

## **USFWS/REGION 7/MBM/AMBCC**

### **Finding of No Significant Impact**

### **Migratory Bird Subsistence Harvest in Alaska; Harvest Regulations for Migratory Birds in Alaska During the 2026 Spring/Summer Season**

#### Introduction

The United States is a signatory to international agreements (known as treaties) on migratory bird conservation and protection in North America with Great Britain (for Canada), Mexico, Japan, and the U.S.S.R. The 1916 Convention for the Protection of Migratory Birds in Canada and the United States (Canada Treaty) between the United States and Great Britain is the earliest and, until recently, the most restrictive agreement regarding the subsistence use of migratory birds. With limited exception, the Canada Treaty prescribed a closed season on the harvest of migratory birds between March 10 and September 1 of each year, which in effect prohibited many peoples of northern Canada and Alaska from taking birds during their primary subsistence harvest period. In 1995, after many years of discussion and negotiation, Canada and the United States signed a Protocol amending the Canada Treaty (Protocol), which provided for a regulated and legal subsistence harvest of migratory birds by eligible people between March 10 and September 1.

As directed by the Protocol, the U.S. Fish and Wildlife Service (Service) initiated statewide public meetings in 1998 to determine what system of implementation would best meet the needs of traditional harvesters in Alaska. Based on input from that public process, the Service established an organizational structure composed of three elements to meet the mandates of the Protocol. First, the Alaska Migratory Bird Co-Management Council (AMBCC), which consists of Federal, State, and Alaska Native representatives serving as equal partners, was established. Second, regional management bodies consisting of local people were established to provide input to the AMBCC. Regional boundaries established by the Alaska Native Claims Settlement Act of 1971 were adopted by the AMBCC and announced in the Federal Register. Third, partner organizations responsible for implementing this process were identified within each region.

The regulatory recommendations presented in Alternative 2 of this document were developed by the AMBCC and the regional partners. Based on the AMBCC's recommendations, the Service proposes to open a legal and regulated subsistence harvest during spring and summer of 2026, as provided for in the Protocol. Regulations for the proposed harvest prescribe season dates (outer limits for dates when harvesting of birds may occur), species that can be taken, and methods and means of take.

#### Proposed Action

The proposed action is opening the 2026 spring/summer migratory bird subsistence harvest season using baseline regulations in Title 50 Code of Federal Regulations (CFR) Part 92. These baseline regulations include: 1) a list of prohibited methods and means and 2) season opening and closing dates by region, including a closure period of no less than 30 days

within the open season to protect nesting birds. The harvest will also occur within the constraints imposed by the four international migratory bird treaties (i.e., season dates must be between March 10 and September 1). Regulations allow continuation of the longstanding traditional harvest of migratory birds during spring and summer in Alaska and provide a mechanism for co-management of this resource among the Service, the State of Alaska, and permanent residents of included areas.

This proposed action could affect nesting migratory birds. The 1972 Convention for the Protection of Migratory Birds and Birds in Danger of Extinction, and their Environment between the United States and Japan (Japan Treaty) states that hunting seasons shall be set to avoid birds' principal nesting seasons. To minimize the effects to nesting birds and comply with the Japan Treaty, 30-day or longer harvest closure periods have been implemented for each region during the breeding season.

Consultation was conducted with the Service's Northern Alaska Fish and Wildlife Field Office (USFWS 2026a) to evaluate the effects of the proposed action on threatened spectacled eiders (*Somateria fischeri*) and the Alaska-breeding population of Steller's eiders (*Polysticta stelleri*) in accordance with section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531et seq.). The justifications for why the proposed action would not jeopardize the continued existence of spectacled eiders or the Alaska-breeding population of Steller's eiders were summarized by the following:

#### **Steller's eiders**

Available data suggest that very few Steller's eiders, perhaps tens of individuals, breed in western Alaska (USFWS 2025), and the Alaska-breeding population primarily consists of individuals breeding in northern Alaska. Three surveys provide some information on the number of Steller's eiders present on the Arctic Coastal Plain (ACP) annually. These are the ACP Waterfowl Breeding Population Survey (ACP Survey), the Utqiagvik Triangle Survey, and the Utqiagvik ground-based breeding pair survey. Design and caveats of each survey are described in detail in the Steller's Eider Species Status Assessment (USFWS 2025). Posterior mean population size over the last 20 years for the Triangle Survey area only (excluding 2020) was 214 Steller's eiders (95% CI: 111-402) and for the combined Triangle and ACP survey data (for inference to the ACP as a whole) was 406 Steller's eiders (95% CI: 208-750; Osnas 2024, USFWS 2025).

