

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018-AD08

Migratory Bird Harvest Information Program

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) and State wildlife agencies (States) are cooperatively establishing a national Migratory Bird Harvest Information Program (Program) in which licensed migratory game bird hunters will be required to participate by supplying their names, addresses, and other necessary information to the hunting licensing authority of the State in which they hunt. The purpose of the Program is to improve the quality and extent of information about harvests of migratory game birds in order to better manage these populations. Hunters will be required to have evidence of current participation in the Program on their person while hunting migratory game birds in participating States. Hunters' names and addresses will be used to provide a sample frame for voluntary hunter surveys to improve harvest estimates for all migratory game birds. States will gather migratory bird hunters' names and addresses and the Service will conduct the harvest surveys.

EFFECTIVE DATE: This rule takes effect on September 1, 1995.

FOR FURTHER INFORMATION CONTACT: Larry J. Hindman, Migratory Bird Harvest Information Program Coordinator, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, (410) 827-8612, FAX (410) 827-5186.

SUPPLEMENTARY INFORMATION: The purpose of this final rule is to facilitate the collection of needed information about the harvest of migratory game birds. A proposed rule was published in the March 15, 1995, **Federal Register** (60 FR 14194). This final rule revises the migratory bird hunting regulations to require licensed hunters, as a condition for hunting migratory game birds, to annually provide their names, addresses, and other necessary information to the licensing authority of the State in which they hunt. This information will provide a nationwide sampling frame of migratory bird hunters, from which representative samples of hunters will be selected and

asked to participate in voluntary harvest surveys that the Service will conduct annually.

The Service and States are currently implementing this Program over a 5-year period, starting with the 1994-95 hunting season. During this implementation, the requirement to participate in the Program will not apply on Federal Indian Reservations or to tribal members hunting on ceded lands. The participating States will provide the sample frame by annually collecting the name, address, and date of birth of each licensed migratory bird hunter in the State. To reduce survey costs and to identify hunters who hunt less commonly-hunted species, States will also request that each migratory bird hunter provide a brief summary of his or her migratory bird hunting activity for the previous year. States will send this information to the Service, and the Service will sample hunters and conduct national hunter activity and harvest surveys.

A notice of intent to establish the Program was published in the June 24, 1991, **Federal Register** (56 FR 28812). A final rule that established the Program and initiated a 2-year pilot phase in three volunteer States (California, Missouri, and South Dakota) was published in the March 19, 1993, **Federal Register** (58 FR 15093). The pilot phase was completed following the 1993-94 migratory bird hunting seasons in California, Missouri, and South Dakota.

A State/Federal technical group was formed to evaluate Program requirements, the different approaches used by the pilot States, and the Service's survey procedures during the pilot phase. Changes incorporated into the Program as a result of the technical group's evaluation were specified in a final rule, published in the October 21, 1994, **Federal Register** (59 FR 53334), that initiated the implementation phase of the Program.

Currently, all licensed hunters who hunt migratory game birds in participating States are required to have a Program validation, indicating that they have identified themselves as migratory bird hunters and have provided the required information to the State wildlife agency. Hunters must provide the required information to each State in which they hunt migratory birds. Validations are printed on or attached to the annual State hunting license or on a State-specific supplementary permit.

The State/Federal technical group continues to evaluate the Program to determine the adequacy and timeliness of the sample frame and the time

burden, cost, and other impacts on hunters, State license agents, State wildlife agencies, and the Service. Emphasis is currently on the time requirement for the sample frame and on alternative survey methods for special groups of unlicensed hunters (e.g., junior and senior hunters).

The names, addresses, and other information for an adequate sample of hunters are needed in time for hunting record forms to be distributed to selected hunters before they forget the details of their hunts. The Service's survey design previously called for participating States to send the required information to the Service within 5 business days of issuance of the hunting license or permit (10 business days if the information is provided in electronic form). Several States expressed concern that they could not meet this time requirement. The Service conducted an experiment during the 1994-95 hunting season to determine whether extending the time requirement would adversely affect the accuracy of survey results. Based on the results of that experiment, participating States are now required to forward the hunter information to the Service within 30 calendar days from the date of license or permit issuance.

Hunters who are exempted from State permit and licensing requirements are not required to participate in the Program. This would include several categories of hunters such as junior hunters, senior hunters, landowners, and other special categories. These exemptions vary on a State-by-State basis. Excluding these hunters from the Program also excludes their harvest from the estimates. While the importance of their harvest depends on how many hunters are excluded and on the number of birds they harvest, excluding these hunters may result in serious bias. As a result, States may require exempted hunters to participate (e.g., Maryland required exempted hunters to obtain permits upon entry to the Program in 1994), and States are encouraged to provide any available information about these groups (for example, junior hunter safety course participant lists, names and addresses of landowners, State harvest estimates for exempted categories) to the Service for use in improving harvest estimates. The methodology used may vary by State and will be incorporated into individual Memoranda of Agreement with the Service.

