

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

RIN 1018-AI93

**Migratory Bird Hunting; Supplemental Proposals for Migratory Game Bird Hunting Regulations for the 2003-04 Hunting Season With Request for 2004 Spring/Summer Migratory Bird Subsistence Harvest Proposals in Alaska; Notice of Meetings****AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Proposed rule; supplemental.

**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 2003-04 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 March meetings; requests proposals for the 2004 spring/summer migratory bird subsistence season in Alaska; and finalizes regulatory alternatives for the 2003-04 duck hunting seasons.

**DATES:** The Service Migratory Bird Regulations Committee will meet to consider and develop proposed regulations for early-season migratory bird hunting on June 18 and 19, 2003, and for late-season migratory bird hunting and the 2004 spring/summer migratory bird subsistence seasons in Alaska on July 30 and 31, 2003. 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, 2003, and for proposed late-season frameworks and subsistence hunting seasons in Alaska by August 30, 2003.

**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 MBSP-4107-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 at the Service's office in room 4107, Arlington Square Building, 4501 N. Fairfax Drive, Arlington, Virginia.

**FOR FURTHER INFORMATION CONTACT:**

Brian Millsap, Chief, or Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358-1714.

**SUPPLEMENTARY INFORMATION:****Regulations Schedule for 2003**

On May 6, 2003, we published in the **Federal Register** (68 FR 24324) 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 hunting 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 in early July, late-season frameworks in early August, and subsistence seasons in Alaska in September. We will publish final regulatory frameworks for early seasons on or about August 20, 2003, for late seasons on or about September 15, 2003, and for subsistence seasons in Alaska in November 2003.

**Service Migratory Bird Regulations Committee Meetings**

The Service Migratory Bird Regulations Committee will meet June 18-19, 2003, to review information on the current status of migratory shore and upland game birds and develop 2003-04 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 30-31, 2003, meetings, the Committee will review information on the current status of waterfowl and develop 2003-04 migratory game bird regulations recommendations for regular waterfowl seasons and other species and seasons not previously discussed at the early-season meetings. In addition, the Committee will develop recommendations for the 2004 spring/

summer migratory bird subsistence season in Alaska.

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 21-25, Allenberry Resort Inn, Boiling Springs, Pennsylvania.

*Mississippi Flyway Council:* July 23-26, Holiday Inn in Traverse City, Michigan.

*Central Flyway Council:* July 21-25, Quality Inn, Taos, New Mexico.

*Pacific Flyway Council:* July 21-23 and July 25, Vail Cascade Resort, Vail, Colorado.

**Request for 2004 Spring/Summer Migratory Bird Subsistence Harvest Proposals in Alaska***Background*

The 1916 Convention for the Protection of Migratory Birds between the United States and Great Britain (for Canada) established a closed season for the taking of migratory birds between March 10 and September 1. Residents of northern Alaska and Canada traditionally harvested migratory birds for nutritional purposes during the spring and summer months. The governments of Canada, Mexico, and the United States recently amended the 1916 Convention and the subsequent 1936 Mexico Convention for the Protection of Migratory Birds and Game Mammals. The amended treaties provide for the legal subsistence harvest of migratory birds and their eggs in Alaska and Canada during the closed season.

On August 16, 2002, we published in the **Federal Register** (67 FR 53511) a final rule that established procedures for incorporating subsistence management into the continental migratory bird management program. These regulations, developed under a new co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives, established an annual procedure to develop harvest guidelines for implementation of a spring/summer migratory bird subsistence harvest. Eligibility and inclusion requirements necessary to participate in the spring/

summer migratory bird subsistence season in Alaska are outlined in 50 CFR part 92.

This supplemental rule calls for proposals for regulations that will expire on August 31, 2004, for the spring/summer subsistence harvest of migratory birds in Alaska. Each year, seasons will open after March 11 and close prior to September 1.

