

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 20

RIN 1018-AF24

**Migratory Bird Hunting; Supplemental Proposals for Migratory Game Bird Hunting Regulations; 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 1999–2000 hunting season. This supplement to the proposed rule provides the regulatory schedule; announces the Service Migratory Bird Regulations Committee and Flyway Council meetings; and describes the proposed regulatory alternatives for the 1999–2000 duck hunting seasons and other proposed changes from the 1998–99 hunting regulations.

**DATES:** The Service Migratory Bird Regulations Committee will consider and develop proposed regulations for early-season migratory bird hunting on June 22 and 23, and for late-season migratory bird hunting on August 3 and 4. All meetings will commence at approximately 8:30 a.m. To comment on the proposed regulatory alternatives for the 1999–2000 duck hunting seasons, you must submit your comments by July 2, 1999. To comment on the proposed migratory bird hunting-season frameworks for Alaska, Hawaii, Puerto Rico, the Virgin Islands, and other early seasons, you must do so by July 27, 1999. To comment on the proposed late-season frameworks, you must do so by September 7, 1999.

**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, Office 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:** Jonathan Andrew, Chief, or Ron W. Kokel, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358-1714.

**SUPPLEMENTARY INFORMATION:****Regulations Schedule for 1999**

On May 3, 1999, we published in the **Federal Register** (64 FR 23742) a proposal to amend 50 CFR part 20. The proposal 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 early-season frameworks and final regulatory alternatives for the 1999–2000 duck hunting seasons in mid-July and late-season frameworks in mid-August. We will publish final regulatory frameworks for early seasons on or about August 20, 1999, and those for late seasons on or about September 27, 1999.

**Service Migratory Bird Regulations Committee Meetings**

The June 22–23 meetings will review information on the current status of migratory shore and upland game birds and develop 1999–2000 migratory game bird regulations recommendations for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; special September waterfowl seasons in designated States; special sea duck seasons in the Atlantic Flyway; and extended falconry seasons. In addition, we will review and discuss preliminary information on the status of waterfowl as it relates to the development and selection of the regulatory packages for the 1999–2000 regular waterfowl seasons.

The August 3–4 meetings will review information on the current status of waterfowl and develop 1999–2000 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 Director on the matters discussed.

**Announcement of Flyway Council Meetings**

Service representatives will be present at the following meetings of the Flyway Councils:

Atlantic Flyway, July 29–30, Key West, Florida, (Hilton Resort and Marina)  
Mississippi Flyway, July 27–29, Merrillville, Indiana (Radisson)  
Central Flyway, July 29–30, Bartlesville, Oklahoma (hotel to be announced)  
Pacific Flyway, July 30, Reno, Nevada (Peppermill Hotel)

Although agendas are not yet available, these meetings usually commence at 8:30 a.m. on the days indicated.

**Review of Public Comments**

This supplemental rulemaking contains the proposed regulatory alternatives for the 1999–2000 duck hunting seasons. We have included and addressed all comments and recommendations received through May 24, 1999, relating to the development of these alternatives.

This supplemental rulemaking also describes other recommended changes based on the preliminary proposals published in the May 3, 1999, **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 or comments that simply support or oppose preliminary proposals and provide no recommended alternatives. We will consider these comments later in the regulations-development process. We will publish responses to all proposals and written comments when we develop final frameworks.

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 in the May 3, 1999, **Federal Register**.

**1. Ducks**

Categories used to discuss issues related to duck harvest management are: (A) Harvest Strategy Considerations, (B) Framework Dates, (C) Season Length, (D) Closed Seasons, (E) Bag Limits, (F) Zones and Split Seasons, and (G) Special Seasons/Species Management. The categories correspond to previous published issues/discussion and only those containing substantial recommendations are discussed below.

**A. Harvest Strategy Considerations**

*Council Recommendations:* The Atlantic Flyway Council recommended continued use of the 1998–99 duck hunting packages for the 1999–2000 season. They further recommended the

Service not allow framework date extensions in any States during the 1999–2000 season.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended the Service use the 1997–98 regulations packages for the 1999–2000 duck season, including framework dates from the Saturday nearest October 1 to the Sunday nearest January 20.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended the Service continue use of the 1998–99 regulatory packages for the 1999–2000 season and further recommended deletion of the “very restrictive” alternative and modification of the framework opening and closing dates to the Saturday closest to September 23 to January 31 for all alternatives with no offsets (see further discussion in B. Framework Dates).

