

**1SUPPORTING STATEMENT A
FOR PAPERWORK REDUCTION ACT SUBMISSION**

**Regulations for the Taking of Migratory Birds for
Subsistence Uses in Alaska, 50 CFR Part 92
OMB Control Number 1018-0178**

Terms of Clearance: This is a request for a new OMB control number in conjunction with a rulemaking (RIN 1018-BF08) issued to propose changes to the migratory bird subsistence harvest regulations in Alaska. We are requesting approval for the permit and invitation letter information collections related with the Kodiak roaded area harvest monitoring in this request for a new OMB control number. We will request approval of the associated Alaska migratory bird subsistence harvest survey reporting requirements contained in this proposed rule under a separate but concurrent revision to OMB Control Number 1018-0124.

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

The Migratory Bird Treaty Act (MBTA) of 1918 (16 U.S.C. 703-712) and the Fish and Wildlife Act of 1956 (16 U.S.C. 742d) designate the Department of the Interior as the agency responsible for: (1) managing migratory bird populations that occur in the United States and (2) setting harvest regulations that allow for the conservation of bird populations. These responsibilities include collecting geographic and temporal data on the harvest of migratory birds. The MBTA Protocol Amendment (1995) provided for the customary and traditional subsistence use of migratory birds and their eggs by indigenous inhabitants of Alaska. The Amendment did not intend to cause significant increases in the take of migratory birds relative to their continental population sizes. A letter of submittal (May 20, 1996) from the Department of State to the White House accompanied the Amendment and specified the need for harvest monitoring. The letter stated that the U.S. Fish and Wildlife Service (USFWS), the Alaska Department of Fish and Game (ADF&G), and Alaska Native organizations would cooperatively collect data to produce harvest estimates for subsistence eligible areas.

In 2000, the USFWS created the Alaska Migratory Bird Co-Management Council (AMBCC) to implement provisions of the Amendment. The AMBCC is composed of representatives from the USFWS, the ADF&G, and regional Alaska Native partners. The AMBCC provides recommendations for harvest regulations and other topics related to harvest and conservation of migratory birds, and conduct harvest monitoring.

The take of migratory birds for subsistence uses in Alaska includes the spring and summer seasons, which are not included in the framework for the fall-winter sport harvest regulations. 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 in Alaska and specify when and where the harvesting of birds may occur. The migratory bird subsistence harvest regulations are developed cooperatively.

The AMBCC holds two in-person annual meetings. In the spring meeting, the AMBCC considers and votes on harvest regulation proposals that would take effect in the spring of the

next year. In 2020, due to the Covid-19 pandemic, the AMBCC met via teleconference on May 4, 2020, to discuss subsistence harvest regulations that would take effect during the 2021 harvest season. The AMBCC's recommendations were presented to the Pacific Flyway Council for review. The Flyway Council subsequently submitted recommendations on regulation proposals to the Service Regulations Committee (SRC). The SRC met on October 20–21, 2020 and considered recommendation by the Flyway Council.

We developed a proposed rule (RIN 1018-BF08) to update the regulations for the taking of migratory birds for subsistence uses in Alaska during the spring and summer. We developed these regulations under a co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives. The proposed changes would update the regulations to incorporate revisions requested via harvest regulation proposals.

On November 17, 2019, we issued a final rule (RIN 1018-BF12, 85 FR 73233) that allows migratory bird hunting and egg gathering by registration permit in the Kodiak Island Roded Area in the Kodiak Archipelago Region of Alaska for a 3-year experimental season (2020-2022) after which time the regulation would sunset. This rule amends the experimental season dates to be 2021-2023 and allows all residents of the Kodiak Archipelago Region the opportunity to participate in subsistence hunting activities without the need for a boat. Current regulations close the Roded Area to all subsistence migratory bird hunting and egg gathering, but allow these activities in adjacent marine waters beyond 500 feet from shore, including offshore islands where access requires a watercraft. The mandatory registration permit and the mandatory reporting of hunter activity and harvest will allow estimation of hunter participation, bird and egg harvest, and harvest composition during the 3-year experimental season. These data will inform a potential proposal and decision to reopen the Roded Area to subsistence hunting in the future. To protect species of conservation concern, spring–summer subsistence hunting and egg gathering for Arctic terns, Aleutian terns, mew gulls, and emperor geese would remain closed in the Roded Area.