The best available estimate of ACP breeding Steller's eiders (406; Osnas 2024, USFWS 2025) is <1% of the estimate of Pacific-wintering Steller's eiders from 2011 (74,369; Larned 2012a). Thus, the listed Alaska-breeding population is thought to represent only a small proportion of the Pacific-wintering population of Steller's eiders. However, this estimate should be interpreted with caution when characterizing the size of the Alaska-breeding population. Several caveats are outlined in the Steller's eider Species Status Assessment, including low confidence given the number of actual observations and the high annual variation in estimates resulting in low precision (USFWS 2025). It is important to note that because the population is relatively small, it may be more vulnerable to stochastic events and anthropogenic effects.

Harvest: Although indigenous knowledge suggests Steller's eiders were not specifically

targeted for subsistence, an unknown level of incidental harvest occurred across the North Slope prior to listing spectacled and Steller's eiders under the Endangered Species Act. All harvest of spectacled and Steller's eiders was closed in 1991 by State and Federal regulations, and outreach efforts have been conducted by the Service, North Slope Borough, and Bureau of Land Management to encourage compliance. However, AMBCC harvest surveys have indicated that at least some Steller's eiders continue to be incidentally taken during subsistence activities on the North Slope. Ongoing efforts to help subsistence users avoid incidental harvest are being implemented in North Slope villages, particularly at Utqiagvik. Although estimates are imprecise, harvest of all migratory bird species, including listed eiders, were reported annually by the AMBCC Harvest Assessment Program through 2019.

The Service expects roughly tens of Alaska-breeding Steller's eiders have been harvested in some years, although harvest likely varies considerably among years with the species availability to harvest. We expect Steller's eiders face the highest mortality risk near Utqiagvik, where most of the Alaska-breeding population nests proximal to the largest community on the North Slope. In addition to mortality from shooting, adverse effects of the Action also include potential egg harvest; however, due to their low nesting density, we expect no Steller's eider eggs are harvested in most years, and a small number of nests may be disturbed during harvest of other species open to harvest.

The Service anticipates up to seven adult and/or juvenile Steller's eiders could be shot and killed, and no eggs would be lost due to harvest during the 2026 spring/summer season (USFWS 2026a). It is difficult to estimate the actual number of Steller's eiders that could be taken by the proposed action because harvest data has been imprecise, but the above estimate equates to a very low percentage (1.7 percent) of the Alaska-breeding population of Steller's eiders (USFWS 2026a).

The small size of the Alaska-breeding population, the lack of information from which to adequately assess the risk from subsistence harvest on the population, and the apparent vulnerability of Steller's eiders to harvest mortality in Utqiagvik is of concern to the Service. While we believe it is unlikely the subsistence harvest season will appreciably reduce the likelihood of survival and recovery of Alaska-breeding Steller's eiders, given uncertainty surrounding harvest and population status, we cannot be certain jeopardy will not result if the harvest is left unmitigated. Therefore, to meet the obligation that we ensure the proposed action will not appreciably reduce the likelihood of survival and recovery of the Alaska-breeding population of Steller's eiders, the Service has: 1) committed to ongoing aerial and ground-based monitoring efforts in breeding areas to identify high-use areas and population size and trends, which help inform management decisions, 2) committed to maintain law enforcement officers that can respond to harvest reports on the North Slope during the harvest, and if they respond can help ensure compliance with regulations prohibiting harvest of Steller's eiders and conduct outreach, and 3) committed to ongoing, long-term, collaborative outreach and education with hunters and North Slope residents. Combined, we believe these efforts will reduce the effects of the proposed action on Alaska-breeding Steller's eiders, including harvest in spring, summer, and fall, to the point that we have ensured that the 2026 harvest season will not appreciably reduce the likelihood of survival and

recovery of Alaska-breeding Steller's eiders.

### **Spectacled eiders**

All three breeding populations winter together in one area of the Bering Sea, and surveys of spectacled eiders in the wintering area therefore present an opportunity to estimate the size of the global population. An aerial survey conducted in March 2010 resulted in an estimate of 369,122 spectacled eiders (90% CI = 364,190–374,054; Larned et al. 2012b). This survey was designed to be a census and was conducted under optimal conditions, and we consider the estimate to be an accurate minimum size of the global population (USFWS 2021). The most recent winter aerial survey was conducted in March 2023, using improved methods to account for incomplete detection of birds. Analyses of the 2023 survey are ongoing and results are expected late in 2026.