The Central Flyway Council recommended the Service continue use of the 1998–99 regulatory packages for the 1999–2000 season with several modifications. The Council recommended opening framework dates of the Saturday closest to September 24 in the “liberal” and “moderate” regulatory alternatives with no offsets. The framework closing date would remain the Sunday closest to January 20. Additionally, the Council recommended that no additional changes be allowed to the packages for a five-year period (see further discussion in B. Framework Dates).

The Pacific Flyway Council recommended framework dates of the Saturday closest to September 23 to January 31 without offsets in the “liberal” alternative and with offsets in the “moderate” alternative (as long as the offset does not exceed 7 days with a season of not less than 79 days in the Pacific Flyway). For the “restrictive” and “very restrictive” alternatives, the Council recommended maintaining current framework dates (see further discussion in B. Framework Dates). The Council also recommended maintaining the current mallard bag limits and preserving the traditional differences in harvest opportunity both within and between Flyways.

*Service Response:* For the 1999–2000 regular duck hunting season, we propose the four regulatory alternatives detailed in the accompanying table. Alternatives are specified for each Flyway and are designated as “VERY RES” for the very restrictive, “RES” for the restrictive, “MOD” for the moderate, and “LIB” for the liberal alternative. We will announce final regulatory alternatives and propose a specific regulatory alternative at the conclusion

of the early-season regulations meetings in late June when survey data on waterfowl population and habitat status are available. Public comments will be accepted until July 2, 1999, and should be sent to the address under the caption **ADDRESSES**.

#### B. Framework Dates

*Council Recommendations:* The Atlantic Flyway Council recommended that the Service not allow framework date extensions in any States during the 1999–2000 season.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended no change in the framework dates from the 1997–98 regulatory alternatives.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended modification of the framework opening and closing dates to the Saturday closest to September 23 to January 31 for all regulatory alternatives with no offsets.

The Central Flyway Council recommended an opening framework date of the Saturday closest to September 24 in the “liberal” and “moderate” regulatory alternatives with no offsets. The framework closing date would remain the Sunday closest to January 20.

The Pacific Flyway Council recommended framework dates of the Saturday closest to September 23 to January 31 without offsets in the “liberal” alternative and with offsets in the “moderate” alternative (as long as the offset does not exceed 7 days with a season of not less than 79 days in the Pacific Flyway). For the “restrictive” and “very restrictive” alternatives, the Council recommended maintaining current framework dates.

*Service Response:* After considerable public debate concerning framework dates for the 1998–99 hunting season, in an August 5, 1998, **Federal Register** (63 FR 41926), we chose not to extend the framework closing date beyond January 20 in the Atlantic Flyway and the Sunday nearest January 20 in the Mississippi, Central, and Pacific Flyways. That decision reflected public concerns that framework-date extensions could re-distribute hunting opportunities in unknown or undesirable ways; that there could be adverse biological impacts; and that the four Flyway Councils had not had sufficient opportunity to design an approach that could be supported by a majority of States. In recognition of these concerns, we expressed an interest in working with the International Association of Fish and Wildlife Agencies, the National Flyway Council,

and the four Flyway Councils to explore common goals, potential conflicts, and possible solutions in the debate over framework-date extensions. However, we also recognized the inherent difficulty in finding a consensus solution, principally because the issue involves highly subjective assessments of what constitutes the fair and equitable distribution of hunting opportunity among States.

On September 29, 1998 (63 FR 51998), we published the final late-season frameworks for migratory bird hunting regulations that States used to select their hunting seasons. On October 19, 1998, Congress directed us to offer a framework-date extension from the Sunday nearest January 20 to January 31 in the States of Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee, provided the affected States agreed to reduce season length to offset the predicted increase in duck harvest. No public comment was accepted on this action because: (1) the framework dates were revised based on a directive from Congress; (2) public comment could not change the Congressional action; (3) there was insufficient time before the onset of hunting seasons in southern States; and (4) we had already received extensive public comment on the issue. Ultimately, the States of Alabama, Mississippi, and Tennessee selected the framework-date extension, and the length of their hunting seasons was reduced from 60 to 51 days.

In evaluating proposals for framework dates for the 1999–2000 hunting season, we will continue to focus on several key issues, including: (1) the potential for biological impacts on the waterfowl resource, particularly on those species currently at depressed levels; (2) the technical difficulties associated with applying framework dates at a State, rather than Flyway, level; (3) the need to maintain framework dates as a viable tool, along with season length and bag limit, for regulating duck harvests; and (4) the acceptability of proposals to a broad range of stakeholders. In addition, we are particularly concerned about any modification to framework dates that would disrupt the functioning of Adaptive Harvest Management (AHM), which is intended to reduce long-standing uncertainties about the impacts of hunting regulations on waterfowl populations. An essential feature of the AHM process is a set of regulatory alternatives (including framework dates, season lengths, and bag limits) that is sufficiently stable over time to permit a reliable investigation of the relationships between regulations and harvest, and between harvest and subsequent duck population size.

