

State. The State, however, has no obligation to make an independent assessment of drug availability in the absence of such notification by a pharmacy. We believe that the vast majority of drugs of manufacturers that participate in the Medicaid program are generally available on a national basis. We believe that all or nearly all of the drugs are distributed by national wholesalers and are generally available in every State. This interim final rule will only apply in those rare cases in which a particular FDA-approved drug product is not available to the retail pharmacies in a particular State and, as a result, only one FDA-approved drug product is available to those pharmacies. In this circumstance, a State would need to verify the information received from its pharmacies that no equivalent drug is available. This would impose only a small burden on States. State systems are designed to allow for payment changes as a routine matter and to change the composition of the FUL groups or delete FUL groups. Since this regulation does not impose any significant costs on State or local governments, the requirements of E.O. 13132 are not applicable.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

#### List of Sections in 42 CFR Part 447

Accounting, Administrative practice and procedure, Drugs, Grant programs—health, Health facilities, Health professions, Medicaid, Reporting and recordkeeping requirements, Rural areas.

■ For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR chapter IV as set forth below:

#### PART 447—PAYMENTS FOR SERVICES

■ 1. The authority citation for part 447 continues to read as follows:

**Authority:** Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

■ 2. Section 447.502 is amended by:

■ A. Republishing the introductory text of the definition for “Multiple source drug”; and

■ B. Revising paragraph (3) of the definition for “Multiple Source Drug” to read as follows:

#### § 447.502 Definitions.

\* \* \* \* \*

*Multiple source drug* means, with respect to a rebate period, a covered

outpatient drug for which there is at least one other drug product which—

\* \* \* \* \*

(3) Is sold or marketed in the State during the rebate period as follows:

(i) A covered outpatient drug is considered sold or marketed in a State if it appears in a published national listing of average wholesale prices, selected by the Secretary, provided the covered outpatient drug is generally available to the public through retail pharmacies in that State.

(ii) A covered outpatient drug is not subject to the FUL for a rebate period if it is not a multiple source drug in the State for that rebate period.

\* \* \* \* \*

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: February 21, 2008.

**Kerry Weems,**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

Approved: February 21, 2008.

**Michael O. Leavitt,**

*Secretary.*

[FR Doc. 08–1022 Filed 3–10–08; 2:42 pm]

BILLING CODE 4120–01–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 92

[FWS–R7–MB–2007–0009; 91200–1231–9BPP L2]

RIN 1018–AV53

#### Migratory Bird Subsistence Harvest in Alaska; Harvest Regulations for Migratory Birds in Alaska During the 2008 Season

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service or we) is publishing migratory bird subsistence harvest regulations in Alaska for the 2008 season. This proposed rule establishes regulations that prescribe dates when harvesting of birds may occur, species that can be taken, and methods and means excluded from use. These regulations were developed under a Co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives. These regulations enable the continuation of customary and traditional subsistence uses of migratory birds in Alaska. The

rulemaking is necessary because the regulations governing the subsistence harvest of migratory birds in Alaska are subject to annual review. This rulemaking enacts region-specific regulations that go into effect on April 2, 2008, and expire on August 31, 2008.

**DATES:** The amendments to subpart C of 50 CFR part 92 become effective April 14, 2008. The amendments to subpart D of 50 CFR part 92 are effective April 2, 2008, through August 31, 2008.

**FOR FURTHER INFORMATION CONTACT:** Fred Armstrong, (907) 786–3887, or Donna Dewhurst, (907) 786–3499, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Mail Stop 201, Anchorage, AK 99503.

#### SUPPLEMENTARY INFORMATION:

##### How Do I Find the History of These Regulations?

Background information, including past events leading to this action, accomplishments since the Migratory Bird Treaties with Canada and Mexico were amended, and a history addressing conservation issues can be found in the following **Federal Register** documents:

Date	Federal Register citation
August 16, 2002 .....	67 FR 53511.
July 21, 2003 .....	68 FR 43010.
April 2, 2004 .....	69 FR 17318.
April 8, 2005 .....	70 FR 18244.
February 28, 2006 .....	71 FR 10404.
April 11, 2007 .....	72 FR 18318.