Enforcement of regulations for the Kodiak Island Roded Area will be the responsibility of the Service's Office of Law Enforcement. Enforcement personnel are aware of cultural and traditional practices of migratory bird subsistence harvest by rural residents of Alaska who are eligible to participate for this permit hunt concurrent with the need to ensure conservation of migratory birds, particularly species of conservation concern; of the necessary adherence to specific regulations requiring a permit and mandatory harvest reporting; and that hunting and egg gathering of Arctic terns, Aleutian terns, mew gulls, and emperor geese would remain closed in the Roded Area.

Our final rule (RIN 1018-BF08, [86 FR 11707](#)) updates the regulations for the spring-summer subsistence harvest of migratory birds in Alaska. We developed these regulations under a co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives. These changes will update the regulations to incorporate revisions requested by Alaska Native partners. The partners representing the Kodiak Archipelago region requested a change to allow spring-summer harvest of migratory birds in the Kodiak roded area. To implement this change, we developed a permit and harvest reporting system in collaboration with the AMBCC local partner, the Sun'aq Tribe of Kodiak.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. Be specific. If this collection is a form or a

questionnaire, every question needs to be justified.

NOTE: All harvest data collection associated with the Alaska spring-summer regulations for migratory bird hunting in this proposed rule will be consolidated under a concurrent submission for RIN 1018-BF08 to revise OMB Control No. 1018-0124.

Tribal Council Invitation Letter

Regulations at 50 CFR 92.5(d) allow immediate family members (children, parents, grandparents, and siblings) of residents of eligible areas living in excluded areas to participate in the spring-summer subsistence harvest of migratory birds in a village's subsistence area. The regulations specify that participation of residents of excluded areas in the spring-summer harvest of migratory birds in an eligible area must be pre-authorized by a letter of invitation issued by a local tribal council within the harvest area.

Tribal Council Invitation Permit Request

In 2020, the Service issued final regulations (RIN 1018-BF12, 85 FR 73235, November 17, 2020) that established a permit as another method to invite an immediate family member residing in an excluded area to participate in the spring-summer subsistence hunt in a defined eligible area. The permit, issued by the Tribal Council certifies that the prospective hunter is an immediate family member as defined in 50 CFR 92.4 and is thereby authorized to assist family members in hunting migratory birds in a defined subsistence harvest area. The permit is valid for 2 years from the date of issuance.

Tribal Council Notification to AMBCC

Tribal councils will provide a copies of all letters of invitation regarding the invitation to hunt and of all issued permits to the Executive Director of the AMBCC.

AMBCC Notification to AK Region Office of Law Enforcement

Upon receiving copies of the letters of invitation and of issued permits from Tribal councils, the AMBCC Executive Director will inform the Service's Alaska Regional Office of Law Enforcement (AK-OLE) within 2 business days. To date, only two letters have been received.

Kodiak Island Roded Area Experimental Season Permit

The Service's 2020 final rule (RIN 1018-BF12) approved a 3-year experimental season for migratory bird hunting and egg gathering in the Kodiak Island Roded Area in the Kodiak Archipelago Region (50 CFR 92.31). Harvesting in the Kodiak roded area requires a mandatory permit and harvest reporting. The Sun'aq Tribe of Kodiak worked in close collaboration with the Alaska Department of Fish and Game (ADF&G) Division of Subsistence to develop a permit and harvest monitoring system. Permits are issued by the Sun'aq Tribe of Kodiak to individual harvesters. The Sun'aq tribe provide copies of issued permits to the ADF&G Division of Subsistence, which uses this information to manage the harvest reporting system. The permit includes fields to write the permit holder's name and mailing address as well as a field for the permit holder to sign acknowledging the terms of the permit. The permit also includes a map of the harvest area and description of the harvest regulations including the list of species opened to harvest. Permit data are securely disposed of after completion of the annual harvest data collection and analysis.

The regulation allows a 3-year experimental season (this proposed rule updates the seasons from 2020-2022 to the 2021–2023 subsistence seasons) for migratory bird hunting and egg gathering by registration permit along the Kodiak Island Roded Area in the Kodiak Archipelago Region of Alaska. The experimental season will terminate at the completion of the third year in

2023. Reopening the Roaded Area after the 3-year experimental period will require a subsequent proposal from the AMBCC for continuation of the season under either operational or experimental status.

