date, including any major problems or delay encountered;

(2) Identification of any space station(s) not available for service or otherwise not performing to specifications, the cause(s) of these difficulties, and the date any space station was taken out of service or the malfunction identified.

(l) Replacement of Space Stations within the System License Term. Licensees of NGSO FSS systems in the 10.7–12.7 GHz, 12.75–13.25 GHz and 13.75–14.5 GHz frequency bands authorized through a blanket license pursuant to paragraph (g) of this section need not file separate applications to launch and operate technically identical replacement satellites within the term of the system authorization. However, the licensee shall certify to the Commission, at least thirty days prior to launch of such replacement(s) that:

(1) The licensee intends to launch a space station into the previously-authorized orbit that is technically identical to those authorized in its system authorization and

(2) Launch of this space station will not cause the licensee to exceed the total number of operating space stations authorized by the Commission.

(m) In-Orbit Spares. Licensees need not file separate applications to operate technically identical in-orbit spares authorized as part of the blanket license pursuant to paragraph (g) of this section. However, the licensee shall certify to the Commission, within 10 days of bringing the in-orbit spare into operation, that operation of this space station did not cause the licensee to exceed the total number of operating space stations authorized by the Commission.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 92

RIN 1018–AH88

Procedures for Establishing Spring/Summer Subsistence Harvest Regulations for Migratory Birds in Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) adopts regulations establishing procedures for implementing a spring/summer migratory bird subsistence harvest in Alaska. The 1916 Convention for the Protection of Migratory Birds Between the United States and Great Britain (for Canada) established a closed season for the taking of migratory birds between March 10 and September 1. Residents of northern Alaska and Canada traditionally harvested migratory birds for nutritional purposes during the spring and summer months. The governments of Canada, Mexico, and the United States recently amended the 1916 Convention and the subsequent 1936 Mexico Convention for the Protection of Migratory Birds and Game Mammals. The amended treaties provide for the legal subsistence harvest of migratory birds and their eggs in Alaska and Canada during the closed season. This rule establishes procedures for implementing that change and for incorporating subsistence management into the continental migratory bird management program.

DATES: This rule is effective August 16, 2002.

ADDRESSES: The administrative record for this rule may be viewed at the office of the Regional Director, Alaska Region, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska, 99503.

FOR FURTHER INFORMATION CONTACT: Fred Armstrong, (907) 786–3887 or Bill Ostrand, (907) 786–3849, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Mail Stop 201, Anchorage, Alaska 99503.

SUPPLEMENTARY INFORMATION:

What Events Led to This Action?

By the beginning of the twentieth century, this nation began to witness the depletion of many species of migratory birds. Commercial or ''market'' hunting took a significant toll as restaurant owners paid top dollar for wild birds and the millinery industry demanded large numbers of feathers for hats. Individual States did not establish regulations or other management programs to adequately protect the migratory bird resources.

In 1916, the United States and Great Britain (on behalf of Canada) signed the Convention for the Protection of Migratory Birds in Canada and the United States. The treaty prohibited market hunting and specified a closed season on taking migratory game birds between March 10 and September 1 of each year. In 1936, the United States and Mexico signed the Convention for the Protection of Migratory Birds and Game Mammals. The Mexico treaty prohibited the taking of wild ducks between March 10 and September 1. Neither treaty, however, took into account and allowed for the traditional harvest of migratory birds by northern indigenous people during the spring and summer months. This harvest, which had occurred for centuries, was necessary to the subsistence lifestyle of the northern people and thus continued despite the closed season.

The Canada treaty and the Mexico treaty, as well as the other migratory bird treaties with Japan (1972) and Russia (1976), have been implemented in the United States through the Migratory Bird Treaty Act (MBTA). The courts have construed the MBTA as prohibiting the Federal Government from permitting any harvest of migratory birds that is inconsistent with the terms of any of the migratory bird treaties. The restrictive terms of the Canada and Mexico treaties thus prevented the Federal Government from permitting the traditional subsistence harvest of migratory birds during spring and summer in Alaska. To remedy this situation, the United States negotiated Protocols amending both the Canada and Mexico treaties to allow for spring/summer subsistence harvest of migratory birds by indigenous inhabitants of identified subsistence harvest areas in Alaska. The U.S. Senate approved the amendments to both treaties in 1997.

What Will the Amended Treaty Accomplish?

The major goals of the amended treaty with Canada are to allow for traditional subsistence harvest and to improve conservation of migratory birds by allowing effective regulation of this harvest. The amended treaty with Canada allows permanent residents of villages within subsistence harvest areas, regardless of race, to continue harvesting migratory birds between March 10 and September 1 as they have done for thousands of years. The Letter of Submittal from the Department of State to the White House states that lands north and west of the Alaska Range and within the Alaska Peninsula, Kodiak Archipelago, and the Aleutian Islands generally qualify as subsistence harvest areas. Treaty language provides for further refinement of this determination by management bodies.

The amendments, however, are not intended to cause significant increases in the take of migratory birds relative to their continental population sizes. Therefore, the Letter of Submittal places limitations on who is eligible to harvest and where they can harvest migratory birds. Anchorage, the Matanuska-Susitna and Fairbanks North Star Boroughs, the Kenai Peninsula roaded

area, the Gulf of Alaska roaded area, and Southeast Alaska generally do not qualify as subsistence harvest areas. Limited exceptions may be made so that some individual communities within these excluded areas could qualify for designation as subsistence harvest areas for specific purposes. For example, future regulations could allow some villages in Southeast Alaska to collect gull eggs.

The amended treaty with Canada calls for 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 will 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 will involve village councils to the maximum extent possible in all aspects of management.

Relevant recommendations developed by the management bodies will be submitted to the Service and to the Flyway Councils. Restrictions in harvest levels for the purpose of conservation will be shared equitably by users in Alaska and users in other States, taking into account nutritional needs of subsistence users in Alaska. The treaty amendments are not intended to create a preference in favor of any group of users in the United States or to modify any preference that may exist. Neither do they create any private rights of action under U.S. law.

What Has the Service Accomplished Since Ratification of the Amended Treaty?

