



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-HQ-MB-2024-N005; FXMB1231099BPP0-245-FF09M32000; OMB

Control Number 1018-0171]

Agency Information Collection Activities; Submission to the Office of Management and Budget; Establishment of Annual Migratory Bird Hunting Seasons

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing to revise a currently approved information collection.

DATES: Interested persons are invited to submit comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Written comments and recommendations for the proposed information collection should be submitted within 30 days of publication of this notice at <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting "Currently under Review - Open for Public Comments" or by using the search function. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041-3803 (mail); or by email to Info_Coll@fws.gov. Please reference "1018-0171" in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information

about this information collection request (ICR), contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at Info_Coll@fws.gov, or by telephone at (703) 358-2503. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

On November 20, 2023, we published in the *Federal Register* (88 FR 80745) a notice of our intent to request that OMB approve this information collection. In that notice, we solicited comments for 60 days, ending on January 19, 2024. In an effort to increase public awareness of, and participation in, our public commenting processes associated with information collection requests, the Service also published the *Federal Register* notice on Regulations.gov (Docket No. FWS-HQ-MB-2023-0211), to provide the public with an additional method to submit comments (in addition to the typical U.S. mail submission methods). We received two comments in response to that notice which did not address the information collection requirements. No response to those comments is required.

In addition to soliciting public comments on the information collection

requirements in the *Federal Register* notice, we consult annually with State and Tribal governments annually and on an ongoing basis throughout the rulemaking process. The Service publishes a series of proposed and final rulemaking documents for the establishment of the upcoming annual hunting seasons. Follow-up *Federal Register* publications discuss and propose the frameworks for the upcoming season migratory bird hunting regulations. Comments and recommendations are summarized and published as part of a follow-on proposed rule.

In addition, we also conduct consultation and outreach as part of this process through the involvement of the flyway councils. Acknowledging regional differences in hunting conditions, the Service has administratively divided the Nation into four flyways for the primary purpose of managing migratory game birds. Each flyway (Atlantic, Mississippi, Central, and Pacific) has a flyway council, a formal organization generally composed of one member from each State and Province in that flyway. The flyway councils, established through the Association of Fish and Wildlife Agencies, also assist in researching and providing migratory game bird management information for Federal, State, and provincial governments, as well as private conservation entities and the general public.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

- (1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be 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.

Abstract: Migratory game birds are those bird species so designated in conventions between the United States and several foreign nations for the protection and management of these birds. Under the Migratory Bird Treaty Act (16 U.S.C. 703–712), the Secretary of the Interior is authorized to determine when “hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, or export of any such bird, or any part, nest, or egg” of migratory game birds can take place, and to adopt regulations for this purpose. These regulations are written after giving due regard to “the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of such birds” (16 U.S.C. 704(a)) and are

updated annually. This responsibility has been delegated to the Service as the lead Federal agency for managing and conserving migratory birds in the United States. However, migratory bird management is a cooperative effort of State, Tribal, and Federal governments. Migratory game bird hunting seasons provide opportunities for recreation and sustenance; aid Federal, State, and Tribal governments in the management of migratory game birds; and permit harvests at levels compatible with migratory game bird population status and habitat conditions.

The Service develops migratory game bird hunting regulations by establishing the frameworks, or outside limits, for season dates, season lengths, shooting hours, bag and possession limits, and areas where migratory game bird hunting may occur. Acknowledging regional differences in hunting conditions, the Service has administratively divided the Nation into four flyways for the primary purpose of managing migratory game birds. Each flyway (Atlantic, Mississippi, Central, and Pacific) has a flyway council, a formal organization generally composed of one member from each State and in that flyway. The flyway councils, established through the Association of Fish and Wildlife Agencies, also assist in researching and providing migratory game bird management information for Federal, State, provincial, and Tribal governments, as well as private conservation entities and the general public.

The information identified below, solicited annually from State (including U.S. territory) governments, is necessary to establish annual migratory bird hunting seasons. The required information, received at various times in the year prior to the actual hunting season as part of the rulemaking process described above, is used by the Service as part of the final rulemaking process necessary to open annual hunting seasons otherwise closed by law.

