

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

RIN 1018-AD08

Migratory Bird Harvest Information Program

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (hereinafter Service) herein proposes to amend the Migratory Bird Harvest Information Program (hereinafter Program) regulations. The Service plans to add Michigan, Oklahoma, and Oregon (beginning with the 1995-96 hunting season) to the list of participating States, and to implement some additional modifications to the Program. This regulatory action will continue to require all licensed hunters who hunt migratory game birds in participating States to identify themselves as migratory bird hunters to the State licensing authority, and to supply their name, address, and date of birth to the State. Hunters will be required to have evidence of current participation in the Program on their person while hunting migratory game birds in participating States. The quality and extent of information about harvests of migratory game birds must be improved in order to better manage these populations. Hunters' names and addresses are necessary to provide a sample frame for voluntary hunter surveys to improve harvest estimates for all migratory game birds. States will gather migratory bird hunters' names and addresses and the Service will conduct the harvest surveys.

DATES: The written comment period for the proposed rule will end on April 1, 1995.

ADDRESSES: Written comments should be sent to the Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, 10815 Loblolly Pine Drive, Laurel, Maryland 20708-4028. Comments received will be available for public inspection during normal business hours in Building 158, 10815 Loblolly Pine Drive (Gate 4, Patuxent Environmental Science Center), Laurel, Maryland 20708-4028.

FOR FURTHER INFORMATION CONTACT: Paul I. Padding, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, (301) 497-5980, FAX (301) 497-5981.

SUPPLEMENTARY INFORMATION: The purpose of this rule is to expand the Program to include the States of

Michigan, Oklahoma, and Oregon beginning in the 1995-96 hunting season, and to make minor modifications to the Program.

Background

The purpose of this cooperative Program is to obtain annually a nationwide sample frame of migratory bird hunters, from which representative samples of hunters will be selected and asked to participate in voluntary harvest surveys. State wildlife agencies will provide the sample frame by annually collecting the name, address, and date of birth of each licensed migratory bird hunter in the State. To reduce survey costs and to identify hunters who hunt less commonly-hunted species, States will also request that each migratory bird hunter provide a brief summary of his or her migratory bird hunting activity for the previous year. States will send this information to the Service, and the Service will sample hunters and conduct national hunter activity and harvest surveys.

A notice of intent to establish the Program was published in the June 24, 1991, **Federal Register** (56 FR 28812). A final rule that established the Program and initiated a 2-year pilot phase in three volunteer States (California, Missouri, and South Dakota) was published in the March 19, 1993, **Federal Register** (58 FR 15093). The pilot phase was completed following the 1993-94 migratory bird hunting seasons in California, Missouri, and South Dakota.

A State/Federal technical group was formed to evaluate Program requirements, the different approaches used by the pilot States, and the Service's survey procedures during the pilot phase. Changes incorporated into the Program as a result of the technical group's evaluation were specified in a final rule, published in the October 21, 1994, **Federal Register** (59 FR 53334), that initiated the implementation phase of the Program.

Currently, all licensed hunters who hunt migratory game birds in participating States are required to have a Program validation, indicating that they have identified themselves as migratory bird hunters and have provided the required information to the State wildlife agency. Hunters must provide the required information to each State in which they hunt migratory birds. Validations are printed on or attached to the annual State hunting license or on a State-specific supplementary permit. The State may charge hunters a small handling fee to compensate agents and to cover the

State's administrative costs associated with conducting this Program.

The State/Federal technical group continues to evaluate the Program to determine the adequacy and timeliness of the sample frame and the time burden, cost, and other impacts on hunters, State license agents, State wildlife agencies, and the Service. Emphasis is currently on the time requirement for the sample frame and on alternative survey methods for special groups of unlicensed hunters (e.g., junior and senior hunters).

