

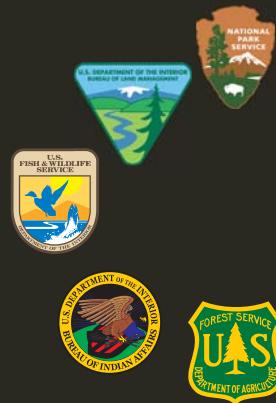


SEWARD PENINSULA  
SUBSISTENCE REGIONAL  
ADVISORY COUNCIL

Meeting Materials

*November 1 - 2, 2016*

*Nome*



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*Photo by Palma Ingles*

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**SEWARD PENINSULA SUBSISTENCE REGIONAL ADVISORY COUNCIL**

Nome Mini-Convention Center  
Nome

November 1-2, 2016: 9:00a.m. Daily

**TELECONFERENCE:** call the toll free number: 1-866-820-9854, then when prompted enter the passcode: 4801802.

**PUBLIC COMMENTS:** Public comments are welcome for each agenda item and for regional concerns not included on the agenda. The Council appreciates hearing your concerns and knowledge. Please fill out a comment form to be recognized by the Council chair. Time limits may be set to provide opportunity for all to testify and keep the meeting on schedule.

**PLEASE NOTE:** These are estimated times and the agenda is subject to change. Contact staff for the current schedule. Evening sessions are at the call of the chair.

**AGENDA**

\*Asterisk identifies action item.

- 1. **Call to Order** (*Chair*)
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- 3. **Welcome and Introductions** (*Chair*)
- 4. **Review and Adopt Agenda\*** (*Chair*) ..... 1
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  - Chair’s Report
- 7. **Public and Tribal Comment on Non-Agenda Items** (available each morning)
- 8. **Old Business** (*Chair*)
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(Time limit of 15 minutes unless approved in advance)

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**14. Closing Comments**

**15. Adjourn (Chair)**

**To teleconference** into the meeting, call the toll free number: 1-866-820-9854, then when prompted enter the passcode: 4801802.

*Reasonable Accommodations*

The Federal Subsistence Board is committed to providing access to this meeting for all participants. Please direct all requests for sign language interpreting services, closed captioning, or other accommodation needs to Karen Deatherage, 907-786-3564 or karen\_deatherage@fws.gov or 800-877-8339 (TTY), by close of business on October 21, 2016.

DRAFT

**REGION 7**  
**Seward Peninsula Subsistence Regional Advisory Council**

<b>Seat</b>	<b>Year Appointed <i>Term Expires</i></b>	<b>Member Name and Community</b>
<b>1</b>	2014 <b>2018</b>	<b>Theodore Katcheak</b> Stebbins
<b>2</b>	1995 <b>2016</b>	<b>Peter G. Buck</b> White Mountain <span style="float: right;"><b>Secretary</b></span>
<b>3</b>	2010 <b>2016</b>	<b>Louis H. Green, Jr.</b> Nome <span style="float: right;"><b>Chair</b></span>
<b>4</b>	2010 <b>2016</b>	<b>Tom L. Gray</b> Nome <span style="float: right;"><b>Vice-Chair</b></span>
<b>5</b>	2014 <b>2017</b>	<b>Joseph A. Garnie</b> Teller
<b>6</b>	2014 <b>2017</b>	<b>VACANT</b>
<b>7</b>	2008 <b>2017</b>	<b>Fred D. Eningowuk</b> Shishmaref
<b>8</b>	1994 <b>2018</b>	<b>Elmer K. Seetot Jr.</b> Brevig Mission
<b>9</b>	2012 <b>2018</b>	<b>Charles F. Saccheus</b> Elim
<b>10</b>	2015 <b>2018</b>	<b>Ronald D. Kirk</b> Stebbins

SEWARD PENINSULA SUBSISTENCE REGIONAL ADVISORY COUNCIL

Eagan Center, Anchorage

March 9, 2016

Meeting Minutes

Roll call, quorum established with seven members present (Theodore Katcheak, Tom Gray and Charles Saccheus, Louie Green, Fred Eningowok, Ronald Kirk, Peter Buck). Absent: Elmer Seetot (excused), Amos Oxeroek (excused) and Joseph Garnie (excused)

The meeting was called to order at 8:50 a.m.

**Welcome and Introductions**

*Agency present:*

Karen Deatherage, OSM, Anchorage  
Robbin LaVine, OSM, Anchorage  
Orville Lind, OSM, Anchorage  
Chris McKee, OSM, Anchorage  
Suzanne Worker, OSM, Anchorage  
Lisa Maas, OSM, Anchorage  
Dan Sharp, BLM, Anchorage  
Glenn Chen, BIA, Anchorage  
Mary McBurney, NPS Anchorage  
Ken Adkisson, NPS, Nome  
Hannah Atkinson, NPS, Kotzebue  
Hilary Robison, NPS, Kotzebue  
Brendan Scanlan, ADFG  
Drew Crawford, ADFG  
Tony Gorn, ADFG (via telephone)  
Carmen Daggett, ADFG (via telephone)

*Tribes and Public Present*

Roy Ashenfelter, Kawerak  
Calvin Moto, Deering  
Neil DeWitt, Anchorage

**Agenda**

Agenda was amended to add Rural Determination Update under Old Business and Joint Council Letter to the Federal Subsistence Board under New Business. Buck moved to approved agenda as amended. Seconded by Eningowuk. Motion passed unanimously.

**Council Officer Nominations**

Nominations for Chair were opened. Buck nominated Green. Seconded by Kirk. Nominations closed. Green opened nominations for Vice-Chair. Tom Gray. Nominations closed. Green opened nominations for Secretary. Peter Buck. Nominations closed.



### **Approval of Minutes**

Deatherage noted a request to strike the following sentence from page SP-8 of the Fall, 2015 minutes, 1<sup>st</sup> paragraph on WP16-47, “population estimates show moose in 22E have decreased 14% annually over the last three years”. Katcheak moved to approve the minutes as corrected. Seconded by Seetot. Motion passed with Kirk abstaining.

### **Council Member Reports**

*Peter Buck.* Ice is really thick now. We generally go oogruk hunting until the end of April. The thin ice means babies won't have ice and oogruk will have to go onshore.

*Tom Gray.* Winter was very warm with lots of snow. Ice conditions are not good. We are struggling with caribou bull hunting season. An Agenda Change Request (ACR) to remedy this has gone before the Board of Game. We still have a lot of wolves with packs of 15-18. I only got two belugas last year because of high winds. This was the first time in 40 years I've seen Kings and reds coming into the Sinuk and Pilgrim Rivers. Chum runs were also excellent.

*Fred Eningowuk.* While there is a decline in the Western Arctic caribou herd, there are a lot of caribou in our area all year round. Ice conditions were different and climate is affecting our way of life. We have to get our boats/gear ready a month earlier to harvest marine mammals. Hunters got a lot of wolves and wolverine this year because there were a lot of caribou in the area. Saw three kinds of birds I've never seen before winter over in area.

*Ronald Kirk.* Climate change is affecting everything. We have ice but open water towards Romanoff Point. Shore ice is only four feet thick. Moose stayed in village this year. Wolves are going after our reindeer herds. Salmon runs were good. Oogruks have sores on them.

*Charles Saccheus.* There were bowhead whales in front of Elim the first week of January and 200-300 white whales. Ice was unstable this year. Belugas were in front of Elim all winter but we didn't hunt them because the ice was too thin. Caribou (Teshepuk Herd) hunting was good. There were lots of chum, Kings and silvers. Commercial fishing was good. Mild temperatures and little snow shows global warming is affecting our village too.

