



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–HQ–MB–2017–0028; FF09M21200-178-FXMB1231099BPP0]

RIN 1018–BB73

Migratory Bird Hunting; Supplemental Proposals for Migratory Game Bird Hunting Regulations for the 2018–19 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 this year to establish annual hunting regulations for certain migratory game birds for the 2018–19 hunting season. This supplement to that proposed rule provides the regulatory alternatives for the 2018–19 duck hunting seasons, announces the Service Migratory Bird Regulations Committee (SRC) and Flyway Council meetings, and provides Flyway Council recommendations resulting from their March meetings.

DATES: *Comments:* We will accept comments on this proposed rule and any subsequent proposed rules resulting from upcoming SRC meetings until January 15, 2018.

Meetings: The SRC will meet to consider and develop proposed regulations for the 2018–19 migratory game bird hunting seasons on October 17–18, 2017. Meetings on both days will commence at approximately 8:30 a.m.

ADDRESSES: 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–2017–0028.
- U.S. mail or hand-delivery: Public Comments Processing, Attn: FWS–HQ–MB–2017–0028; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service, MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041.

We will not accept e-mailed or faxed comments. We will post all comments on <http://www.regulations.gov>. This generally means that your entire submission—including any personal identifying information—will be posted on the Web site. See the **Public Comments** section, below, for more information.

Meetings: The October 17–18, 2017, SRC meeting will be at the U.S. Fish and Wildlife Service Midwest Regional Office, 5600 American Boulevard, Bloomington, MN 55437.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel at: Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, MS: MB, 5275 Leesburg Pike, Falls Church, VA 22041; (703) 358–1714.

SUPPLEMENTARY INFORMATION:

New Process for the Annual Migratory Game Bird Hunting Regulations

As part of DOI's retrospective regulatory review, 2 years ago we developed a schedule for migratory game bird hunting regulations that is more efficient and provides hunting season dates much earlier than was possible under the old process. The new process makes planning easier for the States and all parties interested in migratory bird hunting. Beginning in the summer of 2015, with the development of the 2016–17 hunting seasons, we started promulgating our annual migratory game bird hunting regulations using a new schedule that combines the

previously used early- and late-season regulatory processes into a single process. We make decisions for harvest management based on predictions derived from long-term biological information and established harvest strategies and, therefore, can establish migratory bird hunting seasons much earlier than the system we used for many years. Under the new process, we develop proposed hunting season frameworks for a given year in the fall of the prior year. We then finalize those frameworks a few months later, thereby enabling the State agencies to select and publish their season dates in early summer. We provided a detailed overview of the new process in the August 3, 2017, *Federal Register* (82 FR 36308). This proposed rule is the second in a series of proposed and final rules for the establishment of the 2018–19 hunting seasons.

Service Migratory Bird Regulations Committee Meetings

The SRC will meet October 17–18, 2017, to review information on the current status of migratory game birds, consider Flyway Council recommendations, and develop 2018–19 migratory game bird regulations recommendations for these species. In accordance with Departmental policy, these meetings are open to public observation. You may submit written comments to the Service on the matters discussed.

Regulatory Schedule for 2017–18

On August 3, 2017, we published a proposal to amend title 50 of the Code of Federal Regulations (CFR) at part 20 (82 FR 36308). 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 additional supplemental proposals for public comment in the *Federal Register* as population, habitat, harvest, and other information become available. Major steps in the 2018–19 regulatory cycle relating to open public meetings and *Federal Register* notifications were illustrated in the diagram at the end of the August 3, 2017, proposed rule (82 FR 36308).

All sections of this and subsequent documents outlining hunting frameworks and guidelines are organized under the numbered headings set forth in the August 3, 2017, proposed rule (82 FR 36308). Later sections of this and subsequent documents will refer only to numbered items requiring attention. Therefore, it is important to note that we will omit those items requiring no attention, and remaining numbered items will be discontinuous, thereby making the list appear incomplete.

The regulatory alternatives for the 2018–19 duck hunting seasons are shown at the end of this document. We plan to publish proposed season frameworks in mid-December 2017. We plan to publish final season frameworks in late February 2018.

