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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 92

[Docket No. FWS–R7–MB–2017–0087; FXMB1261070000-189-FF07M01000]

RIN 1018–BC70

Migratory Bird Subsistence Harvest in Alaska; Harvest Regulations for Migratory Birds in Alaska During the 2018 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) is establishing migratory bird subsistence harvest regulations in Alaska for the 2018 season. These regulations allow for the continuation of customary and traditional subsistence uses of migratory birds in Alaska and prescribe regional information on when and where the harvesting of birds may occur. These regulations were developed under a co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives. The rulemaking is necessary because the regulations governing the subsistence harvest of migratory birds in Alaska are subject to annual review. This rulemaking establishes region-specific regulations that go into effect on April 2, 2018.

DATES: The amendments to subpart C of 50 CFR part 92 are effective April 2, 2018. The amendments to subpart D of 50 CFR part 92 are effective April 2, 2018, through August 31, 2018.

FOR FURTHER INFORMATION CONTACT: Donna Dewhurst, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Mail Stop 201, Anchorage, AK 99503; (907) 786-3499.

SUPPLEMENTARY INFORMATION:

Why Is This Rulemaking Necessary?

This rulemaking is necessary because, by law, the migratory bird harvest season is closed unless opened by the Secretary of the Interior, and the regulations governing subsistence harvest of migratory birds in Alaska are subject to public review and annual approval. This rule establishes regulations for the taking of migratory birds for subsistence uses in Alaska during the spring and summer of 2018. This rule also sets forth a list of migratory bird season openings and closures in Alaska by region.

How Do I Find the History of These Regulations?

Background information, including past events leading to this rulemaking, accomplishments since the Migratory Bird Treaties with Canada and Mexico were amended, and a history, were originally addressed in the *Federal Register* on August 16, 2002 (67 FR 53511) and most recently on April 4, 2017 (82 FR 16298).

Recent *Federal Register* documents and all final rules setting forth the annual harvest regulations are available at <http://www.fws.gov/alaska/ambcc/regulations.htm> or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

What Is the Process for Issuing Regulations for the Subsistence Harvest of Migratory Birds in Alaska?

The U.S. Fish and Wildlife Service is establishing migratory bird subsistence-harvest regulations in Alaska for the 2018 season. These regulations allow for the continuation of

customary and traditional subsistence uses of migratory birds in Alaska and prescribe regional information on when and where the harvesting of birds may occur. These regulations were developed under a co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives.

The Alaska Migratory Bird Co-management Council (Co-management Council) held meetings on April 5-6, 2017, to develop recommendations for changes that would take effect during the 2018 harvest season. The Co-management Council recommended no changes for the 2018 regulations.

On February 1, 2018, we published in the Federal Register a proposed rule (83 FR 4623) to amend 50 CFR part 92 to propose regulations for the 2018 spring and summer subsistence harvest of migratory birds in Alaska at subpart D, and to amend subpart C. We accepted public comments on the proposed rule for 30 days, ending March 5, 2018. A summary of the comments we received, and our responses to them, is provided below, under **Summary of Comments and Responses**.

This Final Rule

This final rule contains no changes from the proposed regulation amendments published on February 1, 2018 (83 FR 4623).

Who Is Eligible To Hunt Under These Regulations?

Eligibility to harvest under the regulations established in 2003 was limited to permanent residents, regardless of race, in villages located within the Alaska Peninsula, Kodiak Archipelago, the Aleutian Islands, and in areas north and west of the Alaska Range (50 CFR

92.5). These geographical restrictions opened the initial migratory bird subsistence harvest to about 13 percent of Alaska residents. High-populated, roaded areas such as Anchorage, the Matanuska-Susitna and Fairbanks North Star boroughs, the Kenai Peninsula roaded area, the Gulf of Alaska roaded area, and Southeast Alaska were excluded from eligible subsistence harvest areas.

In response to petitions requesting inclusion in the harvest in 2004, we added 13 additional communities consistent with the criteria set forth at 50 CFR 92.5(c). These communities were Gulkana, Gakona, Tazlina, Copper Center, Mentasta Lake, Chitina, Chistochina, Tatitlek, Chenega, Port Graham, Nanwalek, Tyonek, and Hoonah, with a combined population of 2,766. In 2005, we added three additional communities for glaucous-winged gull egg gathering only in response to petitions requesting inclusion. These southeastern communities were Craig, Hydaburg, and Yakutat, with a combined population of 2,459, according to the latest census information at that time.

