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50 CFR Part 20

Migratory Bird Hunting; Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2011–12 Early Season; Final Rule

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 20**[Docket No. FWS-R9-MB-2011-0014;
91200-1231-9BPP-L2]

RIN 1018-AX34

Migratory Bird Hunting; Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2011-12 Early Season**AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Final rule.

SUMMARY: This rule prescribes special early-season migratory bird hunting regulations for certain tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands. This rule responds to tribal requests for U.S. Fish and Wildlife Service (hereinafter Service or we) recognition of tribal authority to regulate hunting under established guidelines. This rule allows the establishment of season bag limits and, thus, harvest, at levels compatible with populations and habitat conditions.

DATES: This rule takes effect on September 1, 2011.

ADDRESSES: You may inspect comments received on the proposed special hunting regulations and tribal proposals during normal business hours in room 4107, Arlington Square Building, 4501 N. Fairfax Drive, Arlington, VA or at <http://www.regulations.gov> at Docket No. FWS-R9-MB-2011-0014.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, U.S. Fish and Wildlife Service, Department of the Interior, MS MBSP-4107-ARLSQ, 1849 C Street, NW., Washington, DC 20240; (703) 358-1714.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act (MBTA) of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 *et seq.*), authorizes and directs the Secretary of the Department of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

In the August 8, 2011, **Federal Register** (76 FR 48694), we proposed

special migratory bird hunting regulations for the 2011-12 hunting season for certain Indian tribes, under the guidelines described in the June 4, 1985, **Federal Register** (50 FR 23467). The guidelines respond to tribal requests for Service recognition of their reserved hunting rights, and for some tribes, recognition of their authority to regulate hunting by both tribal members and nonmembers on their reservations. The guidelines include possibilities for:

(1) On-reservation hunting by both tribal members and nonmembers, with hunting by nontribal members on some reservations to take place within Federal frameworks but on dates different from those selected by the surrounding State(s);

(2) On-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and

(3) Off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits. In all cases, the regulations established under the guidelines must be consistent with the March 10-September 1 closed season mandated by the 1916 Migratory Bird Treaty with Canada. We have successfully used the guidelines since the 1985-86 hunting season. We finalized the guidelines beginning with the 1988-89 hunting season (August 18, 1988, **Federal Register** [53 FR 31612]).

In the April 8, 2011, **Federal Register** (76 FR 19876), we requested that tribes desiring special hunting regulations in the 2011-12 hunting season submit a proposal including details on:

(a) Harvest anticipated under the requested regulations;

(b) Methods that would be employed to measure or monitor harvest (such as bag checks, mail questionnaires, etc.);

(c) Steps that would be taken to limit level of harvest, where it could be shown that failure to limit such harvest would adversely impact the migratory bird resource; and

(d) Tribal capabilities to establish and enforce migratory bird hunting regulations.

No action is required if a tribe wishes to observe the hunting regulations established by the State(s) in which an Indian reservation is located. On August 8, 2011, we published a proposed rule (75 FR 47682) that included special migratory bird hunting regulations for 30 Indian tribes, based on the input we received in response to the April 8, 2011, proposed rule. All the regulations contained in this final rule were either

submitted by the tribes or approved by the tribes and follow our proposals in the August 8 proposed rule.

Although the August 8 proposed rule included generalized regulations for both early- and late-season hunting, this rulemaking addresses only the early-season proposals. Therefore, it includes information for only 21 tribes. The letter designations for the paragraphs pertaining to each tribe in this rule are discontinuous because they follow the letter designations for the 30 tribes discussed in the August 8 proposed rule, which set forth paragraphs (a) through (dd). Late-season hunting will be addressed in late September. As a general rule, early seasons begin during September each year and have a primary emphasis on such species as mourning and white-winged doves. Late seasons begin about October 1 or later each year and have a primary emphasis on waterfowl.

Population Status and Harvest

The following paragraphs provide preliminary information on the status of waterfowl and information on the status and harvest of migratory shore and upland game birds excerpted from various reports. For more detailed information on methodologies and results, you may obtain complete copies of the various reports at the address indicated under **FOR FURTHER INFORMATION CONTACT** or from our Web site at <http://www.fws.gov/migratorybirds/NewsPublications/Reports.html>.

Waterfowl Breeding and Habitat Survey

Federal, provincial, and State agencies conduct surveys each spring to estimate the size of breeding populations and to evaluate the conditions of the habitats. These surveys are conducted using fixed-wing aircraft, helicopters, and ground crews and encompass principal breeding areas of North America, covering an area over 2.0 million square miles. The traditional survey area comprises Alaska, Canada, and the northcentral United States, and includes approximately 1.3 million square miles. The eastern survey area includes parts of Ontario, Quebec, Labrador, Newfoundland, Nova Scotia, Prince Edward Island, New Brunswick, New York, and Maine, an area of approximately 0.7 million square miles.

Overall, habitat conditions during the 2011 Waterfowl Breeding Population and Habitat Survey were characterized by average to above-average moisture and a normal winter and spring across the traditional and eastern survey areas. The exception was the west-central portion of the traditional survey area

that received below-average moisture. The total pond estimate (Prairie Canada and United States combined) was 8.1 ± 0.2 million. This was 22 percent above the 2010 estimate and 62 percent above the long-term average (1974–2010) of 5.0 ± 0.03 million ponds. The 2011 estimate of ponds in Prairie Canada was 4.9 ± 0.2 million. This was 31 percent above last year's estimate (3.7 ± 0.2 million) and 43 percent above the long-term average (1961–2010; 3.4 ± 0.03 million). The 2011 pond estimate for the north-central United States was 3.2 ± 0.1 million, which was similar to last year's estimate (2.9 ± 0.1 million) and 102 percent above the long-term average (1974–2010; 1.6 ± 0.02 million). Additional details of the 2011 Survey were provided in the July 26 **Federal Register** and are available from our Web site at <http://www.fws.gov/migratorybirds/NewsPublicationsReports.html>.

Breeding Population Status

In the traditional survey area, which includes strata 1–18, 20–50, and 75–77, the total duck population estimate was 45.6 ± 0.8 [SE] million birds. This estimate represents an 11 percent increase over last year's estimate of 40.9 ± 0.7 million birds and was 35 percent above the long-term average (1955–2010). Estimated mallard (*Anas platyrhynchos*) abundance was 9.2 ± 0.3 million birds, which was 9 percent above the 2010 estimate of 8.4 ± 0.3 million birds and 22 percent above the long-term average. Estimated abundance of gadwall (*A. strepera*; 3.3 ± 0.2 million) was similar to the 2010 estimate and 80 percent above the long-term average. Estimated abundance of American wigeon (*A. americana*; 2.1 ± 0.1 million) was 14 percent below the 2010 estimate and 20 percent below the long-term average. The estimated abundance of green-winged teal (*A. crecca*) was 2.9 ± 0.2 million, which was 17 percent below the 2010 estimate and 47 percent above their long-term average. The estimate of blue-winged teal abundance (*A. discors*) was 8.9 ± 0.4 million, which was 41 percent above the 2010 estimate and 91 percent above their long-term average. The estimate for northern pintails (*A. acuta*; 4.4 ± 0.3 million) was 26 percent above the 2010 estimate, and similar to the long-term average. The northern shoveler estimate (*A. clypeata*) was 4.6 ± 0.2 million, which was 14 percent above the 2010 estimate and 98 percent above the long-term average. Redhead abundance (*Aythya americana*; 1.4 ± 0.1 million) was 27 percent above the 2010 estimate and 106 percent above the long-term average. The canvasback estimate (*A. valisineria*; 0.7 ± 0.05 million) was

similar to the 2010 estimate and 21 percent above the long-term average. Estimated abundance of scaup (*A. affinis* and *A. marila* combined; 4.3 ± 0.3 million) was similar to that of 2010 and 15 percent below the long-term average of 5.1 ± 0.05 million.

