



# Federal Register

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**Friday,  
August 31, 2001**

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**Part VII**

## **Department of the Interior**

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**Fish and Wildlife Service**

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**50 CFR Part 20**

**Migratory Bird Hunting Regulations on  
Certain Federal Indian Reservations and  
Ceded Lands for the 2001–02 Early  
Season; Final Rule**

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 20

RIN 1018-AH-79

**Migratory Bird Hunting; Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2001-02 Early Season**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

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

**DATES:** This rule takes effect on September 1, 2001.

**ADDRESSES:** You may inspect comments received, if any, on the proposed special hunting regulations and tribal proposals during normal business hours in Room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. You should send communications regarding the documents to: Director (FWS/MBM), U.S. Fish and Wildlife Service, ms 634-ARLSQ, 1849 C Street, NW., Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703/358-1714).

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

In the August 14, 2001, **Federal Register** (66 FR 42712), we proposed special migratory bird hunting regulations for the 2001-02 hunting season for certain Indian tribes, under

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

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

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

(3) off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits.

In all cases, the regulations established under the guidelines must be consistent with the March 10-September 1 closed season mandated by the 1916 Migratory Bird Treaty with Canada.

In the April 30, 2001, **Federal Register** (66 FR 21298), we requested that tribes desiring special hunting regulations in the 2001-02 hunting season submit a proposal including details on:

(a) Harvest anticipated under the requested regulations;

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

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

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

No action is required if a tribe wishes to observe the hunting regulations established by the State(s) in which an Indian reservation is located. We have successfully used the guidelines since the 1985-86 hunting season. We finalized the guidelines beginning with the 1988-89 hunting season (August 18, 1988, **Federal Register** [53 FR 31612]).

Although the proposed rule included generalized regulations for both early- and late-season hunting, this rulemaking addresses only the early-season proposals. Late-season hunting will be addressed in late-September. As a general rule, early seasons begin during September each year and have a primary emphasis on such species as

mourning and white-winged dove. Late seasons begin about October 1 or later each year and have a primary emphasis on waterfowl.

**Status of Populations**

In the July 24, 2001 **Federal Register**, we reviewed the status for various populations for which early seasons were proposed. This information included brief summaries of the May Breeding Waterfowl and Habitat Survey and population status reports for blue-wing teal, Canada goose populations hunted in September seasons, sea ducks, sandhill cranes, woodcock, mourning doves, white-winged doves, white-tipped doves, and band-tailed pigeons. As a result of these status reports, we have responded by proposing Flyway frameworks that are essentially the same as those of last season for the 2001-02 waterfowl hunting season (July 24, 2001, **Federal Register**, 66 FR 38494). The tribal seasons established below are commensurate with the population status.

**Comments and Issues Concerning Tribal Proposals**

For the 2001-02 migratory bird hunting season, we proposed regulations for 29 tribes and/or Indian groups that followed the 1985 guidelines and were considered appropriate for final rulemaking. Some of the proposals submitted by the tribes had both early- and late-season elements. However, as noted earlier, only those with early-season proposals are included in this final rulemaking; 21 tribes have proposals with early seasons. Comments and revised proposals received to date are addressed in the following section. The comment period for the proposed rule, published on August 14, 2001, closed on August 24, 2001. Because of the necessary brief comment period, we will respond to any comments received on the proposed rule and/or these late-season regulations not responded to herein in the September late-season final rule.

We received one comment regarding the notice of intent published on April 30, 2001, which announced rulemaking on regulations for migratory bird hunting by American Indian tribal members. The Michigan Department of Natural Resources commented on the establishment of tribal regulations on 1836 Treaty areas. Michigan believed it was premature of the Service to establish waterfowl regulations in areas covered by the 1835 Treaty until such time as the issue of 1836 Treaty hunting rights are affirmed by a court of competent jurisdiction.

