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Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-HQ-MB-2018-0090; FF09M22000-212-FXMB1231099BPP0]

RIN 1018-BD76

Economic Analysis for Proposed Regulations Governing the Take of Migratory Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; document availability.

SUMMARY: We announce the opportunity to review and comment on two economic analysis documents prepared during development of the proposed rule to revoke the January 7, 2021, rule governing the prohibitions on incidental take under the Migratory Bird Treaty Act. This document announces the availability of an initial regulatory flexibility analysis and a regulatory impact analysis for public review.

DATES: Submit comments by August 19, 2021.

ADDRESSES: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <https://www.regulations.gov/docket/FWS-HQ-MB-2018-0090/document>. You may submit a comment by clicking on "Comment." Please ensure you have located the correct document before submitting your comments.

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS-HQ-MB-2018-0090, U.S. Fish and Wildlife Service, MS: JAO/3W, 5275 Leesburg Pike, Falls Church, VA 22041-3803.

We request that you send comments only by the methods described above. We will post all comments on <https://www.regulations.gov>. This generally means that we will post any personal information you provide us (see Public Comments, below, for more information).

FOR FURTHER INFORMATION CONTACT:

Jerome Ford, Assistant Director, Migratory Birds, at 202-208-1050.

SUPPLEMENTARY INFORMATION:

Background

On January 7, 2021, the Service published a final rule defining the scope of the Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703 *et seq.*) as it applies to conduct resulting in the injury or death of migratory birds protected by the MBTA (86 FR 1134) (hereafter referred to as the "January 7 rule"). The January 7 rule codified an interpretation of the MBTA set forth in a 2017 legal opinion of the Solicitor of the Department of the Interior, Solicitor's Opinion M-37050, which concluded that the MBTA does not prohibit incidental take.

Following Council on Environmental Quality regulations that implement the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), the Service prepared a final environmental impact statement (EIS) for the January 7 rule: "Final Environmental Impact Statement; Regulations Governing Take of Migratory Birds," available on <http://www.regulations.gov> in Docket No. FWS-HQ-MB-2018-0090 (<https://www.regulations.gov/document/FWS-HQ-MB-2018-0090-14242>). The alternatives analyzed in that EIS cover the effects of interpreting the MBTA both to include and exclude incidental take. We issued a record of decision based on the final EIS. The Service also prepared a regulatory impact analysis (RIA) to support the January 7 rule, available on <http://www.regulations.gov> in Docket No. FWS-HQ-MB-2018-0090 (<https://www.regulations.gov/document/FWS-HQ-MB-2018-0090-14241>). That RIA analyzed the economic impacts of three alternatives: A *No Action Alternative*—Retain the existing legal interpretation under M-37050 that the MBTA excludes incidental take; *Alternative A*—Promulgate regulations that define the scope of the MBTA to exclude incidental take; and *Alternative B*—Promulgate regulations that define the scope of the MBTA to include incidental take.

On May 7, 2021, the Service published in the **Federal Register** (86 FR 24573) a proposed rule seeking public comment on whether the Service should revoke the January 7 rule, which defined the scope of the MBTA as it applies to conduct resulting in the injury or death of migratory birds protected by the MBTA. This proposed rule is available on <http://www.regulations.gov> in Docket No. FWS-HQ-MB-2018-0090 (<https://www.regulations.gov/document/FWS->

[HQ-MB-2018-0090-18943](https://www.regulations.gov/document/FWS-HQ-MB-2018-0090-18943)). For the May 7, 2021, proposed rule, we modified the analysis in the RIA for the January 7 rule, given that the January 7 rule went into effect on March 8, 2021. The regulatory impact analysis presented for the proposed rule revises the alternatives to reflect the current baseline with the January 7 rule in effect. While the proposed rule does not itself propose codification of a new regulation that interprets the MBTA to prohibit incidental take, the effects of the removal of the January 7 rule are substantially similar to those described in Alternative B of the RIA for the January 7 rule. Revoking the January 7 rule would have the effect of reverting the government's interpretation of the MBTA to prohibit incidental take consistent with longstanding agency practice prior to publication of M-37050, subject to the exercise of enforcement discretion and the applicable judicial precedent in a given jurisdiction. Consistent with Alternative B, the Service will consider further steps to implement the MBTA consistent with an interpretation that it prohibits incidental take if it finalizes the proposed revocation rule.

