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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 92

[Docket No. FWS-R7-MB-2024-0197;
FXMB1261070000-201-FF07M01000]

RIN 1018-BG70

Migratory Bird Subsistence Harvest in Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are proposing changes to the migratory bird subsistence harvest regulations in Alaska. Subsistence harvest regulations allow for the continuation of customary and traditional subsistence uses of migratory birds in Alaska and establish when and where the harvesting of certain migratory birds may occur within each subsistence region. Subsistence harvest regulations, including these proposed changes, were developed under a co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives.

DATES: We will accept comments received or postmarked on or before February 20, 2025.

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

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments to Docket No. FWS-R7-MB-2024-0197.

- *U.S. Mail:* Public Comments Processing, Attn: FWS-R7-MB-2024-0197, U.S. Fish and Wildlife Service, MS: JAO/3W, 5275 Leesburg Place, Falls Church, VA 22041-3803.

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 Comment Procedures, below, for more information).

FOR FURTHER INFORMATION CONTACT:

Wendy Loya, U.S. Fish and Wildlife Service, 1011 E Tudor Road, Mail Stop 201, Anchorage, AK 99503; (907) 227-2942. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered

within their country to make international calls to the point of contact in the United States. Please see Docket No. FWS-R7-MB-2024-0197 on <https://www.regulations.gov> for a document that summarizes this proposed rule.

SUPPLEMENTARY INFORMATION:

Public Comment Procedures

To ensure that any action resulting from this proposed rule will be as accurate and as effective as possible, we request that you send relevant information for our consideration. The comments that will be most useful and likely to influence our decisions are those that you support by quantitative information or studies and those that include citations to, and analyses of, the applicable laws and regulations. Please make your comments as specific as possible and explain the basis for them. In addition, please include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

You must submit your comments and materials concerning this proposed rule by one of the methods listed above in **ADDRESSES**. We will not accept comments sent by email or fax or to an address not listed in **ADDRESSES**. If you submit a comment via <https://www.regulations.gov>, your entire comment—including any personal identifying information, such as your address, telephone number, or email address—will be posted on the website. When you submit a comment, the system receives it immediately. However, the comment will not be publicly viewable until we post it, which might not occur until several days after submission.

If you mail a hardcopy comment directly to us that includes personal information, 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. All comments and materials we receive will be available for public inspection via <https://www.regulations.gov>. Search for FWS-R7-MB-2024-0197, which is the docket number for this rulemaking.

Background

The Migratory Bird Treaty Act of 1918 (MBTA, 16 U.S.C. 703 *et seq.*) was enacted to protect migratory birds and gives the Secretary of the Interior the authority to regulate the harvest of certain migratory birds. The law further authorizes the Secretary to issue regulations to ensure that the indigenous inhabitants of the State of Alaska may take certain migratory birds

and collect their eggs for nutritional and other essential needs during seasons established by the Secretary to provide for the preservation and maintenance of these migratory birds (16 U.S.C. 712(1)).

The take of migratory birds for subsistence uses in Alaska occurs primarily during the spring and summer, a timeframe not included in the fall and winter general migratory game bird hunting regulations for the United States. Regulations governing the subsistence harvest of migratory birds in Alaska are located in title 50 of the Code of Federal Regulations (CFR) in part 92. These regulations allow for the continuation of customary and traditional subsistence uses of migratory birds and establish when and where the harvesting of certain birds in Alaska may occur within each subsistence region.

The migratory bird subsistence harvest regulations are developed cooperatively. The Alaska Migratory Bird Co-Management Council (Council or AMBCC) consists of the Service, the Alaska Department of Fish and Game (ADFG), and Alaska Native representatives. The Council's primary purpose is to develop recommendations pertaining to the subsistence harvest of migratory birds.

The Council generally holds an annual spring meeting to review and recommend any regulatory changes for migratory bird subsistence harvest regulations in Alaska. The Council met May 22–23, 2024, and recommended changes to the subsistence harvest regulations intended to take effect beginning with the 2025 harvest season. The Council's recommendations were presented to the Pacific Flyway Council for their review and comment and subsequent submission to the Service Regulations Committee (SRC) for consideration at the SRC meeting on November 19, 2024.

Proposed Revisions to the Regulations

Under the collaborative process described above, this document proposes the following revisions to the regulations for the taking of certain migratory birds for subsistence uses in Alaska during the spring and summer.