### Service Response

Our position is that the Federal Government does recognize the Treaty of 1836 as reserving to the affected tribes or bands hunting rights in the ceded territory. Further, the Federal courts have already confirmed the retention of reserved fishing rights in the territory ceded by the Treaty of 1836 in *United States v. Michigan*, 471 F.Supp. 192 (W.D. Mich. 1979), *remanded*, 623 F.2d 448 (6th Cir. 1980), *order modified*, 653 F.2d 277 (6th Cir. 1981), *cert. denied*, 454 U.S. 1124 (1981). That case and cases dealing with other treaty cessions, such as *Lac Courte Oreilles v. Wisconsin* (i.e., both the 1837 and the 1842 Treaties), provide persuasive precedent for the belief that hunting as well as fishing rights were reserved by the tribes in the Treaty of 1836. We have not altered our position on this matter.

### 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). Copies of these documents are available from us at the address indicated under the caption **ADDRESSES**. 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 same address.

### 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, we conducted consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion and may have caused modification of some regulatory measures previously proposed. The final frameworks reflect any modifications. Our biological opinions resulting from its Section 7 consultation are public documents available for public inspection in the Service's Division of Endangered Species and MBM, at the address indicated under the caption **ADDRESSES**.

### Regulatory Flexibility Act

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail and issued a Small Entity Flexibility Analysis (Analysis) in 1998. The Analysis documented the significant beneficial economic effect on a substantial number of small entities. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The Analysis was based on the 1996 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns from which it was estimated that migratory bird hunters would spend between \$429 million and \$1.084 billion at small businesses in 1998. Copies of the Analysis are available upon request.

### Executive Order (E.O.) 12866

Collectively, the rules covering the overall frameworks for migratory bird hunting are economically significant and have been reviewed by the Office of Management and Budget (OMB) under E.O. 12866. This rule is a small portion of the overall migratory bird hunting frameworks and was not individually submitted and reviewed by OMB under E.O. 12866.

### Energy Effects—E.O. 13211

On May 18, 2001, the President issued E.O. 13211 on regulations that significantly affect energy supply, distribution, and use. E.O. 13211

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

### Small Business Regulatory Enforcement Fairness Act

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

### Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995. We utilize the various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, Subpart K, in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of the Migratory Bird Harvest Information Program and assigned clearance number 1018-0015 (expires 9/30/2001). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Sandhill Crane Harvest Questionnaire and assigned control number 1018-0023 (expires 7/31/2003). The information from this survey is used to estimate the magnitude, the geographical and temporal distribution of harvest, and the portion it constitutes of the total population. A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

### Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not "significantly or uniquely" affect small governments, and will not produce a Federal mandate of \$100 million or more in any given year on local or State government or private entities. Therefore, this proposed rule is

not a "significant regulatory action" under the Unfunded Mandates Reform Act.

#### **Civil Justice Reform—Executive Order 12988**

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

#### **Takings Implication Assessment**

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

#### **Federalism Effects**

Due to the migratory nature of certain species of birds, the Federal government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections and employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### **Government-to-Government Relationship with Tribes**

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. Thus, in accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951) Executive Order 13175 and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects on Indian trust resources. However, by virtue of the tribal proposals received in response to the April 30, 2001, request for proposals and the August 14, 2001, proposed rule, we have consulted with all the tribes affected by this rule.

#### **Regulations Promulgation**

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, we intend that the public be given the greatest possible opportunity to comment on the regulations. Thus, when the preliminary proposed rulemaking was published, we established what we believed were the longest periods possible for public comment. In doing this, we recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the tribes would have insufficient time to communicate these seasons to their member and non-tribal hunters and to establish and publicize the necessary regulations and procedures to implement their decisions.

We therefore find that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these regulations will, therefore, take effect immediately upon publication.