*Green.* Wolves are being targeted by hunters on the Seward Peninsula. Used to be 600,000 reindeer. Wolves and bears are an issue. Wolves are also eating salmon. Ice conditions are changing. Marine mammal hunting is changing.

*Katcheak.* I'm a reindeer herder/owner and tribal member. Caribou hunting was closed in some areas because of reindeer. We need to address the conflicts between reindeer herders and subsistence gathering of food. Temperatures are rising, and because our area is flat, there is no snow on the ice. It is dangerous to go out seal or walrus hunting. There is clear ice over tundra so traveling by snowmachine is very hard.

## **Tribal and Public Comments**

Calvin Moto from Deering spoke about the relationship between the Northwest Arctic and Seward Peninsula Councils. Caribou hunting is tough out there with both black and thin ice on the tundra. Hunters had to use hills to get to hunting places from Deering for caribou in the Bering Land Bridge. Short cow seasons make it difficult because locals don't see many bulls. The moose are migrating west. When I was chairman of the ADFG Advisory Committee we didn't have many caribou, then we had 400,000. What happened? I think some get diverted by roads and traffic.

## **Old Business**

### NPS Proposed Rule on Subsistence Collections

Mary McBurney presented the NPS Proposed Rule on Subsistence Collections, including possession of live animals and bear baiting materials. The collection of live animals, such as raptor chicks, does not fall under the ANILCA category allowing for hunting and trapping. Bait used for bears would be limited to natural materials in order to comply with NPS prohibitions against feeding bears. For this region, the Proposed Rule would be applicable to the Bering Land Bridge National Preserve. The review is open for comment until April 12<sup>th</sup>.

The Council did not go on record opposing or supporting the Proposed Rule in its entirety. Individual Council members expressed cultural concerns with baiting bears as it is not a natural process nor is it practiced in many communities. The collection of antlers poses a problem for reindeer herders. People travel from different villages to collect and sell reindeer antlers to handicraft vendors, and do not acknowledge that reindeer are private property. The requirement to obtain written authorization from the Superintendent to collect non-edible materials hinders a long-standing customary and traditional practice. The NPS should consider a blanket authorization to tribes or the IRA's so all members would be approved under one permit. NPS should reconsider the prohibition on the sale of raw materials collected from parklands. Antlers have been used for traditional carvings for thousands of years. These materials are a financial asset to villages where there is no cash economy. There was opposition to the capture and use of live falcon chicks.

Roy Ashenfelter testified on the Proposed Rule. He noted that Wales and Shishmaref have good opportunities to collect and sell horns. He is opposed to the collection and use of live falcon chicks and baiting bears. He believes there are ample opportunities to hunt bears and that baiting bears would not be good on parklands.

Gray motioned to authorize Green and Deatherage to compose a letter to the NPS incorporating Council member comments on the Proposed Rule. Seconded by Buck and carried unanimously.

### Wildlife Proposals

WP16-45. Worker presented OSM modifications to WP16-45, a proposal submitted by the Council to expand the caribou hunt area in 22E westward to Trout Creek. Following conversations with reindeer herders in Wales, OSM modified the hunt area to Tin Creek. Worker

pointed out there is still a To-Be-Announced season west of the Tin River which would allow for a hunt if caribou are present.

WP16-37. This proposal affected caribou hunting regulations over several regions. Worker reported on the OSM conclusion for Unit 22 which is nearly identical to the Council's recommendations from the Fall, 2015 meeting. Worker also pointed out that it is very similar to the ACR to the BOG submitted by Charlie Lean.

Tony Gorn, area biologist for Nome reported on the ACR to the BOG regarding caribou in GMU 22. The ACR was brought forth by the Southern and Northern Norton Sound Fish and Game Advisory Committees (AC) and is now Proposal #140. Gorn outlined the bag limit of 5 caribou per day with an annual limit of 20, and harvest ticket registration permits for the hunt. Worker remarked that the federal regulations will be aligned with the ACR.

Worker shared the OSM modifications to the hunt areas in the Pilgram and Niukluk river drainages. The revised OSM conclusion is to have an open season October 1 through April 30<sup>th</sup> and a May-Be-Announced for the remaining months which aligns with state regulations. This change provides a bit more opportunity than what the Council had originally requested.

#### Rural Determination

Lind reported on the timeline for Rural Determination, citing the chart distributed to the Council and public.

#### Annual Report

Katcheak motioned to adopt the Annual Report as written. Seconded by Kirk and carried unanimously.

#### **New Business**

WSA 16-01. Worker presented Wildlife Special Action (WSA) request 16-01 from the Northwest Arctic Council was presented. WSA16-01 requests to close caribou hunting in Unit 23 to all non-federally qualified users.

**Calvin Molder Sr.** from Deering testified in support of WSA16-01, stating that the caribou herd is small and it is difficult to understand non-federally qualified users coming to hunt. They leave a lot of garbage and only want antlers. He also expressed concern about impacts of icing events and bear predation on the caribou. **Worker** explained that non-locals have a small influence (less than 5%) on the number of caribou harvested in this unit. **Roy Ashenfelter** testified against WSA16-01 stating that it didn't resolve conservation issues with the herd, and would concentrate non-locals on state lands, resulting in the same volume of hunters. **Gray** remarked that the Western Arctic Caribou Herd management plan would address issues of non-local and non-resident hunters. He also stated that the state has gone from 5 to 1 animals for non-residents, and this decrease should be given time to evolve. **Neil DeWitt** from the Anchorage Fish and Game Advisory Council (speaking on his own behalf) testified that WSA16-01 would not help the herd, but reducing cow harvests in April would.

Gray motioned to oppose WSA16-01. Seconded by Kirk and carried unanimously.

Fisheries Resource Monitoring Program (FRMP)

LaVine presented the next cycle of the FRMP program and encouraged participation. Brendon Scanlon from ADFG stated the need for a Federal nexus if projects were to occur on state lands. Gray recommended work on Niukluk River for silvers and Kings. Eningowuk referenced whitefish in rivers in the Park. Gray pointed out that the Kuzitrin and Noxapaga rivers go into the Park. Roy Ashenfelter remarked that Shishmaref, Unalakleet and Wales would qualify for fresh water studies. Scanlon offered to assist if the Council wanted to put together FRMP proposals.

Call for Proposals to Change Federal Subsistence Regulations for Fish and Shellfish on Federal Public Lands for the 2017-2019 regulatory years. Deatherage read the Call for Proposals for the record.

Proposal to the Alaska Board of Game on GMU 22 Moose

Gray moved to add the Proposal to the BOG on GMU 22 Moose to the Agenda under New Business. Seconded by Buck and carried unanimously. Tony Gorn reiterated his concern with significant decline of moose in GMU 22D. Decline may have been redistribution of moose from GMU 22D to 22E. Moose in GMU 22E remain stable with higher densities than expected. State lowered the non-resident hunt in 22D from 10 to 3 bulls a year.

Gray motioned to support a proposal to the Board of Game requesting closure of all non-resident moose hunting in GMU's 22D remainder and 22E. Seconded by Eningowuk and carried unanimously

Western Arctic Parklands Report (WEAR)

Ken Adkinson distributed a brief summary on Western Arctic parklands, including a project in the Bering Land Bridge for red-throated and yellow-billed loons, as well as updated survey results for bears.