In 2007, we enacted the Alaska Department of Fish and Game's request to expand the Fairbanks North Star Borough excluded area to include the Central Interior area. This action excluded the following communities from participation in this harvest: Big Delta/Fort Greely, Healy, McKinley Park/Village, and Ferry, with a combined population of 2,812.

In 2012, we received a request from the Native Village of Eyak to include Cordova, Alaska, for a limited season that would legalize the traditional gathering of gull eggs and the hunting of waterfowl during spring. This request resulted in a new, limited harvest of spring waterfowl and gull eggs starting in 2014.

Amendments to Subpart C

Under subpart C, General Regulations Governing Subsistence Harvest, we are amending § 92.22, the list of birds open to subsistence harvest, by adding emperor goose (*Chen canagica*) and by amending cackling goose to allow egg gathering. These changes were originally made in the 2017 regulations (82 FR 16298; April 4, 2017), but were mistakenly set to expire August 31, 2017. We intended these changes to subpart C to be permanent as emperor goose hunting would be based on the total bird index; therefore, we are setting them forth again in this rule to make them permanent. The Service, Alaska Department and Fish and Game, and the Native Caucus agreed to an emperor goose management plan designed to allow a sustainable subsistence harvest concurrent with population protection. If the emperor goose population falls below the level for which subsistence harvest is allowed, the emperor goose subsistence harvest season will be closed and the species removed from the list of permanent species allowed for harvest.

How Would the Service Ensure That the Subsistence Migratory Bird Harvest Complies with the Migratory Bird Treaty Act, and Would Not Threaten the Conservation of Endangered and Threatened Species?

We have monitored subsistence harvest for the past 25 years through the use of household surveys in the most heavily used subsistence harvest areas, such as the Yukon–Kuskokwim Delta. In recent years, more intensive surveys combined with outreach efforts focused on species identification have been added to improve the accuracy of information gathered from regions still reporting some subsistence harvest of listed or candidate species.

Based on our monitoring of the migratory bird species and populations taken for subsistence, we find that this rule will provide for the preservation and maintenance of

migratory bird stocks as required by the Migratory Bird Treaty Act (Act; 16 U.S.C. 703 et seq.). The Act's 16 U.S.C. 712(1) provision states that the Service, "is authorized to issue such regulations as may be necessary to assure that the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and other essential needs, as determined by the Secretary of the Interior, during seasons established so as to provide for the preservation and maintenance of stocks of migratory birds." Communication and coordination between the Service, the Co-management Council, and the Pacific Flyway Council have allowed us to set harvest regulations to ensure the long-term viability of the migratory bird stocks. In addition, Alaska migratory bird subsistence harvest rates have continued to decline since the inception of the subsistence-harvest program, reducing concerns about the program's consistency with the preservation and maintenance of stocks of migratory birds.

As for the ensuring the conservation of Endangered Species Act (ESA; 16 U.S.C. 1531 et seq.) listed species, spectacled eiders (*Somateria fischeri*) and the Alaska-breeding population of Steller's eiders (*Polysticta stelleri*) are listed as threatened species. Their migration and breeding distribution overlap with areas where the spring and summer subsistence migratory bird hunt is open in Alaska. Both species are closed to hunting, although harvest surveys and Service documentation indicate both species are taken in several regions of Alaska. We have determined that this rule complies with the ESA (see **Endangered Species Act Consideration** discussion, below).

The Service has dual objectives and responsibilities for authorizing a subsistence harvest while protecting migratory birds and threatened species. Although these objectives

continue to be challenging, they are not irreconcilable, provided that: (1) Regulations continue to protect threatened species, (2) measures to address documented threats are implemented, and (3) the subsistence community and other conservation partners commit to working together. With these dual objectives in mind, the Service, working with North Slope partners, developed measures in 2009 to further reduce the potential for shooting mortality or injury of closed species. These conservation measures included: (1) Increased waterfowl hunter outreach and community awareness through partnering with the North Slope Migratory Bird Task Force; and (2) continued enforcement of the migratory bird regulations that are protective of listed eiders.