Therefore, under the authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703 *et seq.*), we prescribe final hunting regulations for certain tribes on Federal Indian reservations (including off-reservation trust lands), and ceded lands. The regulations specify the species to be hunted and establish season dates, bag and possession limits, season length, and shooting hours for migratory game birds.

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

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

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

#### **PART 20—[AMENDED]**

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

**Authority:** 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j, Pub L. 106–108.

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

2. Section 20.110 is revised to read as follows:

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

##### **(a) Colorado River Indian Tribes, Parker, Arizona (Tribal Members and Non-tribal Hunters)**

###### *Doves*

*Season Dates:* Open September 1, close September 15, 2001; then open November 16, 2001, close January 13, 2002.

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

*General Conditions:* A valid Colorado River Indian Reservation hunting permit is required for all persons 14 years and older and must be in possession before taking any wildlife on tribal lands. Any person transporting game birds off the Colorado River Indian Reservation must have a valid transport declaration form. Other tribal regulations apply, and may be obtained at the Fish and Game Office in Parker, Arizona.

##### **(b) Crow Creek Sioux Tribe, Crow Creek Indian Reservation, Fort Thompson, South Dakota (Tribal Members and Non-tribal Hunters)**

###### *Sandhill Cranes*

*Season Dates:* Open September 15, close October 21, 2001.

*Daily Bag Limit:* Three sandhill cranes.

*Permits:* Each person participating in the sandhill crane season must have a valid Federal sandhill crane hunting permit in their possession while hunting.

*General Conditions:* The possession limit is twice the daily bag limit. The waterfowl hunting regulations established by this final rule apply only to tribal and trust lands within the external boundaries of the reservation. Tribal and non-tribal hunters must comply with 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 stamp face. Special regulations established by the Crow Creek Sioux Tribe also apply on the reservation.

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

All seasons in Minnesota, 1854 Treaty Zone:

*Ducks and Mergansers*

*Season Dates:* Open September 15, close December 2, 2001.

*Daily Bag Limit for Ducks:* 18 ducks, including no more than 12 mallards (only 6 of which may be hens), 3 black ducks, 9 scaup, 6 wood ducks; 6 redheads, 3 pintails and 3 canvasbacks.

*Daily Bag Limit for Mergansers:* 15 mergansers, including no more than 3 hooded merganser.

*Geese (All species)*

*Season Dates:* Open September 1, close December 17, 2001.

*Daily Bag Limit:* 12 geese.

*Coots and Common Moorhens (Gallinule)*

*Season Dates:* Open September 15, close December 2, 2001.

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

*Sora and Virginia Rails*

*Season Dates:* Open September 1, close December 2, 2001.

*Daily Bag Limit:* 25 sora and Virginia rails, singly or in the aggregate. There is no possession limit.

*Common Snipe and Woodcock*

*Season Dates:* Open September 1, close December 2, 2001.

*Daily Bag Limit:* Eight snipe and three woodcock.

*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 in 50 CFR part 20 as to hunting methods,

transportation, sale, exportation and other conditions generally applicable to migratory bird hunting.

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

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

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

All seasons in Michigan, 1836 Treaty Zone:

*Ducks*

*Season Dates:* Open September 15, 2001, close January 15, 2002.

*Daily Bag Limit:* 12 ducks, which may include no more than 2 pintail, 2 canvasback, 3 black ducks, 1 hooded merganser, 3 wood ducks, 3 redheads, and 6 mallards (only 3 of which may be hens).

*Canada Geese*

*Season Dates:* Open September 1, close November 30, 2001, and open January 1, 2002, close February 8, 2002.

*Daily Bag Limit:* Five geese.

*Other Geese (white-fronted geese, snow geese, and brant)*

*Season Dates:* Open September 20, close November 30, 2001.

*Daily Bag Limit:* Five geese.

*Sora Rails, Common Snipe, and Woodcock*

*Season Dates:* Open September 1, close November 14, 2001.

*Daily Bag Limit:* Five rails, five snipe, and five woodcock.