ADFG Update

Arctic and Western Region BOG proposal deadline is April 29, 2016 at 5:00 p.m.

Joint Letter from All Councils

The Council was interested in signing on. They also recommended adding stipends or honorariums to help members attend.

**Future Meeting Dates.** The Council elected to meet March 6-7, 2017 in Nome. Old St. Joe's may not be available. The new board room at the North Slope EC office may be available.

**Closing Comments**

Saccheas. This was a long meeting. I had to leave a couple of jobs to come down. Thank you for the information.

Katcheak. We have long way to go to fix conflicts between reindeer herders and caribou hunting.

Buck. I didn't understand that the Seward Peninsula Council meeting was going to be held with the All Councils meeting. It was good to get together with other councils and get the procedures we need to follow.

Kirk. I enjoy being on the Council for the first time. My main concern is that we are pressing for time and don't have time to study issues and make proper decisions.

Eningowuk. It was an interesting and educational meeting.

Gray. I hope to see some fish projects and like the idea of bringing all the councils together.

Green. Thanks for the vote of confidence for chair seat. We'll be back in Nome in November. Thankful to Tim Smith who had a lot of insight, I learned a lot from him. He will be missed.

Buck. White Mountain has a policy and will reimburse me for the money I didn't get for this meeting.

Kirk motioned to adjourn. Seconded by Buck and carried unanimously.

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.

March 9, 2016

/s/  
*Karen Deatherage*, DFO  
USFWS Office of Subsistence Management

/s/  
*Louie Green, Chair, Jr. Seward Peninsula Subsistence Regional Advisory Council*

These minutes will be formally considered by the Seward Peninsula Subsistence Regional Advisory Council at its next meeting, and any corrections or notations will be incorporated in the minutes of that meeting.

## **POLICY ON NONRURAL DETERMINATIONS**

### **FEDERAL SUBSISTENCE BOARD**

Adopted \_\_\_\_\_, 2017

#### **PURPOSE**

This policy clarifies the internal management of the Federal Subsistence Board (Board) and provides transparency to the public regarding the process of making or changing nonrural determinations of areas or communities for the purpose of identifying rural residents who may harvest fish and wildlife for subsistence uses on Federal public lands in Alaska. This policy is intended to clarify existing practices under the current statute and regulations. It does not create any right or benefit, substantive or procedural, enforceable at law or in equity, against the United States, its agencies, officers, or employees, or any other person.

#### **INTRODUCTION**

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) declares that, “the continuation of the opportunity for subsistence uses by rural residents of Alaska, including both Natives and non-Natives, on the public lands and by Alaska Natives on Native lands is essential to Native physical, economic, traditional, and cultural existence and to non-Native physical, economic, traditional, and social existence; the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply rural residents dependent on subsistence uses” (ANILCA Section 801). Rural status provides the foundation for the subsistence priority on Federal public lands to help ensure the continuation of the subsistence way of life in Alaska. Prior to 2015, implementation of this section and making rural determinations was based on criteria set forth in Subpart B of the Federal subsistence regulations.

In October 2009, the Secretary of the Interior, with the concurrence of the Secretary of Agriculture, directed the Board to review the process of rural determinations. On December 31, 2012, the Board initiated a public review of the rural determination process. That public process lasted nearly a year, producing 278 comments from individuals, 137 comments from members of Regional Advisory Councils, 37 comments from Alaska Native entities, and 25 comments from other entities (e.g., city and borough governments). Additionally, the Board engaged in government-to-government consultation with tribes and consultation with Alaska Native Claims Settlement Act (ANCSA) corporations. In general, the comments received indicated a broad dissatisfaction with the rural determination process. Among other comments, respondents indicated the aggregation criteria were perceived as arbitrary, the population thresholds were seen as inadequate to capture the reality of rural Alaska, and the decennial review was widely viewed to be unnecessary.

Based on this information, the Board held a public meeting on April 17, 2014 and decided to recommend a simplification of the process to the Secretaries of the Interior and Agriculture (Secretaries) to address rural status in the Federal Subsistence Management Program. The Board's recommended simplified process would eliminate the criteria from regulation and allow the Board to determine which areas or communities are nonrural in Alaska. All other communities or areas would, therefore, be considered "rural" in relation to the Federal subsistence priority in Alaska.

The Secretaries accepted the Board recommendation and published a Final Rule on November 4, 2015, revising the regulations governing the rural determination process for the Federal Subsistence Management Program in Alaska. The Secretaries removed specific rural determination guidelines and criteria, including requirements regarding population data, the aggregation of communities, and a decennial review. The Board will now make nonrural determinations using a comprehensive approach that may consider such factors as population size and density, economic indicators, military presence, industrial facilities, use of fish and wildlife, degree of remoteness and isolation, and any other relevant material including information provided by the public.

By using a comprehensive approach and not relying on set guidelines and criteria, this new process will enable the Board to be more flexible in making decisions that take into account regional differences found throughout the State. This will also allow for greater input from the Councils, Federally recognized Tribes of Alaska, Alaska Native Corporations, and the public in making nonrural determinations by incorporating the nonrural determination process into the subsistence regulatory schedule which has established comment periods and will allow for multiple opportunities for input. Simultaneously with the Final Rule, the Board published a Direct Final Rule (80 FR 68245; Nov. 4, 2015) (**Appendix B**) establishing the list of nonrural communities, those communities not subject to the Federal subsistence priority on Federal public lands, based on the list of rural communities that predated the 2007 Final Rule (72 FR 25688; May 7, 2007).

As of November 4, 2015, the Board determined all communities and areas in Alaska to be rural in accordance with 36 CFR 242.15 and 50 CFR 100.15 except for the following: Fairbanks North Star Borough; Homer area – including Homer, Anchor Point, Kachemak City, and Fritz Creek; Juneau area – including Juneau, West Juneau, and Douglas; Kenai area – including Kenai, Soldotna, Sterling, Nikiski, Salamatof, Kalifornsky, Kasilof, and Clam Gulch; Ketchikan area – including Ketchikan City, Clover Pass, North Tongass Highway, Ketchikan East, Mountain Point, Herring Cove, Saxman East, Pennock Island, and parts of Gravina Island; Municipality of Anchorage; Seward area – including Seward and Moose Pass; Valdez; and Wasilla/Palmer area – including Wasilla, Palmer, Sutton, Big Lake, Houston, and Bodenbergs Butte (36 CFR 242.23 and 50 CFR 100.23).

## BOARD AUTHORITIES

- ANILCA 16 U.S.C. 3101, 3126.
- Administrative Procedures Act (APA), 5 U.S.C. 551-559
- 36 CFR 242.15; 50 CFR 100.15
- 36 CFR 242.18(a); 50 CFR 100.18(a)
- 36 CFR 242.23; 50 CFR 100.23

## POLICY

The Board will only address changes to the nonrural status of communities or areas when requested in a proposal. Any individual, organization, or community may submit a proposal to designate a community or area as nonrural. Additionally, any individual, organization, or community may request to change an existing nonrural determination by submitting a proposal to the Board to change the status of a community or area back to rural. This policy will outline what will be required of the proponent in the submission of a proposal, the administrative process to address a proposal, a general schedule or timeline, and the public process involved in acting on such proposals.

### **Process**

#### Making a Nonrural Determination

For proposals seeking a nonrural determination for a community or area, it is the proponent's responsibility to provide the Board with substantive narrative evidence to support their rationale of why the proposed nonrural determination should be considered.

