

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018-AC79

Migratory Bird Hunting; Proposed Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 1995-96 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: This rule proposes special migratory bird hunting regulations that would be established for certain tribes on Federal Indian reservations, off-reservation trust lands and ceded lands for the 1995-96 migratory bird hunting season.

DATES: The comment period for these proposed regulations will end August 28, 1995.

ADDRESSES: Comments should be sent to: Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, 634 ARLSQ, 1849 C St., NW., Washington, DC 20240. Comments received, if any, on these proposed special hunting regulations and tribal proposals will be available for public inspection during normal business hours in Room 634-Arlington Square Building, 4401 N. Fairfax Drive, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel or Dr. Keith A. Morehouse, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, (703/358-1714).

SUPPLEMENTARY INFORMATION: In the March 24, 1995, **Federal Register** (60 FR 15642), the Service requested proposals from Indian tribes that wished to establish special migratory bird hunting regulations for the 1995-96 hunting season, under the guidelines described in the June 4, 1985, **Federal Register** (50 FR 23467). The guidelines were developed in response to tribal requests for Service recognition of their reserved hunting rights, and for some tribes, recognition of their authority to regulate hunting by both tribal and non-tribal members on their reservations. The guidelines include possibilities for: (1) on-reservation hunting by both tribal and nontribal members, with hunting by nontribal members on some reservations to take place within Federal frameworks but on dates different from those selected by the surrounding State(s); (2) on-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length,

and for daily bag and possession limits; and (3) off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits. In all cases, the regulations established under the guidelines would have to be consistent with the March 10 to September 1 closed season mandated by the 1916 Migratory Bird Treaty with Canada. The guidelines are capable of application to those tribes that have recognized reserved hunting rights on Federal Indian reservations (including off-reservation trust lands) and on ceded lands. They also apply to establishing migratory bird hunting regulations for nontribal members on all lands within the exterior boundaries of 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 lands owned by non-Indians within the reservation.

Tribes usually have the authority to regulate migratory bird hunting by nonmembers on Indian-owned reservation lands, subject to Service approval. The question of jurisdiction is more complex on reservations that include lands owned by non-Indians, especially when the surrounding States have established or intend to establish regulations governing hunting by non-Indians on these lands. In such cases, the Service encourages the tribes and States to reach agreement on regulations that would apply throughout the reservations. When appropriate, the Service will consult with a tribe and State with the aim of facilitating an accord. The Service also will consult jointly with tribal and State officials in the affected States where tribes may wish to establish special hunting regulations for tribal members on ceded lands.

Because of past questions regarding interpretation of what events trigger the consultation process, as well as who initiates it, there is a need to provide clarification here. The Service routinely provides **Federal Register** copies of published proposed and final rulemakings and other documents to all State Directors, tribes and others interested parties. It is the responsibility of the States, tribes and others to bring any concern for any feature(s) of any regulations to the attention of the Service. Consultation will be initiated at the point in time at which the Service is made aware of a concern. The Service cannot presume to know beforehand what, if any, concerns will be voiced regarding rulemakings.

The guidelines provide for the continuation of harvest of waterfowl and other migratory game birds by tribal members on reservations where it has been a customary practice. The Service does not oppose this harvest, provided it does not take place during the closed season defined by the 1916 Migratory Bird Convention with Canada, and it is not so large as to adversely affect the status of the migratory bird resource.

Before developing the guidelines, the Service reviewed available information on the current status of migratory bird populations and the current status of migratory bird hunting on Federal Indian reservations and evaluated the impact that adoption of the guidelines likely would have on migratory birds. The Service has concluded that the size of the migratory bird harvest by tribal members hunting on their reservations is normally too small to have significant impacts on the migratory bird resource.

One area of interest in Indian migratory bird hunting regulations relates to hunting seasons for nontribal members on dates that are within Federal frameworks, but that are different from those established by the State(s) in which a Federal Indian reservation is located. A large influx of nontribal hunters onto a reservation at a time when the season is closed in the surrounding State(s) could result in adverse population impacts on one or more migratory bird species. The guidelines make such an event unlikely, however, because tribal proposals must include: (a) details on the harvest anticipated under the requested regulations; (b) methods that will be employed to measure or monitor harvest (bag checks, mail questionnaires, etc.); (c) steps that will be taken to limit level of harvest, where it could be shown that failure to limit such harvest would impact on the migratory bird resource; and (d) tribal capabilities to establish and enforce migratory bird hunting regulations. Based on a review of tribal proposals, the Service may require modifications, and regulations may be established experimentally, pending evaluation and confirmation of harvest information obtained by the tribes.

The Service believes that the guidelines provide appropriate opportunity to accommodate the reserved hunting rights and management authority of Indian tribes while ensuring that the migratory bird resource receives necessary protection. The conservation of this important international resource is paramount. The guidelines should not be viewed as inflexible. In this regard, the Service notes that they have been employed successfully since 1985 to establish

special hunting regulations for Indian tribes. Therefore, the Service believes they have been tested adequately and they were made final beginning with the 1988-89 hunting season. It should be stressed here, however, that use of the guidelines is not mandatory and no action is required if a tribe wishes to observe the hunting regulations established by the State(s) in which the reservation is located.

In summary, the purpose of this document is to propose 1995-96 season migratory bird hunting regulations for participating tribes.

Hunting Season Proposals from Indian Tribes and Organizations

For the 1995-96 hunting season, the Service received requests from seventeen tribes and Indian organizations that followed the 1985 proposal guidelines and were appropriate for publication in the **Federal Register** without further and/or alternative actions. The Seminole Tribe of Florida, the Grand Traverse Band of Ottawa and Chippewa Indians (Michigan), and the Squaxin Island Tribe (Washington) are included in the regulations this year for the first time.

The Service actively solicits regulatory proposals from other tribal groups that have an interest in working cooperatively for the benefit of waterfowl and other migratory game birds. Also, tribes are encouraged to work with the Service in developing agreements for management of migratory bird resources on tribal lands.