To protect hunters' privacy, it is the policy of the Service to use the names and addresses only for conducting hunter surveys. Names and addresses will not be used for any other purpose.

All records of hunters' names and addresses will be deleted after the surveys, and no permanent record of names and addresses will be maintained by the Service. State uses of these names and addresses will be governed by State laws.

The provisions of 5 U.S.C. 553(d)(3) provide for a minimum of 30 days for a rule to become effective unless an agency, for good cause, has reason to make it sooner. The Service and the States are currently implementing this Program over a five-year period at the request of the International Association of Fish and Wildlife Agencies. This rule will add Michigan, Oklahoma and Oregon to the list of States already participating. Migratory game bird hunting seasons can begin as early as September 1, 1995. Since migratory game bird hunters would be required to have evidence of current participation in the Program on their person while hunting migratory game birds in these States, the Service finds good cause to make this rule effective on September 1, 1995.

Review of Comments and the Service's Response

Comments on the proposed rule were received from five States. None of the comments questioned the need for the Program or for improved migratory bird harvest estimates. Two States requested a delay in their implementation date. Five States, Arkansas, Louisiana, Michigan, Texas, and Wisconsin, expressed support for the Program.

1. Time Allowed for Providing Names and Addresses to the Service

Comments: Arkansas expressed support for the modification in the time allowed for providing names, addresses, and other information to the Service from within 10 business days to within 30 calendar days of issuance of the State hunting license or permit. Louisiana indicated that the 30-day time period would not substantially improve their ability to provide the Service the names, addresses, dates of birth, and answers to screening questions from licensed migratory bird hunters, and encouraged the Service to consider extending the time frame (to more than 30 days) for providing the required information. They also requested the Service to evaluate the impact of using the names and addresses of hunters from previous hunting seasons as the Program sampling frame.

Service Response: Previously, participating States were to send the required information to the Service within five business days of issuance of the hunting license or permit (10

business days if the information is provided in electronic form). Results of the Service's experiment during the 1994-95 hunting season, however, suggest that a longer reporting period (i.e., 30 days) may not adversely affect the accuracy of survey results. Therefore, the Service will allow States to provide the required information within 30 calendar days of issuance of hunting license or permit. The Service will continue to evaluate the impacts of reporting time on survey results.

2. Require Harvest Estimates from License-Exempt Hunters

Comments: In response to the request for information on unlicensed hunters, only Minnesota and Louisiana responded. Minnesota has identified about 20,000 license-exempt hunters (e.g., hunters 12-15 years old) that have taken hunter safety training. They indicated, however, that they would not be able to include them in the Program sampling frame until 1998.

Furthermore, they commented that they are unable to obtain the names and addresses of certain categories of license exempt-hunters (e.g., military personnel on leave, resident landowners, and junior hunters). These categories include a few hundred migratory bird hunters and their migratory bird harvest would be "negligible." Louisiana commented that while they do not support requiring unlicensed hunters to participate in the Program, they would be able to identify a portion of their licensed-exempt hunters using their hunter education program registration. Louisiana also commented that as a data base of migratory bird hunters in the State is developed, it is likely that the required information from senior hunters (e.g., 60 years of age or older) could be maintained using date-of-birth records.

Service Response: The Service does not require States to provide information on license-exempt migratory bird hunters. However, excluding those hunters who are not required to obtain an annual State hunting license from the Program also excludes their harvest from the estimates. As the Service has indicated, the importance of their harvest depends on how many hunters are excluded and on the number of birds taken, and further, that excluding these hunters may result in serious bias. The Service recognizes that these exemptions vary by State and proposes to work with each State as it enters the Program to develop mutually acceptable methods to determine the harvest of migratory birds by these hunter categories.

3. Implementation Phase—Schedule of State Participation

Comment: Texas requested to delay implementation from 1996 to 1997. Texas will implement a major license system change in 1996 and would like to implement the Harvest Information Program after that change has been completed. Likewise, Louisiana requested a delay from 1996 to 1998, also due to anticipated changes in their licensing system.

Service Response: The Service has consistently encouraged States to advance in the implementation schedule, while discouraging any delays. However, the proposed delays by Texas and Louisiana are premised on improved license procedures that will better accommodate the Program. Therefore, a one-year delay will be granted for Texas enabling them to implement the Program in 1997 and a two-year delay will be granted for Louisiana enabling them to enter the Program in 1998.