*Yukon-Kuskokwim Delta breeding population* – To estimate the abundance and growth of the Yukon-Kuskokwim Delta (Y-K Delta) breeding population over the most recent time period, Dunham et al. (2021) used a Bayesian state-space model and annual estimates of breeding birds (2007 to 2019), corrected for detection. The posterior mean abundance of the Y-K Delta breeding population in 2019 was 16,113 eiders (95% CRI = 12,313–21,352; Dunham et al. 2021). This estimate represents breeding birds in the Y-K Delta population and does not include non-nesting individuals and juveniles that may have remained in marine areas. The posterior mean (log) population growth rate of the Y-K Delta breeding population was 0.016 (95 percent CRI: -0.065–0.091) from 2007 to 2019 (Dunham et. al. 2021). In addition, the Service conducted an Integrated Population Model-Population Viability Analysis (IPM-PVA) to estimate population abundance and growth rate of spectacled eiders using the available demographic data and population abundance data. The IPM-PVA model is detailed in USFWS (2021). The IPM-PVA estimated mean abundance of the Y-K Delta breeding population in 2019 as 14,027 spectacled eiders (95% CI = 9,781–18,257), and the mean annual population growth rate from 1988 to 2019 as 1.053 (95% CI = 1.035–1.069; USFWS 2021).

*ACP breeding population* – To estimate the abundance and growth of the ACP breeding population over the most recent time period, Dunham et al. (2021) used a Bayesian state-space model and annual estimates of breeding birds (2007 to 2019), corrected for detection. The posterior mean abundance of the ACP breeding population in 2019, which is the best available estimate for the number of spectacled eiders breeding in this region, is 6,401 eiders (95% CRI = 3,766–9,750; Dunham et. al. 2021). The posterior mean (log) population growth rate of the ACP breeding population is -0.005 (95% CRI: -0.092–0.082) from 2007 to 2019 (Dunham et. al. 2021). The IPM-PVA estimated mean abundance of the ACP breeding population in 2019 as 5,408 spectacled eiders (95% CI = 3,696–7,364), and the mean annual population growth rate from 1988 to 2019 as 0.996 (95% CI = 0.982–1.008). Restricted to 2007 – 2019, the mean annual (log) growth rate is estimated as -0.025 (95 percent CRI: -0.055 – 0.004; USFWS 2021).

**Harvest:** While the accuracy of harvest estimates may be affected by misidentification, reports of spectacled eider harvest are generally consistent with known spectacled eider distribution and therefore are conceivable. Numerous unquantifiable biases render estimation of annual harvest impractical; however, these data, combined with information on spectacled eider availability, direct observations, and information from local residents

suggest roughly tens to hundreds of adult and/or juvenile spectacled eiders are harvested each year. In addition to mortality from shooting, adverse effects of the proposed action also include potential egg harvest, and we expect small numbers (low tens) of spectacled eider eggs may be harvested annually.

The Service anticipates up to 264 adult and/or juvenile spectacled eiders could be shot and killed and up to 14 eggs could be lost due to harvest during the 2026 spring/summer harvest season (USFWS 2026a). It is difficult to estimate the actual number of spectacled eiders that could be taken by the proposed action because harvest data has been imprecise, however this estimate equates to a very low percentage (0.07 percent) of the listed U.S. population of spectacled eiders (conservatively based on a crude minimum population estimate; USFWS 2026a).

#### Alternatives and Environmental Effects

The Service has analyzed three alternative actions in the Environmental Assessment (EA; USFWS 2026b): 1) The no action alternative (do not open the spring/summer subsistence harvest season), 2) The proposed action (open a spring/summer season in 2026 with similar regulations to 2025 except for changing the name of the Upper Copper River region to the Ahtna Territory region and changing the season dates for the Upper Copper River region), and 3) Open a spring/summer season which incorporates fall/winter season regulations.

1. Under Alternative 1, the Service would not open the spring/summer harvest of migratory birds and their eggs in Alaska. This would be the first time the season would be closed in over 20 years, making the harvest of migratory birds for subsistence purposes in Alaska illegal.
2. Under Alternative 2, the Service would seek to open a spring/summer harvest of migratory birds and their eggs, which is allowed under the Protocol. The harvest regulations for 2026 would follow similar regulations to 2025 except for two AMBCC recommended changes: 1) change the name of the Upper Copper River region to the Ahtna Territory region, and 2) change the season dates for the Upper Copper River region within Alaska State Game Management Units (GMUs) 11 and 13. The harvest would occur within the constraints imposed by the treaties. Also, the mandate to legalize the customary and traditional subsistence harvest of migratory birds by permanent residents of villages within subsistence harvest areas would continue to be enacted. Migratory bird populations are not expected to be significantly affected because of current population sizes, harvest levels, and growth rates.
3. Under Alternative 3, the Service would seek to open a spring/summer harvest of migratory birds and their eggs using the more restrictive regulations of the fall/winter hunting season. Fall/winter season methods and means would be adopted (e.g., shotgun only with a 3 shotshell capacity), bag limits for individual hunters would be imposed, and fall/winter regulations on exchange and transport of birds and bird parts would apply. Some take of Federally listed migratory bird species would be expected, but listed species would not be expected to be significantly affected.

