

#### IV. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference revisions to R307–110–10; R307–110–31; R307–110–36; Utah SIP Section X.A.; Utah SIP Section X.F.; maintenance plan for the Utah portion of the Logan PM<sub>2.5</sub> NAA; and the redesignation request for the Logan PM<sub>2.5</sub> NAA to attainment. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

#### V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or

safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. Accordingly, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

#### List of Subjects

##### 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

##### 40 CFR Part 81

Environmental protection, Air pollution control, National parks, and Wilderness areas.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: February 17, 2021.

**Debra Thomas,**

*Acting Regional Administrator, EPA Region 8.*

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#### DEPARTMENT OF THE INTERIOR

##### Fish and Wildlife Service

##### 50 CFR Part 92

[Docket No. FWS–R7–MB–2020–0134; FXMB12610700000–201–FF07M01000]

RIN 1018–BF08

#### Migratory Bird Subsistence Harvest in Alaska; Harvest Regulations for Migratory Birds in Alaska During the 2021 Season

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

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service or USFWS) is proposing changes to the migratory bird subsistence harvest regulations in Alaska. These regulations allow for the continuation of customary and traditional subsistence uses of migratory birds in Alaska and prescribe regional information on when and where the harvesting of birds may occur. These regulations were developed under a co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives. The proposed changes would update the regulations to incorporate revisions requested by these partners.

**DATES:** We will accept comments received or postmarked on or before March 29, 2021.

**Information Collection Requirements:** If you wish to comment on the information collection requirements in this proposed rule, please note that the Office of Management and Budget (OMB) is required to make a decision concerning the collection of information contained in this proposed rule between 30 and 60 days after publication of this proposed rule in the **Federal Register**. Therefore, comments should be submitted to OMB by March 29, 2021.

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

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments to Docket No. FWS–R7–MB–2020–0134.
- **U.S. mail:** Public Comments Processing, Attn: FWS–R7–MB–2020–0134; U.S. Fish and Wildlife Service, MS: JAO/3W, 5275 Leesburg Place, Falls Church, VA 22041–3803.

We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comment Procedures section, below, for more information).

**Information Collection Requirements:** Written comments and suggestions on the information collection requirements should be submitted within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803 (mail); or [Info\\_Coll@fws.gov](mailto:Info_Coll@fws.gov) (email). Please reference “OMB Control Number 1018–BF08” in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** Eric J. Taylor, U.S. Fish and Wildlife Service, 1011 E Tudor Road, Mail Stop 201, Anchorage, AK 99503; (907) 903–7210.

**SUPPLEMENTARY INFORMATION:**

**Public Comment Procedures**

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

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

If you mail a hardcopy comment directly to us that includes personal information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. All comments and

materials we receive will be available for public inspection via <http://www.regulations.gov>. Search for FWS–R7–MB–2020–0134, which is the docket number for this rulemaking.

**Background**

The Migratory Bird Treaty Act of 1918 (MBTA, 16 U.S.C. 703 *et seq.*) was enacted to conserve certain species of migratory birds and gives the Secretary of the Interior the authority to regulate the harvest of these birds. The law further authorizes the Secretary to issue regulations to ensure that the indigenous inhabitants of the State of Alaska may take migratory birds and collect their eggs for nutritional and other essential needs during seasons established by the Secretary “so as to provide for the preservation and maintenance of stocks of migratory birds” (16 U.S.C. 712(1)).

The take of migratory birds for subsistence uses in Alaska occurs during the spring and summer, during which timeframe the sport harvest of migratory birds is not allowed. Regulations governing the subsistence harvest of migratory birds in Alaska are located in title 50 of the Code of Federal Regulations (CFR) in part 92. These regulations allow for the continuation of customary and traditional subsistence uses of migratory birds and prescribe regional information on when and where the harvesting of birds in Alaska may occur.

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

The Council generally holds an annual spring meeting to develop recommendations for migratory bird subsistence-harvest regulations in Alaska that would take effect in the spring of the next year. In 2020, the in-person spring meeting did not occur due to the coronavirus. Instead, the Council met virtually via teleconference on May 4, 2020, to approve subsistence harvest regulations that would take effect during the 2021 harvest season. The Council’s recommendations were presented to the Pacific Flyway Council for review and subsequent submission to the Service Regulations Committee (SRC) for approval at the SRC meeting on October 20–21, 2020.

This proposed rule contains two changes to the subsistence harvest regulations recommended by the Council in 2020 for the subsistence harvest season, and three clarifications, as described below.

**Proposed Revisions to the Regulations**

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

For the 2021 season, we are proposing one change to the regulations in part 92, subpart A (general provisions) and one change to part 92, subpart C (general regulations governing the subsistence harvest). In addition, we include three clarifications, as described below.

*(1) Upper Copper River Region Permit for Hunters From Excluded Areas To Hunt in the Region*

This proposed change to the regulations in part 92, subpart A (general provisions) would add another method (a permit) to invite a hunter from an excluded area to participate in the spring-summer subsistence hunt in the Upper Copper River region.

Current regulations in 50 CFR 92.5(d) allow immediate family members (children, parents, grandparents, and siblings) living in excluded areas to participate in the customary spring-summer subsistence harvest of migratory birds in a village’s subsistence area, if invited via letter by the respective Village Council, to assist permanent residents of the village in meeting their nutritional and other essential needs or for teaching cultural knowledge. A letter of invitation is sent to the hunter with a copy provided to the Executive Director of the AMBCC, who will inform the Service’s Alaska Regional Office of Law Enforcement within 2 business days. In addition to the letter of invitation, this proposal would add another method (a permit) to invite a hunter from an excluded area to participate in the spring-summer subsistence hunt in the Upper Copper River region. The permit would certify that the prospective hunter is an immediate family member as defined in 50 CFR 92.4 and is thereby authorized to assist family members in hunting migratory birds in the subsistence harvest area of the region.

