

DTV channel \*58 and adding DTV channel \*9 at Conway.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Division, Media Bureau.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

#### 49 CFR Part 1137

[STB Ex Parte No. 637 (Sub-No. 1)]

#### Removal of Divisions of Revenue Regulations

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Surface Transportation Board (Board) is removing its regulations concerning divisions of revenue proceedings because of changes in the statute and the infrequency of divisions of revenue complaints.

**EFFECTIVE DATE:** This rule is effective on September 28, 2003.

**FOR FURTHER INFORMATION CONTACT:** John Sado, (202) 565-1661. [Federal Information Relay Service for the hearing impaired: 1-800-877-8339.]

**SUPPLEMENTARY INFORMATION:** On May 6, 2003, at 68 FR 23947-48,<sup>1</sup> the Board published a notice of proposed rulemaking (NPR) in this proceeding seeking comments on the Board's proposal to remove the regulations at 49 CFR 1137.1 concerning divisions of revenue cases between carriers participating in a joint rate. The NPR indicated that the regulations were issued in response to the enactment of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act). The 4R Act amended former section 15(6) of the Interstate Commerce Act by adding provisions that would expedite the handling of divisions of revenue cases. In response, the Interstate Commerce Commission (ICC) issued the original divisions of revenue rules in *Expeditious Handling of Divisions of Revenue Cases*, 353 I.C.C. 349 (1976).<sup>2</sup> As noted in the notice of proposed rulemaking, section 15(6) was recodified at former 49 U.S.C. 10705, which was later modified by the Staggers Rail Act

of 1980. Former section 10705 in general required that evidentiary proceedings in cases brought by complaint be completed in 9 months and a final decision be issued within 180 days after the close of the record.<sup>3</sup>

The NPR noted that, under the ICC Termination Act of 1995, Pub. L. 104-88, 109 Stat. 803 (1995), section 10705 had been modified. Although the Board retains jurisdiction over divisions of joint rates, the provision for the filing of a notice of intent and the deadlines for gathering evidence and issuing a final decision have been removed.

In proposing to remove the rules at section 1137.1, the Board stated that agency records indicated that there had not been a divisions of revenue complaint in over 20 years,<sup>4</sup> and, accordingly, retaining the regulations appeared to be administratively inefficient. Furthermore, the rules contained the notice of intent and deadline provisions that no longer had a statutory basis. The Board noted that the general rules for filing complaints at 49 CFR part 1111 appeared adequate for divisions complaints. Comments were sought on whether the rules should be retained, updated, or eliminated.

In response to the notice, the Board received one comment, from the Association of American Railroads (AAR). The AAR supports the proposal for the reasons expressed in the NPR. It submits that the Board's current general complaint rules are sufficient for any potential divisions complaint.

The regulations at 49 CFR 1137.1 concerning divisions of revenue cases will be removed. It would be administratively inefficient to retain rules that are outdated and have not been used in over 20 years where general complaint rules are in place. The only party responding to the NPR supports the elimination of the rules. Finally, parties in a prospective complaint can propose on a case-by-case basis to use any evidence they consider relevant, including the evidence referenced in the former guidelines.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

#### List of Subjects in 49 CFR Part 1137

Administrative practice and procedure, Railroads.

Decided: August 25, 2003.

<sup>3</sup> The ICC subsequently modified the regulations in section 1137.1 in *Revised Procedures for Divisions of Revenue Cases*, 367 I.C.C. 353 (1983).

<sup>4</sup> *Increases in Freight Rates and Charges—1973*, 365 I.C.C. 193 (1981).

By the Board, Chairman Nober.

**Vernon A. Williams,**

*Secretary.*

■ For the reasons set forth in the preamble, the Surface Transportation Board amends title 49, chapter X, of the Code of Federal Regulations as follows:

#### PART 1137—[REMOVED]

■ 1. Part 1137 consisting of § 1137.1 is removed.

[FR Doc. 03-22130 Filed 8-28-03; 8:45 am]

BILLING CODE 4915-00-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 20

RIN 1018-AI93

#### Migratory Bird Hunting; Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2003-04 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, 2003.