Proposals for framework extensions also will be evaluated based on our most recent biological assessment, which was conducted in response to a directive contained in the Senate Committee on Appropriations Report 105-227. Our assessment confirmed that extensions of opening and closing framework dates tend to increase the harvest of many duck species. Therefore, large-scale extensions, which are not accompanied by reductions in season length and/or bag limits, likely would increase the frequency of restrictive hunting regulations and the frequency of annual regulatory changes. Moreover, the assessment confirms that additional uncertainty about harvest levels, arising from novel changes to regulatory alternatives, will precipitate more conservative harvest strategies, at least in the short term.

Last August, and again last November, we publicly endorsed the National Flyway Council's (NFC) overall review of the framework-dates issue. We commend the NFC for their continuing efforts to resolve this contentious issue and seek consensus among the Flyways. However, in reviewing the recent framework-date proposals from the four Flyway Councils, it is readily apparent that a consistent approach among or, in one case, within Flyways is still lacking. Apparently, there remains a diversity of opinions: (1) about the desirability of framework-date extensions at this time; (2) about the need for corresponding reductions in season length; (3) about whether extensions should be applied to opening dates, closing dates, or both; and (4) about the inclusion of framework-date extensions in some or all of the regulatory alternatives.

We hope the Flyway Councils will continue to seek agreement on clear, definitive statements about harvest-management objectives, which include not only the overall desired level of hunting opportunity, but how that opportunity should be shared among States. Otherwise, we believe that tacit disagreement over the objectives of modifying framework dates will continue to undermine the biological and administrative foundations of the regulatory process. Therefore, we strongly believe that the debate over framework-date extensions could benefit from a more structured dialogue, in which Flyway Councils explore the sociological issues of fairness and equity underlying the framework-date issue. We acknowledge the difficulties associated with such a dialogue, but broad-based agreement on a regulatory approach to framework dates is unlikely in its absence.

In the absence of consensus among the Flyways and with a recognition of the need for stable regulatory alternatives for AHM, for the 1999-2000 hunting season, we are proposing the continued use of the 1998-99 regulatory alternatives published in the August 5, 1998, **Federal Register**, with one exception. For the States of Alabama, Mississippi, and Tennessee, we propose a 51-day season with a January 31 framework closing date in the "liberal" alternative. Of the six States that were offered the framework extension in the 1998-99 season, only these three States availed themselves of this option. We believe that a reduction in season length is needed to offset the expected increase in duck harvest (about 18% for mallards), and that 9 days is a commensurate offset for this region of the country. The framework-date extension would be limited to the "liberal" regulatory alternative to avoid the introduction of additional uncertainty about harvest impacts at other regulatory levels, and to avoid the potential for late-season physiological or behavioral impacts on ducks when population levels are insufficient to support liberal seasons. Framework opening and closing dates for all other States would remain unchanged from those published in the August 5, 1998, **Federal Register**. Finally, we intend to maintain these framework-date specifications through the 2002-03 hunting season. This stability is necessary to assess the appropriateness of the 9-day offset for the extended framework closing date in the southern Mississippi Flyway, and to ensure that the AHM process can continue to increase our understanding of the effects of hunting on waterfowl populations. This understanding is essential to providing maximum levels of biologically sustainable hunting opportunity.

#### F. Zones and Split Seasons

*Council Recommendations:* The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that the Service add "3 zones with 2-way splits permitted in one or more zones" as an additional option beginning in 2001. Further, because of the public input process many States undertake, the Committee recommended that States have up to one year to choose this option and provide the Service with its proposal (prior to the 2001 regular duck season regulations process).

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended that the Service consider offering all States the option of

choosing 3 zones with a split season in each zone in the year 2001.

The Pacific Flyway Council recommended the Service engage the Flyway Councils in an evaluation of the guidelines for zoning and split seasons, prior to the 2001 "open season" on regulation changes.

#### G. Special Seasons/Species Management

##### i. Scaup

We indicated our growing concern for the status and trends of North American scaup in September of last year (63 FR 51998) and May of this year (64 FR 23742). Additionally, scaup population status was a topic of discussion at the January 27, 1999, Service Regulations Committee meeting. We have also distributed a status report on scaup and provided some initial guidelines concerning a scaup harvest strategy to the Flyway Councils and others for consideration in the development of recommendations for the 1999-2000 hunting season. In response to this information, all four Flyways discussed the issue at their winter meetings.