Cordova Harvest Household Registration

The Service's final rule published on 8 April 2014 (79 FR 19454) authorized spring-summer harvest of migratory birds by residents of the community of Cordova in the Gulf of Alaska region. In 2017 the regulations were updated to allow residents of the neighboring communities of Tatitlek and Chenega to harvest in the area defined for the Cordova harvest (82 FR 16298). Local partners including the Eyak Tribe and the US Forest Service Cordova Office Chugach Subsistence Program worked in close collaboration with the Alaska Department of Fish and Game (ADF&G) Division of Subsistence to develop a household registration and harvest monitoring system using a post-season mail survey. Household registrations are issued by the Tribal councils of the communities of Cordova, Tatitlek, and Chenega as well as by the US Forest Service Cordova Office Chugach Subsistence Program. The registration form includes fields to write the permit holder's name and mailing address as well as a field for the permit holder to sign acknowledging the terms of the permit. The permit also fields to write the names of other household members authorized to harvest under the registration. Registration data are securely disposed of after completion of the annual harvest data collection and analysis.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden and specifically how this collection meets GPEA requirements.

The collection of information does not involve the use of electronic or other technological collection techniques. Tribal councils and the AMBCC may submit information electronically via email, as appropriate.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

The information collected in the above-mentioned permits, invitation letter, and registration is unique to households and individuals. This information applies specifically to the context of management of the subsistence harvest of migratory birds in Alaska. This information is not collected by or available from any other source.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

This collection will not have a significant impact on small entities.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Invitation to hunt: if we do not collect the information or if we collect the information less frequently, we would be unable to facilitate the Tribal councils' designations of residents of

excluded areas authorized to harvest in eligible areas. Collection of this information is vital for the Service's Alaska Regional Office of Law Enforcement to verify compliance with regulatory requirements.

Cordova registration and Kodiak roaded area permit: if we do not collect this information, we are unable to implement approved regulations intended to provide harvest opportunities and to ensure sustainability of populations of migratory birds.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- * **requiring respondents to report information to the agency more often than quarterly;**
- * **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- * **requiring respondents to submit more than an original and two copies of any document;**
- * **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
- * **in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- * **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- * **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- * **requiring respondents to submit proprietary trade secrets, or other confidential information, unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There are no special circumstances that require the USFWS to collect this information in a manner inconsistent with OMB guidelines.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and in response to the PRA statement associated with the collection over the past three years, and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years — even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

We prepared final regulations (RIN 1018-BF08, [86 FR 11707](#)) to solicit the necessary information to implement the necessary updates to the harvest regulations for the Kodiak rooded area, including the permit and harvest reporting requirements. A copy of the final rule is attached. The final rule is effective immediately upon publication. We will, however, accept and consider all public comments concerning the information collection requirements received in response to this final rule. Delaying the effective date for 30 days would have detrimental effects on Alaskans seeking to conduct subsistence harvest of migratory birds and on the businesses that support this activity. To respect the subsistence hunt of many rural Alaskans, either for their cultural or religious exercise, sustenance, and/or materials for cultural use (e.g., handicrafts), the Department of the Interior finds that it is in the public interest to make this rule effective as soon as possible. For these reasons, we find that “good cause” exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, to make this rule take effect immediately upon publication in the *Federal Register*.

The USFWS works cooperatively with Alaska Native and State of Alaska AMBCC partners when developing recommendations for harvest regulations and other topics related to harvest and conservation of migratory birds, including harvest monitoring. The AMBCC meetings are also open to public participation. AMBCC meetings are held twice a year, in spring and fall. The AMBCC regional bird councils meet in advance of the bi-annual AMBCC meetings to gather input at the local and regional levels.