**ADDRESSES:** You may inspect comments received on the proposed special hunting regulations and tribal proposals during normal business hours in room 4107, Arlington Square Building, 4501 N. Fairfax Drive, Arlington, Virginia.

**FOR FURTHER INFORMATION CONTACT:** Tina Chouinard, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (318/201-0400), or Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703/358-1967).

**SUPPLEMENTARY INFORMATION:** The Migratory Bird Treaty Act (MBTA) 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

<sup>1</sup> A corrected notice was served on May 8, 2003, and published in the **Federal Register** on May 14, 2003 (68 FR 25859).

<sup>2</sup> The regulations were originally issued at 49 CFR 1109.5. They were later redesignated at 49 CFR 1137.1 in *Revision of the Rules of Practice, Ex Parte No. 55 (Sub-No. 55)*, 47 FR 49534 (Nov. 1, 1982).

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  $5.2 \pm 0.2$  [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 ( $3.5 \pm 0.2$  million) and the United States ( $1.7 \pm 0.1$  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

influence waterfowl production. Good wetland conditions increase renesting and brood survival. July wetland conditions were rated fair to good over most of Prairie Canada, the Dakotas, and eastern Montana, but poor conditions prevailed in eastern South Dakota, south-central Manitoba, central Saskatchewan, and north-central Montana.

However, uniformly good conditions were found in the northern portions of the prairie provinces, and spring and summer rains made for good-to-excellent conditions along the border of Saskatchewan and eastern Montana. Results of the July Production Survey indicate that the number of ponds in Prairie Canada and the north-central United States combined was  $2.5 \pm 0.1$  million ponds. This was 35 percent above last year's estimate of  $1.8 \pm 0.1$  million ponds, but still 8 percent below the long-term average. July ponds in Prairie Canada were estimated to be  $1.5 \pm 0.1$  million. This was 47 percent above last year's estimate of  $1.0 \pm 0.1$  million but 16 percent below the long-term average. July ponds in the north-central United States were estimated at  $1.0 \pm 0.1$  million. This was 21 percent above last year's estimate of  $0.8 \pm 0.1$  million, but similar to the long-term average.

#### Breeding Population Status

In the traditional survey area, the total duck population estimate was  $36.2 \pm 0.7$  million birds, 16 percent above ( $P < 0.001$ ) last year's estimate of  $31.2 \pm 0.5$  million birds, and 9 percent above ( $P < 0.001$ ) the 1955–2002 long-term average. Mallard abundance was  $7.9 \pm 0.3$  million birds, which was similar to last year's estimate of  $7.5 \pm 0.2$  million birds ( $P = 0.220$ ) and the long-term average ( $P = 0.100$ ). Blue-winged teal abundance was estimated to be  $5.5 \pm 0.3$  million birds. This value was 31 percent above last year's estimate of  $4.2 \pm 0.2$  million birds ( $P < 0.001$ ) and 23 percent above the long-term average ( $P = 0.001$ ). Estimates of shovelers ( $3.6 \pm 0.2$  million; +56%) and pintails ( $2.6 \pm 0.2$  million; +43%) were above 2002 estimates ( $P < 0.001$ ), while estimates of gadwall ( $2.5 \pm 0.2$  million), wigeon ( $2.6 \pm 0.2$  million), green-winged teal ( $2.7 \pm 0.2$  million), redheads ( $0.6 \pm 0.1$  million), and canvasbacks ( $0.6 \pm 0.1$  million), and scaup ( $3.7 \pm 0.2$  million) were unchanged from 2002 estimates ( $P \geq 0.149$ ). Gadwall (+55%) and shovelers (+72%) were above their 1955–2002 averages ( $P < 0.001$ ), as were green-winged teal (+46%;  $P < 0.001$ ), which were at their second highest level since 1955. Pintails (-39%) and scaup (-29%) remained well below their long-term averages ( $P < 0.001$ ). Wigeon, redheads,

and canvasbacks were unchanged from their long-term averages ( $P \geq 0.582$ ).