These documents, which are all final rules setting forth the annual harvest regulations, are readily available at <http://alaska.fws.gov/ambcc/regulations.htm>.

##### Why Is This Current Rulemaking Necessary?

This current rulemaking is necessary because, by law, the migratory bird harvest season is closed unless opened by the Secretary of the Interior, and the regulations governing subsistence harvest of migratory birds in Alaska are subject to public review and annual approval. The Alaska Migratory Bird Co-management Council (Co-management Council) held a meeting in April 2007 to develop recommendations for changes effective for the 2008 harvest season. These recommendations were presented to the Service Regulations Committee (SRC) on August 1 and 2, 2007, and were approved.

This rule finalizes regulations for the taking of migratory birds for subsistence uses in Alaska during 2008. This rule lists migratory bird species that are open

or closed to harvest, as well as season openings and closures by region.

#### **How Will the Service Continue To Ensure That the Subsistence Harvest Will Not Raise Overall Migratory Bird Harvest?**

The Service has an emergency closure provision (50 CFR 92.21), so that if any significant increases in harvest are documented for one or more species in a region, an emergency closure can be requested and implemented. Eligibility to harvest under the regulations established in 2003 was limited to permanent residents, regardless of race, in villages located within the Alaska Peninsula, Kodiak Archipelago, the Aleutian Islands and in areas north and west of the Alaska Range (§ 92.5). These geographical restrictions opened the initial subsistence migratory bird harvest to only about 13 percent of Alaska residents. High-population areas such as Anchorage, the Matanuska-Susitna and Fairbanks North Star boroughs, the Kenai Peninsula roaded area, the Gulf of Alaska roaded area, and Southeast Alaska were excluded from the eligible subsistence harvest areas.

Based on petitions requesting inclusion in the harvest, in 2004, we added 13 additional communities based on criteria set forth in § 92.5(c). These communities were Gulkana, Gakona, Tazlina, Copper Center, Mentasta Lake, Chitina, Chistochina, Tatitlek, Chenega, Port Graham, Nanwalek, Tyonek, and Hoonah, with a combined population of 2,766. In 2005, we added three additional communities for glaucous-winged gull egg gathering only, based on petitions requesting inclusion. These southeastern communities were Craig, Hydaburg, and Yakutat, with a combined population of 2,459.

In 2007, we enacted the Alaska Department of Fish and Game's (ADF&G) request to expand the Fairbanks North Star Borough excluded area to include the Central Interior area. This excluded the following communities from participation in this harvest: Big Delta/Fort Greely, Healy, McKinley Park/Village and Ferry, with a combined population of 2,812. These removed communities reduced the percentage of the State population included in the subsistence harvest to 13 percent.

Subsistence harvest has been monitored for the past 15 years through the use of annual household surveys in the most heavily used subsistence harvest areas, e.g., Yukon/Kuskokwim Delta. Continuation of this monitoring enables tracking of any major changes or trends in levels of harvest and user participation after legalization of the

harvest. The Office of Management and Budget (OMB) has approved the information collection and assigned OMB control number 1018-0124, which expires on January 31, 2010.

#### **What Birds Will Be Open To Harvest in 2008?**

At the request of the North Slope Borough Fish and Game Management Committee, the Co-management Council recommended continuing into 2008 the provisions originally established in 2005 to allow subsistence use of yellow-billed loons inadvertently caught in subsistence fishing (gill) nets on the North Slope. Yellow-billed loons are culturally important for the Inupiat Eskimo of the North Slope for use in traditional dance regalia. A maximum of 20 yellow-billed loons may be caught in 2008 pursuant to this provision. Individual reporting to the North Slope Borough Department of Wildlife is required by the end of each season. In addition, the North Slope Borough has asked fishermen, through announcements on the radio and through personal contact, to report all entanglements of loons to better estimate the levels of injury or mortality caused by gill nets. In 2006, two yellow-billed loons were reported taken in fishing nets and an additional one was found alive in a net and released. This provision, to allow subsistence possession and use of yellow-billed loons caught in fishing gill nets, is subject to annual review and renewal by the SRC.

