Tribe. In particular, AGFD was concerned about the apparent lack of a hen mallard restriction in the Colorado River Indian Tribes' proposal and the White Mountain Apache Tribe's proposal of 2 canvasbacks per day in the daily bag limit.

While the above two proposals are not exactly in accordance with the Pacific Flyway's frameworks, the Service's position has generally been that there must be a certain amount of latitude and flexibility in the guidelines developed and established for tribal requests for special migratory bird hunting seasons. The 1985 guidelines were developed in response 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 and non-tribal members on their reservations. Specifically regarding the Colorado River Indian Tribes' and the White Mountain Apache Tribe's proposals, the Service points out that both tribes have established more conservative daily bag limits and seasons than those allowed in the proposed Pacific Flyway frameworks. The Colorado River Indian Tribes have selected a 4-bird daily bag limit and a 59-day season while the White Mountain Apache Tribe has selected a 3-bird daily bag limit and a 58-day season. Pacific Flyway frameworks for the 1995-96 hunting season allow for a 93-day season and a 6-bird daily bag limit.

Other comments from States regarding tribally proposed regulations, received earlier, were addressed in the early-season final rule published on September 1, 1995.

In summary, this rule amends section 20.110 of 50 CFR to make current for the late 1995–96 migratory bird hunting season the regulations that will apply on Federal Indian reservations, off-reservation trust lands and ceded lands. These regulations take into account the liberalization that the Service has determined is biologically feasible for this current season, based on the improved status of ducks.

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). 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 Service.

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, the Service initiated Section 7 consultation under the Endangered Species Act for the proposed migratory bird hunting seasons including those which occur on Federally recognized Indian reservations and ceded lands. The Service's biological opinion resulting from its consultation under Section 7 of the Endangered Species Act may be inspected by the public in, and will be available to the public from the Service at the address indicated under the caption ADDRESSES.

In an August 1995 finding, the Division of Endangered Species concluded that the proposed action is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of their critical habitats. Among other things, hunting regulations are designed to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species and their habitats.

Regulatory Flexibility Act, Executive Order 12866, and the Paperwork Reduction Act

In the March 24 Federal Register, the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing an Analysis of Regulatory Effects, and an updated Final Regulatory Impact Analysis (FRIA), and publication of a summary of the later.

Although a FRIA is no longer required, the economic analysis contained in the FRIA was reviewed and the Service determined that it met the requirements of E.O. 12866. In addition, the Service prepared a Small Entity Flexibility Analysis, under the Regulatory Flexibility Act (5 U.S.C. 601 et seq), which further document the significant beneficial economic effect on a substantial number of small entities. This rule was not subject to review by the Office of Management and Budget under E.O. 12866.

These regulations contain no information collections subject to OMB review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). However, the Service does utilize information acquired through other various information collections in the formulation of migratory game bird hunting regulations. These information collection requirements have been approved by OMB and assigned clearance numbers 1018–0005, 1018–0006, 1018–0008, 1018–0009, 1018–0010, 1018–0015, 1018–0019, and 1018–0023.

Authorship: The primary authors of this final rule are Ron W. Kokel and Dr. Keith A. Morehouse, Office of Migratory Bird Management.

Regulations Promulgation

The rulemaking process for migratory bird hunting must, by its very nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed hunting regulations for certain tribes were published on August 17, 1995, the Service established the longest possible period for public comments. In doing this, the Service recognized that time would be of the essence. However, the comment period provided the maximum amount of time possible while ensuring that this final rule would be published before the late-hunting season beginning on or about September 30, 1995.

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.), the Service prescribes 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 other than waterfowl.

Therefore, for the reasons set out above, the Service finds that "good