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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–HQ–MB–2013–0057; FF09M21200-134-FXMB1231099BPP0]

RIN 1018–AY87

Migratory Bird Hunting; Supplemental Proposals for Migratory Game Bird Hunting Regulations for the 2013–14 Hunting Season; Notice of Meetings

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; supplemental.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), proposed in an earlier document to establish annual hunting regulations for certain migratory game birds for the 2013–14 hunting season. This supplement to the proposed rule provides the regulatory schedule, announces the Service Migratory Bird Regulations Committee and Flyway Council meetings, and provides Flyway Council recommendations resulting from their March meetings.

DATES: *Comments:* You must submit comments on the proposed regulatory alternatives for the 2013–14 duck hunting seasons on or before June 22, 2013. Following subsequent **Federal Register** notices, you will be given an opportunity to submit comments for proposed early-season frameworks by July 27, 2013, and for proposed late-season frameworks and subsistence migratory bird seasons in Alaska by August 31, 2013.

Meetings: 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, 2013, and for late-season migratory bird hunting and the 2014 spring/summer migratory bird subsistence season in Alaska on July 31 and August 1, 2013. All meetings will commence at approximately 8:30 a.m.

ADDRESSES: *Comments:* You may submit comments on the proposals by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-HQ-MB-2013-0057.
- U.S. mail or hand-delivery: Public Comments Processing, Attn: FWS-HQ-MB-2013-0057; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042-PDM; Arlington, VA 22203.

We will not accept e-mailed or faxed comments. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the **Public Comments** section below for more information).

Meetings: 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 Dr., Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, U.S. Fish and Wildlife Service, Department of the Interior, MS MBSP-4107-ARLSQ, 1849 C Street, NW, Washington, DC 20240; 703-358-1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 2013

On April 9, 2013, we published in the **Federal Register** (78 FR 21200) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and addressed 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 and late-season frameworks in early August. We will publish final regulatory frameworks for early seasons on or about August 16, 2013, and for late seasons on or about September 14, 2013.

Service Migratory Bird Regulations Committee Meetings

The Service Migratory Bird Regulations Committee (SRC) will meet June 19–20, 2013, to review information on the current status of migratory shore and upland game birds and develop 2013–14 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 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–August 1, 2013, meetings, the Committee will review information on the current status of waterfowl and develop 2013–14 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 2014 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 18–19, Mystic Hilton, Mystic, CT.
- Mississippi Flyway Council: July 25–26, Biddle Hotel and Conference Center, Bloomington, IN.
- Central Flyway Council: July 25–26, The Lodge at Sierra Blanca, Ruidoso, NM.
- Pacific Flyway Council: July 26, Siena Hotel, Reno, NV.

Review of Public Comments

This supplemental rulemaking describes Flyway Council recommended changes based on the preliminary proposals published in the April 9, 2013, **Federal Register**. We have included only those recommendations requiring either new proposals or substantial modification of the preliminary proposals and do not include recommendations that simply support or oppose preliminary proposals and provide no recommended alternatives. Our responses to some Flyway Council recommendations, but not others, are merely a clarification aid to the reader on the overall regulatory process, not a definitive response to the issue. 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 identified in the April 9 proposed rule. Only those categories requiring your attention or for which we received Flyway Council recommendations are discussed below.

1. Ducks

Duck harvest management categories 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 Mississippi Flyway Council recommended that regulations changes be restricted to one step per year, both when restricting as well as liberalizing hunting regulations.

Service Response: As we stated in the April 9 **Federal Register**, the final AHM protocol for the 2013–14 season will be detailed in the early-season proposed rule, which will be published in mid-July.

B. Regulatory Alternatives

Council Recommendations: The Mississippi and Central Flyway Councils recommended that regulatory alternatives for duck hunting seasons remain the same as those used in 2012–13.

Service Response: As we stated in the April 9 **Federal Register**, the final regulatory alternatives for the 2013–14 season will be detailed in the early-season proposed rule, which will be published in mid-July.

D. Special Seasons/Species Management

i. September Teal Seasons

Council Recommendations: The Atlantic, Mississippi, and Central Flyway Councils recommended that the daily bag limit be increased from 4 to 6 teal in the aggregate during the Special September teal season. The Atlantic Flyway Council also recommended that we allow Maryland to adjust existing shooting hours during the Special September teal season from sunrise to one-half hour before sunrise on an experimental basis during 2013–15 seasons.

vi. Scaup

Council Recommendations: The Central Flyway Council recommended modifying the “moderate” regulatory alternative for the States of the Central Flyway from a 74-day season with a 2-bird daily bag limit to a 74-day season with a 3-bird daily bag limit. The Council recommended no changes to the “restrictive” and “liberal” alternative.