- The AMBCC spring meeting is held prior to the Flyway Council meetings to review and vote on harvest regulation proposals that were submitted to the AMBCC by its regional bird councils, interested parties, or the public. The AMBCC accepts public comment on all regulatory and non-regulatory matters prior to any vote. The AMBCC package is provided to the four flyway councils to maintain communications and cooperation between the flyways. Recommendations from the AMBCC are ultimately sent to the Service Regulations Committee for their action during the meeting to act on late season proposals.
- The AMBCC fall meeting is held for the primary purpose of sharing information among all AMBCC partners, other interested parties, and the public to develop regulatory and other recommendations for migratory birds.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

This information collection does not provide payments or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

We do not provide any assurance of confidentiality. Information may be shared in accordance with the Privacy Act of 1974; the routine uses listed in System of Record Notices “Permits System–Interior, FWS–21” (September 4, 2003, 68 FR 52610; modification published June 4, 2008, [73 FR 31877](#)), Migratory Bird Population and Harvest Systems–Interior, FWS–26” (May 28, 1999, [64 FR 29055](#)); and, as described in the forthcoming Migratory Bird Data Repository and Harvest Information System Privacy Impact Assessments (PIA). We attached copies of SORNS and draft PIA to ICR in ROCIS. We will provide OMB with a copy of the final PIA as a non-substantive change request once the Service finalizes the document.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

We do not ask questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- * Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.
- * If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.
- * Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here.

The estimated number of responses is **234**, totaling **62 burden hours**, and an annual dollar value of the burden hours is **\$2,453** (rounded). We used Table 1 of Bureau of Labor Statistics (BLS) News Release [USDL-21-0437](#), March 18, 2021, Employer Costs for Employee Compensation—December 2020, to calculate the total annual burden.

- Individuals – the table lists the hourly rate for all workers as \$38.60, including benefits.
- Government – the table lists the hourly rate for all workers as \$53.47, including benefits.

To date, the AMBCC Executive Director has received two letters of invitation to hunt in the State of Alaska since the last revision of 50 CFR 92.5(d) in 2014 (79 FR 19454, April 8, 2014). Therefore, we are using placeholder values of 1 respondent for the ICs related to the letters of invitation and associated permits/notifications.

Table 12.1 – Burden Estimates

Requirement	Average Number of Annual Respondents	Average Number of Responses Each	Average Number of Annual Responses	Average Completion Time per Response	Estimated Annual Burden Hours*	Hourly Rate	\$ Value of Annual Burden Hours
<i>Tribal Council Invitation Letter (50 CFR 92.5)</i>							
Tribal Government	1	1	1	.5 Hour	1	\$ 53.47	\$ 53.47
<i>Tribal Council Invitation Permit Request (50 CFR 92.5)</i>							
Tribal Government	1	1	1	.5 Hour	1	53.47	53.47
<i>Tribal Council Notification to AMBCC (50 CFR 92.5)</i>							
Tribal Government	1	1	1	.5 Hour	1	53.47	53.47
<i>AMBCC Notification to AK Region Office of Law Enforcement (50 CFR 92.5)</i>							
Tribal Government	1	1	1	.5 Hour	1	53.47	53.47

Kodiak Island Roaded Area Experimental Season Permit (50 CFR 92.31)							
Individuals	200	1	200	.25 Hour	50	38.60	1,930.00
Cordova Household Registration (50 CFR 92.31)							
Individuals	30	1	30	.25 Hour	8	38.60	308.80
Totals:	234		234		62		\$ 2,452.68

*Rounded

13. Provide an estimate of the total annual non-hour cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected in item 12.)

- * The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information (including filing fees paid for form processing). Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.
- * If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- * Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

There is no non-hour cost burden to respondents. There are no fees associated with the letter or proposed permit.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

We estimate the cost to the Federal Government for law enforcement personnel to review documentation and determine authenticity of the handicraft is **\$3,483** (rounded).

We used the Office of Personnel Management's Salary Table [2021-AK](#) to determine the average hourly rates. In accordance with BLS News Release [USDL-21-0437](#), March 18, 2021, Employer Costs for Employee Compensation—December 2020, we multiplied the hourly wages by 1.6 to account for benefits.

Position and Grade	Hourly Rate	Hourly Rate (incl. benefits)	Total Annual Hours	Annual Cost
Supervisory Biologist (GS-15/5)	\$ 77.78	\$ 124.45	10	\$ 1,244.50
Federal Law Enforcement Officer (GS 13/5)	55.96	89.53	25	2,238.25
Totals:				\$ 3,482.75

15. Explain the reasons for any program changes or adjustments in hour or cost burden.

This is a request for a new OMB control number in conjunction with a rulemaking (RIN 1018-BF08).

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

We will not publish any information.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The OMB control number and expiration date will be displayed on the forms.

18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

There are no exceptions to the certification statement.