In 1998, we began a public involvement process to determine how to structure management bodies in order to provide the most effective and efficient involvement for subsistence users. We began by publishing a notice in the **Federal Register** stating that we intended to establish management bodies to implement the spring and summer subsistence harvest (63 FR 49707, September 17, 1998). Public forums attended by the Service, the Alaska Department of Fish and Game, and the Native Migratory Bird Working Group were held to provide information regarding the amended treaties and to listen to the needs of subsistence users. The Native Migratory Bird Working Group was a consortium of Alaska Natives formed by the Rural Alaska Community Action Program to represent Alaska Native subsistence hunters of migratory birds during the treaty negotiations. We held forums in Nome, Kotzebue, Fort Yukon, Allakaket, Naknek, Bethel, Dillingham, Barrow, and Copper Center. We led additional briefings and discussions at the annual meeting of the Association of Village Council Presidents in Hooper Bay and for the Central Council of Tlingit & Haida Indian Tribes in Juneau. Staff members from Alaska national wildlife refuges conducted public meetings in the villages within their refuge areas and discussed the amended treaties at those meetings.

On July 1, 1999, we published in the **Federal Register** (64 FR 35674) a notice of availability of an options document, entitled ''Forming management bodies to implement legal spring and summer migratory bird subsistence hunting in Alaska.'' This document described four possible models for establishing management bodies and was released to the public for review and comment. We mailed copies of the document to approximately 1,350 individuals and organizations, including all tribal councils and municipal governments in Alaska, Native regional corporations and their associated nonprofit organizations, the Alaska Department of Fish and Game, Federal land management agencies, representatives of the four Flyway Councils, conservation and other affected organizations, and interested businesses and individuals. We distributed an additional 600 copies at public meetings held in Alaska to discuss the four models. We also made the document available on the U.S. Fish and Wildlife Service web page.

During the public comment period, we received 60 written comments addressing the formation of management bodies. Of those 60 comments, 26 were from tribal governments, 20 from individuals, 10 from non-government organizations, 2 from the Federal Government, 1 from the State of Alaska, and 1 from the Native Migratory Bird Working Group. In addition to the 60 written comments, 9 of the 10 Federal Subsistence Regional Advisory Councils passed resolutions regarding the four models presented.

On March 28, 2000, we published in the **Federal Register** (65 FR 16405) the Notice of Decision, ''Establishment of Management Bodies in Alaska To Develop Recommendations Related to the Spring/Summer Subsistence Harvest of Migratory Birds.'' This notice described the way in which management bodies would be established and organized.

Based on the wide range of views expressed on the options document, the decision incorporated key aspects of two of the models. The decision established one statewide management body consisting of 1 Federal member, 1 State member, and 7–12 Alaska Native members, with each component serving as equals. Decisions and recommendations of the Council will be by consensus wherever possible; however, if a vote becomes necessary, each component, Federal, State, and Native, will have one vote. This body will set a framework for annual regulations for spring and summer subsistence harvest of migratory birds. Seven regional bodies, consisting of local subsistence users working within the framework, will forward their recommendations to the statewide management body. That body will act on those recommendations and forward its recommendations to the Service and to the Flyway Councils.

In April 2000, we met with the Alaska Department of Fish and Game and the Native Migratory Bird Working Group to discuss bylaws for the statewide management body. At that meeting, we decided to name the statewide management body the ''Alaska Migratory Bird Co-management Council.'' On October 30, 2000, the Co-management Council convened for the first time and began preparation for the development of recommendations for regulations to be implemented in spring of 2003. The regulations in this document will: (1) Provide the authority for the Co-management Council to operate; (2) establish the procedures by which the Co-management Council will conduct its business; (3) provide authority to the Co-management Council to make recommendations regarding applicability and scope of subsistence harvest and who is eligible to participate in subsistence harvest; (4) give the Co-management Council the authority to set up a process by which migratory birds can be used and possessed under subsistence harvest regulations; (5) define Regional management areas; (6) describe the relationship the rule has to the process for developing national hunting regulations for migratory birds, and (7) allow for future development of regulations pertaining to methods and means of harvest traditionally used for subsistence purposes. At future meetings, the Co-management Council will continue to develop recommendations on harvest and methods and means of harvest as necessary to protect the migratory bird resource.

Summary of Public Involvement

This rule places into regulation many of the decisions that were published in the March 28, 2000, **Federal Register** Notice (65 FR 16405). Prior to that Decision Notice being published, we conducted an extensive public involvement process consisting of public meetings in many regions of Alaska. On April 8, 2002, we published in the **Federal Register** (67 FR 16709) a proposed rule to establish procedures for implementing a spring/summer migratory bird subsistence harvest in Alaska. The proposed rule provided for a public comment period of 46 days. We mailed copies of the proposed rule to more than 1,200 individuals and organizations that were on the project mailing list. We conducted two public meetings in Anchorage where people could ask questions or provide formal comment.

By the close of the public comment period on May 24, 2002, we had received written responses from 11 entities. Four of the responses were from individuals, five from organizations, one from the Alaska Legislature, and one from the Alaska Department of Fish and Game. Several of the comments were of an editorial nature or suggesting alternative wording for clarification. We completed those changes when appropriate. Many comments requested or suggested changes to statements that came directly from the Protocol, the Senate Report, or the Letter of Submittal from the State Department to the White House. We declined to alter what we believed to be the intent of the Protocol. The following analysis addresses those comments that directly address the content of the proposed rule, and that do not conflict with the Protocol language.

Response to Public Comments

Most sections of the proposed rule were addressed by commenters. This discussion addresses comments section by section beginning with those of a general nature.

General Comments

A respondent requested that the regulations require research and monitoring and publication of an annual report on the findings. The ability to monitor the harvest is a major advantage of legalizing spring and summer subsistence harvesting of migratory birds and their eggs. Harvest monitoring will be expanded. The regulations state that the Alaska Migratory Bird Co-management Council (AMBCC) will make recommendations concerning research and use of traditional knowledge. Such recommendations will supplement research efforts currently being conducted. Research results will be published upon completion. Subsistence harvest data are published annually in the Service's Pacific Flyway Data Book. Accomplishing such activities continues to be a matter of policy. Regulating them appears unnecessary and restrictive.