The Regulatory Flexibility Act of 1980 (RFA; 5 U.S.C. 601 *et seq.*) requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations, and small governmental jurisdictions. Section 603 of the RFA requires agencies to prepare and make available for public comment an initial regulatory flexibility analysis (IRFA) describing the impact of proposed rules on small entities unless the agency can certify under section 605(b) that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. Section 603(b) of the Act specifies that each IRFA must contain:

- A description of the reasons why action by the agency is being considered;
- A succinct statement of the objectives of, and legal basis for, the proposed rule;
- A description—and, where feasible, an estimate of the number—of small entities to which the proposed rule will apply;
- A description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and
- An identification, to the extent practicable, of all relevant Federal rules

that may duplicate, overlap, or conflict with the proposed rule.

While the Service believes that certification under section 605(b) of the RFA is likely appropriate in regard to the May 7, 2021, proposed rule and consistent with our analysis of economic impacts under the January 7 rule, we have developed an IRFA out of an abundance of caution to ensure that economic impacts on small entities are fully accounted for in this rulemaking process.

The Service is making available to the public for review and comment both the revised RIA and the IRFA for the May 7, 2021, proposed rule (86 FR 24573) to revoke the January 7, 2021, rule (86 FR 1134). As noted above, the proposed rule is also available in the same docket for reference when reviewing the RIA and IRFA. Comments on the RIA and IRFA and any additional comments on the proposed rule will be addressed in the final rule.

Public Comments

You may submit your comments and materials by one of the methods listed in **ADDRESSES**. We will post your entire comment—including your personal identifying information—on <http://www.regulations.gov>. If you provide personal identifying information in your comment, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. Comments and materials we receive will be available for public inspection on <http://www.regulations.gov>.

Authority: This document is published under the authority of the MBTA and section 603 of the RFA.

Shannon A. Estenoz,

Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NRNL-DTS#-32306;
PPWOCRADIO, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.
ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before July 10, 2021, for listing or

related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by August 4, 2021.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line “Public Comment on <property or proposed district name, (County) State>.” If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sherry A. Frear, Chief, National Register of Historic Places/National Historic Landmarks Program, 1849 C Street NW, MS 7228, Washington, DC 20240, *sherry_frear@nps.gov*, 202-913-3763.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before July 10, 2021. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

ALASKA

Bristol Bay Borough

APA's Diamond NN Cannery, 101 Cannery Rd., South Naknek, SG100006826

Fairbanks North Star Borough

Gould Cabin, 105 Dunkel St., Fairbanks, SG100006828

Lake and Peninsula Borough

Oinuyang, Address Restricted, Igiugig vicinity, SG100006827

Matanuska-Susitna Borough

High Ridge, 9721 East Hilscher Hwy., Palmer, SG100006829

Yukon-Koyukuk Borough

Alaska Road Commission Shelter Cabin-Fritz's, (Iditarod Trail MPS), North side of

Hunter Trail, approx. 34 mi. from Ophir, Ophir vicinity, MP100006832

CALIFORNIA

Los Angeles County

Pasadena Avenue Historic District, Roughly bounded by South Pasadena Ave., Arlington Dr., Avoca Ave., Columbia St., West Glenarm St., Hurlbut St., Madeline Dr., West State St. and Wigmore Dr., Pasadena, SG100006821

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CONNECTICUT

Hartford County

Aetna Diner, 267 Farmington Ave., Hartford, SG100006804

MARYLAND

Frederick County

Beatty-Cramer House, Address Restricted, Frederick vicinity, SG100006825

NORTH CAROLINA

Brunswick County

John N. Smith Cemetery, 225 East Leonard St., Southport, SG100006808

Davidson County

St. Stephen United Methodist Church, 102 East First St., Lexington, SG100006812

Halifax County

Enfield Historic District, Roughly bounded by North Church, West Bryant, North Railroad, Liberty, North McDaniel, Whitaker, SW Railroad, Tucker and McGwigen Sts., East and West Burnette Aves., Enfield, SG100006809

Lee County

Downtown Sanford Historic District (Boundary Increase and Decrease), Roughly bounded by South Horner Blvd., Cole St., Maple Ave., South and North First Sts., Norfolk-Southern Railway tracks, Charlotte Ave., McIver St., North Moore St., Gordon St., Sanford, BC100006819

Wake County

Graves-Fields House (Oberlin, North Carolina MPS), 814 Oberlin Rd., Raleigh, MP100006810

Zebulon Historic District, Roughly bounded by North Arendell and East Gannon Aves., North Gill, East Horton, West Judd, East and West Sycamore, West Vance, North Wakefield, and North Whitley Sts., Rotary Dr., and the former Raleigh and Pamlico Sound Railroad tracks, Zebulon, SG100006811

OHIO

Wayne County

Schantz Organ Company, 626 South Walnut St., Orrville, SG100006818