The eastern survey area comprises strata 51–56 and 62–69. The 2003 total duck population estimate for this area was  $3.6 \pm 0.3$  million birds. This estimate is 17 percent lower than that of last year ( $4.4 \pm 0.3$  million birds,  $P = 0.065$ ), but is similar to the 1996–2002 average ( $P = 0.266$ ). Numbers of the individual species were similar to those of last year and the 1996–2002 average, with the exception of mergansers ( $0.6 \pm 0.1$  million), which decreased 30 percent from the 2002 estimate ( $P = 0.035$ ).

#### Breeding Activity and Production

The number of broods in the north-central United States and Prairie Canada combined was 434,900, 23 percent higher than last year, and 7 percent below the long-term average. The number of broods in Prairie Canada and the north-central United States were 142 percent and 18 percent above last year's estimates, respectively. Brood indices in Prairie Canada were 24 percent below the long-term average, while brood counts were 31 percent above the long-term average in the north-central United States. Reflecting the lower concentration of ducks in the Canadian boreal forest this year compared to 2002, the brood index in this region was 72 percent lower than last year, and 76 percent below the long-term average. The late-nesting index, that is, the number of pairs and lone drakes without broods seen during July surveys, was 17 percent higher than last year, and 51 percent lower than the long-term average, for all areas combined. The late-nesting index was down 43 percent and 30 percent relative to last year in boreal Canada and Prairie Canada, respectively, but up 67 percent in the north-central United States. Late nesting indices were below the long-term average by 74 percent in boreal Canada, by 43 percent in the north-central United States, and by 46 percent in Prairie Canada.

#### Fall Flight Estimate

The size of the mid-continent mallard population, which comprises mallards from the traditional survey area, plus Michigan, Minnesota, and Wisconsin, was 8.8 million birds. This is similar to that of 2002 (8.6 million). The 2003 mid-continent mallard fall-flight estimate is 10.3 million birds, statistically similar to the 2002 estimate of 9.1 million birds. These estimates were based on revised mid-continent mallard population models and, therefore, differ from those previously published.

For further discussion on the implications of this information for this year's selection of the appropriate hunting regulations in the United States, see the August 19, 2003, **Federal Register** (68 FR 50016).

#### Status of Geese and Swans

We provide information on the population status and productivity of North American Canada geese (*Branta canadensis*), brant (*B. bernicla*), snow geese (*Chen caerulescens*), Ross's geese (*C. rossii*), emperor geese (*C. canagicus*), white-fronted geese (*Anser albifrons*) and tundra swans (*Cygnus columbianus*). The timing of snowmelt and goose nesting activities in most areas of the Arctic and subarctic was near average in 2003. Only Alaska's North Slope, Banks and adjacent Arctic Islands, and Akimiski Island reported substantially delayed nesting phenology this year. Although Alaska's Yukon-Kuskokwim Delta experienced an early spring snowmelt, we observed poor production of young by brant, cackling Canada geese, and emperor geese, likely due to low wetland levels and high fox predation. Conditions in 2003 were especially favorable for greater snow geese. Of the 25 populations for which current primary population indices were available, 8 populations (Atlantic Population, Aleutian, Dusky, and 3 temperate-nesting populations of Canada geese; Pacific Population White-fronted Geese; and Eastern Population Tundra Swans) displayed significant positive trends, and only Short Grass Prairie Population Canada geese displayed a significant negative trend over the most recent 10-year period. Forecasts for production of geese and swans in North America in 2003 varied regionally, but generally will be similar to or higher than in 2002.

#### Comments and Issues Concerning Tribal Proposals

For the 2003–04 migratory bird hunting season, we proposed regulations for 28 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; 19 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 8, 2003, closed on August 18, 2003. 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 two comments regarding the notice of intent published on May 6, 2003, which announced rulemaking on regulations for migratory bird hunting by American Indian tribal members. The Wisconsin Department of Natural Resources endorsed the 2003 seasons proposed by the Great Lakes Indian Fish and Wildlife Commission. 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 1836 Treaty until such time as the issue of 1836 Treaty hunting rights are affirmed by a court of competent jurisdiction.

*Service Response:* We have addressed this issue several times in the last few years. 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

NEPA considerations are covered by the programmatic document, "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSSES 88-14)," filed with the Environmental Protection Agency on June 9, 1988. We published a Notice of Availability in the **Federal Register** on June 16, 1988 (53 FR 22582) and our Record of Decision on August 18, 1988 (53 FR 31341). Copies are available from the address indicated under **ADDRESSES**. In addition, an August 1985 Environmental Assessment titled "Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands" is available under **ADDRESSES**.