It should be noted that this proposed rule includes generalized regulations for both early- and late-season hunting. There will be a final rule published later in an August 1995 **Federal Register** that will include tribal regulations for the early-hunting season. The early season begins on September 1 each year and most commonly includes such species as mourning doves and white-winged doves. There will also be a final rule published in a September 1995 **Federal Register** that will include regulations for late-season hunting. The late season begins on or around October 1 and most commonly includes waterfowl species. In this current rulemaking, because of the compressed timeframe for establishing regulations for Indian tribes and because final frameworks dates and other specific information are not available, the regulations for many tribal hunting seasons are described in relation to the season dates, season length and limits that will be permitted when final Federal frameworks are announced for early- and late-season regulations. For example, the daily bag and possession limits for ducks on some

areas are shown as "Same as permitted Pacific Flyway States under final Federal frameworks," and limits for geese will be shown as the same that will be permitted the State(s) in which the tribal hunting area is located. The proposed frameworks for early-season regulations were published in the **Federal Register** on July 21, 1995 (60 FR 37754); early-season final frameworks will be published in mid-August. Proposed late-season frameworks for waterfowl and coots will be published in mid-August, and the final frameworks for the late seasons will be published in mid-September. The Service will notify affected tribes of season dates, bag limits, etc., as soon as final frameworks are established.

As discussed earlier in this document, no action is required by tribes that wish to observe the migratory bird hunting regulations established by the State in which a reservation is located.

The proposed regulations for the seventeen tribes with proposals that meet the established criteria are shown below.

1. Colorado River Indian Tribes, Colorado River Indian Reservation, Parker, Arizona

The Colorado River Indian Reservation is located in Arizona and California. The tribes own almost all lands on the reservation, and have full wildlife management authority.

In their 1995-96 proposal, dated June 26, 1995, the Colorado River Indian Tribes are requesting split dove seasons. The early season is proposed to begin on September 1 and end on September 10, 1995, with the daily bag limits being 10 mourning or 10 white-winged doves either singly or in the aggregate. The late season for doves is proposed to open on November 25, 1995, and close on January 14, 1996, with a daily bag limit of 10 mourning doves. The possession limit would be twice the daily bag limit. Shooting hours would be from one-half hour before sunrise to sunset, and other special tribally set regulations would apply.

The Colorado River Indian Tribes are also proposing split duck hunting seasons. The first season would run from October 15, 1995, through November 12, 1995, and the second from December 9, 1995, through January 7, 1996. The Tribes are proposing the same season dates for coots and common moorhens. The daily bag limit for ducks, including mergansers, would be 4 birds, which would include no more than 2 redheads, 2 pintails, 1 canvasback, or 1 Mexican duck. The possession limit would be twice the daily bag limit, after the first day. The

daily bag limit for coots and common moorhens would be 25, singly or in the aggregate. The possession limit for coots and common moorhens would be twice the daily bag limit.

For geese, the Colorado River Indian Tribes have proposed a season of October 21, 1995, through January 21, 1996. The daily bag and possession limits for geese would be 5, which would include no more than 3 white geese (snow and/or Ross and blue geese) and not more than 2 dark geese (Canada geese).

Under the proposed regulations described here, based upon past seasons, the anticipated harvest is estimated to be less than 400 ducks and 100 geese.

Hunters are required to have a valid Colorado River Indian Reservation hunting permit in their possession while hunting. As in the past, the regulations would apply both to tribal and non-tribal hunters, and non-toxic shot would be required for waterfowl hunting. The Service is proposing to approve the Colorado River Indian Tribes regulations.

2. Confederated Salish and Kootenai Tribes, Flathead Indian Reservation, Pablo, Montana

For the past several years, the Confederated Salish and Kootenai Tribes and the State of Montana have entered into cooperative agreements for the regulation of hunting on the Flathead Indian Reservation. The State and the Tribes are currently operating under a cooperative agreement signed in 1990 that addresses fishing and hunting management and regulation issues of mutual concern. This agreement enables all hunters to utilize waterfowl hunting opportunities on the reservation. Reservation proposed special regulations for waterfowl hunting were submitted to the Service in a May 30, 1995, proposal.

As in the past, tribal regulations for nontribal duck hunters would be at least as restrictive as those established for the Pacific Flyway portion of Montana. Goose season dates would also be at least as restrictive as those established for the Pacific Flyway portion of Montana. However, the Tribes propose a possible increase in the daily bag limit of dark geese from 3 to 4 geese, given the results of 1995 Canada goose production data and discussions with the State of Montana and the Pacific Flyway Council. The Tribes' requested dark goose daily bag increase is prompted by increasing reports of goose depredation.

Shooting hours for waterfowl hunting on the Flathead Reservation are sunrise

to sunset over the dates to be specified in the final regulations and steel shot is the only legal shotgun load on the reservation for waterfowl.

The requested season dates and bag limits are generally similar to the regulations of the past five years, with the exception of geese, and it is anticipated that there will be no significant changes in harvest levels. Standardized check station data from the 1993-94 and 1994-95 hunting seasons indicated no significant changes in harvest levels and that the large majority of the harvest is by non-tribal hunters.

Pending approval of the increased daily bag limit of geese by the State of Montana and the Pacific Flyway Council, the Service proposes to approve the Tribes' request for special migratory bird regulations for the 1995-96 hunting season.

3. *Crow Creek Sioux Tribe, Crow Creek Indian Reservation, Fort Thompson, South Dakota*

The Crow Creek Indian Reservation has a checkerboard pattern of land ownership, with much of the land owned by non-Indians. Since the 1993-94 season, the tribe has selected special waterfowl hunting regulations independent of the State of South Dakota. All basic migratory bird hunting regulations contained in 50 CFR part 20 would be observed by the tribe.

For the 1995-96 hunting season, the tribe, in a proposal dated June 1, 1995, requested duck season dates of October 28 to December 23, 1995, with the same daily bag and possession limits permitted by the final Federal frameworks, to be announced. The season and bag limits would be essentially the same as last year, given the final Federal frameworks, and harvest is again expected to be low because of the small number of hunters. Last year, estimated duck harvest was 48 birds down from 67 in 1994-95.

For geese, the tribe requested a goose hunting season of October 7, 1995, through January 7, 1996, with the daily bag and possession limits the same as those permitted by final Federal frameworks, to be announced. The tribe estimates harvest for last season to be about 90 geese which represented less than half of the estimated harvest for the previous hunting season. Harvest for this coming season should be approximately the same as last season.

The Service proposes to approve the tribal requests for duck and goose hunting regulations. As with all other groups, the Service asks that the tribe continue to survey and report the harvest.