Review of Public Comments

This proposed rulemaking describes recommended changes or specific preliminary proposals that vary from the 2017–18 regulations and issues requiring discussion, action, or the attention of the States or tribes. We will publish responses to all proposals and written

comments when we develop final frameworks for the 2018–19 season. We seek additional information and comments on 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 August 3, 2017, proposed rule (82 FR 36308). Only those categories requiring 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 regulation changes be restricted to one step per year, both when restricting as well as liberalizing hunting regulations.

Service Response: As we stated in the August 3, 2017, proposed rule (82 FR 36308), we intend to continue use of Adaptive Harvest Management (AHM) to help determine appropriate duck-hunting regulations for the 2018–19 season. AHM is a tool that permits sound resource decisions in the face of uncertain regulatory impacts, as well as providing a mechanism for reducing that uncertainty over time. The current AHM protocol is used to evaluate four

alternative regulatory levels based on the population status of mallards and their breeding habitat (i.e., abundance of ponds). Special hunting restrictions are enacted for certain species, such as canvasbacks, black ducks, scaup, and pintails.

Regarding the Mississippi Flyway Council recommendation to limit regulatory changes to one step per year, we recognize the longstanding interest by the Council to impose a one-step constraint on regulatory changes. We note that the Central and Mississippi Flyways have worked with Service staff during the past 3 years to revisit the AHM protocol for managing harvest of mid-continent mallards. This effort has included a discussion of appropriate management objectives, regulatory packages, and management of non-mallard stocks. These discussions are the appropriate venue to discuss what role, if any, a one-step constraint might play in management of waterfowl in the Central and Mississippi Flyways. Such discussions should include the potential impact of a one-step constraint on the frequency of when the liberal, moderate, and restrictive packages would be recommended. On a final note, while we recognize the Council's concern about potentially communicating a large regulatory change to hunters, we have concerns about the appropriateness of a one-step constraint in situations when the status of the waterfowl resource may warrant such a measure. We look forward to continued work with the Flyway Councils on this issue.

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 2017–18. The Mississippi Flyway Council further recommended changing the framework closing date to

January 31 during “moderate” and “liberal” seasons.

Service Response: As we stated in final rules published last year (81 FR 17302, March 28, 2016) and earlier this year (82 FR 24786, May 30, 2017), we do not support the Council’s recommendation to extend the duck season framework closing date to January 31 at this time. We note that the current framework opening and closing dates were developed through a cooperative effort between all four Flyway Councils and that framework dates are only one of several components that comprise the regulatory packages utilized in AHM. Regulatory packages also consider season length, daily bag limits, and shooting hours. The current regulatory packages in the Mississippi Flyway should remain unchanged until revisions to the AHM protocols have been completed. Those efforts will include examination of duck harvest management objectives, model updates, and revisions to regulatory packages, including framework dates. We prefer that the issue of framework dates and any other component of the regulatory packages be addressed through this cooperative process and would prefer a comprehensive approach to revising regulatory packages rather than making incremental changes.

Thus, the regulatory alternatives proposed in the August 3, 2017, *Federal Register* (82 FR 36308) will be used for the 2018–19 hunting season (see accompanying table at the end of this document for specific information). In 2005, the AHM regulatory alternatives were modified to consist only of the maximum season lengths, framework dates, and bag limits for total ducks and mallards. Restrictions for certain species within these frameworks that are not covered by existing harvest strategies will be addressed in the proposed frameworks rule in early December 2017. For those species with specific harvest strategies (pintails, black ducks, and scaup), those strategies will

again be used for the 2018–19 hunting season.