We are consolidating the lists of birds closed and open to harvest (currently in §§ 92.31 and 92.32, respectively) into one open list and moving this list to subpart C (the permanent regulations) at § 92.22. We are also adding the following clarifying statement: "You may harvest birds or gather eggs from the following species, listed in taxonomic order, within all included areas except Southeast Alaska, which is restricted to glaucous-winged gull egg harvesting only. 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." We excluded some bird species from the list purely on the basis of current population concerns, and we will reopen the harvest of these species if their population status improves. This change was requested by the Executive Director of the Alaska Migratory Bird Co-management Council. By going from two bird lists, an open list and a closed list, to just an open list, we could save thousands of dollars per year. Up until now, we have been printing both lists in

the **Federal Register** each year, at both the proposed and final rule stage. This action would also clarify and simplify the regulations as to which bird species can be legally harvested, eliminating the confusion caused by situations when birds are not listed anywhere but are illegal to harvest, such as all Passerines.

#### **What Is Proposed for Change in the Region-Specific Regulations for 2008?**

We are removing from the 2006-07 regulations, the Special Area Closure in the Yukon/Kuskokwim Delta Region that included the goose colonies in Kokechik Bay, Tutakoke River, Kigigak Island Colony, Baird Peninsula, and Baird Island. Removal of this Special Area Closure was requested by the Association of Village Council Presidents and would make the regulation consistent with the Pacific Flyway recommendation to place the harvest of brant under a less restrictive status.

We are amending the migratory bird harvest seasons for the Kodiak Archipelago to extend the early season 10 days until June 30 for seabird harvesting (closed period would then be July 1-31), and remain the same for all other birds. This change was requested by the Kodiak Regional Advisory Council to allow for variations in the nesting phenology of seabirds, primarily to accommodate egg gathering on the later-nesting black-legged kittiwakes.

We are amending the migratory bird harvest seasons for the Northwest Arctic Region to move the seabird egg-gathering season start date from July 3 to May 20. This change was requested by the Maniilaq Association to accommodate harvesting of gull eggs, primarily glaucous, glaucous-winged, mew and Sabine's gulls. Gulls typically initiate egg laying earlier than other seabirds such as alcids.

We are adding a special brant open season from June 20 through July 5 for the coastline surrounding Wainwright within the Southern Unit of the North Slope Region. The open area would consist of the coastline, from mean high water line outward to include open water, from Nokotlek Point east to longitude line 158°30' W. This extra season would allow for harvest of non-nesting, failed nesting, and sub-adult black brant migrating from western Alaska to their molting areas on the North Slope. This season addition was requested by the North Slope Borough Department of Wildlife Management to allow for the continuation of Wainwright's customary and traditional harvest of brant (non-or failed nesters and sub-adult) migrating to their molting areas. This would be a very

limited harvest of migrating brant only, to be used for a traditional celebration after a successful whaling season.

Black brant (Niglingaq) are a very important subsistence resource to the Wainwright Inupiat. The most concentrated hunting for brant takes place along the beach as brant migrate in large flocks northward during the months of May and June. Often people hunting brant and eiders stay at traditional campsites along the coastline within a day's travel of Wainwright. One or several families set up tents on the sand or atop banks and may remain there for several days. Brant hunters may sit in driftwood blinds on the beach near camp if the birds are flying overhead, or they may go out onto the ice if birds are flying more offshore. Much of the brant harvest in June is in preparation for Nalukataq (blanket toss). Nalukataq is a traditional community feast and celebration for successful whaling crews, which is usually held mid-to-late June. At this celebration, one of the main courses served to the entire community and visiting guests is duck and geese soup. Black brant is one type of goose that is harvested specifically for the Nalukataq feast.

#### Summary of Public Involvement

On October 15, 2007, we published in the **Federal Register** (72 FR 58274) a proposed rule to establish spring/summer migratory bird subsistence harvest regulations in Alaska for the 2008 subsistence season. The proposed rule provided for a public comment period of 60 days. We posted an announcement of the comment period dates for the proposed rule, as well as the rule itself and related historical documents, on the Council's Internet homepage. We issued a press release announcing our request for public comments and the pertinent deadlines for such comments, which was faxed to the media Statewide. By the close of the public comment period on December 14, 2007, we had received written responses from one individual.