This rule continues to focus on the North Slope from Utqiagvik (formerly known as Barrow) to Point Hope because Steller's eiders from the listed Alaska breeding population are known to breed and migrate there, and harvest survey data and direct observations indicate take during subsistence harvest has occurred there. These regulations are designed to address several ongoing eider-management needs by clarifying for subsistence users that (1) Service law enforcement personnel have authority to verify species of birds possessed by hunters, and (2) it is illegal to possess any species of bird closed to harvest. This rule also describes how the Service's existing authority of emergency closure will be implemented, if necessary, to protect Steller's eiders. We are always willing to discuss regulations with our partners on the North Slope to ensure protection of closed species while providing subsistence hunters an opportunity to maintain the culture and traditional migratory bird harvest of the community. These regulations pertaining to bag checks and possession of illegal birds are deemed necessary to monitor take of closed eider species during the subsistence hunt.

In collaboration with North Slope partners, a number of conservation efforts have been implemented to raise awareness and educate hunters in and around Utqiagvik on Steller's eider conservation via the local bird outreach festival, meetings, radio shows, signs, school visits, and one-on-one contacts. Limited intermittent monitoring on the North Slope, focused primarily at Utqiagvik, found no evidence that listed eiders were shot in 2009 through 2012; one Steller's eider and one spectacled eider were found shot during the summer of 2013; one Steller's eider was found shot in 2014; and no listed eiders were found shot in 2015 through 2017. Elsewhere in Alaska, one spectacled eider that appeared to have been shot was found dead on the Yukon-Kuskokwim Delta in 2015. The Service acknowledges progress made with the other eider conservation measures, including partnering with the North Slope Migratory Bird Task Force, for increased waterfowl-hunter awareness, continued enforcement of the regulations, and in-season verification of the harvest. To reduce the threat of shooting mortality of threatened eiders, we continue to work with North Slope partners to conduct education and outreach. In addition, the emergency-closure authority provides another level of assurance if an unexpected number of Steller's eiders are killed by shooting (50 CFR 92.21 and 50 CFR 92.32).

The longstanding general emergency-closure provision at 50 CFR 92.21 specifies that the harvest may be closed or temporarily suspended upon finding that a continuation of the regulation allowing the harvest would pose an imminent threat to the conservation of any migratory bird population. With regard to Steller's eiders, the regulations at 50 CFR 92.32, carried over from the past 7 years, clarify that we would take action under 50 CFR 92.21 as is necessary to prevent further take of Steller's eiders, and that action could include temporary or

long-term closures of the harvest in all or a portion of the geographic area open to harvest. When and if mortality of threatened eiders is documented, we would evaluate each mortality event by criteria such as cause, quantity, sex, age, location, and date. We would consult with the Co-management Council when we are considering an emergency closure. If we determine that an emergency closure is necessary, we would design it to minimize its impact on the subsistence harvest.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act (16 U.S.C. 1536) requires the Secretary of the Interior to “review other programs administered by him and utilize such programs in furtherance of the purposes of the Act” and to “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. * * *” We conducted an intra-agency consultation with the Service’s Fairbanks Fish and Wildlife Field Office on this harvest as it will be managed in accordance with this final rule and the conservation measures. The consultation was completed with a biological opinion dated March 2, 2018, that concluded the final rule and conservation measures are not likely to jeopardize the continued existence of Steller’s and spectacled eiders or result in the destruction or adverse modification of designated critical habitat.

Summary of Comments and Responses

On February 1, 2018, we published in the *Federal Register* a proposed rule (83 FR 4623) to amend 50 CFR part 92 to establish regulations in Alaska for the 2018 subsistence season. We accepted public comments on the proposed rule for 30 days, ending March 5,

2018. We posted an announcement of the comment-period dates for the proposed rule, as well as the rule itself and related historical documents, on the Co-management Council's Internet homepage. By facsimile (fax), we issued a press bulletin, announcing our request for public comments and the pertinent deadlines for such comments, to the media Statewide in Alaska. Additionally, we made all relevant documents available on <http://www.regulations.gov>. In response to the proposed rule, the Service received eight comments, but five of these did not address topics specific to our proposed rule. The three on-topic comments we received are below by topic. The comments are addressed below by topic.

Comment (1): We received one general comment that expressed opposition to the concept of allowing subsistence hunting of migratory birds in Alaska on the grounds that it sanctions the murdering of birds for food.

