Flyway Council recommended that annual changes in regulations should be limited to no more than one step up or down among the regulatory alternatives (e.g., from liberal to moderate, moderate to restrictive).

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that the Adaptive Harvest Management (AHM) regulatory alternatives be modified as follows, beginning in 2002–03:

A. Eliminate the very restrictive alternative

B. Limit increments of year-to-year change to single regulation steps

C. Replace closed seasons for some combinations of population size and pond numbers with the restrictive alternative so that seasons could be open at similar mallard population levels that were hunted in the past.

The Pacific Flyway Council recommended that the Service examine how eliminating the closed season and the very restrictive alternative from the set of regulatory alternatives may influence optimal regulations decisions, considering proposed model revisions. If the results of this evaluation are consistent with past analyses conducted by the Mississippi Flyway, the Council would support elimination of the very restrictive alternative. The Council believes closed seasons should not be considered when breeding populations and pond numbers exist at levels at which seasons have been offered in the past.

Service Response: In the March 19 **Federal Register**, we stated our intent to address a number of concerns with the current AHM protocols for mallards that had been identified by the AHM Working Group. The concerns include: (1) Evidence that all models of mallard population dynamics may predict biased annual growth rates; (2) that the method for comparing predicted and observed populations sizes could produce spurious results; and (3) the need for improved survival and reproductive models that more effectively cover the range of possible population dynamics and effects of harvest. These concerns have been investigated by the AHM Working Group for at least 2 years (*see* <http://migratorybirds.fws.gov/reports/reports.html> for the 2000 and 2001

Adaptive Management Annual Working Group reports), and we decided that remedial measures were necessary in time for the 2002–03 hunting season. The AHM Working Group recently (April 2002) completed its investigations and provided recommendations to the Service and Flyway Councils. The most significant recommendations include: (1) An empirical correction factor for the bias (+11% for midcontinent mallards and +16% for eastern mallards) in estimated survival and reproductive rates; (2) a revision to the procedure for comparing predicted and observed population sizes that accounts for variation in breeding-population size not explained by the models of population dynamics; and (3) continued investigations into methods for better predicting annual survival and reproductive rates, and into possible sources of bias in the monitoring programs used to estimate these vital rates. The last of these recommendations could potentially yield additional proposals for modifications to the AHM protocols next year. For the 2002–03 season, we are proposing to adopt the first two recommendations of the AHM Working Group. As these recommendations have important implications for future duck-hunting regulations, we would like to provide the Flyway Councils, States, and the public adequate opportunity to comment.

The population models and model-updating procedure used last year for midcontinent mallards (i.e., uncorrected for bias) suggested that the best prediction model included the hypotheses of additive hunting mortality and strongly density-dependent reproduction. Based on this evidence, the midcontinent mallard breeding-population size was expected to average about 8.0 million over the long-term, assuming that the optimal regulatory strategy was followed (last year's population size was 8.7 million, which includes the traditional survey area and Minnesota, Michigan, and Wisconsin). The frequency of liberal regulations was expected to be about 86%, with the remaining seasons being either moderate or restrictive. However, after correcting for the positive bias in survival and reproductive rates, and after appropriate revisions were made to the procedure for comparing predicted and observed population sizes, the best predictive model includes the hypothesis of weakly density-dependent reproduction, and there is no clear indication of whether the additive or compensatory mortality hypothesis is favored. Given the correction for bias

and revised updating procedure, the midcontinent mallard breeding-population size is expected to average about 7.2 million birds over the long-term. Thus, the corresponding regulatory strategy is more conservative than that used previously, with the liberal regulatory alternative expected in only 52% of all hunting seasons. Moderate, restrictive, and very restrictive alternatives would be expected in about 26% of all hunting seasons, and closed seasons would be expected 22% of the time. (**Note:** Prescriptions for closed seasons in the AHM process result from combinations of population size and habitat conditions that are insufficient to support one of the available open-season regulatory alternatives, given the agreed-upon harvest-management objectives. Except in extreme cases, however, limited harvests under these population and habitat conditions would not be expected to compromise long-term population viability). Clearly, the +11% bias in estimated survival and reproductive rates, if left uncorrected, can lead to spurious conclusions regarding population dynamics and potentially to overly liberal hunting seasons. Moreover, the proposed revisions to the AHM protocol for midcontinent mallards lead to an improved predictive capability, with a mean difference between predicted and observed population sizes of only about 6% since 1996.