#### *Submitting a Proposal*

To file a request, you must submit a written proposal in accordance with the guidance provided in the Federal Register with a call for proposals to revise subsistence taking of fish and shellfish regulations and nonrural determinations. In addition to the threshold requirements set forth below, all proposals must contain the following baseline information:

- Full name and mailing address.
- A statement describing the proposed nonrural determination action requested.
- A detailed description of the community or area to be considered nonrural, including any current boundaries, borders, or distinguishing landmarks, so as to identify what Alaska residents would be affected by the change in rural status;
- Rationale (law, policy, factors, or guidance) for the Board to consider in determining the nonrural status of a community or area;
- A detailed statement of the facts that illustrate that the community or area is nonrural using the rationale stated above; and
- Any additional information supporting the proposed change.



### *Threshold Requirements*

The Board will accept a proposal to designate a community or area as nonrural only if the Board determines that the proposal meets the following threshold requirements:

- Based upon information not previously considered by the Board;
- Provides substantive rationale for determining the nonrural status of a community or area that takes into consideration the unique qualities of the region; and
- Provides substantive information that supports the provided rationale that a community or area is nonrural instead of rural.

Upon receipt of a proposal to designate a community or area as nonrural, the Board shall determine whether the proposal satisfied the threshold requirements outlined above. If the proposal does not, the proponent will be notified in writing. If the proposal does, it will be considered in accordance with the timeline set forth below.

### Rescinding a Nonrural Determination

For proposals seeking to have the Board rescind a nonrural determination, a proposal will be accepted if it is:

- Based upon information not previously considered by the Board; or
- Demonstrates that the information used and interpreted by the Board in designating the community as nonrural has changed since the original determination was made.

Proposals seeking to have the Board rescind a nonrural determination must also include the baseline information and meet the threshold requirements outlined above for nonrural proposals.

### *Limitation on Submission of Proposals to Change from Rural to Nonrural*

The Board is aware of the burden placed on rural communities and areas in defending their rural status. If, under this new process, a community's status is maintained as rural after a proposal to change its status to nonrural is either rejected for (i) failure to comply with these guidelines or (ii) is rejected after careful consideration by the Board, no proposals to change that community's or area's status as nonrural shall be accepted until there has been a demonstrated change in that community's rural identity.

Whether or not there has been a "demonstrated change" to the rural identity of an area or community is the burden of the proponent to show by a preponderance of the evidence.

### **Process Schedule**

As authorized in 36 CFR 242.18(a) and 50 CFR 100.18(a), "The Board may establish a rotating schedule for accepting proposals on various sections of subpart C or D regulations over a period of years." To ensure meaningful input from the Councils and allow opportunities for public comment, the Board will only accept nonrural

determination proposals every other year in conjunction with the call for proposals to revise subsistence taking of fish and shellfish regulations and nonrural determinations. If accepted, the proposal will be deliberated during the regulatory Board meeting in the next Fisheries Regulatory cycle. This schedule thus creates a three- year period for proposal review, analysis, Regional Advisory Council input, tribal and ANCSA corporation consultation, public comment, and Board deliberation and decision.

### **Decision Making**

When acting upon proposals to change the nonrural status of a community or area, the Board will:

- Proceed on a case-by-case basis to address each proposal regarding nonrural determinations.
- Base its determination or changes to a determination on information of a reasonable and defensible nature contained within the administrative record.
- Make nonrural determinations based on a comprehensive application of considerations presented in the proposal that have been verified by the Board as accurate.
- Consider recommendations of the appropriate Subsistence Regional Advisory Council.
- Consider comments from the public, including the State of Alaska.
- Engage in government-to-government consultation with affected tribes or consultation with affected ANCSA corporations.
- Implement a final decision on a nonrural determination after compliance with the APA, if the determination is supported and valid.

As part of its decision-making process, the Board may compare information from other, similarly-situated communities or areas if limited information exists for a certain community or area. The Board also has discretion to clarify the geographical extent of the area relevant to the nonrural determination. The Board will look to the Regional Advisory Councils for confirmation that any relevant information brought forth during the nonrural determination process accurately describes the unique characteristics of the affected region. However, deference to the Councils does not apply.

### **General Process Timeline**

Outlined in Table 1 and Table 2

Table 1. General Process Timeline

<p><b>1. January to March (Even Year)</b> – A proposed rule is published in the Federal Register with the call for proposals to revise subsistence taking of fish and shellfish regulations and nonrural determinations.</p>
<p><b>2. April to July (Even Year)</b> – Proposals for nonrural determinations are validated by staff. If the proposal is not valid, the proponent will be notified in writing.</p>
<p><b>3. August to November (Even Year)</b> –Affected Regional Advisory Council(s) reviews the validated proposals and provides their initial recommendations, which should include relevant regional characteristics, at their fall meeting on the record.</p>
<p><b>4. November to December (Even Year)</b> – Staff will organize Nonrural Determination proposal presentations.</p>
<p><b>5. January (Odd Year)</b> – At the Board’s Fishery Regulatory meeting, Board will determine if the threshold requirements have been met. If the proposal does not meet the threshold requirements, the proponent will be notified in writing. If the proposal does, it will be considered in accordance with the timeline set forth here.</p>
<p><b>6. February (Odd Year) to July (Even Year) (18 months)</b> – For proposals that have been determined by the Board to meet the Threshold Requirements, the Board will conduct public hearings in the communities that will be affected by the validated proposals. During this time period, independent of the fall Council meetings, Tribes/ANCSA Corporations may also request formal consultation on the nonrural determination proposals. Following the Council meeting cycle, public hearings, and tribal/ANCSA consultations, staff will prepare a written analysis for each nonrural determination proposal following established guidelines.</p>
<p><b>7. August to November (Even Year)</b> –The Council(s) will provide recommendations on the draft Nonrural Determination Analyses.</p>
<p><b>8. November 2018 to December (Even Year)</b> – Staff incorporates Council recommendations and comments into the draft Nonrural Determination Analyses for the Board.</p>
<p><b>9. January (Odd Year)</b> – At the Board’s Fisheries Regulatory meeting, Staff present the Nonrural Determination Analyses to the Board. The Board makes a final decision on the Nonrural Determination proposals.</p>

Wildlife & FRMP Cycle	Fishery Cycle	Dates	FSB or Activity	Proposed Nonrural Determination Cycle		
		Council Cycle		Even Years		
Wildlife & FRMP Review Cycle	Fishery Review Cycle	January	FSB FRMP Work Session	1	Nonrural Proposed Rule Jan 2016	
		February	Fishery Proposed Rule Jan- Mar			
		March				
		April	FSB Meeting	2	Proposal Validation	
		July				
		August	Fishery Proposal Review	3	Nonrural Proposal Review by Councils	
		September				
		October				
		November				
	December			Finalize Proposal Presentations for the Board		
	January	FSB Meeting	5	Odd Years - Board determines which proposals meet the Threshold requirements		
	Fishery Review Cycle	February	Wildlife Proposed Rule Jan - Mar	6	Odd to Even Years (18 months) - Public Hearings, tribal/ANCSA Corporation Consultation, and Writing of Nonrural Determination Analyses for proposals that meet the threshold requirements as determined by the Board	
		March				
		April				
		July				
		August	Wildlife Proposal & FRMP Project Review			
		September				
		October				
November						
December						
January	FSB FRMP Work Session					
February	Fishery Proposed Rule Jan- Mar			1	Nonrural Proposed Rule	
March				2	Proposal Validation	
April	FSB Meeting					
July						
Fishery Review Cycle	August	Fishery Proposal Review	7	Even Years Analysis Review	3	Proposal review by Councils
	September					
	October					
	November					
	December		8	Finalize Nonrural Determination Analyses	4	Finalize Threshold Reports
January	FSB Meeting	9	Odd Years – Final Board Decision	5	Odd Years – See 5 above	

