

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 impose a cost of \$100 million or more in any given year on local or State government or private entities. Therefore, this 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 proposed rule will not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this proposed rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule 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 otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this proposed rule is a significant regulatory action under Executive Order 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.

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 regarding the hunting of migratory birds, and we 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 Indian 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 process 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.

List of Subjects in 50 CFR Part 20

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

The rules that eventually will be promulgated for the 2003–04 hunting season are authorized under 16 U.S.C. 703–711, 16 U.S.C. 712, and 16 U.S.C. 742a–j.

Dated: March 25, 2003.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

Proposed 2003–04 Migratory Game Bird Hunting Regulations (Preliminary)

Pending current information on populations, harvest, and habitat conditions, and receipt of recommendations from the four Flyway Councils, we may defer specific regulatory proposals. With the exception of modifying the framework opening and closing dates within the regulatory alternatives, we are proposing no change from the final 2002–03 frameworks of August 23 and September 19, 2002 (67 FR 54702 and 59110). Other issues requiring early discussion, action, or the attention of the States or tribes are contained below:

1. Ducks

Categories used to discuss issues related to duck harvest management are: (A) General Harvest Strategy, (B) Regulatory Alternatives, (C) Zones and Split Seasons, and (D) Special Seasons/Species Management. Only those containing substantial recommendations are discussed below.

A. General Harvest Strategy

We propose to continue use of adaptive harvest management (AHM) to help determine appropriate duck-hunting regulations for the 2003–04

season. AHM is a tool that permits sound resource decisions in the face of uncertain regulatory impacts, as well as providing a mechanism for reducing that uncertainty over time. The current AHM protocol is used to evaluate five alternative regulatory levels based on the population status of mallards (special hunting restrictions are enacted for species of special concern, such as canvasbacks, scaup, and pintails). The prescribed regulatory alternative for the Mississippi, Central, and Pacific Flyways is based on the status of mallards and breeding-habitat conditions in central North America (Federal survey strata 1–18, 20–50 and 75–77, and State surveys in Minnesota, Wisconsin, and Michigan). The prescribed regulatory alternative for the Atlantic Flyway is based on the population status of mallards breeding in eastern North America (Federal survey strata 51–54 and 56, and State surveys in New England and the mid-Atlantic region) and, thus, may differ from that in the remainder of the country. We will propose a specific regulatory alternative for each of the Flyways during the 2003–04 season after survey information becomes available in late summer. More information on AHM is located at <http://migratorybirds.fws.gov/mgmt/ahm/ahm-intro.htm>.

B. Regulatory Alternatives

The basic structure of the current regulatory alternatives for AHM was adopted in 1997. The alternatives remained largely unchanged until last year, when we (based on recommendations from the Flyway Councils) extended framework dates in the “moderate” and “liberal” regulatory alternatives by changing the opening date from the Saturday nearest October 1 to the Saturday nearest September 24, and changing the closing date from the Sunday nearest January 20 to the last Sunday in January. These extended dates were made available with no associated penalty in season length or bag limits. At that time we stated our desire to keep these changes in place for 3 years to allow for a reasonable opportunity to monitor the impacts of framework-date extensions on harvest distribution and rates of harvest prior to considering any subsequent use (67 FR 12501 and 67 FR 47224). Therefore, we are proposing to maintain the same regulatory alternatives that were in effect last year (*see* accompanying table for specifics of the proposed regulatory alternatives). Alternatives are specified for each Flyway and are designated as “VERY RES” for the very restrictive, “RES” for the restrictive, “MOD” for the