*Mourning Doves*

*Season Dates:* Open September 1, close November 14, 2001.

*Daily Bag Limit:* Ten mourning doves.

*General Conditions*

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

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

*Ducks*

A. Wisconsin and Minnesota 1837 and 1842 Zones:

*Season Dates:* Begin September 15 and end December 2, 2001.

*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 1836 and 1842 Treaty Zones:

*Season Dates:* Begin September 15 and end December 2, 2001.

*Daily Bag Limit:* 10 ducks, including no more than 5 mallards (only 2 of which may be hens), 2 black ducks, 2 redheads, 2 pintails, and 1 canvasback.

*Mergansers:* All Ceded Areas.

*Season Dates:* Begin September 15 and end December 2, 2001.

*Daily Bag Limit:* Five mergansers.

*Geese:* All Ceded Areas.

*Season Dates:* Begin September 1 and end December 2, 2001. In addition, any portion of the ceded territory which is open to State-licensed hunters for goose hunting after December 1 shall also be open concurrently for tribal members.

*Daily Bag Limit:* 10 geese in aggregate.

*Other Migratory Birds: All Ceded Areas except where noted below*

A. Coots and Common Moorhens (Common Gallinules)

*Season Dates:* Begin September 15 and end December 2, 2001.

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

B. Sora and Virginia Rails

*Season Dates:* Begin September 15 and end December 2, 2001.

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

*Possession Limit:* 25.

C. Common Snipe

*Season Dates:* Begin September 15 and end December 2, 2001.

*Daily Bag Limit:* Eight common snipe.

D. Woodcock

*Season Dates:* Begin September 4 and end December 2, 2001.

*Daily Bag Limit:* Five woodcock.

E. Mourning Doves: 1837 and 1842 Ceded Territories

*Season Dates:* Begin September 1 and end October 30, 2001.

*Daily Bag Limit:* Fifteen mourning doves.

*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 model ceded territory conservation codes approved by Federal courts in the *Lac Courte Oreilles v. State of Wisconsin* (Voigt) and *Mille Lacs Band v. State of Minnesota* cases. The respective Chapter 10 of these Model Codes regulate territory migratory bird hunting. Except as modified by the Service rules adopted in response to this proposal, these amended regulations parallel Federal requirements in 50 CFR Part 20 as to hunting methods, transportation, sale, exportation and other conditions generally applicable to migratory bird hunting.

3. Particular regulations of note include:

A. Nontoxic shot will be required for all waterfowl hunting.

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

C. 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 that 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. All migratory birds that fall on reservation lands will not count as part of any off-reservation bag or possession limit.

D. The tribe proposes that the baiting restrictions included in the respective sections 10.05 (2)(h) of the model ceded territory conservation codes be amended to include language which parallels that in place for non-tribal members as published in 64 FR 29804, June 3, 1999.

E. They also propose to remove the shell limit restrictions included in the respective sections 10.05(2)(b) of the model ceded territory conservation codes.

5. Michigan—Duck Blinds and Decoys. Tribal members hunting in

Michigan will comply with tribal codes that contain provisions that parallel applicable Michigan laws concerning duck blinds and/or decoys.

**(f) Kalispel Tribe, Kalispel Reservation, Usk, Washington (Tribal Members and Nontribal Hunters).***Non-tribal Hunters on Reservation**Geese*

*Season Dates:* Open September 1, 2001, close September 15, 2001.

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

*Tribal Hunters Within Kalispel Ceded Lands**Ducks*

*Season Dates:* Open September 15, 2001, close January 31, 2002.

*Daily Bag Limit:* 7 ducks, including no more than 2 female mallards, 1 pintail, 4 scaup, 2 redheads. The season on canvasbacks is closed, except one canvasback may be included in the daily bag for 38 consecutive days within the Pacific Flyway duck season.

*Geese*

*Season Dates:* Open September 1, close January 31, 2002.