4. *Grand Traverse Band of Ottawa and Chippewa Indians, Suttons Bay, Michigan*

For the first time, in the 1995-96 migratory bird seasons, the Grand Traverse Band of Ottawa and Chippewa Indians and the Service are cooperating to establish special regulations for waterfowl. The Grand Traverse Band is a self-governing, federally recognized tribe located on the west arm of Grand Traverse Bay in Leelanau County, Michigan. The Grand Traverse Band is a signatory tribe of the Treaty of 1836 which ceded to the United States roughly one-third of the land base of the present State of Michigan, 80 percent of Lake Michigan off the Michigan shoreline to the center, northern Lake Huron, and the eastern end of Lake Superior. The Service has approved special regulations for tribal members of the 1836 treaty's signatory tribes on ceded lands in Michigan since the 1986-87 hunting season.

For the 1995-96 season, the Grand Traverse Band of Ottawa and Chippewa is proposing a tribal member duck season that would run from October 1 through November 30, 1995. A daily bag limit of 5 would include no more than 1 pintail, 1 canvasback, 1 black duck, 2 wood ducks, and 1 hen mallard.

For Canada geese, the tribe proposes a September 1 through November 30, 1995, and a January 1 through February 7, 1996, season. For white-fronted geese, brant, and snow geese, the tribe proposes a October 1 through November 30, 1995 season. The daily bag limit for all geese (including brant) would be 5 birds. Based on Service information, it is unlikely that any Canada geese from the Southern James Bay Population would be harvested by the tribes. All other Federal regulations contained in 50 CFR part 20 would apply.

The tribe proposes to closely monitor harvest through game bag checks, patrols, and mail surveys. In particular, the tribe proposes to monitor the harvest of Southern James Bay Canada geese to assess any impacts of tribal hunting on the population.

The Service proposes to approve the Grand Traverse Band of Ottawa and Chippewa's requested 1995-96 special migratory bird hunting regulations.

5. *Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin*

Since 1985, various bands of the Lake Superior Tribe of Chippewa Indians have exercised judicially recognized off-reservation hunting rights for migratory birds in Wisconsin. The specific regulations were established by the Service in consultation with the

Wisconsin Department of Natural Resources and the Great Lakes Indian Fish and Wildlife Commission (GLIFWC, which represents the various bands). Beginning in 1986, a tribal season on ceded lands in the western portion of the State's Upper Peninsula was developed in coordination with the Michigan Department of Natural Resources, and the Service has approved special regulations for tribal members in both Michigan and Wisconsin since the 1986-87, hunting season. In 1987, the GLIFWC requested and the Service approved special regulations to permit tribal members to hunt on ceded lands in Minnesota, as well as in Michigan and Wisconsin. The States of Michigan and Wisconsin concurred with the regulations, although Wisconsin has raised some concerns each year. Minnesota did not concur with the regulations, stressing that the State would not recognize Chippewa Indian hunting rights in Minnesota's treaty area until a court with jurisdiction over the State acknowledges and defines the extent of these rights. The Service acknowledged the State's concern, but pointed out that the United States Government has recognized the Indian hunting rights decided in the Voigt case, and that acceptable hunting regulations have been negotiated successfully in both Michigan and Wisconsin even though the Voigt decision did not specifically address ceded land outside Wisconsin. The Service believes this is appropriate because the treaties in question cover ceded lands in Michigan (and Minnesota), as well as in Wisconsin. Consequently, in view of the above, the Service has approved special regulations since the 1987-88 hunting season on ceded lands in all three States. In fact, this recognition of the principle of reserved treaty rights for band members to hunt and fish was pivotal in a decision by the Service to approve a special season for the 1836 ceded area in Michigan for the 1991-92 migratory bird hunting seasons.

Recently, certain GLIFWC member bands have brought suit to resolve the issue of hunting, fishing and gathering rights in the Minnesota ceded areas covered under the 1837 and 1854 treaties. The Federal Government has intervened in support of the bands.

In a May 18, 1995, letter, the GLIFWC proposed off-reservation special migratory bird hunting regulations for the 1995-96 seasons. Details of the proposed regulations are shown below. In general, the proposal is essentially identical to the regulations approved for the 1994-95 season for ducks (including mergansers) and geese for all of the

Minnesota and Wisconsin ceded areas. Bag limits for ducks and geese in these areas would be 20 and 10, respectively, although certain sex and species restrictions would apply. Regulations proposed for the 1836 and 1842 Treaty areas located in Michigan will be the same as those permitted for the State of Michigan, except for the daily bag limit of geese. In the past, the GLIFWC's request for increased goose bag limits was objected to by the Service in the belief that the Southern James Bay Population of Canada Geese, a population that has declined dramatically in the past several years, could potentially be further hurt by this action. We now know that this goose population is not a major contributor to the GLIFWC member band harvest; probably less than 25 geese from this population are taken annually by the Bay Mills Community hunters.

Results of the 1994-95 hunter survey show that 1901 ducks and 719 geese were actually harvested. Under the proposed regulations, harvest is expected to be similar to last year and most likely would not exceed 3000 ducks and 900 geese. The Service believes that regulations advanced by the GLIFWC for the 1995-96 hunting season are biologically acceptable. The Service is proposing to approve the GLIFWC regulations. If the regulations are finalized as proposed, the Service would request that the GLIFWC closely monitor the member band duck harvest and take any actions necessary to reduce harvest if locally nesting populations are being significantly impacted.

The Commission and the Service are parties to a Memorandum of Agreement (MOA) designed to facilitate the ongoing enforcement of Service-approved tribal migratory bird regulations. The MOA is intended to have long-term cooperative application.

Also, as in recent seasons, the proposal contains references to Chapter 10 of the Migratory Bird Harvesting Regulations of the Model Off-Reservation Conservation Code. Chapter 10 regulations parallel State and Federal regulations and, in effect, are not changed by this change in reference.

The GLIFWC's proposed 1995-96 waterfowl hunting season regulations are as follows:

Ducks

A. Wisconsin and Minnesota 1837, 1842 and 1854 Zones:

Season Dates: Begin September 15 and end November 7, 1995.

Daily Bag Limit: 20 ducks, including no more than 10 mallards (only 5 of which may be hens), 4 black ducks, 4 redheads, 4 pintails, and 2 canvasbacks.

B. Michigan, 1842 Treaty Zone: Same dates, season lengths, and daily bag limits permitted the State of Michigan for this area under final Federal frameworks.

C. Michigan, 1836 Treaty Zone: Same dates, season lengths, and daily bag limits permitted the State of Michigan for this area under final Federal frameworks.

Mergansers

A. Wisconsin and Minnesota 1837, 1842 and 1854 Zones:

Season Dates: Begin September 15 and end November 7, 1995.

Daily Bag Limit: The daily bag limit would be 5.