The Service's current survey design calls for hunting-record forms to be distributed to hunters selected for the survey before they forget the details of their hunts. Because of this design requirement, States have only a short time to obtain hunter names and addresses from license vendors and to provide those names and addresses to the Service. Currently, participating States must send the required information to the Service within 5 business days of issuance of the hunting license or permit (10 business days if the information is provided in electronic form). Several States have expressed concern that they can not meet this time requirement. The Service conducted an experiment during the 1994-95 hunting season to determine whether extending the time requirement would adversely affect the accuracy of survey results. The results and implications of that experiment will be discussed at the next meeting of the State/Federal technical group, prior to publication of a final rule in 1995.

The Service previously stated that additional States will continue to be added until all States participate in 1998. The suggested schedule was included in a final rule published in the October 21, 1994, **Federal Register** (59 FR 53334). Seven States requested changes to the suggested schedule; in response to those requests, four States were moved back in the agenda (Louisiana, Minnesota, Pennsylvania, and Texas) while three States were advanced (Idaho, Michigan, and Ohio).

Several States have subsequently indicated that they may not be able to implement the Program by the year that the current schedule requires them to enter the Program. The States and the Service are presently developing mutually acceptable measures for ensuring that the Program will achieve full implementation on schedule.

Proposed Modifications to the Program

In addition to implementation of the Program in Michigan, Oklahoma, and Oregon, the Service is proposing several other modifications to the Program. One

such modification would increase the time allowed for providing names and addresses to the Service. Results of the Service's experiment (described above) will provide the basis for determining the extent to which the time requirement should be changed.

Another modification being proposed is to require harvest estimates for hunters who are exempted from a permit requirement and those that are also exempted from State licensing requirements. This would include several categories of hunters such as junior hunters, senior hunters, landowners, and other special categories. These exemptions vary on a State-by-State basis. The requirement would likewise vary by State and be incorporated into individual cooperative agreements with the Service.

Excluding those hunters who are not required to obtain an annual State hunting license from the Program also excludes their harvest from the estimates. The importance of their harvest depends on how many hunters are excluded and on the number of birds they bag. Excluding these hunters may result in serious bias. Minimum survey standards are being developed for exempted categories. States may require exempted hunters to obtain permits (e.g., Maryland required exempted hunters to obtain permits upon entry to the Program in 1994).

NEPA Consideration

The establishment of this Harvest Information Program and options have been considered in the "Environmental Assessment: Migratory Bird Harvest Information Program." Copies of this document are available from the Service at the address indicated under the caption FOR FURTHER INFORMATION CONTACT.

Regulatory Flexibility Act and the Paperwork Reduction Act

On June 14, 1991, the Assistant Secretary for Fish and Wildlife and Parks concluded that the rule would not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act 5 USC 601 *et seq.* This rule will eventually affect about 3-5 million migratory game bird hunters when it is fully implemented. It will require licensed migratory game bird hunters to identify themselves and to supply their names, addresses, and birth dates to the State licensing authority. Additional information will be requested in order that they can be efficiently sampled for a voluntary national harvest survey. Hunters will be

required to have evidence of current participation in the Program on their person while hunting migratory game birds.

The States may require a small handling fee to compensate their hunting-license vendors and to cover their administrative costs. Many of the State hunting-license vendors are small entities, but this rule should not economically impact those vendors. Only migratory game bird hunters, individuals, would be required to provide this information, so this rule should not adversely affect small entities.

The collection of information contained in this rule has been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018-0015. The information is required from licensed hunters to obtain the benefit of hunting migratory game birds.

The public reporting burden for this collection of information is estimated to average 0.015 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding the burden estimate or any other aspect of these reporting requirements should be directed to the Service Information Collection Clearance Officer, ms 224—ARLSQ, U.S. Fish and Wildlife Service, 1849 C Street, NW., Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project 1018-0015, Washington, DC 20503.

Executive Order 12866

This rule was not subject to Office of Management and Budget review under Executive Order 12866.

