



Federal Register

**Wednesday,
September 29, 2004**

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

**Migratory Bird Hunting; Regulations on
Certain Federal Indian Reservations and
Ceded Lands for the 2004–05 Late Season;
Final Rule**

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 20**

RIN 1018-AT53

Migratory Bird Hunting; Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2004-05 Late Season**AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Final rule.

SUMMARY: This rule prescribes special late-season migratory bird hunting regulations for certain tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands. This rule 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 25, 2004.

ADDRESSES: You may inspect comments on the 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: Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, ((703) 358-1967).

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 a proposed rule published in the August 17, 2004, **Federal Register** (69 FR 51036), we proposed special migratory bird hunting regulations for the 2004-05 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 nontribal 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 a proposed rule published in the March 22, 2004, **Federal Register** (69 FR 13440), we requested that tribes desiring special hunting regulations in the 2004-05 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 the level of harvest, where it could be shown that failure to limit the 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 August 17 proposed rule included generalized regulations for both early- and late-season hunting, this rulemaking addresses only the late-season proposals. Early-season proposals were addressed in a final rule published in the September 3, 2004, **Federal Register** (69 FR 53990). 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 September 24 or later each

year and have a primary emphasis on waterfowl.

Status of Populations

In the August 17 proposed rule, we reviewed the status for various populations for which seasons were proposed. This information included brief summaries of the May Breeding Waterfowl and Habitat Survey and population status reports for blue-winged teal, sandhill cranes, woodcock, mourning doves, white-winged doves, white-tipped doves, and band-tailed pigeons. The tribal seasons established below are commensurate with the population status.

Comments and Issues Concerning Tribal Proposals

For the 2004-05 migratory bird hunting season, we proposed regulations for 30 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 late-season proposals are included in this final rulemaking; 20 tribes have proposals with late seasons. Proposals are addressed in the following section. The comment period for the proposed rule, published on August 17, 2004, closed on August 27, 2004, however, we did not receive any comments.

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 **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 this 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 **ADDRESSES**.

Executive Order 12866

The migratory bird hunting regulations are economically significant and were reviewed by the Office of Management and Budget (OMB) under Executive Order 12866. As such, a cost/benefit analysis was initially prepared in 1981. This analysis was subsequently revised annually from 1990–1996, and then updated in 1998. We have updated again this year. It is further discussed below under the heading Regulatory Flexibility Act. Results from the 2004 analysis indicate that the expected welfare benefit of the annual migratory bird hunting frameworks is on the order of \$734 million to \$1.064 billion, with a midpoint estimate of \$899 million. Copies of the cost/benefit analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at <http://www.migratorybirds.gov>.

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 through 1995. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, and 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 2004 Analysis was based on the 2001 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 \$481 million and \$1.2 billion at small businesses in 2004. Copies of the Analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at <http://www.migratorybirds.gov>.

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. This rule 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

The annual migratory bird hunting regulations constitute a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this series of rules has an annual effect on the economy of \$100 million or more. However, because these rules establish hunting seasons, we do not plan to defer the effective date of this rule 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 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 clearance 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 rule is not a “significant regulatory action” under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that it 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, the annual migratory bird hunting 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), November 6, 2000, (3 CFR 2000 Comp., p. 304), 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 March 22 request for proposals and the August 8 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 nontribal 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 amended by revising paragraphs (a), (b), (c), (g), (i), (m), (n), (o), (r), (s), (t) and (v) and by adding paragraphs (w) through (dd) to read as set forth below. (Current § 20.110 was published at 69 FR 53990, September 3, 2004.)

§ 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, 2004; then open November 12, close December 26, 2004.

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.

Ducks (Including Mergansers)

Season Dates: Open October 16, 2004, close January 30, 2005.

Daily Bag and Possession Limits: Seven ducks, including two hen mallards, two redheads, two Mexican ducks, two goldeneye, two cinnamon teal, and four scaup. The seasons on canvasback and pintail are closed. The possession limit is twice the daily bag limit.

Coots and Common Moorhens

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots and common moorhens, singly or in the aggregate.

Geese

Season Dates: Open October 23, 2004, close January 30, 2005.

Daily Bag and Possession Limits: Three geese, including no more than three dark (Canada) geese and three white (snow, blue, Ross's) geese. The possession limit is six dark geese and six white geese.