#### Response to Public Comments

##### General Comments

We received one general comment on the overall regulations that expressed strong opposition to the concept of allowing any harvest of migratory birds in Alaska.

**Service Response:** For centuries, indigenous inhabitants of Alaska have harvested migratory birds for subsistence purposes during the spring and summer months. The Canada and Mexico migratory bird treaties were recently amended for the express

purpose of allowing subsistence hunting for migratory birds during the spring and summer. The amendments indicate that the Service should issue regulations allowing such hunting as provided in the Migratory Bird Treaty Act, 16 U.S.C. 712 (1). See Statutory Authority section for more details.

The Preamble of the Protocol amending the Canada Treaty states that one of its goals is to allow a traditional subsistence hunt while also improving conservation of migratory birds through effective regulation of this hunt. In addition, the Preamble notes that, by sanctioning a traditional subsistence hunt, the Parties do not intend to cause significant increases in the take of migratory birds, relative to their continental population sizes, compared to the take that is presently occurring. Any such increase in take as a result of the types of hunting provided for in the Protocol would be inconsistent with the Convention. If at some point the subsistence harvest regulations result in increased harvest, management strategies will be implemented to ensure maintenance of continental populations.

#### Statutory Authority

We derive our authority to issue these regulations from the Migratory Bird Treaty Act of 1918, 16 U.S.C. 712(1), which authorizes the Secretary of the Interior, in accordance with the treaties with Canada, Mexico, Japan, and Russia, to "issue such regulations as may be necessary to assure that the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and other essential needs, as determined by the Secretary of the Interior, during seasons established so as to provide for the preservation and maintenance of stocks of migratory birds."

#### Required Determinations

##### Regulatory Planning and Review (Executive Order 12866)

The Office of Management and Budget has determined that this rule is not significant and has not reviewed this rule under Executive Order 12866. OMB bases its determination upon the following four criteria:

(a) Whether the rule will have an annual effect of \$100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(b) Whether the rule will create inconsistencies with other Federal agencies' actions.

(c) Whether the rule will materially affect entitlements, grants, user fees,

loan programs, or the rights and obligations of their recipients.

(d) Whether the rule raises novel legal or policy issues.

#### 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 Executive Order 12866 section above.

(a) This rule will 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. We have 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 certified 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 (Alaska Native non-profits and local governments) to administer the regional programs. The Alaska Department of Fish and Game will also incur expenses for travel to Co-management Council and regional management body meetings. In addition, the State of Alaska 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. When funding permits, we make annual grant agreements available to the partner organizations and the Alaska Department of Fish and Game to help offset their expenses.

### *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. We have, however, received OMB approval of associated voluntary annual household surveys used to determine levels of subsistence take. The OMB control number for the information collection is 1018-0124, which expires on January 31, 2010.

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 Executive Order 12866 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*

The Department, in promulgating this rule, has determined that it will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

### *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 taking 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 and evaluated the rule for possible effects on tribes or trust resources, and have determined that there are no significant effects. The rule will legally recognize the subsistence harvest of migratory birds and their eggs for tribal members, as well as for other indigenous inhabitants.

### *Endangered Species Act Consideration*

Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531-1543; 87 Stat. 884), provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of the Act" and shall "insure that any action authorized, funded, or carried out \* \* \* is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat. \* \* \*". Consequently, we consulted with the Fairbanks Fish and Wildlife Field Office of the Service to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of spectacled or Steller's eiders or result in the destruction or adverse modification of their critical habitat. Findings from this consultation are included in the Biological Opinion

on the Effects of the Proposed 2008 Spring and Summer Subsistence Harvest of Birds on the Threatened Steller's and Spectacled Eiders (dated February 28, 2008). The consultation concluded that the 2008 regulations are not likely to jeopardize the continued existence of either the Steller's or spectacled eider. Additionally, any modifications resulting from this consultation to regulatory measures previously proposed are reflected in this final rule.

### *National Environmental Policy Act Consideration*

The annual regulations and options were considered in the Environmental Assessment, "Managing Migratory Bird Subsistence Hunting in Alaska: Hunting Regulations for the 2008 Spring/Summer Harvest," issued August 15, 2007. Copies are available from the address indicated under the caption **ADDRESSES**.

