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Summary of Public Involvement

On February 10, 2003, we published in the **Federal Register** (68 FR 6697) a proposed rule to establish spring/summer migratory bird subsistence harvest regulations in Alaska for the 2003 subsistence season. The proposed rule provided for a public comment period of 30 days. We mailed copies of the proposed rule to more than 60 individuals and organizations that were determined to be direct stakeholders in this process. We established an internet homepage posting the proposed rule and related historical documents. We issued a press release and radio public service announcement expressing the

request for public comments and the pertinent deadlines for such comments, which was faxed to 26 members of the statewide media. We presented the proposed rule and related materials at public meetings conducted by Federal Subsistence Regional Advisory Councils in Kotzebue, Barrow, Kodiak, Dillingham, Unalakleet, Chevak, and Nenana, Alaska, requesting further written public comments. By the close of the public comment period on March 12, 2003, we had received written responses from 30 entities. Seven of the responses were from individuals, 20 from organizations, 2 from regional Flyway Councils, and 1 from the Alaska Department of Fish and Game.

Response to Public Comments

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

General Comments

Two respondents requested that groups other than government agencies and Native groups be represented on the Co-management Council, specifically mentioning Audubon and Ducks Unlimited.

Service Response: An extensive public process took place July 1999 through March 2000, during which the composition of the statewide management body, the Co-management Council, was decided. The Co-management Council's composition has been established by regulation (67 FR 53511) and is not being reconsidered in this rule. All Co-management Council meetings are public, and any interested parties can participate and testify.

Two respondents requested that the regulations in the proposed rule be cross-referenced with Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) subsistence regulations, such as by adding the guidance “* * * consistent with sound management principles, and the conservation of healthy populations of fish and wildlife * * *,” adding emergency closure authority, and adding the words “non-wasteful subsistence.”

Service Response: Development of the spring/summer subsistence migratory bird harvest regulations is guided solely by amendments to the international migratory bird treaties, and not by ANILCA legislation. Cross-referencing guiding principles and management objectives would only serve to further confuse the two very separate programs. However, in the final rule, we have

added an emergency closure authority to ensure prompt corrective actions on conservation concerns, similar to that used in both part 20 and part 100.

One individual referenced the Administrative Procedure Act and how it is stated within the proposed rule “The Department of the Interior's policy is, whenever practicable, to afford the public opportunity to participate in the rulemaking process” and how this sounds like the Department is doing the public some kind of favor, when by law it is required. The individual further cites mandates within the Administrative Procedure Act and how it spells out public notice procedures.

Service Response: This language does not appear in the final rule, but we will take this into consideration when drafting other **Federal Register** documents. See the Public Involvement Section under Supplementary Information for a summary of the Service's efforts to seek public involvement under the Administrative Procedure Act.

One respondent stated that more funds are needed to adequately monitor spring and summer subsistence harvest of migratory birds as well as to promote the effective and meaningful role for Alaska's indigenous inhabitants in the conservation of migratory birds through the participation in the Co-management Council and its related meetings.

Service Response: Funding levels to support the efforts of the Co-management Council, which include harvest monitoring and Native participation, are provided by Congress annually and are not dictated by Federal regulations.

One respondent brought up the issue of the Migratory Bird Hunting and Conservation Stamp Act and how it would require subsistence hunters to purchase a Federal Migratory Bird Hunting and Conservation Stamp. One of the major goals of the amended migratory bird treaty with Canada was to allow for traditional subsistence harvests, and acquiring a hunting license or duck stamp is not customary and traditional. This respondent expressed the need to modify the Duck Stamp Act to exempt subsistence hunters from the requirement.

Service Response: The only way to change the requirement to possess a Federal Migratory Bird Hunting and Conservation Stamp is if the Migratory Bird Hunting and Conservation Stamp Act is modified by Congress.