

amended (Act). On November 22, 1999, the Service assumed all Act regulatory jurisdiction over coastal cutthroat (65 FR 21376). The change in jurisdiction resulted from a joint agency determination that coastal cutthroat trout spend the majority of their life cycle in fresh water habitat. The Service published a notice in the **Federal Register** (65 FR 20123) on April 14, 2000, to extend the deadline from April 5, 2000, to October 5, 2000 for the final action on the proposed rule to list this population in Washington and Oregon, and to provide a 30-day comment period. The 6-month extension was necessary to obtain and review new information regarding the status of this population. On July 14, 2000, the Service published a notice in the **Federal Register** (65 FR 43730) to clarify the take prohibitions for coastal cutthroat trout and provided for a 30-day public comment period. This notice was necessary to answer questions we had received regarding the application of the take prohibitions of section 9 of the Act to the potential listing of the coastal cutthroat trout as threatened. In October, 2000, the Service suspended work on the proposed listing of the coastal cutthroat trout due to budgetary limitations. On August 29, 2001, the Service issued a press release announcing that, as part of a settlement agreement with conservation groups, we will re-commence work on the final listing decision for the Southwestern Washington/Columbia River coastal cutthroat trout DPS.

In association with work on the listing decision, the Service has also engaged the Oregon and Washington Departments of Fish and Wildlife in discussions of how recreational fishing activities in those states influence the status of the species, and whether application of take prohibitions with respect to these activities would be necessary or advisable should the species be listed. If the Service determines that such application would not be necessary or advisable for the conservation of coastal cutthroat trout, it will propose related special rules under section 4(d) of the Act in future publications of the **Federal Register**.

At this time, the Service is seeking any new information on the coastal cutthroat trout population in southwestern Washington and the Columbia River. We are interested in comments and information regarding: (1) Biological or other relevant data concerning any threat to coastal cutthroat trout; (2) The range, distribution, population size, and demographics of coastal cutthroat trout in southwestern Washington and the

Columbia River, including information on resident coastal cutthroat trout above barriers; (3) Current or planned activities in the subject area and their possible impacts on the species; (4) Potential effects of forest and agricultural practices, hatchery production, and other human induced impacts; (5) The contribution of resident, above-, and below-barrier coastal cutthroat trout sub-populations to the anadromous life history component; and (6) Efforts being made to protect native, naturally reproducing populations of Southwestern Washington/Columbia River coastal cutthroat trout. The comment period closes December 24, 2001. Comments should be submitted to the Service office listed in the **ADDRESSES** section.

#### Author

The primary author of this notice is Robin Bown, U.S. Fish and Wildlife Service (see **ADDRESSES** section).

#### Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: November 8, 2001.

*Acting Regional Director, Fish and Wildlife Service, Region 1, Portland, Oregon.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 20

**RIN 1018-AH79**

#### Migratory Bird Hunting; Proposal for Migratory Game Bird Hunting Regulations; Withdrawal

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** The U.S. Fish and Wildlife Service (hereinafter Service or we) proposed in an earlier **Federal Register** notice to change certain parts of the regulatory alternatives for the 2001-02 duck hunting seasons for States in the Lower Region (Arkansas, Louisiana, Kentucky, Alabama, Mississippi and Tennessee) of the Mississippi Flyway. Based on a review of public comment and other considerations, the Service is withdrawing the proposal of October 11, 2001, and discusses possible ways to address the issue of framework opening and closing dates in the future.

**ADDRESSES:** You may inspect comments during normal business hours in room

634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Andrew, Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358-1714.

**SUPPLEMENTARY INFORMATION:** On October 11, 2001, we published in the **Federal Register** (66 FR 51919) a proposed rule that would change the regulatory alternatives for the 2001-02 duck hunting seasons for States in the Lower Region (Arkansas, Louisiana, Kentucky, Alabama, Mississippi and Tennessee) of the Mississippi Flyway to allow for a season length of 60 days beginning no earlier than September 29 and ending no later than January 31. The comment period closed on October 26, 2001.

#### Review of Public Comments

Written comments from the National Flyway Council, the Atlantic Flyway Council and five Atlantic Flyway States (GA, FL, NJ, SC, VT), the Mississippi Flyway Council's Upper Region Regulation Committee and eight Mississippi Flyway States (IL, IN, IA, KY, MI, MN, MO, WI), the Central Flyway Council and two Central Flyway States (SD, TX), and the Pacific Flyway Council and three Pacific Flyway States (AZ, CA, WY) all strongly opposed the proposed rule, questioning the biological foundation for the proposal and stating that it circumvents the Flyway Council process, among other concerns. A written comment from Senator Paul Wellstone and Senator Mark Dayton strongly opposed the proposal. Written comments from the International Association of Fish and Wildlife Agencies, Louisiana Wildlife Federation, Mississippi Wildlife Federation, Boone & Crockett Club, The Wildlife Society, Dallas Safari Club, Wildlife Forever, Texas Wildlife Association, Max McGraw Wildlife Foundation, Indiana Grand Kankakee Marsh Restoration project, and the Izaak Walton League of America all opposed the proposal, calling it arbitrary and capricious and questioning whether it violated Administrative Procedures Act. Written comments from 12 private individuals opposed the proposal. Electronic comments opposing the proposal were received from 231 individuals.