Service Response: For centuries, indigenous inhabitants of Alaska have harvested migratory birds for subsistence purposes during the spring and summer months. The Canada and Mexico migratory bird treaties were amended for the express purpose of allowing subsistence hunting for migratory birds during the spring and summer. The amendments indicate that the Service should issue regulations allowing such hunting as provided in the Migratory Bird Treaty Act; see 16 U.S.C. 712(1). See also **Statutory Authority**, below, for more details.

Comment (2): We received one general comment on the need for agencies to develop regulations in a manner consistent with the principles of Executive Order (E.O.) 13563.

Service Response: This rule complies with both E.O. 13563 and E.O. 12866. Details of

our compliance are discussed under *Regulatory Planning and Review (Executive Orders 12866 and 13563)*, below.

Comment (3): We received one comment opposing the addition of emperor geese, which the commenter refers to as a near threatened species, to subsistence hunting. The commenter also expressed concern over the lack of bag limits for hunting emperor geese, as the species is vulnerable to overharvest due to aspects of its natural history.

Service Response: Emperor geese were opened to subsistence harvest starting in April 2017; however, the new regulations were mistakenly set to expire August 31, 2017 (see 82 FR 16298; April 4, 2017). In this rule, we are publishing the same changes we made to the list of birds open for harvest in April 2017 to make them permanent, including the addition of emperor goose to the list. In the April 4, 2017 final rule, we provided justification for opening emperor geese to subsistence harvest, and to make this change permanent based on the total bird index. In summary, in September 2016, a Co-management Council emperor goose management plan was signed as a companion document to the 2016 revision of the Pacific Flyway management plan for the emperor goose. The Co-management Council's plan for the emperor goose establishes a population objective of 34,000 bird consistent with the population abundance achieved in 2016 (34,109) after about 30 years of hunting season closures. This equates to a total range-wide population size of about 177,000 geese based on current model estimates. The Co-management Council's plan allows for a customary and traditional subsistence harvest (i.e., no bag limits) when the Yukon-Kuskokwim Delta Coastal Zone Survey index equals or exceeds 28,000 geese, which equates to a total range-wide population

size of about 145,000 geese. Should the population index decline below 28,000 geese, harvest restrictions will be considered to reduce the probability for a subsequent closed season. The harvest season will be closed if the population index declines below 23,000 emperor geese, which equates to a total range-wide population size of about 120,000 geese. The population index thresholds for hunting season restrictions (28,000) and closure (23,000) represent 82 percent and 68 percent of the population objective (34,000), respectively. The Alaska Native Caucus opposed bag limits during the spring-summer subsistence season. The Service, together with the Alaska Department of Fish and Game and the Co-management Council's Native Caucus, agreed to a harvest strategy that incorporated customary and traditional subsistence practices (i.e., no bag limits) but ensured the protection of the emperor goose population. The 2016 emperor goose population index was 34,109 (95% Confidence Interval = 29,229 – 38,989). The 2017 emperor goose population index was 30,087 (95% Confidence Interval = 26,108–34,066). The term of this harvest strategy is 5 years with agreement of an annual review during the first three years (2017–2019) following implementation to assess all data including population survey information, harvest survey data, and other relevant information to determine the need for conservation measures. Therefore, we are not making any changes to this rule in response to this comment.

Statutory Authority

We derive our authority to issue these regulations from the Migratory Bird Treaty Act of 1918, at 16 U.S.C. 712(1), which authorizes the Secretary of the Interior, in accordance with the treaties with Canada, Mexico, Japan, and Russia, to “issue such regulations as may be

necessary to assure that the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and other essential needs, as determined by the Secretary of the Interior, during seasons established so as to provide for the preservation and maintenance of stocks of migratory birds.”

Effective Date of This Rule

The amendments to subparts C and D of 50 CFR part 92 will take effect on April 2, 2018 (see **DATES**, above). If there were a delay in the effective date of these regulations after this final rulemaking, subsistence hunters would not be able to take full advantage of their subsistence hunting opportunities. We therefore find that “good cause” exists justifying the earlier start date, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and under authority of the Migratory Bird Treaty Act (July 3, 1918), as amended (16 U.S.C. 703 et seq.).