*Daily Bag Limit:* 3 light geese and 4 dark geese. The daily bag limit is 2 brant and is in addition to dark goose limits.

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

**(g) Leech Lake Band of Ojibwe, Cass Lake, Minnesota (Tribal Members Only)***Ducks*

*Season Dates:* Open September 15, close December 31, 2001.

*Daily Bag Limits:* 10 birds.

*Geese*

*Season Dates:* Open September 1, close December 31, 2001.

*Daily Bag Limits:* 10 geese.

*General*

Possession limits are twice the daily bag limits. Shooting hours are one-half hour before sunrise to one-half hour after sunset. Non-toxic shot is required. Use of live decoys, bait, and commercial use of migratory birds are prohibited.

**(h) Little River Band of Ottawa Indians, Manistee, Michigan (Tribal Members Only)***Canada Geese*

*Season Dates:* Open September 1, close September 15, 2001 early season, then open September 16, close December 2, 2001 regular season, and

open February 2, close February 17, 2002 late season.

*Daily Bag Limits:* Five geese in the early and late seasons and two geese in the regular portion of the season.

*White-fronted Geese, Snow Geese, Blue Geese, and Brant*

*Season Dates:* Open September 16, close December 2, 2001.

*Daily Bag and Limits:* 10 geese which could include no more than 2 white-fronted geese and 2 two brant.

*Rails, Snipe, and Woodcock*

*Season Dates:* Open September 15, close November 14, 2001.

*Daily Bag Limit:* 25 rails, 8 snipe, and 3 woodcock.

*General*

A. All tribal members will be required to obtain a valid tribal resource card and 2001–02 hunting license.

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

C. Particular regulations of note include:

(1) Nontoxic shot will be required for all waterfowl hunting by tribal members.

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

(3) 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.

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

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

*Season Dates:* Open September 20, 2001, close January 20, 2002.

*Daily Bag Limits:* 10 ducks, including no more than 5 mallards (only 2 of which may be hens), 2 black ducks, 2 redheads, 2 wood ducks, 1 pintail, 1 hooded merganser, and 1 canvasback.

*Canada Geese*

*Season Dates:* Open September 1, 2001, close January 20, 2002.

*Daily Bag and Possession Limits:* Five geese.

*Sora Rails, Snipe, and Woodcock*

*Season Dates:* Open September 1, close November 14, 2001.

*Daily Bag Limit:* Five rails, five snipe, and five woodcock.

*General*

Possession limits are twice the daily bag limits.

**(j) Makah Indian Tribe, Neah Bay, Washington (Tribal Members)***Ducks and Coots*

*Season Dates:* Open September 15, 2001 close January 13, 2002.

*Daily Bag Limit:* Seven ducks including no more than one canvasback and one Redhead.

*Geese*

*Season Dates:* Open September 8, 2001 close January 13, 2002.

*Daily Bag Limit:* Four.

*General*

All other Federal regulations contained in 50 CFR part 20 would apply. The following restrictions are also proposed by the tribe: (1) As per Makah Ordinance 44, only shotguns may be used to hunt any species of waterfowl. Additionally, shotguns must not be discharged within 0.25 miles of an occupied area; (2) Hunters must be eligible, enrolled Makah tribal members and must carry their Indian Treaty Fishing and Hunting Identification Card while hunting. No tags or permits are required to hunt waterfowl; (3) The Cape Flattery area is open to waterfowl hunting, except in designated wilderness areas, or within one mile of Cape Flattery Trail, or in any area that is closed to hunting by another ordinance or regulation; (4) The use of live decoys and/or baiting to pursue any species of waterfowl is prohibited; (5) Steel or bismuth shot only for waterfowl is allowed, the use of lead shot is prohibited; (6) The use of dogs is permitted to hunt waterfowl.