### *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 would allow only for traditional subsistence harvest and would improve conservation of migratory birds by allowing effective regulation of this harvest, it is not a significant regulatory action under Executive Order 12866. Consequently, it is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is not a significant energy action under Executive Order 13211 and no Statement of Energy Effects is required.

### **List of Subjects in 50 CFR Part 92**

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

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

### **PART 92—MIGRATORY BIRD SUBSISTENCE HARVEST IN ALASKA**

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

**Authority:** 16 U.S.C. 703-712.

### **Subpart C—General Regulations Governing Subsistence Harvest**

■ 2. In subpart C, add § 92.22 to 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 Southeast Alaska, which is restricted to Glaucous-winged gull egg harvesting only. 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.

(a) *Family Anatidae*.

(1) Greater White-fronted Goose (*Anser albifrons*).

(2) Snow Goose (*Chen caerulescens*).

(3) Lesser Canada Goose (*Branta canadensis parvipes*).

(4) Taverner's Canada Goose (*Branta canadensis taverneri*).

(5) Aleutian Canada Goose (*Branta canadensis leucopareia*)—except in the Semidi Islands.

(6) Cackling Canada Goose (*Branta canadensis minima*)—except no egg gathering is permitted.

(7) Black Brant (*Branta bernicla nigricans*)—except no egg gathering is permitted in the Yukon/Kuskokwim Delta and the North Slope regions.

(8) Tundra Swan (*Cygnus columbianus*)—except in Units 9(D) and 10.

(9) Gadwall (*Anas strepera*).

(10) Eurasian Wigeon (*Anas penelope*).

(11) American Wigeon (*Anas americana*).

(12) Mallard (*Anas platyrhynchos*).

(13) Blue-winged Teal (*Anas discors*).

(14) Northern Shoveler (*Anas clypeata*).

(15) Northern Pintail (*Anas acuta*).

(16) Green-winged Teal (*Anas crecca*).

(17) Canvasback (*Aythya valisineria*).

(18) Redhead (*Aythya americana*).

(19) Ring-necked Duck (*Aythya collaris*).

(20) Greater Scaup (*Aythya marila*).

(21) Lesser Scaup (*Aythya affinis*).

(22) King Eider (*Somateria spectabilis*).

(23) Common Eider (*Somateria mollissima*).

(24) Harlequin Duck (*Histrionicus histrionicus*).

(25) Surf Scoter (*Melanitta perspicillata*).

(26) White-winged Scoter (*Melanitta fusca*).

(27) Black Scoter (*Melanitta nigra*).

(28) Long-tailed Duck (*Clangula hyemalis*).

(29) Bufflehead (*Bucephala albeola*).

(30) Common Goldeneye (*Bucephala clangula*).

(31) Barrow's Goldeneye (*Bucephala islandica*).

(32) Hooded Merganser (*Lophodytes cucullatus*).

(33) Common Merganser (*Mergus merganser*).

(34) Red-breasted Merganser (*Mergus serrator*).

(b) *Family Gaviidae*.

(1) Red-throated Loon (*Gavia stellata*).

(2) Arctic Loon (*Gavia arctica*).

(3) Pacific Loon (*Gavia pacifica*).

(4) Common Loon (*Gavia immer*).

(5) Yellow-billed Loon (*Gavia adamsii*)—In the North Slope Region only, a total of up to 20 yellow-billed loons inadvertently caught in fishing nets may be kept for subsistence purposes.

(c) *Family Podicipedidae*.

(1) Horned Grebe (*Podiceps auritus*).

(2) Red-necked Grebe (*Podiceps grisegena*).

(d) *Family Procellariidae*.

(1) Northern Fulmar (*Fulmarus glacialis*).

(2) [Reserved].

(e) *Family Phalacrocoracidae*.

(1) Double-crested Cormorant (*Phalacrocorax auritus*).

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

(f) *Family Gruidae*.

(1) Sandhill Crane (*Grus canadensis*).

(2) [Reserved].

(g) *Family Charadriidae*.

(1) Black-bellied Plover (*Pluvialis squatarola*).

(2) Common Ringed Plover (*Charadrius hiaticula*).

(h) *Family Haematopodidae*.

