

liquid-to-solid equilibration time for TCLP).

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is an Executive Order 14192 deregulatory action. This rule is expected to provide burden reduction by replacing an unachievable LDR standard that led to the requirement for

indefinite storage of high concentration mercury wastes by DOE. The site-specific LDR standard will allow for the treatment and disposal of high concentration mercury wastes.

C. Congressional Review Act (CRA)

This rule is exempt from the CRA because it is a rule of particular applicability.

List of Subjects in 40 CFR Part 268

Environmental protection, Hazardous waste, and Variances.

Thomas D. Croci,

Acting Assistant Administrator, Office of Land and Emergency Management.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 268—LAND DISPOSAL RESTRICTIONS

■ 1. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

■ 2. In § 268.44,

■ a. Designate the table that immediately follows paragraph (o) as table 1 to paragraph (o); and

■ b. Amend newly designated table 1 by adding, in alphabetical order, an entry for “U.S. Ecology Nevada, Inc.”.

The addition reads as follows:

§ 268.44 Variance from a treatment standard.

* * * * *

(o) * * *

TABLE 1 TO PARAGRAPH (o)—WASTES EXCLUDED FROM THE TREATMENT STANDARDS UNDER § 268.40

Facility name ¹ and address	Waste code	See also	Regulated hazardous constituent	Wastewaters		Nonwastewaters	
				Concentration (mg/L)	Notes	Concentration (mg/kg)	Notes
* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
U.S. Ecology Nevada, Inc.	D009, U151 ²¹	NA	Mercury	NA	NA	0.025 mg/L TCLP	22 23

¹ A facility may certify compliance with these treatment standards according to provisions in 40 CFR 268.7.

²¹ The waste codes included in this column are only for those mercury wastes identified as the high mercury subcategory in 40 CFR 268.40.

²² This site-specific treatment standard applies only to elemental mercury resulting from RMERC of D009 or U151 high mercury subcategory wastes containing greater than or equal to 260 mg/kg mercury treated via the alternative treatment method protocol of EPA 600/R-25/228, March 2026 (Evaluation of the Leaching Potential of Mercury from Polyethylene-Encapsulated Mercury Sulfide Material for Disposal). This alternative treatment method converts elemental mercury post-RMERC to mercuric sulfide powder and blends the mercuric sulfide powder with linear low-density polyethylene and extrudes the mixture as a monolithic block directly into a nonreactive container.

²³ Disposal of elemental mercury resulting from RMERC of D009 or U151 wastes that use the alternative treatment standards identified in footnote 22 in this paragraph (o) table, is conditioned upon disposal at the U.S. Ecology Beatty, Nevada facility in a permitted subtitle C monofill that is segregated from other disposal units at the facility. This treatment variance does not relieve U.S. Ecology of its responsibilities in the management of hazardous waste under 40 CFR parts 260 through 271. This treatment variance is conditioned on U.S. Ecology's complying with the conditions enumerated in Conditions for Treatment and Disposal of HgS Wastes (see [INSERT FEDERAL REGISTER CITATION for SUPPLEMENTARY INFORMATION], June 26, 2026), SUPPLEMENTARY INFORMATION section IV.

* * * * *

[FR Doc. 2026-12927 Filed 6-25-26; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS-HQ-MB-2026-1421; FF09M32000-267-FXMB1231099BPP0]

RIN 1018-BI04

Process for Authorizing Seasonal Migratory Game Bird Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Direct final rule; request for comments.

SUMMARY: This direct final rule changes the administrative process for

authorizing seasonal migratory game bird hunting in the United States. Migratory game bird hunting regulations are currently promulgated annually to provide opportunities for recreation and sustenance; aid Federal, State, and Tribal governments in the management of migratory game birds; and allow harvests at levels compatible with migratory game bird population status and habitat conditions. The U.S. Fish and Wildlife Service (Service or we) is adopting a more efficient administrative process for authorizing seasonal migratory game bird hunting. The Service will issue a memorandum for migratory game bird hunting once every 3 years. The Service will continue to make annual decisions on harvest levels and will update the memorandum sooner than 3 years if changes are prescribed by our decision frameworks. The process eliminates the need for

subsequent annual Federal regulation promulgation and rulemaking and is expected to increase efficiency; better meet State, Tribal, and Federal rulemaking constraints; and reduce the complexity and costs. Our goal is to better serve State partners and the hunting public while continuing to meet the legal and conservation purposes of the Migratory Bird Treaty Act. Tribes are already authorized under a similar process.

DATES: This final rule is effective on August 25, 2026, without further action, unless significant adverse comments are received by July 27, 2026. If significant adverse comments are received, we will publish a notification in the **Federal Register** before the effective date either withdrawing all or part of the rule or issuing a new final rule that responds to any significant adverse comments.

ADDRESSES:

Comment submission: All submissions must include the docket number (FWS-HQ-MB-2026-1421) for this document. You may submit comments by one of the following methods:

- *Electronic submission:* Federal eRulemaking Portal at: <https://www.regulations.gov>. In the Search box, enter FWS-HQ-MB-2026-1421, which is the docket number for this action. Then click the Search button. On the resulting page, you may submit a comment by clicking on “Comment.” Please ensure that you have found the correct document before submitting your comments.

- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS-HQ-MB-2026-1421, Policy and Regulations Branch, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041-3803.

Comments submitted through any method not authorized in this document, or sent to an address not listed here, will not be considered. We will not accept comments via email, fax, or hand delivery. We are not required to consider comments that are submitted after the comment period ends or that are submitted via a method outside of these instructions. Comments containing profanity, vulgarity, threats, or other inappropriate content will not be considered.

We will post all comments at <https://www.regulations.gov>. You may request that we withhold personal identifying information from public review; however, we cannot guarantee that we will be able to do so.

Document availability: Comments and materials we receive, as well as supporting documentation we used in preparing this final rule, will be available for public inspection on <https://www.regulations.gov> at Docket No. FWS-HQ-MB-2026-1421, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Division of Migratory Bird Management, 5275 Leesburg Pike, Falls Church, Virginia.

FOR FURTHER INFORMATION CONTACT:

Jerome Ford, U.S. Fish and Wildlife Service, Department of the Interior, (703) 358-2606. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point of contact in the United States. Please see

Docket No. FWS-HQ-MB-2026-1421 on <https://www.regulations.gov> for a document that summarizes this final rule.

SUPPLEMENTARY INFORMATION:

Why is the Service using a direct final rule?

The Service is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA; 5 U.S.C. 551-559) generally requires agencies to engage in notice and comment rulemaking, the APA provides an exception when the agency “for good cause finds” that notice and comment are “impracticable, unnecessary, or contrary to the public interest” (5 U.S.C. 553(b)(B)). The Service has determined that notice and comment are unnecessary because this rule is noncontroversial; of a minor, technical nature; involves little agency discretion; and is unlikely to receive any significant adverse comments. Significant adverse comments are those that oppose the revision of this direct final rule and raise, alone or in combination, (1) reasons why the revision of the rule is inappropriate, including challenges to the revision’s underlying premise; or (2) serious unintended consequences of the revision. A comment recommending an addition to the rule will not be considered significant and adverse unless the comment explains how this direct final rule would be ineffective without the addition.

The Service is publishing this rule concurrently with a proposed rule because we view this as a noncontroversial action and anticipate no adverse comment since this is a change only in internal administrative process to increase efficiency in authorizing seasonal migratory game bird hunting. If we receive significant adverse comments by July 27, 2026, we may withdraw all or part of this direct final rule or issue a revised final rule. For further information about commenting on this rule, see the **ADDRESSES** section above.

Background

Migratory game birds are species designated in the conventions between the United States and several foreign nations for the protection and management of migratory birds. The conventions restrict migratory game bird hunting to the fall-winter period (1 September–10 March) and not more than 3.5 months (interpreted as 107 days) for any species. Under the Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703–712), the Secretary of the Interior is authorized and directed to

determine when and to what extent “hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, or export of any such bird, or any part, nest, or egg” of migratory game birds can take place compatible with the terms of the conventions, and to adopt regulations for this purpose (16 U.S.C. 704(a)). The Secretary is authorized and directed to give “due regard to the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of such birds” (16 U.S.C. 704(a)). This responsibility has been delegated to the Service as the lead Federal agency for managing and conserving migratory birds in the United States.

The Service established regulations governing migratory game bird hunting at title 50 part 20 of the Code of Federal Regulations (50 CFR 20). Currently, the Service publishes additional annual regulations (50 CFR 20 subpart K) to authorize migratory game bird hunting for the season. These regulations set the parameters for open seasons including season dates, season lengths, shooting hours, daily bag and possession limits, areas where hunting may occur, and other restrictions based on biological data. The annual regulations ensure that harvest occurs at levels compatible with migratory game bird population demographics, including production and survival, which vary in space and time with habitat conditions. These conditions may differ over North America, and within the United States. (For purposes of our regulations, and in this final rule, the term “States” includes the territories of Puerto Rico and the U.S. Virgin Islands, consistent with 50 CFR 10.12).

Migratory game birds use four primary migratory routes in North America. Because of the unique biological characteristics and the relative number of hunters in these routes, the Service adopted the flyway structure for administering migratory bird resources within the United States, referred to as the flyways (Atlantic, Mississippi, Central, and Pacific). The current annual migratory bird hunting regulations at 50 CFR part 20 subpart K establish regulations for each administrative flyway including all or portions of States in the 48 conterminous United States. We may have separate regulations in Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands.

Each administrative flyway has a Flyway Council, a formal organization established through the Association of Fish and Wildlife Agencies. Flyway Councils are administrative bodies that

forge cooperation among public wildlife agencies for the purpose of protecting and conserving migratory birds that inhabit North America. Flyway Councils are composed of one member from each State within the Flyway, as well as States in Mexico and Provinces in Canada that share migratory bird populations. The Flyway Councils coordinate and collect information on the status of migratory game birds, establish regulatory decision frameworks, review available biological information, and make recommendations for appropriate parameters for migratory game bird hunting regulations. However, voting members are only those representing States and Territories within the United States. Service representatives participate in the Flyway Councils. Meetings typically occur every March and September and are open to the public.

To support the annual regulation process, Service biologists gather, analyze, and interpret biological survey data and provide this information to all those involved in the process through a series of published status reports and presentations to Flyway Councils and other interested parties. The Service considers abundance of migratory game birds and other biological factors; and therefore, undertake several surveys throughout the year in conjunction with Service Regional Offices, the Canadian Wildlife Service, and State and Provincial wildlife management agencies. To determine the appropriate annual regulations authorizing hunting for certain game bird species and populations, we consider factors such as population size and trend, geographical distribution, reproductive capacity, condition of breeding and wintering habitat, number of hunters, and anticipated harvest.

The Service Migratory Bird Regulations Committee (SRC) and Flyway Councils recommend to the Service appropriate parameters for State and Tribal migratory game bird hunting regulations. The SRC conducts meetings, generally in the spring and fall, to review and discuss information on the status of migratory game birds and recommendations from the four Flyway Councils and the Service. The SRC then develops recommendations for parameters for annual State and Tribal migratory game bird hunting regulations. In accordance with current regulations at 50 CFR 20.153, these meetings are open to public observation, and observers may submit written comments to the Service on the matters to be discussed. The SRC then submits recommendations to the Service for

review. If approved, they are published in one of the several annual rulemaking documents for public comment.

Current Process for Authorizing Migratory Game Bird Hunting

The current administrative process for authorizing seasonal migratory game bird hunting requires annual promulgation of State-specific Federal regulations to open the hunting season. These annual regulations expire at the end of the hunting season. The process involves publishing a series of at least four proposed and final rulemaking documents in the **Federal Register** including the following:

(1) A proposed rule (preliminary) that provides the process, regulatory schedule, and initial proposals for seasons, limits, and other regulations for annual migratory game bird hunting.

(2) A proposed rule that proposes the parameters within which States may select hunting seasons. The parameters specify season dates, season lengths, shooting hours, daily bag and possession limits, areas where hunting may occur, and other restrictions.

(3) A final rule that establishes the final parameters within which States and Tribes may select hunting seasons, including season dates, season length, shooting hours, daily bag and possessions limits, areas where hunting may occur, and other restrictions. This final rule incorporates public comments received on the proposed frameworks rule and recommendations from the Flyway Councils.

(4) A final rule that sets forth the annual regulations in subpart K of 50 CFR part 20 to authorize the migratory game bird hunting seasons in each State. This final rule is developed based on a process where each State submits their selection of annual hunting seasons within our parameters.