With respect to eastern mallards, the evidence for a positive bias in estimated survival and reproductive rates is not as conclusive as that for midcontinent mallards. Therefore, the AHM Working Group has recommended that models with and without the bias-corrections be maintained in the model set. Currently, the best predictive model includes the hypothesis of strongly density-dependent reproduction, which is favored over the weakly density-dependent hypothesis by a margin of 2 to 1. By consensus, hunting mortality is assumed to be additive in eastern mallards. Eastern mallards appear to have considerable potential to absorb harvest without adverse impact to the long-term health of the population. The AHM Working Group predicts that the eastern mallard population could support the liberal regulatory alternative in the Atlantic Flyway in most, if not all, years. The corresponding population size would be expected to average about 900,000 over the long term (last year's population size was 1 million).

Last year in the July 24, 2001, **Federal Register** (66 FR 38494), we stated our intention to review proposed constraints on the use of the closed and very

restrictive regulatory alternatives, and proposed restrictions on the magnitude of the annual change in the selected regulatory alternative for midcontinent mallards (as recommended above by the Flyway Councils). We agreed to consider these recommendations after appropriate analyses were conducted by the AHM Working Group, and the results of those analyses were communicated to all interested parties. Those analyses were completed in April 2002 based on the revised AHM protocols for mallards discussed above. Eliminating consideration of the closed-season alternative above a midcontinent mallard population of 5.5 million (i.e., a record low of 4.5 million in the traditional survey area, plus 1 million in the States of Minnesota, Michigan, and Wisconsin) is expected to result in a negligible change in mean population size. However, such a change probably would reduce the frequency of closed seasons in the Mississippi, Central, and Pacific Flyways from 22% to 10%, with a corresponding increase in the frequency of very restrictive seasons from 9% to 25%. Elimination of the very restrictive alternative also is expected to have a negligible effect on average population size, and the frequency of the restrictive alternative likely would increase from 12% to 19%. Restricting the magnitude of annual change in regulations to one step also appears to have a negligible impact on average population size, but could reduce the frequency of liberal regulations from 52% to 38%. About 45% of all hunting seasons would be expected to be either restrictive or moderate. Incorporation of all three proposed changes would be expected to result in a mean population size of 6.9 million; the expected frequency of closed, restrictive, moderate, and liberal seasons would be 2%, 47%, 21%, and 30%, respectively. With respect to eastern mallards, none of the proposed changes appeared to have an impact on the expected frequency of liberal regulations in the Atlantic Flyway. In light of this recent information, we are requesting additional public comment on the recommendations to place constraints on closed seasons, to eliminate the very restrictive alternative, and to restrict the magnitude of permissible regulatory changes between successive years. Public comment will be accepted until June 21, 2002, and should be sent to the address under the caption **ADDRESSES**.

B. Regulatory Alternatives

Council Recommendations: The Atlantic Flyway Council recommended that regulatory alternatives for duck

hunting seasons in the Atlantic Flyway for 2002–03 should be the same as those used in 1997–2001, except that the liberal and moderate regulatory alternatives should have an opening date of the Saturday nearest September 24th and a closing date of the last Sunday in January on an experimental basis.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that duck season framework dates for 2002–03 be the Saturday nearest September 24th and the last Sunday in January in the moderate and liberal regulatory alternatives, as noted in the March 19th **Federal Register**, provided that if the extended framework dates result in a more conservative hunting season, mid-latitude States (all States in the Upper Region except Minnesota, Wisconsin and Michigan) would be allowed an additional 7 days in season length.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended that the outside framework dates for the regular duck season in the moderate and liberal alternatives be the Saturday nearest September 24 and the last Sunday in January with no penalty in season length, and that this option be available either Statewide or in individual zones.

