

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Centers for Medicare and Medicaid Services****42 CFR Part 488****Survey, Certification, and Enforcement Procedures***CFR Correction*

This rule is being published by the Office of the Federal Register to correct an editorial or technical error that appeared in the most recent annual revision of the Code of Federal Regulations.

■ In Title 42 of the Code of Federal Regulations, parts 482 to end, revised as of October 1, 2021, in § 488.5, remove paragraph (a)(21).

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**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 92**

[Docket No. FWS-R7-MB-2021-0172; FXMB1261070000-201-FF07M01000]

RIN 1018-BF65

**Migratory Bird Subsistence Harvest in Alaska; Harvest Regulations for Migratory Birds in Alaska During the 2022 Season**

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

**ACTION:** Final rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (FWS, Service, or we) is revising 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 changes update the regulations to incorporate revisions requested by these partners.

**DATES:** This rule is effective June 29, 2022.

**ADDRESSES:** You may find the comments submitted on the proposed rule as well as supplementary materials for this rulemaking action at the Federal

eRulemaking Portal: <https://www.regulations.gov> in Docket No. FWS-R7-MB-2021-0172.

**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. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

**SUPPLEMENTARY INFORMATION:****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 when the annual fall/winter 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 2021, the in-person spring meeting did not occur due to the coronavirus pandemic. Instead, the Council met virtually via teleconference on April 5, 2021, to approve subsistence harvest regulations that would take effect during the 2022 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 September 28 and 29, 2021.

**Comments Received on the Proposed Rule**

Per the collaborative process described above, we published a proposed rule to update the regulations for the taking of migratory birds for subsistence uses in Alaska during the spring and summer (87 FR 14232, March 14, 2022). By the end of the comment period on the proposed rule, we received two comments. We hereby respond to the relevant issues that were raised in the public input. We made no changes to the proposed rule as a result of the input we received via the public comments (see Final Regulations, below, for more information).

**Issue:** One commenter expressed the following sentiments: (i) migratory birds are endangered; (ii) the proposed rule would allow the killing of endangered species; (iii) subsistence harvest of migratory birds is not necessary because subsistence harvesters can survive on food that does not come from animals; (iv) by killing healthy animals, other species take over resources and disrupt the ecosystem; and (v) migratory birds should be protected.

**Response:** Migratory birds open for harvest during the spring/summer subsistence season in Alaska do not include threatened or endangered species. Annual harvest surveys show that species protected by the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), are not harvested by subsistence hunters. The Service conducted an intra-agency consultation and determined that this rule complies with the ESA (see *Endangered Species Act Consideration*, below, for more information). The Service agrees that subsistence hunters harvest healthy migratory birds; however, there is no evidence that this harvest results in other wildlife species taking food, habitat, or other resources to the detriment of the ecosystem. The comment that people can survive on food that is not animal-based is true; however, the spring/summer migratory bird subsistence harvest in Alaska is of