An individual requested that the word ''Native'' be replaced throughout the regulations with the term ''indigenous inhabitant.'' The Letter of Submittal differentiates between the two terms and, therefore, we chose to be consistent with the use of those terms as they are applied in the Letter. In order to be consistent with the Letter of Submittal, the term ''Native'' is used to identify the composition of the management bodies. The term ''indigenous inhabitants'' refers to the eligibility of residents in a designated harvest area as defined in the Letter of Submittal. The elimination of one term or use of one term over another would misconstrue the explicit intent of Congress when they ratified the Treaty amendments. The same commenter also requested that the definition of ''Native'' be removed from the definitions in § 92.4. Because the term ''Native'' will remain in the final rule, we will not delete the definition.

A respondent stated that the heading of subpart C, Methods and Means, was too limiting in scope, because other types of regulations not needing to be published annually would be in this subpart. We agree and have changed the heading in the final rule to read ''General Regulations Governing Subsistence Harvest.''

Supplementary Information

A commenter noted that the Supplementary Information referenced sources other than the Protocol language. A Letter of Submittal prepared by the State Department accompanied the Protocol to the White House. Some of the language in this section referencing the Protocol actually is in the Letter of Submittal. Referencing in the final rule is clarified.

A commenter stated that the scope of these regulations would be clearer if they used the term ''spring and summer hunting'' rather than the word ''subsistence.'' We believe that the language in the proposed rule clearly stated that these regulations apply only to the spring and summer subsistence harvest of migratory birds between the dates of March 10 and September 1. We have made the change, however, in those situations where it seemed to add clarification.

In the Supplementary Information we stated that the treaty amendments are not intended to create a preference in favor of any group of users in the United States. A commenter noted that the amendments do not create any rights to harvest birds. Both these points are stated in the Letter of Submittal. In the final rule, we have, therefore, added a statement that no private rights of action under U.S. law are created by the amended treaty.

In the section titled, ''What Events Led to This Action?'' we referred to subsistence zones. The Alaska Department of Fish and Game correctly noted that the term ''zones'' has a specific regulatory definition in part 20. To avoid confusion, we have referred to ''subsistence harvest areas'' in the final rule, and no longer use the term ''zones.''

In the paragraph addressing the Unfunded Mandates Reform Act, we stated that the cost to the partner organizations for coordinating the regional programs would be approximately $300,000 for travel and associated costs for regional meetings. One comment stated that the cost would exceed that amount and requested that the figure be increased. As stated in this section, the Service has entered into grant agreements to help offset those costs. During the first year of this project, the regional partners charged less than $150,000 to those grant agreements. No evidence exists at this time that the cost estimate quoted should be increased.

In the paragraph addressing Regulatory Planning and Review, we certified that this rule will not have an annual economic effect of $100 million. Using figures from a published report, we estimated that the maximum economic value derived from the consumption of harvested migratory birds in the spring and summer would be approximately $6 million. The Alaska Department of Fish and Game commented that we made assumptions in the calculations that led to an elevated value. We agree. The point of this paragraph is to demonstrate that the value is less than $100 million. Therefore, we attempted to demonstrate that the highest estimate would be substantially less than $100 million. Because of variations in data quality and quantity, and in species harvested throughout the State, statewide economic value estimates are not reliable. We therefore have added wording to the paragraph making clear that these figures are of little value for any purpose other than demonstrating a high-end economic impact for this project.

Section 92.3 Applicability and Scope

One commenter said this section would allow the State of Alaska to regulate the spring and summer subsistence hunt without regard for the provisions of the Treaties and regulations. We do not agree. In section 92.3(e), the regulations clearly state that any laws and regulations enacted by the State under its other authorities must be consistent with the applicable international conventions, including the Protocol, the Migratory Bird Treaty Act, and the regulations adopted under this part. The State could not implement subsistence hunting regulations that would conflict with this Federal rule.

Another commenter noted an error in the dates of the open season regulated by part 20. We stated that the open season is between September 1 through March 10. It has been corrected in the final rule to reflect that the open season is from September 1 through March 10 and, therefore, includes both dates.

Section 92.4 Definitions

Two commenters requested changes to the definition of ''immediate family.'' One noted that the definition included grandparents, but did not include grandchildren. ''Immediate family'' as described in the Letter of Submittal includes grandparents but not grandchildren. We agree that this is an oversight and have made the change to the definition in the final rule. The second commenter stated that the definition should include aunts, uncles, and cousins because extended family is important and is a part of Native traditions. Although the extended family may be important in traditional activities, the Letter of Submittal emphasizes the need to include immediate family members in the traditional migratory bird harvest, while meeting the purpose of the Protocol that states ''* * * it is not the intent of this Protocol to cause significant increases in the take of species of migratory birds relative to their continental population sizes.'' Expanding the definition of immediate family to include extended family would not be consistent with that intent.

A commenter stated that a definition of ''permanent resident'' would be helpful to the understanding of eligibility under § 92.5. This is a term that was not defined in the Protocol language or in the accompanying documents. Since the writing of the proposed rule, the term has been defined by the AMBCC in a public meeting. We are, therefore, including that definition in the final rule. The same commenter stated that the regulation should be clear that the local tribal government is the entity that is responsible for identifying the permanent residents in their respective communities. No entity has yet been given the responsibility for determining who qualifies as a permanent resident. Each individual is expected to apply the definition to his or her own situation. If questioned by an enforcement officer, proof of residency must be available.

A commenter requested that the term ''tribal'' be eliminated from the definition of ''partner organization or regional partner.'' The commenter referenced a dispute regarding tribal status of Alaska Natives other than for certain statutory purposes. The commenter stated that there is no purpose for specifying tribal involvement in this rule and that ''federally recognized tribes'' will be included within the purview of the phrase ''regional or local organization, or local government.'' Although ''federally recognized tribes'' or ''tribal organizations'' are not specifically identified in the Protocol language or the accompanying language, it is not clear that those terms would be considered included within the purview of the phrase ''regional or local organization, or a local government.'' It is our intention that tribes and tribal organizations have the same opportunity as local governments and regional and local organizations to be partner organizations. It should be clear, however, that none of these entities has preference in being so designated.

One commenter felt that the definition of ''non-wasteful taking'' was not adequate because the definition had no requirement for preserving harvested birds that were not immediately consumed. The definition has been changed to read, ''* * * consumed or preserved for food.''