B. Michigan, 1842 Treaty Zone: Same dates and season length permitted the State of Michigan for this area under final Federal frameworks. The daily bag limit would be 5, including no more than 1 hooded merganser.

C. Michigan, 1836 Treaty Zone: Same dates and season length permitted the State of Michigan for this area under final Federal frameworks. The daily bag limit would be 5, including no more than 1 hooded merganser.

Geese: Canada Geese

A. Wisconsin and Minnesota 1837, 1842 and 1854 Zones:

Season Dates: Begin September 15 and end December 1, 1995.

Daily Bag Limit: The daily bag limit would be 10, minus the number of blue, snow or white-fronted geese taken.

B. Michigan, 1842 Treaty Zone: Same dates and season length permitted the State of Michigan for this area under final Federal frameworks. The daily bag limit would be 5.

C. Michigan, 1836 Treaty Zone: Same dates, season length and daily bag limit permitted the State of Michigan for this area under final Federal frameworks.

Geese: Blue, Snow and White-fronted Geese

A. Wisconsin and Minnesota 1837, 1842 and 1854 Zones:

Season Dates: Begin September 15 and end December 1, 1995.

Daily Bag Limit: The daily bag limit would be 10, minus the number of Canada geese taken.

B. Michigan, 1842 Treaty Zone: Same dates and season length permitted the State of Michigan for this area under final Federal frameworks. The daily bag limit would be 7, minus the number of Canada geese taken and including no more than 2 white-fronted geese.

C. Michigan, 1836 Treaty Zone: Same dates and season length permitted the State of Michigan for this area under

final Federal frameworks. The daily bag limit would be 7, minus the number of Canada geese taken and including no more than 2 white-fronted geese.

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

A. Wisconsin and Minnesota 1837, 1842 and 1854 Zones:

Season Dates: Begin September 15 and end November 7, 1995.

Daily Bag Limit: The bag limit would be 20, singly or in the aggregate.

B. Michigan, 1842 Treaty Zone: Same dates and season length permitted the State of Michigan for this area under final Federal frameworks. The daily bag limit would be 20, singly or in the aggregate.

C. Michigan, 1836 Treaty Zone: Same dates and season length permitted the State of Michigan for this area under final Federal frameworks. The daily bag limit would be 20, singly or in the aggregate.

Sora and Virginia Rails

A. Wisconsin and Minnesota 1837, 1842 and 1854 Zones:

Season Dates: Begin September 15 and end November 7, 1995.

Daily Bag Limit: The daily bag and possession limit is 25 singly, or in the aggregate.

B. Michigan, 1842 Treaty Zone: Same dates and season length permitted the State of Michigan for this area under final Federal frameworks. The daily bag and possession limit would be 25 singly, or in the aggregate.

C. Michigan, 1836 Treaty Zone: Same dates and season length permitted the State of Michigan for this area under final Federal frameworks. The daily bag and possession limit would be 25, singly or in the aggregate.

Common Snipe

A. Wisconsin and Minnesota 1837, 1842 and 1854 Zones:

Season Dates: Begin September 15 and end November 7, 1995.

Daily Bag Limit: The daily bag limit would be 8.

B. Michigan, 1842 Treaty Zone: Same dates and season length permitted for the State of Michigan for this area under final Federal frameworks. The daily bag limit would be 8.

C. Michigan, 1836 Treaty Zone: Same dates and season length permitted for the State of Michigan for this area under final Federal frameworks. The daily bag limit would be 8.

Woodcock

A. Wisconsin and Minnesota 1837, 1842 and 1854 Zones:

Season Dates: Begin September 5 and end November 30, 1995.

Daily Bag Limit: The daily bag limit would be 5.

B. Michigan, 1842 Treaty Zone: Same dates and season length permitted the State of Michigan for this area under final Federal frameworks. The daily bag limit would be 5.

C. Michigan, 1836 Treaty Zone: Same dates and season length permitted the State of Michigan for this area under final Federal frameworks. The daily bag limit would be 5.

D. General Conditions

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

2. Except as otherwise noted, tribal members will be required to comply with tribal codes that will be no less restrictive than the provisions of Chapter 10 of the Model Off-Reservation Code. Except as modified by the Service rules adopted in response to this proposal, these amended regulations parallel Federal requirements, 50 CFR Part 20 and shooting hour regulations in 50 CFR Part 20, Subpart K, as to hunting methods, transportation, sale, exportation and other conditions generally applicable to migratory bird hunting.

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

4. Possession limits for each species are double the daily bag limit, except on the opening day of the season, when the possession limit equals the daily bag limit, unless otherwise noted above. Possession limits are applicable only to transportation and do not include birds which are cleaned, dressed, and at a member's primary residence. For purposes of enforcing bag and possession limits, all migratory birds in the possession or custody of tribal members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as having been taken on-reservation. In Wisconsin, such tagging will comply with applicable State laws. All migratory birds which fall on reservation lands will not count as part of any off-reservation bag or possession limit.

5. Minnesota and Michigan--Duck Blinds and Decoys. Tribal members hunting in Michigan and Minnesota will comply with tribal codes that contain provisions that parallel applicable State laws concerning duck blinds and/or decoys.

6. *Jicarilla Apache Tribe, Jicarilla Indian Reservation, Dulce, New Mexico*

The Jicarilla Apache Tribe has had special migratory bird hunting regulations for tribal members and nonmembers since the 1986-87 hunting season. The tribe owns all lands on the reservation and has recognized full wildlife management authority. In general, the proposed seasons would be more conservative than allowed by the Federal frameworks of last season and by States in the Pacific Flyway.

In a May 4, 1995, proposal, the tribe proposed a 1995-96 waterfowl season opening date of October 14 and a closing date of November 30, 1995. Daily bag and possession limits would be similar to Pacific Flyway States. The tribe proposes, however, an additional duck in the daily bag limit and a closed season on canvasbacks and geese. Other regulations specific to the Pacific Flyway guidelines for New Mexico would be in effect.

The Jicarilla Game and Fish Department gives an annual estimate of waterfowl harvest, which continues to be relatively small--comparatively speaking. In the 1994-95 season, estimated duck harvest was 1,212, down from 1,323 in 1993-94. The species composition included mallards (27 percent), gadwall (32 percent), teal (20 percent), and wigeon (10 percent). Northern pintail comprised only 2 percent of the total harvest.