Table 2. General Process Timeline Comparison with other Cycles

**Appendix A – Final Rule – Rural Determination Process**

**DEPARTMENT OF AGRICULTURE****Forest Service****36 CFR Part 242****DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 100**

[Docket No. FWS-R7-SM-2014-0063;  
FXRS12610700000-156-FF07J00000;  
FBMS# 4500086287]

RIN 1018-BA62

**Subsistence Management Regulations  
for Public Lands in Alaska; Rural  
Determination Process**

**AGENCIES:** Forest Service, Agriculture;  
Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Secretaries of Agriculture and the Interior are revising the regulations governing the rural determination process for the Federal Subsistence Management Program in Alaska. The Secretaries have removed specific guidelines, including requirements regarding population data, the aggregation of communities, and a decennial review. This change will allow the Federal Subsistence Board (Board) to define which communities or areas of Alaska are nonrural (all other communities and areas would, therefore, be rural). This new process will enable the Board to be more flexible in making decisions and to take into account regional differences found throughout the State. The new process will also allow for greater input from the Subsistence Regional Advisory Councils (Councils), Federally recognized Tribes of Alaska, Alaska Native Corporations, and the public.

**DATES:** This rule is effective November 4, 2015.

**ADDRESSES:** This rule and public comments received on the proposed rule may be found on the Internet at [www.regulations.gov](http://www.regulations.gov) at Docket No. FWS-R7-SM-2014-0063. Board meeting transcripts are available for review at the Office of Subsistence Management, 1011 East Tudor Road, Mail Stop 121, Anchorage, AK 99503, or on the Office of Subsistence Management Web site (<https://www.doi.gov/subsistence>).

**FOR FURTHER INFORMATION CONTACT:** Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Eugene R. Peltola, Jr., Office of Subsistence Management; (907) 786-3888 or [subsistence@fws.gov](mailto:subsistence@fws.gov). For

questions specific to National Forest System lands, contact Thomas Whitford, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region; (907) 743-9461 or [twhitford@fs.fed.us](mailto:twhitford@fs.fed.us).

**SUPPLEMENTARY INFORMATION:****Background**

Under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111-3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program. This program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. The Secretaries published temporary regulations to carry out this program in the **Federal Register** on June 29, 1990 (55 FR 27114), and published final regulations in the **Federal Register** on May 29, 1992 (57 FR 22940). The program regulations have subsequently been amended a number of times. Because this program is a joint effort between Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): Title 36, "Parks, Forests, and Public Property," and Title 50, "Wildlife and Fisheries," at 36 CFR 242.1-242.28 and 50 CFR 100.1-100.28, respectively. The regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

Consistent with Subpart B of these regulations, the Secretaries established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board comprises:

- A Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture;
- The Alaska Regional Director, U.S. Fish and Wildlife Service;
- The Alaska Regional Director, U.S. National Park Service;
- The Alaska State Director, U.S. Bureau of Land Management;
- The Alaska Regional Director, U.S. Bureau of Indian Affairs;
- The Alaska Regional Forester, U.S. Forest Service; and
- Two public members appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture.

Through the Board, these agencies and members participate in the development of regulations for subparts C and D, which, among other things, set forth program eligibility and specific harvest seasons and limits.

In administering the program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Regional Advisory Council. The Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska. The Council members represent varied geographical, cultural, and user interests within each region.

**Prior Rulemaking**

On November 23, 1990 (55 FR 48877), the Board published a notice in the **Federal Register** explaining the proposed Federal process for making rural determinations, the criteria to be used, and the application of those criteria in preliminary determinations. On December 17, 1990, the Board adopted final rural and nonrural determinations, which were published on January 3, 1991 (56 FR 236). Final programmatic regulations were published on May 29, 1992, with only slight variations in the rural determination process (57 FR 22940). As a result of this rulemaking, Federal subsistence regulations at 36 CFR 242.15 and 50 CFR 100.15 require that the rural or nonrural status of communities or areas be reviewed every 10 years, beginning with the availability of the 2000 census data.

Because some data from the 2000 census was not compiled and available until 2005, the Board published a proposed rule in 2006 to revise the list of nonrural areas recognized by the Board (71 FR 46416, August 14, 2006). The final rule published in the **Federal Register** on May 7, 2007 (72 FR 25688).

**Secretarial Review**

On October 23, 2009, Secretary of the Interior Salazar announced the initiation of a Departmental review of the Federal Subsistence Management Program in Alaska; Secretary of Agriculture Vilsack later concurred with this course of action. The review focused on how the Program is meeting the purposes and subsistence provisions of Title VIII of ANILCA, and if the Program is serving rural subsistence users as envisioned when it began in the early 1990s.

On August 31, 2010, the Secretaries announced the findings of the review, which included several proposed administrative and regulatory reviews and/or revisions to strengthen the Program and make it more responsive to those who rely on it for their subsistence uses. One proposal called

for a review, with Council input, of the rural determination process and, if needed, recommendations for regulatory changes.

The Board met on January 20, 2012, to consider the Secretarial directive and the Councils' recommendations and review all public, Tribal, and Alaska Native Corporation comments on the initial review of the rural determination process. After discussion and deliberation, the Board voted unanimously to initiate a review of the rural determination process and the 2010 decennial review. Consequently, the Board found that it was in the public's best interest to extend the compliance date of its 2007 final rule (72 FR 25688; May 7, 2007) on rural determinations until after the review of the rural determination process and the decennial review were completed or in 5 years, whichever comes first. The Board published a final rule on March 1, 2012 (77 FR 12477), extending the compliance date.

The Board followed this action with a request for comments and announcement of public meetings (77 FR 77005; December 31, 2012) to receive public, Tribal, and Alaska Native Corporations input on the rural determination process.

Due to a lapse in appropriations on October 1, 2013, and the subsequent closure of the Federal Government, some of the preannounced public meetings and Tribal consultations to receive comments on the rural determination process during the closure were cancelled. The Board decided to extend the comment period to allow for the complete participation from the Councils, public, Tribes, and Corporations to address this issue (78 FR 66885; November 7, 2013).

The Councils were briefed on the Board's **Federal Register** documents during their winter 2013 meetings. At their fall 2013 meetings, the Councils provided a public forum to hear from residents of their regions, deliberate on the rural determination process, and provide recommendations for changes to the Board.

The Secretaries, through the Board, also held hearings in Barrow, Ketchikan, Sitka, Kodiak, Bethel, Anchorage, Fairbanks, Kotzebue, Nome, and Dillingham to solicit comments on the rural determination process. Public testimony was recorded during these hearings. Government-to-government tribal consultations on the rural determination process were held between members of the Board and Federally recognized Tribes of Alaska. Additional consultations were held

between members of the Board and Alaska Native Corporations.

Altogether, the Board received 475 substantive comments from various sources, including individuals, members of the Councils, and other entities or organizations, such as Alaska Native Corporations and borough governments. In general, this information indicated a broad dissatisfaction with the current rural determination process. The aggregation criteria were perceived as arbitrary. The current population thresholds were seen as inadequate to capture the reality of rural Alaska. Additionally, the decennial review was widely viewed to be unnecessary.