Required Determinations

Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs

This rule is not subject to the requirements of Executive Order 13771 (82 FR 9339, February 3, 2017) because this rule establishes annual harvest limits related to routine hunting or fishing.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce

uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A regulatory flexibility analysis is not required. Accordingly, a Small Entity Compliance Guide is not required. This rule legalizes a pre-existing subsistence activity, and the resources harvested will be consumed.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Will not have an annual effect on the economy of \$100 million or more. It legalizes and regulates a traditional subsistence activity. It will not result in a substantial increase in subsistence harvest or a significant change in harvesting patterns. The commodities that will be regulated under this rule are migratory birds. This rule deals with legalizing the subsistence harvest of migratory birds and, as such, does not involve commodities traded in the marketplace. A small economic benefit from this rule derives from the sale of equipment and

ammunition to carry out subsistence hunting. Most, if not all, businesses that sell hunting equipment in rural Alaska qualify as small businesses. We have no reason to believe that this rule will lead to a disproportionate distribution of benefits.

(b) Will not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. This rule does not deal with traded commodities and, therefore, will not have an impact on prices for consumers.

(c) Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This rule deals with the harvesting of wildlife for personal consumption. It will not regulate the marketplace in any way to generate substantial effects on the economy or the ability of businesses to compete.

Unfunded Mandates Reform Act

We have determined and certified under the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on local, State, or tribal governments or private entities. The rule will not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act is not required. Participation on regional management bodies and the Co-management Council requires travel expenses for some Alaska Native organizations and local governments. In addition, they assume some expenses related to coordinating involvement of village councils in the regulatory process. Total coordination and travel expenses for all Alaska Native organizations are

estimated to be less than \$300,000 per year. In a notice of decision (65 FR 16405; March 28, 2000), we identified 7 to 12 partner organizations (Alaska Native nonprofits and local governments) to administer the regional programs. The Alaska Department of Fish and Game also incurs expenses for travel to Co-management Council and regional management body meetings. In addition, the State of Alaska would be required to provide technical staff support to each of the regional management bodies and to the Co-management Council. Expenses for the State's involvement may exceed \$100,000 per year, but should not exceed \$150,000 per year. When funding permits, we make annual grant agreements available to the partner organizations and the Alaska Department of Fish and Game to help offset their expenses.

Takings (Executive Order 12630)

Under the criteria in Executive Order 12630, this rule will not have significant takings implications. This rule is not specific to particular land ownership, but applies to the harvesting of migratory bird resources throughout Alaska. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. We discuss effects of this rule on the State of Alaska in the *Unfunded Mandates Reform Act* section, above. We worked with the State of Alaska to develop these regulations. Therefore, a federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

The Department, in promulgating this rule, has determined that it will not unduly

burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Government-to-Government Relations with Native American Tribal Governments

Consistent with Executive Order 13175 (65 FR 67249; November 6, 2000), “Consultation and Coordination with Indian Tribal Governments,” and Department of Interior policy on Consultation with Indian Tribes (December 1, 2011), we sent letters via electronic mail to all 229 Alaska Federally recognized Indian tribes. Consistent with Congressional direction (Pub. L. 108-199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Pub. L. 108-447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267), we also sent letters to approximately 200 Alaska Native corporations and other tribal entities in Alaska soliciting their input as to whether or not they would like the Service to consult with them on the 2018 migratory bird subsistence harvest regulations.

We implemented the amended treaty with Canada with a focus on local involvement. The treaty calls for the creation of management bodies to ensure an effective and meaningful role for Alaska’s indigenous inhabitants in the conservation of migratory birds. According to the Letter of Submittal, management bodies are to include Alaska Native, Federal, and State of Alaska representatives as equals. They develop recommendations for, among other things: seasons and bag limits, methods and means of take, law enforcement policies, population and harvest monitoring, education programs, research and use of traditional knowledge, and habitat protection. The management bodies involve village councils to the maximum extent possible in all aspects of management. To ensure maximum input at the village level, we required each of the 11 participating regions to create regional management bodies consisting of at least one

representative from the participating villages. The regional management bodies meet twice annually to review and/or submit proposals to the Statewide body.

Paperwork Reduction Act of 1995 (PRA)

This rule does not contain any new collections of information that require Office of Management and Budget (OMB) approval under the PRA (44 U.S.C. 3501 et seq.). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. OMB has reviewed and approved our collection of information associated with:

- Voluntary annual household surveys that we use to determine levels of subsistence take (OMB Control Number 1018-0124, expires October 31, 2019).
- Permits associated with subsistence hunting (OMB Control Number 1018-0075, expires June 30, 2019).
- Emperor Goose Spring Subsistence Harvest Survey (to include number of geese harvested, age, sex, and mass of birds harvested associated) (OMB Control Number 1090-0011, expires August 31, 2018).