The proposed regulations are essentially the same as were established last year and the tribe anticipates the maximum 1995-96 waterfowl harvest would be around 2,100 ducks. However, the tribe's requested shorter season, compared to past years, and the unlikelihood that every hunter would harvest the maximum daily bag limit, probably inflate the tribe's estimated harvest.

In large part, the Service agrees with the tribe's requested 1995-96 hunting seasons. The Service is concerned, however, with the tribe's request to increase the daily bag limit of ducks for nontribal members over that allowed by Federal frameworks for States in the Pacific Flyway. Generally, greater harvest accommodations provided to tribal members stem from treaty rights, which are not held by nontribal members. While the Service commends the tribe for its generally conservative regulation-setting policy, a discrepancy of this nature would not be in the best long-term interest of the well-established cooperative tribal regulation-development process conducted between the Jicarilla Apache Tribe and the Service since 1986. Therefore, the Service proposes to approve the tribe's request for the 1995-96 hunting season if the tribe agrees to

adopt the same nontribal daily bag limit for ducks as that allowed Pacific Flyway States by the Federal frameworks.

7. Kalispel Tribe, Kalispel Reservation, Usk, Washington

The Kalispel Reservation was established by Executive Order in 1914, and currently comprises approximately 4600 acres. All Reservation land is owned by the tribe and it has full management authority. Currently, the tribe has no recognized rights to hunt, fish or gather off-reservation. The Kalispel Tribe has a fully developed wildlife program with hunting and fishing codes. The tribe enjoys excellent wildlife management relations with the State of Washington, with which it has an operational Memorandum of Understanding with emphasis on fisheries but also for wildlife. The seasons described below pertain to non-tribal hunters that would be allowed to harvest waterfowl on a 176 acre waterfowl management unit. The tribe is utilizing this opportunity to rehabilitate an area that needs protection because of past land use practices, as well as to provide additional waterfowl hunting in the area.

For the 1995-96 migratory bird hunting seasons, the Kalispel Tribe proposed, in a June 27, 1995, letter, duck and goose seasons that begin 2 weeks earlier and end 2 weeks later than those for the State of Washington in the same area. The outside frameworks, however, for ducks and geese would run from October 1, 1995, through January 31, 1996. In that period, non-tribal hunters would be allowed to hunt on weekends, holidays and continuously in the month of December for a total of 66 days. Hunters should obtain further information on days from the Kalispel Tribe. Daily bag and possession limits would be the same as those for the State of Washington, and anticipated harvest is expected to be less than 200 geese and 250 ducks.

All other State and Federal regulations contained in 50 CFR Part 20, such as use of steel shot and possession of a signed migratory bird hunting stamp, will be observed.

The Service proposes to agree to the regulations requested by the Kalispel Tribe.

8. Klamath Tribe, Chiloquin, Oregon

The Klamath Tribe currently has no reservation, per se. However, the Klamath Tribe has reserved hunting, fishing and gathering rights within the former reservation boundary. This area of former reservation, granted to the Klamaths by the Treaty of 1864, is over 1 million acres. Tribal natural resource management authority is derived from the Treaty of 1864, and carried out

cooperatively under the judicially enforced Consent Decree of 1981. The parties to this Consent Decree are the Federal Government, the State of Oregon and the Klamaths. The Klamath Indian Game Commission conducts the setting of seasons. Tribal harvest is monitored by both the tribal biological staff and tribal Regulatory Enforcement Officers through frequent bag checks and hunter interviews.

In a June 2, 1995, letter, the Klamath Tribe proposed season dates that run from October 1, 1995, through January 28, 1996. Daily bag limits would be 9 for ducks and 6 for geese; the possession limits would be twice the daily bag limit. The daily bag and possession limit for coots would be 25. Shooting hours would be one-half hour before sunrise to one-half hour after sunset. Based on the number of birds produced in the Klamath Basin, the tribe expects that this year's duck harvest will be similar to last year's while goose harvest will most likely be above 1994 levels.

The Service proposes to approve the regulations of the Klamath Tribe, provided an agreement can be reached on waterfowl sex and species restrictions.

9. Lower Brule Sioux Tribe, Lower Brule Reservation, Lower Brule, South Dakota

The Lower Brule Sioux Tribe first established tribal migratory bird hunting regulations for the Lower Brule Reservation in 1994. The Lower Brule Reservation is about 214,000 acres in size and is located on and adjacent to the Missouri River, south of Pierre. Land ownership on the reservation is mixed, however, the Lower Brule Tribe currently has full management authority. On-reservation management authority over fish and wildlife was established for the Lower Brule Sioux Tribe via a MOA with the State of South Dakota, dated October 24, 1986. Although the tribe is in litigation with the State of South Dakota regarding jurisdiction, this MOA will continue to be in effect until settled by the Federal District Court. The MOA provides the tribe jurisdiction over fish and wildlife on reservation lands, including deeded and Corps of Engineers taken lands. Recent meetings between the Lower Brule Sioux Tribe, the South Dakota Department of Game, Fish and Parks and the Service have yielded consensus on the implementation of this Agreement for the 1995-96 season. This will allow the public a clear understanding of the Lower Brule Sioux Wildlife Department license requirements and hunting season regulations. The Lower Brule

Reservation waterfowl season is open to tribal and non-tribal hunters.

For the 1995-96 migratory bird hunting season, the Lower Brule Sioux Tribe is proposing a duck season length of 51 days or the maximum number of days in the High Plains Zone if greater. The tribe's proposed season would run from October 7 through November 26, 1995 with any additional days added after November 26. The daily bag limit would be 4 ducks, which could no more than 1 hen mallard, 1 redhead, 1 canvasback, 1 pintail, 1 hooded merganser, or 2 wood ducks, or the maximum daily bag limit in South Dakota.

The tribe's proposed goose season would run from October 7 through December 31, 1995, with a daily bag limit of 2 dark geese, which may not include more than 1 white-fronted geese. The daily bag limit for light geese would be 10. Possession limits would be twice the daily bag limits.

In the 1994-95 season, 234 hunters harvested an estimated 511 geese (0.9 geese per hunter-day) and 396 ducks (0.7 ducks per hunter-day). Duck species composition was primarily mallard (57 percent), gadwall (10 percent), and green-winged teal (10 percent), while goose harvest was 98 percent Canada geese. In addition, harvest at two tribal goose camps totalled 3,105 geese of which over 97 percent were Canada geese.

