

traditional use. The Alaska Migratory Bird Co-management Council recommendations will accommodate traditional spring and summer harvests without creating new traditions or increasing harvest of migratory birds. Recommendations will be made based on the majority of factors and the weight of the evidence using the following criteria:

(1) A pattern of use recurring in the spring and summer of each year prior to 1999, excluding interruptions by circumstances beyond the user's control;

(2) The consistent harvest and use of migratory birds on or near the user's permanent residence;

(3) A use pattern that includes the handing down of knowledge of hunting skills and values from generation to generation;

(4) A use pattern in which migratory birds are shared or distributed among others within a definable community of persons; a community for purposes of subsistence uses may include specific villages or towns, with a historical pattern of subsistence use; and

(5) A use pattern that includes reliance for subsistence purposes upon migratory birds or their eggs and that meets nutritional and other essential needs including, but not limited to, cultural, social, and economic elements of the subsistence way of life.

(d) *Participation by permanent residents of excluded areas.* Immediate family members who are permanent residents of excluded areas may participate in the customary spring and summer subsistence harvest in a village's subsistence harvest area with the permission of the village council, where it is appropriate to assist indigenous inhabitants in meeting their nutritional and other essential needs or for the teaching of cultural knowledge to or by their immediate family members. Eligibility for participation will be developed and recommended by the Co-management Council and adopted or amended by regulations published in subpart D of this part.

[67 FR 53517, Aug. 16, 2002, as amended at 68 FR 43027, July 21, 2003; 69 FR 17327, Apr. 2, 2004; 70 FR 18248, Apr. 8, 2005; 72 FR 18322, Apr. 11, 2007]

§ 92.6 Use and possession of migratory birds.

You may not sell, offer for sale, purchase, or offer to purchase migratory birds, their parts, or their eggs taken under this part.

(a) *Eligible persons.* Under this part, you may take birds for human consumption only. Harvest and possession of migratory birds must be done using nonwasteful taking. Nonedible byproducts of migratory birds taken for food may be used for other purposes, except that taxidermy is not allowed.

(b) *Noneligible persons.* You may receive portions of birds or their eggs not kept for human consumption from eligible persons only if you have a valid permit issued under 50 CFR 21.27 for scientific research or education, and consistent with the terms and conditions of that permit.

[69 FR 17227, Apr. 2, 2004]

§§ 92.7–92.9 [Reserved]

Subpart B—Program Structure

§ 92.10 Alaska Migratory Bird Co-management Council.

(a) *Establishment.* The U.S. Fish and Wildlife Service hereby establishes, as authorized by the Protocol amending the Canada Treaty, a statewide management body to be known as the Alaska Migratory Bird Co-management Council.

(b) *Membership.* The Co-management Council must include Alaska Native, Federal, and State of Alaska representatives, as equals.

(1) The Federal and State governments will each seat one representative. The Federal representative will be appointed by the Alaska Regional Director of the U.S. Fish and Wildlife Service, and the State representative will be appointed by the Commissioner of the Alaska Department of Fish and Game. Regional partner organizations may seat 1 representative from each of the 12 regions identified in § 92.11(a).

(2) The Federal and State representatives and the collective Native representatives will each have one vote, for a total of three votes for the entire council.