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) Confederated Salish and Kootenai Tribes, Flathead Indian Reservation, Pablo, Montana (Tribal Members and Nontribal Hunters)

Tribal Members Only

Ducks (Including Mergansers)

Season Dates: Open September 1, 2004, close March 9, 2005.

Daily Bag and Possession Limits: The Tribe does not have specific bag and possession restrictions for Tribal members. The season on harlequin duck is closed.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Same as ducks.

Geese

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Same as ducks.

Nontribal Hunters

Ducks (Including Mergansers)

Pintails and Canvasbacks: Open October 2, close November 30, 2004.

Other ducks: Open October 2, 2004, close January 14, 2005.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail (when open), four scaup, and two redheads. The season on canvasback is closed. The possession limit is twice the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: The daily bag and possession limit is 25.

Geese

Dark Geese

Season Dates: Open October 2, 2004, close January 14, 2005.

Daily Bag and Possession Limits: Four and eight geese, respectively.

Light Geese

Season Dates: Open October 2, 2004, close January 14, 2005.

Daily Bag and Possession Limits: Three and six geese, respectively.

Youth Waterfowl Hunt

Season Dates: September 25–26, 2004.

Daily Bag and Possession Limits: Same as ducks but includes one pintail.

General Conditions: Tribal members and Nontribal hunters must comply with all basic Federal migratory bird hunting regulations contained in 50 CFR part 20 regarding manner of taking. In addition, shooting hours are sunrise to sunset, and each waterfowl hunter 16 years of age or older 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 Confederated Salish and Kootenai Tribes also apply on the reservation.

(c) Crow Creek Sioux Tribe, Crow Creek Indian Reservation, Fort Thompson, South Dakota (Tribal Members and Nontribal Hunters)

Sandhill Cranes

Season Dates: Open September 11, close October 17, 2004.

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 his or her possession while hunting.

Doves

Season Dates: Open September 1, close October 30, 2004.

Daily Bag Limit: 15 mourning doves.

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

Ducks

Pintail and Canvasback: Open October 2, close November 10, 2004.

Other ducks: Open October 2, close December 14, 2004.

Daily Bag and Possession Limits: Six ducks, including no more than five mallards (including no more than two female mallards), two redheads, one pintail (when open), three scaup, and two wood ducks. The season on canvasbacks is closed. The possession limit is twice the daily bag limit.

Mergansers

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Five mergansers, including no more than one hooded merganser. The possession limit is twice the daily bag limit.

Canada Geese

Season Dates: Open October 16, 2004, close January 18, 2005.

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

White-Fronted Geese

Season Dates: Open September 25, close December 19, 2004.

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

Light Geese

Season Dates: Open September 25, close December 30, 2004.

Daily Bag and Possession Limits: 20 geese daily, no possession limit.

General Conditions: 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 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.

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(g) Kalispel Tribe, Kalispel Reservation, Usk, Washington (Tribal Members and Nontribal Hunters)

Nontribal Hunters on Reservation

Ducks

Season Dates: Open September 25, 2004, close January 31, 2005. During this period, days to be hunted are specified by the Kalispel Tribe as weekends, holidays, and for a continuous period in the months of October and November, not to exceed 107 days total. Nontribal hunters should contact the Tribe for more detail on hunting days.

Daily Bag and Possession Limits: 7 ducks, including no more than 2 female mallards, 4 scaup, and 2 redheads. The seasons on canvasbacks and pintail are closed. The possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 1, close September 15, 2004, for the early-season, and open October 1, 2004, close January 31, 2005, for the late-season. During this period, days to be hunted are specified by the Kalispel Tribe. Nontribal hunters should contact the Tribe for more detail on hunting days.

Daily Bag and Possession Limits: 5 and 10, respectively, for the early season, and 3 light geese and 4 dark geese, for the late season. The daily bag limit is 2 brant and is in addition to dark goose limits for the late-season. The possession limit is twice the daily bag limit.

Tribal Hunters Within Kalispel Ceded Lands

Ducks

Season Dates: Open September 1, 2004, close January 31, 2005.