National Environmental Policy Act Consideration (42 U.S.C. 4321 et seq.)

The annual regulations and options are considered in an October 2017 environmental assessment, “Managing Migratory Bird Subsistence Hunting in Alaska: Hunting Regulations for the 2018 Spring/Summer Harvest.” Copies are available from the person listed under **FOR FURTHER INFORMATION CONTACT** or at <http://www.regulations.gov>.

Energy Supply, Distribution, or Use (Executive Order 13211)

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when

undertaking certain actions. This is not a significant regulatory action under this Executive Order; it allows only for traditional subsistence harvest and improves conservation of migratory birds by allowing effective regulation of this harvest. Further, this rule is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action under Executive Order 13211, and a Statement of Energy Effects is not required.

List of Subjects in 50 CFR Part 92

Hunting, Treaties, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, we amend title 50, chapter I, subchapter G, of the Code of Federal Regulations as follows:

PART 92—MIGRATORY BIRD SUBSISTENCE HARVEST IN ALASKA

1. The authority citation for part 92 continues to read as follows:

Authority: 16 U.S.C. 703–712.

Subpart C—General Regulations Governing Subsistence Harvest

2. Amend § 92.22 by:

- a. Redesignating paragraph (a)(3) as paragraph (a)(4);
- b. Adding a new paragraph (a)(3); and
- c. Revising paragraph (a)(6).

The addition and revision read as follows:

§ 92.22 Subsistence migratory bird species.

* * * * *

(a) * * *

(3) Emperor goose (*Chen canagica*).

* * * * *

(6) Canada goose, subspecies cackling goose.

* * * * *

Subpart D—Annual Regulations Governing Subsistence Harvest

3. Amend subpart D by adding § 92.31 to read as follows:

§ 92.31 Region-specific regulations.

The 2018 season dates for the eligible subsistence-harvest areas are as follows:

(a) *Aleutian/Pribilof Islands Region.*

(1) Northern Unit (Pribilof Islands):

(i) Season: April 2–June 30.

(ii) Closure: July 1–August 31.

(2) Central Unit (Aleutian Region’s eastern boundary on the Alaska Peninsula

westward to and including Unalaska Island):

(i) Season: April 2–June 15 and July 16–August 31.

(ii) Closure: June 16–July 15.

(iii) Special Black Brant Season Closure: August 16–August 31, only in Izembek and

Moffet lagoons.

(iv) Special Tundra Swan Closure: All hunting and egg gathering closed in Game Management Units 9(D) and 10.

(3) Western Unit (Umnak Island west to and including Attu Island):

(i) Season: April 2–July 15 and August 16–August 31.

(ii) Closure: July 16–August 15.

(b) *Yukon/Kuskokwim Delta Region.*

(1) Season: April 2–August 31.

(2) Closure: 30-day closure dates to be announced by the Service’s Alaska Regional Director or his designee, after consultation with field biologists and the Association of Village Council President’s Waterfowl Conservation Committee. This 30-day period will occur between June 1 and August 15 of each year. A press release announcing the actual closure dates will be forwarded to regional newspapers and radio and television stations.

(3) Special Black Brant and Cackling Canada Goose Season Hunting Closure: From the period when egg laying begins until young birds are fledged. Closure dates to be announced by the Service’s Alaska Regional Director or his designee, after consultation with field biologists and the Association of Village Council President’s Waterfowl Conservation Committee. A press release announcing the actual closure dates will be forwarded to regional newspapers and radio and television stations.

(c) *Bristol Bay Region.*

(1) Season: April 2–June 14 and July 16–August 31 (general season); April 2–July 15 for seabird egg gathering only.

(2) Closure: June 15–July 15 (general season); July 16–August 31 (seabird egg

gathering).

(d) *Bering Strait/Norton Sound Region.*

(1) Stebbins/St. Michael Area (Point Romanof to Canal Point):

(i) Season: April 15–June 14 and July 16–August 31.

(ii) Closure: June 15–July 15.

(2) Remainder of the region:

(i) Season: April 2–June 14 and July 16–August 31 for waterfowl; April 2–July 19 and August 21–August 31 for all other birds.