The Central Flyway Council recommended that the Service adopt the proposed 2002–03 regulatory alternatives and species/sex restrictions for the Central Flyway, except for the following modifications:

A. The opening date will be the Saturday closest to September 24th in the liberal and moderate AHM regulation alternatives. There will be no offset penalties (reduced or restricted bag limits or reduction in season length). The framework closing date in the Central Flyway will remain the Sunday closest to January 20th.

B. If the earlier framework dates are selected, the Central Flyway Council recommends the Special September Teal Season be allowed according to established criteria throughout September without penalty (using regular season days).

The Pacific Flyway Council supports duck season framework extensions and evaluation of their impacts to harvest distribution and rates as outlined in the Service's March 19, 2002, **Federal Register**.

Service Response: The AHM Working Group conducted additional analyses concerning the potential effects of extended framework dates in the moderate and liberal regulatory alternatives based on the revised AHM protocols for midcontinent and eastern

mallards described above. The AHM Working Group recommends that the Service adopt standard Bayesian statistical techniques for addressing the uncertainty concerning the changes in mallard harvest rates that might occur as a result of framework-date extensions. Essentially, the AHM Working Group proposed to use existing information about framework dates to develop initial harvest-rate predictions, to make regulatory decisions based on those predictions, and then to estimate harvest rates in future hunting seasons. Those harvest-rate estimates, in turn, are used to update the original predictions. The AHM Working Group has made it clear, however, that no formal evaluation of framework-date extensions is possible in the absence of a rigorous experimental design, including random assignment of experimental controls (i.e., representative areas where extensions would not be offered). The AHM Working Group also is not optimistic about current capabilities to predict or evaluate the effects of framework-date extensions on species other than mallards.

Previous assessments by the Service (see <http://migratorybirds.fws.gov/reports/reports.html>) suggest that harvest rates of mallards could increase by 15% and 5% for midcontinent and eastern mallards, respectively. Those projections were based on previous experience with early opening dates in Iowa and late closing dates in Mississippi, and on a survey of States regarding their intention to use extended framework dates if offered the option. Because these analyses are based on extending the results from only 2 states to all other states, we are uncertain about the magnitude of the projected increase that will result. Therefore, we propose to explicitly recognize this uncertainty in the AHM process. The procedures will include the possibility that extensions will result in no increase in mean harvest rates. If framework-date extensions were implemented, estimates of harvest rate derived from band-recovery data would be used to update the effect of framework-date extensions. For the upcoming hunting season, however, we must rely on the recent assessment conducted by the AHM Working Group. That assessment suggested that nationwide implementation of framework-date extensions could result in reduction of the frequency of liberal seasons in the Mississippi, Central, and Pacific Flyways from 52% to 38%. The frequency of liberal regulations in the Atlantic Flyway would not be expected to change because few of the States

harvesting many eastern mallards appear to be interested in framework-date extensions.

In the March 19, 2002, **Federal Register** (67 FR 12501), we established a May 1, 2002, comment closing date for the proposed regulatory alternatives for the 2002–03 duck hunting seasons. However; in light of this new information, we are seeking additional public comment on the proposed regulatory alternatives. We will announce final regulatory alternatives in early July following the early-season regulations meetings in late June. Public comments will be accepted until June 21, 2002, and should be sent to the address under the caption **ADDRESSES**.

D. Special Seasons/Species Management

i. September Teal Seasons

Council Recommendations: The Central Flyway Council recommended that the geographic boundaries for the September teal season in Colorado be amended to include Lake and Chaffee Counties and all lands east of I–25.

iv. Canvasbacks

Since 1994, the Service has followed a canvasback harvest strategy such that, if population status and production are sufficient to permit a harvest of one canvasback per day nationwide for the entire length of the regular duck season, while attaining a spring population objective of 500,000 birds, the season on canvasbacks should be opened. Otherwise, the season on canvasbacks should be closed nationwide. Last spring, the estimate of canvasback abundance was 580,000 birds, and the number of ponds in Prairie Canada in May (2.7 million) was 20% below the long-term average. The size of the spring population, together with natural mortality and below-average expected production due to the relatively dry conditions, was insufficient to offset expected mortality associated with a canvasback season lasting the entire length of the “liberal” regulatory alternative and still attain the population objective of 500,000 canvasbacks in the spring of 2002.

