

egg harvesting during the early period after egg laying, but protects the later developing eggs and newly hatched young. To determine the best protective closure periods for their harvest regions based on mean nest initiation and egg laying dates, regional management bodies within the Co-management Council worked with the Service's Division of Migratory Bird Management in Anchorage, Alaska. Closures in some regions were geographically subdivided to provide the best protection, while other regions were provided separate closures for waterfowl and seabirds (primarily murre).

In this proposed rule, the Yukon-Kuskokwim Delta region requested flexibility to set and announce the annual mid-season principal nesting closure period, based on local information, such as timing of snow melt and initiation of nesting. Thus, the closure period in the Yukon-Kuskokwim Delta region will be announced by the Alaska Regional Director or his or her designee, after consultation with biologists in the field, local subsistence users, and the region'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.

How Will the Service Ensure That This New Legalized Subsistence Harvest Will Not Raise Overall Migratory Bird Harvest?

The Preamble of the Protocol amending the Canada Treaty states 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.

Eligibility to harvest under these new regulations is limited to permanent residents, regardless of race, in villages located within the Alaska Peninsula, Kodiak Archipelago, the Aleutian Islands, or in areas north and west of the Alaska Range (50 CFR part 92.5). These geographical restrictions open the initial spring/summer subsistence migratory bird harvest to only about 13% 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 are currently excluded from the eligible subsistence harvest areas. The eligible subsistence harvest areas were determined by a history of customary and traditional use of migratory birds during the spring and summer as provided in the Protocol amending the Canada Treaty. Adoption of annual harvest regulations will legalize the spring/summer subsistence harvest, but is not intended to initiate or somehow increase it, since subsistence harvest has a long history of prior use in these regions. In addition, some regions, such as Bristol Bay and the Northwest Arctic, indicated that local interest in harvesting birds was declining due to increased commercial availability of alternative foods.

Alaska Natives have long-standing conservation ethics and traditions that are passed from generation to generation through the teachings of elders. These customary and traditional teachings have provided for the perpetuation of migratory birds prior to the ratification of the Canada and Mexico treaty amendments and will continue to do so following the opening of the legal subsistence season. Ultimately it is these components of Native Alaskan culture, rather than regulations, that will provide the more restrictive limits on the harvest of migratory birds.

We have long recognized that a legal and equitable harvest opportunity should be provided during traditional harvesting periods within a regulated framework that ensures conservation of the resource. Without regulating this ongoing activity, populations of the most heavily harvested species, principally waterfowl, could experience declines, and the recovery of depressed populations would be more difficult. Legalizing the subsistence harvest could make any documentation of the take easier and any reporting more accurate. In addition, the regulations will become part of the comprehensive, continental system of migratory bird management, thus integrating subsistence uses with other uses for the first time. Further, the Alaska subsistence migratory bird harvest is presently thought to constitute only approximately 2–3% of the aggregate national migratory bird harvest.

Under the prior "Closed Season Policy" (53 FR 16877, May 12, 1988), it was the position of the Service to emphasize enforcement of restrictions on species of greatest conservation concern. Since its implementation, information on the "Closed Season Policy" has been broadly distributed in

Alaska. We believe it is reasonable to assume that most subsistence users were aware of the policy and continued their traditional harvest of non-protected migratory bird species, so few new subsistence users should be attracted by legalizing their customary and traditional harvests. Indications are that subsistence harvests of migratory birds have, in the past, been generally under reported due to fear of prosecution. Legalization of the harvest could make people more comfortable about reporting take. This could lead to more accurate reporting and ultimately help in regulation setting and bird conservation.

Subsistence harvest has been monitored for the past 14 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 would enable tracking of any significant changes or trends in levels of harvest and user participation after legalization of the harvest. The harvest survey forms that we used to collect information were not approved by the Office of Management and Budget (OMB). We are initiating the process to request OMB approval of these forms, and we will publish a notice in the **Federal Register** in the near future requesting public comment on this information collection. We will not conduct or sponsor these surveys until we obtain OMB approval of this information collection. If OMB approves the forms, we intend to begin a Statewide program to gather information that would provide a more comprehensive view of the overall subsistence harvest and more species-specific harvest data, especially on shore birds.

How Did the Service Come Up With the Methods and Means Prohibitions?

The Co-Management Council in general adopted the existing methods and means prohibitions that occur in the Federal (50 CFR part 20) and Alaska (AS 16.05.940(17)) migratory bird hunting regulations. Some exceptions were made to allow the continuation of customary and traditional spring harvest methods. For example, an exception was made to allow use of live birds as decoys for the harvest of auklets on Diomed Island.

Why Are No Daily Harvest Limits Proposed Under These Subsistence Regulations?

The concept of harvest or bag limits is difficult to apply to the traditional subsistence harvest. A subsistence harvest involves opportunistic use of resources when they are available or