(1) Black Oystercatcher (*Haematopus bachmani*).

(2) [Reserved].

(i) *Family Scolopacidae*.

(1) Greater Yellowlegs (*Tringa melanoleuca*).

(2) Lesser Yellowlegs (*Tringa flavipes*).

(3) Spotted Sandpiper (*Actitis macularia*).

(4) Bar-tailed Godwit (*Limosa lapponica*).

(5) Ruddy Turnstone (*Arenaria interpres*).

(6) Semipalmated Sandpiper (*Calidris pusilla*).

(7) Western Sandpiper (*Calidris mauri*).

(8) Least Sandpiper (*Calidris minutilla*).

(9) Baird's Sandpiper (*Calidris bairdii*).

(10) Sharp-tailed Sandpiper (*Calidris acuminata*).

(11) Dunlin (*Calidris alpina*).

(12) Long-billed Dowitcher (*Limnodromus scolopaceus*).

(13) Common Snipe (*Gallinago gallinago*).

(14) Red-necked phalarope (*Phalaropus lobatus*).

(15) Red phalarope (*Phalaropus fulicaria*).

(j) *Family Laridae*.

(1) Pomarine Jaeger (*Stercorarius pomarinus*).

(2) Parasitic Jaeger (*Stercorarius parasiticus*).

(3) Long-tailed Jaeger (*Stercorarius longicaudus*).

(4) Bonaparte's Gull (*Larus philadelphia*).

(5) Mew Gull (*Larus canus*).

(6) Herring Gull (*Larus argentatus*).

(7) Slaty-backed Gull (*Larus schistisagus*).

(8) Glaucous-winged Gull (*Larus glaucescens*).

(9) Glaucous Gull (*Larus hyperboreus*).

(10) Sabine's Gull (*Xema sabini*).

(11) Black-legged Kittiwake (*Rissa tridactyla*).

(12) Red-legged Kittiwake (*Rissa brevirostris*).

(13) Ivory Gull (*Pagophila eburnea*).

(14) Arctic Tern (*Sterna paradisaea*).

(15) Aleutian Tern (*Sterna aleutica*).

(k) *Family Alcidae*.

(1) Common Murre (*Uria aalge*).

(2) Thick-billed Murre (*Uria lomvia*).

(3) Black Guillemot (*Cepphus grylle*).

(4) Pigeon Guillemot (*Cepphus columba*).

(5) Cassin's Auklet (*Ptychoramphus aleuticus*).

(6) Parakeet Auklet (*Aethia psittacula*).

(7) Least Auklet (*Aethia pusilla*).

(8) Whiskered Auklet (*Aethia pygmaea*).

(9) Crested Auklet (*Aethia cristatella*).

(10) Rhinoceros Auklet (*Cerorhinca monocerata*).

(11) Horned Puffin (*Fratercula corniculata*).

(12) Tufted Puffin (*Fratercula cirrhata*).

(l) *Family Strigidae*.

(1) Great Horned Owl (*Bubo virginianus*).

(2) Snowy Owl (*Nyctea scandiaca*).

**Subpart D—Annual Regulations Governing Subsistence Harvest**

■ 3. In subpart D, add § 92.31 to read as follows:

**§ 92.31 Region-specific regulations.**

The 2008 season dates for the eligible subsistence harvest areas are as follows:

(a) *Aleutian/Pribilof Islands Region*.

(1) Northern Unit (Pribilof Islands):

(i) Season: April 2–June 30.

(ii) Closure: July 1–August 31.

(2) Central Unit (Aleut Region's eastern boundary on the Alaska Peninsula westward to and including Unalaska Island):