Last year, we indicated that, while we continued to support the harvest strategy and the model adopted in 1994, despite the reduced numbers and below-average production forecast last year, we believed there was still some opportunity to allow a limited harvest last fall without compromising the population’s ability to reach 500,000 canvasbacks this spring. Thus, we allowed a very restrictive canvasback season for 2001–02. In the Atlantic and Mississippi Flyways, the season length

was 20 days, in the Central Flyway, 25 days, and in the Pacific Flyway, 38 days. Our objective was to provide some hunting opportunity while still maintaining the spring population above the 500,000 objective level.

We also expressed a willingness to revisit the guidelines outlined in the strategy and asked that any proposed changes have broad-based support and reflect the interests of all stakeholders. In addition, we urged the Flyway Councils to begin internal discussions regarding species-specific restrictions in the existing AHM framework. This year, we will again consider the size of the spring population and model-based predictions of production and harvest in development of regulations proposals for canvasbacks. However, we indicated in the March 19 **Federal Register** that absent the broad-based support by the Flyway Councils to revise the strategy, we intend to follow the 1994 model-based prescriptions originally developed for canvasbacks.

Council Recommendations: The Atlantic Flyway Council recommends modifying the 1994 Canvasback Harvest Strategy to allow for a limited canvasback harvest (season within a season) during years when the predicted harvest exceeds the allowable harvest, but can still be achieved by a more restrictive package (restrictive or very restrictive). The season closure threshold would remain at a predicted spring breeding population (BPOP) of 500,000.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommend that the Canvasback Harvest Management Strategy be changed so the hunting season closure threshold is 400,000. The objectives from the 1994 strategy would be modified as follows:

A. The goal for the size of the breeding population should be 500,000 birds;

B. The strategy should permit a greater possibility for a sustained sport harvest than has occurred recently using threshold population sizes, and

C. The amount of harvest in any 1 year should not result in a spring population lower than 400,000, allowing harvest opportunity on this prairie nesting species at reasonable levels above and below long-term population levels.

The Central Flyway Council recommends the Service revise the Canvasback Harvest Strategy adopted in 1994. The Council recommends a 1-bird bag limit for the entire duck hunting season when the model predicted breeding population is 400,000 or higher, and that other harvest options be

considered when the predicted breeding population is less than 400,000. These options include a season within a season, aggregate bag with redheads, area closures, or seasonal harvest tag(s).

The Pacific Flyway Council recommends the Canvasback Harvest Strategy be revised to include prescription of a full-length season and a 1-bird daily limit when the BPOP is projected to be at or above 400,000. The Council also supports annotation in the strategy clarifying that Alaska will retain fixed frameworks in lieu of annual prescriptions. The Council requests the Service expedite evaluation of harvest data to assess the effects of short seasons implemented in 2001.

v. Pintails

We presently utilize an interim strategy to manage the harvest of pintails. In the current strategy, the determination of appropriate bag limits is based, in part, on the harvest predicted by a set of models that were developed from historical data relating harvest to bag limit and season length. However, since the interim strategy was implemented in 1997, the predicted harvest has consistently been lower than the estimated harvest from the U.S. and Canadian Federal harvest surveys. In the March 19 **Federal Register**, we expressed a desire to work with the Flyway Councils to review the current method of determining bag limits with the intent of making appropriate adjustments to the strategy to better reflect the realized harvest of pintails.