With the tribe's proposed regulations for 1995-96, duck harvest is anticipated to be approximately 500 birds (an increase of 25 percent), while goose harvest is expected to be similar to last year. All basic Federal regulations contained in 50 CFR Part 20, including the use of steel shot, Migratory Waterfowl Hunting and Conservation Stamp, etc., would be observed by the tribe's proposed regulations. In addition, the Lower Brule Sioux Tribe has an official Conservation Code that was established by Tribal Council Resolution on June 1982 and updated in 1994.

The Service proposes to approve the tribe's proposed regulations set out here for the Lower Brule Reservation.

10. Navajo Nation, Navajo Indian Reservation, Window Rock, Arizona

Since 1985, the Service has established uniform migratory bird hunting regulations for tribal members and nonmembers on the Navajo Indian Reservation (in parts of Arizona, New Mexico, and Utah). The tribe owns almost all lands on the reservation and has full wildlife management authority.

In a June 30, 1995, communication, the tribe proposed special migratory bird hunting regulations on the

reservation for both tribal and nontribal members for the 1995-96 hunting season for ducks (including mergansers), Canada geese, coots, band-tailed pigeons, and mourning doves. For waterfowl, the Navajo Nation requests the earliest opening dates and longest seasons, and the same daily bag and possession limits, permitted Pacific Flyway States under final Federal frameworks, to be announced. For both mourning dove and band-tailed pigeons, the Navajo Nation proposes seasons of September 1 through 30. The Navajo Nation also proposes daily bag limits of 10 and 5 for mourning dove and band-tailed pigeon, respectively. Possession limits would be twice the daily bag limits.

In addition, the tribe proposes to require tribal members and nonmembers to comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face. Special regulations established by the Navajo Nation also apply on the reservation. The Service proposes to approve the Navajo Nation request for these special regulations for the 1995-96 migratory bird hunting seasons.

11. Oneida Tribe of Indians of Wisconsin, Oneida, Wisconsin

Since 1991-92, the Oneida Tribe of Indians of Wisconsin and the Service have cooperated to establish uniform regulations for migratory bird hunting by tribal and non-tribal hunters within the original Oneida Reservation boundaries. Since 1985, the Oneida Tribe's Conservation Department has enforced their own hunting regulations within those original reservation limits. The Oneida Tribe also has a good working relationship with the State of Wisconsin and the majority of the seasons and limits are the same for the tribe and Wisconsin.

In a June 1, 1995, letter to the Service, the tribe proposed special migratory bird hunting regulations. For ducks, geese, mourning dove and woodcock, the Tribe described the "outside dates" (seasons) as being September 1 through November 30, 1995, inclusive.

The Oneida Conservation Department is recommending a season quota of 150 Canada geese. Canada goose bag limits would be 2 tribally tagged geese per day and the tribe will reissue 2 tags as each 2 birds are registered. The possession limit for Canada geese is 4. If the quota is attained before the season concludes,

the Department recommends closing the season early.

For ducks, the tribe proposes a daily bag limit of 5 birds, which could include no more than 3 mallards, 1 hen mallard, 4 wood ducks, 1 canvasback, 1 redhead, 2 pintails, and 1 hooded merganser. The daily bag and possession limits for mourning dove and woodcock would be 10/20 and 6/12, respectively.

Shooting hours are proposed to be one-half hour before sunrise to sunset. Indians and non-Indians hunting on the Oneida Indian Reservation or on lands under the jurisdiction of the Oneida Nation will observe all basic Federal migratory bird hunting regulations found in 50 CFR, except that the tribe proposes to exempt Indian hunters from the purchase of the Migratory Waterfowl Hunting and Conservation Stamp ("Duck Stamp") and the plugging of shotguns to limit capacity to 3 shells.

The Service proposes to approve the request for special migratory bird hunting regulations for the Oneida Tribe of Indians of Wisconsin.

12. Seminole Tribe of Florida, Big Cypress Seminole Reservation, Clewiston, Florida

For the first time, in the 1995-96 migratory bird seasons, the Seminole Tribe of Florida and the Service are cooperating to establish regulations for the 70,000 acre Big Cypress Seminole Reservation. Located northwest of Miami, the Big Cypress Seminole Reservation is totally tribally owned and the tribe enjoys full wildlife management authority.

For the 1995-96 season, the Seminole Tribe is proposing to establish a mourning dove season that would run from September 20, 1995, through January 15, 1996. Hunting would be by both tribal and non-tribal members, however, hunting would be on Sundays only from 1:00 p.m. to sunset. Daily bag limits would be the same as those allowed within the Federal frameworks for the State of Florida. All other Federal regulations contained in 50 CFR part 20 would apply.

The tribe expects the harvest for the Reservation to be 6,000 doves, and will cease hunting after the anticipated harvest has been reached. All entry to the hunt area is controlled by the tribe and all bag limits are checked by the Seminole Department of Law Enforcement.

The Service proposes to approve the Seminole Tribe's requested 1995-96 special migratory bird hunting regulations.

13. Shoshone-Bannock Tribes, Fort Hall Indian Reservation, Fort Hall, Idaho

Almost all of the Fort Hall Indian Reservation is tribally-owned. The tribes claim full wildlife management authority throughout the reservation, but the Idaho Fish and Game Department has disputed tribal jurisdiction, especially for hunting by non-tribal members on reservation lands owned by non-Indians. As a compromise, since 1985, the Service has established the same waterfowl hunting regulations on the reservation and in a surrounding off-reservation State zone. The regulations were requested by the tribes and provided for different season dates than in the remainder of the State. The Service agreed to the season dates because it seemed likely that they would provide additional protection to mallards and pintails; the State of Idaho concurred with the zoning arrangement. The Service has no objection to the State's use of this zone again in the 1995-96 hunting season, provided the duck and goose hunting season dates are the same as on the reservation.

In a June 7, 1995, proposal, for the 1995-96 hunting season, the Shoshone-Bannock Tribes have requested a continuous duck (including mergansers) season with the maximum number of days and the same daily bag and possession limits permitted Pacific Flyway States, under final Federal frameworks to be announced. If 59 days are permitted, as in last year, this could conceivably begin the season on October 20 and conclude it on December 20, 1995. Coot and snipe season dates would be the same as for ducks, with the same daily bag and possession limits permitted Pacific Flyway States. The tribes anticipate harvest to be between 2,000 and 5,000 ducks.

The tribes also requested a continuous goose season with the maximum number of days and the same daily bag and possession limits permitted Idaho under Federal frameworks. The tribes propose that, if the same number of hunting days (93) are permitted as in previous years, the season would have an opening date of October 8, 1995, and a closing date of January 8, 1996. The tribes anticipate harvest to be between 4,000 and 6,000 geese.

