

**Supporting Statement A for
Paperwork Reduction Act Submission**

**Establishment of Annual Migratory Bird Hunting Seasons
50 CFR Part 20**

OMB Control Number 1018-New

Terms of Clearance: None.

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

Overall Annual Process

Migratory game birds are those bird species so designated in conventions between the United States and several foreign nations for the protection and management of these birds. Under the Migratory Bird Treaty Act (16 U.S.C. 703–712), the Secretary of the Interior is authorized to determine when “hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, or export of any *** bird, or any part, nest, or egg” of migratory game birds can take place, and to adopt regulations for this purpose. These regulations are written after giving due regard to “the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of such birds” and are updated annually (16 U.S.C. 704(a)). This responsibility has been delegated to the Service as the lead Federal agency for managing and conserving migratory birds in the United States. However, migratory game bird management is a cooperative effort of State, Tribal, and Federal governments. Migratory game bird hunting seasons provide opportunities for recreation and sustenance; aid Federal, State, and tribal governments in the management of migratory game birds; and permit harvests at levels compatible with migratory game bird population status and habitat conditions.

The Service develops migratory game bird hunting regulations by establishing the frameworks, or outside limits, for season lengths, bag limits, and areas for migratory game bird hunting. Acknowledging regional differences in hunting conditions, the Service has administratively divided the Nation into four Flyways for the primary purpose of managing migratory game birds. Each Flyway (Atlantic, Mississippi, Central, and Pacific) has a Flyway Council, a formal organization generally composed of one member from each State and Province in that Flyway. The Flyway Councils, established through the Association of Fish and Wildlife Agencies, also assist in researching and providing migratory game bird management information for Federal, State, and Provincial governments, as well as private conservation entities and the general public.

The process for adopting migratory game bird hunting regulations, located in title 50 of the Code of Federal Regulations (CFR) at part 20, is constrained by three primary factors. Legal and administrative considerations dictate how long the rulemaking process will last. Most importantly, however, the biological cycle of migratory game birds controls the timing of data-gathering activities and thus the dates on which these results are available for consideration and deliberation.

For the regulatory cycle, Service biologists gather, analyze, and interpret biological survey data and provide this information to all those involved in the process through a series of published status reports and presentations to Flyway Councils and other interested parties. Because the Service is required to take abundance of migratory game birds and other factors into consideration, the Service undertakes a number of surveys throughout the year in conjunction with

Service Regional Offices, the Canadian Wildlife Service, and State and Provincial wildlife-management agencies. To determine the appropriate frameworks for each species, we consider factors such as population size and trend, geographical distribution, annual breeding effort, condition of breeding and wintering habitat, number of hunters, and anticipated harvest. We then cooperatively develop migratory game bird hunting regulations by establishing the frameworks, or outside limits, for season lengths, bag limits, and areas for migratory game bird hunting in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. After frameworks are established for season lengths, bag limits, and areas for migratory game bird hunting, States and tribes may select season dates, bag limits, and other regulatory options for the hunting seasons. States may always be more conservative in their selections than the Federal frameworks, but never more liberal.

State and Territories Seasons

After frameworks are established, States, including the U.S. Territories of Puerto Rico and the Virgin Islands, may select season dates, bag limits, and other regulatory options for the hunting seasons within the season selection criteria established via the frameworks. This process preserves the ability of the States to determine which seasons meet their individual needs. Selection of States' and U.S. Territories' season dates and bag limits is solicited and published via rulemaking.

Tribal Seasons

The tribal process is very similar to the State process and largely uses the resulting frameworks developed in the State process above as the baseline for discussions with the interested Tribal entities desiring to establish special migratory game bird hunting regulations on Federal Indian reservations (including off-reservation trust lands) and ceded lands. However, there is more latitude and deference given to the Tribal seasons as a result of their sovereign status and our recognition of their tribal hunting rights.

Beginning with the 1985–86 hunting season, the Service has employed guidelines described in the June 4, 1985, Federal Register (50 FR 23467) to establish special migratory game bird hunting regulations on Federal Indian reservations (including off-reservation trust lands) and ceded lands. These guidelines were developed in response to tribal requests for recognition of their reserved hunting rights, and for some tribes, recognition of their authority to regulate hunting by both tribal and nontribal members throughout their reservations. The guidelines include possibilities for:

- (1) On-reservation hunting by both tribal and nontribal members, 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, season length, and 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, tribal regulations established under the guidelines must be consistent with the annual March 11 to August 31 closed season mandated by the 1916 Convention Between the United States and Great Britain (for Canada) for the Protection of Migratory Birds (Convention). The guidelines are applicable to those tribes that have reserved hunting rights on Federal Indian reservations (including off-reservation trust lands) and ceded lands. They also may be applied to the establishment of migratory game bird hunting regulations for nontribal members on all lands within the exterior boundaries of reservations where tribes have full wildlife-management authority

over such hunting, or where the tribes and affected States otherwise have reached agreement over hunting by nontribal members on non-Indian lands.