To date, the AMBCC Executive Director has received two letters of invitation to hunt in the State of Alaska since the last revision of 50 CFR 92.5(d) in 2014 (79 FR 19454, April 8, 2014). The letter of invitation requirement is viewed by the Upper Copper River

Region as burdensome and administratively inefficient due in large part to high turnover in Tribal administrative staff. In the Upper Copper River Region, an invitation to hunt by permit is considered less onerous and a more practical approach for eligible hunters to invite participation by family member living in excluded areas. The proposed regulation would add the invitation by permit as an option for Tribal Councils or their authorized tribal representatives in the Upper Copper River Region to administer the invitation to hunt in their subsistence harvest area. Invited hunters would be required to carry the permit while hunting as proof of eligibility. The permit would be valid for 2 years from the date of issuance. A list of permittees will be forwarded to the AMBCC Executive Director, who will then forward the list to the Service's Alaska Regional Office of Law Enforcement.

This proposed change to the regulations in subpart A is not anticipated to result in a significant increase in harvest of birds and eggs in the Upper Copper River Region because invited hunters are authorized only to assist in fulfilling the needs of immediate family members in villages or teaching cultural knowledge.

#### (2) Closure on Harvest of Emperor Goose Eggs Statewide

This proposed change to the regulations in part 92, subpart C (general regulations governing the subsistence harvest general provisions) closes the harvest of emperor goose eggs statewide.

The abundance (index) of emperor geese (*Anser canagicus*) is estimated annually via the Service's (Alaska Region) Yukon-Kuskokwim Delta Coastal Zone (Coastal Zone) survey. This information is used to inform harvest management decisions for emperor geese based on harvest strategies in the AMBCC Emperor Goose Management Plan (Plan) and the Pacific Flyway Council Management Plan. The harvest strategy in the Plan prescribes an open emperor geese subsistence season if the Coastal Zone index from the previous year is greater than 23,000 geese, and a closed season if the index is below 23,000 geese. If the Coastal Zone index is between 23,000 and 28,000 geese, the AMBCC will consider implementing regulatory or nonregulatory conservation measures to help avoid a closed season in subsequent seasons. In 2019, the Coastal Zone index (26,585; 95% Confidence Limit = 24,161–29,008 geese) dropped below the 28,000-bird threshold that

triggers consideration of conservation measures. For the 2020 spring-summer hunting season, the AMBCC agreed to develop and distribute outreach and educational materials to help limit emperor goose harvest. The coronavirus forced the cancellation of the Coastal Zone survey in 2020. Consequently, no Coastal Zone index was available to inform regulatory decisions for the 2021 season.

The harvest strategy in the Plan does not include guidance on making regulatory decisions in the absence of previous year's survey data; thus, the AMBCC's Emperor Goose Subcommittee convened on June 2, 2020, to consider available emperor goose population status information in the absence of the 2020 Coastal Zone index. They considered results from a number of approaches to infer emperor goose population status in 2020 including prediction from a demographic model (Osnas 2020). Results from the different approaches were in general agreement, and indicated that abundance of emperor geese in 2020 likely remains between the 23,000 and 28,000 population thresholds with low probability that abundance was below the closure threshold.

Because the predicted abundance of emperor geese remains between the population thresholds requiring consideration of conservation measures, the AMBCC Emperor Goose Subcommittee and AMBCC recommended the emperor goose season remain open in 2021. This recommendation includes outreach and educational efforts and closure of emperor goose egg gathering in Alaska to help limit harvest of emperor geese, considering the uncertainty in emperor goose population status in 2020 and the desire to reduce the probability of having a closed season in the future. This proposed regulatory change would affect the list of subsistence migratory bird species in § 92.22, which is in subpart C.

#### Clarification of Central Interior Excluded Area Boundary

Current regulations in 50 CFR 92.5(b)(1) define the geographic boundaries of the Central Interior Excluded Area but mistakenly fail to include the Fairbanks North Star Borough. In 2007, the Service enacted the ADFG's request to expand the Fairbanks North Star Borough Excluded Area (72 FR 18317 April 11, 2007). This regulatory change appears in 50 CFR 92.5(b)(3). The expanded Fairbanks North Star Borough Excluded Area was renamed the Central Interior Excluded Area, but the description of the area

defined in 50 CFR 92.5(b)(3) fails to specifically include the Fairbanks North Star Borough. The proposed clarification includes the words "Fairbanks North Star Borough" in the description of the Central Interior Excluded Area.

#### Clarification of the Kodiak Archipelago Region Kodiak Island Roded Area 3-Year Experimental Season

In 2020, the Service approved a 3-year experimental season for migratory bird hunting and egg gathering by registration permit only within the Kodiak Island Roded Area in the Kodiak Archipelago Region of Alaska, as recommended by the AMBCC in 2019 (85 FR 73233, November 17, 2020). This regulatory change appears in 50 CFR 92.31. The Roded Area was to remain closed to hunting and egg gathering for Arctic terns, Aleutian terns, mew gulls, and emperor geese. The regulation allows residents of the Kodiak Archipelago Region the opportunity to participate in subsistence hunting activities without the need for a boat in an area that otherwise restricts hunting to 500 feet offshore and offshore islands.

Initially, we and the AMBCC expected that the 3-year experimental season would begin in 2020 and continue through 2022. We associated those years with the 3-year experimental season in the supplementary information of the proposed and final rules in 2020, although years were not specified in the regulations allowing the season. Delay in publishing the proposed and final rules in 2020 prevented the 3-year experimental season from beginning in 2020 as initially expected. Therefore, we clarify here that our intent remains the same—to allow a 3-year experimental season for migratory bird hunting and egg gathering by registration permit along the Kodiak Island Roded Area in the Kodiak Archipelago Region of Alaska—but that this season is now expected to occur during the 2021–2023 subsistence seasons. The experimental season will terminate at the completion of the third year, now expected to be in 2023. Reopening the Roded Area after the 3-year experimental period will require a subsequent proposal from the AMBCC for continuation of the season under either operational or experimental status.