Based on this information, the Board at their public meeting held on April 17, 2014, elected to recommend a simplification of the process by determining which areas or communities are nonrural in Alaska; all other communities or areas would, therefore, be rural. The Board would make nonrural determinations using a comprehensive approach that considers population size and density, economic indicators, military presence, industrial facilities, use of fish and wildlife, degree of remoteness and isolation, and any other relevant material, including information provided by the public. The Board would rely heavily on the recommendations of the Subsistence Regional Advisory Councils.

In summary, based on Council and public comments, Tribal and Alaska Native Corporation consultations, and briefing materials from the Office of Subsistence Management, the Board developed a proposal that simplifies the process of rural determinations and submitted its recommendation to the Secretaries on August 15, 2014.

On November 24, 2014, the Secretaries requested that the Board initiate rulemaking to pursue the regulatory changes recommended by the Board. The Secretaries also requested that the Board obtain Council recommendations and public input, and conduct Tribal and Alaska Native Corporation consultation on the proposed changes. If adopted through the rulemaking process, the current regulations would be revised to remove specific guidelines, including requirements regarding population data, the aggregation of communities, and the decennial review, for making rural determinations.

#### Public Review and Comment

The Departments published a proposed rule on January 28, 2015 (80 FR 4521), to revise the regulations governing the rural determination

process in subpart B of 36 CFR part 242 and 50 CFR part 100. The proposed rule opened a public comment period, which closed on April 1, 2015. The Departments advertised the proposed rule by mail, radio, newspaper, and social media; comments were submitted via [www.regulations.gov](http://www.regulations.gov) to Docket No. FWS-R7-SM-2014-0063. During that period, the Councils received public comments on the proposed rule and formulated recommendations to the Board for their respective regions. In addition, 10 separate public meetings were held throughout the State to receive public comments, and several government-to-government consultations addressed the proposed rule. The Councils had a substantial role in reviewing the proposed rule and making recommendations for the final rule. Moreover, a Council Chair, or a designated representative, presented each Council's recommendations at the Board's public work session of July 28, 2015.

The 10 Councils provided the following comments and recommendations to the Board on the proposed rule:

*Northwest Arctic Subsistence Regional Advisory Council*—unanimously supported the proposed rule.

*Seward Peninsula Subsistence Regional Advisory Council*—unanimously supported the proposed rule.

*Yukon-Kuskokwim Delta Subsistence Regional Advisory Council*—unanimously supported the proposed rule.

*Western Interior Alaska Regional Advisory Council*—supported the proposed rule.

*North Slope Subsistence Regional Advisory Council*—unanimously supported the proposed rule as written. The Council stated the proposed rule will improve the process and fully supported an expanded role and inclusion of recommendations of the Councils when the Board makes nonrural determinations. The Council wants to be closely involved with the Board when the Board sets policies and criteria for how it makes nonrural determinations under the proposed rule if the rule is approved, and the Council passed a motion to write a letter requesting that the Board involve and consult with the Councils when developing criteria to make nonrural determinations, especially in subject matter that pertains to their specific rural characteristics and personality.

*Bristol Bay Subsistence Regional Advisory Council*—supported switching the focus of the process from rural to

nonrural determinations. They indicated there should be criteria for establishing what is nonrural to make determinations defensible and justifiable, including determinations of the carrying capacity of the area for sustainable harvest, and governmental entities should not determine what is spiritually and culturally important for a community. They supported eliminating the mandatory decennial; however, they requested a minimum time limit between requests (at least 3 years). They discussed deference and supported the idea but felt it did not go far enough.

*Southcentral Alaska Subsistence Regional Advisory Council*—supported the proposed rule with modification. They recommended deference be given to the Councils on the nonrural determinations.

*Southeast Alaska Subsistence Regional Advisory Council*—supported the proposed rule with modification. The Council recommended a modification to the language of the proposed rule: “The Board determines, after considering the report and recommendations of the applicable regional advisory council, which areas or communities in Alaska are non-rural . . . .” The Council stated that this modification is necessary to prevent the Board from adopting proposals contrary to the recommendation(s) of a Council and that this change would increase transparency and prevent rural communities from being subject to the whims of proponents.

*Kodiak/Aleutians Subsistence Regional Advisory Council*—is generally appreciative that the Board has recommended changes to the rural determination process and supported elimination of the decennial review. The Council recommended that the Board implement definitive guidelines for how the Board will make nonrural determinations to avoid subjective interpretations and determinations; that the language of the proposed rule be modified to require the Board to defer to the Councils and to base its justification for not giving deference on defined criteria to avoid ambiguous decisions; that the Board provide program staff with succinct direction for conducting analyses on any proposals to change a community’s status from rural to nonrural; and that the Board develop written policies and guidelines for making nonrural determinations even if there is a lack of criteria in the regulations. The Council is concerned that proposals to change rural status in the region will be frequently submitted from people or entities from outside the region; the Council is opposed to

proposals of this nature from outside its region and recommends that the Board develop guidelines and restrictions for the proposal process that the Board uses to reassess nonrural status.

*Eastern Interior Alaska Subsistence Regional Advisory Council*—opposed the proposed rule due to the lack of any guiding criteria to determine what is rural or nonrural. They stated the lack of criteria could serve to weaken the rural determination process. They supported greater involvement of the Councils in the Board’s process to make rural/nonrural determinations. This Council was concerned about changes including increasing developments, access pressure on rural subsistence communities and resources, and social conflicts in the Eastern Interior region.

A total of 90 substantive comments were submitted from public meetings, letters, deliberations of the Councils, and those submitted via [www.regulations.gov](http://www.regulations.gov).

- 54 supported the proposed rule;
- 16 neither supported nor opposed the proposed rule;
- 7 supported the proposed rule with modifications;
- 7 neither supported nor opposed the proposed rule and suggested modifications; and
- 6 opposed the proposed rule.

Major comments from all sources are addressed below:

*Comment:* The Board should provide, in regulatory language, objective criteria, methods, or guidelines for making nonrural determinations.

*Response:* During the request for public comment (77 FR 77005; December 31, 2012), the overwhelming response from the public was dissatisfaction with the list of regulatory guidelines used to make rural determinations. The Board, at their April 17, 2014, public meeting, stated that if the Secretaries approved the recommended simplification of the rural determination process, the Board would make nonrural determinations using a comprehensive approach that considers, but is not limited to, population size and density, economic indicators, military presence, industrial facilities, use of fish and wildlife, degree of remoteness and isolation, and any other relevant material, including information provided by the public. The Board also indicated that they would rely heavily on the recommendations of the Subsistence Regional Advisory Councils. The Board, at their July 28, 2015, public work session, directed that a subcommittee be established to draft options (policy or rulemaking) to address future rural determinations. The subcommittee options, once reviewed

by the Board at their January 12, 2016, public meeting will be presented to the Councils for their review and recommendations.

*Comment:* The Board should give deference to the Regional Advisory Councils on nonrural determinations and place this provision in regulatory language.

*Response:* The Board expressed during its April 2014 and July 2015 meetings that it intends to rely heavily on the recommendations of the Councils and that Council input will be critical in addressing regional differences in the rural determination process. Because the Board has confirmed that Councils will have a meaningful and important role in the process, a change to the regulatory language is neither warranted nor necessary at the present time.