Tribes usually have the authority to regulate migratory game bird hunting by nonmembers on Indian-owned reservation lands, subject to our approval. The question of jurisdiction is more complex on reservations that include lands owned by non-Indians, especially when the surrounding States have established or intend to establish regulations governing migratory bird hunting by non-Indians on these lands. In such cases, we encourage the tribes and States to reach agreement on regulations that would apply throughout the reservations.

One of the guidelines provides for the continuation of tribal members' harvest of migratory game birds on reservations where such harvest is a customary practice. We do not oppose this harvest, provided it does not take place during the closed season required by the Convention, and it is not so large as to adversely affect the status of the migratory game bird resource. Since the inception of these guidelines, we have reached annual agreement with tribes for migratory game bird hunting by tribal members on their lands or on lands where they have reserved hunting rights. We believe that they provide appropriate opportunity to accommodate the reserved hunting rights and management authority of Indian tribes while also ensuring that the migratory game bird resource receives necessary protection. The conservation of this important international resource is paramount. Use of the guidelines is not required if a tribe wishes to observe the hunting regulations established by the State(s) in which the reservation is located.

Tribes that wish to use the guidelines to establish special hunting regulations for migratory game bird hunting season submit a proposal (details below in #2). We then review the proposals and subsequently publish details of tribal proposals for public review via rulemaking.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. Be specific. If this collection is a form or a questionnaire, every question needs to be justified.

As a result of the incremental rulemaking process explained in our response to question 1, the information requested from States is solicited during a different point in the overall rulemaking process than the information requested from Tribal governments. However, the final rules published at the end of the rulemaking process incorporate all information received from the State and Tribal governments. Therefore, this ICR incorporates both the request for Tribal proposals in this proposed rule and the information requested from the States which will be solicited during a subsequent proposed rule (all under the same RIN). We will ensure the rule is posted electronically on the Service website and that State governments are aware of this process to afford them the opportunity to provide comments on the information collection requirements identified in the Paperwork Reduction Act section of the proposed rule.

The information identified below, necessary to establish annual migratory bird hunting seasons, is solicited annually from State (including U.S. territory) and Tribal governments. The required information, received at various times in the year prior to the actual hunting season as part of the rulemaking process described above, is used by the Service as part of the final rulemaking process necessary to open annual hunting seasons otherwise closed by law.

Detailed Needed from States and U.S. Territories

States and U.S. Territories that wish to establish annual migratory game bird hunting seasons are required to provide the requested dates and other details for hunting seasons in their respective States. The information is provided to the Service in a nonform format, usually via letter or spreadsheet, in response to solicitations for the information sent to the State governments each

year via an emailed letter and as part of the first final rule (for the frameworks).

Details Needed in from Tribal Governments

Tribes that wish to use the guidelines (published June 4, 1985, 50 FR 23467 – copy uploaded to ROCIS) to establish special hunting regulations for the annual migratory game bird hunting season are required to submit a proposal that includes:

- (1) The requested migratory game bird hunting season dates and other details regarding the proposed regulations;
- (2) Harvest anticipated under the proposed regulations; and
- (3) Tribal capabilities to enforce migratory game bird hunting regulations.

For those situations where it could be shown that failure to limit Tribal harvest could seriously impact the migratory game bird resource, we also request information on the methods employed to monitor harvest and any potential steps taken to limit level of harvest.

A tribe that desires the earliest possible opening of the migratory game bird season for nontribal members should specify this request in its proposal, rather than request a date that might not be within the final Federal frameworks. Similarly, unless a tribe wishes to set more restrictive regulations than Federal regulations will permit for nontribal members, the proposal should request the same daily bag and possession limits and season length for migratory game birds that Federal regulations are likely to permit the States in the Flyway in which the reservation is located.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden and specifically how this collection meets GPEA requirements.

The collection of information does not involve the use of electronic or other technological collection techniques. Submission of information by States and Tribes may be submitted electronically via email to the appropriate Service Office. If the tribe prefers, hard copies of the proposals will always be accepted. We anticipate approximately 90% of respondents will submit the requested information via email.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

The information that we collect is unique to each respondent and is not available from any other source. Other than the general identifying information standard for each State or tribe in their response, collection of duplicate information is minimal.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

This collection will not have a significant impact on small entities.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles

to reducing burden.

