

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

[Docket No. FWS-R9-MB-2012-0005;  
FF09M21200-123-FXMB1231099BPP0L2]

RIN 1018-AX97

**Migratory Bird Hunting; Supplemental Proposals for Migratory Game Bird Hunting Regulations for the 2012-13 Hunting Season; Notice of Meetings**

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

**ACTION:** Proposed rule; supplemental.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), proposed in an earlier document to establish annual hunting regulations for certain migratory game birds for the 2012-13 hunting season. This supplement to the proposed rule provides the regulatory schedule, announces the Service Migratory Bird Regulations Committee and Flyway Council meetings, and provides Flyway Council recommendations resulting from their March meetings.

**DATES:**

*Comments:* You must submit comments on the proposed regulatory alternatives for the 2012-13 duck hunting seasons on or before June 22, 2012. Following subsequent **Federal Register** notices, you will be given an opportunity to submit comments for proposed early-season frameworks by July 27, 2012, and for proposed late-season frameworks and subsistence migratory bird seasons in Alaska by August 31, 2012.

*Meetings:* The Service Migratory Bird Regulations Committee will meet to consider and develop proposed regulations for early-season migratory bird hunting on June 20 and 21, 2012, and for late-season migratory bird hunting and the 2013 spring/summer migratory bird subsistence seasons in Alaska on July 25 and 26, 2012. All meetings will commence at approximately 8:30 a.m.

**ADDRESSES:** *Comments:* You may submit comments on the proposals by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-R9-MB-2012-0005.

- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS-R9-MB-2012-0005; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042-PDM; Arlington, VA 22203.

We will not accept emailed or faxed comments. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

*Meetings:* The Service Migratory Bird Regulations Committee will meet in room 200 of the U.S. Fish and Wildlife Service's Arlington Square Building, 4401 N. Fairfax Dr., Arlington, VA.

**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:****Regulations Schedule for 2012**

On April 17, 2012, we published in the **Federal Register** (77 FR 23094) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and addressed the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. This document is the second in a series of proposed, supplemental, and final rules for migratory game bird hunting regulations. We will publish proposed early-season frameworks in early July and late-season frameworks in early August. We will publish final regulatory frameworks for early seasons on or about August 16, 2012, and for late seasons on or about September 14, 2012.

**Service Migratory Bird Regulations Committee Meetings**

The Service Migratory Bird Regulations Committee will meet June 20-21, 2012, to review information on the current status of migratory shore and upland game birds and develop 2012-13 migratory game bird regulations recommendations for these species, plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands. The Committee will also develop regulations recommendations for September waterfowl seasons in designated States, special sea duck seasons in the Atlantic Flyway, and extended falconry seasons. In addition, the Committee will review and discuss preliminary information on the status of waterfowl.

At the July 25-26, 2012, meetings, the Committee will review information on the current status of waterfowl and develop 2012-13 migratory game bird regulations recommendations for regular waterfowl seasons and other species and

seasons not previously discussed at the early-season meetings. In addition, the Committee will develop recommendations for the 2013 spring/summer migratory bird subsistence season in Alaska.

In accordance with Departmental policy, these meetings are open to public observation. You may submit written comments to the Service on the matters discussed.

**Announcement of Flyway Council Meetings**

Service representatives will be present at the individual meetings of the four Flyway Councils this July. Although agendas are not yet available, these meetings usually commence at 8 a.m. on the days indicated.

*Atlantic Flyway Council:* July 19-20, Kingsmill Resort, Williamsburg, VA.

*Mississippi Flyway Council:* July 22-23, Stoney Creek Inn, Peoria, IL.

*Central Flyway Council:* July 18-19, Econolodge Canmore, Canmore, Alberta, Canada.

*Pacific Flyway Council:* July 13, Oxford Suites, Spokane, WA.

**Review of Public Comments**

This supplemental rulemaking describes Flyway Council recommended changes based on the preliminary proposals published in the April 17, 2012, **Federal Register**. We have included only those recommendations requiring either new proposals or substantial modification of the preliminary proposals and do not include recommendations that simply support or oppose preliminary proposals and provide no recommended alternatives. Our responses to some Flyway Council recommendations, but not others, are merely a clarification aid to the reader on the overall regulatory process, not a definitive response to the issue. We will publish responses to all proposals and written comments when we develop final frameworks.

We seek additional information and comments on the recommendations in this supplemental proposed rule. New proposals and modifications to previously described proposals are discussed below. Wherever possible, they are discussed under headings corresponding to the numbered items identified in the April 17 proposed rule. Only those categories requiring your attention or for which we received Flyway Council recommendations are discussed below.

**1. Ducks**

Duck harvest management categories are: (A) General Harvest Strategy; (B) Regulatory Alternatives, including

specification of framework dates, season length, and bag limits; (C) Zones and Split Seasons; and (D) Special Seasons/Species Management.

#### A. General Harvest Strategy

*Council Recommendations:* The Atlantic Flyway Council recommended that the Eastern Mallard Adaptive Harvest Management (AHM) framework be revised on an interim basis for the 2012 and subsequent seasons by adopting the model set recently proposed by the Service, and that model weights be those derived from a retrospective analysis of breeding population changes from 2002–11.

The Mississippi Flyway Council recommended that regulations changes be restricted to one step per year, both when restricting as well as liberalizing hunting regulations.

*Service Response:* As we stated in the April 17 **Federal Register**, the final AHM protocol for the 2012–13 season will be detailed in the early-season proposed rule, which will be published in mid-July.

#### B. Regulatory Alternatives

*Council Recommendations:* The Mississippi and Central Flyway Councils recommended that regulatory alternatives for duck hunting seasons remain the same as those used in 2011–12.