#### Clarification of the Kodiak Archipelago Region Kodiak Island Roded Area Boundary

As described above, in 2020, the Service approved a 3-year experimental season for migratory bird hunting and egg gathering by registration permit within the Kodiak Island Roded Area

in the Kodiak Archipelago Region of Alaska, as recommended by the AMBCC in 2019 (85 FR 73233, November 17, 2020). This regulatory change appears in 50 CFR 92.31. Prior to this change, the Kodiak Island Roaded Area was closed to hunting. Following approval of a hunt within the previously closed area, the current boundary description of the Kodiak Island Roaded Area in 50 CFR 92.31(e) includes the term “closed area.” We propose to clarify the language by replacing the words “closed area” with “Kodiak Island Roaded Area” in 50 CFR 92.31(e) and by improving the clarity of the boundary description.

### Subsistence Migratory Bird Species

On April 16, 2020, we published in the **Federal Register** (85 FR 21282) a revised List of Migratory Birds protected under the Migratory Bird Treaty Act (MBTA) by both adding and removing species to the list, which appears in 50 CFR 10.13. Reasons for the changes to the list included adding species based on revised taxonomy and new evidence of natural occurrence in the United States or U.S. territories, removing species no longer known to occur within the United States or U.S. territories, and changing names to conform to accepted use. This rule went into effect on May 18, 2020. The revised List of Migratory Birds updated nomenclature (family or scientific name) for 17 species on the list of birds open to subsistence harvest (50 CFR 92.22) and separated Canada goose into two separate species: Cackling goose (*Branta hutchinsii*) and Canada goose (*Branta canadensis*). Therefore, to be consistent with the taxonomy on the List of Migratory Birds, we are proposing to update the taxonomy of the list of migratory birds open to subsistence harvest at 50 CFR 92.22, and correct 11 typographical errors in species common names. We are also taking this opportunity to reorganize the list of migratory birds open to subsistence harvest to follow the order of bird families as they appear in 50 CFR 10.13.

Also, we are proposing to add the common snipe to the list of migratory birds open to subsistence harvest. On April 1, 2016, we published in the **Federal Register** (81 FR 18787) a revised list migratory bird subsistence species where we replaced the common snipe with Wilson’s snipe to account for taxonomic changes; Wilson’s snipe was previously considered a subspecies under common snipe. Snipe in Alaska are recognized primarily as Wilson’s snipe, but common snipe are known to occur on the Aleutian Islands of Alaska.

Thus, for administrative purposes, we clarify that snipe includes both recognized species in Alaska: Wilson’s snipe and common snipe. Because, historically, common snipe applied to both species of snipe, the separation of these species in the list of migratory birds open to subsistence harvest will not result in differential harvest effects on either species.

### Compliance With the MBTA and the Endangered Species Act

The Service has dual objectives and responsibilities for authorizing a subsistence harvest while protecting migratory birds and threatened species. Although these objectives continue to be challenging, they are not irreconcilable, provided that: (1) Regulations continue to protect threatened species, (2) measures to address documented threats are implemented, and (3) the subsistence community and other conservation partners commit to working together.

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

### Conservation Under the MBTA

We have monitored subsistence harvest for the past 25 years through the use of household surveys in the most heavily used subsistence harvest areas, such as the Yukon-Kuskokwim Delta. Based on our monitoring of the migratory bird species and populations taken for subsistence, we find that this proposed rule will provide for the preservation and maintenance of migratory bird stocks as required by the MBTA. Communication and coordination between the Service, the AMBCC, and the Pacific Flyway Council have allowed us to set harvest regulations to ensure the long-term viability of the migratory bird stocks.

### Endangered Species Act Consideration

Spectacled eiders and the Alaska-breeding population of Steller’s eiders are listed as threatened species under the Endangered Species Act of 1973, as

amended (ESA; 16 U.S.C. 1531 *et seq.*). Their migration and breeding distribution overlap with areas where the spring and summer subsistence migratory bird hunt is open in Alaska. Neither species is included in the list of subsistence migratory bird species at 50 CFR 92.22; therefore, both species are closed to subsistence harvest. The Service notes that progress is being made with other eider conservation measures, including partnering with the North Slope Migratory Bird Task Force, for increased waterfowl-hunter awareness, continued enforcement of the regulations, and in-season verification of the harvest. Moreover, under 50 CFR 92.21 and 92.32, the Service may implement emergency closures, if necessary, to protect Steller’s eiders or any other endangered or threatened species or migratory bird population.

Section 7 of the ESA requires the Secretary of the Interior to review other programs administered by the Department of the Interior and utilize such programs in furtherance of the purposes of the ESA. The Secretary is further required to insure that any action authorized, funded, or carried out by the Department of the Interior is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of critical habitat.

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

### Comment Period

Implementation of the Service’s 2013 supplemental environmental impact statement (EIS) on the hunting of migratory birds resulted in changes to the overall timing of the annual regulatory schedule for the establishment of migratory bird hunting regulations and the Alaska migratory bird subsistence harvest regulations. The programmatic document, “Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (EIS 20130139),” filed with the

Environmental Protection Agency (EPA) on May 24, 2013, addresses compliance with the National Environmental Policy Act by the Service for issuance of the annual framework regulations for hunting of migratory game bird species. We published a notice of availability of the EIS in the **Federal Register** on May 31, 2013 (78 FR 32686), and our Record of Decision on July 26, 2013 (78 FR 45376).

The 2013 EIS moved the annual SRC meeting from July to October, and this procedural change has greatly shortened our period each year to publish the proposed regulations and solicit comments. We are further bounded by a subsistence harvest start date of April 2, 2021. Thus, we have established a 30-day comment period for this proposed rule (see **DATES**, above), and we will be conducting Tribal consultations within Alaska simultaneously. We believe a 30-day comment period gives the public adequate time to provide meaningful comments.