## **Environmental effects**

The environmental effects of the proposed action on aspects of the human environment were analyzed in the EA. There are no adverse or existing direct or cumulative effects related to subsistence socioeconomics under Alternative 2.

### Selected Action and Summary of Effects

We have analyzed a reasonable range of alternatives including the proposed action, no action, and another reasonable alternative. The proposed action, Alternative 2, was selected as the preferred alternative over other alternatives because we have determined the harvest regulations proposed will not have direct, cumulative, significant, or adverse effects on the human environment and are the most practicable for subsistence hunters.

Alternative 2 also provides a regulatory process for managing a subsistence harvest that has a long history. The harvest would likely continue unregulated and unmanaged without the current regulatory process. The current process provides a mechanism for obtaining the cooperation of, and agreement by, Alaska Native peoples and other subsistence users by building a foundation for an extensive outreach program for bird conservation objectives and how such objectives relate to managing harvest, including avoidance of harvesting Federal listed species. This alternative also best satisfies the purpose and need for legally recognizing customary and traditional migratory bird spring/summer subsistence harvest opportunities as specified by the 1995 Protocol amending the Canada Treaty.

Findings from the Endangered Species Act consultation are included in the Biological Opinion for the Migratory Bird Subsistence Hunting in Alaska: Regulations for the 2026 Spring/Summer Harvest (USFWS 2026a). The consultation concluded that the 2026 spring/summer harvest regulations would not jeopardize the continued existence of spectacled eiders or the Alaska-breeding population of Steller's eiders.

### Public Review and Comment Period

The proposed changes to the regulations included in the proposed action (Alternative 2) underwent a 30-day public comment period associated with the proposed rule starting on March 9, 2026 (91 Federal Register 11266). By the end of the comment period on April 8, 2026, we received six comments pertaining to the proposed rule. None of the six comments received offered substantive reasons to redact or revise the rule. Therefore, we made no changes to the proposed rule in the final rule and the final rule is pending publication. Copies of the EA (USFWS 2026b) and this finding of no significant impact will be made available at the Service's AMBCC website (<https://www.fws.gov/office/alaska-migratory-birds/alaska-migratory-bird-co-management-council>) and provided upon request to all interested parties.

### Determination: Finding of No Significant Impact

Based on a review and evaluation of the information contained in the EA, we have determined that the preferred alternative (Alternative 2) is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969. Accordingly, the preparation of an Environmental Impact Statement on the proposed action is not required. The EA prepared by the Service (USFWS 2026b) has been adopted by the Service according to rules contained in 40 CFR 1506.3.

Supporting references:

Dunham K.D., Osnas E.E., Frost C.J., Fischer J.B., and Grand J.B. 2021. Assessing recovery of spectacled eiders using a Bayesian decision analysis. PLoS ONE 16(7): e0253895. <https://doi.org/10.1371/journal.pone.0253895>

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USFWS. 2025. Species Status Assessment for the Alaska-breeding Population of Steller's Eiders (*Polysticta stelleri*), Version 2.0, March 2025. USFWS Northern Alaska Fish and Wildlife Field Office, Fairbanks, Alaska. 209 pp.

USFWS. 2021. Species Status Assessment for Spectacled eider (*Somateria fischeri*). September 29, 2021. Fairbanks Fish and Wildlife Field Office, Fairbanks, Alaska. 150 pp.

USFWS. 2026a. Biological Opinion for the Migratory Bird Subsistence Hunting in Alaska: Regulations for the 2026 Spring/Summer Harvest. Unpubl. Rep. Northern Alaska Fish and Wildlife Field Office, U.S. Fish and Wildlife Service, Fairbanks, Alaska. Signed April 1, 2026. 107 pp.

USFWS. 2026b. Environmental Assessment for Managing Migratory Bird Subsistence Hunting in Alaska: Regulations for the 2026 Spring/Summer Harvest, U.S. Fish and Wildlife Service, January 22, 2026.

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