A commenter stated a concern that the term, ''for their own'' in the definition of ''subsistence'' did not allow for traditional sharing and exchanging of birds among eligible subsistence users. Article II4(b)(i) of the amended Treaty states that harvesting ''* * * shall be consistent with customary and traditional uses by such indigenous inhabitants for their own nutritional and other essential needs.'' The use of this term is essential for understanding that harvest is to be for certain subsistence needs only. The term, however, is intended to apply to eligible indigenous inhabitants collectively and not solely to individual users. The use of the term, therefore, does not restrict traditional sharing among eligible users. For further clarification we have changed ''traditional harvest and use'' to ''traditional harvest or use.''

At the request of a commenter, and for the purpose of clarification, we have added the words ''during the spring and summer'' to the end of the definition of the term ''eligible person''.

Section 92.5 Who is Eligible to Participate?

One commenter suggested additional wording in paragraph (a). The proposed rule states that any person may submit a petition to exclude a previously included community. Although the proposed rule states that the AMBCC will make recommendations regarding the petition, it is not clearly stated who is to receive the petition. Wording has been added to the final rule stating that petitions will first be considered by the appropriate regional management body before being acted on by the AMBCC.

The suggestion was made that in paragraph (b) we add the words ''spring and summer'' before the words ''subsistence harvest area.'' The sentence now reads ''* * * may petition the Co-management Council through their designated regional management body for designation as a spring and summer subsistence harvest area.''

We received several comments regarding paragraph (c). Several of those comments indicated that the paragraph was vague and that it did not adequately address the requirements of the amended Treaty, that we are to accommodate traditional spring and summer harvests without creating new traditions or increasing harvests. We have re-written the entire paragraph to accommodate those concerns. We also responded to a request for clarity by adding the words ''spring and summer'' to the heading of paragraph (c).

Numerous other comments addressed the five criteria in paragraph (c). Comments expressed concern that the 1916 date used in criterion (1) was too far back for data to be available when determining traditional use patterns. Also, some communities have moved and been renamed, and have developed a traditional use of migratory birds since 1916. They would be unable to successfully petition for inclusion. We agree that the earlier date, which was based upon the signing of the original migratory bird treaty with Canada, was too restrictive. The argument could certainly be made that communities with a demonstrated use pattern prior to the effective date of the amended treaty should be able to petition for inclusion. We have, therefore, changed the date from 1916 to 1999.

Several commenters stated that those criteria used to establish a traditional

subsistence harvest should not be limited to migratory birds, and that a subsistence use of other fish and wildlife species should be sufficient to qualify for a future subsistence harvest of migratory birds. We believe that eligibility for future subsistence harvest of migratory birds should be dependent upon past reliance on that same resource. One of the purposes of the amended treaty is to allow for the regulated continuation of past practices within designated subsistence harvest areas. We, therefore, will not add other fish and wildlife species to the list of criteria.

A request was made to change criterion (3) by adding the words ''through oral traditions, family training, and cultural community activities or events.'' The purpose of the recommended change would be to better tailor the criteria to define the cultures and traditions of Alaska Native people. We believe, however, that the additional wording unnecessarily limits the manner in which such knowledge could be handed down through the generations. Criterion (3) remains unchanged in the final rule.

A commenter stated that paragraph (d) does not clearly identify where invited family members may participate. We feel the paragraph is clear on that point, but did need to state that participation requires the permission of the Village Council. Wording has been added accordingly.

Section 92.6 Use and Possession of Migratory Birds

A commenter stated that this rule should allow for the purchase of feathers for dance regalia, because that is part of the tradition of some Native cultures. Because the purchase and sale of migratory birds and their parts is a violation of the Migratory Bird Treaty Act, it is not in the purview of this rule to allow for the purchase of feathers.

Section 92.10 Alaska Migratory Bird Co-management Council

A respondent asked that we add to the list of AMBCC roles and responsibilities the facilitation of the development of inter-regional conservation plans, harvest strategies, and management programs for shared populations of migratory birds. We believe this function is adequately stated in paragraph (c)(7).

Paragraph (c)(8) has been re-worded as suggested by a commenter in order to make it less awkward and to be clear that we are referring to the AMBCC regional representatives.

A commenter wanted more specific language in paragraph (d)(3) that all AMBCC meetings are open to the public. Language has been added to the final rule to accommodate that request.

Section 92.11 Regional Management Areas

A commenter stated that identified partner organizations must be willing and able to coordinate the regional programs on behalf of all subsistence hunters within the region. We have added the word ''all'' to accommodate that request.

Section 92.12 Relationship to the Process for Developing National Hunting Regulations for Migratory Game Birds

A commenter stated that paragraph (b) was not clear in the intention that the annual regulations in subpart D would be published separately and apart from part 20 of title 50 of the Code of Federal Regulations (CFR). Wording has been added to this paragraph to help clarify the issue. We intend that annual regulations published pursuant to part 20 and those published pursuant to part 92 will be subject to the same review process and submitted to the **Federal Register** at approximately the same time. They will be published, however, within their respective parts in the CFR. Section 92.30, paragraph (d), states that §§ 92.31–92.39 provide for the annual harvest of migratory birds and their eggs during spring and summer for subsistence users in Alaska. Text for those sections will be published in the **Federal Register** this fall, to be in place for the spring and summer of 2003.

Statutory Authority

We derive our authority to issue these regulations from the Migratory Bird Treaty Act of 1918 (16 U.S.C. 703 *et seq.*), which implements the 1916 Convention, as amended, between the United States and Great Britain (for Canada) for the protection of migratory birds.