#### Required Determinations

##### *Regulatory Planning and Review* (Executive Orders 12866 and 13563)

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

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this proposed rule in a manner consistent with these requirements.

##### *Regulatory Flexibility Act*

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

rule would legalize a preexisting subsistence activity, and the resources harvested will be consumed.

##### *Small Business Regulatory Enforcement Fairness Act*

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

(a) Would not have an annual effect on the economy of \$100 million or more. It legalizes and regulates a traditional subsistence activity. It will not result in a substantial increase in subsistence harvest or a significant change in harvesting patterns. The commodities that will be regulated under this rule are migratory birds. This proposed rule deals with legalizing the subsistence harvest of migratory birds and, as such, does not involve commodities traded in the marketplace. A small economic benefit from this rule derives from the sale of equipment and ammunition to carry out subsistence hunting. Most, if not all, businesses that sell hunting equipment in rural Alaska qualify as small businesses. We have no reason to believe that this proposed rule would lead to a disproportionate distribution of benefits.

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

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

##### *Unfunded Mandates Reform Act*

We have determined and certified under the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on local, State, or Tribal governments or private entities. The proposed rule would not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act is not required. Participation on regional management bodies and the Council requires travel expenses for some Alaska Native organizations and local

governments. In addition, they assume some expenses related to coordinating involvement of village councils in the regulatory process. Total coordination and travel expenses for all Alaska Native organizations are estimated to be less than \$300,000 per year. In a notice of decision (65 FR 16405; March 28, 2000), we identified 7 to 12 partner organizations (Alaska Native nonprofits and local governments) to administer the regional programs. The ADFG also incurs expenses for travel to Council and regional management body meetings. In addition, the State of Alaska would be required to provide technical staff support to each of the regional management bodies and to the 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 ADFG to help offset their expenses.

##### *Takings (Executive Order 12630)*

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

##### *Federalism (Executive Order 13132)*

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

##### *Civil Justice Reform (Executive Order 12988)*

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

##### *Government-to-Government Relations With Native American Tribal Governments*

Consistent with Executive Order 13175 (65 FR 67249; November 6, 2000), "Consultation and Coordination with Indian Tribal Governments," and Department of the Interior policy on Consultation with Indian Tribes (December 1, 2011), we will send letters

via electronic mail to all 229 Alaska federally recognized Indian Tribes. Consistent with Congressional direction (Pub. L. 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Pub. L. 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267), we also will send letters to approximately 200 Alaska Native corporations and other Tribal entities in Alaska soliciting their input as to whether or not they would like the Service to consult with them on the 2021 migratory bird subsistence harvest regulations.

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

#### *Paperwork Reduction Act of 1995 (PRA)*

This proposed rule contains existing, revised, and new information collections. All information collections require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. OMB has previously approved the information collection requirements associated with subsistence harvest reporting and assigned OMB Control Number 1018–0124. We will submit a revision to 1018–0124 to incorporate the new harvest reporting requirements contained in this rulemaking. Additionally, we will request a new OMB control number for the permit and information letter requirements contained in this rulemaking.

The existing information collection requirements identified are currently

approved by OMB under Control Number 1018–0124:

The harvest surveys collect information on the subsistence harvest in Alaska of ~60 species categories of birds and their eggs (geese, ducks, swans, crane, ptarmigan and grouse, seabirds, shorebirds, loons and grebes). Survey data includes species category and amounts of birds and eggs taken for subsistence use in each harvest season (spring, summer, fall, winter). The surveys rely on collaboration among the USFWS, the ADFG, and many Alaska Native organizations. Contracts and cooperative agreements are in place to facilitate the collection of data with Alaska Native organizations and other regional and local partners. Surveyors contact local residents. The ADFG Division of Subsistence coordinates the surveys on behalf of the AMBCC via a cooperative agreement with the USFWS.

The USFWS uses the survey data to:

- (1) Inform harvest regulations for migratory birds and their eggs so they are consistent with the long-term sustainability of bird populations;
- (2) Document subsistence harvest trends and track changes in harvest;
- (3) Document the importance of birds as food and cultural resources for subsistence communities in Alaska;
- (4) Protect sustainable harvest opportunities; and
- (5) Assist in the development of management plans by State and Federal agencies.

Federal and State agencies use the data collected to develop harvest regulations and protect sustainable harvest opportunities. The USFWS adjusts harvest regulations as needed to provide maximum and sustainable subsistence harvest opportunities while accounting for current bird population status and population goals established in species' management plans. The AMBCC uses this information to make regulation recommendations to the Service Regulations Committee. Nongovernmental organizations use survey data to monitor the status of uses of migratory bird resources in Alaska and internationally. The survey also became a main line of communication between wildlife management agencies and the local communities and harvesters.

Participation in the surveys is voluntary for communities and households. In selected communities that agree to participate, surveyors compile a list of all permanent households or addresses, provide information about the survey, and assist households to complete the harvest report form (hardcopy) in in-person interviews. Households may offer

comments on their harvest, on the availability of birds, on the survey, or any other topic related to bird harvest. The survey uses the following forms:

(1) *Tracking Sheet & Household Consent (FWS Form 3–2380)*: The surveyor invites each selected household to participate and completes FWS Form 3–2380 documenting whether each selected household agreed to participate, did not agree, or could not be contacted. The surveyor also uses this form to keep track of survey work.