1. *Information Requested from States and U.S. Territories to Establish Annual Migratory Bird Hunting Seasons* – State and U.S. territory governments that wish to establish annual migratory game bird hunting seasons are required to provide the requested dates and other details for hunting seasons in their respective States or Territories. The information is provided to the Service in a non-form format, usually via letter or spreadsheet, in response to solicitations for the information sent to the State governments each year via an emailed letter and as part of the first final rule (for the frameworks).
2. *Reports (50 CFR part 20)* – The following reports are requested from the States and are submitted either annually or every 3 years as explained in the following text. (NOTE: Below, we have annotated changes, if any, to the reporting requirements since OMB's last approval.)
 - a. Reports from Experimental Hunting Seasons and Season Structure Changes (Required):
 - i. *Atlantic Flyway Council:*
 - Delaware – Experimental tundra swan season (yearly updates and final report). (*Removed – completed.*)
 - Connecticut, Maryland, North Carolina, and Virginia – Evaluation of the two zone and three segment duck season zone-split configuration, including impacts on hunter dynamics (e.g., hunter numbers, satisfaction) and harvest during the 2021–25 seasons (final report for each State). (*New.*)
 - ii. *Mississippi Flyway Council:*

- Alabama – Experimental sandhill crane season (yearly updates and final report). (*Removed – completed.*)
- Minnesota – Experimental early teal season (yearly updates and final report).
- Louisiana – Evaluation of the two zone and three segment duck season zone-split configuration, including impacts on hunter dynamics (e.g., hunter numbers, satisfaction) and harvest during the 2021–25 seasons (final report). (*New.*)

iii. *Central Flyway Council:*

- New Mexico – Sandhill crane season in Estancia Valley (yearly updates and final report). Now operational – Annual data are still required, but there is not a final report, since this monitoring will occur in perpetuity (or as long as the State has that hunt area). (*Removed – experiment completed; moved to State-specific, below.*)
- South Dakota and Nebraska – Experimental two-tier hunting regulations study per the terms of the study plan and memorandum of agreement among these States and the Service (yearly updates and final report).
- Wyoming – Split (three-way) season for Canada geese (final report only). (*Removed – completed.*)

iv. *Pacific Flyway Council:*

- California – Split (three-way) season for white-fronted geese (final report only). (*Removed – completed.*)
- Idaho – Experimental swan season (yearly updates and final report). (*Removed – completed.*)

v. *Additional State-Specific Annual Reports:*

- Arizona – Sandhill crane season harvest and subspecies composition (3-year intervals).
- New Mexico – Sandhill crane season harvest and subspecies composition in Estancia Valley (yearly).
(Revised – relocated from Central Flyway Council experimental reports above.)
- Delaware, North Carolina, and Virginia – Tundra swan season hunter participation and harvest (yearly).
(Revised to add Delaware.)
- Montana (Central Flyway portion), North Dakota, and South Dakota – Tundra swan season hunter participation and harvest (yearly). *(Revised – relocated Montana and South Dakota to separate bullet, below.)*
- Montana (Central Flyway portion) and South Dakota – Swan season hunter participation, harvest, species composition, and hunter compliance rates in providing species-determinant parts or bill measurements of harvested swans for species identification (yearly).
(Revised.)
- Idaho, Montana (Pacific Flyway Portion), Utah, and Nevada – Swan season hunter participation, harvest, species composition, and hunter compliance rates in providing species-determinant parts or bill measurements of harvested swans for species identification (yearly).
(Revised to add Idaho and Montana.)

Reports and monitoring are used for a variety of reasons. Some are used to monitor species composition of the harvest for those areas where species intermingling can confound harvest management, and potential overharvest of one species can be of management concern. Others are used to determine overall harvest for those species and/or areas that are not sampled well by our overall harvest surveys due to either the limited nature/area of the hunt or season, or where the harvest requires close monitoring. Experimental season reports are used to determine whether the experimental season is achieving its intended goals and objectives, without causing unintended harm to other species and ultimately whether the experimental season should proceed to operational status. Most experimental seasons are 3-year trials with yearly reports and a final report. Most of the other reports and monitoring are conducted either annually or at 3-year intervals.

PROPOSED REVISIONS

1. **(REVISION)** *Submissions of Tribal Proposals*—Under the regulations in the Service’s September 1, 2023, final rule (RIN 1018-BF64; 88 FR 60375), we removed the requirement that Tribes annually submit their proposed migratory game bird hunting regulations (and associated monitoring, anticipated harvest, and capabilities for regulation development and enforcement) for our review and approval. We also will no longer publish special Tribal migratory game bird hunting regulations in the *Federal Register* (i.e., a proposed and final rule). The regulations set forth in the September 1, 2023, final rule adopted elements of our guidelines in use since 1985 for establishing special migratory game bird hunting regulations on Federal Indian reservations (including off-

reservation trust lands) and ceded lands. Tribes that comply with these regulations will be authorized to independently establish special Tribal migratory bird hunting regulations. However, if circumstances change and data indicates migratory game bird populations are substantially declining or Tribal hunting increases significantly, we will reevaluate the regulations at 50 CFR 20.110.