2. Sea Ducks

Council Recommendations: The Atlantic Flyway Council recommended that the Service amend the annual waterfowl hunting regulations at 50 CFR 20.105 to allow the shooting of crippled waterfowl from a motorboat under power in New Jersey, North Carolina, South Carolina, and Georgia in those areas described, delineated, and designated in their respective hunting regulations as special sea duck hunting areas.

4. Canada Geese

A. Special Seasons

Council Recommendations: The Mississippi Flyway Council recommended increasing the daily bag limit in Minnesota from 5 geese to 10 geese during the special September season in certain areas of the State.

B. Regular Seasons

Council Recommendations: The Mississippi Flyway Council recommended that the framework opening date for all species of geese for the regular goose seasons in the Lower Peninsula of Michigan and Wisconsin be September 16, 2013, and in the Upper Peninsula of Michigan be September 11, 2013.

9. Sandhill Cranes

Council Recommendations: The Mississippi Flyway Council recommended implementation of a 3-year experimental 60-day sandhill crane season in Tennessee beginning in the 2013–14 season.

The Central Flyway Council recommended increasing the season length in North Dakota's eastern sandhill crane hunting zone (Area-2) from 37 to 58 days in length.

The Central and Pacific Flyway Councils recommend using the 2013 Rocky Mountain Population (RMP) sandhill crane harvest allocation of 771 birds as proposed in the allocation formula using the 3-year running average for 2010–12.

16. Mourning Doves

Council Recommendations: The Atlantic and Mississippi Flyway Councils recommended use of the “moderate” season framework for States within the Eastern Management Unit population of mourning doves resulting in a 70-day season and 15-bird daily bag limit. The daily bag limit could be composed of mourning doves and white-winged doves, singly or in combination.

The Mississippi and Central Flyway Councils recommend the use of the standard (or “moderate”) season package of a 15-bird daily bag limit and a 70-day season for the 2013–14 mourning dove season in the States within the Central Management Unit. They also recommended that the Special White-winged Dove Area be expanded to Interstate Highway 37 in the 2013–14 season.

The Pacific Flyway Council recommended use of the “moderate” season framework for States in the Western Management Unit (WMU) population of doves, which represents no change from last year’s frameworks.

The Atlantic, Mississippi, Central, and Pacific Flyway Councils also recommended that the present interim mourning dove harvest strategy be replaced by a new national mourning dove harvest strategy for implementation beginning with the 2014–15 season. The new strategy uses a discrete logistic growth model based on information derived from the banding program, the Harvest Information Program, and the mourning dove parts collection survey to predict mourning dove population size in a Bayesian statistical framework. The method is similar to other migratory bird strategies already in place and performs better than several other modeling strategies that were evaluated by the National Mourning Dove Task Force. The strategy uses mourning dove population thresholds to determine a regulation package for mourning doves for each year.

23. Other

Council Recommendations: The Atlantic Flyway Council recommended increasing the possession limits for sora and Virginia rails from 2 to 3 times the aggregate daily bag limit, consistent with the Council’s proposed bag limits for all other migratory game birds during normal established hunting seasons.

The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended increasing the possession limit from 2 to 3 times the daily bag limit for doves.

The Pacific Flyway Councils recommended increasing the possession limit from 2 to 3 times the daily bag limit for band-tailed pigeons, special September Canada goose seasons, snipe, falconry, and Alaska seasons for brant, sandhill cranes, and geese (except dusky Canada

geese).

The Mississippi Flyway Council recommended that the Service increase the possession limit from 2 times to 3 times the daily bag limit for all migratory game bird species and seasons except for Canada geese or other overabundant species for which no current possession limits are currently assigned (e.g., light geese), where there would continue to be no possession limits. The Council also recommended no change for those species that currently have permit hunts (e.g., cranes and swans). The Council recommends these changes be implemented beginning in the 2013–14 season. New and/or experimental seasons could have different possession limits if justified. The Council further recommended that possession limits not apply at one's personal permanent residence and specifically recommended language to modify 50 CFR 20.39 to do so.

Service Response: The issue of possession limits was first raised by the Flyway Councils in the summer of 2010. At that time, we stated that we were generally supportive of the Flyways' interest in increasing the possession limits for migratory game birds and appreciated the discussions to frame this important issue (75 FR 58250; September 23, 2010). We also stated that we believed there were many unanswered questions regarding how this interest could be fully articulated in a proposal that satisfies the harvest management community, while fostering the support of the law enforcement community and informing the general hunting public. Thus, we proposed the creation of a cross-agency Working Group, chaired by the Service, and comprised of staff from the Service's Migratory Bird Program, State Wildlife Agency representatives, and Federal and State law enforcement staff, to develop a recommendation that fully articulates a potential change in possession limits. This effort would include a discussion of the current status and use of possession limits, which populations and/or species/species groups should not be included in any proposed modification of possession limits, potential law

enforcement issues, and a reasonable timeline for the implementation of any such proposed changes.