Proposed Revision to Subpart A

In 50 CFR part 92, subpart A (general provisions), we propose to correct a reference to the United States Code (U.S. Code). The current definition for *Alaska Native* in § 92.4 incorrectly references 16 U.S.C. 1602(b), which refers to section 3(b) of the Alaska Native Claims Settlement Act. The Alaska Native Claims Settlement Act is found in title 43 not title 16 of the U.S.

Code. Therefore, the definition needs to be corrected to reference 43 U.S.C. 1602(b).

Proposed Revisions to Subpart C

In 50 CFR part 92, subpart C (general regulations governing subsistence harvest), we propose several changes to clarify the language regarding regional species closures, remove a species from the list of subsistence migratory bird species, and update the common and or scientific names of three species.

First, we propose revisions to clarify that the list of species open to subsistence harvest in § 92.22 may have additional region-specific harvest restrictions that do not appear in the list of subsistence migratory bird species. The language in the introductory paragraph in § 92.22 states that the only exceptions to the species open to harvest is a regional closure in Southeast Alaska for the harvest of all migratory bird species except glaucous-winged gulls for egg harvesting only. While this provision was accurate at the time the regulation was initially promulgated, current regulations include other regional species-specific harvest restrictions, some of which are included in the statewide list of subsistence migratory bird species at § 92.22. For example, for tundra swans, the regulation at § 92.22(a)(7) states that these birds and their eggs may be harvested except in Units 9(D) and 10. However, some regions in Alaska have species-specific harvest restrictions that are not listed in the statewide list of subsistence migratory bird species and are found only in § 92.31 (region-specific regulations). For example, in the Gulf of Alaska region's Prince William Sound Area East (§ 92.31(j)(2)(iii)), most non-waterfowl species are closed to harvest, but these restrictions can be found only in the region-specific regulations. Given this ambiguity, we propose to revise the language in the introductory paragraph of § 92.22 to clarify that regional species-specific harvest restrictions may exist in the region-specific regulations.

Second, we propose revisions to the list of subsistence migratory bird species in § 92.22 to reflect the Council's recommendation to close emperor goose harvest statewide. In 2016, the Council adopted an Emperor Goose Management Plan (Plan) to guide regulations for a spring-summer subsistence harvest of emperor geese and their eggs, which were opened to legal harvest in spring 2017. The Plan was developed in conjunction with the revised Pacific Flyway Council Management Plan for Emperor Geese (2016) that prescribes recommendations for the fall-winter

hunting regulations. The two management plans complement each other and use the same population assessment methods, population objectives, and regulatory thresholds in their respective harvest strategies. The harvest strategy in the Plan uses the indicated total bird index (index) from the Yukon-Kuskokwim Delta Coastal Zone (Coastal Zone) survey that the Service conducts to assess population status relative to established thresholds. The harvest strategy specifies that the spring-summer subsistence emperor goose season will be open if the Coastal Zone index from the previous year is greater than 23,000 birds, and harvest will be closed if the index is below that threshold. If the Coastal Zone index is between 23,000 and 28,000 birds, the Council will consider implementing regulatory or nonregulatory conservation measures. The 2024 Coastal Zone index was 18,788 (95 percent confidence interval of 16,589–20,988) birds, which is below the harvest closure threshold of 23,000 birds. Thus, the Council recommended that the 2025 spring-summer subsistence season be closed to harvesting emperor geese. This recommendation was supported by the Pacific Flyway Council and the SRC in November 2024 and intended for implementation beginning with the 2025 subsistence harvest season. Therefore, we propose to remove emperor geese from the list of subsistence migratory bird species open to harvest in § 92.22.

Third, we propose an update to the list of subsistence migratory bird species in § 92.22 to incorporate changes in the list of birds protected by the MBTA at 50 CFR 10.13. On July 31, 2023, we published in the **Federal Register** (88 FR 49310) a revised list of migratory birds protected under the MBTA by adding or removing species or changing species names. Reasons for the changes to the list in § 10.13 included revised taxonomy and new evidence of natural occurrence or absence in the United States or U.S. territories. That rule went into effect on August 30, 2023. The revised list had updated nomenclature for three species on the list of subsistence migratory bird species at § 92.22.

Therefore, to be consistent with the list in § 10.13, we are proposing to change the common and scientific names of mew gull and change the scientific names for two species of cormorants, pelagic and double-crested, in § 92.22. The species formerly named mew gull has been split into two species, the common gull (*Larus canus*), which primarily occurs in Europe and

Asia, and the short-billed gull (*Larus brachyrhynchus*), which occurs in North America. Therefore, we propose to replace mew gull (*Larus canus*) with short-billed gull (*Larus brachyrhynchus*). Pelagic and double-crested cormorants formerly shared the genus name *Phalacrocorax*, but now this genus has been split into multiple genera. We propose to update the scientific names of pelagic cormorant to *Urile pelagicus* and double-crested cormorant to *Nannopterum auritum*.