Specifically, these regulations are issued pursuant to 16 U.S.C. 712(1), which authorizes the Secretary of the Interior 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

Under the Administrative Procedure Act, our normal practice is to publish rules with a 30-day delay in effective date. But in this case, we are using the ''good cause'' exemption under 5 U.S.C. 553(d)(3) to make this rule effective upon publication in order to ensure conservation of the resource for the upcoming spring/summer subsistence harvest. The rule needs to be made effective immediately for the following reasons: (1) The AMBCC has spent a considerable amount of time developing recommendations to the SRC to legalize the spring/summer harvest of migratory birds in Alaska. The last meeting of the SRC for the 2002–03 season is scheduled to meet on July 31 and August 1, 2002, to consider these and other recommendations. These procedural regulations give the AMBCC the authority to provide recommendations. If this rule is not in effect when the SRC meets, a question of whether or not the recommendations are legal will arise and leave the AMBCC vulnerable to legal challenges; and (2) although it is very difficult to get three different and distinct groups of people together (state, federal and Alaska Native) with a common goal and be able to move forward as they have, all three parties to the AMBCC have a commitment to develop a management system that will provide conservation measures for the spring/summer harvest of migratory birds in Alaska. That commitment to conservation is the foundation for the AMBCC and success will be measured by the harmony that has been created. Anything to jeopardize it at this early stage of development could impact the structure of the AMBCC. The expediency of the publication of the procedural regulations will ensure that the AMBCC recommendations are heard and acted upon by the Service.

Regulatory Planning and Review

The Office of Management and Budget (OMB) has determined that this document is not a significant rule subject to OMB review under E.O. 12866.

a. This rule will not have an annual economic effect of $100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis is not required. This rule is administrative, technical, and procedural in nature, establishing the procedures for implementing spring and summer harvest of migratory birds as provided for in the amended Convention with Canada. The rule does not provide for new or additional hunting opportunities and therefore will have minimal economic or environmental impact.

This rule benefits those participants who engage in the subsistence harvest of migratory birds in Alaska in two identifiable ways: first, participants receive the consumptive value of the birds harvested and second, participants get the cultural benefit associated with the maintenance of a subsistence economy and way of life. The Service can estimate the consumptive value for birds harvested under this rule but does not have a dollar value for the cultural benefit of maintaining a subsistence economy and way of life.

The economic value derived from the consumption of the harvested migratory birds has been estimated using the results of a paper by Robert J. Wolfe titled ''Subsistence Food Harvests in Rural Alaska, and Food Safety Issues,'' August 13, 1996.'' Using data from Wolfe's paper and applying it to the areas that will be included in this process, a maximum economic value of $6 million is determined. This is the estimated economic benefit of the consumptive part of this rule for participants in subsistence hunting. The cultural benefits of maintaining a subsistence economy and way of life can be of considerable value to the participants, and is not included in this figure.

b. This rule will not create inconsistencies with other agencies' actions. We are the Federal agency responsible for the management of migratory birds, coordinating with the Alaska Department of Fish and Game on management programs within the State of Alaska. The State of Alaska is a member of the AMBCC.

c. This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. The rule does not affect entitlement programs.

d. This rule will not raise novel legal or policy issues. The annual subsistence harvest regulations will go through the same National regulatory process as the existing annual migratory bird hunting regulations in 50 CFR part 20.

Regulatory Flexibility Act

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

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, as discussed in the Regulatory Planning and Review section above.

a. This rule does not have an annual effect on the economy of $100 million or more. It will legalize and regulate a traditional subsistence activity. It will not result in a substantial increase in subsistence harvest or a significant change in harvesting patterns.

The commodities being 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 would qualify as small businesses. The Service has no reason to believe that this rule will lead to a disproportionate distribution of benefits.

b. This rule 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, does not have an impact on prices for consumers.

c. This rule does 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 does not regulate the marketplace in any way to generate effects on the economy or the ability of businesses to compete.

Unfunded Mandates Reform Act

We have determined and certify pursuant to 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. A statement containing the information required by this Act is therefore not necessary.

Participation on regional management bodies and the Co-management Council will require travel expenses for some Alaska Native organizations and local governments. In addition they will 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 the Notice of Decision, 65 FR 16405, March 28, 2000, we identified 12 partner organizations to be responsible for administering the regional programs. When possible, we will make annual grant agreements available to the partner organizations to help offset their expenses. The Alaska Department of Fish and Game will incur expenses for travel to the Co-management Council meetings and to meetings of the regional management bodies. In addition, the State will 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.

Paperwork Reduction Act

This rule has been examined under the Paperwork Reduction Act of 1995, and has been found to contain no information collection requirements. 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.

Federalism Effects

As discussed in the Regulatory Planning and Review and Unfunded Mandates Reform Act sections above, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment under Executive Order 13132. We worked with the State of Alaska on development of these regulations.

Civil Justice Reform—Executive Order 12988

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the requirements of Section 3 of the Order.

Takings Implication Assessment

This rule is not specific to particular land ownership, but applies to the harvesting of migratory bird resources throughout Alaska. Therefore, in accordance with Executive Order 12630, this rule does not have significant takings implications.

Government-to-Government Relations With Native American Tribal Governments

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations With Native American Tribal

Governments'' (59 FR 22951), and Executive Order 13175, 65 FR 67249 (November 6, 2000), concerning consultation and coordination with Indian Tribal Governments, we have consulted with Alaska tribes, evaluated the rule for possible effects on them and have determined that there are no significant effects. This rule establishes procedures by which the individual tribes in Alaska will be able to become significantly involved in the annual regulatory process for spring and summer subsistence harvesting of migratory birds and their eggs. The rule will legalize the subsistence harvest for tribal members, as well as for other indigenous inhabitants.

Endangered Species Act Consideration

Prior to issuance of annual spring and summer subsistence regulations, we will consider provisions of the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531–1543; hereinafter the Act) to ensure that harvesting is not likely to jeopardize the continued existence of any species designated as endangered or threatened or modify or destroy their critical habitats, and that it is consistent with conservation programs for those species. Consultations under Section 7 of this Act may cause us to change recommendations for annual regulations.

National Environmental Policy Act Consideration

We determined that establishing the procedures for future development of subsistence harvest regulations does not require an environmental assessment because the impacts to the environment are negligible. We therefore filed a categorical exclusion dated April 30, 1999. Copies of the categorical exclusion are available at the address shown in the section of this document entitled, **ADDRESSES**. An environmental assessment will be prepared for the annual subsistence take regulations due to be published later as a proposed rule in the summer of 2002.

Energy Supply, Distribution or Use (Executive Order 13211)

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this rule only allows for traditional subsistence harvest and improves conservation of migratory birds by allowing effective regulation of this harvest, it is not a significant regulatory action under Executive Order 12866 and is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

List of Subjects in 50 CFR Part 92

Hunting, Reporting and recordkeeping requirements, Subsistence, Treaties, Wildlife.

