

THE "WHYS, WHOS, AND HOWS" BEHIND MIGRATORY BIRD HUNTING REGULATIONS

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Because migratory birds move across state, provincial, and national borders, they are recognized as an international resource requiring conservation on a continental basis. Protection of migratory birds in North America is provided for by treaties between the United States and Great Britain for Canada (1916), Mexico (1936), Japan (1972), and the Soviet Union (1976).

Protection and management of the migratory bird resource in the United States is provided by the Migratory Bird Treaty Act of 1918. This Act makes it unlawful to hunt, kill and possess migratory birds except as permitted by regulations promulgated by the Secretary of the Interior. The Act authorizes and directs the Secretary to determine when, to what extent, if at all, and by what means, to allow hunting of any such birds, and to adopt suitable regulations permitting and governing the same. The Act does not prohibit states from making or enforcing laws or regulations not inconsistent with the provisions in the various treaties and the Act, if such laws or regulations do not extend the open season for such birds beyond the dates approved by the Secretary of the Interior.

Hunting regulations, whether promulgated by state or federal governments, can be categorized as being either "basic" or "annual." Basic regulations are those that govern methods of hunting, possession requirements, transportation, importation or exportation. They would include, for example, the 3-shell limit and prohibition of using either live decoys or bait. Basic regulations are relatively stable--persisting for many years without modification.

Annual regulations are those pertaining to seasons, limits, and shooting hours. They are the least stable of the regulations, and some being changed each hunting season. It is the annual regulations as they affect hunting next season that is generally of interest to most hunters.

To provide a basis for formulation of annual regulations, data are gathered and analyzed each year on current wintering and breeding population indices and reproductive success for some species. The status information is reviewed by the four Waterfowl Flyway Councils and their technical committees and other interested organizations and individuals. The U.S. Fish and Wildlife Service Regulations Committee (currently comprised of the Service's Associate Directors for Wildlife and for Research, two Regional Directors, and the Chief of the Office of Migratory Bird Management), after reviewing the status and past harvest information and taking in consideration the recommendations from the four Flyway Councils, individual states, interested organizations, and individuals, presents its recommendations to the Director. The Director finalizes "framework" recommendations and submits them to the Secretary of the Interior for final approval. Upon approval of the framework for the season and options for season length and daily bag and possession limits, each state selects its season dates and bag limits. These selections are published in the Federal Register. States may adopt more restrictive regulations within the Federal framework; however, they may not promulgate regulations that are more liberal.

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To provide a rational basis for formulation of annual regulations, data on wintering populations, breeding populations, reproductive success, harvests, and nonhunting mortality are collected and reported by state, provincial, and federal wildlife agencies. Both the USFWS and the numerous subcommittees of the four Flyway Study or Technical Committees are involved in both input and review of those data.

In the Pacific Flyway, subcommittees report to the Study Committee on their evaluation of the status and harvest of the particular species, population, or group of species and make recommendations for management measures, including, but not limited to, hunting regulations. The Study Committee in turn considers these recommendations and those of other committees. When recommendations from committees conflict in purpose, alternatives are sought. The Study Committee then reports to the Pacific Flyway Council on findings and their recommendations.

The Pacific Flyway Council is comprised of administrators and/or commissioners; whereas, the Study Committee is comprised of biologists or technicians. The Council's function then becomes one of balancing the biological needs and recreational desires against fiscal, legal, and political realities. The directors or commissioners can commit their agencies resources to certain tasks. Because the Council deals with a shared resource, their recommendations often result in regulatory changes within a particular state, group of states, or throughout the flyway. Sometimes the regulatory changes are made voluntarily, but other times the changes are mandated through modifications in the federal frameworks.

Of considerable importance is the relationship between the Council and the USFWS which ultimately must determine the merits of various recommendations and develop frameworks by which states select their seasons. The Council provides the USFWS both written recommendations and two consultants to the Service's Regulations Committee. The consultants from the Pacific Flyway Council serve for two years; one consultant is from the four coastal states and the other is from the six inland states.

In addition to recommendations and technical assistance coming from the Pacific Flyway Council, the USFWS also receives the same from the Atlantic, Mississippi, and Central Flyway Councils. During the period when proposed regulations are open for public comment, the Service also receives numerous letters recommending, sometimes insisting, certain changes. Comments often come from the National Wildlife Federation, the Wildlife Management Institute, The Wildlife Society, National Audubon Society, Defenders of Wildlife, Humane Society of the U.S., sportsmen's organizations, anti-hunting groups, individual hunters and the general public. All of these comments and recommendations, as well as the Service's internal review of population status and harvest information, are taken into consideration before frameworks for hunting regulations are proposed and later finalized.