The eastern survey area was restratified in 2005 and is now composed of strata 51–72. Estimated abundance of mallards in the eastern survey area was 0.4 ± 0.1 million, which was similar to the 2010 estimate and the long-term average (1990–2010). Abundance estimates of green-winged teal, ring-necked duck (*A. collaris*), goldeneyes (common [*Bucephala clangula*] and Barrow's [*B. islandica*]), and mergansers (red-breasted [*Mergus serrator*], common [*M. merganser*], and hooded [*Lophodytes cucullatus*]) were all similar to their 2010 estimates and long-term averages. The American black duck (*Anas rubripes*) estimate was 0.55 ± 0.04 million, which was similar to the 2010 estimate and 13 percent below the long-term average of 0.63 million.

Fall Flight Estimate

The mid-continent mallard population is composed of mallards from the traditional survey area (revised in 2008 to exclude Alaska mallards), Michigan, Minnesota, and Wisconsin, and was estimated to be 11.9 ± 1.1 million birds. This was similar to the 2010 estimate of 10.3 ± 0.9 million in 2010.

Status of Geese and Swans

We provide information on the population status and productivity of North American Canada geese (*Branta canadensis*), brant (*B. bernicla*), snow geese (*Chen caerulescens*), Ross's geese (*C. rossii*), emperor geese (*C. canagica*), white-fronted geese (*Anser albifrons*), and tundra swans (*Cygnus columbianus*). Production of arctic-nesting geese depends heavily upon the timing of snow and ice melt, and on spring and early summer temperatures. In 2011, snowmelt timing was average to slightly below average throughout most of the important goose breeding areas, and most of North America will see average, or slightly below-average, fall flights of geese this year. Conditions in the central Arctic, especially near Queen Maud Gulf, improved relative to last year's very late spring, so improved production of snow and Ross's geese and mid-continent white-fronted geese is expected. Gosling production of Canada goose populations that migrate to the Atlantic and Mississippi Flyways should generally be good in 2011, with the possible exceptions of the Eastern Prairie and Mississippi Valley

populations. Conditions throughout Alaska and northwestern Canada were very good. As a result, Pacific Flyway white-fronted geese, brant, and most Canada geese experienced average to above-average production. Indices of wetland abundance in the Canadian and U.S. prairies in 2011 were generally excellent, and were particularly improved relative to 2010 in Canada. This likely improved nesting and brood rearing success of temperate-nesting Canada geese this year. However, flooding along many river systems may have destroyed some nests. Well-above or near-average wetland abundance in the United States and Canadian prairie regions and mild spring temperatures in many other temperate regions will likely improve production of Canada geese that nest at southern latitudes. Primary abundance indices decreased (< –10 percent) for 7 goose populations and increased (>10 percent) for 10 goose populations from 2010 to 2011. Indices of 12 other populations remained similar among years. Primary abundance indices decreased for western tundra swans and remained unchanged for eastern tundra swans. The following populations displayed significant ($P < 0.05$) positive trends during the most recent 10-year period: Mississippi Flyway Giant, Short Grass Prairie, and Hi-line Canada geese; Western Arctic Wrangel Island and Western Central Flyway light geese; Pacific white-fronted geese and Pacific brant. Only the Atlantic Flyway Resident goose population showed a significant negative 10-year trend.

Waterfowl Harvest and Hunter Activity

National surveys of migratory bird hunters were conducted during the 2009 and 2010 hunting seasons. About 1.1 million waterfowl hunters harvested 13,139,800 (± 4 percent) ducks and 3,327,000 (± 5 percent) geese in 2009, and about 1.1 million waterfowl hunters harvested 14,796,700 (± 4 percent) ducks and 3,169,900 (± 5 percent) geese in 2010. Mallard, green-winged teal, gadwall, blue-winged/cinnamon teal, and wood duck (*Aix sponsa*) were the 5 most-harvested duck species in the United States, and Canada goose was the predominant species in the goose harvest. Coot hunters (about 31,100 in 2009 and 50,500 in 2010) harvested 219,000 (± 34 percent) coots in 2009 and 302,600 (± 50 percent) in 2010.

Comments and Issues Concerning Tribal Proposals

For the 2011–12 migratory bird hunting season, we proposed regulations for 30 tribes and/or Indian groups that followed the 1985

guidelines. Only 25 tribes were considered appropriate for final rulemaking because we did not receive proposals from 5 of the tribes for whom we had proposed regulations. Some of the tribal proposals had both early- and late-season elements. However, as noted earlier, only those with early-season proposals are included in this final rulemaking; 21 tribes have proposals with early seasons. The comment period for the proposed rule, published on August 8, 2011, closed on August 18, 2011. Because of the necessary brief comment period, we will respond to any comments on the proposed rule and/or these regulations postmarked by August 18, but not received prior to final action by us, in the September late-season final rule. At this time, we have received one comment.

Great Lakes Indian Fish and Wildlife Commission's (GLIFWC) Proposal

We received one comment on the August 8 proposed rule from the State of Wisconsin. The State of Wisconsin, Department of Natural Resources (WIDNR) noted the long history of working cooperatively with GLIFWC and individual tribes in the conservation of Wisconsin's waterfowl and wetland resources. However, WIDNR believed the most significant problem with the GLIFWC proposal was the request to allow tribal members to hunt with the use of electronic calls for ducks and geese within the ceded territory. WIDNR believes that, since the ceded territory covers 1/3 of the State of Wisconsin and significant areas of public hunting grounds and waters, the use of electronic calls by tribal hunters would put any nontribal hunters in violation of the law when hunting in these areas. Thus, GLIFWC's proposal would, in effect, close public lands to hunting, increase conflicts among the hunting public creating a safety concern and an unmanageable law enforcement environment. WIDNR also opposed the extension of shooting hours to 60 minutes past sunset and removing species restrictions from the daily bag limit because of safety and resource concerns.

Service Response: As we stated in the August 8 proposed rule, the GLIFWC proposed regulations: Allow the use of electronic calls in the 1837 and 1842 Treaty Areas; extend shooting hours by 45 minutes to 1 hour after sunset in the 1837 and 1842 Treaty Areas and by 15 minutes to 30 minutes after sunset in the 1836 Treaty Area; increase the daily bag limits for ducks in the 1837 and 1842 Treaty Areas from 30 to 40 ducks; eliminates all species restrictions within the bag limit for ducks in the 1837 and

1842 Treaty Areas; eliminate possession limits in the 1837 and 1842 Treaty Areas; and allow the use of unattended decoys in Michigan. While we acknowledge that tribal harvest and participation has declined in recent years, we do not believe that the proposal is the best plan for increasing tribal participation or for the conservation of migratory birds. In addition, as we have previously stated, we are willing to meet with the GLIFWC to explore possible ways to increase tribal participation in migratory bird hunting opportunities. We appreciated the opportunity we had to meet with the Tribes this year and in 2008 to discuss the mutual concerns we have for the migratory bird resource and future hunting opportunities.