By allowing Tribes to independently establish special migratory bird hunting regulations, the Service recognizes Tribal sovereignty to exercise reserved hunting rights and, for some Tribes, recognizes Tribal authority to regulate hunting by both Tribal and non-Tribal members on their reservations. The September 1, 2023, final rule extended to Tribes with reserved hunting rights the same autonomy as the States to independently establish migratory game bird hunting seasons for non-Tribal members within annually established, biologically appropriate Federal outside limits. As an alternative to promulgating special Tribal migratory game bird hunting regulations, Tribes may choose to observe the hunting regulations established by the State or States in which the reservations are located. We coordinated with Tribes over the past 2 years via letters and four webinars as we developed this new regulatory approach for Tribal self-management of the harvest, and we have received positive feedback. The new system will reduce the annual administrative burden on both the Tribes and the Service to propose, review, and publish special migratory game bird hunting regulations while continuing to sustain healthy migratory game bird populations for future generations.

2. **(NEW) Requests for Consultation (Tribes/States)**—The new regulations in the final rule (88 FR 60375, September 1, 2023) also may be applied to

the establishment of migratory game bird hunting regulations for non-Tribal members on all lands within the reservations where Tribes have full wildlife-management authority over such hunting, or where the Tribes and affected States otherwise have reached agreements over hunting by non-Tribal members on non-Indian lands within the reservation. Tribes usually have the authority to regulate migratory game bird hunting by nonmembers on Indian-owned reservation lands.

The question of jurisdiction is more complex on reservations that include lands owned by non-Indians, especially when the surrounding States have established or intend to establish regulations governing migratory game bird hunting by non-Indians on these lands. In those cases, we encourage the Tribes and States to reach agreement on regulations that would apply throughout the reservations. When appropriate, we will consult with a Tribe and State with the aim of facilitating an accord. We also will consult jointly with Tribal and State officials in the affected States where Tribes may wish to establish special migratory game bird hunting regulations for Tribal members on ceded lands.

It is incumbent upon the Tribe and/or the State to request consultation. We will not presume to make a determination, without being advised by either a Tribe or a State, that any issue is or is not worthy of formal consultation. Tribal and State requests for consultation with the Service should be sent to the Service's Assistant Director for the Migratory Bird Program. We note that our guidance on resolving issues of concern between Tribes and States on reservations and ceded lands is the same guidance we provided under the previous Tribal regulation process.

3. **(NEW) Requests for Experimental Seasons (Tribes)**—We will continue to consult with Tribes that wish to reach a mutual agreement (memorandum of understanding (MOU) or similar type of formal agreement) on conducting short-term (possibly several years) experimental hunting seasons using methods outside of the Federal hunting methods at 50 CFR 20.21 for on-reservation and ceded lands hunting by Tribal members. The Tribal-member-only experimental hunting season would provide data and evaluation criteria specified in an agreement for consideration if a Tribe would like to make the additional hunting method operational. Tribes should send such requests for consultation to the Service's Assistant Director for the Migratory Bird Program at least 9 months before the season or ceremony regarding hunting methods outside of the Federal regulations.

If any individual Tribe wishes to make these additional experimental hunting methods operational and the Service agrees, the Service will conduct rulemaking (using any data from the experimental hunting season) to amend 50 CFR part 20 to allow Tribal members to use these additional hunting methods.

Starting with the 2023–24 hunting season, annual Tribal hunting season regulations will no longer be published in the *Federal Register*, alleviating the administrative burden to both the Service and the Tribes of developing special Tribal migratory bird hunting regulation proposals, reviewing proposals, and publishing Tribal regulations as Federal regulations. This process will not apply to seasons for subsistence take of migratory birds in Alaska.

Title of Collection: Establishment of Annual Migratory Bird Hunting

Seasons, 50 CFR Part 20.

OMB Control Number: 1018-0171.

Form Numbers: None.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: State and Tribal governments.

Total Estimated Number of Annual Respondents: 52 (from State governments and Territories).

Total Estimated Number of Annual Responses: 78 (from 52 State and U.S. Territories, as well as 26 additional reports).

Estimated Completion Time per Response: Varies from 1 hour to 650 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 11,423.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Annually.

Total Estimated Annual Non-hour Burden Cost: None.

An 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.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

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