(ii) Closure: June 15–July 15 for waterfowl; July 20–August 20 for all other birds.

(e) *Kodiak Archipelago Region*, except for the Kodiak Island roaded area, which is closed to the harvesting of migratory birds and their eggs. The closed area consists of all lands and waters (including exposed tidelands) east of a line extending from Crag Point in the north to the west end of Saltery Cove in the south and all lands and water south of a line extending from Termination Point along the north side of Cascade Lake extending to Anton Larsen Bay. Marine waters adjacent to the closed area are closed to harvest within 500 feet from the water's edge. The offshore islands are open to harvest.

(1) Season: April 2–June 30 and July 31–August 31 for seabirds; April 2–June 20 and July 22–August 31 for all other birds.

(2) Closure: July 1–July 30 for seabirds; June 21–July 21 for all other birds.

(f) *Northwest Arctic Region.*

(1) Season: April 2–June 14 and July 16–August 31 (hunting in general); waterfowl egg gathering April 2–June 14 only; seabird egg gathering May 20–July 12 only; hunting

molting/non-nesting waterfowl July 1–July 15 only.

(2) Closure: June 15–July 15, except for the taking of seabird eggs and molting/non-nesting waterfowl as provided in paragraph (f)(1) of this section.

(g) *North Slope Region.*

(1) Southern Unit (Southwestern North Slope regional boundary east to Peard Bay, everything west of the longitude line 158°30'W and south of the latitude line 70°45'N to the west bank of the Ikpikpuk River, and everything south of the latitude line 69°45'N between the west bank of the Ikpikpuk River to the east bank of Sagavinirktok River):

(i) Season: April 2–June 29 and July 30–August 31 for seabirds; April 2–June 19 and July 20–August 31 for all other birds.

(ii) Closure: June 30–July 29 for seabirds; June 20–July 19 for all other birds.

(iii) Special Black Brant Hunting Opening: From June 20–July 5. The open area consists of the coastline, from mean high water line outward to include open water, from Nokotlek Point east to longitude line 158°30'W. This includes Peard Bay, Kugrua Bay, and Wainwright Inlet, but not the Kuk and Kugrua river drainages.

(2) Northern Unit (At Peard Bay, everything east of the longitude line 158°30'W and north of the latitude line 70°45'N to west bank of the Ikpikpuk River, and everything north of the latitude line 69°45'N between the west bank of the Ikpikpuk River to the east bank of Sagavinirktok River):

(i) Season: April 2–June 6 and July 7–August 31 for king and common eiders; April 2–June 15 and July 16–August 31 for all other birds.

(ii) Closure: June 7–July 6 for king and common eiders; June 16–July 15 for all other

birds.

(3) Eastern Unit (East of eastern bank of the Sagavanirktok River):

(i) Season: April 2–June 19 and July 20–August 31.

(ii) Closure: June 20–July 19.

(4) All Units: yellow-billed loons. Annually, up to 20 yellow-billed loons total for the region inadvertently entangled in subsistence fishing nets in the North Slope Region may be kept for subsistence use.

(5) North Coastal Zone (Cape Thompson north to Point Hope and east along the Arctic Ocean coastline around Point Barrow to Ross Point, including Iko Bay, and 5 miles inland).

(i) No person may at any time, by any means, or in any manner, possess or have in custody any migratory bird or part thereof, taken in violation of subparts C and D of this part.

(ii) Upon request from a Service law enforcement officer, hunters taking, attempting to take, or transporting migratory birds taken during the subsistence harvest season must present them to the officer for species identification.

(h) *Interior Region.*

(1) Season: April 2–June 14 and July 16–August 31; egg gathering May 1–June 14 only.

(2) Closure: June 15–July 15.

(i) *Upper Copper River Region* (Harvest Area: Game Management Units 11 and 13) (Eligible communities: Gulkana, Chitina, Tazlina, Copper Center, Gakona, Mentasta Lake, Chistochina and Cantwell).

(1) Season: April 15–May 26 and June 27–August 31.

(2) Closure: May 27–June 26.

(3) The Copper River Basin communities listed above also documented traditional use harvesting birds in Game Management Unit 12, making them eligible to hunt in this unit using the seasons specified in paragraph (h) of this section.