NEPA Consideration

The establishment of this Harvest Information Program and options have been considered in the "Environmental Assessment: Migratory Bird Harvest Information Program." Copies of this document are available from the Service at the address indicated under the caption **FOR FURTHER INFORMATION CONTACT**.

Regulatory Flexibility Act and the Paperwork Reduction Act

On June 14, 1991, the Assistant Secretary for Fish and Wildlife and Parks concluded that the rule would not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act 5 USC 601 *et seq.* This rule will eventually affect about 3-5 million migratory game bird hunters when it is fully implemented. It will require licensed migratory game bird hunters to identify themselves and to supply their names, addresses, and birth dates to the State licensing authority. Additional information will be requested in order that they can be efficiently sampled for a voluntary national harvest survey. Hunters will be required to have evidence of current participation in the Program on their person while hunting migratory game birds.

The States may require a fee to cover their administrative costs. State hunting-license vendors range from small to very large entities and this rule should not economically impact any vendors/agents. Only migratory game bird hunters (individuals) would be

required to provide this information, so this rule should not adversely affect small entities.

The collection of information contained in this rule has been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018-0015. The information is required from licensed hunters to obtain the benefit of hunting migratory game birds.

The public reporting burden for this collection of information is estimated to average 0.015 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding the burden estimate or any other aspect of these reporting requirements should be directed to the Service Information Collection Clearance Officer, ms 224 ARLSQ, U.S. Fish and Wildlife Service, 1849 C Street NW., Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project 1018-0015, Washington, DC 20503.

Executive Order 12866

This rule was not subject to Office of Management and Budget review under Executive Order 12866.

Executive Order 12612—Federalism

The regulations do not have significant Federalism effects as provided in Executive Order 12612. Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. State harvest surveys presently cannot provide adequate national estimates of migratory game bird harvests for the following reasons: (1) some States do not now conduct annual harvest surveys or maintain accessible lists of hunter names and addresses; (2) comparable information is not available from all States because States have different survey procedures; (3) currently, many State license lists are not available in

time to permit distribution of hunter records early in the hunting season; and (4) budget constraints often prevent States from conducting harvest surveys during certain years or could cause some States to eliminate them completely.

These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State Governments, or intrude on State policy or administration. Therefore, these regulations do not have significant Federalism effects and do not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. In fact, the Service would cooperate with States in providing special surveys to meet mutual management needs, and increased cooperation between Federal and State agencies would reduce duplication of survey efforts.

Executive Order 12360—Taking of Individual Property Rights

Executive Order 12360 discussed guidelines for the taking of individual property rights. These rules, authorized by the Migratory Bird Treaty Act, do not affect any constitutionally-protected property rights. These rules would not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property.

Authorship

The primary author of this rule is Paul I. Padding, Office of Migratory Bird Management.

List of Subjects in 50 CFR Part 20

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

For the reasons set out in the preamble, 50 CFR part 20 is amended as set forth below.

PART 20—MIGRATORY BIRD HUNTING

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

Authority: The Migratory Bird Treaty Act (July 3, 1918), as amended (16 U.S.C. 703–711); the Fish and Wildlife Improvement Act of 1978 (November 8, 1978), as amended, (16 U.S.C. 712); and the Fish and Wildlife Act of 1956 (August 8, 1956), as amended, (16 U.S.C. 742 a-d and e-j).

2. Section 20.20 is amended by revising paragraphs (b) and (e) to read as follows:

§ 20.20 Migratory Bird Harvest Information Program.

* * * * *

(b) *General provisions.* Each person hunting migratory game birds in California, Maryland, Michigan, Missouri, Oklahoma, Oregon, and South Dakota shall have identified himself or herself as a migratory bird hunter and given his or her name, address, and date of birth to the respective State hunting licensing authority and shall have on his or her person evidence, provided by that State, of compliance with this requirement.

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(e) *Implementation schedule.* The Service is continuing to implement this Program over the next 3-year period from 1996-1998. States must participate on or before the following schedule:

1996—Alabama, Georgia, Idaho, Illinois, Maine, Minnesota, Mississippi, North Carolina, Pennsylvania, Tennessee, and Vermont.

1997—Arizona, Arkansas, Colorado, Florida, Kentucky, Ohio, South Carolina, Texas, Virginia, and Wisconsin.

1998—Alaska, Connecticut, Delaware, Indiana, Iowa, Kansas, Louisiana, Massachusetts, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Rhode Island, Utah, Washington, West Virginia, and Wyoming.

Dated: August 10, 1995.

Robert P. Davison,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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