#### 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 this Section 7 consultation are public documents available for public inspection at the address indicated under **ADDRESSES**.

#### Executive Order 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 Executive Order 12866. This rule is a small portion of the overall migratory bird hunting frameworks and was not individually submitted and reviewed by OMB under Executive Order 12866. As such, a cost/benefit analysis was initially prepared in 1981. This analysis was subsequently revised annually from 1990-96, and then updated in 1998. We will update again in 2004. It is further discussed below under the heading Regulatory Flexibility Act. Results from the 1998 analysis indicate that the expected welfare benefit of the annual migratory bird hunting frameworks is on the order of \$50 to \$192 million. Copies of the cost/benefit analysis are available upon request from the address indicated under **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 as part of the 1981 cost-benefit

analysis discussed under Executive Order 12866. This analysis was revised annually from 1990-95. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis). The Analysis was subsequently updated in 1996 and 1998 and will be updated again in 2004. 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 1998 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 2003. Copies of the Analysis are available upon request from the address indicated under **ADDRESSES**.

#### 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.

#### 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 rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, it is not a significant energy action and no Statement of Energy Effects is required.

#### 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 10/31/2004). 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 10/31/2004). The information from this survey is used to estimate the magnitude and 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 Executive Order 12988.

#### Takings Implication Assessment

In accordance with Executive Order 12630, these rules, authorized by the MBTA, 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 MBTA. Annually, we prescribe frameworks from which the States make selections and employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. We develop the frameworks 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 ultimately make season selections, thereby having an influence on their own regulations. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Further, any State or Tribe may be more restrictive than the Federal frameworks at any time. 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 MBTA. 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 May 6, 2003, request for proposals and the August 8, 2003, 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 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 Nontribal Hunters)**

##### *Doves*

*Season Dates:* Open September 1, close September 15, 2003; then open November 15, 2003, close December 29, 2003.

*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 and must be in possession of all persons 14 years and older 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 Nontribal Hunters)**

*Sandhill Cranes*

*Season Dates:* Open September 13, close October 19, 2003.

*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.

*Doves*

*Season Dates:* Open September 1, close October 30, 2003.

*Daily Bag Limit:* 15 mourning doves.

*General Conditions:* The possession limit is twice the daily bag limit. Tribal and nontribal 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 and 1837 Treaty Zones:

*Ducks and Mergansers*

*Season Dates:* Open September 20, close December 1 2003.

*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 mergansers.

*Geese (All species)*

*Season Dates:* Open September 2, close December 1, 2003.

*Daily Bag Limit:* 12 geese.

*Coots and Common Moorhens (Gallinule)*

*Season Dates:* Open September 20, close December 1, 2003.

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

*Sora and Virginia Rails*

*Season Dates:* Open September 20, close December 1, 2003.

*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 2, close December 1, 2003.

*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 that 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, 2003, close January 15, 2004.

*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, 2003, and open January 1, 2004, close February 8, 2004.

*Daily Bag Limit:* Five geese.

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

*Season Dates:* Open September 20, close November 30, 2003.

*Daily Bag Limit:* Five geese.

*Sora Rails, Common Snipe, and Woodcock*

*Season Dates:* Open September 1, close November 14, 2003.

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

*Mourning Doves*

*Season Dates:* Open September 1, close November 14, 2003.

*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 1, 2003.

*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 1, 2003.

*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 1, 2003.

*Daily Bag Limit:* Five mergansers.

*Geese:* All Ceded Areas.

*Season Dates:* Begin September 1 and end December 1, 2003. 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 1, 2003.

*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 1, 2003.

*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 1, 2003.

*Daily Bag Limit:* Eight common snipe.

**D. Woodcock**

*Season Dates:* Begin September 2 and end December 1, 2003.

*Daily Bag Limit:* Five woodcock.

**E. Mourning Doves: 1837 and 1842 Ceded Territories**

*Season Dates:* Begin September 2 and end October 30, 2003.

*Daily Bag Limit:* Fifteen mourning doves.