Removal of the electronic call prohibition would be inconsistent with our conservation concerns and we do not support allowing the use of electronic calls in the 1837 and 1842 Treaty Areas. Given available evidence on the effectiveness of electronic calls, we believe the potential for overharvest in localized areas could contribute to long-term population declines. It is possible that hunter participation could increase beyond GLIFWC's estimates (50 percent) and could result in additional conservation impacts, particularly on locally breeding populations. Tribal waterfowl hunting covered by this proposal would occur on ceded lands that are not in the ownership of the Tribes. Difficulties of different sets of hunting regulations for different areas and groups of hunters would lead to confusion and frustration on the part of the public, hunters, wildlife-management agencies, and law enforcement. The allowance of electronic calls for tribal hunting on ceded lands would make those lands and other adjacent areas off-limits to waterfowl hunting anytime tribal hunters were hunting with electronic calls (due to the influence of electronic calls on birds). As proposed, we believe there are too many inherent problems with approving the use of these calls, much like baiting. We do not believe the use of electronic calls in the ceded areas is in the best interest of the resource. However, we remind GLIFWC that electronic calls are permitted for the take of resident Canada geese during Canada-geese-only September seasons when all other waterfowl and crane seasons are closed. In the case of GLIFWC's proposed seasons, electronic calls could be used from September 1–14 for resident Canada geese (GLIFWC's duck season begins September 15). This regulatory change was implemented in

2006 in order to significantly increase the harvest of resident Canada geese due to widespread population overabundance, depredation issues, and public health and safety issues.

We also cannot support increasing the shooting hours by 45 minutes in the 1837 and 1842 Treaty Areas (to 60 minutes after sunset). Significantly extending the shooting hours by 45 minutes only heightens our previously identified concerns regarding species identification, species conservation of locally breeding populations, retrieval of downed birds, hunter safety, and law enforcement impacts. It is widely considered dark 45 minutes after sunset, and we see no viable remedies to allay our concerns. Shooting this late would also significantly increase the potential take of non-game birds. However, in deference to tribal traditions and in the interest of cooperation, we will approve shooting 30 minutes after sunset (an extension of 15 minutes from the current 15 minutes after sunset). This would be consistent with other Tribes in the general area (Fond du Lac, Leech Lake, Oneida, Sault Ste Marie, and White Earth). While we acknowledge that we approved the use of 45 minutes after sunset at Mole Lake in 2004, this use was approved only on reservation lands, not ceded lands.

We also do not favor increasing daily bag limits for ducks to the extent GLIFWC has proposed until we have additional information on which we could assess potential impacts. We note that in 2007, in an effort to obtain the necessary information, we implemented a pilot expansion of the daily bag limit to 30 birds per day in the 1837 and 1842 Treaty Areas. We supported this with the understanding that we would need to closely monitor tribal harvest through either GLIFWC's own increased harvest surveys or GLIFWC's assisting the Service to survey tribal hunters. We again reiterate our request for GLIFWC to continue their current harvest survey based on our mutual implementation of a pilot bag limit increase for ducks in the 1837 and 1842 Treaty Areas in 2007, particularly for species such as mallards which were subsequently significantly increased in 2008 (from 10 to 30 per day). We believe the pilot bag limits implemented then, and changed in 2008, should warrant at least several years of data evaluation using GLIFWC's current harvest survey. To date, we have not been presented with adequate data on which to base an informed decision.

GLIFWC already has significantly greater daily bag limits than any other tribe in the region. At this point, we have seen no demonstrated need, nor data, to conclude that the current daily

bag limit of 30 ducks is a hindrance to tribal harvest. The daily bag limit was increased to 30 (from 20) only two seasons ago. Again, we acknowledge that we approved a daily bag limit of 50 birds at Mole Lake in 2004, however, this was approved only on reservation lands, not ceded lands. Until we have evidence of such need, we do not support increasing the daily bag limit to the extent GLIFWC has proposed.

We also do not agree with GLIFWC's proposal to remove all species restrictions. However, we are willing to increase the following species restrictions within the overall daily bag limit of 30 ducks in all 3 of the Treaty Areas to 9 black ducks, 9 pintails, and 9 canvasbacks (from 5 each, respectively). These species restrictions would be consistent with other Tribes (specifically, Fond du Lac) hunting on ceded lands in the general area. We believe that species restrictions for these species are still warranted given their population status. Further, we have already removed restrictions for mallards, scaup, and wood ducks.

Regarding GLIFWC's proposal for possession limits, while we believe the proposal to eliminate all possession limits in the 1837 and 1842 Treaty Areas could have potential resource conservation impacts and would prefer not to implement wide-scale changes in the current possession limit regulations at this time, we are willing to remove the possession limits for tribal harvest in the 1837 and 1842 ceded areas. We make this change with some trepidation and with the understanding that it could have law enforcement impacts. However, in the interest of our long-term relationship with GLIFWC, and the high importance GLIFWC has placed on this issue, we would agree with this important change. Further, removal of this restriction would be consistent with other Tribes (specifically, Fond du Lac) hunting on ceded lands in the general area.

Lastly, while we believe that there may be safety concerns with elimination of unattended decoys in the Ceded Territories, we take no position on the relative need or lack of need for such a restriction. Additionally, we believe the use of unattended decoys to "reserve" hunting areas in public waters (i.e., those lands in the ceded territories outside of lands directly controlled by the Tribes) could lead to confusion and frustration on the part of the public, hunters, wildlife-management agencies, and law enforcement officials due to the inherent difficulties of different sets of hunting regulations for different areas and groups of hunters. In Michigan, State law requires that unattended

decoys may not be left out overnight. We also believe the allowance of unattended decoys for tribal hunting on ceded lands would likely lead to increased acrimony and debate regarding issues of fairness from nontribal hunters. Other than regulations on National Wildlife Refuges and other Federal lands, there are no Federal restrictions requiring the removal of unattended decoys. We believe this is not a Migratory Bird Treaty Act issue and refrain from taking a position.

National Environmental Policy Act (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 the Environmental Protection Agency on June 9, 1988. We published a notice of availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR 31341). In addition, an August 1985 environmental assessment entitled "Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands" is available from the address indicated under the caption **FOR FURTHER INFORMATION CONTACT**.