Proposed Revisions to Subpart D

In part 92, subpart D (annual regulations governing subsistence harvest), we propose to revise the regulations in § 92.31 to reflect the Council's recommendation to eliminate the permit requirement in the Kodiak Island Roaded Area (KIRA) and to change the species names for mew gulls. In 2021, spring-summer subsistence harvesting of migratory birds and eggs was opened experimentally for 3 years (2021–2023) in the Kodiak Archipelago region's KIRA by registration permit with a harvest reporting requirement. The Service requested that the Council evaluate harvest information from the experimental seasons before a season could be considered for operational status. In October 2023, the SRC recommended extending the experimental season by 1 year through 2024 to provide hunting opportunity while the Council completed their review. An announcement was published in the **Federal Register** on May 1, 2024 (89 FR 35010), to inform the public of the 1-year extension.

Following the 2023 subsistence season, the Council evaluated the harvest data from the experimental period. Based on permit report data, the Council determined that harvest was low during the experimental period; the average annual harvest of migratory birds and eggs in the KIRA during 2021–2023 was 122 birds and 100 eggs. For context, the data can be compared to the reported harvest from the last survey of the Kodiak Archipelago region in 2020. Residents in communities of the Kodiak Roaded Area subregion (communities that occur on the road system but hunted outside the KIRA) harvested 3,812 migratory birds and 2,612 eggs during that spring-summer season (Naves and Mengak 2023). Assuming KIRA permit registrants in 2021–2023 were residents of the KIRA, and their hunt effort was similar to 2020, average annual migratory birds and eggs harvested during the experimental period represented 3 percent of total birds (122 of 3,812) and 4 percent of total eggs (100 of 2,612) harvested in the

subregion. Based on this information, the Council concluded that an operational spring–summer hunt in the KIRA was unlikely to significantly increase harvest in the Kodiak Archipelago region.

Participation in the permit hunt was low and slightly increased over the experimental period, evidenced by issued permits: 46 in 2021, 58 in 2022, and 64 in 2023. The Council noted that the increase in participants over the experimental period was minimal, but future participation will be difficult to measure without a permit requirement. However, the Council also recognized that a change in participation may be indirectly monitored through public reports to Tribal organizations, the Kodiak City government, local law enforcement, ADFG, and the Service. If the increase is significant, the Council may consider future surveys to assess change in hunter participation, and if warranted, propose regulatory changes. Nonetheless, given the low harvest during the experimental season, the Council recommended eliminating the permit and harvest reporting requirement, acknowledging that such requirements are not part of customary and traditional hunting practices, may be a barrier to Indigenous participation, and are costly to administer.

The Council recommended retaining the species closures for Aleutian terns, Arctic terns, short-billed gulls, and emperor geese within the KIRA to protect species of conservation concern. Aleutian tern nesting colonies have declined by more than 80 percent in Alaska over the last 20 years, and only a few colonies remain on Kodiak Island. The largest colonies are within the KIRA, and implementing protective regulations for this species is a priority of the Council. Further, to offer additional protection for Aleutian terns, the season for Arctic terns and short-billed gulls, which nest in the same areas as Aleutian terns, will remain closed to harvest to reduce accidental harvest and colony disturbance of Aleutian terns. The KIRA will also remain closed to emperor geese (when emperor geese are open to harvest), a species of management concern, given that an open season may increase harvest for emperor geese along the road system.

On May 22, 2024, the Council recommended an amendment to the regulations for the Kodiak Archipelago region to remove the permit and reporting requirements, retain the four species closures, and make the season operational in the KIRA. This regulatory amendment was supported by the Pacific Flyway Council and the SRC in

November 2024 and intended for implementation beginning with the 2025 subsistence season.

Compliance With the MBTA and the Endangered Species Act

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.

Mortality, sickness, and poisoning from lead exposure have been documented in many waterfowl species, including threatened spectacled eiders (*Somateria fischeri*) and the Alaska-breeding population of Steller's eiders (*Polysticta stelleri*). While lead shot has been banned nationally for waterfowl hunting since 1991, Service staff have documented the availability of lead shot in waterfowl rounds for sale in communities on the Yukon-Kuskokwim Delta and North Slope. The Service will work with partners to increase our education, outreach, and enforcement efforts to ensure that subsistence waterfowl hunting is conducted using nontoxic shot.