(2) *Harvest Report (FWS Forms 3–2381–1, 3–2381–2, 3–2381–3, 3–2381–4, and 3–2381–5)*: The forms have up to four sheets, one for each surveyed season. The Western and Interior forms (3–2381–1 and 3–2381–3; ~394 households surveyed per year) have 3 sheets (spring, summer, and fall). The Bristol Bay form has 4 sheets (spring, summer, fall, winter; ~110 households surveyed per year). The North Slope form has two sheets (spring and summer; ~150 households surveyed per year). The Cordova form has only 1 sheet (spring; ~27 households surveyed per year). The weighted average for the whole survey is 2.96 seasonal sheets (rounded as 3 for calculation of burden estimates). Each seasonal sheet has drawings of bird species, next to which are fields to record the number of birds and eggs harvested. Because bird species available for harvest vary in different regions of Alaska, there are five versions of the harvest report form with different sets of species. This helps to prevent erroneously recording bird species as harvested in areas where they do not usually occur.

The revised and new information collection requirements identified below require approval by OMB in conjunction with the revision to OMB Control Number 1018–0124:

(1) *Splitting burden estimates for 3–2381–5, Cordova survey (REVISED)*: We realized the previous submission to OMB incorrectly reported 3 submissions of the Cordova survey rather than a single submission for the spring season. We are separating the burden for this survey out separately from FWS Forms 3–2381–1, Forms 3–2381–2, Forms 3–2381–3, and Forms 3–2381–4 to more accurately report harvest data reporting burden.

(1) *Harvest Report (FWS Forms 3–2381–6 (new) and 3–2381–7 (NEW))*: Starting in 2021, a mail survey akin to that conducted for the Cordova harvest will be implemented for the Kodiak roaded area harvest as required by updated Federal regulations for the Kodiak Archipelago region. To participate in the Kodiak roaded area harvest, harvesters are required to

obtain a permit and to complete a harvest report form, even if they did not harvest. (We will request OMB approval of this permit requirement in a separate request for a new OMB control number explained below). Staff from the ADFG Division of Subsistence worked in close collaboration with the Sun'aq Tribe of Kodiak to develop the permit and harvest reporting system. The Sun'aq Tribe requested in-season harvest reporting. Permits will be issued by the Sun'aq Tribe.

The Kodiak Roaded Area In-Season Harvest Report (FWS Form 3-2381-6) will be provided to permit holders at the time the permit is issued. Harvesters are required to record their harvest using this form during the season. At the end of the season (early Sept.), all permit holders are required to submit the completed Kodiak Roaded Area In-Season Harvest Report (FWS Form 3-2381-7) indicating whether they harvested birds and eggs, and if so, the kinds and amounts of birds and eggs harvested. Permit holders submit the completed form by mail to the ADFG for data analysis (the form includes the return address and is postage-paid). To ensure a more complete harvest reporting, the ADFG will mail a post-season harvest survey to permit holders who did not submit a completed in-season harvest log. The post-season mail survey includes two reminders. Reported harvests will be extrapolated to represent all permit holders based on statistical methods. Forms 3-2381-6 and 3-2381-7 are only completed twice per year (spring and summer seasons).

*Title of Collection:* Alaska Migratory Bird Subsistence Harvest Household Surveys.

*OMB Control Numbers:* 1018-0124.

*Form Numbers:* FWS Forms 3-2381-1, Forms 3-2381-2, Forms 3-2381-3, Forms 3-2381-4, Forms 3-2381-5, Forms 3-2381-6 (New), and Forms 3-2381-7 (New).

*Type of Review:* Revision to a previously approved information collection.

*Respondents/Affected Public:* Individuals and Tribal governments.

*Total Estimated Number of Annual Respondents:* 2,351.

*Total Estimated Number of Annual Responses:* 4,551.

*Estimated Completion Time per Response:* 5 minutes.

*Total Estimated Number of Annual Burden Hours:* 379.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*Frequency of Collection:* On occasion.

*Total Estimated Annual Nonhour Burden Cost:* None.

The additional information collection requirements associated with permits and invitation letters contained in this proposed rule identified below require approval by OMB and assignment of a new OMB control number:

(1) *Tribal or Village Council Invitation Letter:* Regulations at 50 CFR 92.5(d) allow immediate family members (children, parents, grandparents, and siblings) living in excluded areas to participate in the customary spring-summer subsistence harvest of migratory birds in a village's subsistence area. This letter of invitation is intended to assist permanent residents of the village in meeting their nutritional and other essential needs or for teaching cultural knowledge. The regulations specify that participation of residents of excluded areas in the spring-summer harvest of migratory birds in an eligible area must be pre-authorized by a letter of invitation issued by a local Tribal or Village Council within the harvest area.

(2) *Tribal Council Invitation Permit:* In 2020, the Service issued final regulations (RIN 1018-BF12, 85 FR 73235, November 17, 2020) that established a permit as another method to invite an immediate family member residing in an excluded area to participate in the spring-summer subsistence hunt in a defined eligible area. The permit, issued by the Tribal Council, certifies that the prospective hunter is an immediate family member as defined in 50 CFR 92.4 and is thereby authorized to assist family members in hunting migratory birds in a defined subsistence harvest area. The permit is valid for 2 years from the date of issuance.

(3) *Tribal Council Notifications to AMBCC:* Tribal Councils will provide a list of permittees to the Executive Director of the AMBCC.

(4) *AMBCC Notification to AK Region Office of Law Enforcement:* Upon receiving copies of the letters of invitation and issued permits from Tribal and Village Councils, the AMBCC Executive Director will inform the Service's Alaska Regional Office of Law Enforcement (AK-OLE) within 2 business days. To date, only two letters have been received.