#### **Alaska Spring/Summer Subsistence Harvest Proposal Procedures**

We will publish details of the Alaska spring/summer subsistence harvest proposals in later **Federal Register** documents under 50 CFR Part 92. General relationship to the process for developing national hunting regulations for migratory game birds is as follows:

(a) *Alaska Migratory Bird Co-Management Council*. (1) Proposals may be submitted by the public to the Co-management Council during the period of November 1–December 15, 2003, to be acted upon for the 2005 migratory bird subsistence harvest season. Proposals should be submitted to the Executive Director of the Co-management Council, listed above under the caption **ADDRESSES**.

(b) *Flyway councils*. (1) Proposed 2004 regulations recommended by the Co-management Council will be submitted to all Flyway Councils for review and comment. The Council's recommendations must be submitted prior to the SRC's last regular meeting of the calendar year in order to be approved for spring/summer harvest beginning March 11 of the following calendar year.

(2) Alaska Native representatives may be appointed by the Co-management Council to attend meetings of one or more of the four Flyway Councils to discuss recommended regulations or other proposed management actions.

(c) *Service regulations committee*. Proposed annual regulations recommended by the Co-management Council will be submitted to the Service Regulations Committee for their review and recommendation to the Service Director. Following the Service Director's review and recommendation, the proposals will be forwarded to the Department of Interior for approval. Proposed annual regulations will then be published in the **Federal Register** for public review and comment, similar to the annual migratory game bird hunting regulations. Final spring/summer regulations for Alaska will be published in the **Federal Register** in the preceding Fall.

Because of the time required for our and public review, proposals from the Co-management Council for the 2004

spring/summer migratory bird subsistence harvest season should be submitted to the Flyway Councils and the Service by June 15, 2003, for their comments and Service action on July 30–31, 2003.

#### **Review of Public Comments**

This supplemental rulemaking describes Flyway Council recommended changes based on the preliminary proposals published in the May 6, 2003, **Federal Register**. 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 the final regulatory alternatives for the 2003–04 duck hunting seasons. We have included all Flyway Council recommendations received 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 May 6, 2003, 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 selection of the appropriate regulatory alternative for the Atlantic Flyway should be based on optimal harvest strategies for eastern mallards. The Council also 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," but not "liberal" to "restrictive").

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended limiting regulation changes to one step annually, and also that hunting seasons should remain open above the range of mallard population and pond levels where hunting seasons were open historically.

The Central Flyway Council recommended placing a constraint on the Adaptive Harvest Management (AHM) process that ensures seasons will remain open when mallard breeding populations (traditional breeding areas plus the Great Lakes region) exceed 5.5 million. The Central Flyway Council did not support limiting annual regulatory changes to one step each year.

The Pacific Flyway Council also recommended placing a constraint on the AHM process that ensures seasons will remain open when mallard breeding populations (traditional breeding areas plus the Great Lakes region) exceed 5.5 million, due to the fact that it appears to have relatively little impact on the frequency of "moderate" and "liberal" seasons. However, the Pacific Flyway Council did not support limiting annual regulatory changes to one step because it appears to make the harvest strategy more conservative overall.

*Written Comments:* The Illinois Department of Natural Resources and the Colorado Division of Wildlife did not support placing a limitation on changes in regulations to one step each year. Further, the Illinois Department of Natural Resources recommended that hunting seasons should remain open above the range of mallard population and pond levels where hunting seasons were open historically, and the Colorado Division of Wildlife recommended placing a constraint on the AHM process that ensures seasons will remain open when mallard breeding populations (traditional breeding areas plus the Great Lakes region) exceed 5.5 million.

*Service Response:* As recommended by the Atlantic Flyway Council, we will continue to select a regulatory alternative in the Atlantic Flyway based on the status of eastern mallards. However, we reiterate that this arrangement is still considered provisional, and it is important to press forward with development of an adaptive harvest strategy for the Atlantic Flyway that appropriately accounts for other key species in the harvest, such as black ducks and wood ducks.