*Comment:* Establish a timeframe for how often proposed changes may be submitted.

*Response:* During previous public comment periods, the decennial review was widely viewed to be unnecessary, and the majority of comments expressed the opinion that there should not be a set timeframe used in this process. The Board has been supportive of eliminating a set timeframe to conduct nonrural determinations. However, this issue may be readdressed in the future if a majority of the Councils support the need to reestablish a nonrural review period.

*Comment:* Redefine “rural” to allow nonrural residents originally from rural areas to come home and participate in subsistence activities.

*Response:* ANILCA and its enacting regulations clearly state that you must be an Alaska resident of a rural area or community to take fish or wildlife on public lands. Any change to that definition is beyond the scope of this rulemaking.

*Comment:* Develop a policy for making nonrural determinations, including guidance on how to analyze proposed changes.

*Response:* The Board, at their July 28, 2015, public work session, directed that a subcommittee be established to draft options (policy or rulemaking) to address future rural determinations that, once completed, will be presented to the Councils for their review and recommendations.

*Comment:* Allow rural residents to harvest outside of the areas or communities of residence.

*Response:* All rural Alaskans may harvest fish and wildlife on public lands unless there is a customary and traditional use determination that identifies the specific community’s or area’s use of particular fish stocks or



wildlife populations or if there is a closure.

#### Rule Promulgation Process and Related Rulemaking

These final regulations reflect Secretarial review and consideration of Board and Council recommendations, Tribal and Alaska Native Corporations government-to-government tribal consultations, and public comments. The public received extensive opportunity to review and comment on all changes.

Because this rule concerns public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text will be incorporated into 36 CFR part 242 and 50 CFR part 100.

Elsewhere in today's **Federal Register** is a direct final rule by which the Board is revising the list of rural determinations in subpart C of 36 CFR part 242 and 50 CFR part 100. See "Subsistence Management Regulations for Public Lands in Alaska; Rural Determinations, Nonrural List" in Rules and Regulations.

#### Conformance With Statutory and Regulatory Authorities

##### *Administrative Procedure Act Compliance*

The Board has provided extensive opportunity for public input and involvement in compliance with Administrative Procedure Act requirements, including publishing a proposed rule in the **Federal Register**, participation in multiple Council meetings, and opportunity for additional public comment during the Board meeting prior to deliberation. Additionally, an administrative mechanism exists (and has been used by the public) to request reconsideration of the Secretaries' decision on any particular proposal for regulatory change (36 CFR 242.18(b) and 50 CFR 100.18(b)). Therefore, the Secretaries believe that sufficient public notice and opportunity for involvement have been given to affected persons regarding this decision. In addition, because the direct final rule that is mentioned above and is related to this final rule relieves restrictions for many Alaskans by allowing them to participate in the subsistence program activities, we believe that we have good cause, as required by 5 U.S.C. 553(d), to make this rule effective upon publication.

##### *National Environmental Policy Act Compliance*

A Draft Environmental Impact Statement that described four

alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. The Final Environmental Impact Statement (FEIS) was published on February 28, 1992. The Record of Decision (ROD) on Subsistence Management for Federal Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (Alternative IV) defined the administrative framework of an annual regulatory cycle for subsistence regulations.

A 1997 environmental assessment dealt with the expansion of Federal jurisdiction over fisheries. The Secretary of the Interior, with concurrence of the Secretary of Agriculture, determined that expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and, therefore, signed a Finding of No Significant Impact.

##### *Section 810 of ANILCA*

An ANILCA section 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. The final section 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Program, under Alternative IV with an annual process for setting subsistence regulations, may have some local impacts on subsistence uses, but will not likely restrict subsistence uses significantly.

##### *Paperwork Reduction Act*

An agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. This rule does not contain any new collections of information that require OMB approval. OMB has reviewed and approved the collections of information associated with the subsistence regulations at 36 CFR part 242 and 50 CFR part 100, and assigned OMB Control Number 1018-0075, which expires February 29, 2016.

##### *Regulatory Planning and Review (Executive Orders 12866 and 13563)*

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all

significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

##### *Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that two million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of \$3.00 per pound, this amount would equate to about \$6 million in food value Statewide. Based upon the amounts and values cited above, the Departments certify that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

##### *Small Business Regulatory Enforcement Fairness Act*

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of \$100 million or more, will not cause a major increase in costs or prices for consumers, and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

*Executive Order 12630*

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this Program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

*Unfunded Mandates Reform Act*

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies, and there is no cost imposed on any State or local entities or tribal governments.

*Executive Order 12988*

The Secretaries have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

*Executive Order 13132*

In accordance with Executive Order 13132, the rule does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

*Executive Order 13175*

Title VIII of ANILCA does not provide specific rights to tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Secretaries, through the Board, provided Federally recognized Tribes and Alaska Native corporations opportunities to consult on this rule. Consultation with Alaska Native corporations are based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: “The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.”

The Secretaries, through the Board, provided a variety of opportunities for consultation: Commenting on proposed changes to the existing rule; engaging in dialogue at the Council meetings; engaging in dialogue at the Board’s meetings; and providing input in

person, by mail, email, or phone at any time during the rulemaking process.

On March 23 and 24, 2015, the Board provided Federally recognized Tribes and Alaska Native Corporations a specific opportunity to consult on this rule. Federally recognized Tribes and Alaska Native Corporations were notified by mail and telephone and were given the opportunity to attend in person or via teleconference.

*Executive Order 13211*

This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. However, this rule is not a significant regulatory action under E.O. 13211, affecting energy supply, distribution, or use, and no Statement of Energy Effects is required.

**Drafting Information**

Theo Matuskowitz drafted these regulations under the guidance of Eugene R. Peltola, Jr. of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by

- Daniel Sharp, Alaska State Office, Bureau of Land Management;
- Mary McBurney, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Trevor T. Fox, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Thomas Whitford, Alaska Regional Office, U.S. Forest Service.

**Authority**

This rule is issued under the authority of Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126).

**List of Subjects***36 CFR Part 242*

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

*50 CFR Part 100*

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

**Regulation Promulgation**

For the reasons set out in the preamble, the Secretaries amend 36 CFR part 242 and 50 CFR part 100 as set forth below.

**PART II—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA**

■ 1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 continues to read as follows:

**Authority:** 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

**Subpart B—Program Structure**

■ 2. In subpart B of 36 CFR part 242 and 50 CFR part 100, § 101.15 is revised to read as follows:

**§ 101.15 Rural determination process.**

(a) The Board determines which areas or communities in Alaska are nonrural. Current determinations are listed at § 101.23.

(b) All other communities and areas are, therefore, rural.

Dated: Oct. 28, 2015.

**Sally Jewell,**

*Secretary of the Interior.*

Dated: Sept. 30, 2015.

**Beth G. Pendleton,**

*Regional Forester, USDA – Forest Service.*

[FR Doc. 2015–27994 Filed 10–30–15; 8:45 am]

**BILLING CODE 3410–11–4333–15–P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 52 and 81**

[EPA–R04–OAR–2014–0904; FRL–9936–55–Region 4]

**Air Plan Approval and Air Quality Designation; TN; Reasonably Available Control Measures and Redesignation for the TN Portion of the Chattanooga 1997 Annual PM<sub>2.5</sub> Nonattainment Area**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the portion of a State Implementation Plan (SIP) revision submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), on October 15, 2009, that addresses reasonably available control measures (RACM), including reasonably available control technology (RACT), for the Tennessee portion of the Chattanooga, TN-GA-AL nonattainment area for the 1997 fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standards (NAAQS) (hereinafter referred to as the “Chattanooga TN-GA-AL Area” or

**Appendix B – Direct Final Rule – Nonrural List**

**Need for Correction**

As published, the final regulations (TD 9728) contain errors that may prove to be misleading and are in need of clarification.