Conservation Under the MBTA

We have monitored subsistence harvest for several decades through the use of household surveys in the most heavily used subsistence harvest areas, such as the Yukon-Kuskokwim Delta. Based on our monitoring of the migratory bird species and populations taken for subsistence, we find that this proposed rule will provide for the preservation and maintenance of migratory birds as required by the MBTA. Communication and coordination with the AMBCC and the Pacific Flyway Council have aided in the establishment of hunting regulations to ensure the long-term viability of the migratory birds exposed to harvest.

Endangered Species Act Consideration

Spectacled eiders and the Alaska-breeding population of Steller's eiders are listed as threatened species under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). Their migration and breeding distribution overlap with areas where the spring and summer subsistence migratory bird harvest is open in Alaska. Neither species is included in the list of subsistence migratory bird

species at § 92.22; therefore, both species are closed to subsistence harvest. Under §§ 92.21 and 92.32, the Service may implement emergency closures, if necessary, to protect Steller's eiders or any other endangered or threatened species or migratory bird population.

Section 7 of the ESA requires the Secretary of the Interior to review other programs administered by the Department of the Interior and utilize such programs in furtherance of the purposes of the ESA. The Secretary is further required to ensure that any action authorized, funded, or carried out by the Department of the Interior 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.

The Service's Alaska Region Migratory Bird Management Program will conduct an intra-agency consultation with the Service's Northern Alaska Fish and Wildlife Field Office on this proposed rule. A biological opinion will be updated based on new information to ensure this proposed rulemaking action is not likely to jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. Therefore, we expect that this proposed rule will comply with the ESA.

Comment Period

Implementation of the Service's 2013 supplemental environmental impact statement (SEIS) on the hunting of migratory birds resulted in changes to the overall timing of the annual regulatory schedule for the establishment of migratory bird hunting regulations and the Alaska migratory bird subsistence harvest regulations. The programmatic document, "Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Hunting of Migratory Birds (SEIS 20130139)," filed with the Environmental Protection Agency on May 24, 2013, addressed compliance with the National Environmental Policy Act by the Service for issuance of the annual framework regulations for hunting of migratory game bird species. We published a notice of availability of the SEIS in the **Federal Register** on May 31, 2013 (78 FR 32686), and our Record of Decision on July 26, 2013 (78 FR 45376).

The 2013 SEIS resulted in the Service moving the annual summer-fall SRC meeting from July to October or November, and this procedural change

has greatly shortened the period to publish the proposed subsistence harvest regulations and solicit comments before subsistence harvest seasons start on April 2 each year. Thus, we have established a 30-day comment period for this proposed rule (see **DATES**, above), and we will be conducting Tribal consultations within Alaska simultaneously. We believe a 30-day comment period gives the public adequate time to provide meaningful comments.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866, 13563, and 14094)

Executive Order (E.O.) 14094 amends and reaffirms the principles of E.O. 12866 and E.O. 13563 and states that regulatory analysis should facilitate agency efforts to develop regulations that serve the public interest, advance statutory objectives, and are consistent with E.O. 12866 and 13563. Regulatory analysis, as practicable and appropriate, shall recognize distributive impacts and equity, to the extent permitted by law. Executive Order 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 proposed rule in a manner consistent with these requirements.

Executive Order 12866, as reaffirmed by E.O. 13563 and E.O. 14094, provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this proposed rule is not significant.

Regulatory Flexibility Act

The Department of the Interior certifies that, if adopted as proposed, this proposed 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. The regulations at 50 CFR part 92 legalize a preexisting subsistence activity. The commodities that are regulated under these regulations are migratory birds, and the resources harvested are consumed. This proposed rule would make only modest changes to the current regulations.

Congressional Review Act

This proposed rule is not a major rule under 5 U.S.C. 804(2), the Congressional Review Act. This proposed rule:

(a) Would not have an annual effect on the economy of \$100 million or more. The regulations at 50 CFR part 92 legalize the subsistence harvest of migratory birds and, as such, do not involve commodities traded in the marketplace. This proposed rule would not result in a substantial increase in subsistence harvest or a significant change in harvesting patterns.