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

- (ii) Closure: June 16–July 15.
- (iii) Special Black Brant Season Closure: August 16–August 31, only in Izembek and Moffet lagoons.
- (iv) Special Tundra Swan Closure: All hunting and egg gathering closed in units 9(D) and 10.
- (3) Western Unit (Umnak Island west to and including Attu Island):
  - (i) Season: April 2–July 15 and August 16–August 31.
  - (ii) Closure: July 16–August 15.
  - (b) *Yukon/Kuskokwim Delta Region*.
  - (1) Season: April 2–August 31.
  - (2) Closure: 30-day closure dates to be announced by the Service's Alaska Regional Director or his designee, after consultation with local subsistence users, field biologists, and the Association of Village Council President's Waterfowl Conservation Committee. This 30-day period will occur between June 1 and August 15 of each year. A press release announcing the actual closure dates will be forwarded to regional newspapers and radio and television stations and posted in village post offices and stores.
  - (3) Special Black Brant and Cackling Goose Season Hunting Closure: From the period when egg laying begins until young birds are fledged. Closure dates to be announced by the Service's Alaska Regional Director or his designee, after consultation with field biologists and the Association of Village Council President's Waterfowl Conservation Committee. A press release announcing the actual closure dates will be forwarded to regional newspapers and radio and television stations and posted in village post offices and stores.
  - (c) *Bristol Bay Region*.
  - (1) Season: April 2–June 14 and July 16–August 31 (general season); April 2–July 15 for seabird egg gathering only.
  - (2) Closure: June 15–July 15 (general season); July 16–August 31 (seabird egg gathering).
  - (d) *Bering Strait/Norton Sound Region*.
  - (1) Stebbins/St. Michael Area (Point Romanof to Canal Point):
    - (i) Season: April 15–June 14 and July 16–August 31.
    - (ii) Closure: June 15–July 15.
  - (2) Remainder of the region:
    - (i) Season: April 2–June 14 and July 16–August 31 for waterfowl; April 2–July 19 and August 21–August 31 for all other birds.
    - (ii) Closure: June 15–July 15 for waterfowl; July 20–August 20 for all other birds.
  - (e) *Kodiak Archipelago Region*, except for the Kodiak Island roaded area, is closed to the harvesting of migratory birds and their eggs. The closed area consists of all lands and waters

(including exposed tidelands) east of a line extending from Crag Point in the north to the west end of Saltery Cove in the south and all lands and water south of a line extending from Termination Point along the north side of Cascade Lake extending to Anton Larson Bay. Waters adjacent to the closed area are closed to harvest within 500 feet from the water's edge. The offshore islands are open to harvest.

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

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

(f) *Northwest Arctic Region*.

- (1) Season: April 2–June 9 and August 15–August 31 (hunting in general); waterfowl egg gathering May 20–June 9 only; seabird egg gathering May 20–July 12 only; hunting molting/non-nesting waterfowl July 1–July 31 only.

- (2) Closure: June 10–August 14, except for the taking of seabird eggs and molting/non-nesting waterfowl as provided in paragraph (f)(1) of this section.

(g) *North Slope Region*.

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

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

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

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

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

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

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

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

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

- (ii) Closure: June 20–July 19.

- (4) All Units: Yellow-billed loons.

Annually, up to 20 yellow-billed loons total for the region may be caught inadvertently in subsistence fishing nets in the North Slope Region and kept for subsistence use. Individuals must report each yellow-billed loon inadvertently caught while subsistence gill net fishing to the North Slope Borough Department of Wildlife Management by the end of the season.

(h) *Interior Region*.

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

- (2) Closure: June 15–July 15.

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

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

- (2) Closure: May 27–June 26.

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

(j) *Gulf of Alaska Region*.

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

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

- (ii) Closure: June 1–30.

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

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

- (ii) Closure: June 1–30.

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

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

- (2) Closure: June 1–July 31.

(l) *Southeast Alaska*.

- (1) Community of Hoonah (Harvest area: National Forest lands in Icy Strait

and Cross Sound, including Middle Pass Rock near the Inian Islands, Table Rock in Cross Sound, and other traditional locations on the coast of Yakobi Island. The land and waters of Glacier Bay National Park remain closed to all subsistence harvesting [50 CFR Part 100.3].

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

(ii) Closure: July 1–August 31.

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

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

(ii) Closure: July 1–August 31.

(3) Community of Yakutat (Harvest area: Icy Bay [Icy Cape to Pt. Riou], and coastal lands and islands bordering the

Gulf of Alaska from Pt. Manby southeast to Dry Bay).

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

(ii) Closure: July 1–August 31.

Dated: February 22, 2008.

**Lyle Lavery,**

*Assistant Secretary for Fish and Wildlife and Parks.*

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