The process of establishing annual migratory game bird hunting regulations is both complex and time intensive. It begins with extensive data collection from May through December of the preceding calendar year, followed by several months of coordination with state agencies through the Flyway Councils. These efforts culminate in regulatory decisions made by the SRC. Each phase of this process is tightly sequenced, limiting flexibility in the timing of regulatory actions. Additionally, the targeted opening date of September 1 for hunting seasons imposes a hard deadline under which regulations must be finalized through the federal rulemaking process before any seasons can legally begin. This provides only a few months to complete a 4-publication rulemaking process every year. The Service has narrowly met publication deadlines in the last 8 years (2018–2025 hunting seasons; average publication of final rule 7 days prior to the start of the hunting season),

placing undue strain on States, the public, and the Service. We provided a detailed overview of the current process and administrative schedule in our August 6, 2015, proposed rule for the 2016–17 migratory game bird hunting season (80 FR 47388).

New Process for Authorizing Seasonal Migratory Game Bird Hunting

To alleviate the time constraint issues, the Service is issuing this direct final rule to change the process for authorizing seasonal migratory game bird hunting. This rule will codify in Federal regulations a streamlined annual process for authorizing migratory game bird hunting. This will replace the need for annual Federal regulation promulgation and reduce the need for future rulemaking in the **Federal Register**. The process will be codified in our regulations at 50 CFR part 20, subparts H and K, and include the following:

(1) The process for determining the parameters (“authorization conditions”) within which States and Tribes may establish their annual regulations;

(2) The process for communicating the authorization conditions to States and Tribes through a Migratory Game Bird Hunting (MGBH) memorandum and notice of availability in the **Federal Register**; and

(3) Authorization for States and Tribes to establish migratory game bird hunting regulations in accordance with the authorization conditions set forth in the MGBH memorandum and regulations at 50 CFR part 20.

Federal regulation of migratory game bird hunting has been in place since 1918 under the MBTA, which directs the Secretary of the Interior to authorize hunting based on periodic assessments of bird population status and habitat conditions. The original regulatory process was straightforward due to limited biological information and relatively low hunter participation. As scientific understanding, data availability, and hunter participation increased, the regulatory process expanded in complexity to ensure resultant regulations were based on sound biological principles for conservation and hunting opportunities.

Over time, the annual rulemaking process has become increasingly burdensome for States, the public, and the Service due to compressed publication timelines, administrative inefficiencies, and the growing volume of technical material required to support annual updates. These challenges have constrained transparency and limit the ability of States, Tribes, and the public to plan effectively.

The new process maintains all statutory obligations under the MBTA

while improving administrative efficiency. Section 704(a) grants the Secretary broad discretion to issue regulations governing take and does not require annual rulemaking. Likewise, section 704(c)(3) imposes no annual requirement and ensures consistency with amendments enacted in the Dingell Act of 2019, including the January 31 framework closing date for hunting ducks, mergansers, and coots. Together, these provisions allow continued flexibility in how regulatory decisions are issued while fully adhering to statutory direction. The new approach retains annual biological assessments and decision-making but eliminates unnecessary repetition in the administrative process, thereby enhancing timeliness, clarity, and public accessibility.

By codifying these provisions in regulations, annual rulemaking will no longer be required to authorize seasonal migratory game bird hunting. Future rulemaking will be infrequent and undertaken only if changes to the underlying process are warranted. The process is similar to that established for Tribes (50 CFR 20.110) where Tribes are authorized to establish hunting regulations within our basic regulations and annual parameters. The process also aligns with the regulations at 50 CFR 92 authorizing Alaska subsistence hunting, where the regulations do not expire and

thus do not have to be established annually before seasonal hunting may occur.

We are not making any changes to the biological approach or the process used to determine the appropriate parameters from which States and Tribes may establish their migratory game bird hunting regulations. The Service will continue biological monitoring and assessment consistent with the programmatic document, “Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (EIS 20130139).

This rulemaking changes the administrative process for authorizing seasonal migratory game bird hunting. We are making these changes to increase efficiency; better meet Federal, State, and Tribal rulemaking constraints; and reduce the complexity and costs associated with promulgating annual migratory game bird hunting regulations. Our goal is to better serve State and Tribal partners and the hunting public while continuing to meet the legal and conservation purposes of the MBTA.

The nationwide economic effects generated by migratory game bird hunting are substantial, as detailed in the most recent annual rulemaking, estimated at about \$2.7 billion in associated economic activity. Small,

incremental adjustments made to Federal migratory bird hunting authorization conditions (limits) are not expected to materially alter those underlying economic inputs nor impose additional Federal costs. As a result, preparing a full Regulatory Impact Analysis for every annual MGBH memorandum would provide limited additional value for Federal decision-making. Annual adjustments to season lengths or bag limits have historically produced minimal and highly variable economic effects, and available evidence shows hunter participation remains stable despite such changes. As all previous annual rulemakings under the current administrative process have been “economically significant” actions under section 3(f)(1) of E.O. 12866, we intend to continue preparing a full Regulatory Impact Analysis, following the directives in E.O. 12866 for economically significant actions and the guidelines in Circular A–4, for the primary MGBH memorandum issued every 3 years under the new process to ensure continued sustainable harvest levels while also minimizing negative economic impacts.

Table 1 provides a comparison between the existing and new processes for each major component in the process of authorizing seasonal migratory game bird hunting. The following sections describe the changes in greater detail.

TABLE 1—PROPOSED CHANGES TO THE PROCESS FOR AUTHORIZING MIGRATORY GAME BIRD HUNTING

Component	Purpose	Current process	Proposed process
Regulations (50 CFR Part 20 subpart K).	Authorize seasonal migratory game bird hunting based on biological data.	Promulgated annually as State hunting seasons in a series of four rulemaking documents.	Codifies the underlying process for authorizing migratory game bird hunting.
Decision Frameworks	Provide the structured set of procedures, rules, models, and information criteria that govern how authorization conditions are selected.	Described in preambles in rulemaking documents and adjusted through rulemaking or technical updates.	No change.
Authorization Conditions	Establish the parameters (season dates, lengths, daily bag and possession limits, shooting hours, hunting areas, and other restrictions) from which States and Tribes may establish their annual hunting seasons.	Set annually based on biological data; published as proposed and final rules in the Federal Register .	Determined by applying annual biological data to decision frameworks; published as a memorandum and notice in the Federal Register every 3 years (or sooner if changes are prescribed by decision frameworks).
Migratory Game Bird Hunting memorandum.	Communicate the authorization conditions to States and Tribes via our website; announced in the Federal Register .	N/A	Issued every 3 years (or sooner if changes are prescribed by decision frameworks); availability announced in the Federal Register as a notice with a 30-day comment period.

Regulation Promulgation

This rulemaking changes 50 CFR 20 subparts H, K, and N. In subpart H, we revise §§ 20.71 and 20.72 to provide that

a violation of our regulations or of any State or Tribal law or regulation for migratory game bird hunting constitutes a violation of Federal law. However, we retain existing language in subpart H

that prohibits take of migratory game birds except as provided in Federal, State, and Tribal hunting regulations.

In subpart K, we remove the regulations at §§ 20.100–20.107 (annual

seasons and limits) and replace them with the procedures and provisions most recently adopted in earlier rules for establishing annual regulations for migratory game bird hunting, and we will no longer establish these through an annual rulemaking process. We retain in subpart K the current regulations in § 20.108 (nontoxic shot zones) and § 20.110 (regulations for certain Federal Indian reservations and ceded lands), as the regulations in these sections are outside the scope of this rulemaking action. We also codify in our regulations at § 20.109 (extended seasons for taking migratory game birds by falconry) the unchanged parameters for special falconry seasons previously specified annually in preambles to rulemaking documents since at least the 2000–01 season. For the most recent final rule adopting the season parameters see 89 FR 68500 at 68518 (under Q. Special Falconry Regulations, August 26, 2024).

We eliminate subpart N by moving the existing regulations regarding the Service Migratory Bird Regulations Committee and Flyway Councils to subpart K, which describes the administrative process for authorizing States and Tribes to establish their regulations for migratory game bird hunting.

We are also making minor, nonsubstantive terminology changes to subpart B at § 20.11, subpart C at § 20.21 and § 20.23, and subpart K at § 20.110 to align with the new process. At § 20.11, we are making additional nonsubstantive edits to correct two typographical errors. We further update subpart C at § 20.21 to recognize the split of cackling goose (*Branta hutchinsii*) from Canada goose (*Branta canadensis*) as separate species (see 85 FR 21282, April 16, 2020, and 85 FR 51854 at 51860, August 21, 2020) and to clarify the regulatory language consistent with the final rule on hunting methods for resident Canada geese (73 FR 65274, November 3, 2008).

Migratory Game Bird Hunting Memorandum

The Service will publish the Migratory Game Bird Hunting (MGBH) memorandum and notice in the **Federal Register** setting forth the authorization conditions from which States and Tribes may establish their migratory game bird hunting regulations. Authorization conditions include season dates, season lengths, shooting hours, daily bag and possession limits, areas where hunting may occur, and other restrictions for migratory game bird hunting.

The MGBH memorandum will authorize seasonal hunting for certain

designated migratory game bird groups or species of in the conterminous United States, Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands. Migratory game birds are defined in regulations at 50 CFR part 20, subpart B, at § 20.11 as those species included in the terms of the Conventions for the protection of migratory birds and belonging to five families of birds and for which open seasons are authorized in 50 CFR part 20. Open hunting seasons may include certain designated members of the avian families Anatidae (ducks, geese, and swans); Columbidae (doves and pigeons); Gruidae (cranes); Rallidae (rails, coots, and gallinules); and Scolopacidae (shorebirds including woodcock and snipe). The Service maintains a list at 50 CFR 10.13 of all species considered migratory birds and protected by the MBTA, and we review and update this list regularly (see 88 FR 49310, July 31, 2023, for the most recent update). There are currently 185 migratory game bird species that may be subject to open hunting seasons based on the game bird families identified in § 20.11 and associated species at § 10.13. The regulations for the 2024–25 hunting seasons established open hunting seasons in at least some part of the United States for 93 of these species. We will not authorize hunting through the MGBH memorandum for any migratory game bird species group (e.g., ducks) or specific species that was not authorized in the 2024–25 hunting season (89 FR 68500, August 26, 2024) without initiating a rulemaking. We do not currently expect that there will be a need to add any species to the list of game birds with open hunting seasons as this has generally been unchanged for decades.

To determine the authorization conditions, we will apply the most current information on game bird demographics and habitat conditions to the decision frameworks previously adopted through rulemaking or notice published in the **Federal Register** to establish the authorization conditions. Decision frameworks are the structured set of procedures, rules, models, and information criteria that govern the selection of appropriate annual regulations from a set of alternatives based on the status of migratory game bird populations and habitat conditions. Decision frameworks are described in more detail below under “*Determination of the Authorization Conditions for Migratory Game Bird Hunting*.” This rulemaking does not change the decision frameworks or their use in making determinations,

consistent with the MBTA and the four associated conventions.

We will make available the MGBH memorandum at the address indicated in **FOR FURTHER INFORMATION CONTACT** and on our website at <https://www.fws.gov/program/migratory-birds>. The notice will include references to the supporting biological data we used in preparing the MGBH memorandum. The MGBH memorandum will include recommendations from the Flyway Councils, if applicable. The Service will issue the MGBH memorandum to set the authorization conditions for migratory game bird hunting once every 3 years on or before February 28. The Service will continue to make annual decisions on harvest levels and will update the memorandum sooner than 3 years if changes are prescribed by our decision frameworks. In this case, we will publish an updated notice and MGBH memorandum on or before February 28 with the specific changes. With respect to the 2026–27 season, the MGBH memorandum will be available shortly after the publication of this rulemaking, no later than August 31 (and the provision at § 20.121(b) will become effective for the next season); the comment period will still be 30 days.

The notice of availability of the MGBH memorandum in the **Federal Register** will provide for a comment period of at least 30 days. We will consider all comments received but may not respond in detail to nonsubstantive comments. Consistent with our current process, we will summarize all relevant, substantive comments that we receive during the comment period. If comments warrant changes to the MGBH memorandum or if administrative or nonsubstantive corrections are identified, we will update the memorandum clearly identifying such changes without further public comment. Substantive comments that are determined by the Service to not warrant changes may be responded to after the closing date in any subsequent notice or MGBH memorandum.

States and Tribes will establish regulations for migratory game bird hunting seasons through their own development processes that are within the Federal authorization conditions set forth in the MGBH memorandum and in accordance with Federal regulations. State and Tribal regulations for migratory game bird hunting will be federally authorized provided they are within the Federal authorization conditions provided in the MGBH memorandum and notice in the **Federal Register**, our regulations at 50 CFR part

20, and any other applicable Federal regulations.