**General Conditions**

A. All tribal members will be required to obtain a valid tribal waterfowl hunting permit.

B. 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 Chapters 10 of these model codes regulate ceded territory migratory bird hunting. They parallel federal requirements as to hunting methods, transportation, sale, exportation and other conditions generally applicable to migratory bird hunting. They also automatically incorporate by reference the federal migratory bird regulations adopted in response to this proposal.

C. Particular regulations of note include:

1. Nontoxic shot will be required for all off-reservation 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. 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 and 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 taken on reservation lands. All migratory birds which fall on reservation lands will not count as part of any off-reservation bag or possession limit.

4. The baiting restrictions can be obtained at the Tribal office in the model ceded territory conservation codes. These codes will be amended to include language which parallels that in place for nontribal members as published in 64 FR 29804, June 3, 1999.

5. The shell limit restrictions of the model ceded territory conservation codes will be removed.

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

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

*Season Dates:* Open September 1, 2003, close September 15, 2003.

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

**Tribal Hunters Within Kalispel Ceded Lands****Ducks**

*Season Dates:* Open September 15, 2003, close January 26, 2004.

*Daily Bag Limit:* 7 ducks, including no more than 2 female mallards, 1 canvasback, 1 pintail, 4 scaup, and 2 redheads.

**Geese**

*Season Dates:* Open September 1, 2003, close January 31, 2004.

*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 13, close December 31, 2003.

*Daily Bag Limits:* 10 birds.

**Geese**

*Season Dates:* Open September 1, close December 31, 2003.

*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. Nontoxic shot is required. Use of live decoys, bait, and commercial use of migratory birds are prohibited. Waterfowl may not be pursued or taken while using motorized craft.

**(h) Little River Band of Ottawa Indians, Manistee, Michigan (Tribal Members Only)****Canada Geese, White-fronted Geese, Snow Geese, Ross Geese, and Brant**

*Season Dates:* Open September 1, close November 30, 2003, for all species, and open for Canada geese only, January 1, close February 7, 2004.

*Daily Bag and Possession Limits:* 5 Canada geese and a combination of 10 of all other species. The possession limit is twice the daily bag limit.

**Rails, Snipe, and Woodcock**

*Season Dates:* Open September 1, close November 14, 2003.

*Daily Bag and Possession Limits:* 10 rails, 10 snipe, and 5 woodcock. The possession limit is twice the daily bag limit.

**Mourning Doves**

*Season Dates:* Open September 15, close November 14, 2003.

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

**General:**

A. All tribal members are required to obtain a valid tribal resource card and 2003–04 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 15, 2003, close January 20, 2004.

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

*Canada Geese*

*Season Dates:* Open September 1, 2003, close November 30, 2003, and open January 1, 2004, close February 7, 2004.

*Daily Bag Limit:* Five geese.

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

*Season Dates:* Open September 1, close November 30, 2003.

*Daily Bag Limit:* 10 of each species.

*Sora Rails, Snipe, and Mourning Doves*

*Season Dates:* Open September 1, close November 14, 2003.

*Daily Bag Limit:* 10 of each species.

*Woodcock*

*Season Dates:* Open September 1, close November 14, 2003.

*Daily Bag Limit:* Five woodcock.

*General:* Possession limits are twice the daily bag limits.

**(j) Makah Indian Tribe, Neah Bay, Washington (Tribal Members)***Band-Tailed Pigeons*

*Season Dates:* Open September 1, 2003, close October 31, 2003.

*Daily Bag Limit:* Two band-tailed pigeons.

*Ducks and Coots*

*Season Dates:* Open September 15, 2003, close January 13, 2004.

*Daily Bag Limit:* Seven ducks including no more than one redhead and one canvasback. The seasons on wood duck and harlequin are closed.

*Geese*

*Season Dates:* Open September 15, 2003, close January 13, 2004.

*Daily Bag Limit:* Four. The seasons on Aleutian and dusky Canada geese are closed.

*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 1 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, 2003.

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

*Mourning Doves*

*Season Dates:* Open September 1, close September 30, 2003.

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

*General Conditions:* Tribal and nontribal 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 22, 2003, and open December 1, close December 31, 2003.