Daily Bag and Possession Limits: 7 ducks, including no more than 2 female mallards, 4 scaup, and 2 redheads. The seasons on canvasbacks and pintail are closed. The possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 1, 2004, close January 31, 2005.

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. Hunters must observe all State and Federal regulations, such as those contained in 50 CFR part 20.

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(i) Little River Band of Ottawa Indians, Manistee, Michigan (Tribal Members Only)*Ducks*

Season Dates: Open September 15, 2004, close January 15, 2005.

Daily Bag and Possession Limits: 12 ducks, including no more than 6 mallards (only 3 of which may be a hen), 6 scaup, 2 black duck, 2 redheads, 3 wood ducks, 2 canvasback, and 2 pintail. The possession limit is twice the daily bag limit.

Mergansers

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Five mergansers, including no more than one hooded merganser. The possession limit is twice the daily bag limit.

Canada Geese

Season Dates: Open September 1, close November 30, 2004, and open January 1, close February 8, 2005.

Daily Bag and Possession Limits: Five Canada geese and possession limit is twice the daily bag limit.

White-fronted Geese, Snow Geese, Ross' Geese, and Brant

Season Dates: Open September 20, close November 30, 2004.

Daily Bag and Possession Limits: Five birds and the possession limit is twice the daily bag limit.

Mourning Doves, Rails, Snipe, and Woodcock

Season Dates: Open September 1, close November 14, 2004.

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

General:

A. All tribal members are required to obtain a valid tribal resource card and 2004–05 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.

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(m) Navajo Indian Reservation, Window Rock, Arizona (Tribal Members and Nonmembers)*Band-Tailed Pigeons*

Season Dates: Open September 1, close September 30, 2004.

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

Mourning Doves

Season Dates: Open September 1, close September 30, 2004.

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

Ducks (Including Mergansers)

Pintails and Canvasback: Open September 25, close November 23, 2004.

Other ducks: Open September 25, 2004, close January 9, 2005.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail (when open), one canvasback (when open), four scaup, and two redheads. The possession limit is twice the daily bag limit.

Coots and Common Moorhens

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots and moorhens, singly or in the aggregate.

Dark Geese

Season Dates: Open September 25, 2004, close January 9, 2005.

Daily Bag and Possession Limits: Four and eight geese, 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 stamp face. Special regulations established by the Navajo Nation also apply on the reservation.

(n) Oneida Tribe of Indians of Wisconsin, Oneida, Wisconsin (Tribal Members Only)*Ducks (Including Mergansers)*

Season Dates: Open September 25, close November 19, 2004, and open November 29, close December 5, 2004.

Daily Bag and Possession Limits: Six, including no more than six mallards (three hen mallards), five wood ducks, one redhead, two pintail, and one hooded merganser. The possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 1, close November 19, 2004, and open November 29, close December 31, 2004.

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 11, close November 14, 2004.

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

Dove

Season Dates: Open September 1, close November 14, 2004.

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

General Conditions: Tribal member shooting hours are 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.

(o) Skokomish Tribe, Shelton, Washington (Tribal Members Only)*Ducks and Mergansers*

Season Dates: Open September 16, close December 31, 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 16, close December 31, 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, 2004, close March 10, 2005.

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

Coots

Season Dates: Open September 16, close December 31, 2004.

Daily Bag Limits: 25 coots.

Mourning Doves

Season Dates: Open September 16, close December 31, 2004.

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

Snipe

Season Dates: Open September 16, close December 31, 2004.

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

Band-Tailed Pigeon

Season Dates: Open September 16, close December 31, 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.

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(r) 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, 2004, and close February 29, 2005.

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. The season on canvasbacks is closed.

Geese

Season Dates: Open September 15, 2004, and close February 29, 2005.

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 of 365 ducks and 365 geese for those tribal members who engage in subsistence hunting.

Snipe

Season Dates: Open September 15, 2004, close February 29, 2005.

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

Nontribal Hunters

Ducks

Pintails: The season on pintails is the same as that established by the State of Washington, under final Federal frameworks, to be announced.

Other ducks: Open October 12, 2004, close January 26, 2005.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail (when open), four scaup, and two redheads. The season on canvasbacks is closed. The possession limit is twice the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 and 50, respectively

Geese

Season Dates: Open October 19, 2004, close January 26, 2005.