The Service will no longer continue the current practice of publishing State annual hunting regulations as Federal regulations. We recognize that this may be a transition for some states. Therefore, the Service may continue to publish State annual hunting regulations for up to 3 years for those few States that do not currently have their own processes for issuing annual migratory game bird hunting regulations. These State annual regulations will be published as a Federal policy memorandum, separate from the MGBH memorandum, available at the address indicated in **FOR FURTHER INFORMATION CONTACT** and on our website at <https://www.fws.gov/program/migratory-birds> when they become available in about July each year.

Proposed Administrative Schedule

The Service will continue to have public Flyway and SRC meetings, public review of notifications in the **Federal Register**, and public review of the MGBH memorandum. The schedule will continue to be based on the current (2013) “Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds” (see full reference in Required Determinations, *National Environmental Policy Act (42 U.S.C. 4321 et seq.)*). The substantive process for biological monitoring and assessment to determine the appropriate parameters from which States and Tribes may establish their migratory game bird hunting regulations will remain unchanged and will still occur annually whether a new MGBH memorandum is due to be published that year.

- April–May: As necessary, SRC meeting for proposed changes to the decision frameworks or hunting regulations, which we expect to be infrequent.
- April–June: Spring game bird population surveys.
- August: Completion of game bird population status reports and hunter activity and harvest report.
- September: Biological data are applied to federally established decision

frameworks. Preliminary outcomes from the decision frameworks are prepared as the draft authorization conditions for migratory game bird hunting.

- September: Flyway Council meetings.
- October: As necessary, SRC meeting for proposed deviations and changes to the decision frameworks or hunting regulations, which we expect to be infrequent.
- December–January: Winter game bird population surveys.
- January: The draft annual authorization conditions for migratory game bird hunting are updated to account for new data.
- On or before February 28 (every 3 years): The authorization conditions for annual migratory game bird hunting are set forth and communicated via the MGBH memorandum and notice of availability is published in the **Federal Register** with a public comment period of not less than 30 days. An off-year MGBH memorandum may be published if changes are prescribed by our decision frameworks.
- March: Flyway Council meetings.
- April: If warranted, the MGBH memorandum may be revised for administrative corrections.
- May: Each State’s proposed annual regulations for migratory game bird hunting is due to the Service by May 31.
- July: Federal policy memorandum with State annual hunting regulations posted on the Service website annually for up to 3 years after the final rule, upon request by the States.
- February–August: States and Tribes develop their regulations for annual migratory game bird hunting.
- 1 September–10 March: Annual migratory game bird hunting occurs.

Determination of the Authorization Conditions for Migratory Game Bird Hunting

Like the current administrative process, we will determine authorization conditions using decision frameworks based on the U.S. Code and the Code of Federal Regulations or adopted in the **Federal Register** as a final rule or notice. Decision frameworks refer to principles, processes, and practices that inform actions and outcomes (Lockie and

Rockloff, 2005). In general, a decision framework identifies key components necessary for an organization or individual to make a decision and provides an overview of the process and transparency in decision making. By adhering to decision frameworks, decisionmakers can improve consistency, reduce biases, and ensure alignment with overarching goals and values. Our decision frameworks account for our goals and objectives, are developed in cooperation with State and Tribal governments, foster healthy and productive populations of game birds, and provide appropriate opportunities for the public to hunt those species. Some of our decision frameworks are complex, while others are simple, due to varying amounts of data and our understanding of population demographics and relationships to environmental conditions. In this final rule, we define a decision framework as a structured set of procedures, rules, models, and information criteria for selecting the appropriate authorization conditions from a fixed set of regulatory alternatives, each with a different expected harvest level, based on the harvest management objectives and status, demographics, and environmental conditions of the applicable migratory game bird population.

The authorization conditions for 24 species or species groups are currently established based on 16 decision frameworks, and some have been in use for 30 years. For example, adaptive harvest management (AHM) decision frameworks for duck harvest management, a specific kind of decision framework including a formal mechanism for reducing uncertainty over time, were first implemented in 1995. The decision frameworks for determination of authorization conditions for hunting migratory game birds are listed in Table 2 below. We will maintain a list of current decision frameworks used to determine authorization conditions and post these on the Service’s website <https://www.fws.gov/program/migratory-birds> with the MGBH memorandum setting forth the authorization conditions.

TABLE 2—DECISION FRAMEWORKS FOR DETERMINATION OF AUTHORIZATION CONDITIONS (FEDERAL LIMITS) FOR HUNTING MIGRATORY GAME BIRDS

Species, species group, or season	Decision framework	References
Special youth and veterans–active military personnel waterfowl hunting days.	16 U.S.C. 704(c)	16 U.S.C. 704(c); 84 FR 42996, August 19, 2019.
Special early teal seasons in the Atlantic, Mississippi, and Central flyways.	Special early teal season guidelines	90 FR 40178, August 18, 2025.

TABLE 2—DECISION FRAMEWORKS FOR DETERMINATION OF AUTHORIZATION CONDITIONS (FEDERAL LIMITS) FOR HUNTING MIGRATORY GAME BIRDS—Continued

Species, species group, or season	Decision framework	References
Special early teal-wood duck seasons in the Atlantic and Mississippi flyways.	Special early teal-wood duck season guidelines.	90 FR 40178, August 18, 2025.
Bonus blue-winged teal bag limits	Bonus blue-winged teal bag limit guidelines	90 FR 40178, August 18, 2025.
Ducks in the Atlantic Flyway	AHM protocol for eastern ducks	16 U.S.C. 704(c); 83 FR 47868, September 21, 2018; 65 FR 58152, September 27, 2000.
Ducks in the Mississippi and Central flyways	AHM protocol for mid-continent mallards	16 U.S.C. 704(c); 85 FR 15870, March 19, 2020; 73 FR 43290, July 24, 2008; 65 FR 58152, September 27, 2000; 60 FR 37314, July 19, 1995.
Ducks in the Pacific Flyway	AHM protocol for western mallards	16 U.S.C. 704(c); 73 FR 43290, July 24, 2008.
Northern pintail	AHM protocol for northern pintail	90 FR 17300, April 24, 2025; 75 FR 44856, July 29, 2010.
Scaup	AHM protocol for scaup	73 FR 43290, July 24, 2008; 73 FR 51124, August 29, 2008.
Black ducks in the Atlantic and Mississippi flyways.	International AHM protocol for black ducks	77 FR 49868, August 17, 2012.
Eastern mallards in the Atlantic Flyway	AHM protocol for eastern mallards	87 FR 66247, November 3, 2022; 88 FR 6054, January 30, 2023.
Canvasbacks	Canvasback decision support tool	81 FR 17302, March 28, 2016.
Brant seasons in the Pacific Flyway	Pacific brant harvest strategy	90 FR 40178, August 18, 2025; 85 FR 51854, August 21, 2020; 84 FR 42996, August 19, 2019.
Dove seasons in the Eastern, Central, and Western management units.	National mourning dove harvest strategy	78 FR 52658, August 23, 2013.
Sandhill crane seasons in the Central and Pacific flyways.	Rocky Mountain population sandhill crane harvest strategy.	80 FR 51090, August 21, 2015.
American woodcock seasons in the Eastern and Central management units.	American woodcock harvest strategy	80 FR 51090, August 21, 2015 (removed “interim” label from the strategy, which was then considered operational); 75 FR 52873, August 30, 2010.

Currently, determination of some authorization conditions depends on Flyway Council recommendations based on formal Council harvest strategies (e.g., goose and swan seasons) and ad hoc decisions (e.g., coot and gallinule seasons). These Flyway Council harvest strategies and ad hoc decisions have been consolidated into five general decision frameworks, one for each of the four flyways and one for seasons that span multiple flyways. These five decision frameworks are being adopted by the Service in this rulemaking. These general decision frameworks prescribe authorization conditions that generally do not change among years and are based on the authorization conditions most recently published as a final rule in the **Federal Register** (89 FR 68500, August 26, 2024). These authorization conditions have been demonstrated to be sustainable over the range of migratory game bird population status and habitat conditions. A copy of the Service’s general decision frameworks is available at the address indicated in **FOR FURTHER INFORMATION CONTACT**, or at <https://www.regulations.gov>, or from our website at <https://www.fws.gov/program/migratory-birds>.

As with the current administrative process, this new process applies biological data (e.g., game bird abundance, habitat conditions, hunter activity, and harvest information) to decision frameworks to inform appropriate selections of regulatory alternatives for the authorization conditions for migratory game bird hunting. We will adopt the outcome of the decision frameworks as the authorization conditions for migratory game bird hunting. In circumstances where urgent biological considerations arise, selecting more conservative authorization conditions may be necessary to support resource protection. In such instances, we would coordinate closely with the Flyway Councils and SRC and provide explanations through the MGBH memorandum, all which are open for public comment. These situations are expected to be infrequent and would inform subsequent updates to the decision frameworks through the formal rulemaking process. Examples provided below illustrate how such circumstances have been infrequent and addressed historically.

We note that the Service and Flyway Councils have not recommended

deviation from the prescriptions of the general duck season decision frameworks since they were first implemented in 1995. Thus, for nearly 30 years, we have applied current biological data to established decision frameworks and accepted the outcomes as the authorization conditions for the general duck seasons. However, a notable example of a more restrictive deviation from a species-specific decision framework occurred for the northern pintail season in 2002 (67 FR 59110, September 19, 2002) and 2003 (68 FR 55784, September 26, 2003), when unforeseen circumstances (record low numbers, combined with the poor production forecast) indicated that a departure from the pintail decision framework was justified and consistent with the Council recommendations we received in those years. The Councils and Service revised the decision framework for northern pintails in 2004 to incorporate the new information (69 FR 52970, August 30, 2004). Also, the Atlantic Flyway Council and Service recommended more restrictive authorization conditions for the Atlantic Flyway population of Canada geese for the 2022–23 hunting season in deviation from the Council’s harvest strategy (87

FR 42598 at 42603 (Atlantic Flyway Council recommendations under 4.B.), July 15, 2022). This restrictive deviation was based on unforeseen circumstances including an unusually high degree of uncertainty in the population estimate that year (95 percent confidence interval of 92,000–235,000 pairs), lack of population status data in 2020 and 2021 due to the coronavirus, and the lack of productivity data.

The two cases of restrictive deviations from decision frameworks in at least the last 30 years indicate that such departures are unlikely. Restrictive deviations are unlikely because unforeseen circumstances rarely occur given the long-term nature of monitoring programs, some since 1955, and our decision frameworks are developed based on observed long-term demographic data. If the Councils and SRC recommend any liberalization beyond the authorization conditions prescribed by the decision framework, those changes will be reviewed by the Service, and, if supported, we will initiate a rulemaking to revise the decision framework.

In some cases, for reasons outside our control, we may need to temporarily and minimally deviate from our decision frameworks to address missing data. For example, due to the coronavirus pandemic and associated travel restrictions and human health concerns in the United States and Canada, certain migratory bird monitoring surveys were cancelled in 2020 and 2021. As such, the Waterfowl Breeding Population and Habitat Survey, which provides status information for many species of waterfowl, including those used in our AHM decision frameworks, were cancelled during those years. When unforeseen data gaps occur, as in 2020 and 2021, the Service may need to use time series forecasting tools and population and habitat models to make inference to current population status as needed in established decision frameworks. Such deviations would be limited to those necessary to determine appropriate authorization conditions in existing decision frameworks. Any deviation would be described in the MGBH memorandum, with any longer-term adjustments to decision frameworks addressed through future rulemaking. Temporary deviations from decision frameworks to address data gaps fall within the scope of existing regulatory authority and maintain intent of established decision frameworks. These temporary adjustments apply the best available data and scientific methods within the established framework and are critical to making

informed decisions about appropriate authorization conditions for the current season when this would otherwise not be possible in the case of missing data. The compulsory, minimal, and urgent nature of these temporary deviations are appropriately communicated through the MGBH memorandum rather than through a separate rulemaking.

Any technical updates or adjustments to the federally established decision frameworks will be published in a notice in the **Federal Register** to allow for public review and comment. This is similar to the current process for determining authorization conditions and hunting regulations, pursuant to which technical updates to decision frameworks are not adopted through rulemaking; rather, they are recommended by the SRC and supported by the Flyway Councils. In a recent example, the Service approved technical updates to the AHM decision framework for mid-continent mallards in 2020 (85 FR 51854 at 51855–51856 (under 1.A.), August 21, 2020) and the national mourning dove harvest strategy for the Eastern Management Unit in 2023 (SRC transcripts; May 31, 2023), Central Management Unit in 2024 (SRC transcripts; May 14, 2024), and Western Management Unit in 2024 (SRC transcripts; November 19, 2024) based on recommendations from the Flyway Councils with application in the same regulatory cycle. All four of these decision framework technical updates involved replacement of the predictive population models with updated state-of-the-art models cooperatively developed by the Service, Flyway Councils, and university researchers.

