DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018-AD69

Migratory Bird Hunting; Proposed Rule on the Establishment of a Youth Waterfowl Hunting Day for the 1996–97 Migratory Game Bird Hunting Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; supplemental.

SUMMARY: The U.S. Fish and Wildlife Service (hereinafter the Service) announced in an earlier document (June 14, 1996, Federal Register 61 FR 30490) that it was considering the establishment of a special youth waterfowl hunting day for the 1996–97 duck-hunting season. This rule describes the Service's proposal for the special youth hunting day.

DATES: The comment period on the proposed youth hunting day ends on August 26, 1996.

ADDRESSES: Parties should submit written 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. The public may inspect comments during normal business hours in room 634, ARLSQ Building, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Paul R. Schmidt, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 1996

On March 22, 1996, the Service published in the Federal Register (61 FR 11992) 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. On June 13, 1996, the Service published in the Federal Register (61 FR 30114) a second document providing supplemental proposals for early- and late-season migratory bird hunting regulations frameworks, detailing information on the 1996–97 regulatory schedule, and announcing the Service Migratory Bird Regulations Committee and Flyway Council meetings. On June 14, 1996, the Service published in the Federal Register (61 FR 30490) a third document describing the Service's proposed regulatory alternatives for the 1996–97 duck hunting season and the Service's consideration of a proposed youth waterfowl hunting day. On July 22, 1996, the Service published in the Federal Register (61 FR 37994) a fourth document which dealt specifically with proposed early-season frameworks for the 1996–97 season.

The Service will publish final regulatory frameworks for early seasons in late August, and proposals for late-season frameworks in mid-August. The Service will publish final regulatory frameworks for the establishment of a youth waterfowl hunting day in early September and for late seasons on or about September 23, 1996.

This rule describes the Service's proposal to establish a youth waterfowl hunting day. The Service has considered all comments received to date on the notice of consideration and will consider all comments on this proposal in the regulations-development process. The Service will publish responses to all comments when developing a final framework.

Written Comments Received

The preliminary proposed rulemaking, which appeared in the March 22 Federal Register, opened the public comment period for migratory bird hunting regulations. As of July 30, 1996, the Service had received 190 comments; 145 of these specifically addressed the establishment of a youth waterfowl hunting day. Comments and modifications to the preliminary guidelines announced in the June 14 Federal Register are discussed below. The headings correspond to the numbered items in the March 22 Federal Register.

1. Ducks

G. Special Seasons/Species Management

The June 14 Federal Register announcing the Service's intent to consider proposing a youth waterfowl hunting day contained general guidelines for its establishment. While the guidelines were preliminary in nature, they were intended to provide a general foundation for discussion and to facilitate public comment.

Written Comments: The Arizona Game and Fish Department (Arizona), the Delaware Division of Fish and Wildlife, the Kansas Department of Wildlife and Parks, the Michigan Department of Natural Resources (Michigan), 6 organizations, and 56 individuals supported the concept of a special youth waterfowl hunting day, citing benefits both in terms of educating youth about the outdoors and providing opportunities for young people to have a high-quality waterfowling experience.

Eight organizations opposed the establishment of a ''Youth Waterfowl Hunting Day'' for numerous social, moral, and ethical reasons. Collectively, they believed that by promoting youth hunting, the Service will contribute to human violence and animal abuse by destroying children's innate respect for life and desensitizing them to the killing of innocent creatures.

Three petitions with 53 signatures protested the Service's use of both taxpayers' funds and staff time to institute a youth hunting day that encourages hunting by young people.

Forty-two individuals commented that the Service should encourage non-consumptive wildlife recreation, such as wildlife photography, rather than promote sport hunting interests which represent only a small segment of society. They suggested that the purpose of establishing this program is to sell more hunting licenses that pay for Service employees' salaries.

Four individuals supported the concept, but questioned the need for a special youth-only waterfowl hunting day. They suggested that adults may take a youth hunting at any time during the regular season and that by designating a special youth hunting day, it would establish precedent for other special-interest groups. They also feared that early-season shooting would condition local ducks to hunting before the start of the regular season. Further, they believed that enforcement of a youth-only season would be a problem.

Twenty-three responses indicated general support for a one-day youth waterfowl hunt, but recommended changes and/or modifications to the timing, age, and accompanying adult requirements, bag limits, season length, and species restrictions.

Michigan recommended that a special youth hunting day not be restricted to the period 10 days before/after the regular duck season, while the Illinois Department of Natural Resources (Illinois) recommended that States be allowed to establish the hunt day within 14 days of the beginning or end of the regular season framework.

The Tennessee Wildlife Resources Agency (Tennessee) suggested that the special day be restricted to the period within the regular duck season framework. One individual suggested that the special day should occur on or near holidays to allow greater participation, while another individual recommended the special day occur on Thanksgiving Day and either the day

before or after. Illinois recommended that States be allowed to select any non-school day for the hunt day and that a special day be allowed for each established regular season duck zone. Texas, one organization, and one individual recommended that up to two days be designated for the special youth season. North Dakota recommended that the hunt be expanded to more than one day.