In a notice published in the September 8, 2005, **Federal Register** (70 FR 53376), we announced our intent to develop a new Supplemental Environmental Impact Statement (SEIS) for the migratory bird hunting program. Public scoping meetings were held in the spring of 2006, as detailed in a March 9, 2006, **Federal Register** (71 FR 12216). We released the draft SEIS on July 9, 2010 (75 FR 39577). The draft SEIS is available either by writing to the address indicated under **FOR FURTHER INFORMATION CONTACT** or by viewing our Web site at <http://www.fws.gov/migratorybirds>.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531-1543; 87 Stat. 884), provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" (and) shall "insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat * * *." Consequently, we conducted formal

consultations to ensure that actions resulting from these regulations would 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 are included in a biological opinion, which concluded that the regulations are not likely to jeopardize the continued existence of any endangered or threatened species. Additionally, these findings may have caused modification of some regulatory measures previously proposed, and the final frameworks reflect any such modifications. Our biological opinions resulting from this section 7 consultation are public documents available for public inspection at the address indicated under **ADDRESSES**.

Executive Order 12866

The Office of Management and Budget has determined that this rule is significant and has reviewed this rule under Executive Order 12866. OMB bases its determination of regulatory significance upon the following four criteria:

(a) Whether the rule will have an annual effect of \$100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(b) Whether the rule will create inconsistencies with other Federal agencies' actions.

(c) Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

(d) Whether the rule raises novel legal or policy issues.

An economic analysis was prepared for the 2008-09 season. This analysis was based on data from the 2006 National Hunting and Fishing Survey, the most recent year for which data are available (see discussion in Regulatory Flexibility Act section below). This analysis estimated consumer surplus for three alternatives for duck hunting (estimates for other species are not quantified due to lack of data). The alternatives are (1) Issue restrictive regulations allowing fewer days than those issued during the 2007-08 season, (2) Issue moderate regulations allowing more days than those in alternative 1, and (3) Issue liberal regulations identical to the regulations in the 2007-08 season. For the 2008-09 season, we chose alternative 3, with an estimated consumer surplus across all flyways of \$205-\$270 million. We also chose alternative 3 for the 2009-10 and the 2010-11 seasons. At this time, we are

proposing no changes to the season frameworks for the 2011–12 season, and as such, we will again consider these three alternatives. However, final frameworks for waterfowl will depend on population status information available later this year. For these reasons, we have not conducted a new economic analysis, but the 2008–09 analysis is part of the record for this rule and is available at <http://www.fws.gov/migratorybirds/NewReportsPublications/SpecialTopics/SpecialTopics.html#HuntingRegs> or at <http://www.regulations.gov> at Docket No. FWS–R9–MB–2011–0014.

Regulatory Flexibility Act

The annual migratory bird hunting regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis. This analysis was revised annually from 1990–95. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, 2004, and 2008. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2008 Analysis was based on the 2006 National Hunting and Fishing Survey and the U.S. Department of Commerce’s County Business Patterns, from which it was estimated that migratory bird hunters would spend approximately \$1.2 billion at small businesses in 2008. Copies of the Analysis are available upon request from the Division of Migratory Bird Management (see **ADDRESSES**) or from our Web site at <http://www.fws.gov/migratorybirds/NewReportsPublications/SpecialTopics/SpecialTopics.html#HuntingRegs> or at <http://www.regulations.gov> at Docket No. FWS–R9–MB–2011–0014.

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule would have an annual effect on the economy of \$100 million or more. However, because this rule would establish hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, subpart K, are utilized in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of our Migratory Bird Surveys and assigned control number 1018–0023 (expires 4/30/2014). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Alaska Subsistence Household Survey, an associated voluntary annual household survey used to determine levels of subsistence take in Alaska, and assigned control number 1018–0124 (expires 4/30/2013). A Federal 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.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking would not impose a cost of \$100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a “significant regulatory action” under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that this rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule would not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules would allow hunters to exercise otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Government-to-Government Relationship With Tribes

In accordance with the President’s memorandum of April 29, 1994, “Government-to-Government Relations with Native American Tribal Governments” (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally-recognized Indian tribes and have determined that there are no effects on Indian trust resources. However, in the April 8 **Federal Register**, we solicited proposals for special migratory bird hunting regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 2011–12 migratory bird hunting season. The resulting proposals were contained in a separate August 8, 2011, proposed rule (76 FR 48694). By virtue of these actions, we have consulted with Tribes affected by this rule.

Federalism Effects

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. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and tribes to determine which seasons meet their individual needs. Any State or Indian tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. 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, in accordance with Executive Order 13132, these regulations do not have significant

federalism effects and do not have sufficient federalism implications to warrant the preparation of a federalism summary impact assessment.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, we intend that the public be given the greatest possible opportunity to comment. Thus, when the preliminary proposed rulemaking was published, we established what we believed were the longest periods possible for public comment. In doing this, we recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, States and Tribes would have insufficient time to select season dates and limits; to communicate those selections to us; and to establish and publicize the necessary regulations and procedures to implement their decisions. We, therefore, find that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these seasons will, therefore, take effect immediately upon publication.

List of Subjects in 50 CFR Part 20

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

Accordingly, part 20, subchapter B, chapter I of title 50 of the Code of Federal Regulations is amended as follows:

PART 20—[AMENDED]

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

Authority: Migratory Bird Treaty Act, 40 Stat. 755, 16 U.S.C. 703–712; Fish and Wildlife Act of 1956, 16 U.S.C. 742a–j; Pub. L. 106–108, 113 Stat. 1491, Note Following 16 U.S.C. 703.

Note: The following hunting regulations provided for by 50 CFR 20.110 will not appear in the Code of Federal Regulations because of their seasonal nature.

- 2. Section 20.110 is revised to read as follows:

§ 20.110 Seasons, limits, and other regulations for certain Federal Indian reservations, Indian Territory, and ceded lands.

Unless specifically provided for below, all of the regulations contained in 50 CFR part 20 apply to the seasons listed herein.

(a) *Colorado River Indian Tribes, Parker, Arizona (Tribal Members and Nontribal Hunters).*

Doves

Season Dates: Open September 1, through 15, 2011; then open November 12, through December 26, 2011.

Daily Bag and Possession Limits: For the early season, daily bag limit is 10 mourning or white-winged doves, singly, or in the aggregate. For the late season, the daily bag limit is 10 mourning doves. Possession limits are twice the daily bag limits after the first day of the season.

General Conditions: All persons 14 years and older must be in possession of a valid Colorado River Indian Reservation hunting permit before taking any wildlife on tribal lands. Any person transporting game birds off the Colorado River Indian Reservation must have a valid transport declaration form. Other tribal regulations apply, and may be obtained at the Fish and Game Office in Parker, Arizona. The early season will be open from one-half hour before sunrise until noon. For the late season, shooting hours are from one-half hour before sunrise to sunset.

(b) *Confederated Salish and Kootenai Tribes, Flathead Indian Reservation, Pablo, Montana (Tribal Hunters).*

Tribal Members Only

Ducks (Including Mergansers)

Season Dates: Open September 2, 2011, through March 9, 2012.

Daily Bag and Possession Limits: The Tribe does not have specific bag and possession restrictions for Tribal members. The season on harlequin duck is closed.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Same as ducks.

Geese

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Same as ducks.

General Conditions: Tribal and nontribal hunters must comply with all basic Federal migratory bird hunting regulations contained in 50 CFR part 20 regarding manner of taking. In addition, shooting hours are sunrise to sunset, and each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Confederated Salish and Kootenai Tribes also apply on the reservation.