These technical updates are discussed at public meetings including the Flyway Council and SRC meetings and are open to public comment. After receiving support from the Flyway Councils and SRC, technical updates or changes to decision frameworks will be published in a **Federal Register** via notice or rulemaking and in the MGBH memorandum and made available for public comment. We expect changes to decision frameworks to be infrequent and will consider timing of **Federal Register** publication based on urgency and possible combination with other actions to minimize need for future publications.

Population Status and Harvest

We periodically publish reports that provide detailed information on the status and harvest of certain migratory game bird species. These reports contain descriptions of species population segments referenced in status assessments. These reports are available

at the address indicated in **FOR FURTHER INFORMATION CONTACT** or from our website at <https://www.fws.gov/library/collections/population-status>, <https://www.fws.gov/library/collections/migratory-bird-hunting-activity-and-harvest-reports>, and <https://www.fws.gov/project/adaptive-harvest-management>.

We will use the most recently published reports in the development of annual authorization conditions for migratory game bird hunting. These reports currently include the following:

- Adaptive Harvest Management;
- American Woodcock Population Status;
- Band-tailed Pigeon Population Status;
- Migratory Bird Hunting Activity and Harvest;
- Mourning Dove Population Status;
- Status and Harvests of Sandhill Cranes, Mid-continent, Rocky Mountain, Lower Colorado River Valley and Eastern Populations; and
- Waterfowl Population Status.

Additional information, status reports, and special assessments may be provided by the Service and each of the four Flyway Councils.

Our long-term objectives continue to include providing opportunities to harvest portions of certain migratory game bird populations and to limit harvests to levels compatible with each population's ability to maintain healthy, viable numbers. The Service's goals and objectives for migratory game bird harvest management are specified in a 2013 supplemental environmental impact statement (notice of availability published at 78 FR 32686, May 31, 2013) and the proposed rule that published at 52 FR 7900, March 13, 1987. Migratory game bird hunting seasons provide opportunities for recreation and sustenance, and aid Federal, State, and Tribal governments in the management of migratory game birds.

Review of Public Comments and Flyway Council Recommendations

We periodically receive recommendations on the authorization conditions and other policies and regulations for migratory game bird hunting from the four Flyway Councils at the SRC meetings, generally held in spring and fall. We may also receive public comments from the SRC meetings and notices published in the **Federal Register**. We consider all comments we receive but may provide detailed responses only to substantive comments. Based on such comments, and any additional information we receive, we may change the

authorization conditions, particularly for administrative corrections, or we may defer any changes until the next MGBH memorandum. Any administrative corrections to the authorization conditions will be made immediately through the MGBH memorandum available at the address indicated in **FOR FURTHER INFORMATION CONTACT** or on the Service's Migratory Bird Program website. These corrections will be identified either in the response to public comments or published in a revised notice if warranted based on the nature of the public comments. These corrections will include any errors made in the authorization conditions based on the application of biological data to established decision frameworks or significant typographical errors. Any recommendations for changes to regulations will be considered through a rulemaking process with at least a 30-day public review and comment period.

Adaptive Harvest Management Approach for Duck Harvest Management

We will continue to use our AHM decision frameworks to determine appropriate regulatory alternatives for annual duck hunting as described in earlier rulemaking for annual migratory game bird hunting regulations (89 FR 68500, August 26, 2024). AHM is a tool that permits sound resource decisions in the face of uncertain regulatory impacts and provides a mechanism for reducing that uncertainty over time. We use an AHM decision framework to evaluate four regulatory alternatives, each with a different expected harvest level, and choose the optimal alternative for duck hunting authorization conditions based on the status and demographics of mallards for the Mississippi, Central, and Pacific Flyways, and based on the status and demographics of four duck species (green-winged teal, common goldeneye, ring-necked duck, and wood duck) in the Atlantic Flyway. We have species-specific AHM decision frameworks that guide appropriate authorization conditions for species of special concern, including black ducks, scaup, northern pintails, and mallards in the Atlantic Flyway (eastern mallards), within the general duck hunting regulations. These protocols have species-specific regulatory alternatives but share some aspects of the regulatory alternatives for the general duck seasons.

We currently use independent optimizations to determine the appropriate regulatory alternative based on the status of mallards in the Mississippi, Central, and Pacific Flyways and status of the four duck

species mentioned above in the Atlantic Flyway. This means that we develop authorization conditions for mid-continent mallards, western mallards, and eastern ducks independently based on the breeding ducks that contribute primarily to each Flyway. These species-populations are a surrogate for the status of ducks in general in each flyway. We provided an overview of the AHM decision frameworks for general duck hunting authorization conditions in each Flyway in an August 26, 2024, rule (89 FR 68500).

The regulatory alternatives considered in the general duck season AHM decision frameworks associated with each flyway were described in a January 21, 2025, proposed rule (90 FR 7056). Regulatory alternatives include opening and closing dates, season lengths, daily bag limits, and shooting hours. Current regulatory alternatives for each of the four flyways include restrictive (relatively short seasons and low daily bag limits), moderate (intermediate season lengths and daily bag limits), liberal (longer seasons, higher daily bag limits), and closed seasons. The authorization conditions within each of these alternatives may vary by flyway. The differences in season lengths and daily bag limits among flyways reflect the historic differences in waterfowl abundance and hunter numbers in these regions. Each regulatory alternative has an associated target harvest rate for one or more species as a representative of all duck species.

AHM decision frameworks are used with the most current population status, habitat, and harvest survey data to govern the selection of one of the regulatory alternatives (*i.e.*, closed, restrictive, moderate, or liberal). These regulatory alternatives apply to all duck species except those for which species-specific decision frameworks exist or, in some cases, for species or population segments in which additional restrictions have been established. For example, additional restrictions within the general duck seasons are used to limit the harvest of certain less abundant species (*e.g.*, scaup, northern pintail, black duck, eastern mallards, canvasback, redhead, wood duck, and mottled duck).

The basic structure of the current regulatory alternatives for AHM was adopted in 1997 (beginning with the 1997–98 general duck hunting season; 62 FR 31298, June 6, 1997). Changes to these alternatives have been infrequent and are detailed in the January 21, 2025, proposed rule (90 FR 7056). The alternatives were last revised beginning with the 2021–22 hunting season based on recommendations of the Flyway

Councils (85 FR 51854, August 21, 2020).

We anticipate that, under the AHM approach, the regulatory alternatives will remain the same over time, because the optimization process assumes that the expected harvest rates resulting from the various alternatives remain constant over long-term (about 100 years) forecasting. That process accounts for the uncertainty resulting from the difference between projected harvest rates and actual harvest rates in any given year. Recognizing that constituents may favor periodic adjustments to the regulatory alternatives, we will adopt a regular process to review and incorporate possible modifications.

Although in the past the Service adopted the regulatory alternatives annually, that process does not account for the need to maintain predictable harvest projections for the optimization step in the current AHM process. We expect annual changes to the regulatory alternatives to have a negative impact on our ability to predict the harvest associated with each regulatory alternative. This approach would result in greater uncertainty in forecasting the impacts of the regulatory alternatives for a given set of environmental and biological conditions.

We will adopt in regulations the same regulatory alternatives for the general duck seasons that have been in effect since the 2021–22 season. (See 90 FR 17300 at 17302 (under B. Regulatory Alternatives), April 24, 2025, for the most recent rulemaking document that adopted the alternatives used prior to this final rule and 90 FR 7056 at 7061 (under B. Regulatory Alternatives), January 21, 2025, for a description of the alternatives and their history.) We also will codify in regulations restrictions on the frequency of changes to these regulatory alternatives because of the need to maintain predictable harvest projections for the optimization step in the AHM decision frameworks. We intend to have the first open review and possible modification of these regulatory alternatives no sooner than 2026. The last modification occurred in 2021. Establishing duck regulatory alternatives for 5-year periods was the preferred alternative in the “Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds” (see full reference in Required Determinations, *National Environmental Policy Act* (42 U.S.C. 4321 *et seq.*)).

The intent for open review and possible modification of these regulatory alternatives should begin

with an announcement of the intent by either the Service or Flyway Councils at an SRC meeting at least 1 year prior to possible adoption of modifications. The modification of the regulatory alternatives for general duck seasons will be a rulemaking process with both proposed and final rules. We would include a regulatory impact analysis as part of these periodic rulemakings and continue work to expand the robustness of the analyses we completed in earlier rulemaking actions under the current hunting regulations process (see the 2025–26 hunting season final rule, 90 FR 40178 at 40192, August 18, 2025, and economic analysis at <https://www.regulations.gov> at Docket No. FWS–HQ–MB–2024–0127).

We note that we are codifying the alternatives for general duck hunting in regulations. However, regulatory alternatives from other decision frameworks are specified only in the preambles to rulemaking documents, not in the Code of Federal Regulations. We are codifying the duck hunting alternatives because the alternatives for general duck hunting apply in some aspects to multiple decision frameworks including those for duck species of special concern (e.g., black ducks, canvasbacks, eastern mallards, northern pintail, scaup), some brant and goose seasons, special youth and veterans–active military personnel waterfowl hunting days, merganser seasons, and some webless species (e.g., snipe, coots). Also, regulatory alternatives for general duck hunting have in part been prescribed by Congress in an amendment to the MBTA (16 U.S.C. 704(c); 84 FR 42996, August 19, 2019), and because we are codifying in regulations restrictions on the frequency of changes to these regulatory alternatives to facilitate the AHM process.

Duck Zones and Split Seasons

Background

Zones and split seasons are designed to distribute hunting opportunities and harvests according to temporal, geographic, and demographic variability in waterfowl and other migratory game bird populations. For ducks, States have been allowed the option of splitting their allotted hunting days into two or three temporal segments to take advantage of species-specific peaks of abundance or to satisfy hunters in different areas who want to hunt during the peak of waterfowl abundance in their area. However, the split-season option does not fully satisfy many States that wish to provide a more equitable distribution of harvest opportunities.

Therefore, we also have allowed the establishment of independent seasons in up to four geographic zones within States for the purpose of providing more equitable distribution of harvest opportunity for hunters throughout the State.

In 1978, we prepared an environmental assessment (EA) on the use of zones to set duck hunting regulations. A primary tenet of the 1978 EA was that zoning would be used to provide equitable distribution of duck hunting opportunities within a State or region. The intent was not to increase total annual waterfowl harvest in the zoned areas; target harvest levels were to be adjusted downward if they exceeded traditional levels because of zoning.

In 1990, we conducted a review of the use of zones and split seasons. We determined that the ability to detect the impacts of zones and splits on waterfowl demographics and harvest was poor because of the absence of adequate study designs and experimental controls, limitations in monitoring capacities, imprecise parameter estimates, and low power to detect changes in parameter estimates. Substantial concern remained about the unknown consequences of zones and split seasons on duck populations and harvest redistribution among States and flyways, potential reduced effectiveness of regulations (season length and bag limit) to reduce duck harvest if needed, and the administrative burden associated with changing regulations annually. Consequently, we established guidelines to provide a framework for controlling the proliferation of zones and split seasons. The guidelines identified a limited number of zone and split-season configurations that could be used for duck hunting and restricted the frequency of changes in State selection among these configurations to the first year of each 5-year interval (e.g., 2021 for the 2021–25 hunting seasons). The first hunting season that States could change their zone and split-season configurations was in 1991, with subsequent opportunities in the 1996, 2001, 2006, 2011–2012, 2016–2017, and 2021 hunting seasons. The Service approved extension of the general 1-year period for States to change their zone and split-season configurations in 2011 and 2016 to 2 years due to special circumstances.

In 2011, we prepared a new EA analyzing proposed changes to the guidelines for zones and split seasons. Revised guidelines were finalized in the preamble to a 2011 proposed rule (76 FR 53536, August 26, 2011). In 2020, at the request of the four Flyway Councils, we

modified the existing guidelines for duck zones and split seasons to allow an additional configuration including two zones with up to three season segments per zone for use beginning with the 2021 duck hunting season (85 FR 51854, August 21, 2020). States that select this new configuration must conduct an evaluation of impacts to hunter dynamics (e.g., hunter numbers, satisfaction) and harvest during the 5-year period it is implemented (e.g., 2021–25 hunting seasons) and need to involve human dimensions specialists in the assessment. The purpose of the evaluation was to provide information to allow the Service and States to better understand how the additional zone and split-season configurations might influence hunter recruitment, retention, and reactivation (also known as R3) efforts, and whether additional options run counter to our mutual objectives including the desire to simplify regulations and waterfowl population concerns.