The South Carolina Department of Natural Resources (South Carolina) recommended the upper age limit be 17. One individual recommended that the upper age limitation for the youth not be restricted to 16. Another individual recommended that the upper age limit be increased to 18 while another recommended it be lowered to 12 to 14. The Wisconsin Department of Natural Resources (Wisconsin) and one individual recommended a minimum age of 12.

The Texas Parks and Wildlife Department (Texas), one organization, and one individual recommended that the number of adults accompanying a youth should not exceed three. Texas, Michigan, Illinois, one organization, and one individual recommended that adult sponsors be allowed to hunt ducks. Wisconsin and one individual recommended that the accompanying adult be fully licensed, while Illinois and another individual recommended that the accompanying adult not be required to have a hunting license. Michigan recommended that the accompanying adult's age be left to the discretion of each State. Illinois and one organization recommended that the accompanying adult not be restricted to parents or legal guardians of the youth. Two individuals recommended that the role of the accompanying adult be clarified.

Texas, one organization, and one individual recommended that the bag limit for the hunt day be the same as the regular duck season. The North Dakota Game and Fish Department (North Dakota) recommended that Flyway-specific species/sex restrictions be eliminated for this hunt, while the Minnesota Department of Natural Resources (Minnesota) recommended a 2- or 3-bird bag limit with no species restrictions.

Wisconsin, the South Dakota Department of Game, Fish & Parks (South Dakota), Illinois, Arizona, Minnesota and one individual suggested that geese should also be allowed during the hunt day. Arizona also recommended that the special day include coots and moorhens.

Illinois, Minnesota, and five individuals recommended that State licensing requirements be waived for this hunt. Texas and two organizations recommended that as many National Wildlife Refuges as possible be opened for hunting during the special day. One of the organizations also recommended that as many State Wildlife Management Areas as possible be opened for hunting and that the concept of ''Youth Waterfowl Hunting Day'' be expanded to include dates during the regular duck season on refuges.

The Missouri Department of Conservation (Missouri) recommended that the precedent for this type of hunt be evaluated for additional opportunity for other selected groups. Missouri and Minnesota recommended that an active communication plan be established prior to implementation of this hunt. Missouri also recommended that clear implementation guidelines should be established. Michigan recommended that the comment period for such a hunt be lengthened to allow for more review by the Flyway Technical Committees and the public. Illinois recommended that implementation of a youth hunt be delayed until the 1997–98 seasons, while South Dakota recommended that the name of the special day be changed to ''Youth Duck Hunting Day.'' One individual recommended that the Service encourage hunting guides to offer free hunting to youths on the special day.

Service Response: The Service appreciates the suggestions and widespread support for the youth hunting day concept. The Service recognizes those organizations and individuals opposed to this concept on the basis of general opposition to hunting as a desirable outdoor recreational activity. The Service also recognizes the contribution of both hunters and non-hunters to natural resource conservation. The Service believes recreational sport hunting is a wise and compatible use of a renewable natural resource and is directed by various legislation to regulate the hunting of migratory waterfowl. The Service views its role as one of permitting recreational harvest opportunities consistent with long-term resource conservation for all Americans, and believes a well-educated and properly trained hunting constituency is in the best interest of this objective. Thus, the Service views a youth hunting day as an educational opportunity to help ensure safe, high-quality hunting for future generations of Americans. The Service believes that this proposal is consistent with its responsibility to provide general education and training in the wise recreational uses of our nation's valuable wildlife resources. The Service believes that this special training opportunity will be most effective if restricted specifically to youth hunters.

The Service believes that age criteria must be consistent with previous definitions of youth hunters that are established in other Federal legislation. A youth is defined as a person less than 16 years of age in the Migratory Bird Conservation Act of 1934. Therefore, to maintain consistency and to avoid confusion, the Service believes that this definition should also be employed for the youth waterfowl hunting day.

The Service believes that the period 10 days prior to and after the outside framework dates for the regular duck season provides sufficient flexibility for States to provide this opportunity to their constituents. The proposed youth hunting day can be selected independently in each recognized duck hunting zone within a State. The Service believes that restricting the opportunity to weekends or holidays within the proposed framework is reasonable and should afford maximum opportunity for participation by youth hunters during the school year.

The Service also recognizes that numerous differences exist among the States with respect to requirements for adult supervision of youth hunters. It is not the intent of the Service to mandate conformity with respect to these requirements. However, it is the intent of the Service to promote only the highest standards of safety and quality sportsmanship among youth hunters. Thus, the Service believes that adult supervision is necessary, but that the specific qualifications should be determined by the various State laws and regulations already in place to govern such activities. Further, the Service feels that this is an opportunity for the education of young hunters and thus believes that on this special day the supervising adult, 18 or older, should devote their full time and attention to ensuring a safe, high-quality and successful hunt to the participating youth rather than hunting themselves.

Regarding bag limits for the special day, the Service has reviewed its proposal in light of the need to train youth hunters to be responsible participants in waterfowl hunting. Therefore, since sex and species restrictions are a necessary and important component of duck hunting, the Service sees merit in employing the prevailing bag limits, including species and sex restrictions, for this learning opportunity.