(j) *Gulf of Alaska Region.*

(1) Prince William Sound Area West (Harvest area: Game Management Unit 6[D]), (Eligible Chugach communities: Chenega Bay, Tatitlek):

(i) Season: April 2–May 31 and July 1–August 31.

(ii) Closure: June 1–30.

(2) Prince William Sound Area East (Harvest area: Game Management Units 6[B] and [C]—Barrier Islands between Strawberry Channel and Softtuk Bar), (Eligible Chugach communities: Cordova, Tatitlek, and Chenega Bay):

(i) Season: April 2–April 30 (hunting); May 1–May 31 (gull egg gathering).

(ii) Closure: May 1–August 31 (hunting); April 2–30 and June 1–August 31 (gull egg gathering).

(iii) Species Open for Hunting: greater white-fronted goose; snow goose; gadwall; Eurasian and American wigeon; blue-winged and green-winged teal; mallard; northern shoveler; northern pintail; canvasback; redhead; ring-necked duck; greater and lesser scaup; king and common eider; harlequin duck; surf, white-winged, and black scoter; long-tailed duck; bufflehead; common and Barrow's goldeneye; hooded, common, and red-breasted merganser; and sandhill crane. Species open for egg gathering: glaucous-winged, herring, and mew gulls.

(iv) Use of Boats/All-Terrain Vehicles: No hunting from motorized vehicles or any form of watercraft.

(v) Special Registration: All hunters or egg gatherers must possess an annual permit, which is available from the Cordova offices of the Native Village of Eyak and the U. S. Forest Service.

(3) Kachemak Bay Area (Harvest area: Game Management Unit 15[C] South of a line connecting the tip of Homer Spit to the mouth of Fox River) (Eligible Chugach Communities: Port Graham, Nanwalek):

(i) Season: April 2–May 31 and July 1–August 31.

(ii) Closure: June 1–30.

(k) *Cook Inlet* (Harvest area: portions of Game Management Unit 16[B] as specified below) (Eligible communities: Tyonek only):

(1) Season: April 2–May 31—That portion of Game Management Unit 16(B) south of the Skwentna River and west of the Yentna River, and August 1–31—That portion of Game Management Unit 16(B) south of the Beluga River, Beluga Lake, and the Triumvirate Glacier.

(2) Closure: June 1–July 31.

(l) *Southeast Alaska*.

(1) Community of Hoonah (Harvest area: National Forest lands in Icy Strait and Cross Sound, including Middle Pass Rock near the Inian Islands, Table Rock in Cross Sound, and other traditional locations on the coast of Yakobi Island. The land and waters of Glacier Bay National Park remain closed to all subsistence harvesting (50 CFR part 100.3(a)):

(i) Season: glaucous-winged gull egg gathering only: May 15–June 30.

(ii) Closure: July 1–August 31.

(2) Communities of Craig and Hydaburg (Harvest area: small islands and adjacent shoreline of western Prince of Wales Island from Point Baker to Cape Chacon, but also including Coronation and Warren islands):

(i) Season: glaucous-winged gull egg gathering only: May 15–June 30.

(ii) Closure: July 1–August 31.

(3) Community of Yakutat (Harvest area: Icy Bay (Icy Cape to Point Riou), and coastal lands and islands bordering the Gulf of Alaska from Point Manby southeast to and including Dry Bay):

(i) Season: glaucous-winged gull egg gathering: May 15–June 30.

(ii) Closure: July 1–August 31.

4. Amend subpart D by adding § 92.32 to read as follows:

§ 92.32 Emergency regulations to protect Steller’s eiders.

Upon finding that continuation of these subsistence regulations would pose an imminent threat to the conservation of threatened Steller’s eiders (*Polysticta stelleri*), the U.S. Fish and Wildlife Service Alaska Regional Director, in consultation with the Co-management Council, will immediately under § 92.21 take action as is necessary to prevent further take. Regulation changes implemented could range from a temporary closure of duck hunting in a small geographic area to large-scale regional or statewide long-term closures of all subsistence

migratory bird hunting. These closures or temporary suspensions will remain in effect until the Regional Director, in consultation with the Co-management Council, determines that the potential for additional Steller's eiders to be taken no longer exists.

Dated: March 23, 2018.

Signed: _____

Jason Larrabee
Principal Deputy Assistant Secretary,
Fish and Wildlife and Parks,
Exercising the Authority of the Assistant Secretary
Fish and Wildlife and Parks

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