Previously, we established guidelines for duck zones and split seasons for each 5-year period via rulemaking (proposed and final rules) regardless of changes to the guidelines. We now will codify the existing guidelines for duck zones and split seasons (85 FR 51854, August 21, 2020), with minor clarifications, in our regulations. By codifying existing guidelines in regulations, we will need to undertake rulemaking only if we decide to modify the guidelines. To modify the guidelines for duck zones and split seasons, we will initiate a new rulemaking and issue proposed and final rules. Any changes to the guidelines will apply beginning the first year of the subsequent 5-year interval to maintain consistency in configurations within the intervals. At least 1 year prior to the possible adoption of any modifications, either the Service or Flyway Councils will announce at an SRC meeting their intent to review and possibly modify the guidelines.

Special Case Duck Zone and Split Seasons

When we first implemented guidelines for duck zones and split seasons in 1991, several States had completed experiments with zone and split-season arrangements different from our original options. We offered those States a one-time opportunity to continue those arrangements, with the stipulation that only minor changes could be made to zone boundaries. If any of those States now wish to change their zone and split arrangement:

(1) The new arrangement must conform to one of the currently allowable configurations; and

(2) The State may not revert to the special case arrangement that it previously had in place.

Guidelines for Duck Zones and Split Seasons

The following guidelines for zones and split seasons apply only for the regular duck season:

(1) A zone is a geographic area or portion of a State, with a contiguous boundary, for which independent dates may be selected for the regular duck season.

(2) States wishing to change their duck zone and split-season configurations may do so the first year of the 5-year period that it would apply (*i.e.*, 2026, 2031, 2036, 2041, and continuing at 5-year intervals).

(3) Once a zone and split-season configuration is selected, it must remain in place for 5 consecutive years.

(4) Only minor (less than one county in size) zone boundary changes are allowed for any special case arrangement, and such changes are allowed only the first year of the 5-year period during which it would apply.

(5) Minor (less than one county in size) zone boundary changes may be allowed for any State to resolve law enforcement or other boundary clarification issues resulting from implication of a new configuration. Changes would be evaluated on a case-by-case basis and must be approved by the respective Flyway Council and the SRC.

(6) Consideration of changes for management-unit boundaries is not subject to the guidelines and provisions governing the use of zones and split seasons for ducks.

Configurations for Duck Zones and Split Seasons

Any State may continue their zone and split-season configuration used in the previous 5-year period. If changes are made, the zone and split-season configuration must conform to one of the following five options:

(1) One zone (same as no zones) with up to three season segments;

(2) Two zones with up to two season segments in each zone;

(3) Two zones with up to three season segments in each zone;

(4) Three zones with up to two season segments in each zone; or

(5) Four zones with a continuous season (*i.e.*, no segments) in each zone.

Because the two zones and three season segments configuration is new, States that select this configuration must conduct a one-time evaluation of impacts to hunter dynamics (*e.g.*, hunter numbers, satisfaction) and harvest during the 5-year period it is implemented (*e.g.*, 2021–25 period).

Mallard Management Units

For the States that have a recognized management unit (Columbia Basin

Management Unit in the Pacific Flyway, High Plains Management Unit in the Central Flyway) and include a non-management unit portion, an independent two-segment duck season with no zones can be selected for the management unit. The remainder of the State in the non-management unit portion can be zoned and have split seasons according to existing guidelines. In the Central Flyway, additional duck season days afforded to the management unit must occur on or after the Saturday nearest December 10.

Process for Selecting Duck Zone and Split-Season Configurations

States wishing to change their duck hunting zone and split-season configuration selection from within our established guidelines must provide their selected configuration and zone descriptions to the Service's Migratory Bird Program by the end of August in the year prior to the first year of the 5-year period that the selection would apply. However, we encourage States to submit their selections and zone boundaries as soon as possible. The Service's Migratory Bird Program will approve State selections once they are determined to be consistent with the above guidelines and zones and split-season configurations and boundary descriptions are complete. Any discrepancies between the State selections and the zone and split-season guidelines and configurations will be addressed by the SRC at their fall meeting, generally held in October. States may continue their zone and split-season configuration used in the previous 5-year period, and we will assume this is the case unless we receive configuration selections and zone descriptions from the State by the deadline for requesting configuration changes. We will publish State-selected duck zone and split-season configurations and zone descriptions in the MGBH memorandum.

Dove Zones and Split Seasons

Background

In 2004, we recognized the need to work with the States to review our current policy regarding zoning for dove hunting (69 FR 52970, August 30, 2004). We asked the Flyway Councils and Mourning Dove Management Unit Technical Committees to review the current policies regarding the use of zones and split seasons for dove hunting, with a view toward establishing guidelines for the use of these harvest-management tools, as has been done for ducks. Items considered included the number of zone and split-

season configurations among which each State may choose, the frequency with which each State may change their configuration selection, and the need for a restricted framework opening date in southern zones. In 2006, we adopted a set of guidelines for dove zones and split seasons applicable in the Eastern and Central Mourning Dove Management Units (EMU and CMU) based on recommendations of the Atlantic, Mississippi, and Central Flyway Councils for use beginning with the 2007 hunting season and conforming to those 5-year periods used for ducks, for example, 2021–25 hunting seasons (71 FR 51406, August 29, 2006). These guidelines were not extended to the Western Management Unit (WMU) at the time because they were not endorsed by the Pacific Flyway Council and no dove zones occurred in the WMU. Furthermore, the framework season length in the WMU was 30 consecutive days, except in Arizona and California where the season length was 60 days and could be split into two segments.

The season length in the WMU was expanded to 60 days beginning with the 2014 hunting season (78 FR 52658 at 52662, August 23, 2013, and 79 FR 51402 at 51405, August 28, 2014). The Pacific Flyway Council requested the same flexibility for zones and split seasons that we have afforded the EMU and CMU, with the exception that the WMU would be allowed only two season segments in one or both zones rather than three. Thus, in 2020, we extended the guidelines for dove zones and split seasons to the WMU, with the exception that seasons may be split into no more than two segments (85 FR 51854, August 21, 2020).

Similar to the situation for ducks, described above, we previously established guidelines for dove zones and split seasons for each 5-year period via rulemaking (proposed and final rules) regardless of changes to the guidelines. We now adopt the existing guidelines for dove zones and split seasons (85 FR 51854, August 21, 2020), with minor clarifications, in our regulations. By codifying existing guidelines in regulations, we will need to undertake rulemaking only if we decide to modify the guidelines. To modify the guidelines for dove zones and split seasons, we will initiate a new rulemaking and issue proposed and final rules. Any changes to the guidelines will apply beginning the first year of the 5-year interval to maintain consistency in configurations within the intervals. At least 1 year prior to the possible adoption of any modifications, either the Service or Flyway Councils

will announce at an SRC meeting their intent to review and possibly modify the guidelines.

Special Case Dove Zone and Split Seasons

When we first implemented the guidelines for dove zones and split seasons in 2006, some States had completed experiments with zone and split-season arrangements different from our original options. We offered those States a one-time opportunity to continue those arrangements (special case), with the stipulation that only minor changes could be made to zone boundaries. If any of those States now wish to change their zone and split arrangement:

(1) The new arrangement must conform to one of the currently allowable configurations; and

(2) The State may not revert to the special case arrangement that it previously had in place.

Guidelines for Dove Zones and Split Seasons

The following guidelines for zones and split seasons apply only for the regular dove season:

(1) A zone is a geographic area or portion of a State, with a contiguous boundary, for which independent seasons may be selected for the regular dove season.

(2) States wishing to change their dove zone and split-season configurations may do so the first year of the 5-year period that it would apply (*i.e.*, 2026, 2031, 2036, 2041, and continuing at 5-year intervals).

(3) Once a zone and split-season configuration is selected, it must remain in place for 5 consecutive years.

(4) Only minor (less than one county in size) zone boundary changes would be allowed for any special case arrangement, and such changes are allowed only beginning the first year of the 5-year period during which it would apply.

(5) Minor (less than one county in size) zone boundary changes may be allowed for any State to resolve law enforcement or other boundary clarification issues resulting from implication of a new configuration. Changes will be evaluated on a case-by-case basis and must be approved by the respective Flyway Council and the SRC.

Configurations for Dove Zones and Split Seasons

Any State may continue their dove zone and split-season configuration selected in the previous 5-year period. If changes are made, the zone and split-season configuration must conform to one of the following two options:

(1) One zone (same as no zones) with up to three season segments; or

(2) Two zones with up to three season segments in each zone, except in the WMU where the season in one or both zones may be split into two segments.

Process for Selecting Dove Zone and Split-Season Configurations

The process for States to select their dove hunting zone and split-season configuration is the same as that for selecting the duck hunting zone and split-season configuration. States wishing to change their dove zone and split-season configuration selection from within our established guidelines must provide their selected configuration and zone descriptions to the Service's Migratory Bird Program by the end of August in the year prior to the first year of the 5-year period that the selection would apply. However, we encourage States to submit their selections and zone boundaries as soon as possible. The Service's Migratory Bird Program will approve State selections once they are determined to be consistent with the above guidelines and zones and split-season configurations and boundary descriptions are complete. Any discrepancies between the State selections and the zone and split-season guidelines and configurations will be addressed by the SRC at their fall meeting, generally held in October. States may continue their zone and split-season configuration used in the previous 5-year period, and we will assume this is the case unless we receive configuration selections and zone descriptions from the State by the deadline for requesting configuration changes. We will publish State-selected dove zone and split-season configurations and zone descriptions in the MGBH memorandum.

Special Seasons

Special seasons may be used for species considered to be underutilized, to address nuisance problems with overabundant species, or to provide special hunting opportunities. Special seasons differ from regular seasons in that they entail additional hunting opportunity outside the established regular seasons but within the 107-day limit mandated by the MBTA. Special seasons are used only for species whose migration and distribution provide opportunities outside the period in which regular seasons are held and when harvest can be achieved without appreciable impacts to nontarget species. An important tenet of special seasons is that harvest pressure can be effectively directed primarily at target species or population segments that can be temporally and geographically isolated to avoid nontarget take. Currently, special seasons include: (1) Early teal seasons in the Atlantic, Mississippi, and Central Flyways; (2)

bonus blue-winged teal bag limits in certain States in the Mississippi and Central Flyways; (3) early teal and wood duck seasons in Florida, Kentucky, and Tennessee; (4) waterfowl hunting days for youth and veterans—active military personnel; and (5) early seasons on overabundant resident Canada and cackling geese.

The Service has required that States implementing special seasons conduct experiments to assess the biological impacts of those seasons on both target and nontarget species. However, the Service eliminated experimental evaluation requirements for special seasons on overabundant resident Canada and cackling geese, except: (1) in areas where previous evaluations indicate an unacceptable level of take of migrant Canada and cackling geese; and (2) in areas where evaluations have not been conducted and one could reasonably expect an unacceptable level of take of migrant Canada and cackling geese (*e.g.*, areas in northern States). All special seasons require Flyway Council endorsement, and Flyway Councils may request evaluation of any special season as part of the approval process if they believe such evaluations to be warranted. Additionally, if conditions are believed to have changed, new evaluations can be conducted for areas in which prior evaluations failed with respect to the take of migrant Canada and cackling geese. The Service may periodically reevaluate special seasons on a case-by-case basis to determine whether they are still justified and will continue to require experiments for any new special seasons other than those described for overabundant resident Canada and cackling geese. Any new special seasons will be established through a new rulemaking process, which we expect to be infrequent, involving a proposed and final rule.

Experimental Seasons

Experimental seasons are used to evaluate expansion of regular seasons to new areas; the use of zones and splits in duck, dove, and, in some cases, goose seasons; special seasons; and alternative regulations for regular or special seasons. The Service may require implementing States to conduct research for at least 3 years to assess the environmental effects of experimental seasons, including on target and nontarget species. The Service may also require a memorandum of understanding with any State that implements experimental seasons. Experimental seasons may be authorized for up to 5 years, after which a new request must be submitted. A season may be offered on an

experimental basis or change from experimental status to operational status upon approval by the respective Flyway Council(s) and the SRC. Any new experimental season will be established through a new rulemaking process, which we expect to be infrequent, involving a proposed and final rule. Change in season status from experimental to operational will be included in the MGBH memorandum.