We understand the desires of the Atlantic and Mississippi Flyway Councils to limit changes in annual

regulations to one step because it is expected to significantly reduce temporal variability in hunting regulations, as well as lower the prospect of closed hunting seasons. These benefits are expected to accrue with little or no impact to the size of the mallard population or harvest. However, the Central and Pacific Flyway Councils oppose the "one-step" constraint, principally because it is expected to significantly reduce the frequency of liberal seasons. We believe that further discussion of the "one-step" constraint is needed to develop consensus regarding the trade-offs inherent in this constraint. Consensus is necessary because it is not feasible to permit this constraint for some Flyways and not others (since all Flyways must share a common management objective for shared breeding stocks). Therefore, we will not implement the "one-step" constraint for the 2003–04 duck-hunting season.

There has been longstanding concern within the waterfowl management community about the prospect of closed seasons arising from the AHM process for midcontinent mallards in instances where the biological data and historical experience show that may not be necessary. Based on the management objective that has been in place since 1996, closed hunting seasons might be prescribed in about 30% of all years in the three western Flyways as a way to more rapidly increase mallard population size when it falls below the goal of the North American Waterfowl Management Plan. The Flyway Councils' recommendation would significantly reduce the frequency of closed-season prescriptions (to about 17% of all years), apparently with little biological impact. Based on current biological assessments, closed hunting seasons do not appear to be necessary from the perspective of sustainable harvesting when the midcontinent mallard population (traditional survey area plus the Great Lakes region) exceeds 5.5 million. The impact of maintaining open seasons above this level also appears to be negligible for other midcontinent duck species (scaup, gadwall, wigeon, green-winged teal, blue-winged teal, shoveler, pintail, redhead, and canvasbacks). Therefore, we intend to accept the recommendation to maintain open duck-hunting seasons when the midcontinent mallard population is above 5.5 million. However, we note that closed seasons targeted at particular species or populations could still be necessary in some situations regardless of the status of midcontinent mallards.

## B. Regulatory Alternatives

*Council Recommendations:* The Atlantic Flyway Council, the Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council, the Central Flyway Council, and the Pacific Flyway Council recommended that regulatory alternatives for duck-hunting seasons remain the same as those used in 2002, with the exception that the "very restrictive" alternative be eliminated.

The Pacific Flyway Council supports framework-date extensions as outlined in the Service's May 6, 2003, **Federal Register**, and notes that selection of framework extensions is contingent on approval by State wildlife regulatory organizations.

*Written Comments:* The Illinois Department of Natural Resources and the Colorado Division of Wildlife supported elimination of the "very restrictive" alternative.

*Service Response:* We note that expected harvest rates under the "very restrictive" alternative do not differ significantly from those under the "restrictive" alternative. Moreover, the "very restrictive" alternative would be expected to be prescribed for only about 5% or less of all hunting seasons. Because elimination of the "very restrictive" alternative appears to have negligible resource impacts, we concur with the recommendation of all four Flyway Councils and intend to eliminate this alternative from consideration for the 2003–04 hunting season. All other aspects of the regulatory alternatives will remain as proposed in the May 6 **Federal Register**.

## D. Special Seasons/Species Management

### i. September Teal Seasons

*Council Recommendations:* The Atlantic Flyway Council recommended that States that have participated in the recent experimental teal season (Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia) be offered an operational September teal season beginning in 2003. They recommend that the season run for nine consecutive days during September 1–30, 2003, with a bag limit not to exceed four teal, whenever the breeding population estimate for blue-winged teal exceeds 3.3 million in the traditional survey area. Delaware, Georgia, North Carolina, and Virginia may have shooting hours between one-half hour before sunrise to sunset, while shooting hours for Maryland and South Carolina may be between sunrise and sunset.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council

recommended that the 16-day September teal seasons continue to be used when the blue-winged teal breeding population is at or above 4.7 million, based on the recently completed report, "Assessment of 16-Day September Teal Seasons 1998–2000 in the Central and Mississippi Flyways."

The Central Flyway Council recommended that Nebraska's experimental September teal season become operational.

### ii. September Teal/Wood Duck Seasons

*Council Recommendations:* The Atlantic Flyway Council recommended that the bag limit for Florida's special September wood duck and teal season remain at 4 wood ducks and teal in the aggregate.

### iv. 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 (moderate, restrictive, or very restrictive). The season closure threshold would remain at a predicted spring breeding population of 500,000.