Daily Bag and Possession Limits: Four geese, including four dark geese but no more than three light geese. The possession limit is twice the daily bag limit.

Brant

Season Dates: Open January 11, close January 26, 2005.

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

Snipe

Season Dates: Open November 14, 2004, close February 28, 2005.

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.

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

Ducks

Season Dates: Open November 1, 2004, close February 8, 2005.

Daily Bag and Possession Limits: 15 and 20, respectively. The season on canvasbacks is closed.

Coots

Season Dates: Open November 1, 2004, close February 8, 2005.

Daily Bag and Possession Limits: 20 and 30, respectively.

Geese

Season Dates: Open November 1, 2004, close February 8, 2005.

Daily Bag and Possession Limits: The daily bag limits are seven geese and five brant. The possession limits for geese and brant are 10 and 7, respectively.

Mourning Dove

Season Dates: Open September 1, end December 31, 2004.

Daily Bag and Possession Limits: 12 and 15 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.

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

Teal

Season Dates: Open October 20, 2004, close January 29, 2005.

Daily Bag Limit: Six teal.

Ducks

Season Dates: Open October 20, 2004, and close February 21, 2005.

Daily Bag Limit: Six ducks, including no more than two hen mallards, two black ducks, two mottled ducks, one fulvous whistling duck, four mergansers, three scaup, one hooded merganser, two wood ducks, one canvasback, two redheads, and one pintail. The season is closed for harlequin ducks.

Sea Ducks

Season Dates: Open October 20, 2004, and close February 21, 2005.

Daily Bag Limit: Seven ducks including no more than four of any one species (only one of which may be a hen eider).

Geese

Season Dates: Open September 11, close September 25, 2004, and open November 8, 2004, close February 21, 2005.

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

Woodcock

Season Dates: Open October 16, and close November 30, 2004.

Daily Bag Limit: Three woodcock.

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

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(v) 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 1, close September 15, 2004.

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 1, close September 15, 2004.

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

Ducks (Including Mergansers)

Pintails and Canvasbacks: Open October 9, close December 5, 2004.

Other ducks: Open October 9, 2004, close January 30, 2005.

Daily Bag and Possession Limits: Seven ducks, including no more than three mallards (including no more than one hen mallard), two redheads, one canvasback (when open), and one pintail (when open). The possession limit is twice the daily bag limit.

Coots, Moorhens and Gallinules

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots, moorhens, and gallinules, singly or in the aggregate. The possession limit is twice the daily bag limit.

Canada Geese

Season Dates: Open October 9, 2004, close January 30, 2005.

Bag and Possession Limits: Three and six, 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. In addition, the area open to waterfowl hunting in the above seasons consists of: the entire length of the Black River west of the Bonito Creek and Black River confluence and the entire length of the Salt River forming the southern boundary of the reservation; the White River, extending from the Canyon Day Stockman Station to the Salt River; and all stock ponds located within Wildlife Management Units 4, 5, 6, and 7. Tanks located below the Mogollon Rim, within Wildlife Management Units 2 and 3, will be open to waterfowl hunting during the 2004–05 season. The length of the Black River east of the Black River/Bonito Creek confluence is closed to waterfowl hunting. All other waters of the reservation would be closed to waterfowl hunting for the 2004–05 season.

(w) Bois Forte Band of Chippewa, Nett Lake, Minnesota (Tribal Members and Nontribal Hunters)

Ducks

Pintails and Canvasbacks (For nontribal hunters only): Open September 27, close October 26, 2004.

Other ducks: Open September 27, close November 25, 2004, except shooting hours on opening day and for every hunting day for the remainder of the season would be one-half hour before sunrise and continue to one-half hour after sunset for tribal members. Nontribal shooting hours will go from one-half hour before sunrise to sunset on reservation.

Daily Bag Limits and Possession Limits: The daily bag limit is 6 ducks, including no more than 4 mallards (no more than 2 of which may be females), 3 mottled ducks, 3 scaup, 1 black duck, 1 pintail, 1 canvasback, 2 wood ducks,

and 2 redheads. The possession limit is twice the daily bag limit.