Relationship to Regulations for Crow Hunting

Crows are in the family Corvidae and were not initially identified as a migratory bird in the four bilateral conventions for the protection of migratory birds. The family was added to the list of migratory birds with the convention amendment with Mexico in 1972. However, crows were not identified as a game bird; Corvidae are not one of the five families that comprise migratory game birds. At the time Federal protection was extended to Corvidae, some States had existing hunting seasons for crows. Therefore, Federal regulations were established to allow crow hunting; see 50 CFR part 20, subpart L, at § 20.133, hunting regulations for crows. Federal regulations allow States to establish dates and durations of hunting seasons, bag and possession limits, and methods of taking crows, subject to limitations defined in § 20.133. The hunting season on crows can have a maximum of 124 days within a calendar year because of specific provisions included in the convention with Mexico and must be outside the peak crow nesting period. Some States allow crow hunting 4 days a week, extending the open season nearly 8 months. Most States have no daily bag limit on crows. Crows may also be taken under a depredation order as defined in § 21.150, the depredation order for blackbirds, cowbirds, crows, grackles, and magpies.

Migratory bird hunting regulations at 50 CFR part 20 apply to game birds and crows. Thus, we make the distinction in our regulations between migratory bird hunting (crows included) and migratory game bird hunting (crows excluded). Thus, crow hunting regulations (§ 20.133) are not affected by this rulemaking regarding the administrative process for authorizing migratory game bird hunting. However, this rulemaking action revises § 20.133 to authorize Tribes to establish crow hunting regulations along with the States to be consistent with our Tribal migratory game bird hunting regulations at § 20.110 (see 88 FR 60375, September 1, 2023).

Flyways and Management Units

We generally establish the authorization conditions for migratory game bird hunting for the conterminous U.S. States by flyway or management unit/region. We will include the authorization conditions for Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands in separate sections near the end of the MGBH memorandum. The States included in the flyways and management units/regions are described below:

Flyways

Atlantic Flyway: Includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway: Includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway: Includes Colorado (east of the Continental Divide), Kansas, Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway: Includes Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and those portions of Colorado, Montana, New Mexico, and Wyoming not included in the Central Flyway.

Mallard Management Units

High Plains Management Unit: Roughly defined as that portion of the Central Flyway that lies west of the 100th meridian.

Columbia Basin Management Unit: In Washington, all areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County; and in Oregon, the counties of Gilliam, Morrow, and Umatilla.

Mourning Dove Management Units

Eastern Management Unit: All States east of the Mississippi River, and Louisiana.

Central Management Unit: Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

Western Management Unit: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

Woodcock Management Regions

Eastern Management Region:

Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Central Management Region:

Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin.

Required Determinations

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

The programmatic document, “Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (EIS 20130139),” filed with the Environmental Protection Agency (EPA) on May 24, 2013, addresses criteria of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.) compliance by the Service for issuance of the annual framework regulations for hunting of migratory game bird species. We published a notice of availability in the **Federal Register** on May 31, 2013 (78 FR 32686), and our Record of Decision on July 26, 2013 (78 FR 45376). This EIS and Record of Decision continue to apply to the new process for authorizing seasonal game bird hunting. Further, the new hunting regulations process is more compliant with these NEPA documents than the current process. Specifically, there were two preferred alternatives in the NEPA documents that are only now being implemented with the new process. These include the frequency of review and adoption of duck regulatory packages and zones and split season guidelines. The preferred alternative in both cases is to establish these packages and guidelines for at least a 5-year period, with changes limited to not sooner than every 5 years, and then after that only when necessary (see above under *Adaptive Harvest Management Approach for Duck Harvest Management, and Duck Zones and Split Seasons, and Dove Zones and Split Seasons* for more details). We currently propose and finalize these regulations every year or 5 years regardless of changes. We address NEPA compliance for zones and split hunting seasons through the preparation of environmental assessments, the most recent being the Zones and Split Seasons for Duck Hunting and its

corresponding 2011 finding of no significant impact.

This direct final rule is administrative in nature and is categorically excluded. It revises the process for transmitting authorization conditions for seasonal migratory game bird hunting to States and Tribes. Importantly, it does not alter the substantive annual biological monitoring and assessment process that determines those conditions.

The categorical exclusion determination is based on primarily 43 CFR 46.210(i) (in addition to 43 CFR 46.205 and 46.215), which provides that policies, directives, regulations, and guidelines of administrative, financial, legal, technical, or procedural nature qualify for categorical exclusion. The environmental effects of this action are too broad or speculative to lend themselves to meaningful analysis and are addressed in an environmental action statement, which is part of the record for this direct final rule and available for public inspection as provided in **ADDRESSES**, *Document availability*.

Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)

Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), provides that the Secretary 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. We conducted a formal consultation to ensure that actions resulting from these regulations will not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from this consultation are included in a biological opinion, which concludes that the regulations are not likely to jeopardize the continued existence of any endangered or threatened species. The biological opinion resulting from this section 7 consultation is part of the record for this rule and available for public inspection as provided in **ADDRESSES**, *Document availability*.

Regulatory Planning and Review (Executive Order (E.O.) 12866), Improving Regulation and Regulatory Review (E.O. 13563), and Unleashing Prosperity Through Deregulation (E.O. 14192)

E.O. 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) reviews all significant rules as defined by that E.O. This

rulemaking action will serve only to change the administrative process for authorizing States and Tribes to establish their regulations for migratory game bird hunting. OIRA has determined that this rule is significant under section 3(f) of E.O. 12866.

E.O. 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. E.O. 13653 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. By eliminating annual rulemaking, the Service will save about \$80,000 per year in printing costs, reduce staff workload by at least 50 percent, and reduce 200 hours of managerial workload reviewing and naming documents.

We have developed this direct final rule in a manner consistent with these requirements. This final rule is an E.O. 14192 deregulatory action.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (Pub. L. 104–121), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small businesses, small organizations, and small government jurisdictions. However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities.

We have examined this final rule's potential effects on small entities as required by the Regulatory Flexibility Act and determined that this action will not have an economic impact on any small entities. This final rule is administrative in nature, and the affected entities are State and Tribal governments. The rulemaking action changes only our internal administrative process for authorizing States and Tribes to establish seasonal migratory

game bird hunting regulations. The annual process is largely a cooperative effort between the Service and the States. The change in our administrative process eliminates the need for annual rulemaking and is expected to increase efficiency; better meet State, Tribal, and Federal rulemaking constraints; and reduce the complexity and costs associated with promulgating annual migratory game bird hunting regulations.

This is not a major rule under SBREFA (5 U.S.C. 804(2)). This direct final rule will not have an annual effect on the economy of \$100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, or Federal, State, or local government agencies, or geographic regions; and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Congressional Review Act

Pursuant to subtitle E of the Small Business Regulatory Enforcement Fairness Act (also known as the Congressional Review Act or CRA, 5 U.S.C. 801 et seq.), OIRA designated this action as a major rule, as defined by 5 U.S.C. 804(2), because it is likely to result in an annual effect on the economy of \$100 million or more. However, because this final rule establishes a regulatory program for activity related to hunting and because hunting seasons are time sensitive, we establish the effective date of this final rule using the exemption in the CRA at 5 U.S.C. 808(1).

Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

This direct final rule does not contain any new collection of information that requires approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). OMB has previously approved the information collection requirements associated with migratory game bird surveys and the procedures for establishing annual migratory bird hunting seasons under the following OMB control numbers:

- 1018–0019, “North American Woodcock Singing Ground Survey” (expires 02/28/2027).
- 1018–0023, “Migratory Bird Surveys, 50 CFR 20.20” (expires 09/30/2028). Includes Migratory Bird Harvest Information Program, Migratory Bird Hunter Surveys, Sandhill Crane Survey, and Parts Collection Survey.

• 1018–0171, “Establishment of Annual Migratory Bird Hunting Seasons, 50 CFR part 20” (expires 10/30/2027).

You may view the information collection request(s) at <http://www.reginfo.gov/public/do/PRAMain>. An 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 (2 U.S.C. 1501 et seq.)

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 final rulemaking does not include any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted for inflation) in any one year and does not significantly or uniquely affect small governments.

Civil Justice Reform (E.O. 12988)

The Department, in promulgating this direct final rule, has determined that this rulemaking action will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of E.O. 12988.

Takings Implication Assessment (E.O. 12630)

In accordance with E.O. 12630, this direct final rule, authorized by the MBTA, does not have significant takings implications and does not affect any constitutionally protected property rights. This direct final rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this final rulemaking action would allow hunters to exercise otherwise unavailable privileges and, therefore, will reduce restrictions on the use of private and public property.

Energy Effects (E.O. 13211)

E.O. 13211 requires agencies to prepare statements of energy effects when undertaking certain actions. This rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy and has not been designated by OIRA as a significant energy action. Therefore, no statement of energy effects is required.

Government-to-Government Relationship With Tribes

In accordance with E.O. 13175 (“Consultation and Coordination with Native American Indian Tribal

Governments”) and the Department of the Interior’s manual at 512 DM 2, we considered possible effects of this direct final rule on federally recognized Indian Tribes with respect to impacts to Tribes’ treaty rights to hunt waterfowl. We have determined that there are de minimis effects on Indian Tribes for that aspect of their treaty rights. Through this process to establish and announce authorization conditions for migratory game bird hunting, we regularly coordinate with Tribes that are affected. Tribes could attend spring and fall Flyway Council meetings, participate in SRC meetings, and provide comments on **Federal Register** publications concerning authorization conditions for migratory game bird hunting, and, whenever needed, we hold informal consultations with Tribes regarding trust resources, trust assets, health, and safety. This final rule will not have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

This direct final rule is administrative in nature and does not directly affect any specific Tribal lands, treaty rights, or Tribal trust resources. In addition, this direct final rule will not interfere with the ability of Tribes to manage themselves or their funds or to regulate migratory bird activities on Tribal lands. Therefore, we preliminarily conclude that this rulemaking action does not have “Tribal implications” under section 1(a) of E.O. 13175. Thus, formal government-to-government consultation is not required by E.O. 13175 and related policies of the Department of the Interior. We will continue to collaborate with Tribes on concerns related to migratory game bird hunting regulations.

We routinely provide **Federal Register** publications and biological status reports pertaining to migratory bird management, authorization conditions, and regulations online for all States and Tribes, and other interested parties. Upon being notified of any concern regarding proposed and final regulations, we have initiated consultation, and we will continue to consult with Tribes when necessary and requested by Tribes.

Federalism Effects (E.O. 13132)

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the MBTA. We prescribe authorization conditions from which States and Tribes may establish their annual regulations

for migratory game bird hunting seasons. This final rule changes only the Federal internal administrative process for establishing the authorization conditions and preserves the ability of the States and Tribes to establish hunting seasons that meet their individual needs. We maintain our regulations at 50 CFR 20.110 (Regulations for certain Federal Indian reservations and ceded lands) recognizing Tribal sovereignty to exercise reserved hunting rights and, for some Tribes, recognition of their authority to regulate hunting by both Tribal and nontribal members on their reservation. Consistent with our longstanding policy, we continue to recognize that, in certain cases, conflicts may arise between specific States and Tribes on aspects of Tribal treaty rights. The Service actively supports the parties reaching a mutually agreeable solution to such conflicts.

Any State or Tribe may be more restrictive in its regulations than the Federal authorization conditions and regulations at any time. The authorization conditions are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of the authorization conditions from which they will establish their own hunting regulations. This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with E.O. 13132, these regulations do not have federalism implications and do not warrant the preparation of a federalism summary impact statement.

Reference Cited

Lockie, S., and S. Rockloff. 2005. Decision Frameworks: Assessment of the social aspects of decision frameworks and development of a conceptual model. Coastal CRC Discussion Paper. Norman Gardens, Australia: Central Queensland University.

List of Subjects in 50 CFR Part 20

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

Regulation Promulgation

Accordingly, for the reasons described in the preamble, the U.S. Fish and Wildlife Service is amending title 50, chapter I, subchapter B, part 20, of the

Code of Federal Regulations as set forth below:

PART 20—MIGRATORY BIRD HUNTING

■ 1. The authority citation for part 20 is revised to read as follows:

Authority: 16 U.S.C. 703 *et seq.* and 742a–j.

Subpart B—Definitions

■ 2. Amend § 20.11 by:

- a. Revising the introductory text and paragraph (a) introductory text;
- b. In paragraph (b)(1), removing the word “prescribed” and adding in its place the word “prescribed”; and
- c. In paragraph (c)(5), removing the word “aggregate” and adding in its place the word “aggregate”.

These revisions read as follows:

§ 20.11 What terms do I need to understand?

