

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 8, 2003, **Federal Register** (68 FR 47424), we proposed special migratory bird hunting regulations for the 2003–04 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 May 6, 2003, **Federal Register** (68 FR 24324), we requested that tribes desiring special hunting regulations in the 2003–04 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.

Population Status and Harvest

The following paragraphs provide a brief summary of information on the status and harvest of waterfowl excerpted from various reports. For more detailed information on methodologies and results, you may obtain complete copies of the various reports at the address indicated under **ADDRESSES** or from our Web site at <http://migratorybirds.fws.gov>.

Status of Ducks

Federal, provincial, and State agencies conduct surveys each spring to estimate the size of breeding populations and to evaluate the conditions of the habitats. These surveys are conducted using fixed-wing aircraft and encompass principal breeding areas of North America, and cover over 2.0 million square miles. The Traditional survey area is comprised of Alaska, Canada, and the northcentral United States, and includes approximately 1.3 million square miles. The Eastern survey area includes parts of Ontario, Quebec, Labrador, Newfoundland, Nova Scotia, Prince Edward Island, New Brunswick, New York, and Maine, an area of approximately 0.7 million square miles.

Breeding Ground Conditions

Habitat conditions for breeding waterfowl have greatly improved over last year in most of the prairie survey areas. These improved conditions are reflected in the numbers of ponds counted this year. The estimate of May ponds (U.S. Prairies and Prairie and parkland Canada combined) of 5.2 ± 0.2 [SE] million is 91% higher than last year ($P < 0.001$) and 7% above the long-term average ($P = 0.034$). Numbers of ponds in Canada (3.5 ± 0.2 million) and the United States (1.7 ± 0.1 million) were above 2002 estimates (+145% in Canada and +30% in the U.S.; $P < 0.001$). Canadian ponds were similar to the

1974–2002 average ($P = 0.297$), while ponds in the United States were 10% above the 1974–2002 average ($P = 0.037$).

Most prairie areas had warm temperatures and abundant rain this spring. Two areas of dramatic improvement over the past several years were south-central Alberta and southern Saskatchewan, where conditions went from poor to good after much-needed precipitation relieved several years of drought. Other areas in the prairies also improved compared with 2002, but to a lesser extent. However, years of dry conditions in parts of the United States and Canadian prairies, combined with agricultural practices, have reduced the quality and quantity of residual nesting cover and overwater nest sites in many regions. This could potentially limit production for both dabbling and diving ducks, if the warm spring temperatures and good moisture of 2003 do not result in rapid growth of new cover. Eastern South Dakota was the one area of the prairies where wetland habitat conditions were generally worse than last year, mostly due to low soil moisture, little winter precipitation, and no significant rains in April. This region received several inches of rain in May, but most birds had probably flown to other regions with more favorable wetland conditions.

In the northern part of the traditional survey area, habitat was in generally good condition and most areas had normal water levels. The exception was northern Manitoba, where low water levels in small streams and beaver ponds resulted in overall breeding habitat conditions that were only fair. Warm spring temperatures arrived much earlier this year than the exceptionally late spring last year. However, a cold snap in early May may have hurt early nesting species such as mallards and pintails, particularly in the northern Northwest Territories.

This spring, habitat conditions in the eastern survey area ranged from excellent to fair. In the southern and western part of this survey area, water and nesting cover were plentiful and temperatures were mild. Habitat quality decreased to the north, especially in northern and western Quebec, where many shallow marshes and bogs were either completely dry or reduced to mudflats. Beaver pond habitat was also noticeably less common than normal. To the east in Maine and most of the Maritime provinces, conditions were excellent, with adequate water and vegetation, and warm spring temperatures.

Weather and habitat conditions during the summer months can