*Daily Bag and Possession Limits:* Three and Six Canada geese, respectively. 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 13, close November 16, 2003.

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

*General Conditions:* Tribal member 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 with all State of Wisconsin regulations, including season dates, shooting hours, and bag limits which differ from tribal member seasons. 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: Tribal members are 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, 2003, close March 10, 2004.

*Daily Bag and Possession Limits:* Seven ducks, including no more than two hen mallards, one pintail, one canvasback, one harlequin, and two redheads. Possession limit is twice the daily bag limit.

*Geese*

*Season Dates:* Open September 15, 2003, close March 10, 2004.

*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 November 1, 2003, close March 10, 2004.

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

*Coots*

*Season Dates:* Open September 15, 2003, close March 10, 2004.

*Daily Bag Limits:* 25 coots.

*Mourning Doves*

*Season Dates:* Open September 1, 2003, close March 10, 2004.

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



**Snipe**

*Season Dates:* Open September 15, 2003, close March 10, 2004.

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

**Band-Tailed Pigeon**

*Season Dates:* Open September 1, 2003, close March 10, 2004.

*Daily Bag and Possession Limits:* 2 and 4, 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) Squaxin Island Tribe, Squaxin Island Reservation, Shelton, Washington (Tribal Members Only)****Ducks**

*Season Dates:* Open September 15, 2003, close January 15, 2004.

*Daily Bag and Possession Limits:* Five ducks, which may include only one canvasback. The season on harlequin ducks is closed. Possession limit is twice the daily bag limit.

**Geese**

*Season Dates:* Open September 15, 2003, close January 15, 2004.

*Daily Bag and Possession Limits:* Four geese, and may include no more than two snow geese. 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, 2004.

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

**Coots**

*Season Dates:* Open September 15, 2003, close January 15, 2004.

*Daily Bag Limits:* 25 coots.

**Snipe**

*Season Dates:* Open September 15, 2003, and close January 15, 2004.

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

**Band-Tailed Pigeons**

*Season Dates:* Open September 1, close December 31, 2003.

*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.

**(o) Tulalip Tribes of Washington, Tulalip Indian Reservation, Marysville, Washington (Tribal Members and Nontribal Hunters)****Tribal Members****Ducks (Including Coots and Mergansers)**

*Season Dates:* Open September 15, 2003, and close February 29, 2004.

*Daily Bag and Possession Limits:* 7 and 14 ducks, respectively, except that bag and possession limits may include no more than 2 female mallards, 1 pintail, 4 scaup, and 2 redheads.

**Geese**

*Season Dates:* Open September 15, 2003, and close February 29, 2004.

*Daily Bag and Possession Limits:* 7 and 14 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, 2003, through February 29, 2004.

*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.

**(p) Upper Skagit Indian Tribe, Sedro Woolley, Washington (Tribal Members Only)****Mourning Dove**

*Season Dates:* Open September 1, end December 31, 2003.

*Daily Bag and Possession Limits:* 12 and 20 mourning doves, respectively.

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, except shooting hours would be one-half hour before official sunrise to one-half hour after official sunset.

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

*Season Dates:* Open September 13, 2003, and close September 27, 2003, and open November 1, 2003, close February 28, 2004.

*Daily Bag 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. Nontoxic shot is required. All basic Federal migratory bird hunting regulations contained in 50 CFR will be observed.

**(r) White Earth Band of Ojibwe, White Earth, Minnesota (Tribal Members Only)****Ducks and Mergansers**

*Season Dates:* Open September 13, close December 14, 2003.

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

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

**Geese**

*Season Dates:* Open September 1, close December 14, 2003.

*Daily Bag Limit:* Five geese.

**Coots**

*Season Dates:* Open September 7, close December 31, 2003.

*Daily Bag Limit:* 20 coots.

**Sora and Virginia Rails**

*Season Dates:* Open September 7, close December 31, 2003.

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

**Common Snipe and Woodcock**

*Season Dates:* Open September 7, close December 31, 2003.

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

**Mourning Dove**

*Season Dates:* Open September 7, close December 31, 2003.

*Daily Bag Limit:* 25 doves.