*Council Recommendations:* The Atlantic Flyway Council recommended that the Service monitor and manage the harvest of greater and lesser scaup populations separately. They recommended that differences in harvest management, when required, be achieved through different daily bag limits applied on a regional basis. In the Atlantic Flyway, they recommended that in those regions harvesting primarily greater scaup, 1999-2000 scaup harvest regulations be based on the status of greater scaup, while the remaining portions of the Flyway be based on the status of lesser scaup. They further recommended that population objectives and regulatory triggering levels be finalized at the summer Flyway Council meetings.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that the scaup daily bag limit be reduced from 6 to 3 for 1999.

The Central Flyway Council believes that the North American Waterfowl Management Plan's scaup population objective (6.3 million) is too high and that a more appropriate objective is 5.4 million (1955-1998 average). This new objective would consist of 4.9 million lesser scaup and 462,000 greater scaup. The Council recommended a prescription for scaup bag limits based on the status of lesser scaup as follows: < 2 million, bag limit of 1; 2-4.2 million, bag limit of 2; and > 4.2, the bag limit for scaup should equal the regular

daily duck limit as determined by the AHM process.

*Service Response:* We remain concerned about the long-term status and trends in North American scaup populations. Further, we appreciate the efforts of all four Flyway Councils to constructively address the issue of a harvest strategy for scaup and will continue to work with the Councils to finalize a harvest strategy for scaup for the 1999–2000 season.

#### iv. September Teal/Wood Duck Seasons

*Council Recommendations:* The Lower-Region Regulations Committee of the Mississippi Flyway Council requested that the Service clarify the linkage between the Flyway-wide wood duck harvest strategy, September teal seasons, and regional (reference area) September wood duck seasons. They further recommended the continuation of the experimental September teal/wood duck seasons in Kentucky and Tennessee in 1999 with no changes from the 1998 season.

#### v. Youth Hunt

*Council Recommendations:* The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended a special 2-day youth waterfowl season.

The Central Flyway Council recommended expansion of the special youth waterfowl hunt to 2 consecutive days.

#### 4. Canada Geese

##### A. Special Seasons

*Council Recommendations:* The Atlantic Flyway Council made several recommendations concerning September goose seasons. They recommended the approval of operational status for a September 1 to 25 framework in Crawford County, Pennsylvania, and a September 1 to 30 framework in New Jersey beginning in 1999. They further recommended the expansion of the September goose season framework closing date around Montezuma National Wildlife Refuge, New York from September 15 to 20.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that Minnesota be allowed to have an experimental extension of their September special season from September 16 to 22, except in the Northwest Goose Zone, for the 1999, 2000, and 2001 hunting seasons.

The Lower-Region Regulations Committee of the Mississippi Flyway Council urged the Service to use caution in changing or expanding special goose seasons.

The Pacific Flyway Council recommended the addition of the Bridger Valley hunt unit to the existing September RMP Canada goose seasons in western Wyoming, with frameworks of September 1 to 7.

##### B. Regular Seasons

*Council Recommendations:* The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that the 1999 regular goose season opening date be as early as September 18 in Michigan and Wisconsin.

#### 7. Snow and Ross's (Light) Geese

*Council Recommendations:* The Atlantic Flyway Council requested that the Service begin preparation of the NEPA documentation necessary for regulation changes needed to stabilize the greater snow goose population at 1.0 million by 2002. Their recommended changes include extension of the shooting hours to one-half hour after sunset, the use of electronic callers, unplugged shotguns, and conservation hunts. They requested initiation of these changes by the 1999–2000 season.

#### 9. Sandhill Cranes

*Council Recommendations:* The Central Flyway Council recommended removal of the "float" portion (10 percent of the total allowable harvest) of the Rocky Mountain Population (RMP) greater sandhill crane annual harvest allocation for the 1999–2000 and 2000–2001 seasons. The Council recommended removal of this harvest portion to allow a research study.

The Pacific Flyway Council recommended several changes in sandhill crane seasons. For greater sandhill cranes, the Council recommended the establishment of a new experimental crane hunt in Box Elder County, Utah, between September 1 and September 30. For RMP cranes, the Council recommended that the frameworks be modified to include Bear Lake and Fremont Counties in Idaho, and that the current requirement for hunter check stations in these counties be waived. The Council further recommended that the annual check station requirement for the Arizona RMP Greater Sandhill Crane hunt be modified to a required check station every 3 years.

