

on improving the hunter identification of individual bird species at both long and short distances.

One respondent requested that we prohibit the use of air boats and personal watercraft (e.g. jet skis) for spring/summer migratory bird hunting on the Tetlin Refuge, at least in the Scotty/Desper drainage and other sensitive areas in the region. The respondent explained that use of air boats and jet skis is already established in the area, and that use during the fall sport season on lakes accessible from the Alaska Highway has been an increasing issue. The use of air boats or personal watercraft is extremely disturbing to nesting and brood rearing waterfowl and other species, and has the potential to alter and damage critical habitat. Abuses will occur and law enforcement will be extremely difficult. In addition, use of air boat or personal water craft is not customary and traditional for harvesting migratory birds in the spring and summer.

*Service Response:* We concur and have added a regional prohibition on the use of air boats and jet skis under § 92.20.

One commenter brought up the concern that it has not been made clear what licenses or permits are going to be required, and that education and outreach have not been allocated to inform the subsistence users about the new regulations. The commenter requested that the Secretary of the Interior initiate a discretionary enforcement policy to continue for 2 years after the Final Rule is published and provide adequate funding to the regions to coordinate outreach and education efforts.

*Service Response:* We concur that we did not make general hunter requirements explicit and have clarified that by modifying the Final Rule to make § 20.2 (a), (b), (c), and (d) applicable to persons hunting under part 92. Under separate Federal regulations (16 U.S.C. 718a), Federal migratory bird stamps are required for hunters 16 years of age and older for taking migratory bird waterfowl. We also concur that additional education and outreach are needed.

One commenter from the Yukon-Kuskokwim Delta explained that village residents should be allowed to take waterfowl from a boat under power, especially for waterfowl frequenting the river. Village residents should also be allowed to use a boat under power to hunt bay ducks like scaup and scoters, which are easier to take from a moving boat. The same commenter added that they assumed if something was not listed specifically as prohibited under

this section, then it is allowed, such as traditional methods like use of bird nets or bolos.

*Service Response:* The current regulations do not prohibit hunting from a boat under power, but do prohibit using a boat to drive or concentrate birds. In addition, the use of bird nets or bolos are not prohibited harvest methods at this time.

One respondent requested that regulations be added to prohibit subsistence hunters from commercially guiding other subsistence hunters, especially in regard to sea ducks.

*Service Response:* Commercial guiding is governed by State regulations, so no action is being taken under these Federal regulations.

One commenter requested that it be made clear that the sale or trade of migratory birds and their parts taken under this Part is prohibited.

*Service Response:* We concur. This is already addressed under § 92.6 of the Procedural Regulations.

#### *Section 92.32 Subsistence Migratory Bird Species*

Because of the wide-ranging views and comments we received on this subject, we have responded to the concerns of the public at the end of this summary of public comments (§ 92.32).

Two commenters requested that any species appearing on the BCC list be removed from those open to subsistence harvest in 2003, because they may be threatened. One of these commenters further suggested that the harvest should be limited to bird species for which population levels and harvest levels are known and can be monitored, and that birds with little population information should be protected from harvest. The other commenter suggested allowing an incidental/accidental harvest (less than 1% of the population) of birds taken resulting from hunter misidentification. They also stated that if these BCC birds are allowed to be harvested, then a massive educational campaign should be launched to promote conservation of these species by redirecting harvest efforts to the more viable species.

Two commenters deferred to the expertise of the Service and the Co-management Council on evaluating the effects of the subsistence harvest on the 23 species in question.

One individual was alarmed and concerned over the number of nongame species included in this hunt, especially without written records of past subsistence harvest. They recommended that the following taxonomic families be removed from the harvest list: Gaviidae (loons), Podicipedidae (grebes),

Charadriidae (plovers), Haematopodidae (oystercatchers), and Scolopacidae (sandpipers), as well as the following species: all terns, red-legged kittiwakes, ivory gulls, whiskered auklets, and all owls except snowy owls. The commenter further questioned why the Service would bother identifying species of conservation concern only to foster the hunting of the same species.

One commenter requested that 13 of the 23 species be deleted from the subsistence harvest list because of their presence on the Alaska Audubon Watchlist. These species include: red-throated and yellow-billed loons, red-faced cormorants, Pacific golden plovers, black oystercatchers, bristle-thighed curlews, Hudsonian and marbled godwits, black turnstones, buff-breasted sandpipers, red-legged kittiwakes, Aleutian terns, and whiskered auklets. The recommendation was for the Service to take a precautionary approach and protect these species from harvest until it can be demonstrated that a subsistence harvest would not jeopardize existing population levels.

Two individuals requested that all 23 species of conservation concern should be removed from harvest because all races of residents are allowed to hunt. One commenter added that allowing these species to be taken would be a breach of faith with generations of conservationists that have struggled to make a place for large edible birds in our world. The second commenter explained that any additional harvest for some populations that have undergone a decline over recent years, such as mid-continental white-fronted geese in northwest Alaska, should not be taken lightly. And that with virtually no constraints in place under the proposed regulations, both Natives and non-Natives will take full advantage of birds that congregate at open water during spring migration, regardless of actual need for sustenance.

One respondent expressed concern that a long list of migratory birds is being institutionalized into regulations in the absence of past population or harvest information. They also stated that no species of conservation concern should be allowed for harvest except under strict controls in special cases. Also, the Service should be required to publish such a list annually and seek Native involvement in recovery efforts.

One commenter from the Yukon-Kuskokwim Delta was against removing birds from the harvest list because the idea of limiting species hunted to what is considered game birds is contrary to the treaty that says the hunt will be customary and traditional. There have