For the reasons identified in the preamble, the U.S. Fish and Wildlife Service adds part 92 to subchapter G of chapter 1, title 50 of the Code of Federal Regulations, to read as follows:

PART 92—MIGRATORY BIRD SUBSISTENCE HARVEST IN ALASKA

Subpart A—General Provisions

Sec.

Subpart B—Program Structure

Subpart C—General Regulations Governing Subsistence Harvest

Subpart D—Annual Regulations Governing Subsistence Harvest

Authority: 16 U.S.C. 703–712.

Subpart A—General Provisions

§ 92.1 Purpose of regulations.

The regulations in this part implement the Alaska migratory bird subsistence program as provided for in Article II(4)(b) of the 1916 Convention for the Protection of Migratory Birds in Canada and the United States (the ''Canada Treaty''), as amended.

§ 92.2 Authority.

The Secretary of the Interior issues the regulations in this part under the authority granted to the Secretary by the Migratory Bird Treaty Act (MBTA), 16 U.S.C. 703–712.

§ 92.3 Applicability and scope.

(a) *In general.* The regulations in this part apply to all eligible persons harvesting migratory birds and their eggs for subsistence purposes in Alaska between the dates of March 10 and September 1. The provisions in this part do not replace or alter the regulations set forth in part 20 of this chapter, which relate to the hunting of migratory game birds and crows during the regular open season from September 1 through March 10. The provisions set forth in this part implement the exception to the closed season, which authorizes the taking of migratory birds in Alaska for subsistence purposes between March 10 and September 1.

(b) *Land ownership.* This part does not alter the legal authorities of Federal and State land managing agencies or the legal rights of private land owners to close their respective lands to the taking of migratory birds.

(c) *Federal public lands.* The provisions of this part are in addition to, and do not supersede, any other provision of law or regulation pertaining to national wildlife refuges or other federally managed lands.

(d) *Migratory bird permits.* The provisions of this part do not alter the terms of any permit or other authorization issued pursuant to part 21 of this chapter.

(e) *State laws for the protection of migratory birds.* No statute or regulation of the State of Alaska relieves a person from the restrictions, conditions, and requirements contained in this part. Nothing in this part, however, prevents the State of Alaska from making and enforcing laws or regulations that are consistent with the regulations in this part, the conventions between the United States and any foreign country for the protection of migratory birds, and the Migratory Bird Treaty Act, and that give further protection to migratory birds.

§ 92.4 Definitions.

The following definitions apply to all regulations contained in this part:

Alaska Native means the same as ''Native,'' defined in section 3(b) of the Alaska Native Claims Settlement Act, 16 U.S.C. 1602(b).

Co-management Council means the Alaska Migratory Bird Co-management Council, consisting of Alaska Native, Federal, and State of Alaska representatives as equals.

Eligible person means an individual within the State of Alaska who qualifies to harvest migratory birds and their eggs for subsistence purposes during the spring and summer.

Excluded areas are defined in § 92.5.

Flyway Council means the Atlantic, Mississippi, Central, or Pacific Flyway Council.

Immediate family means spouse, children, parents, grandchildren, grandparents, and siblings.

Included areas are defined in § 92.5.

Indigenous inhabitant means a permanent resident of a village within a subsistence harvest area, regardless of race.

Migratory bird, for the purposes of this part, means the same as defined in § 10.12 of this chapter. Species are listed in § 10.13 of this chapter.

Native means the same as ''Alaska Native'' as defined in this section.

Nonwasteful taking means making a reasonable effort to retrieve all birds killed or wounded, and retaining such birds in possession between the place where taken and the hunter's permanent or temporary place of residence, or to the location where the birds will be consumed or preserved for food.

Partner organization or regional partner means a regional or local organization, or a local or tribal government that has entered into a formal agreement with the U.S. Fish and Wildlife Service for the purpose of coordinating the regional programs necessary to involve subsistence hunters in the regulatory process described in this part.

Permanent resident means any person whose primary, permanent home for the previous 12 months was within a subsistence harvest area in Alaska. Whenever absent from this primary, permanent home, the person has the intention of returning to it. Factors demonstrating a person's primary, permanent home may include: an address listed on an Alaska Permanent Fund dividend application; an Alaska license to drive, hunt, fish, or engage in an activity regulated by a government entity; voter registration; location of residences owned, rented, or leased; location of stored household goods; the residence of the person's spouse, minor children, or dependents; tax documents; whether the person claims residence in another location for any purpose; or status as a tribal member of a tribe in a subsistence harvest area.

Service Regulations Committee means the Migratory Bird Regulations Committee of the U.S. Fish and Wildlife Service.

State means State of Alaska.

Subsistence means the customary and traditional harvest or use of migratory birds and their eggs by eligible indigenous inhabitants for their own nutritional and other essential needs.

Subsistence harvest areas encompass customary and traditional hunting areas of villages in Alaska that qualify for a spring or summer subsistence harvest of migratory birds under this part.

Village is defined as a permanent settlement with one or more year-round residents.

§ 92.5 Who is eligible to participate?

If you are a permanent resident of a village within a subsistence harvest area, you will be eligible to harvest migratory birds and their eggs for subsistence purposes in the spring and summer.

(a) *Included areas.* Village areas located within the Alaska Peninsula, Kodiak Archipelago, the Aleutian Islands, or in areas north and west of the Alaska Range are subsistence harvest areas, except that villages within these areas not meeting the criteria for a subsistence harvest area as identified in paragraph (c) of this section will be excluded from the spring and summer subsistence harvest. Any person may request the Co-management Council to recommend that an otherwise included area be excluded by submitting a petition stating how the area does not meet the criteria identified in paragraph (c) of this section. The Co-management Council will forward petitions to the appropriate regional management body for review and recommendation. The Co-management Council will then consider each petition and will submit to the U.S. Fish and Wildlife Service any recommendations to exclude areas from the spring and summer subsistence harvest. The U.S. Fish and Wildlife Service will publish any approved recommendations to exclude areas in subpart D of this part.