The Central Flyway Council recommended that the existing interim harvest strategy for canvasbacks be followed during the 2003–04 season.

### v. Pintails

*Council Recommendations:* The Central Flyway Council recommended that the existing interim harvest strategy for pintails be followed during the 2003–04 season.

### vii. Youth Hunt

*Council Recommendations:* The Atlantic Flyway Council recommended that the Service allow all States the option of holding "youth waterfowl hunt days" on nonconsecutive hunting days, while maintaining the requirement that they must be held on non-school days.

## 4. Canada Geese

### A. Special Seasons

*Council Recommendations:* The Atlantic Flyway Council recommended that the Service increase the September Canada goose hunting season bag limit to 8, with no possession limit beginning with the 2003–04 hunting season. They further recommended that North Carolina's Northeast Hunt Zone Special September Canada goose season

framework be extended from September 20 to September 30. They also recommended that Rhode Island's September resident Canada goose season framework dates of September 1 to September 30 be made operational.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that the experimental early Canada goose season in Huron, Tuscola, and Saginaw counties in Michigan be extended for 1 year. Further, the Committees recommended that the Service grant operational status to Minnesota's Special September Canada Goose Season extension (16–22 September).

The Central Flyway Council recommended that South Dakota's 3-year experimental September Canada goose season (September 16–30) become operational for all of eastern South Dakota (east of the Missouri River) beginning in 2003.

The Pacific Flyway Council recommended that Wyoming's special season framework for the Rocky Mountain population of western Canada geese would consist of an 8-day season during September 1–15 in Bear River, Salt River, Farson-Eden Area, Bridger Valley, and Teton Counties, and the Little Snake River drainage portion of Carbon County. All participants must have a valid State permit for the special season. The number of permits may not exceed 240 in the Bear River, Salt River, Farson-Eden Area, and Bridger Valley area, and 20 permits in the Little Snake River drainage portion of Carbon County. The daily bag limit would be 3, with season and possession limits of 6. Where applicable, the season must be concurrent with the September portion of the sandhill crane season.

#### 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, 2003. The Committees also recommended that the harvest index (quota) in Minnesota's Lac qui Parle Goose Zone be eliminated beginning in 2003.

The Central Flyway Council recommended regular season frameworks for dark geese in the west-tier States consist of a framework opening date of the Saturday nearest September 24 (September 27, 2003) and a framework closing date of the Sunday nearest February 15 (February 15, 2004). The season could be divided into 2

segments, except in Wyoming, where the season could be divided into 3 segments and evaluated in accordance with Service criteria. Season length would be 107 days, except in Colorado and Texas, where the season length would be 95 days. Daily bag limit would be 5 dark geese in the aggregate, with the following exceptions: (a) In the Western Goose Zone of Texas, the daily bag limit would be 1 white-fronted goose and 3 other dark geese (in the aggregate), and (b) in Colorado, the daily bag limit would be 3 dark geese in the aggregate. The possession limit would be twice the daily bag limit.

#### C. Special Late Season

*Council Recommendations:* The Atlantic Flyway Council recommended that Massachusetts' late Canada goose southern boundary of the coastal zone be extended from the present boundary in Duxbury, south to the Cape Cod Canal.

#### 8. Swans

*Council Recommendations:* The Central Flyway Council recommended that up to 200 tundra swan permits be temporarily transferred from South Dakota to North Dakota beginning in the 2003 season.

#### 9. Sandhill Cranes

*Council Recommendations:* The Central Flyway Council recommended accepting the 2002 Rocky Mountain population of sandhill cranes harvest allocation of 668 birds as proposed by the Pacific Flyway.

#### 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 4107, 4501 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 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). In addition, an August 1985 environmental assessment entitled "Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands" is 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 2003–04 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 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 12866**

This rule is economically significant and was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866. The migratory bird hunting regulations are economically significant and are annually reviewed by OMB under Executive Order 12866. As such, a cost/benefit analysis was prepared in 1998 and is further discussed below under the heading Regulatory Flexibility Act. Copies of the cost/benefit analysis are available upon request from the address indicated under the caption **ADDRESSES**.