Council Recommendations: The Atlantic Flyway Council supports the Service’s effort to develop new models for predicting harvest that fit the data, disconnecting effects of season length and bag limit, and incorporating recent harvest estimates from Canada and Alaska. Further, they recommend that regulations be based on allocation of harvest with a constraint that bag limits be the same in all flyways.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommend that the harvest models in the interim pintail harvest strategy be revised to incorporate the most recent population and harvest information for these birds.

The Central Flyway Council recommends that the Service’s proposed updated regression equations be used to estimate predicted flyway-specific harvest of northern pintails, as described in the February 2002 report, “Performance Evaluation: Interim Strategy for Northern Pintail Harvest Management” and be incorporated into the interim harvest strategy for northern pintails.

The Pacific Flyway Council endorses the technical amendments to the existing interim harvest strategy for Northern Pintails to more accurately predict harvests resulting from season frameworks established under AHM for mid-continent mallards. The Council also recommends open seasons when the predictive model constrains the bag limit to less than one bird per day. Further, the Council recommends assessment of the effectiveness of the strategy not be based primarily on sustaining annual growth in the breeding population of at least 6 percent.

4. Canada Geese

A. Special Seasons

Council Recommendations: The Atlantic Flyway Council recommended that Georgia and Lake Seminole in Florida be offered an early Canada goose hunting season not to exceed 30 days between September 1–30, with a bag limit not to exceed 5 geese daily (10 in possession). They further recommended that Connecticut's Special September Canada goose season framework be extended from September 25 to September 30.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommend that Minnesota be allowed to continue to hold their special September experimental Canada goose season (the experimental 1-week extension) in 2002 while the 3-year evaluation is being completed.

B. Regular Seasons

Council Recommendations: The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that the framework opening date for all species of geese for the regular goose seasons in Michigan and Wisconsin be September 16, 2002. Further, they recommended that the opening date for regular goose seasons in all States, except Michigan and Wisconsin, be as early as the Saturday nearest September 24 (September 21, 2002) if the duck hunting season framework dates are extended to the Saturday nearest September 24 (September 21, 2002).

The Central Flyway Council recommends that the regular seasons for all species of geese in all Central Flyway States be as early as the Saturday nearest September 24 (September 21, 2002) if the duck hunting season framework dates are extended to that date.

8. Swans

Council Recommendations: The Central Flyway Council recommends that the Ad Hoc Eastern Population Tundra Swan Committee revise the July 1998 Management Plan for the Eastern Population of Tundra Swans (Hunt plan) to allow for additional hunting permits to be issued for this population for the fall 2003 hunting season.

9. Sandhill Cranes

Council Recommendations: The Central Flyway Council recommends accepting the 2002 Rocky Mountain population of sandhill cranes harvest allocation of 833 birds as proposed by the Pacific Flyway. However, during the next revision of the Cooperative Population Management Plan, the Council desires a better definition of what factors will be used to determine when a survey should be considered unreliable.

The Pacific Flyway Councils recommended establishing an experimental hunt for Rocky Mountain Population sandhill cranes for 2002–2003, in Uintah County, Utah. The framework for the 30-day season would be September 1 to January 31, 2003, with a bag limit not to exceed 3 daily and 9 per season. Participants must have a valid permit, issued by the appropriate State, in their possession while hunting. Numbers of permits, open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plan and approved by the Central and Pacific Flyway Councils.

14. Woodcock

Council Recommendations: The Atlantic Flyway Council recommends that the hunting regulations framework dates for American woodcock in the Eastern Region be changed back to the pre-1997 dates of October 1 to January 31.

17. White-Winged and White-Tipped Doves

Council Recommendations: The Central Flyway Council recommends that the hunting area for white-winged doves be expanded from its current area in New Mexico and Texas to include the remainder of the Central Flyway States that are in the Central Management Unit. The white-winged dove season should run concurrently with the mourning dove season with an aggregate bag.