If we do not collect the information or if we collect the information less frequently, we would not be able to facilitate the States' selection of hunting seasons and establish the annual migratory bird hunting regulations. Collection of this information is vital for the Service's ability to provide State and Tribal governments with the opportunity to select seasons and limits and to allow recreational harvest at levels compatible with population and habitat conditions.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- * requiring respondents to report information to the agency more often than quarterly;
- * requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- * requiring respondents to submit more than an original and two copies of any document;
- * requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;
- * in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- * requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
- * that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- * requiring respondents to submit proprietary trade secrets, or other confidential information, unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

There are no circumstances that require us to collect the information in a manner inconsistent with OMB guidelines.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and in response to the PRA statement associated with the collection over the past three years, and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years — even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

We have prepared proposed regulations to solicit the necessary information from necessary to establish special migratory game bird hunting regulations in States and on Federal Indian reservations and ceded lands. A copy of the proposed rule is attached. The proposed rule solicits

public comment for a period of 30 days on the information collection requirements described in this supporting statement.

Consultation with State and Tribal governments is conducted annually and is ongoing throughout the rulemaking process. The Service publishes a series of proposed and final rulemaking documents for the establishment of the upcoming annual hunting seasons (see process explained in question 1). Follow-up Federal Register publications discuss and propose the frameworks for the upcoming season migratory bird hunting regulations. Comments and recommendations are summarized and published as part of a follow-on proposed rule.

Consultation and outreach as part of this process is also conducted through the involvement of Flyways. Acknowledging regional differences in hunting conditions, the Service has administratively divided the Nation into four Flyways for the primary purpose of managing migratory game birds. Each Flyway (Atlantic, Mississippi, Central, and Pacific) has a Flyway Council, a formal organization generally composed of one member from each State and Province in that Flyway. The Flyway Councils, established through the Association of Fish and Wildlife Agencies, also assist in researching and providing migratory game bird management information for Federal, State, and Provincial governments, as well as private conservation entities and the general public.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

We do not provide payments or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

We do not provide any assurance of confidentiality. Information is collected and protected in accordance with the Privacy Act (5 U.S.C. § 552a) and the Freedom of Information Act (5 U.S.C. 552).

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

We do not ask questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- * Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.
- * If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.

- * Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here.

We estimate that we will receive 82 responses (from 52 State and U.S. Territories and 30 Tribal governments) totaling 328 annual burden hours for this information collection. The total dollar value of the annual burden hours is approximately \$15,695 (rounded). Table 3 of the Bureau of Labor Statistics (BLS) News Release [USDL-17-0321](#), March 17, 2017, Employer Costs for Employee Compensation—December 2016, lists the hourly rate for all government workers as \$47.85, including benefits.

| ACTIVITY | NUMBER OF ANNUAL RESPONSES | AVERAGE TIME REQUIRED PER RESPONSE (Hours) | TOTAL ANNUAL BURDEN HOURS | TOTAL \$ VALUE OF ANNUAL BURDEN HOURS (\$47.85/hr) |
|----------------------------|----------------------------|--|---------------------------|--|
| State & Tribal Governments | 82 | 4 | 328 | \$ 15,694.80 |

13. Provide an estimate of the total annual non-hour cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected in item 12.)

- * The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information (including filing fees paid for form processing). Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.
- * If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- * Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

We have not identified any nonhour cost burden associated with this collection of information.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

We estimate the total cost to the Federal Government to administer this information collection will be \$8,541 (rounded).

We used Office of Personnel Management Salary Table [2017-DCB](#) to obtain the most up-to-date hourly rates for staff. We used BLS News Release [USDL-17-0321](#), March 17, 2017, Employer Costs for Employee Compensation—December 2016, to calculate the fully burdened rates for each staff member. The table below shows Federal staff and grade levels performing various tasks associated with this information collection.

| Position/Grade | 2017 Annual Salary | Annual Salary, Incl. Benefits (x1.59 multiplier)* | Time Spent on Information Collection | Total Annual Cost* |
|--------------------------------|--------------------|---|--------------------------------------|--------------------|
| Wildlife Biologist GS-13/05 | \$ 107,435 | \$ 170,822 | 5% | \$ 8,541 |

*Rounded

15. Explain the reasons for any program changes or adjustments in hour or cost burden.

This is a new collection of information in use without OMB approval.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

There are no plans for publication of the results of these information collections.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

We will display the OMB control number and expiration date.

18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

There are no exceptions to the certification statement.