#### 18. Alaska

*Council Recommendations:* The Pacific Flyway Council made several recommendations concerning Alaska. For sea ducks, the Council recommended reducing the separate sea duck bag and possession limits from 15/

30 to 10/20 king and common eiders, scoters, and mergansers in the aggregate. Long-tailed ducks (oldsquaws) and harlequins would be included in general duck limits and seasons would remain closed for spectacled and Steller's eiders. For Canada geese, the Council recommended removal of Canada goose bag limit restrictions within dark goose bag limits (4/8) in Alaska Game Management Subunit 9E (Alaska Peninsula) and Unit 18 (Y-K Delta). Further, for tundra swans, the Council recommended that tundra swan permits issued for swan hunts in Alaska allow the take of up to 3 swans per permit, with no change in reporting requirements or other framework conditions.

#### Public Comment Invited

We intend that adopted final rules be as responsive as possible to all concerned interests, and therefore desire to obtain the comments and suggestions of the public, other concerned governmental agencies, non-governmental organizations, and other private interests on these proposals. However, special circumstances are involved in the establishment of these regulations which 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.

#### Comment Procedure

The Department of the Interior's policy is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, we invite interested persons to submit written comments, suggestions, or recommendations regarding the proposed regulations. 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. We invite interested persons to participate in this rulemaking by submitting written comments to the

address indicated under the caption ADDRESSES.

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 (FSSES 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.

#### **Endangered Species Act Consideration**

Prior to issuance of the 1999-2000 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? 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 effect 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 and \$1,084 million at small businesses in 1998. Copies of the Analysis are available upon request from the Office 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 09/30/2001). 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 09/30/2000). The information from this survey is used to estimate the magnitude, the geographical and temporal distribution of harvest, and the portion its 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 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.

#### **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.

#### **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 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 12612, 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 1999-2000 hunting season are authorized under 16 U.S.C. 703-711, 16 U.S.C. 712, and 16 U.S.C. 742 a-j.

Dated: June 9, 1999.

**Donald J. Barry,**

*Assistant Secretary for Fish and Wildlife and Parks.*

BILLING CODE 4310-55-P

PROPOSED REGULATORY ALTERNATIVES FOR DUCK HUNTING DURING THE 1999-2000 SEASON

	ATLANTIC FLYWAY			MISSISSIPPI FLYWAY (a)			CENTRAL FLYWAY (b)			PACIFIC FLYWAY (c)(d)			
	VERY RES	RES	LIB	VERY RES	RES	LIB	VERY RES	RES	LIB	VERY RES	RES	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							
Ending Shooting Time	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset							
Opening Date	Oct. 1	Oct. 1	Oct. 1	Oct. 1	Oct. 1	Oct. 1							
Closing Date	Jan. 20	Jan. 20	Jan. 20	Jan. 20	Jan. 20	Jan. 20							
Season Length	20	30	45	60	60	60	60	74	74	60	66	107	
Daily Bag/Possession	3 6	3 6	6 12	6 12	6 12	6 12	6 12	6 12	6 12	4 8	4 8	7 14	
Species/Sex Limits within the Overall Daily Bag Limit	3/1 1 1 1 2 2 1 Closed 1	3/1 1 1 1 2 2 1 Closed 1	4/2 1 1 1 2 2 1 Closed 1	4/2 1 1 1 2 2 1 Closed 1	4/2 1 1 1 2 2 1 Closed 1	4/2 1 1 1 2 2 1 Closed 1	4/2 1 1 1 2 2 1 Closed 1	5/1 1 1 1 2 2 1 1 1	5/1 1 1 1 2 2 1 1 1	3/1 1 1 1 2 2 1 1 1	3/1 1 1 1 2 2 1 1 1	5/2 1 1 1 2 2 1 1 1	5/2 1 1 1 2 2 1 1 1

(a) In the States of Alabama, Mississippi, and Tennessee, the season length in the liberal alternative is 51 days and the framework closing date is January 31. Additional days would be allowed under the various options as follows:  
 (b) 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. Under all options, additional days must be on or after the Saturday nearest December 10.  
 (c) 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 options except the liberal option, an additional 7 days would be allowed.  
 (d) 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 very restrictive and restrictive options, and 8-10 under the moderate and liberal options. There would be no restrictions on pintails, and canvasback limits would follow those for the remainder of the Pacific Flyway. Under all options, season length would be 107 days and framework dates would be Sep 1 - Jan 26.