(c) *Fond du Lac Band of Lake Superior Chippewa Indians, Cloquet, Minnesota (Tribal Members Only).*

Ducks

1854 and 1837 Ceded Territories: Season Dates: Begin September 17 and end November 27, 2011.

Daily Bag Limit: 18 ducks, including no more than 12 mallards (only 3 of which may be hens), 9 black ducks, 9 scaup, 9 wood ducks, 9 redheads, 9 pintails, and 9 canvasbacks.

Reservation:

Season Dates: Begin September 3 and end November 27, 2011.

Daily Bag Limit: 12 ducks, including no more than 9 mallards (only 2 of which may be hens), 9 black ducks, 9 scaup, 9 redheads, 9 pintails, 9 wood ducks, and 9 canvasbacks.

Mergansers

1854 and 1837 Ceded Territories: Season Dates: Begin September 17 and end November 27, 2011.

Daily Bag Limit: 15 mergansers, including no more than 6 hooded mergansers.

Reservation:

Season Dates: Begin September 3 and end November 27, 2011.

Daily Bag Limit: 10 mergansers, including no more than 4 hooded mergansers.

Canada Geese: All Areas

Season Dates: Begin September 1 and end November 27, 2011.

Daily Bag Limit: 20 geese.

Coots and Common Moorhens (Common Gallinules)

1854 and 1837 Ceded Territories: Season Dates: Begin September 17 and end November 27, 2011.

Daily Bag Limit: 20 coots and common moorhens, singly or in the aggregate.

Reservation:

Season Dates: Begin September 3 and end November 27, 2011.

Daily Bag Limit: 20 coots and common moorhens, singly or in the aggregate.

Sandhill Cranes: 1854 Ceded Territory only:

Season Dates: Begin September 1 and end November 27, 2011.

Daily Bag Limit: One sandhill crane. A crane carcass tag is required prior to hunting.

Sora and Virginia Rails: All Areas

Season Dates: Begin September 1 and end November 27, 2011.

Daily Bag Limit: 25 sora and Virginia rails, singly or in the aggregate.

Common Snipe: All Areas

Season Dates: Begin September 1 and end November 27, 2011.

Daily Bag Limit: Eight common snipe.

Woodcock: All Areas

Season Dates: Begin September 1 and end November 27, 2011.

Daily Bag Limit: Three woodcock.

Mourning Dove: All Areas

Season Dates: Begin September 1 and end October 30, 2011.

Daily Bag Limit: 30 mourning dove.

General Conditions:

1. While hunting waterfowl, a tribal member must carry on his/her person a valid tribal waterfowl hunting permit.

2. Except as otherwise noted, tribal members will be required to comply with tribal codes that will be no less restrictive than the provisions of Chapter 10 of the Model Off-Reservation Code. These regulations parallel Federal requirements in 50 CFR part 20 as to hunting methods, transportation, sale, exportation, and other conditions generally applicable to migratory bird hunting.

3. Band members in each zone will comply with State regulations providing for closed and restricted waterfowl hunting areas.

4. There are no possession limits on any species, unless otherwise noted above. For purposes of enforcing bag and possession limits, all migratory birds in the possession or custody of band members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as having been taken on-reservation. All migratory birds that fall on reservation lands will not count as part of any off-reservation bag or possession limit.

(d) *Grand Traverse Band of Ottawa and Chippewa Indians, Suttons Bay, Michigan (Tribal Members Only)*.

All seasons in Michigan, 1836 Treaty Zone:

Ducks

Season Dates: Open September 18, 2011, through January 18, 2012.

Daily Bag Limit: 20 ducks, which may include no more than 5 pintail, 3 canvasback, 5 black ducks, 1 hooded merganser, 5 wood ducks, 3 redheads, and 9 mallards (only 4 of which may be hens).

Canada and Snow Geese

Season Dates: Open September 1, through November 30, 2011; and open January 1, 2012, through February 8, 2012.

Daily Bag Limit: 10 geese.

Other Geese (white-fronted geese and brant)

Season Dates: Open September 20, through November 30, 2011.

Daily Bag Limit: Five geese.

Sora Rails, Common Snipe, and Woodcock

Season Dates: Open September 1, through November 14, 2011.

Daily Bag Limit: 10 rails, 10 snipe, and 5 woodcock.

Mourning Doves

Season Dates: Open September 1, through November 14, 2011.

Daily Bag Limit: 10 mourning doves.

General Conditions: A valid Grand Traverse Band Tribal license is required and must be in possession before taking any wildlife. All other basic regulations contained in 50 CFR part 20 are valid. Other tribal regulations apply, and may be obtained at the tribal office in Suttons Bay, Michigan.

(e) *Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin (Tribal Members Only)*.

The 2011–12 waterfowl hunting season regulations apply to all treaty areas (except where noted):

Ducks

Season Dates: Begin September 15 and end December 31, 2011.

Daily Bag Limit: 1837 and 1842 Ceded Territories:

30 ducks, including no more than 9 black ducks, 9 pintails, and 9 canvasbacks.

1836 Ceded Territory:

30 ducks, including no more than 5 black ducks, 5 pintails, and 5 canvasbacks.

Mergansers

Season Dates: Begin September 15 and end December 31, 2011.

Daily Bag Limit: 10 mergansers.

Geese

Season Dates: Begin September 1 and end December 31, 2011. In addition, any portion of the ceded territory that is open to State-licensed hunters for goose hunting after December 1 will also be open concurrently for tribal members.

Daily Bag Limit: 20 geese in aggregate.

Other Migratory Birds**Coots and Common Moorhens (Common Gallinules):**

Season Dates: Begin September 15 and end December 31, 2011.

Daily Bag Limit: 20 coots and common moorhens (common gallinules), singly or in the aggregate.

Sora and Virginia Rails

Season Dates: Begin September 15 and end December 31, 2011.

Daily Bag Limits: 20 Sora and Virginia rails, singly or in the aggregate.

Common Snipe

Season Dates: Begin September 15 and end December 31, 2011.

Daily Bag Limit: 16 common snipe.

Woodcock

Season Dates: Begin September 6 and end December 1, 2011.

Daily Bag Limit: 10 woodcock.

Mourning Dove: 1837 and 1842 Ceded Territories.

Season Dates: Begin September 1 and end November 9, 2011.

Daily Bag Limit: 15.

General Conditions

1. All tribal members will be required to obtain a valid tribal waterfowl hunting permit.

2. Except as otherwise noted, tribal members will be required to comply with tribal codes that will be no less restrictive than the model ceded territory conservation codes approved by Federal courts in the *Lac Courte Oreilles v. State of Wisconsin (Voigt)* and *Mille Lacs Band v. State of Minnesota*, and *United States v. Michigan* cases. Chapter 10 in each of these model codes regulates ceded territory migratory bird hunting. All versions of Chapter 10 parallel Federal requirements as to hunting methods, transportation, sale, exportation, and other conditions generally applicable to migratory bird hunting. They also automatically incorporate by reference the Federal migratory bird regulations contained in 50 CFR part 20.