Comments favoring the proposal included written comments from the State of Alabama and 5 individuals, and electronic comments from 27 individuals.

#### Service Response

The U.S. Fish and Wildlife Service regulates the earliest and latest dates

that States can select for duck-hunting seasons within alternative regulatory frameworks. The effects of extending these dates have been the subject of recent debate within the waterfowl management community, and this issue remains unresolved. On October 11, 2001, we proposed, upon reconsideration of the previously-established "liberal" alternative for the Lower Region (Alabama, Arkansas, Louisiana, Kentucky, Mississippi, and Tennessee) of the Mississippi Flyway, a framework opening date of no earlier than September 29 and a closing date of no later than January 31, with no reduction (offset) in season length. As indicated above, the vast majority of the comments received during the public comment period were strongly opposed to the proposal, asserting that the proposal: (1) Disregards the integrity of the cooperative process to develop hunting regulations that has been successfully in place for many years; (2) fails to consider biological, technical, and social impacts; (3) established a dangerous precedent in the regulations process; (4) neglects potential impacts on other species besides the mallard; (5) exacerbates an already unequal distribution of harvest and hunter opportunity; (6) disregards implications to other states; (7) erodes the long-established Flyway Council system; and (8) ignores efforts of the Flyway Councils, National Flyway Council, and the U.S. Fish and Wildlife Service to reach consensus on resolving this issue. As a result of these comments and concerns, the Service is withdrawing the proposal of October 11, 2001, and will maintain the regulatory alternatives for the 2001–02 duck hunting seasons that were finalized on September 27, 2001 (**Federal Register**, 66 FR 32297). The Service intends to use elements of the National Flyway Council's recommendation in its proposed rules for the 2002–2003 hunting season.

As part of continuing efforts to develop a resolution to the framework-date issue, the Service plans to meet in

early December with a newly-formed working group established by the International Association of Fish and Wildlife Agencies, representing a cross-section of all Flyway Councils and States, in order to develop a proposal for framework opening and closing dates for the 2002–2003 duck hunting season. The encompassing objective of this effort will be to place the resolution of this issue back into the cooperative process between the States and the Federal Government for developing annual migratory game bird hunting regulations.

At this meeting, the Service will propose that the group consider revising the current regulatory packages and extending the opening and closing dates for the 2002–03 duck hunting season. As the basis for this proposal, key elements of the National Flyway Council recommendation for the 2001–2002 season will be used; that is, a framework opening date of the Saturday nearest September 24 and a closing date of the last Sunday in January, with no offsets in days or bag limits, in the "moderate" and "liberal" regulatory packages. In order to resolve a number of critical technical and administrative issues, the Service will propose that any changes to existing framework be achieved within the context of adaptive harvest management. This approach, building on the longstanding consensus of states, Flyway Councils, and the Service to pursue an adaptive approach to managing waterfowl harvests, would be designed to help identify the effects of changes in framework dates, while ensuring that we can account for uncertainty surrounding harvest and population impacts in each regulatory decision. In the coming months, the Service and State technical representatives will consider various alternative hypotheses that specify possible expected changes in mallard harvests associated with widespread application of extended framework dates and explore their management implications. Any proposed changes in

framework dates would be developed with the tacit understanding that the Flyway Councils are prepared to accept the changes in harvest distribution that might occur. Also, there is the potential for adverse biological impacts to species other than mallards, such as wood ducks, and especially those species currently below objective levels (e.g. pintails, scaup), therefore, any changes to framework dates will require close inspection of relevant harvest and population data.

Successful implementation of changes to framework dates for the 2002–03 hunting season will require additional funding to support the maintenance of a reliable monitoring program for North American waterfowl, including the initiation of a band reporting rate study in 2002 that will allow the estimation of realized harvest rates for mallards and other important waterfowl species, continued efforts to improve the national harvest survey, and enhancements to aircraft survey capabilities.

Following the outcome of the December meeting with the Flyway Councils and states, the Service will begin to prepare its first **Federal Register** document for the 2002–03 regulations-development cycle (Preliminary Rule, to be published in March 2002, prior to the Flyway Council meetings), in which it will announce its intent to propose changes to framework dates. This document will also include additional information regarding progress in addressing monitoring and evaluation concerns expressed earlier and provide specific alternatives to revise the administrative and procedural process for regulations development.

Dated: November 16, 2001.

**Joseph E. Doddridge,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

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