Public Comment Invited

The Department of the Interior's policy is, whenever practicable, to

afford the public an opportunity to participate in the rulemaking process. We intend that adopted final rules be as responsive as possible to all concerned interests and, therefore, seek the comments and suggestions of the public, other concerned governmental agencies, nongovernmental organizations, and other private interests on these proposals. Accordingly, we invite interested persons to submit written comments, suggestions, or recommendations regarding the proposed regulations to the address indicated under the caption **ADDRESSES**.

Special circumstances involved in the establishment of these regulations limit the amount of time that we can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: (1) The need to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms; and (2) the unavailability, before mid-June, of specific, reliable data on this year's status of some waterfowl and migratory shore and upland game bird populations. Therefore, we believe that to allow comment periods past the dates specified is contrary to the public interest.

Before promulgation of final migratory game bird hunting regulations, we will take into consideration all comments received. Such comments, and any additional information received, may lead to final regulations that differ from these proposals.

You may inspect comments received on the proposed annual regulations during normal business hours at the Service's office in room 634, 4401 North Fairfax Drive, Arlington, Virginia. For each series of proposed rulemakings, we will establish specific comment periods. We will consider, but possibly may not respond in detail to, each comment. As in the past, we will summarize all comments received during the comment period and respond to them after the closing date.

NEPA Consideration

NEPA considerations are covered by the programmatic document, "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSER 88–14)," filed with the Environmental Protection Agency on June 9, 1988. We published a Notice of Availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR

31341). Copies are available from the address indicated under the caption **ADDRESSES**.

In a proposed rule published in the April 30, 2001, **Federal Register** (66 FR 21298), we expressed our intent to begin the process of developing a new EIS for the migratory bird hunting program.

Endangered Species Act Consideration

Prior to issuance of the 2002–03 migratory game bird hunting regulations, we will consider provisions of the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531–1543; hereinafter the Act) to ensure that hunting is not likely to jeopardize the continued existence of any species designated as endangered or threatened or modify or destroy its critical habitat and that the proposed action is consistent with conservation programs for those species.

Consultations under Section 7 of this Act may cause us to change proposals in this and future supplemental proposed rulemaking documents.

Executive Order (E.O.) 12866

While this individual supplemental rule was not reviewed by the Office of Management and Budget (OMB), the migratory bird hunting regulations are economically significant and are annually reviewed by OMB under E.O. 12866.

E.O. 12866 requires each agency to write regulations that are easy to understand. We invite 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 rule? (6) What else could the Service do to make the rule easier to understand?

Regulatory Flexibility Act

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail, and a Small Entity Flexibility Analysis (Analysis) was issued by the

Service in 1998. The Analysis documented the significant beneficial economic impact on a substantial number of small entities. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The Analysis was based on the 1996 National Hunting and Fishing Survey and the U.S. Department of Commerce’s County Business Patterns from which it was estimated that migratory bird hunters would spend between \$429 million and \$1.084 billion at small businesses in 1998. Copies of the Analysis are available upon request from the Division of Migratory Bird Management.

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of \$100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995. The various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, Subpart K, are utilized in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of the Migratory Bird Harvest Information Program and assigned control number 1018–0015 (expires 10/31/2004). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Sandhill Crane Harvest Questionnaire and assigned control number 1018–0023 (expires 07/31/2003). The information from this survey is used to estimate the magnitude and the geographical and temporal distribution of harvest, and the portion it constitutes of the total population.

A Federal agency 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

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform 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 found in Sections 3(a) and 3(b)(2) of Executive Order 12988.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O. 13211) on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As this supplemental proposed rule is not expected to significantly affect energy supplies, distribution, or use, this proposed action is not a significant energy action and no Statement of Energy Effects is required.

Takings Implication Assessment

In accordance with Executive Order 12630, this proposed rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule 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 otherwise unavailable privileges 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. We annually prescribe 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 process allows States to participate

in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. 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 13132, these regulations do not have significant

federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 50 CFR Part 20

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

The rules that eventually will be promulgated for the 2002–03 hunting

season are authorized under 16 U.S.C. 703–711, 16 U.S.C. 712, and 16 U.S.C. 742a–j.

Dated: June 4, 2002.

Paul Hoffman,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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