In addition to definitions contained in part 10 of this chapter, as used in this part, the following terms will be construed, respectively, to mean and to include:

(a) *Migratory game birds* means those migratory birds included in the terms of conventions between the United States and any foreign country for the protection of migratory birds, for which hunting is authorized in this part and which belong to the following families:

* * * * *

Subpart C—Taking

■ 3. Amend § 20.21 by revising paragraphs (b)(2) and (g)(2) to read as follows:

§ 20.21 What hunting methods are illegal?

* * * * *

(b) * * *

(2) A hunting season only for Canada and cackling geese during the period of September 1 to September 30, provided:

(i) The season occurs within the Atlantic, Central, and Mississippi Flyways (see § 20.107 for definitions of the flyways);

(ii) All other waterfowl and crane hunting seasons, excluding falconry, are closed; and

(iii) The State notifies the Service’s Migratory Bird Program by May 31 each year of its intention to authorize the additional hunting method in its regulations for the seasonal hunting of migratory game birds.

* * * * *

(g) * * *

(2) A hunting season only for Canada and cackling geese during the period of September 1 to September 30, provided:

(i) The season occurs within the Atlantic, Central, and Mississippi Flyways (see § 20.107 for definitions of the flyways);

(ii) All other waterfowl and crane hunting seasons, excluding falconry, are closed; and

(iii) The State notifies the Service’s Migratory Bird Program by May 31 each year of its intention to authorize the additional hunting method in its regulations for the seasonal hunting of migratory game birds.

* * * * *

■ 4. Revise § 20.23 to read as follows:

§ 20.23 Shooting and hawking hours.

No person may take migratory game birds except during the hours open to shooting, which includes hawking (taking by falconry), as prescribed in subpart K of this part and 50 CFR 21.180 and 21.183 of this chapter.

Subpart H—Federal, State, and Foreign Law

■ 5. Revise § 20.71 to read as follows:

§ 20.71 Violation of Federal law.

No person shall at any time, by any means or in any manner, take, possess, transport, or export any migratory bird, or any part, nest, or egg of any such bird, in violation of any act of Congress or any regulation, including the regulations in this part and the authorization conditions (see § 20.107 for a definition) for migratory bird hunting and in accordance with § 20.125(a), issued pursuant thereto.

■ 6. Revise § 20.72 to read as follows:

§ 20.72 Violation of State and Tribal law.

No person shall at any time, by any means or in any manner, take, possess, transport, or export any migratory bird, or any part, nest, or egg of any such bird, in violation of any applicable law or regulation of any State or Tribe. A violation of State or Tribal law or regulation, including State regulations in a Federal policy memorandum posted on a Service website, for migratory bird hunting constitutes a violation of Federal law.

■ 7. Revise subpart K to read as follows:

Subpart K—Process for Issuing Authorization Conditions for Migratory Game Bird Hunting

Sec.

20.100 General provisions.

20.107 Definitions.

20.108 Nontoxic shot zones.

20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

20.110 Regulations for certain Federal Indian reservations and ceded lands.

20.115 Duck and dove zone and split-season configurations.

20.117 Duck season regulatory alternatives.

20.119 Establishing the authorization conditions.

20.121 Notification of the authorization conditions.

20.123 Special and experimental seasons.

20.125 Requirements for States.

20.127 Requirements for hunters.

20.129 Service Migratory Bird Regulations Committee.

20.130 Flyway Councils.

§ 20.100 General provisions.

(a) The taking, possession, transportation, and other uses of migratory birds is prohibited unless it is specifically provided for in regulations developed in accordance with the Migratory Bird Treaty Act.

Consequently, migratory game bird hunting is prohibited except as authorized in regulations in this part and in accordance with the authorization conditions (see § 20.107 for a definition) for State and Tribal migratory bird hunting regulations.

(b) Authorization conditions will be based on data including, but not limited to, migratory game bird population status and trends, habitat conditions, and anticipated harvest. The authorization conditions will be periodically adjusted to account for bird abundance and other biological factors.

(c) In the Atlantic Flyway States of Connecticut, Maine, Maryland, Massachusetts, New Jersey, North Carolina, and Pennsylvania, if Sunday hunting of migratory game birds is prohibited statewide by State law or regulation, all Sundays are closed to the take of all migratory game birds.

§ 20.107 Definitions.

For the purpose of this subpart, the following terms will be construed, respectively, to mean and to include:

Area means a federally established geographic boundary within which migratory game bird hunting may occur.

Authorization conditions means the selected Federal regulatory alternatives from our decision frameworks within which States and Tribes may establish regulations for the seasonal hunting of migratory game birds in accordance with Federal regulations.

(1) The selected regulatory alternatives may change periodically based on the status of populations and environmental conditions and will include the regulatory parameters most directly related to maintaining harvests at levels compatible with a game bird population’s ability to be self-sustaining.

(2) Authorization conditions specify the bracket dates, season lengths,

shooting hours, bag and possession limits, areas where hunting may occur, and other restrictions, conditions, and requirements associated with the seasonal hunting of migratory game birds.

Bracket dates means the earliest and latest dates for migratory game bird hunting open seasons.

Decision framework means a structured set of procedures, rules, models, and information criteria for selecting the appropriate authorization conditions from a fixed set of regulatory alternatives, each with a different expected harvest level, based on the harvest management objectives and status, demographics, and environmental conditions of the applicable migratory game bird population. Decision frameworks used by the Service are based on the U.S. Code and Code of Federal Regulations or published in the **Federal Register** as a final rule.

Flyway means a geographically bounded administrative region.

(1) Atlantic Flyway is Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

(2) Mississippi Flyway is Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

(3) Central Flyway is Colorado (east of the Continental Divide), Kansas, Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

(4) Pacific Flyway is Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and those portions of Colorado, Montana, New Mexico, and Wyoming not included in the Central Flyway.

Flyway Council means the representatives from each State within that Flyway. Additionally, representatives from Puerto Rico and the U.S. Virgin Islands are included in the Atlantic Flyway Council, and representatives from Alaska are included in the Pacific Flyway Council.

(1) The Council recommends actions necessary for science-based and sustainable harvest management of migratory birds to the Service.

(2) The Flyway Councils are advised by the Flyway technical committees, which evaluate population and habitat information and make recommendations to the Councils on matters of migratory bird conservation.

Hunting permit means a federally authorized, State-issued license authorizing specific limited take for hunting migratory game birds, valid only for the individual whose name and address appears on the authorization.

Migratory Game Bird Hunting Memorandum means the policy memorandum that sets forth and communicates the authorization conditions within which States and Tribes may establish regulations for the seasonal hunting of migratory game birds in accordance with Federal regulations.

Season length means the maximum number of days hunting may occur within the bracket dates for migratory game bird hunting seasons.

Season segment means a consecutive-day period within the total season length for migratory game bird hunting seasons.

Service Migratory Bird Regulations Committee means the Service Migratory Bird Regulations Committee (Service Regulations Committee or SRC), which is responsible for considering recommendations from the Service and Flyway Councils and recommending authorization conditions and modifications to decision frameworks and migratory game bird hunting regulations to the Director of the Service.

Zone means a geographic contiguous boundary for which an independent hunting season for a species or group of species may be established to distribute hunting opportunities and harvests according to temporal, geographic, and demographic variability in game bird populations. Zones are established by States and approved by the Service.

Zone and split-season configurations means an alternative combination of zones and season segments that a State may use for duck and dove hunting in a 5-year period, as provided in § 20.115.

§ 20.108 Nontoxic shot zones.

Beginning September 1, 1991, the contiguous 48 United States, and the States of Alaska and Hawaii, the Territories of Puerto Rico and the Virgin Islands, and the territorial waters of the United States, are designated for the purpose of § 20.21(j) as nontoxic shot zones for hunting waterfowl, coots, and certain other species. “Certain other species” refers to those species, other than waterfowl or coots, that are

affected by reason of being included in aggregate bags and concurrent seasons.

§ 20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

(a) In accordance with 50 CFR 21.82, falconry is a permitted means of taking migratory game birds in any State except for Hawaii. General hunting regulations, including seasons and shooting hours, apply to falconry.

(b) States and Tribes may establish an extended season for taking migratory game birds in accordance with the following:

(1) Bracket dates: September 1–March 10.

(2) Season lengths: For all hunting methods combined, the combined length of the extended season, regular season, and any special or experimental seasons must not exceed 107 days for any species or group of species in a geographical area. Each extended season may be split into three segments.

(3) Daily bag limits: Falconry daily bag limits for all permitted migratory game birds must not exceed 3 birds in the aggregate during extended falconry seasons, any special or experimental seasons, and regular hunting seasons in each State or Tribe, including those that do not establish an extended falconry season. Regular season bag limits do not apply to falconry. The falconry bag limit is not in addition to shooting limits.

(4) Hawking hours: One-half hour before sunrise until sunset except as otherwise restricted by State or Tribal regulations.

§ 20.110 Regulations for certain Federal Indian reservations and ceded lands.

(a) *Tribal sovereignty.* The Service recognizes Tribal sovereignty to exercise reserved hunting rights and, for some Tribes, recognition of their authority to regulate hunting by both Tribal and nontribal members on their reservation. Accordingly, Tribes may independently establish special (separate from the State or States in which the reservation is located) migratory game bird hunting regulations. Migratory birds may be taken if the take is consistent with the regulations in this section and applicable Tribal hunting regulations.

(b) *Applicability.* Special Tribal migratory game bird hunting regulations may be established by Tribes that have reserved hunting rights on Federal Indian reservations (including off-reservation trust lands) and ceded lands. These regulations also may be applied to the establishment of migratory game bird hunting regulations for nontribal members on all lands within the reservations where Tribes have full

wildlife-management authority over such hunting, or where the Tribes and affected States otherwise have reached agreement over hunting by nontribal members on non-Indian lands within the reservation.

(c) *Special regulations.* Special Tribal migratory game bird hunting regulations must be consistent with the annual March 11 to August 31 closed season mandated by the 1916 Convention Between the United States and Great Britain (for Canada) for the Protection of Migratory Birds, as amended by the Protocol Between the Government of Canada and the Government of the United States of America Amending the 1916 Convention Between the United Kingdom and the United States of America for the Protection of Migratory Birds in Canada and the United States, and with these provisions:

(1) Tribes may establish on-reservation hunting regulations, for both Tribal and nontribal members, with hunting seasons that may differ from those in the State(s) in which the reservations are located.

(i) *Regulations for both Tribal and nontribal members:* Opening and closing dates, season length, and daily bag and possession limits for nontribal members on the reservations must be within the authorization conditions for migratory game bird hunting, and all Federal hunting regulations in this part also apply to nontribal hunters. Tribes may choose to set the same opening and closing dates, season length, and daily bag and possession limits for hunting by Tribal members and nontribal members on their reservations, or, in accordance with the provisions in paragraph

(c)(1)(ii) of this section, Tribes may choose to establish regulations for Tribal members only.

(ii) *Regulations for Tribal members only:* Tribes may establish on-reservation hunting regulations by Tribal members only, with hunting regulations that may differ from the authorization conditions for bracket dates, season length, and daily bag and possession limits. All Federal hunting regulations in this part apply.

(A) For a short-term experimental hunting season, a Tribe and the Service may formally agree on allowed methods of take, notwithstanding the regulations in § 20.21, for on-reservation and ceded lands hunting by Tribal members. The Service will make public any such formal agreement.

(B) A Tribe that would like to make an additional hunting method operational would need to provide data to the Service for consideration. If the Service agrees with the Tribe's proposal, the Service will conduct rulemaking to amend the regulations in this part to allow Tribal members to use the additional hunting method.

(2) Tribes may establish off-reservation hunting regulations by Tribal members on ceded lands, with hunting seasons that may differ from the authorization conditions for season dates, season length, and daily bag and possession limits.

(d) *Provisions for ceded lands.* Tribes that have special migratory game bird hunting regulations for Tribal members on ceded lands must send a copy of the Tribal regulations to officials in the affected State(s) as soon as reasonably possible prior to the season opening.

§ 20.115 Duck and dove zone and split-season configurations.

The alternative combinations of zones and season segments that a State may use for duck and dove hunting in a 5-year period are described in paragraphs (a) and (b) of this section. The SRC may approve a deviation from the 5-year period length for all four flyways.

(a) Duck hunting zone and split-season configurations include:

(1) One zone (same as no zones) with up to three season segments;

(2) Two zones with up to two season segments in each zone;

(3) Two zones with up to three season segments in each zone;

(4) Three zones with up to two season segments in each zone; or

(5) Four zones with a continuous season (*i.e.*, no segments) in each zone.

(b) Dove hunting zone and split-season configurations include:

(1) One zone (same as no zones) with up to three season segments; or

(2) Two zones with up to three season segments in each zone, except in the Western Management Unit where the season in one or both zones may be split into two segments.