Executive Order 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 we 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.*). In 1998, we analyzed the economic impacts of the annual hunting regulations on small business entities in detail, and issued a Small Entity Flexibility Analysis (Analysis). The 1998 Analysis documented the significant beneficial economic effect on a substantial number of small entities and estimated that migratory bird hunters would spend between \$429 million and \$1.084 billion at small businesses in 1998. The primary source of information about hunter expenditures for migratory game bird hunting is the National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, which is

conducted at 5-year intervals. The 1998 Analysis utilized the 1996 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns. In 2002, the results from the 2001 National Hunting and Fishing Survey were released. This year, we will update the 1998 Analysis with information from the 2001 National Hunting and Fishing Survey. Copies of the 1998 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 clearance 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 clearance 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 the 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 rulemaking will not impose a cost of \$100 million or more in any given year on local or State government or private entities.

Therefore, this rule is not a "significant regulatory action" under the Unfunded Mandates Reform Act.

#### **Civil Justice Reform—Executive Order 12988**

The Department, in promulgating this proposed rule, has determined that this rule will not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

#### **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.

#### **Energy Effects—Executive Order 13211**

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this proposed rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

#### **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 regarding the hunting of migratory birds, and we 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 2003–04 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 13, 2003.

**David P. Smith,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

**BILLING CODE 4310–55–P**

# FINAL REGULATORY ALTERNATIVES FOR DUCK HUNTING DURING THE 2003-04 SEASON

	ATLANTIC FLYWAY			MISSISSIPPI FLYWAY			CENTRAL FLYWAY (a)			PACIFIC FLYWAY (b)(c)		
	RES	MOD	LIB	RES	MOD	LIB	RES	MOD	LIB	RES	MOD	LIB
Beginning Shooting Time	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise
Ending Shooting Time	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset
Opening Date	Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24
Closing Date	Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.	Sun. nearest Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.	Sun. nearest Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.	Sun. nearest Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.
Season Length (in days)	30	45	60	30	45	60	39	60	74	60	86	107
Daily Bag/Possession Limit	3 6	6 12	6 12	3 6	6 12	6 12	3 6	6 12	6 12	4 8	7 14	7 14
<b>Species/Sex Limits within the Overall Daily Bag Limit</b>												
Mallard (Total/Female)	3/1	4/2	4/2	2/1	4/1	4/2	3/1	5/1	5/2	3/1	5/2	7/2
Pintail	1	1	1	1	1	1	1	1	1	1	1	1
Black Duck	1	1	1	1	1	1	1	1	1	1	1	1
Scaup (d)	1	1	1	1	1	1	1	1	1	1	1	1
Canvasback	1	1	1	1	1	1	1	1	1	1	1	1
Redhead	2	2	2	1	2	2	1	2	2	2	2	2
Wood Duck	2	2	2	2	2	2	2	2	2	2	2	2
Whistling Ducks	1	1	1	1	1	1	1	1	1	1	1	1
Harlequin	Closed	Closed	Closed	3	3	3	1	1	1	1	1	1
Mottled Duck	1	1	1	3	3	3	1	1	1	1	1	1

- (a) In the High Plains Mallard Management Unit, all regulations would be the same as the remainder of the Central Flyway with the exception of season length. Additional days would be allowed under the various alternatives as follows: restrictive - 12, moderate and liberal - 23. Under all alternatives, additional days must be on or after the Saturday nearest December 10.
- (b) In the Columbia Basin Mallard Management Unit, all regulations would be the same as the remainder of the Pacific Flyway, with the exception of season length. Under all alternatives except the liberal alternative, an additional 7 days would be allowed.
- (c) In Alaska, framework dates, bag limits, and season length would be different than the remainder of the Pacific Flyway. The bag limit would be 5-7 under the restrictive alternative, and 8-10 under the moderate and liberal alternatives. There would be no restrictions on pintails, and canvasback limits would follow those for the remainder of the Pacific Flyway. Under all alternatives, season length would be 107 days and framework dates would be Sep 1 - Jan 26.
- (d) Scaup daily bag limits will be based on current scaup status information until an agreed upon harvest strategy is completed and implemented.