**(k) Navajo Indian Reservation, Window Rock, Arizona (Tribal Members and Nonmembers).***Band-tailed Pigeons*

*Season Dates:* Open September 1, close September 30, 2001.

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

*Mourning Doves*

*Season Dates:* Open September 1, close September 30, 2001.

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

*General Conditions*

Tribal and non-tribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20, regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face. Special regulations established by the Navajo Nation also apply on the reservation.

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

*Season Dates:* Open September 1, close November 16, open November 26, close December 31, 2001.

*Daily Bag and Limits:* Three Canada geese. Hunters will be issued three tribal tags for geese in order to monitor goose harvest. An additional three tags will be issued each time birds are registered. A season quota of 150 birds is adopted. If the quota is reached before the season concludes, the season will be closed at that time.

*Woodcock*

*Season Dates:* Open September 1, close November 12, 2001.

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

*General Conditions*

The tribe proposes shooting hours be one-half hour before sunrise to one-half hour after sunset. Nontribal members hunting on the Reservation or on lands under the jurisdiction of the tribe must comply to all State of Wisconsin regulations. Tribal members and nontribal members hunting on the Reservation or on lands under the jurisdiction of the tribe will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, with the following exceptions: Indian hunters would be exempt from the purchase of the Migratory Waterfowl Hunting and Conservation Stamp (Duck Stamp); and shotgun capacity is not limited to three shells.

**(m) Point No Point Treaty Tribes, Kingston, Washington (Tribal Members Only).***Ducks and Mergansers*

*Season Dates:* Open September 15, 2001, close February 28, 2002.

*Daily Bag and Possession Limits:* Seven ducks, including no more than two hen mallards, two pintails, one canvasback, one harlequin, and two

redheads. Possession limit is twice the daily bag limit.

*Geese*

*Season Dates:* Open September 15, 2001, close February 28, 2002.

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

*Brant*

*Season Dates:* Open September 15, 2001, close February 28, 2002.

*Daily Bag and Possession Limits:* Two brant. Possession limit is twice the daily bag limit.

*Coots*

*Season Dates:* Open September 15, 2001, close February 28, 2002.

*Daily Bag Limits:* 25 coots.

*Mourning Doves*

*Season Dates:* Open September 1, 2001, close January 15, 2002.

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

*Snipe*

*Season Dates:* Open September 15, 2001, close January 15, 2002.

*Daily Bag and Possession Limits:* 10 and 20 snipe, respectively.

*Band-tailed Pigeon*

*Season Dates:* Open September 1, 2001, close January 15, 2002.

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

*General Conditions*

All hunters authorized to hunt migratory birds on the reservation must obtain a tribal hunting permit from the respective tribe. Hunters are also required to adhere to a number of special regulations available at the tribal office.

**(n) Seminole Tribe of Florida, Big Cypress Seminole Reservation, Clewiston, Florida (Tribal Members and Non-tribal Hunters)***Mourning Dove*

*Season Dates:* September 16, 2001, through January 20, 2002.

*Daily Bag Limit:* 12.

*General Conditions*

Hunting is on Sundays only. All other Federal regulations contained in 50 CFR part 20 apply.

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

*Ducks*

*Season Dates:* Open September 15, 2001, close January 15, 2002.

*Daily Bag and Possession Limits:* Five ducks, including no more than one canvasback. The season on harlequin ducks is closed. Possession limit is twice the daily bag limit.

*Geese*

*Season Dates:* Open September 15, 2001, close January 15, 2002.

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

*Brant*

*Season Dates:* Open September 15, close December 31, 2001.

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

*Coots*

*Season Dates:* Open September 15, 2001, close January 15, 2002.

*Daily Bag Limits:* 25 coots.

*Snipe*

*Season Dates:* Open September 15, 2001, and close January 15, 2002.

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

*Band-tailed Pigeons*

*Season Dates:* Open September 1, close December 31, 2001.