3. Particular regulations of note include:

i. Nontoxic shot is required for all off-reservation waterfowl hunting by tribal members.

ii. Tribal members in each zone shall comply with tribal regulations providing for closed and restricted waterfowl hunting areas. These regulations generally incorporate the same restrictions contained in parallel State regulations.

iii. There are no possession limits on any species, unless otherwise noted above. For purposes of enforcing bag and possession limits, all migratory birds in the possession or custody of band members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as having been taken on-reservation. All migratory birds that fall on reservation lands will

not count as part of any off-reservation bag or possession limit.

iv. The baiting restrictions included in section 10.05(2)(h) of the model ceded territory conservation code will be amended to include language which parallels that in place for non-tribal members as published at 64 FR 29799, June 3, 1999.

v. The shell limit restrictions included in section 10.05(2)(b) of the model ceded territory conservation code will be removed.

vi. Hunting hours shall be from one-half hour before sunrise to one-half hour after sunset.

vii. The use of electronic calls is allowed for Canada geese only during September 1–14. Other geese may not be taken during this time.

(f) [Reserved.]

(g) *Kalispel Tribe, Kalispel Reservation, Usk, Washington (Tribal Members and Nontribal Hunters).*

Nontribal Hunters on Reservation

Geese

Season Dates: Open September 2, through 16, 2011, for the early-season, and open October 1, 2011, through January 31, 2012, for the late-season. During this period, days to be hunted are specified by the Kalispel Tribe. Nontribal hunters should contact the Tribe for more detail on hunting days.

Daily Bag and Possession Limits: 5 Canada geese for the early season, and 3 light geese and 4 dark geese, for the late season. The daily bag limit is 2 brant (when the State's season is open) and is in addition to dark goose limits for the late-season. The possession limit is twice the daily bag limit.

Tribal Hunters Within Kalispel Ceded Lands

Ducks

Season Dates: Open September 1, 2011, through January 31, 2012.

Daily Bag and Possession Limits: 7 ducks, including no more than 2 female mallards, 2 pintail, 1 canvasback, 3 scaup, and 2 redheads. The possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 1, 2011, through January 31, 2012.

Daily Bag Limit: 6 light geese and 4 dark geese. The daily bag limit is 2 brant and is in addition to dark goose limits.

General: Tribal members must possess a validated Migratory Bird Hunting and Conservation Stamp and a tribal ceded lands permit.

(h) [Reserved.]

(i) *Leech Lake Band of Ojibwe, Cass Lake, Minnesota (Tribal Members Only).*

Ducks

Season Dates: Open September 17, through December 31, 2011.

Daily Bag Limits: 10 ducks, including no more than 5 pintail, 5 canvasback, and 5 black ducks.

Geese

Season Dates: Open September 1, through December 31, 2011.

Daily Bag Limits: 10 geese.

General: Possession limits are twice the daily bag limits. Shooting hours are one-half hour before sunrise to one-half hour after sunset. Nontoxic shot is required. Use of live decoys, bait, and commercial use of migratory birds are prohibited. Waterfowl may not be pursued or taken while using motorized craft.

(j) *Little River Band of Ottawa Indians, Manistee, Michigan (Tribal Members Only).*

Ducks

Season Dates: Open September 15, 2011, through January 20, 2012.

Daily Bag and Possession Limits: 12 ducks, including no more than 2 pintail, 2 canvasback, 1 hooded merganser, 3 black ducks, 3 wood ducks, 3 redheads, and 6 mallards (only 3 of which may be hens). The possession limit is twice the daily bag limit.

Canada Geese

Season Dates: Open September 1, 2011, through February 8, 2012.

Daily Bag and Possession Limits: Five Canada geese, and possession limit is twice the daily bag limit.

White-fronted Geese, Snow Geese, Ross Geese, and Brant

Season Dates: Open September 20, through November 30, 2011.

Daily Bag and Possession Limits: Five birds, and the possession limit is twice the daily bag limit.

Mourning Doves, Rails, Snipe, and Woodcock

Season Dates: Open September 1, through November 14, 2011.

Daily Bag and Possession Limits: 10 doves, 10 rails, 10 snipe, and 5 woodcock. The possession limit is twice the daily bag limit.

General:

1. All tribal members are required to obtain a valid tribal resource card and 2011–12 hunting license.

2. Except as modified by the Service rules adopted in response to this proposal, these amended regulations parallel all Federal regulations contained in 50 CFR part 20.

3. Particular regulations of note include:

i. Nontoxic shot will be required for all waterfowl hunting by tribal members.

ii. Tribal members in each zone will comply with tribal regulations providing for closed and restricted waterfowl hunting areas. These regulations generally incorporate the same restrictions contained in parallel State regulations.

iii. Possession limits for each species are double the daily bag limit, except on the opening day of the season, when the possession limit equals the daily bag limit, unless otherwise noted above.

4. Tribal members hunting in Michigan will comply with tribal codes that contain provisions parallel to Michigan law regarding duck blinds and decoys.

(k) *The Little Traverse Bay Bands of Odawa Indians, Petoskey, Michigan (Tribal Members Only).*

Ducks

Season Dates: Open September 15, 2011, through January 31, 2012.

Daily Bag Limits: 20 ducks, including no more than 5 hen mallards, 5 black ducks, 5 redheads, 5 wood ducks, 5 pintail, 5 hooded merganser, 5 scaup, and 5 canvasback.

Coots and Gallinules

Season Dates: Open September 15, through December 31, 2011.

Daily Bag Limit: 20.

Canada Geese

Season Dates: Open September 1, 2011, through February 8, 2012.

Daily Bag Limit: 20.

Sora and Virginia Rails

Season Dates: Open September 1, through December 31, 2011.

Daily Bag Limit: 20.

Snipe

Season Dates: Open September 15, through December 31, 2011.

Daily Bag Limit: 16.

Mourning Doves

Season Dates: Open September 1, through November 14, 2011.

Daily Bag Limit: 15.

Woodcock

Season Dates: Open September 5, through December 1, 2011.

Daily Bag Limit: 10.

General: Possession limits are twice the daily bag limits.

(l) [Reserved.]

(m) *Lower Elwha Klallam Tribe, Port Angeles, Washington (Tribal Members Only).*

Ducks

Season Dates: Open September 17, 2011, through January 2, 2012.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, one canvasback, and two redheads. Possession limit is twice the daily bag limit. Bag and possession limits for harlequin ducks is one per season.

Geese

Season Dates: Open September 17, 2011, through January 2, 2012.

Daily Bag and Possession Limits: Four geese, and may include no more than three light geese. The seasons on Aleutian Canada geese and Brant are closed. Possession limit is twice the daily bag limit.

Coots

Season Dates: Open September 17, 2011, through January 2, 2012.

Daily Bag and Possession Limits: 25 and 50 coots, respectively.

Mourning Doves

Season Dates: Open September 17, 2011, through January 2, 2012.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Snipe

Season Dates: Open September 17, 2011, through January 2, 2012.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

Band-Tailed Pigeon

Season Dates: Open September 17, 2011, through January 2, 2012.

Daily Bag and Possession Limits: 2 and 4 pigeons, respectively.

General: Tribal members must possess a tribal hunting permit from the Lower Elwha Klallam Tribe pursuant to tribal law. Hunters must observe all basic Federal migratory bird hunting regulations in 50 CFR part 20.