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

(c) Would 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 proposed rule deals with the harvesting of wildlife for personal consumption. It would 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 proposed rule would not impose a cost of \$100 million or more in any given year on local, State, or Tribal governments or private entities. The proposed rule would not have a significant or unique effect on local, State, 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 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. When funding permits, the Service makes annual grant agreements available to the partner organizations and the ADFG to help offset their expenses. However, this proposed rule would not revise any regulations pertaining to participation in the regulatory process.

Takings (Executive Order 12630)

Under the criteria in Executive Order 12630, this proposed rule would not have significant takings implications. The regulations at 50 CFR part 92 are not specific to particular landownership

but instead apply to the harvesting of migratory bird resources throughout Alaska. A takings implication assessment is not required.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132 (Federalism), this proposed rule does not have significant federalism implications to warrant the preparation of a federalism summary impact statement. The Service worked with the State of Alaska to develop these proposed regulations. Therefore, a federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

The Department, in promulgating this proposed rule, has determined that it would 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 9, 2000), "Consultation and Coordination with Indian Tribal Governments," and Department of the Interior policy on Consultation with Indian Tribes (December 1, 2011), we will send 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 will send 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 proposed changes to the 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, educational 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 proposed rule does not contain any new collection of information that requires approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has previously approved the information collection requirements associated with subsistence harvest reporting and assigned the following OMB control numbers:

- Alaska Migratory Bird Subsistence Harvest Household Survey, OMB Control Number 1018–0124 (expires July 31, 2027), and
- Regulations for the Taking of Migratory Birds for Subsistence Uses in Alaska, 50 CFR part 92, OMB Control Number 1018–0178 (expires July 31, 2027).

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

The regulations at 50 CFR part 92 and options are considered in the environmental assessment, “Managing Migratory Bird Subsistence Hunting in Alaska: Hunting Regulations for the 2025 Spring/Summer Harvest.” Copies are available from the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

Executive Order 13211 requires agencies to prepare statements of energy effects when undertaking certain

actions. This proposed rule 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. This proposed rule would not have any effect on 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.

References Cited

Naves, Liliانا C. and Lara, F. Mengak. 2023. Bird and Egg Harvest on the Aleutian-Pribilof Islands and the Kodiak Archipelago, 2020. Alaska Department of Fish and Game Division of Subsistence, Technical Paper No. 493, Anchorage.

List of Subjects in 50 CFR Part 92

Hunting, Treaties, Wildlife.

Proposed Regulation Promulgation

For the reasons set out in the preamble, we propose to amend 50 CFR part 92 as set forth below:

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.

- 2. Amend § 92.4 by revising the definition of “Alaska Native” to read as follows:

§ 92.4 Definitions.

* * * * *

Alaska Native means the same as “Native,” defined in section 3(b) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1602(b).

* * * * *

- 3. Amend § 92.22 by:
 - a. Revising the introductory text;
 - b. Removing paragraph (a)(1);
 - c. Redesignating paragraphs (a)(2) through (33) as paragraphs (a)(1) through (32); and
 - d. Revising paragraphs (i)(6) and (l)(1) and (2).

The revisions read as follows:

§ 92.22 Subsistence migratory bird species.

You may harvest birds or gather eggs from the following species, listed in taxonomic order, within all included areas except where region-specific harvest restrictions apply as set forth in § 92.31. When birds are listed at the species level, all subspecies existing in Alaska are also open to harvest. All bird species not listed are closed to harvesting and egg gathering.

* * * * *

- (i) * * *

(6) Short-billed Gull (*Larus brachyrhynchus*).

* * * * *

- (l) * * *

(1) Double-crested Cormorant (*Nannopterum auritum*).

(2) Pelagic Cormorant (*Urile pelagicus*).

* * * * *

- 4. Amend § 92.31 by revising the introductory text of paragraph (e) to read as follows:

§ 92.31 Region-specific regulations.

* * * * *

(e) *Kodiak Archipelago region.* No hunting or egg gathering for Arctic terns, Aleutian terns, short-billed gulls, and emperor geese is allowed in the Kodiak Island Roaded Area. The Kodiak Island Roaded Area consists of that portion of Kodiak Island (including exposed tidelands) south of a line from Termination Point along the north side of Cascade Lake to Anton Larsen Bay and east of a line from Crag Point to the west end of Saltery Cove. Marine waters adjacent to the Kodiak Island Roaded Area within 500 feet from the water’s edge are included in the Kodiak Island Roaded Area. The Kodiak Island Roaded Area does not include islands offshore of Kodiak Island.

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Shannon A. Estenoz,

Assistant Secretary for Fish and Wildlife and Parks.

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