Non-tribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20, regarding shooting hours, use of steel shot, and manner of taking. Special regulations established by the Shoshone-Bannock Tribes also apply on the reservation.

The Service notes that the requested regulations are nearly identical to those of last year and proposes to approve them.

14. Squaxin Island Tribe, Squaxin Island Reservation, Shelton, Washington

For the first time, in the 1995-96 migratory bird seasons, the Squaxin Island Tribe of Washington and the Service are cooperating to establish special tribal migratory bird hunting regulations for the Squaxin Island Tribe. These special regulations would apply to tribal members on the Squaxin Island Reservation, located in western Washington near Olympia, and all lands within the traditional hunting grounds of the Squaxin Island Tribe.

For the 1995-96 season, the Squaxin Island Tribe is proposing to establish duck, coot, and snipe seasons that would run from September 15, 1995, through January 15, 1996. The daily bag limit for ducks would be 5 per day and could include only 1 canvasback. The season on harlequin ducks would be closed. For coots and snipe, the daily bag limit would be 25 and 8, respectively.

For geese, the tribe proposes to establish a season that would run from September 15, 1995, through January 15, 1996. The daily bag limit for geese would be 4 per day and could include only 2 snow geese and 1 dusky Canada goose. The season on Aleutian and Cackling Canada geese would be closed.

For brant, the tribe proposes to establish a September 15 to December 31, 1995, season with a daily bag limits of 2 birds per day. The tribe also proposes a September 15 to December 1, 1995, season for band-tailed pigeons with a daily bag limit of 2 per day.

In all cases, the possession limit would be twice the daily bag limit. Shooting hours would be from one-half hour before sunrise to one-half hour after sunset and steel shot would be required for migratory bird hunting. Further, the tribe requires all harvest to be reported to the tribe's Natural Resources Office within 72 hours.

Under the proposed regulations, the tribe estimates the harvest for the Reservation to be as follows: 400 ducks; 2,500 coots; 800 snipe; 400 geese; and 200 brant. Tribal regulations are enforced by the tribe's Law Enforcement Department.

The Service proposes to approve the Squaxin Island Tribe's requested 1995-96 special migratory bird hunting regulations.

15. The Tulalip Tribes of Washington, Tulalip Indian Reservation, Marysville, Washington

The Tulalip Tribes are the successors in interest to the Snohomish, Snoqualmie and Skykomish tribes and other tribes and bands signatory to the Treaty of Point Elliott of January 22, 1855. The Tulalip Tribes' government is located on the Tulalip Indian Reservation at Marysville, Washington.

The tribes or individual tribal members own all of the land on the reservation, and they have full wildlife management authority. All lands within the boundaries of the Tulalip Tribes Reservation are closed to non-member hunting unless opened by Tulalip Tribal regulations.

In a letter dated June 2, 1995, the Tulalip Tribes proposed tribal and non-tribal hunting regulations for the 1995-96 seasons as follows:

For ducks and coot, the proposed season for tribal members would be from September 15, 1995, through February 1, 1996. In the case of non-tribal hunters hunting on the reservation, the season would be the latest closing date and the longest period of time allowed for the State of Washington under final Pacific Flyway Federal frameworks, to be announced. Daily bag and possession limits for Tulalip Tribal members would be 6 and 12 ducks, respectively, except that for blue-winged teal, canvasback, harlequin, pintail, and wood duck, the bag and possession limits would be the same as those established for the State of Washington in accordance with final Federal frameworks. For non-tribal hunters, bag and possession limits would be the same as those permitted the State of Washington under final Federal frameworks, to be announced. It would be necessary for non-tribal hunters to check with the Tulalip tribal authorities for additional conservation measures which may apply for specific species managed within the "region."

For geese, tribal members are proposed to be allowed to hunt from September 15, 1995, through February 1, 1996. Non-tribal hunters would be allowed the longest season and the latest closing date permitted for the State of Washington under final Federal frameworks, to be announced. For tribal hunters, the goose daily bag and possession limits would be 6 and 12, respectively, except that the bag limits for brant, cackling Canada geese and dusky Canada geese would be those established for the Pacific Flyway in accordance with final Federal frameworks, to be announced. For non-tribal hunters hunting on reservation lands, the daily bag and possession limits would be those established in accordance with final Federal frameworks for the State of Washington, to be announced. The Tulalip Tribes also set a maximum annual bag limit on ducks and geese for those tribal members who engage in subsistence hunting.

For snipe, the proposed open seasons follow those regulations for ducks and coot detailed above. For both tribal and

non-tribal hunters, snipe daily bag and possession limits are proposed to be 6 and 12, respectively.

All hunters on Tulalip Tribal lands are required to adhere to shooting hour regulations set at one-half hour before sunrise to sunset, special tribal permit requirements, and a number of other regulations enforced by the tribe. Non-tribal hunters sixteen years of age and older, hunting pursuant to Tulalip Tribes' Ordinance No. 67, must possess a valid Federal Migratory Bird Hunting and Conservation Stamp and a valid State of Washington Migratory Waterfowl Stamp. Both stamps must be validated through signature across the face in ink.

Although the season length requested by the Tulalip Tribes appears to be quite liberal, a rough estimate of past harvests indicates a total take by tribal and non-tribal hunters under 1,000 ducks and 500 geese, annually. The Service intends to concur with the Tulalip Tribes request for the above seasons and requests that the harvest be monitored closely and regulations be reevaluated for future years if harvest becomes too great in relation to population numbers.

16. White Mountain Apache Tribe, Fort Apache Indian Reservation, Whiteriver, Arizona

The White Mountain Apache Tribe owns all reservation lands, and the tribe has recognized full wildlife management authority. The White Mountain Apache Tribe has requested regulations that are essentially unchanged from those agreed to for the 1994-95 hunting year.

The hunting zone for waterfowl continues to be restricted and is described as: the entire length of the Black and Salt Rivers forming the southern boundary of the reservation; the White River, extending from the Canyon Day Stockman Station to the Salt River; and all stock ponds located within Wildlife Management Units 4, 6 and 7. All other waters of the reservation would be closed to waterfowl hunting for the 1995-96 season.

The tribe is proposing a continuous duck, coot, merganser, gallinule and moorhen hunting season, with an opening date of November 11, 1995, and a closing date of January 7, 1996. The tribe proposes a daily duck bag limit of 3, which can have no more than: 1 redhead, 2 canvasbacks, 1 pintail, and 1 hen mallard. The daily bag limit for mergansers is 3. The daily bag limit for coots, gallinules and moorhens would be 25 singly, or in the aggregate.