(5) *Kodiak Island Roaded Area Experimental Season Permit:* The Service's 2020 final rule (RIN 1018-BF12) approved a 3-year experimental season for migratory bird hunting and egg gathering in the Kodiak Island Roaded Area in the Kodiak Archipelago Region (50 CFR 92.31). Harvesting in the Kodiak roaded area requires a mandatory permit and harvest reporting. The Sun'aq Tribe of Kodiak worked in close collaboration with the ADFG

Division of Subsistence to develop a permit and harvest monitoring system. Permits are issued by the Sun'aq Tribe of Kodiak to individual harvesters. The Sun'aq tribe provide copies of issued permits to the ADFG Division of Subsistence, which uses this information to manage the harvest reporting system. The permit includes fields to write the permit holder's name and mailing address as well as a field for the permit holder to sign acknowledging the terms of the permit. The permit also includes a map of the harvest area and description of the harvest regulations including the list of species opened to harvest. Permit data are securely disposed of after completion of the annual harvest data collection and analysis.

The regulation allows a 3-year experimental season (this proposed rule updates the seasons from 2020-2022 to the 2021-2023 subsistence seasons) for migratory bird hunting and egg gathering by registration permit along the Kodiak Island Roaded Area in the Kodiak Archipelago Region of Alaska. The experimental season will terminate at the completion of the third year in 2023. Reopening the Roaded Area after the 3-year experimental period will require a subsequent proposal from the AMBCC for continuation of the season under either operational or experimental status.

(6) *Cordova Harvest Household Registration:* The Service's final rule published on April 8, 2014 (79 FR 19454) authorized spring-summer harvest of migratory birds by residents of the community of Cordova in the Gulf of Alaska region. In 2017, the regulations were updated to allow residents of the neighboring communities of Tatitlek and Chenega to harvest in the area defined for the Cordova harvest (82 FR 16298, April 4, 2017). Local partners including the Eyak Tribe and the U.S. Forest Service Cordova Office Chugach Subsistence Program worked in close collaboration with the ADFG Division of Subsistence to develop a household registration and harvest monitoring system using a post-season mail survey. Household registrations are issued by the Tribal councils of the communities of Cordova, Tatitlek, and Chenega as well as by the U.S. Forest Service Cordova Office Chugach Subsistence Program. The registration form includes fields to write the permit holder's name and mailing address as well as a field for the permit holder to sign acknowledging the terms of the permit. The permit also includes fields to write the names of other household members authorized to harvest under the registration.

Registration data are securely disposed of after completion of the annual harvest data collection and analysis.

*Title of Collection:* Regulations for the Taking of Migratory Birds for Subsistence Uses in Alaska, 50 CFR Part 92.

*OMB Control Numbers:* 1018–New. *Form Numbers:* None.

*Type of Review:* New.

*Respondents/Affected Public:* Individuals and Tribal governments.

*Total Estimated Number of Annual Respondents:* 234.

*Total Estimated Number of Annual Responses:* 234.

*Estimated Completion Time per Response:* Varies from 15 minutes to 30 minutes, depending on activity.

*Total Estimated Number of Annual Burden Hours:* 62.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*Frequency of Collection:* On occasion.

*Total Estimated Annual Nonhour Burden Cost:* None.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on any aspect of this information collection, including:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Send your written comments and suggestions on this information collection to OMB by the date indicated in **DATES** to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803 (mail); or [Info\\_Coll@fws.gov](mailto:Info_Coll@fws.gov) (email). Please reference “OMB Control Number 1018–

BF08” in the subject line of your comments.

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

The annual regulations and options are considered in a January 2021 environmental assessment, “Managing Migratory Bird Subsistence Hunting in Alaska: Hunting Regulations for the 2021 Spring/Summer Harvest.” Copies are available from the person listed under **FOR FURTHER INFORMATION CONTACT** or at <http://www.regulations.gov>.

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

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

#### Reference Cited

Osnas, E. 2020. A simple state space model framework to predict harvest management survey observations in 2020. USFWS, publ. analyses: <https://github.com/USFWS/StateSpacePrediction-2020>.

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

Hunting, Treaties, Wildlife.

#### Proposed Regulation Promulgation

For the reasons set out in the preamble, we propose to amend 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.

■ 2. Amend § 92.5 by revising paragraphs (b)(3) and (d) to read as follows:

#### § 92.5 Who is eligible to participate?

\* \* \* \* \*

(b) \* \* \*

(3) The Central Interior Excluded Area comprises the following: The Fairbanks North Star Borough and that portion of Unit 20(A) east of the Wood River drainage and south of Rex Trail,

including the upper Wood River drainage south of its confluence with Chicken Creek; that portion of Unit 20(C) east of Denali National Park north to Rock Creek and east to Unit 20(A); and that portion of Unit 20(D) west of the Tanana River between its confluence with the Johnson and Delta Rivers, west of the east bank of the Johnson River, and north and west of the Volmar drainage, including the Goodpaster River drainage. The following communities are within the Excluded Area: Delta Junction/Big Delta/Fort Greely, McKinley Park/Village, Healy, Ferry, and all residents of the formerly named Fairbanks North Star Borough Excluded Area.

\* \* \* \* \*

(d) *Participation by permanent residents of excluded areas.* Immediate family members who are residents of excluded areas may participate in the customary spring and summer subsistence harvest in a community's subsistence area with permission of the Village or Tribal council, whichever is appropriate, to assist indigenous inhabitants in meeting their nutritional and other essential needs or for the teaching of cultural knowledge using one of the following procedures:

(1) A letter of invitation will be sent by the Tribal or village council to the hunter with a copy to the Executive Director of the Co-management Council, who will inform the Service's Alaska Region Law Enforcement Office and the Service's Co-management Council Coordinator within 2 business days. The Service will then inform any affected Federal agency when residents of excluded areas are allowed to participate in the subsistence harvest within their Federal lands.

(2) For the Upper Copper River Region, a permit may be issued by the Tribal Council or their authorized Tribal representative to the invited hunter certifying that the permit holder is an immediate family member authorized to assist eligible family members in hunting migratory birds in the Tribe's subsistence harvest area. A permit is valid for 2 years from date of issuance. A list of permit holders will be sent to the Executive Director of the Co-management Council, who will inform the Service's Alaska Region Office of Law Enforcement and the Service's Co-management Council Coordinator within 2 business days. The Service will then inform any affected Federal agency when residents of excluded areas are allowed to participate in the subsistence harvest within their Federal lands.