The Service recognizes the potential opportunity that inclusion of geese in the youth waterfowl hunt might

provide. However, due to season closures and restrictions in place to protect certain populations of Canada geese in various parts of the country, the Service believes this complication is not appropriate at this point. This is certainly a matter for consideration in future regulatory cycles. The Service concurs that the proposal should include coots, moorhens, and gallinules, as these species are normally included in regular duck seasons.

The Service will encourage youth hunting day participation wherever it can, including National Wildlife refuges with established hunting programs. The Service will continue to evaluate this opportunity annually, including an assessment of possible expansion and the need for additional criteria. The Service believes that this opportunity should be offered during the 1996–97 hunting season and that further dialogue and refinements can be incorporated in future years.

The Service believes that the long-term conservation of North America's migratory bird resources depends on the future attitudes and actions of today's youth. The proposed special youth day will assist in the formation and development of a conservation ethic in future generations. The special day would provide an opportunity for young hunters (15 or under), accompanied by an adult (18 or older), to experience a safe, high-quality waterfowling experience. The Service's intent in establishing this special day is to introduce youth to the concepts of ethical utilization and stewardship of waterfowl and other natural resources, encourage youngsters and adults to experience the outdoors together, and contribute to the long-term conservation of the migratory bird resource. Because the special 1-day hunt would be limited to youth hunters, the Service believes that waterfowl populations can support the additional harvest and that the hunt would produce long-term benefits to the resource.

Therefore, the Service is proposing the following guidelines:

1. States may select 1 day per duck-hunting zone, designated as ''Youth Waterfowl Hunting Day'', in addition to their regular duck seasons.

2. The day must be held outside any regular duck season on either a weekend or holiday when youth hunters would have the maximum opportunity to participate.

3. The day could be held up to 10 days before or after any regular duck-season frameworks or within any split of a regular duck season.

4. The daily bag limit may include ducks, mergansers, coots, moorhens, and gallinules and would be the same as that allowed in the regular season. Flyway species restrictions would remain in effect.

5. Youth hunters must be 15 years of age or younger.

6. An adult at least 18 years of age must accompany the youth hunter into the field. This adult could not duck hunt but may participate in other seasons that are open on the special youth day.

7. The special youth hunt day will be considered a trial for the 1996–97 season and will be evaluated by the Service.

The Service recognizes the value of hunter education and safety training for all those who participate in sport hunting and especially for all participants in the ''Youth Waterfowl Hunting Day.'' These courses should promote positive outdoor experiences while emphasizing the need to act safely and responsibly during this special hunting day as well as any other day during the season.

Public Comment Invited

The Service intends that adopted final rules be as responsive as possible to all concerned interests and wants to obtain comments from all interested areas of the public, as well as other government agencies. Such comments, and any additional information received, may lead to final regulations that differ from these proposals.

However, special circumstances involved in establishing these regulations limit the amount of time the Service 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, and in light of the fact that the Service sought, and received significant, public comment in the development of this proposal, the Service believes allowing comment periods past the dates specified is contrary to the public interest.

Comment Procedure

The Department of the Interior's policy affords the public an opportunity to participate in the rulemaking process, whenever practical. Accordingly, interested persons may participate by submitting written comments 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. The public may inspect comments during normal business hours at the Service's office in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. The Service will consider all comments received and will try to acknowledge received comments, but may not provide an individual response to each commenter.

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 (FSES 88–14),'' filed with EPA on June 9, 1988. The Service published a Notice of Availability in the June 16, 1988, Federal Register (53 FR 22582). The Service published its Record of Decision on August 18, 1988 (53 FR 31341). Copies of these documents are available from the Service at the address indicated under the caption ADDRESSES.

Endangered Species Act Consideration

As in the past, the Service will design hunting regulations to remove or alleviate chances of conflict between migratory game bird hunting seasons and the protection and conservation of endangered and threatened species. Consultations are presently under way to ensure that actions resulting from these regulatory proposals will not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations will be included in a biological opinion and may cause modification of some regulatory measures proposed in this document. The final frameworks will reflect any such modifications. The Service's biological opinions resulting from its consultation under Section 7 are public documents available for public inspection in the Division of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

Regulatory Flexibility Act; Executive Order (E.O.) 12866 and the Paperwork Reduction Act

In the Federal Register dated March 22, 1996, the Service reported measures it took to comply with requirements of the Regulatory Flexibility Act and the Executive Order. One measure was to prepare a Small Entity Flexibility Analysis (Analysis) in 1995 documenting the significant beneficial economic effect on a substantial number of small entities. The Analysis estimated that migratory bird hunters would spend between $258 and $586 million at small businesses in 1995. Copies of the Analysis are available upon request from the Office of Migratory Bird Management. This rule was not subject to review by the Office of Management and Budget under E.O. 12866.

The Service examined these proposed regulations under the Paperwork Reduction Act of 1995 and found no information collection requirements.

Unfunded Mandates

The Service has determined and certifies 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 provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

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 1996–97 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: August 8, 1996.

Donald J. Barry,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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