Executive Order 12612 - Federalism

The regulations do not have significant Federalism effects as provided in Executive Order 12612. 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. State harvest surveys presently cannot provide adequate national estimates of migratory game bird harvests for the following reasons: (1) some States do not now conduct annual harvest surveys or maintain accessible lists of hunter names and addresses; (2) comparable information is not available from all States because States have different licensing laws regulating who must buy a hunting license and different survey procedures; (3) currently, many State

license lists are not available in time to permit distribution of hunter records early in the hunting season; and (4) budget constraints often prevent States from conducting harvest surveys during certain years or could cause some States to eliminate them completely.

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, these regulations do not have significant Federalism effects and do not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. In fact, the Service would cooperate with States in providing special surveys to meet mutual management needs, and increased cooperation between Federal and State agencies would reduce duplication of survey efforts.

Executive Order 12360 - Taking of Individual Property Rights

Executive Order 12360 discussed guidelines for the taking of individual property rights. These rules, authorized by the Migratory Bird Treaty Act, do not affect any constitutionally-protected property rights. These rules would not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property.

Authorship

The primary author of this rule is Paul I. Padding, Office of Migratory Bird Management.

List of Subjects in 50 CFR Part 20

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

For the reasons set out in the preamble, 50 CFR part 20 is proposed to be amended as set forth below.

PART 20 - MIGRATORY BIRD HUNTING

1. The authority citation for part 20 continues to read as follows:

Authority: The Migratory Bird Treaty Act (July 3, 1918), as amended, (16 U.S.C. 703-711); the Fish and Wildlife Improvement Act of 1978 (November 8, 1978), as amended, (16 U.S.C. 712); and the Fish and Wildlife Act of 1956 (August 8, 1956), as amended, (16 U.S.C. 742 a—d and e—j).

2. Section 20.20 is revised to read as follows:

§ 20.20 Migratory Bird Harvest Information Program.

(a) *Information collection requirements.* The collections of information contained in § 20.20 have been approved by the Office of

Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance number 1018-0015. The information will be used to provide a sampling frame for the national Migratory Bird Harvest Survey. Response is required from licensed hunters to obtain the benefit of hunting migratory game birds. Public reporting burden for this information is estimated to average 0.015 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Service Information Collection Clearance Officer, MS-224 ARLSQ, Fish and Wildlife Service, Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project 1018-0015, Washington, DC 20503.

(b) *General provisions.* Each person hunting migratory game birds in California, Maryland, Michigan, Missouri, Oklahoma, Oregon, and South Dakota shall have identified himself or herself as a migratory bird hunter and given his or her name, address, and date of birth to the respective State hunting licensing authority and shall have on his or her person evidence, provided by that State, of compliance with this requirement.

(c) *Tribal exemptions.* Nothing in paragraph (b) of this section shall apply to hunters on Federal Indian Reservations or to tribal members hunting on ceded lands.

(d) *State exemptions.* Nothing in paragraph (b) of this section shall apply to those hunters who are exempted from State-licensing requirements in the State in which they are hunting.

(e) *Implementation schedule.* The Service is continuing to implement this Program over the next 3-year period from 1996-1998, which will incorporate

approximately a half million additional migratory bird hunters each year. It is proposed that the States participate on or before the following schedule:

1996—Alabama, Georgia, Idaho, Illinois, Louisiana, Maine, Minnesota, Mississippi, North Carolina, Pennsylvania, Tennessee, Texas, and Vermont.

1997—Arizona, Arkansas, Colorado, Florida, Kentucky, Ohio, South Carolina, Virginia, and Wisconsin.

1998—Alaska, Connecticut, Delaware, Indiana, Iowa, Kansas, Massachusetts, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Rhode Island, Utah, Washington, West Virginia, and Wyoming.

Dated: February 27, 1995.

George T. Frampton, Jr.,
Assistant Secretary for Fish and Wildlife and Parks.

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