■ 3. Amend § 92.22 by revising paragraphs (a) through (l) and adding paragraph (m) to read as follows:

**§ 92.22 Subsistence migratory bird species.**

- \* \* \* \* \*
- (a) *Family Anatidae*. (1) Emperor Goose (*Anser canagicus*)—except no egg gathering is permitted.  
 (2) Snow Goose (*Anser caerulescens*).  
 (3) Greater White-fronted Goose (*Anser albifrons*).  
 (4) Brant (*Branta bernicla*)—except no egg gathering is permitted in the Yukon/Kuskokwim Delta and the North Slope regions.  
 (5) Cackling Goose (*Branta hutchinsii*)—except in the Semidi Islands.  
 (6) Canada Goose (*Branta canadensis*).  
 (7) Tundra Swan (*Cygnus columbianus*)—except in Units 9(D) and 10.  
 (8) Blue-winged Teal (*Spatula discors*).  
 (9) Northern Shoveler (*Spatula clypeata*).  
 (10) Gadwall (*Mareca strepera*).  
 (11) Eurasian Wigeon (*Mareca penelope*).  
 (12) American Wigeon (*Mareca americana*).  
 (13) Mallard (*Anas platyrhynchos*).  
 (14) Northern Pintail (*Anas acuta*).  
 (15) Green-winged Teal (*Anas crecca*).  
 (16) Canvasback (*Aythya valisineria*).  
 (17) Redhead (*Aythya americana*).  
 (18) Ring-necked Duck (*Aythya collaris*).  
 (19) Greater Scaup (*Aythya marila*).  
 (20) Lesser Scaup (*Aythya affinis*).  
 (21) King Eider (*Somateria spectabilis*).  
 (22) Common Eider (*Somateria mollissima*).  
 (23) Harlequin Duck (*Histrionicus histrionicus*).  
 (24) Surf Scoter (*Melanitta perspicillata*).  
 (25) White-winged Scoter (*Melanitta deglandi*).  
 (26) Black Scoter (*Melanitta americana*).  
 (27) King-tailed Duck (*Clangula hyemalis*).  
 (28) Bufflehead (*Bucephala albeola*).  
 (29) Common Goldeneye (*Bucephala clangula*).  
 (30) Barrow's Goldeneye (*Bucephala islandica*).  
 (31) Hooded Merganser (*Lophodytes cucullatus*).  
 (32) Common Merganser (*Mergus merganser*).  
 (33) Red-breasted Merganser (*Mergus serrator*).  
 (b) *Family Podicipedidae*. (1) Horned Grebe (*Podiceps auritus*).

- (2) Red-necked Grebe (*Podiceps grisegena*).  
 (c) *Family Gruidae*. (1) Sandhill Crane (*Antigone canadensis*).  
 (2) [Reserved]  
 (d) *Family Haematopodidae*. (1) Black Oystercatcher (*Haematopus bachmani*).  
 (2) [Reserved]  
 (e) *Family Charadriidae*. (1) Black-bellied Plover (*Pluvialis squatarola*).  
 (2) Common Ringed Plover (*Charadrius hiaticula*).  
 (f) *Family Scolopacidae*. (1) Bar-tailed Godwit (*Limosa lapponica*).  
 (2) Ruddy Turnstone (*Arenaria interpres*).  
 (3) Sharp-tailed Sandpiper (*Calidris acuminata*).  
 (4) Dunlin (*Calidris alpina*).  
 (5) Baird's Sandpiper (*Calidris bairdii*).  
 (6) Least Sandpiper (*Calidris minutilla*).  
 (7) Semipalmated Sandpiper (*Calidris pusilla*).  
 (8) Western Sandpiper (*Calidris mauri*).  
 (9) Long-billed Dowitcher (*Limnodromus scolopaceus*).  
 (10) Common Snipe (*Gallinago gallinago*).  
 (11) Wilson's Snipe (*Gallinago delicata*).  
 (12) Spotted Sandpiper (*Actitis macularius*).  
 (13) Lesser Yellowlegs (*Tringa flavipes*).  
 (14) Greater Yellowlegs (*Tringa melanoleuca*).  
 (15) Red-necked Phalarope (*Phalaropus lobatus*).  
 (16) Red Phalarope (*Phalaropus fulicarius*).  
 (g) *Family Stercorariidae*. (1) Pomarine Jaeger (*Stercorarius pomarinus*).  
 (2) Parasitic Jaeger (*Stercorarius parasiticus*).  
 (3) Long-tailed Jaeger (*Stercorarius longicaudus*).  
 (h) *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*).

- (i) *Family Laridae*. (1) Black-legged Kittiwake (*Rissa tridactyla*).  
 (2) Red-legged Kittiwake (*Rissa brevirostris*).  
 (3) Ivory Gull (*Pagophila eburnea*).  
 (4) Sabine's Gull (*Xema sabini*).  
 (5) Bonaparte's Gull (*Chroicocephalus philadelphia*).  
 (6) Mew Gull (*Larus canus*).  
 (7) Herring Gull (*Larus argentatus*).  
 (8) Slaty-backed Gull (*Larus schistisagus*).  
 (9) Glaucous-winged Gull (*Larus glaucescens*).  
 (10) Glaucous Gull (*Larus hyperboreus*).  
 (11) Aleutian Tern (*Onychoprion aleuticus*).  
 (12) Arctic Tern (*Sterna paradisaea*).  
 (j) *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.  
 (k) *Family Procellariidae*. (1) Northern Fulmar (*Fulmarus glacialis*).  
 (2) [Reserved]  
 (l) *Family Phalacrocoracidae*. (1) Double-crested Cormorant (*Phalacrocorax auritus*).  
 (2) Pelagic Cormorant (*Phalacrocorax pelagicus*).  
 (m) *Family Strigidae*. (1) Great Horned Owl (*Bubo virginianus*).  
 (2) Snowy Owl (*Bubo scandiacus*).  
 ■ 4. Amend § 92.31 by revising paragraph (e) to read as follows:

**§ 92.31 Region-specific regulations.**

- \* \* \* \* \*
- (e) *Kodiak Archipelago region*. The Kodiak Island Roaded Area is open to the harvesting of migratory birds and their eggs by registration permit only as administered by the Alaska Department of Fish and Game, Division of Subsistence, in cooperation with the Sun'aq Tribe of Kodiak. No hunting or egg gathering for Arctic terns, Aleutian terns, mew gulls, and emperor geese is allowed for the Kodiak Island Roaded Area Registration Permit Hunt. The Kodiak Island Roaded Area consists of that portion of Kodiak Island (including exposed tidelands) south of a line from Termination Point along the north side of Cascade Lake to Anton Larsen Bay and east of a line from Crag Point to the west end of Saltery Cove. Marine waters adjacent to the Kodiak Island Roaded Area within 500 feet from the water's edge are included in the Kodiak Island Roaded Area. The Kodiak Island Roaded

Area does not include islands offshore of Kodiak Island. A registration permit is not required to hunt on lands and waters outside the Kodiak Island Roaded Area.

\* \* \* \* \*

**Shannon A. Estenoz,**

*Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, Exercising the Delegated Authority of the Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2021-03979 Filed 2-25-21; 8:45 am]

BILLING CODE 4333-15-P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 210219-0028]

RIN 0648-BK18

**Fisheries of the Exclusive Economic Zone Off Alaska; Removing the Processing Restriction on Incidentally Caught Squids and Sculpins in the Gulf of Alaska and the Bering Sea and Aleutian Islands Groundfish Fisheries**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues this proposed rule to remove the regulatory restriction that limits processing of squids and sculpins to fishmeal only. This proposed rule is necessary to allow the processing and sale of squids and sculpins as products other than fishmeal and thereby to help prevent waste of the incidental catch of these ecosystem component species. This proposed rule is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Fishery Management Plans (FMP) for Groundfish of the Gulf of Alaska (GOA) and Bering Sea and Aleutian Islands Management Area (BSAI) (Groundfish FMPs), and other applicable laws.

**DATES:** Submit comments on or before March 29, 2021.

**ADDRESSES:** You may submit comments on this document, identified by FDMS Docket Number NOAA-NMFS-2020-0160, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/](http://www.regulations.gov/)

*#/docketDetail;D=NOAA-NMFS-2020-0160*, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Records Office. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of the draft Regulatory Impact Review (referred to as the “Analysis”) and the draft Categorical Exclusion prepared for this proposed rule may be obtained from [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Megan Mackey, 907-586-7228.

**SUPPLEMENTARY INFORMATION:**

**Authority for Action**

NMFS manages the groundfish fisheries in the exclusive economic zone (EEZ) of the BSAI and GOA under the Groundfish FMPs. The North Pacific Fishery Management Council (Council) prepared the Groundfish FMPs under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the Groundfish FMPs appear at 50 CFR parts 600 and 679.

All relevant comments submitted on this proposed rule and received by the end of the comment period (See **DATES**) will be considered by NMFS and addressed in the response to comments in the final rule.

**Background**

Squids and sculpins are defined in the ecosystem component (EC) category of the Groundfish FMPs. Directed fishing for EC species is prohibited. Incidental catch of squid species is retained in some groundfish fisheries and often utilized to prevent waste. Typically, sculpins are not retained but can be in some circumstances.

The Council’s 2017 and 2019 actions to reclassify squids and sculpins,

respectively, into the EC category of the Groundfish FMPs were based on the best available scientific information and were consistent with the National Standard guidelines. The Federal rulemakings to implement the Council’s actions prohibited the use or sale of incidentally caught squids and sculpins unless processed into fishmeal, in accordance with the regulations governing other EC species (85 FR 41427, July 10, 2020 (sculpin); 83 FR 31460, July 6, 2018 (squid)). The purpose of this action is to provide flexibility for the use of incidentally caught squids and sculpins, thereby reducing the waste of these EC species, and to align the regulations with the long-standing use of incidentally caught squid species as bait.

The following sections of this preamble provide:

- A brief history of the restriction on processing and sale of squids and sculpins,
- The expected effects of and need for this action, and
- A description of the regulatory change proposed in this action.

**Brief History of the Restriction on Processing and Sale of Squids and Sculpins**

EC species are stocks that a fishery management council (council) or the Secretary of Commerce (Secretary) has determined do not require conservation and management, but desire to list in an FMP in order to achieve ecosystem management objectives (50 CFR 600.305(c)(5) & (d)(13) and 50 CFR 600.310(d)(1)). Retention and personal use of some EC species in the Groundfish FMPs (forage fish, grenadiers, squids, and sculpins) is allowed up to the applicable maximum retainable amount (MRA), which is the proportion or percentage of retained catch of a species closed for directed fishing (incidental catch species) to the retained catch of a species open for directed fishing (basis species) (50 CFR 679.20(e) & (i)). Current Federal regulations at 50 CFR 679.20(i)(4) & (5) prohibit the processing, barter, trade, and sale of EC species in Alaska (forage fish, grenadiers, squids, and sculpins) unless they are processed as fishmeal.

Amendment 96 to the BSAI FMP and Amendment 87 to the GOA FMP (Amendments 96/87) (75 FR 61639, October 6, 2010) established the EC category and designated prohibited species (defined in Table 2b to 50 CFR part 679, to include salmon, steelhead trout, crab, halibut, and herring) and forage fish (defined in Table 2c to 50 CFR part 679 and § 679.20(i)) as EC species in both the Groundfish FMPs.