*Service Response:* As we stated in the April 17 **Federal Register**, the final regulatory alternatives for the 2012–13 season will be detailed in the early-season proposed rule, which will be published in mid-July.

#### C. Zones and Split Seasons

*Council Recommendations:* The Atlantic and Mississippi Flyway Councils recommended that the Service allow States to submit their proposed zone/split changes as follows: States that will use their zones for seasons that open before the Saturday nearest September 24 should submit their zone descriptions by June 1, 2012. States that will not use their zones until after the Saturday nearest September 24 should submit their zone descriptions by July 1, 2012; and by July 1 in future years when zones/split season options can be changed.

*Service Response:* As we discussed in the April 17 **Federal Register**, last year in an August 26, 2011, **Federal Register** (75 FR 53536), we finalized new guidelines for duck zones and split seasons for use by States in setting their seasons for the 2011–15 hunting seasons. We also prepared an environmental assessment (EA) on the new zone and split season guidelines

and provided a brief summary of the anticipated impacts of the selected alternative with regard to the guidelines. The EA and finding of no significant impact (FONSI) on the revised guidelines is available by either writing to the address indicated under **FOR FURTHER INFORMATION CONTACT** in the preamble of this proposed rule or by viewing on our Web site at <http://www.fws.gov/migratorybirds>, or at <http://www.regulations.gov>.

As part of the implementation of these new guidelines, we stated last year that those States that were capable of implementing these new guidelines immediately were allowed to do so. However, for those States not able to implement changes last year, we were committed to extending the current open season into 2012. Thus, we asked then, and again in the April 17 proposed rule, that States provide us with any changes to their zone and split season configuration by May 1, 2012, for use during the 2012–13 season. In an effort to provide additional accommodation to Flyways' and States' requests, we will allow States to submit their proposed zone/split changes and descriptions by June 15, 2012; and by June 15 in future years when zones/split season options can be changed.

#### 4. Canada Geese

##### A. Special Seasons

*Council Recommendations:* The Pacific Flyway Council recommended increasing the daily bag limit in the Pacific Flyway portion of Wyoming from two geese to three geese, and increasing the possession limit from four to six birds during the special September season.

##### B. Regular Seasons

*Council Recommendations:* The Mississippi Flyway Council recommended that the framework opening date for all species of geese for the regular goose seasons in Michigan and Wisconsin be September 16, 2012.

#### 9. Sandhill Cranes

*Council Recommendations:* The Central and Pacific Flyway Councils recommend using the 2012 Rocky Mountain Population (RMP) sandhill crane harvest allocation of 1,270 birds as proposed in the allocation formula using the 3-year running average for 2009–11. The Councils also recommended the establishment of a new hunting area for RMP greater sandhill crane hunting in Colorado. The Pacific Flyway Council also recommended the establishment of the expansion of the hunting areas for RMP

greater sandhill crane hunting in Arizona and the establishment of a new RMP sandhill crane hunt area in Idaho.

#### 16. Mourning Doves

*Council Recommendations:* The Atlantic and Mississippi Flyway Councils recommended use of the “moderate” season framework for States within the Eastern Management Unit population of mourning doves resulting in a 70-day season and 15-bird daily bag limit. The daily bag limit could be composed of mourning doves and white-winged doves, singly or in combination.

The Mississippi and Central Flyway Councils recommend the use of the standard (or “moderate”) season package of a 15-bird daily bag limit and a 70-day season for the 2012–13 mourning dove season in the States within the Central Management Unit. They also recommended that the Special White-winged Dove Area be expanded to Interstate Highway 37 in the 2013–14 season.

The Pacific Flyway Council recommended use of the “moderate” season framework for States in the Western Management Unit (WМУ) population of doves, which represents no change from last year's frameworks.

#### Public Comments

The Department of the Interior's policy is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, we invite interested persons to submit written comments, suggestions, or recommendations regarding the proposed regulations. Before promulgation of final migratory game bird hunting regulations, we will take into consideration all comments we receive. Such comments, and any additional information we receive, may lead to final regulations that differ from these proposals.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. We will not accept comments sent by email or fax or to an address not listed in the **ADDRESSES** section. Finally, we will not consider hand-delivered comments that we do not receive, or mailed comments that are not postmarked, by the date specified in the **DATES** section.

We will post all comments in their entirety—including your personal identifying information—on <http://www.regulations.gov>. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire

comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Division of Migratory Bird Management, Room 4107, 4501 North Fairfax Drive, Arlington, VA 22203.

For each series of proposed rulemakings, we will establish specific comment periods. We will consider, but possibly may not respond in detail to, each comment. As in the past, we will summarize all comments we receive during the comment period and respond to them after the closing date in any final rules.

#### **Regulatory Planning and Review (Executive Orders 12866 and 13563)**

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is significant because it will have an annual effect of \$100 million or more on the economy.

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, the 2010–11, and the 2011–12 seasons. At this time, we are proposing no changes to the season frameworks for the 2012–13 season, and as such, we will again consider these three alternatives. However, final frameworks will be dependent 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–2012–0005.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public

where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

#### **Other Required Determinations**

Based on our most current data, we are affirming our required determinations made in the proposed rule; for descriptions of our actions to ensure compliance with the following statutes and Executive orders, see our April 17, 2012, proposed rule (77 FR 23094):

- National Environmental Policy Act;
- Endangered Species Act;
- Regulatory Flexibility Act;
- Small Business Regulatory Enforcement Fairness Act;
- Paperwork Reduction Act;
- Unfunded Mandates Reform Act;
- Executive Orders 12630, 12988, 13175, 13132, and 13211.

#### **List of Subjects in 50 CFR Part 20**

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

**Authority:** The rules that eventually will be promulgated for the 2012–13 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: May 9, 2012.

**Eileen Sobeck,**

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

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