The Band's Conservation Department regulates nontribal harvest limits under the following regulations: (1) Nontribal hunters must be accompanied at all times by a Band Member guide; (2) Nontribal hunters must have in their possession a valid small game hunting license, a Federal migratory waterfowl stamp, and a Minnesota State waterfowl stamp; (3) Nontribal hunters and Band Members must have only Service-approved nontoxic shot in possession at all times; (4) Nontribal hunters must conform to possession limits established and regulated by the State of Minnesota and the Bois Forte Band.

(x) Jicarilla Apache Tribe, Jicarilla Indian Reservation, Dulce, New Mexico (Tribal Members and Nontribal Hunters)

Pintail and Canvasback

Season Dates: Open October 9, close November 30, 2004.

Other Ducks (Including Mergansers)

Season Dates: Open October 9, close November 30, 2004.

Daily Bag and Possession Limits: The daily bag limit is seven, including no more than two hen mallards, one pintail, one canvasback, two redheads, and four scaup. The possession limit is twice the daily bag limit.

Canada Geese

Season Dates: Open October 9, close November 30, 2004.

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

General Conditions: Tribal and nontribal hunters must 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 older 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 Jicarilla Tribe also apply on the reservation.

(y) Klamath Tribe, Chiloquin, Oregon (Tribal Members Only)

Ducks

Season Dates: Open October 1, 2004, close January 28, 2005.

Daily Bag and Possession Limits: 9 and 18 ducks, respectively.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots.

Geese

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 6 and 12 geese, respectively.

General: The Klamath Tribe provides its game management officers, biologists, and wildlife technicians with regulatory enforcement authority, and has a court system with judges that hear cases and set fines.

(z) Lower Brule Sioux Tribe, Lower Brule Reservation, Lower Brule, South Dakota (Tribal Members and Nontribal Hunters)

*Tribal Members**Ducks (Including Mergansers and Coots)*

Season Dates: Open October 2, 2004, close March 7, 2005.

Daily Bag and Possession Limits: Six ducks, including no more than five mallards (only one of which may be a hen), three scaup, one mottled duck, two redheads, two wood ducks, one canvasback, and one pintail. Coot daily bag limit is 15. Merganser daily bag limit is five, including no more than one hooded merganser. The possession limit is twice the daily bag limit.

Canada Geese

Season Dates: Open October 16, 2004, close March 7, 2005.

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

White-fronted Geese

Season Dates: Open October 16, 2004, close March 7, 2005.

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

Light Geese

Season Dates: Open October 16, 2004, close March 7, 2005

Daily Bag and Possession Limits: 20 and 40, respectively.

Youth Waterfowl Hunt

Season Dates: Open September 25, close September 26, 2004.

Daily Bag and Possession Limits: Same as above.

*Nontribal Hunters**Pintail*

Season Dates: Open October 23, close November 21, 2004.

Other Dockets (Including Mergansers and Coots)

Season Dates: Open October 2, 2004, close January 6, 2005.

Daily Bag and Possession Limits: Six ducks, including no more than five mallards (only one of which may be a hen), three scaup, one mottled duck, two redheads, two wood ducks, and one pintail (when open). The season on

canvasbacks is closed. Coot daily bag limit is 15. Merganser daily bag limit is five, including no more than one hooded merganser. The possession limit is twice the daily bag limit.

Canada Geese

Season Dates: Open October 16, 2004, close January 18, 2005.

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

White-fronted Geese

Season Dates: Open October 16, 2004, close January 9, 2005.

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

Light Geese

Season Dates: Open October 16, 2004, close January 15, 2005, and open February 26, close March 10, 2005.

Daily Bag and Possession Limits: 20 and 40, respectively.

Youth Waterfowl Hunt

Season Dates: Open September 25, close September 26, 2004.

Daily Bag and Possession Limits: Same as above.

General Conditions: All hunters must comply with the basic Federal migratory bird hunting regulations in 50 CFR part 20, including the use of steel shot. Nontribal hunters must possess a validated Migratory Bird Hunting and Conservation Stamp. The Lower Brule Sioux Tribe has an official Conservation Code that hunters must adhere to when hunting in areas subject to control by the Tribe.

(aa) Shoshone-Bannock Tribes, Fort Hall Indian Reservation, Fort Hall, Idaho (Nontribal Hunters)

Pintails and Canvasbacks

Season Dates: Open October 2, close November 30, 2004.