(b) *Excluded areas.* Village areas located in Anchorage, the Matanuska-Susitna or Fairbanks North Star Boroughs, the Kenai Peninsula roaded area, the Gulf of Alaska roaded area, or Southeast Alaska generally do not qualify for a spring or summer harvest. Communities located within one of these areas may petition the Co-management Council through their designated regional management body for designation as a spring and summer subsistence harvest area. The petition must state how the community meets the criteria identified in paragraph (c) of this section. The Co-management Council will consider each petition and will submit to the U.S. Fish and Wildlife Service any recommendations to designate a community as a spring and summer subsistence harvest area. The U.S. Fish and Wildlife Service will publish any approved recommendations to designate a community as a spring and summer subsistence harvest area in subpart D of this part.

(c) *Criteria for determining designation as a spring and summer subsistence harvest area.* A previously excluded community may be included in the spring/summer harvest regulations if recommended by the Alaska Migratory Bird Co-management Council. The Alaska Migratory Bird Co-management Council will recommend designation of subsistence harvest areas based on a deliberative process using the best available information on nutritional and cultural needs and customary and traditional use. The Alaska Migratory Bird Co-management Council recommendations will accommodate traditional spring and summer harvests without creating new traditions or increasing harvest of migratory birds. Recommendations will be made based on the majority of factors and the weight of the evidence using the following criteria:

(1) A pattern of use recurring in the spring and summer of each year prior to 1999, excluding interruptions by circumstances beyond the user's control;

(2) The consistent harvest and use of migratory birds on or near the user's permanent residence;

(3) A use pattern that includes the handing down of knowledge of hunting skills and values from generation to generation;

(4) A use pattern in which migratory birds are shared or distributed among others within a definable community of persons; a community for purposes of subsistence uses may include specific villages or towns, with a historical pattern of subsistence use; and

(5) A use pattern that includes reliance for subsistence purposes upon migratory birds or their eggs and that meets nutritional and other essential needs including, but not limited to, cultural, social, and economic elements of the subsistence way of life.

(d) *Participation by residents in excluded areas.* In cases where it is appropriate to assist indigenous inhabitants in meeting their nutritional and other essential needs, or for the teaching of cultural knowledge to or by their immediate family members, residents of excluded areas may participate in the customary spring and summer subsistence harvest in a village's subsistence harvest area with the permission of the village council. Eligibility for participation will be developed and recommended by the Co-management Council and adopted or amended by regulations published in subpart D of this part.

§ 92.6 Use and possession of migratory birds.

Harvest and possession of migratory birds must be done using nonwasteful taking. You may not take birds for purposes other than human consumption. You may not sell, offer for sale, purchase, or offer to purchase migratory birds, their parts, or their eggs

taken under this part. Nonedible by-products of migratory birds taken for food may be used for other purposes only by individuals qualified to possess those birds. You may possess migratory birds, their parts, and their eggs, taken under this part, only if you are an eligible participant as determined in § 92.5.

§§ 92.7—92.9 [Reserved]

Subpart B—Program Structure

§ 92.10 Alaska Migratory Bird Co-management Council.

(a) *Establishment.* The U.S. Fish and Wildlife Service hereby establishes, as authorized by the Protocol amending the Canada Treaty, a statewide management body to be known as the Alaska Migratory Bird Co-management Council.

(b) *Membership.* The Co-management Council must include Alaska Native, Federal, and State of Alaska representatives, as equals.

(1) The Federal and State governments will each seat one representative. The Federal representative will be appointed by the Alaska Regional Director of the U.S. Fish and Wildlife Service, and the State representative will be appointed by the Commissioner of the Alaska Department of Fish and Game. Regional partner organizations will seat 1 representative from each of the 7 regions identified in § 92.11(a), except that a region having more than 1 partner organization may send a representative from each partner organization for a maximum of 12 regional representatives.

(2) The Federal and State representatives and the collective Native representatives will each have one vote, for a total of three votes for the entire council.

(c) *Roles and responsibilities.* The Co-management Council is authorized to:

(1) Hold public meetings for the purpose of conducting business related to spring and summer subsistence harvest of migratory birds;

(2) Develop recommendations for regulations governing the spring and summer subsistence harvest of migratory birds and their eggs;

(3) Develop recommendations for, among other things, law enforcement policies, population and harvest monitoring, education programs, research and use of traditional knowledge, and habitat protection;

(4) Develop procedures and criteria by which areas and communities can be determined to be eligible or ineligible for a spring/summer subsistence harvest;

(5) Provide guidelines to the regional management bodies each year for formulation of annual regulations;

(6) Consolidate regional recommendations and resolve interregional differences in order to prepare statewide recommendations;

(7) Establish committees to gather or review data, develop plans for Co-management Council actions, and coordinate programs with regional management bodies;

(8) Send regional representatives from the Co-management Council to meetings of the Pacific Flyway Council and to meetings of the other Flyway Councils as needed, and to meetings of the Service Regulations Committee;

(9) Elect officers; and

(10) Conduct other business as the Council may determine is necessary to accomplish its purpose.

(d) *Meetings.* Meetings of the Co-management Council will be open to the public. The Co-management Council will:

(1) Hold meetings at least twice annually;

(2) Conduct meetings in accordance with bylaws approved by the Co-management Council;

(3) Provide an opportunity at each meeting for public comment;

(4) Establish the dates, times, and locations of meetings; and

(5) Maintain a written record of all meetings.

(e) *Staff support.* Administrative support for the Co-management Council will be provided by the U.S. Fish and Wildlife Service and will include, but not be limited to:

(1) Making arrangements for the meeting rooms and associated logistics related to Co-management Council meetings;

(2) Preparing public notices announcing Co-management Council meetings;

(3) Maintaining records of discussions and actions taken by the Co-management Council;

(4) Coordinating with the Alaska Department of Fish and Game to provide technical information needed by the Co-management Council for its deliberations;

(5) Preparing documents and gathering information needed by the Co-management Council for its meetings; and

(6) Preparing the annual subpart D regulations package recommended by the Co-management Council for submission to the flyway councils and the Service Regulations Committee.

§ 92.11 Regional management areas.