*General Conditions:* Shooting hours are one-half hour before sunrise to one-

half hour after sunset. Nontoxic shot is required.

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

*Band-tailed Pigeons (Wildlife Management Unit 10 and areas south of Y-70 in Wildlife Management Unit 7, only)*

*Season Dates:* Open September 3, close September 17, 2003.

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

*Mourning Doves (Wildlife Management Unit 10 and areas south of Y-70 in Wildlife Management Unit 7, only)*

*Season Dates:* Open September 3, close September 17, 2003.

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

*General Conditions:* All nontribal 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 nontribal 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 nontribal 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 22, 2003.

**Craig Manson,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 03-22119 Filed 8-28-03; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 021212307-3037-02; I.D. 081503B]

**Fisheries of the Exclusive Economic Zone off Alaska; Reallocation of Pollock in the Bering Sea Subarea**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Reallocation.

**SUMMARY:** NMFS is reallocating projected unused amounts of Bering Sea subarea (BS) pollock from the incidental catch account to the directed fisheries. This action is necessary to allow the 2003 total allowable catch (TAC) of pollock to be harvested.

**DATES:** Effective August 26, 2003, until 2400 hrs, A.l.t., December 31, 2003.

**FOR FURTHER INFORMATION CONTACT:** Andrew Smoker, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(a)(5)(i)(A)(1) and the American Fisheries Act (AFA) (Public Law 105-277, Division C, Title II), NMFS specified a pollock incidental catch allowance equal to 3.5 percent of the pollock total allowable catch after subtraction of the ten percent Community Development Quota reserve

in the final 2003 harvest specifications for groundfish in the BSAI (68 FR 9907, March 3, 2003).

As of August 6, 2003, the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that approximately 21,887 metric tons (mt) of pollock remain in the incidental catch account. Based on projected harvest rates of other groundfish species and the expected incidental catch of pollock in those fisheries, the Regional Administrator has determined that 6,500 mt of pollock specified in the incidental catch account will not be necessary as incidental catch. Therefore, NMFS is apportioning the projected unused amount, 6,500 mt, of pollock from the incidental catch account to the directed fishing allowances established pursuant to § 679.20(a)(5)(i)(A). Pursuant to the pollock allocation requirements set forth in § 679.20(a)(5)(i), this transfer will increase the allocation to catcher vessels harvesting pollock for processing by the inshore component by 3,250 mt, to catcher/processors and catcher vessels harvesting pollock for processing by catcher processors in the offshore component by 2,600 mt and to catcher vessels harvesting pollock for processing by motherships in the offshore component by 650 mt. Pursuant to § 679.20(a)(5)(i)(A)(4), no less than 8.5 percent of the 2,600 mt allocated to catcher processors in the offshore component, 221 mt, will be available for harvest only by eligible catcher vessels delivering to listed catcher processors. Pursuant to § 679.20(a)(5)(i)(A)(4)(iii), an additional 13 mt or 0.5 percent of the catcher/processor sector allocation of pollock will be available to unlisted AFA catcher/processors.

Pursuant to § 679.20(a)(5)(i)(A)(3), Table 1 revises the final 2003 BS subarea allocations for the seven inshore catcher vessel pollock cooperatives that have been approved and permitted by NMFS and the open access AFA vessels for the 2003 fishing year consistent with this reallocation.

**TABLE 1.—2003 BERING SEA SUBAREA INSHORE COOPERATIVE ALLOCATIONS**

Cooperative name and member vessels	Sum of member vessel's official catch histories <sup>1</sup> (mt)	Percentage of inshore sector allocation	Annual co-op allocation (mt)
Akutan Catcher Vessel Association ALDEBARAN, ARCTIC EXPLORER, ARCTURUS, BLUE FOX, CAPE KIWANDA, COLUMBIA, DOMINATOR, EXODUS, FLYING CLOUD, GOLDEN DAWN, GOLDEN PISCES, HAZEL LORRAINE, INTREPID EXPLORER, LESLIE LEE, LISA MELINDA, MAJESTY, MARCY J, MARGARET LYN, NORDIC EXPLORER, NORTHERN PATRIOT, NORTHWEST EXPLORER, PACIFIC RAM,	245,527	28.085%	182,845