§ 20.117 Duck season regulatory alternatives.

For the general duck season authorization conditions, each Flyway has four possible regulatory alternatives (closed, restrictive, moderate, and liberal), each with a different expected harvest level. The open season alternatives are specified as:

(a) For Atlantic Flyway:

TABLE 1 TO PARAGRAPH (a)

Authorization conditions	Alternative		
	Restrictive	Moderate	Liberal
Bracket dates	Oct. 1–Jan. 31	Saturday nearest Sep. 24–Jan. 31	Saturday nearest Sep. 24–Jan. 31.
Season length (days)	30	45	60.
Daily bag limit	3	6	6.

(b) For Mississippi Flyway:

TABLE 2 TO PARAGRAPH (b)

Authorization conditions	Alternative		
	Restrictive	Moderate	Liberal
Bracket dates	Saturday nearest Sep. 24–Jan. 31	Saturday nearest Sep. 24–Jan. 31	Saturday nearest Sep. 24–Jan. 31.
Season length (days)	30	45	60.
Daily bag limit	3	6	6.
Mallard restriction	2	4	4.
Mallard female restriction	1	1	2.

(c) For Central Flyway:

TABLE 3 TO PARAGRAPH (c)

Authorization conditions	Alternative		
	Restrictive	Moderate	Liberal
Bracket dates	Saturday nearest Sep. 24–Jan. 31	Saturday nearest Sep. 24–Jan. 31	Saturday nearest Sep. 24–Jan. 31.
Season length (days)	39	60	74.
Daily bag limit	3	6	6.
Mallard restriction	3	5	5.
Mallard female restriction	1	1	2.

(d) For Pacific Flyway, except Alaska:

TABLE 4 TO PARAGRAPH (d)

Authorization conditions	Alternative		
	Restrictive	Moderate	Liberal
Bracket dates	Saturday nearest Sep. 24–Jan. 31	Saturday nearest Sep. 24–Jan. 31	Saturday nearest Sep. 24–Jan. 31.
Season length (days)	60	86	107.
Daily bag limit	4	7	7.
Mallard restriction	3	5	7.
Mallard female restriction	1	2	2.

(e) For Alaska:

TABLE 5 TO PARAGRAPH (e)

Authorization conditions	Alternative		
	Restrictive	Moderate	Liberal
Bracket dates	Sep. 1–Jan. 26	Sep. 1–Jan. 26	Sep. 1–Jan. 26.
Season length (days)	107	107	107.
Daily bag limit	5, except Gulf Coast Zone is 6 and North Zone is 8.	7, except Gulf Coast Zone is 8 and North Zone is 10.	7, except Gulf Coast Zone is 8 and North Zone is 10.

(f) Shooting and hawking hours are from one-half hour before sunrise to sunset daily.

(g) In the Central Flyway High Plains Mallard Management Unit, the season length may be extended 12 additional days in the restrictive alternative and 23 additional days in the moderate and liberal alternatives; additional days must be on or after the Saturday nearest December 10.

(h) In the Pacific Flyway Columbia Basin Mallard Management Unit, the season length may be extended 7 additional days in the restrictive and moderate alternatives.

(i) Additional species-specific restrictions may be established in the authorization conditions.

(j) Duck season regulatory alternatives are fixed for a period of not less than 5 years.

§ 20.119 Establishing the authorization conditions.

(a) The authorization conditions will be determined using available biological and habitat information and decision frameworks. A list of current decision frameworks is posted on the Service's website with the Migratory Game Bird Hunting Memorandum. The Service will apply available biological and habitat information to the relevant decision framework for that species and will announce the outcomes as the authorization conditions within which States and Tribes may establish their migratory game bird hunting regulations in accordance with the regulations in this part and other applicable Federal regulations.

(b) Consistent with the Migratory Bird Treaty Act, the authorization conditions for any migratory game bird season must:

- (1) Not start prior to September 1;
- (2) Not end after March 10, except the season for ducks, mergansers, and coots

may not end later than January 31 (16 U.S.C. 704(c)(1)(B)); and

(3) Not exceed 107 days.

(c) The Service and Flyway Councils may establish decision frameworks for the determination of authorization conditions that are more restrictive than the provisions in the Migratory Bird Treaty Act.

§ 20.121 Notification of the authorization conditions.

(a) The Service will communicate the authorization conditions in the Migratory Game Bird Hunting Memorandum. The memorandum and any supporting documentation will be made publicly available in the **Federal Register** through a notice of availability and posted on the Service's website.

(b) The Service may update the Migratory Game Bird Hunting Memorandum and notice of availability annually if changes are prescribed by decision frameworks. Updates would occur no later than February 28 of each

calendar year. If the Service does not issue a new memorandum and notice of availability by February 28, then the authorization conditions in the most recent memorandum will remain in effect.

(c) The notice of availability will open a public comment period of not less than 30 days. The Service may revise the Migratory Game Bird Hunting Memorandum based on public comment and, if so, the revised memorandum will be made publicly available in the **Federal Register** through a notice of availability and posted on the Service's website.

§ 20.123 Special and experimental seasons.

(a) Special seasons authorize additional hunting opportunity outside the regular season but within the 107-day limit mandated by the MBTA. Special seasons are authorized to promote harvest of underutilized species, address overabundance of nuisance species, or provide special hunting opportunities. Experimental seasons are authorized to evaluate expansion of regular and special seasons to new areas, evaluate use of zones and splits, or evaluate alternative seasons.

(b) Special or experimental season requests may be made by the Flyway Council(s) or requested by a State. Requests must be submitted by September 1 prior to the requested hunting season. If the Service approves a special or experimental season, it will be authorized in the Migratory Game Bird Hunting Memorandum.

(c) To approve special and experimental seasons, the Service must find:

(1) The Flyway Council(s) where the hunting will take place endorse the special or experimental season;

(2) Species migration and distribution provide sufficient hunting opportunity outside the regular season;

(3) There is no or negligible impact to nontarget species; and

(4) Authorizations are consistent with existing environmental compliance determinations.

(d) Approved experimental seasons may be valid for up to 5 years, after which a new request must be submitted. The Service may require implementing States to collect data for at least 3 years to assess the environmental effects of special or experimental seasons, including effects on target and nontarget species.

§ 20.125 Requirements for States.

(a) States may authorize migratory game bird hunting provided the State establishes hunting regulations in

accordance with Federal authorization conditions and regulations. State hunting regulations must be at least as restrictive as the Federal authorization conditions and regulations. Hunting that occurs outside the State regulations or Federal authorization conditions and regulations constitutes a violation of Federal law pursuant to § 20.71.

(b) No later than May 31 of each calendar year, States must submit their proposed migratory game bird hunting regulations implementing the Federal authorization conditions to the Service's Migratory Bird Program for review.

(c) Areas and zones for which open seasons are specified in a State's hunting regulations must be described, delineated, and designated as such in each State's hunting regulations, and these areas must also be included in the Migratory Game Bird Hunting Memorandum.

(d) Unless otherwise specified, States may establish hunting seasons by zones as defined in § 20.107. Zones for certain duck seasons (and associated youth and veterans-active military waterfowl hunting days, gallinule seasons, and snipe seasons) and dove seasons must comply with Federal zone and split-season configurations. Changes among configurations may occur in the first year of the 5-year period that it would apply and according to the following guidelines:

(1) States seeking to change their duck or dove hunting zone and split-season configuration selection must provide their selection and zone descriptions to the Service by August 31 of the year prior to the 5-year interval during which they would apply.

(2) States with approved special case arrangements to change their zone and split-season configuration must conform to the current configurations and may not revert to the special case arrangements that they previously had in place.

(3) Only minor (less than one county in size) zone boundary changes will be allowed for any special case arrangement, and such changes are allowed only in the first year of the 5-year period during which it would apply.

(4) Minor (less than one county in size) zone boundary changes may be allowed for any State to resolve law enforcement or other boundary clarification issues resulting from implication of a new configuration. Changes will be evaluated on a case-by-case basis and must be approved by the respective Flyway Council and the Service Migratory Bird Regulations Committee.

(5) Consideration of changes for management-unit boundaries is not subject to the guidelines and provisions governing the use of zones and split seasons for ducks and doves.

(e) States may issue hunting permits for migratory game bird hunting at levels predicted to result in the amount of take authorized by the authorization conditions. Federally authorized, State-issued hunting permits are valid only for the individual whose name and address appears on the hunting permit and must specify a take authorization.

(f) States may select 2 days per duck-hunting zone, designated as "Youth Waterfowl Hunting Days," and 2 days per duck-hunting zone, designated as "Veterans and Active Military Personnel Waterfowl Hunting Days," in addition to their regular duck seasons.

(1) The days may be held concurrently or may be nonconsecutive. Days may be held up to 14 days before or after any regular duck-season bracket dates in the authorization conditions or within any split of a regular duck season, or within any other open season on migratory game birds. Youth Waterfowl Hunting Days must be held outside any regular duck season on weekends, holidays, or other non-school days when youth hunters would have the maximum opportunity to participate.

(2) Youth hunters must be younger than 18 years of age. States may specify a more restrictive age definition. An adult 18 years of age or older must accompany the youth hunter into the field. This adult may not duck hunt but may participate in other seasons that are open on the special youth day. Permitted species may be taken only by participants possessing applicable hunting permits.

(3) Veterans (as defined in 38 U.S.C. 101) and members of the U.S. Armed Forces on active duty, including members of the National Guard and Reserves on active duty (other than for training), may participate. Permitted species may be taken only by participants possessing applicable hunting permits.

§ 20.127 Requirements for hunters.

(a) Any individual hunting must comply with the regulations in this part, Federal authorization conditions, and any applicable State or Tribal hunting regulations. Violation of any applicable Federal, State, Tribal, or local law or regulation is a violation of Federal law pursuant to § 20.71 and § 20.72.

(b) Any individual hunting under a federally authorized, State-issued hunting permit must adhere to the provisions of the hunting permit,

Federal regulations, and State regulations. The hunting permit must be carried by the permittee when exercising the provisions of the hunting permit and must be presented to any law enforcement officer upon request. The hunting permit specifies the individual's name and address. The hunting permit is not transferable or assignable to any other person, and may not be sold, bartered, traded, or otherwise provided to any other person. The hunting permit will be invalid if it is altered or defaced in any way.

§ 20.129 Service Migratory Bird Regulations Committee.

(a) *Purpose.* The Service Migratory Bird Regulations Committee (Service Regulations Committee or SRC) is responsible for considering recommendations from the Service and Flyway Councils and recommending authorization conditions and modifications to decision frameworks and regulations for migratory game bird hunting to the Director of the Service.

(b) *Notice of meetings.* Some SRC meetings may be attended by any person outside the Department of the Interior. Notices of these meetings will be published on the Service's Migratory Bird Program website at least 2 weeks before the meeting. The notice will state the time, place, and general subject(s) of the meeting, as well as the extent of

public involvement such as observation, written comment, or participation. Minutes will be maintained for each meeting of the SRC for which notice is published.

(c) *Public observation and written comment.* Each meeting of the SRC for which notice is published will be open to the public for observation, and the public may submit written comments to the Service's Migratory Bird Program at least 1 week prior to the meeting.

§ 20.130 Flyway Councils.

Notice of each meeting of a Flyway Council to be attended by any official of the Department of the Interior will be announced online on the Service's Migratory Bird Program website at least 2 weeks before the meeting or as soon as practicable after the Department of the Interior learns of the meeting. The notice will state the time, place, and general subject(s) of the meeting.

Subpart L—Administrative and Miscellaneous Provisions

■ 8. Revise § 20.133 to read as follows:

§ 20.133 Hunting regulations for crows.

(a) Crows may be taken, possessed, transported, exported, or imported, only in accordance with such laws or regulations as may be prescribed by a State or Tribe pursuant to this section.

(b) Except in the State of Hawaii, where take of crows is prohibited, States and Tribes may by statute or regulation prescribe a hunting season for crows. Such State and Tribal statutes or regulations may set forth the method of taking, the bag and possession limits, the dates and duration of the hunting season, and such other regulations as may be deemed appropriate, subject to the following limitations for each State or Tribe:

(1) Crows must not be hunted from aircraft;

(2) The hunting season or seasons on crows must not exceed a total of 124 days during a calendar year;

(3) Hunting must not be permitted during the peak crow nesting period within a State; and

(4) Crows may be taken only by firearms, bow and arrow, and falconry.

Subpart N [Removed and Reserved]

■ 9. Remove and reserve subpart N, which consists of § 20.151 through § 20.155.

Kevin Lilly,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, Exercising the Delegated Authority of the Assistant Secretary for Fish and Wildlife and Parks.

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