(a) *Regions identified.* The Alaska Regional Director of the U.S. Fish and Wildlife Service hereby establishes seven geographic regions based on common subsistence resource use patterns. You may obtain maps delineating the boundaries of the seven regions from the U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503. The regions are identified as follows:

(1) Southeast, Gulf of Alaska and Cook Inlet;

(2) Aleutian/Pribilof Islands and Kodiak Archipelago;

(3) Bristol Bay;

(4) Yukon-Kuskokwim Delta;

(5) Bering Straits;

(6) Northwest Arctic and Arctic Slope; and

(7) Interior.

(b) *Regional partnerships.* The U.S. Fish and Wildlife Service will establish partner agreements with at least one partner organization in each of the seven regions. The partner organization identified must be willing and able to coordinate the regional program on behalf of all subsistence hunters within that region. A regional partner will:

(1) Organize or identify one or more management bodies within the region in which it is located.

(2) Determine how the management body for the region should be organized, the manner in which it should function, its size, who serves on it, the length of terms, methods of involving subsistence users, and other related matters.

(3) Coordinate regional meetings and the solicitation of proposals.

(4) Ensure appointment of a person to represent the region by serving on the Co-management Council. If a region consists of more than one partner organization, each partner organization may appoint a member to sit on the Co-management Council.

(5) Keep the residents of villages within the region informed of issues related to the subsistence harvest of migratory birds.

(6) Work cooperatively with the U.S. Fish and Wildlife Service and the Alaska Department of Fish and Game to gather harvest data, numbers of subsistence users, and other management data and traditional knowledge for the benefit of the management bodies.

(c) *Regional management bodies.* (1) Regional management bodies must provide a forum for the collection and expression of opinions and recommendations regarding spring and summer subsistence harvesting of migratory birds. They must develop requests and recommendations from the region to be presented to the Co-management Council for deliberation. They must provide for public

participation in the meetings at which recommendations and requests are formulated.

(2) Requests and recommendations to the Co-management Council may involve seasons and bag limits, methods and means, law enforcement policies, population and harvest monitoring, education programs, research and use of traditional knowledge, habitat protection, and other concerns related to migratory bird subsistence programs.

(3) Regional management bodies may be established specifically for the purpose of carrying out the responsibilities identified in this part, or they may be existing entities that can add these responsibilities to their existing duties.

§ 92.12 Relationship to the process for developing national hunting regulations for migratory game birds.

(a) *Flyway councils.* (1) Proposed annual regulations recommended by the Co-management Council will be submitted to all flyway councils for review and comment. The Council's recommendations must be submitted prior to the SRC's last regular meeting of the calendar year in order to be approved for spring/summer harvest beginning March 11 of the following calendar year.

(2) Alaska Native representatives may be appointed by the Co-management Council to attend meetings of one or more of the four flyway councils to discuss recommended regulations or other proposed management actions.

(b) *Service regulations committee.* Proposed annual regulations recommended by the Co-management Council will be submitted to the Service Regulations Committee for their review and recommendation to the Service Director. Following the Service Director's review and recommendation, the proposals will be forwarded to the Department of Interior for approval. Proposed annual regulations will then be published in the **Federal Register** for public review and comment, similar to the annual migratory game bird hunting regulations (found in part 20 of this chapter). Final spring/summer regulations for Alaska will be published in the **Federal Register** in the preceding Fall.

§§ 92.13—92.19 [Reserved]

Subpart C—General Regulations Governing Subsistence Harvest

§§ 92.20—92.29 [Reserved]

Subpart D—Annual Regulations Governing Subsistence Harvest

§ 92.30 General overview of regulations.

(a) The taking, possession, transportation, and other uses of migratory birds are generally prohibited unless specifically authorized by regulation developed in accordance with the Migratory Bird Treaty Act. Therefore, harvesting migratory birds is prohibited unless regulations are established ensuring the protection of the various populations of migratory birds. Migratory bird population levels, production, and habitat conditions vary annually. These conditions differ within Alaska and throughout North America. Therefore, the regulations governing migratory bird hunting may include annual adjustments to keep harvests within acceptable levels.

(b) The development of the regulations in this part, like the development of the annual migratory game bird hunting regulations in part 20 of this chapter, involves annual data gathering programs to determine migratory bird population status and trends, evaluate habitat conditions, determine harvests, and consider other factors having an impact on the anticipated size of annual populations.

(c) The Service proposes annual migratory game bird hunting regulations in the **Federal Register** in the spring for seasons beginning September 1 of that year. Following consideration of additional biological information and public comment, the Service publishes supplemental proposals throughout the summer. These are also open to public comment.

(d) Sections 92.31 through 92.39 provide for the annual harvest of migratory birds and their eggs during spring and summer for subsistence users in Alaska.

§§ 92.31—92.39 [Reserved]

Dated: August 8, 2002.

David P. Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–20717 Filed 8–15–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 011005244–2011–02; I.D. 081202C]

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Closure of Fishery for *Loligo* Squid

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS announces that the directed fishery for *Loligo* squid in the exclusive economic zone (EEZ) will be closed effective 0001 hrs local time, August 16, 2002. Vessels issued a Federal permit to harvest *Loligo* squid may not retain or land more than 2,500 lb (1.13 mt) of *Loligo* squid per trip for the remainder of the quarter. This action is necessary to prevent the fishery from exceeding its Quarter III quota and allow for effective management of this stock.

DATES: Effective 0001 hours, August 16, 2002, through 0001 hours, October 1, 2002.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, 978–281–9273, fax 978–281–9135, e-mail paul.h.jones@noaa.gov.0

SUPPLEMENTARY INFORMATION:

Regulations governing the *Loligo* squid fishery are found at 50 CFR part 648. The regulations require specifications for maximum sustainable yield, initial optimum yield, allowable biological catch, domestic annual harvest (DAH), domestic annual processing, joint venture processing and total allowable levels of foreign fishing for the species managed under the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan. The procedures for setting the annual initial specifications are described in § 648.21.

The 2002 specification of DAH for *Loligo* squid was set at 16,898 mt (67 FR 3623, January 25, 2002). This amount is allocated by quarter, as shown below.

TABLE. 1 *Loligo* QUARTERLY ALLOCATIONS.

Quarter	Percent	Metric Tons
I (Jan–Mar)	33.23	5,615
II (Apr–Jun)	17.61	2,976