After discussions last year at the January SRC meeting, and March and July Flyway Council meetings, the Atlantic, Central, and Pacific Flyway Councils recommended that the Service increase the possession limit from 2 times to 3 times the daily bag limit for all migratory game bird species and seasons except for those species that currently have possession limits of less than 2 times the daily bag limit (e.g., some rail species), permit hunts (e.g., cranes and swans), and for overabundant species for which no current possession limits are assigned (e.g., light geese), beginning in the 2013–14 season (77 FR 58444; September 20, 2012). These recommendations from the Councils are one such outgrowth of the efforts started in 2010. With the new recommendation from the Mississippi Flyway Council and the additional input and recommendations from all four Flyway Councils from their March 2013 Council meetings, we plan to prepare a proposal for the SRC’s consideration and discussion at the June 19–20 SRC meeting for the 2013–14 hunting seasons.

Additionally, as we discussed in the April 9 proposed rule (78 FR 21200), when our initial review of possession limits was instituted in 2010, we also realized that a review of possession limits could not be adequately conducted without expanding the initial review to include other possession-related regulations. In particular, it was our belief that any potential increase in the possession limits should be done in concert with a review and update of the wanton waste regulations in 50 CFR 20.25. We believed it prudent to review some of the long-standing sources of confusion (for both hunters and law enforcement) regarding wanton waste. A review of the current Federal wanton waste regulations, along with various State wanton waste regulations, has been recently completed, and we anticipate publishing a proposed rule this

summer to revise 50 CFR 20.25.

Lastly, we recognize that there are other important issues surrounding possession that need to be reviewed, such as termination of possession (as recommended by the Mississippi Flyway Council). However, that issue is a much larger and more complex review than the wanton waste regulations and the possession limit regulations. We anticipate starting a review of termination of possession regulations upon completion of changes to the wanton waste and possession limits regulations.

Public Comments

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 we receive. Such comments, and any additional information we receive, may lead to final regulations that differ from these proposals.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. We will not accept comments sent by e-mail or fax or to an address not listed in the **ADDRESSES** section. Finally, we will not consider hand-delivered comments that we do not receive, or mailed comments that are not postmarked, by the date specified in the **DATES** section.

We will post all comments in their entirety—including your personal identifying information—on <http://www.regulations.gov>. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made

publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Division of Migratory Bird Management, Room 4107, 4501 North Fairfax Drive, Arlington, VA 22203.

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 we receive during the comment period and respond to them after the closing date in any final rules.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is significant because it will have an annual effect of \$100 million or more on the economy.

An economic analysis was prepared for the 2008–09 season. This analysis was based on data from the 2006 National Hunting and Fishing Survey. This analysis estimated consumer surplus for three alternatives for duck hunting (estimates for other species are not quantified due to lack of data). The alternatives are (1) Issue restrictive regulations allowing fewer days than those issued during the 2007–08 season, (2) Issue moderate regulations allowing more days than those in alternative 1, and (3) Issue liberal regulations identical to the regulations in the 2007–08 season. For the 2008–09 season, we chose alternative 3, with an estimated consumer surplus

across all flyways of \$205–\$270 million. We also chose alternative 3 for the 2009–10, the 2010–11, the 2011–12, and the 2012–13 seasons. At this time, we are proposing no changes to the season frameworks for the 2013–14 season, and as such, we will again consider these three alternatives. However, final frameworks will be dependent on population status information available later this year.

Recently, new economic data from the 2011 National Hunting and Fishing Survey has become available. As such, we are currently updating our previous economic analysis and plan to have it available for public review and comment later this summer. Until such time as our new analysis is available, we will continue to make the 2008–09 analysis available at <http://www.fws.gov/migratorybirds/NewReportsPublications/SpecialTopics/SpecialTopics.html#HuntingRegs> or at <http://www.regulations.gov> at Docket No. FWS–HQ–MB–2013–0057.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Other Required Determinations

Based on our most current data, we are affirming our required determinations made in the proposed rule; for descriptions of our actions to ensure compliance with the following statutes

and Executive orders, see our April 9, 2013, proposed rule (78 FR 21200):

- National Environmental Policy Act;
- Endangered Species Act;
- Regulatory Flexibility Act;
- Small Business Regulatory Enforcement Fairness Act;
- Paperwork Reduction Act;
- Unfunded Mandates Reform Act;
- Executive Orders 12630, 12988, 13175, 13132, and 13211.

List of Subjects in 50 CFR Part 20

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

Authority

The rules that eventually will be promulgated for the 2013–14 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 3, 2013

Rachel Jacobson

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

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