(n) *Makah Indian Tribe, Neah Bay, Washington (Tribal Members)*.

Band-Tailed Pigeons

Season Dates: Open September 17, through October 30, 2011.

Daily Bag Limit: Two band-tailed pigeons.

Ducks and Coots

Season Dates: Open September 24, 2011, through January 29, 2012.

Daily Bag Limit: Seven ducks including no more than five mallards (only two of which can be a hen), one redhead, one pintail, three scaup, and one canvasback. The seasons on wood duck and harlequin are closed.

Geese

Season Dates: Open September 24, 2011, through January 29, 2012.

Daily Bag Limit: Four including no more than one brant. The seasons on Aleutian and dusky Canada geese are closed.

General

All other Federal regulations contained in 50 CFR part 20 apply. The following restrictions also apply:

(1) As per Makah Ordinance 44, only shotguns may be used to hunt any species of waterfowl. Additionally, shotguns must not be discharged within 0.25 miles of an occupied area.

(2) Hunters must be eligible, enrolled Makah tribal members and must carry their Indian Treaty Fishing and Hunting Identification Card while hunting. No tags or permits are required to hunt waterfowl.

(3) The Cape Flattery area is open to waterfowl hunting, except in designated wilderness areas, or within 1 mile of Cape Flattery Trail, or in any area that is closed to hunting by another ordinance or regulation.

(4) The use of live decoys and/or baiting to pursue any species of waterfowl is prohibited.

(5) Steel or bismuth shot only for waterfowl is allowed; the use of lead shot is prohibited.

(6) The use of dogs is permitted to hunt waterfowl.

(7) Shooting hours for all species of waterfowl are one-half hour before sunrise to one-half hour after sunset.

(8) Open hunting areas are: GMUs 601 (Hoko), a portion of the 602 (Dickey) encompassing the area north of a line between Norwegian Memorial and east to Highway 101, and 603 (Pysht).

(o) *Navajo Nation, Navajo Indian Reservation, Window Rock, Arizona (Tribal Members and Nontribal Hunters)*.

Band-Tailed Pigeons

Season Dates: Open September 1, through 30, 2011.

Daily Bag and Possession Limits: 5 and 10 pigeons, respectively.

Mourning Doves

Season Dates: Open September 1, through 30, 2011.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

General Conditions: Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20, regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird

Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face. Special regulations established by the Navajo Nation also apply on the reservation.

(p) *Oneida Tribe of Indians of Wisconsin, Oneida, Wisconsin (Tribal Members Only)*.

Ducks (Including Mergansers)

Season Dates: Open September 18, through November 18, 2011, and open November 28, through December 4, 2011.

Daily Bag and Possession Limits: Six, including no more than six mallards (three hen mallards), six wood ducks, one redhead, two pintail, and one hooded merganser. The possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 1, through November 18, 2011; and open November 28, 2011, through January 1, 2012.

Daily Bag and Possession Limits: 5 and 10 Canada geese, respectively, from September 1, through September 18, 2011; and 3 and 6 Canada geese, respectively, the remainder of the season. Hunters will be issued five tribal tags during the early season and three tribal tags during the late season for geese in order to monitor goose harvest. An additional three tags will be issued each time birds are registered. A seasonal quota of 300 birds is adopted. If the quota is reached before the season concludes, the season will be closed at that time.

Woodcock

Season Dates: Open September 3, through November 6, 2011.

Daily Bag and Possession Limits: 5 and 10 woodcock, respectively.

Dove

Season Dates: Open September 1, through November 6, 2011.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

General Conditions: Tribal member shooting hours are one-half hour before sunrise to one-half hour after sunset. Nontribal members hunting on the Reservation or on lands under the jurisdiction of the Tribe must comply with all State of Wisconsin regulations, including season dates, shooting hours, and bag limits which differ from tribal member seasons. Tribal members and nontribal members hunting on the Reservation or on lands under the jurisdiction of the Tribe will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, with the following exceptions: tribal

members are exempt from the purchase of the Migratory Waterfowl Hunting and Conservation Stamp (Duck Stamp); and shotgun capacity is not limited to three shells.

(q) *Point No Point Treaty Council, Kingston, Washington (Tribal Members Only)*.

Jamestown S'Klallam Tribe

Ducks

Season Dates: Open September 15, 2011, through February 1, 2012.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, one canvasback, four scoters, and two redheads. Possession limit is twice the daily bag limit. Bag and possession limits for harlequin ducks is one per season.

Geese

Season Dates: Open September 15, 2011, through March 10, 2012.

Daily Bag and Possession Limits: Four geese, and may include no more than three light geese. The seasons on Aleutian and cackling Canada geese are closed. Possession limit is twice the daily bag limit.

Brant

Season Dates: Open November 13, 2011, through January 31, 2012.

Daily Bag and Possession Limits: Two and four, respectively.

Coots

Season Dates: Open September 15, 2011, through February 1, 2012.

Daily Bag and Possession Limits: 25 and 50 coots, respectively.

Mourning Doves

Season Dates: Open September 15, 2011, through January 14, 2012.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Snipe

Season Dates: Open September 15, 2011, through March 10, 2012.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

Band-Tailed Pigeon

Season Dates: Open September 15, 2011, through March 10, 2012.

Daily Bag and Possession Limits: 2 and 4 pigeons, respectively.

Port Gamble S'Klallam Tribe

Ducks

Season Dates: Open September 1, 2011, through February 1, 2012.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, one

canvasback, four scoters, and two redheads. Possession limit is twice the daily bag limit. Bag and possession limits for harlequin ducks is one per season.

Geese

Season Dates: Open September 15, 2011, through March 10, 2012.

Daily Bag and Possession Limits: Four geese, and may include no more than three light geese. The seasons on Aleutian and cackling Canada geese are closed. Possession limit is twice the daily bag limit.

Brant

Season Dates: Open November 13, 2011, through January 31, 2012.

Daily Bag and Possession Limits: 2 and 4, respectively.

Coots

Season Dates: Open September 1, 2011, through February 1, 2012.

Daily Bag and Possession Limits: 25 and 50 coots, respectively.

Mourning Doves

Season Dates: Open September 1, 2011, through January 31, 2012.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Snipe

Season Dates: Open September 1, 2011, through March 10, 2012.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

Band-Tailed Pigeon

Season Dates: Open September 1, 2011, through March 10, 2012.

Daily Bag and Possession Limits: 2 and 4 pigeons, respectively.

General: Tribal members must possess a tribal hunting permit from the Point No Point Tribal Council pursuant to tribal law. Hunting hours are from one-half hour before sunrise to sunset. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(r) *Sault Ste. Marie Tribe of Chippewa Indians, Sault Ste. Marie, Michigan (Tribal Members Only)*.

Mourning Doves

Season Dates: Open September 1, through November 14, 2011.

Daily Bag Limit: 10 doves.

Ducks

Season Dates: Open September 15, through December 31, 2011.

Daily Bag Limits: 20, including no more than 5 canvasback, 5 black duck, and 5 wood duck.

Mergansers

Season Dates: Open September 15, through December 31, 2011.

Daily Bag Limit: 10, only 5 of which may be hens.