For geese, the season is proposed to extend from November 11, 1995, through January 7, 1996. Hunting would

be limited to Canada geese, and the daily bag limit is 2.

Season dates for band-tailed pigeons and mourning doves would run concurrently from September 1 through September 10, 1995, in Wildlife Management Units 7 and 10, only. Proposed daily bag limits for band-tailed pigeons and mourning doves would be 3 and 8, respectively.

Possession limits for the above referenced species are twice the daily bag limits. Shooting hours would be from one-half hour before sunrise to sunset. There would be no open season for sandhill cranes, rails and snipe on the White Mountain Apache lands under this proposal. A number of special regulations apply to tribal and non-tribal hunters, which may be obtained from the White Mountain Apache Tribe Game and Fish Department.

The regulations requested by the tribe for the 1995-96 seasons are as conservative as those established last year, and the Service proposes to approve them.

17. Yankton Sioux Tribe, Marty, South Dakota

On June 1, 1995, the Yankton Sioux Tribe submitted a waterfowl hunting proposal for the 1995-96 season. The Yankton Sioux tribal waterfowl hunting season would be open to both tribal members and nonmembers. The waterfowl hunting regulations to be established by this proposal would apply to tribal and trust lands within the external boundaries of the reservation.

For duck (including mergansers) and coots, the Yankton Sioux Tribe proposes season dates of November 4 to December 13, 1995. Daily bag and possession limits would be the same as those adopted by the State of South Dakota.

For geese, the tribe has requested a dark geese (Canada geese, brant, white-fronts) and snow geese hunting season of October 14, 1995, to January 7, 1996. Daily bag and possession limits would be the same as those adopted by the State of South Dakota.

All hunters would have to be in possession of a valid tribal license while hunting on Yankton Sioux trust lands. Tribal and nontribal hunters would have to comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20, regarding shooting hours and the manner of taking. Special regulations established by the Yankton Sioux Tribe also apply on the reservation.

During the 1994-95 hunting season, the tribe reports that slightly more than 100 geese were harvested by both tribal

and non-tribal members. The tribe further anticipates that the 1995-96 waterfowl harvest should be less than 150 geese and 50 ducks.

The Service proposes to concur with the Yankton Sioux proposal for the 1995-96 hunting season, and requests that the tribe continue to monitor and report the harvest of Canada, snow and white-fronted geese.

Public Comment

The Director intends that finally adopted rules be as responsive as possible to all concerned interests. Therefore, she desires to obtain the comments and suggestions on these proposals from the public, other concerned governmental agencies, tribal and other Indian organizations, and private interests, and she will take into consideration any reasonable comments received. Such comments, and any additional information received, may lead the Director to adopt final regulations differing from these proposals.

No public comment has been provided to the Service for the Notice of Intent published on March 24, 1995, to promulgate a rulemaking with regard to regulations for migratory bird hunting by American Indian tribal members.

Comment Procedure

Special circumstances in the establishment of these regulations limit the amount of time that the Service can allow for public comment. Two considerations compress the time in which this rulemaking process must operate: the need, on the one hand, for tribes and the Service to establish final regulations before September 1, 1995, and on the other hand, the unavailability until late July of specific reliable data for each year's status of waterfowl. Therefore, the Service believes that to allow a comment period past September 1, 1995 is impracticable in terms of publishing timely rulemakings and contrary to the public interest.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may participate by submitting written comments to the Director, (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, 634 ARLSQ, 1849 C St., NW, Washington, D.C. 20240. Comments received will be available for public inspection during normal business hours at the Service's Office of Migratory Bird Management in Room 634, Arlington Square Building,

4401 N. Fairfax Drive, Arlington, VA 22203. All relevant comments on the proposals received no later than September 1, 1995 will be considered.

NEPA Consideration

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)), the "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES-75-74)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975, (40 FR 25241). A supplement to the final environmental statement, the "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (SEIS 88-14)" was filed on June 9, 1988, and notice of availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582), and June 17, 1988 (53 FR 22727). In addition, an August 1985 environmental assessment titled "Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands" is available from the Service.

Endangered Species Act Considerations

Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531-1543; 87 Stat. 884), provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" (and) shall "insure that any action authorized, funded or carried out ... is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat..." Consequently, the Service has initiated Section 7 consultation under the Endangered Species Act for the proposed migratory bird hunting seasons including those which occur on Federally recognized Indian reservations and ceded lands. When completed, the Service's biological opinion resulting from its consultation under Section 7 of the Endangered Species Act may be inspected by the public in, and/or are available to the public from, the Division of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Copies of these documents are available from the Service at the

address indicated under the caption **ADDRESSES**.

Regulatory Flexibility Act, Executive Order 12866, and the Paperwork Reduction Act

In the March 24 **Federal Register**, the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) and Executive Order 12866. These included preparing an Analysis of Regulatory Effects, preparing a Small Entity Flexibility Analysis under the Regulatory Flexibility Act, and publishing a summary of the latter. This information is included in the present document by reference. This action was not subject to review by the Office of Management and Budget under Executive Order 12866. This rule does not contain any information collection requiring approval by the Office of Management and Budget under 44 U.S.C. 3504.

Authorship

The primary authors of this proposed rulemaking are Ron W. Kokel and Dr. Keith A. Morehouse, Office of Migratory Bird Management.

List of Subjects in 50 CFR Part 20

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

Based on the results of soon to be completed migratory game bird studies, and having due consideration for any data or views submitted by interested parties, this proposed rulemaking may result in the adoption of special hunting regulations for migratory birds beginning as early as September 1, 1995, on certain Federal Indian reservations, off-reservation trust lands, and ceded lands. Taking into account both reserved hunting rights and the degree to which tribes have full wildlife management authority, the regulations only for tribal or for both tribal and nontribal members may differ from those established by States in which the reservations, off-reservation trust lands, and ceded lands are located. The regulations will specify open seasons, shooting hours, and bag and possession limits for rails, coot, gallinules (including moorhen), woodcock, common snipe, band-tailed pigeons, mourning doves, white-winged doves, ducks (including mergansers) and geese.

The rules that eventually will be promulgated for the 1995-96 hunting season are authorized under the Migratory Bird Treaty Act (MBTA) of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703

et seq.), as amended. The MBTA authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

Dated: August 10, 1995.

Robert P. Davison,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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