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

*General Conditions*

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

**(p) Tulalip Tribes of Washington, Tulalip Indian Reservation, Marysville, Washington (Tribal Members Only)**

*Ducks (Including Coots and Mergansers)*

*Season Dates:* Open September 15, 2001, and close February 1, 2002.

*Daily Bag and Possession Limits:* 6 and 12 ducks, respectively per species

for all species except that bag and possession limits may include no more than 2 female mallards, 1 pintail, 4 scaup, 2 redheads. The season on canvasbacks is closed, except one canvasback may be included in the daily bag for 38 consecutive days within the Pacific Flyway duck season.

*Geese*

*Season Dates:* Open September 15, 2001, and close February 1, 2002.

*Daily Bag and Possession Limits:* 6 and 12 geese, respectively; except that the bag limits may not include more than 2 brant and 1 cackling Canada goose. The tribes also set a maximum annual bag limit on ducks and geese for those tribal members who engage in subsistence hunting of 365 ducks and 365 geese.

*Snipe*

*Season Dates:* Open September 15, 2001, through February 1, 2002.

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

*General Conditions*

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 tribal regulations enforced by the tribe. Nontribal hunters 16 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 by signing across the face of the stamp. Other tribal regulations apply, and may be obtained at the tribal office in Marysville, Washington.

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

*Mourning Dove*

*Season Dates:* Open September 1, end December 31, 2001.

*Daily Bag Limit:* 12 mourning dove.

Tribal members must have the tribal identification and harvest report card on their person to hunt. Tribal members hunting on the Reservation will observe all basic Federal migratory bird hunting regulations found in 50 CFR.

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

*Geese*

*Season Dates:* Open September 15, 2001 and close September 22, 2001, and open November 3, 2001, close February 23, 2002.

*Daily Bag and Possession Limits:* 5 Canada geese during the first period, 3 during the second, and 15 snow geese.

*General Conditions*

Shooting hours are one-half hour before sunrise to sunset. Non-toxic shot is required. Tribal members will observe all basic Federal migratory bird hunting regulations contained in 50 CFR.

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

*Ducks and Mergansers*

*Season Dates:* Open September 15, close December 16, 2001.

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

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

*Geese*

*Season Dates:* Open September 1, close December 16, 2001.

*Daily Bag Limit:* Five geese.

*Coots*

*Season Dates:* Open September 15, close December 16, 2001.

*Daily Bag Limit:* 20 coots.

*Sora and Virginia Rails*

*Season Dates:* Open September 8, close December 31, 2001.

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

*Common Snipe and Woodcock*

*Season Dates:* Open September 8, close December 31, 2001.

*Daily Bag Limit:* 10 snipe and 10 woodcock.

*Mourning Dove*

*Season Dates:* Open September 8, close December 31, 2001.

*Daily Bag Limit:* 25 doves.

*General Conditions*

Shooting hours are one-half hour before sunrise to one-half hour after sunset. Non-toxic shot is required.

**(t) White Mountain Apache Tribe, Fort Apache Indian Reservation, Whiteriver, Arizona (Tribal Members and Nontribal Hunters).**

*Band-tailed Pigeons*

*Season Dates:* Open September 5, close September 19, 2001.

*Daily Bag and Possession Limits:* Three and six pigeons, respectively.

*Mourning Doves*

*Season Dates:* Open September 5, close September 19, 2001.



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

*General Conditions*

All non-tribal hunters hunting band-tailed pigeons and mourning doves on Reservation lands shall have in their possession a valid White Mountain Apache Daily or Yearly Small Game

Permit. In addition to a small game permit, all non-tribal hunters hunting band-tailed pigeons must have in their possession a White Mountain Special Band-tailed Pigeon Permit. Other special regulations established by the White Mountain Apache Tribe apply on the reservation. Tribal and non-tribal hunters will comply with all basic

Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking.

Dated: August 27, 2001.

**Marshall P. Jones, Jr.,**

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

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