Other Ducks

Season Dates: Open October 2, 2004, close January 14, 2005.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail (when open), one canvasback (when open), one scaup, and two redheads. The possession limit is twice the daily bag limit.

Mergansers

Season Dates: Same as ducks.

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

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 10 and 20 coots, respectively.

Geese

Season Dates: Open October 2, 2004, close January 14, 2005.

Daily Bag and Possession Limits: Four geese, including not more than three light geese or two white-fronted geese. The possession limit is twice the daily bag limit.

Common Snipe

Season Dates: Same as ducks.

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

General Conditions: Nontribal hunters must 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 older must possess a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Other regulations established by the Shoshone-Bannock Tribes also apply on the reservation.

(bb) Stillaguamish Tribe of Indians, Arlington, Washington (Tribal Members Only)

Pintails

Season dates: Open October 1, close November 30, 2004.

Ducks (Including Mergansers)

Season Dates: Open October 1, 2004, close January 31, 2005.

Daily Bag and Possession Limits: 10 including no more than five hen mallards, two pintail, seven scaup, and five redheads. The season on canvasbacks is closed. The possession limit is twice the daily bag limit.

Geese

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Six and twelve, respectively. The daily bag limit on brant is three.

Snipe

Season Dates: Same as ducks.

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

Tribal members hunting on lands under this proposal will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, which will be enforced by the Stillaguamish Tribal Law Enforcement. Tribal members are required to use steel shot or a nontoxic shot as required by Federal regulations.

(cc) Swinomish Indian Tribal Community, LaConner, Washington (Tribal Members Only)*Off Reservation**Ducks (Including Mergansers)*

Season Dates: Open September 27, 2004, close February 25, 2005.

Daily Bag and Possession Limits: 10 ducks, including no more than 5 hen mallards, 4 pintail, 7 scaup, and 5 redheads. The season on canvasbacks is closed. The possession limit is twice the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots.

Geese

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Seven geese, including seven dark geese but no more than six light geese. The possession limit is twice the daily bag limit.

Brant

Season Dates: Same as ducks.

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

*On Reservation**Ducks (Including Mergansers)*

Season Dates: Open September 27, 2004, close March 9, 2005.

Daily Bag and Possession Limits: 10 ducks, including no more than 5 hen mallards, 4 pintail, 7 scaup, and 5 redheads. The season on canvasbacks is closed. The possession limit is twice the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots.

Geese

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Seven geese, including seven dark geese but no more than six light geese. The possession limit is twice the daily bag limit.

Brant

Season Dates: Same as ducks.

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

General Conditions: Steps will be taken to limit level of harvest, where it could be shown that failure to limit such harvest would seriously impact the migratory bird resource. Tribal members hunting on lands under this proposal will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, which will be enforced by the Swinomish Tribal Fish and Game.

(dd) Yankton Sioux Tribe, Marty, South Dakota (Tribal Members and Nontribal Hunters)*Ducks (Including Mergansers)*

Pintails and Canvasbacks: Open October 9, close November 16, 2004.

Other ducks: Open October 9, close December 21, 2004.

Daily Bag and Possession Limits: Six ducks, including no more than five mallards (no more than two hen mallards), two redheads, one canvasback (when open), one pintail (when open), three scaup, and two wood ducks. The daily bag limit for mergansers is five, of which no more than one can be a hooded merganser. The possession limit is twice the daily bag limit.

Coots

Season Dates: Same as other ducks.

Daily Bag and Possession Limits: 15 and 30 coots, respectively.

Dark Geese

Season Dates: Open October 29, 2004, close January 31, 2005.

Daily Bag and Possession Limits: Three geese, including no more than one white-fronted goose or brant. The possession limit is twice the daily bag limit.

Light Geese

Season Dates: Open October 29, 2004, close January 19, 2005.

Daily Bag and Possession Limits: 20 geese daily, no possession limit.

General Conditions:

(1) The waterfowl hunting regulations established by this final rule apply to tribal and trust lands within the external boundaries of the reservation.

(2) Tribal and nontribal hunters must 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 older 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 Yankton Sioux Tribe also apply on the reservation.

Dated: September 24, 2004.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 04-21827 Filed 9-24-04; 4:50 pm]

BILLING CODE 4310-55-P