Geese

Season Dates: Open September 1, through December 31, 2011.

Daily Bag Limit: 20 in the aggregate.

Coots and Gallinule

Season Dates: Open September 1, through December 31, 2011.

Daily Bag Limit: 20 in the aggregate.

Woodcock

Season Dates: Open September 2, through December 1, 2011.

Daily Bag Limits: 10.

Common Snipe

Season Dates: Open September 15, through December 31, 2011.

Daily Bag Limits: 16.

Sora and Virginia Rails

Season Dates: Open September 1, through December 31, 2011.

Daily Bag Limits: 20 in the aggregate.

General: Possession limits are twice the daily bag limits except for rails, of which the possession limit equals the daily bag limit (20). Tribal members must possess a tribal hunting permit from the Sault Ste. Marie Tribe pursuant to tribal law. Shooting hours are one-half hour before sunrise until one-half hour after sunset. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(s) *[Reserved.]*

(t) *Skokomish Tribe, Shelton, Washington (Tribal Members Only)*.

Ducks and Mergansers

Season Dates: Open September 16, 2011, through February 28, 2012.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, one canvasback, one harlequin per season, and two redheads. Possession limit is twice the daily bag limit (except for harlequin).

Geese

Season Dates: Open September 16, 2011, through February 28, 2012.

Daily Bag and Possession Limits: Four geese, and may include no more than three light geese. The season on Aleutian Canada geese is closed. Possession limit is twice the daily bag limit.

Brant

Season Dates: Open November 1, 2011, through February 15, 2012.

Daily Bag and Possession Limits: Two and four brant, respectively.

Coots

Season Dates: Open September 16, 2011, through February 28, 2012.

Daily Bag and Possession Limits: 25 and 50 coots, respectively.

Mourning Doves

Season Dates: Open September 16, 2011, through February 28, 2012.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Snipe

Season Dates: Open September 16, 2011, through February 28, 2012.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

Band-Tailed Pigeon

Season Dates: Open September 16, 2011, through February 28, 2012.

Daily Bag and Possession Limits: 2 and 4 pigeons, respectively.

General Conditions: All hunters authorized to hunt migratory birds on the reservation must obtain a tribal hunting permit from the respective Tribe. Hunters are also required to adhere to a number of special regulations available at the tribal office. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(u) *Spokane Tribe of Indians, Spokane Indian Reservation, Wellpinit, Washington (Tribal Members Only).*

Ducks

Season Dates: Open September 2, 2011, through January 31, 2012.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, two pintail, one canvasback, three scaup, and two redheads. Possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 2, 2011, through January 31, 2012.

Daily Bag and Possession Limits: Four dark geese and six light geese. Possession limit is twice the daily bag limit.

General Conditions: All tribal hunters must have a valid Tribal ID card on his or her person while hunting. Shooting hours are one-half hour before sunrise to sunset, and steel shot is required for all migratory bird hunting. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(v) *Squaxin Island Tribe, Squaxin Island Reservation, Shelton, Washington (Tribal Members Only)*

Ducks

Season Dates: Open September 1, 2011, through January 15, 2012.

Daily Bag and Possession Limits: Five ducks, which may include only one canvasback. The season on harlequin ducks is closed. Possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 15, 2011, through January 15, 2012.

Daily Bag and Possession Limits: Four geese, and may include no more than two snow geese. The season on Aleutian and cackling Canada geese is closed. Possession limit is twice the daily bag limit.

Brant

Season Dates: Open September 1, through December 31, 2011.

Daily Bag and Possession Limits: Two and four brant, respectively.

Coots

Season Dates: Open September 1, 2011, through January 15, 2012.

Daily Bag and Possession Limits: 25 coots.

Snipe

Season Dates: Open September 15, 2011, through January 15, 2012.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

Band-Tailed Pigeons

Season Dates: Open September 1, through December 31, 2011.

Daily Bag and Possession Limits: 5 and 10 pigeons, respectively.

General Conditions: All tribal hunters must obtain a Tribal Hunting Tag and Permit from the Tribe's Natural Resources Department and must have the permit, along with the member's treaty enrollment card, on his or her person while hunting. Shooting hours are one-half hour before sunrise to one-half hour after sunset, and steel shot is required for all migratory bird hunting. Other special regulations are available at the tribal office in Shelton, Washington. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(w) *[Reserved.]*

(x) *[Reserved.]*

(y) *[Reserved.]*

(z) *Upper Skagit Indian Tribe, Sedro Woolley, Washington (Tribal Members Only).*

Mourning Dove

Season Dates: Open September 1, through December 31, 2011.

Daily Bag and Possession Limits: 12 and 15 mourning doves, respectively.

Tribal members must have the tribal identification and harvest report card on their person to hunt. Tribal members hunting on the Reservation will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, except shooting hours would be one-half hour before official sunrise to one-half hour after official sunset.

(aa) *Wampanoag Tribe of Gay Head, Aquinnah, Massachusetts (Tribal Members Only).*

Canada Geese

Season Dates: Open September 7 through 24, 2011, and open October 31, 2011, through February 25, 2012.

Daily Bag Limits: Eight Canada geese during the first period and eight during the second.

Snow Geese

Season Dates: Open September 7 through 24, 2011.

Daily Bag Limits: 15 snow geese.

Sora and Virginia Rails

Season Dates: Open September 1 through November 9, 2011.

Daily Bag Limits: 5 sora and 10 Virginia Rails.

Snipe

Season Dates: Open September 1 through December 16, 2011.

Daily Bag Limits: Eight snipe.

General Conditions: Shooting hours are one-half hour before sunrise to sunset. Nontoxic shot is required. All other basic Federal migratory bird hunting regulations contained in 50 CFR part 20 will be observed.

(bb) *White Earth Band of Ojibwe, White Earth, Minnesota (Tribal Members Only).*

Ducks

Season Dates: Open September 17, through December 11, 2011.

Daily Bag Limit for Ducks: 10 ducks, including no more than 2 female mallards, 1 pintail, and 1 canvasback.

Mergansers

Season Dates: Open September 17, through December 18, 2011.

Daily Bag Limit for Mergansers: Five mergansers, including no more than two hooded mergansers.

Geese

Season Dates: Open September 1 through 25, 2011, and open September 26, through December 18, 2011.

Daily Bag Limit: Eight geese through September 25 and five thereafter.

Coots

Season Dates: Open September 1, through November 30, 2011.

Daily Bag Limit: 20 coots.

Sora and Virginia Rails

Season Dates: Open September 1, through November 30, 2011.

Daily Bag Limit: 25 sora and Virginia rails, singly or in the aggregate.

Common Snipe and Woodcock

Season Dates: Open September 1, through November 30, 2011.

Daily Bag Limit: 10 snipe and 10 woodcock.

Mourning Dove

Season Dates: Open September 1, through November 30, 2011.

Daily Bag Limit: 25 doves.

General Conditions: Shooting hours are one-half hour before sunrise to one-half hour after sunset. Nontoxic shot is required. All other basic Federal migratory bird hunting regulations

contained in 50 CFR part 20 will be observed.

(cc) [Reserved.]

(dd) [Reserved.]

Dated: August 29, 2011.

Rachel Jacobson,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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