D. Special Seasons/Species Management

i. September Teal Seasons

Council Recommendations: The Mississippi Flyway Council recommended that early teal seasons in Iowa, Michigan, and Wisconsin be made operational beginning with the 2018 season and remain operational thereafter. The frameworks would follow the teal harvest strategy, except that Iowa would retain the option of selecting an early September duck season in lieu of an early teal season. Iowa would choose between an early September duck season or early teal season beginning with the 2018–19 hunting season, and this decision will remain in effect under current frameworks. The Council also recommended that Kentucky and Tennessee be granted operational 4-day teal only seasons when 16-day teal seasons are offered for the 2018–19 season and beyond. If a 9-day teal season is offered, the Council recommends that both States would revert to their original 5-day wood duck and teal seasons. The Kentucky and Tennessee seasons would follow the existing teal harvest strategy.

16. Doves

Council Recommendations: The Atlantic and Mississippi Flyway Councils recommended that the framework closing date for mourning doves in the Eastern Management Unit (EMU) be moved from January 15 to January 31 for the 2018–19 hunting season, and that the National Mourning Dove Harvest Strategy be revised accordingly. The Central and

Mississippi Flyway Councils recommended that the National Mourning Dove Harvest Strategy be revised to allow a fixed opening framework date of September 14 for the Texas South Dove Zone.

Service Response: We agree with the Atlantic and Mississippi Flyway Councils' recommendation to extend the EMU's framework closing date to January 31. A review of the available data on mourning dove nesting phenology in the EMU indicated that <1 percent of all mourning dove nest initiations detected occurred in January; thus, the impacts on mourning dove reproduction will be minimal. Furthermore, the maximum additional harvest expected as a result of this action is negligible in relation to the number of mourning doves in the EMU (<0.2 percent of the fall population). Therefore, we do not expect that this action will result in significant impacts to the EMU mourning dove population. However, we also note that nesting phenology may have changed in some areas since the studies cited in the EMU recommendation were conducted and may continue to change in the future. Thus, framework dates later than January 31 should not be considered without new studies that document contemporary nesting phenology throughout the EMU, which would allow assessment of the impact of a later closing date on mourning dove productivity.

Regarding the Central and Mississippi Flyway Councils' recommendation, we supported a change in the opening date to September 14 for the Texas South Dove Zone (82 FR 24794, May 30, 2017). However, we noted that the National Dove Harvest Strategy used to guide dove harvest management had language that did not allow the earlier date, and would need to be revised. Therefore, we delayed implementation of the earlier opening date until the 2018–19 season. We support the recommendations and the change made to the Harvest Strategy, which will allow the

earlier framework date in the Texas South Dove Zone for the 2018–19 season.

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 the proposed rule by one of the methods listed in **ADDRESSES**. We will not accept comments sent by e-mail or fax or to an address not listed in **ADDRESSES**. 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 **DATES**. 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 the 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, 5275 Leesburg Pike, Falls Church, VA.

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.

Required Determinations

Based on our most current data, we are affirming our required determinations made in the August 3, 2017, proposed rule (82 FR 36308); see that document for descriptions of our actions to ensure compliance with the following statutes and Executive Orders:

- National Environmental Policy Act;
- Endangered Species Act;
- Regulatory Flexibility Act;
- Small Business Regulatory Enforcement Fairness Act;
- Paperwork Reduction Act;
- Unfunded Mandates Reform Act; and
- Executive Orders 12630, 12866, 12988, 13132, 13175, 13211, 13563, and 13771.

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 2018–19 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: September 21, 2017.

Todd D. Willens,

Acting Assistant Secretary for Fish and Wildlife and Parks.

REGULATORY ALTERNATIVES FOR DUCK HUNTING DURING THE 2018-19 SEASON

	ATLANTIC FLYWAY			MISSISSIPPI FLYWAY			CENTRAL FLYWAY (a)			PACIFIC FLYWAY (b)(c)		
	RES	MOD	LIB									
Beginning Shooting Time	1/2 hr. before sunrise											
Ending Shooting Time	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	3	6	6	3	6	6	3	6	6	4	7	7
Species/Sex Limits within the Overall Daily Bag Limit												
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

- (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 from the remainder of the Pacific Flyway. The bag limit (depending on the area) would be 5-8 under the restrictive alternative, and 7-10 under the moderate and liberal alternatives. Under all alternatives, season length would be 107 days and framework dates would be Sep. 1 - Jan. 26.

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