**Correction of Publication**

Accordingly, the final regulations (TD 9728), that are subject to FR Doc. 2015-18816, are corrected as follows:

1. On page 45866, in the preamble, third column, last sentence of first full paragraph, the language “rules, including section 706(d)(2) and section 706(d)(3).” is corrected to read “rules, including section 704(c), § 1.704-3(a)(6) (reverse section 704(c)), section 706(d)(2), and section 706(d)(3).”

2. On page 45868, in the preamble, first column, fourth line from the bottom of the column, the language “interim closings of its books except at” is corrected to read “interim closing of its books except at”.

3. On page 45871, in the preamble, second column, third line from the bottom of the column, under paragraph heading “*v. Deemed Timing of Variations*,” the language “taxable year was deemed to close at the” is corrected to read “taxable year was deemed to occur at the”.

4. On page 45873, in the preamble, third column, eighth line from the bottom of the column, the language “taxable as of which the recipients of a” is corrected to read “taxable year as of which the recipients of a”.

5. On page 45874, second column, eight lines from the bottom of the column, the following sentence is added to the end of the paragraph: “These final regulations do not override the application of section 704(c), including reverse section 704(c), and therefore the final regulations provide that the rules of section 706 do not apply in making allocations of book items upon a partnership revaluation.”

6. On page 45876, in the preamble, second column, under paragraph heading “*Effective/Applicability Dates*”, fifth line of the first paragraph, the language “of a special rule applicable to § 1.704-” is corrected to read “of a special rule applicable to § 1.706-”.

7. On page 45876, in the preamble, second column, under paragraph heading “*Effective/Applicability Dates*”, third line of the second paragraph, the language “regulations apply to the partnership” is corrected to read “regulations apply to partnership”.

8. On page 45876, in the preamble, third column, fourth line from the top of the column, the language “that was formed prior to April 19, 2009.” is corrected to read “that was formed prior to April 14, 2009.”

9. On page 45877, first column, under paragraph heading “*List of Subjects*,” the fourth line, the language “26 CFR part 2” is corrected to read “26 CFR part 602”.

10. On page 45883, third column, the first line of the signature block, the language “Karen L. Schiller,” is corrected to read “Karen M. Schiller,”.

**Martin V. Franks,**

*Chief, Publications and Regulations Branch,  
Legal Processing Division, Associate Chief  
Counsel (Procedure and Administration).*

[FR Doc. 2015-28014 Filed 11-3-15; 8:45 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF AGRICULTURE****Forest Service****36 CFR Part 242****DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 100**

[Docket No. FWS-R7-SM-2015-0156;  
FXRS12610700000-156-FF07J00000;  
FBMS#4500086366]

**RIN 1018-BA82**

**Subsistence Management Regulations for Public Lands in Alaska; Rural Determinations, Nonrural List**

**AGENCY:** Forest Service, Agriculture; Fish and Wildlife Service, Interior.  
**ACTION:** Direct final rule.

**SUMMARY:** This rule revises the list of nonrural areas in Alaska identified by the Federal Subsistence Board (Board). Only residents of areas that are rural are eligible to participate in the Federal Subsistence Management Program on public lands in Alaska. Based on a Secretarial review of the rural determination process, and the subsequent change in the regulations governing this process, the Board is revising the current nonrural determinations to the list that existed prior to 2007. Accordingly, the community of Saxman and the area of Prudhoe Bay will be removed from the nonrural list. The following areas continue to be nonrural, but their boundaries will return to their original borders: the Kenai Area; the Wasilla/Palmer area; the Homer area; and the Ketchikan area.

**DATES:** This rule is effective on December 21, 2015 unless we receive significant adverse comments on or before December 4, 2015.

**ADDRESSES:** You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov> and search for FWS-R7-SM-2015-0156, which is the docket number for this rulemaking.
- *By hard copy:* U.S. mail or hand-delivery to: USFWS, Office of Subsistence Management, 1011 East Tudor Road, MS 121, Attn: Theo Matuskowitz, Anchorage, AK 99503-6199

**FOR FURTHER INFORMATION CONTACT:**

Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service,

Attention: Eugene R. Peltola, Jr., Office of Subsistence Management; (907) 786-3888 or [subsistence@fws.gov](mailto:subsistence@fws.gov). For questions specific to National Forest System lands, contact Thomas Whitford, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region; (907) 743-9461 or [twhitford@fs.fed.us](mailto:twhitford@fs.fed.us).

**SUPPLEMENTARY INFORMATION:****Background**

Under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111-3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program (Program). This program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. Only residents of areas identified as rural are eligible to participate in the Program on Federal public lands in Alaska. Because this program is a joint effort between Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): Title 36, “Parks, Forests, and Public Property,” and Title 50, “Wildlife and Fisheries,” at 36 CFR 242.1-242.28 and 50 CFR 100.1-100.28, respectively.

Consistent with these regulations, the Secretaries established a Federal Subsistence Board (Board) comprising Federal officials and public members to administer the Program. One of the Board’s responsibilities is to determine which communities or areas of the State are rural or nonrural. The Secretaries also divided Alaska into 10 subsistence resource regions, each of which is represented by a Regional Advisory Council (Council). The Council members represent varied geographical, cultural, and user interests within each region. The Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a

meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska.

#### Related Rulemaking

Elsewhere in today's **Federal Register** is a final rule that sets forth a new process by which the Board will make rural determinations ("Subsistence Management Regulations for Public Lands in Alaska; Rural Determination Process"). Please see that rule for background information on how this new process was developed and the extensive Council and public input that was considered. A summary of that information follows:

Until promulgation of the rule mentioned above, Federal subsistence regulations at 36 CFR 242.15 and 50 CFR 100.15 had required that the rural or nonrural status of communities or areas be reviewed every 10 years, beginning with the availability of the 2000 census data. Some data from the 2000 census was not compiled and available until 2005, so the Board published a proposed rule in 2006 to revise the list of nonrural areas recognized by the Board (71 FR 46416, August 14, 2006). The final rule published in the **Federal Register** on May 7, 2007 (72 FR 25688), and changed the rural determination for several communities or areas in Alaska. These communities had 5 years following the date of publication to come into compliance.

The Board met on January 20, 2012, and, among other things, decided to extend the compliance date of its 2007 final rule on rural determinations. A final rule published March 1, 2012 (77 FR 12477), that extended the compliance date until either the rural determination process and findings review were completed or 5 years, whichever came first. The 2007 regulations have remained in titles 36 and 50 of the CFR unchanged since their effective date.

The Board followed that action with a request for comments and announcement of public meetings (77 FR 77005; December 31, 2012) to receive public, Tribal, and Alaska Native Corporations input on the rural determination process. At their fall 2013 meetings, the Councils provided a public forum to hear from residents of their regions, deliberate on the rural determination process, and provide recommendations for changes to the Board. The Board also held hearings in Barrow, Ketchikan, Sitka, Kodiak, Bethel, Anchorage, Fairbanks, Kotzebue, Nome, and Dillingham to solicit comments on the rural determination process, and public testimony was

recorded. Government-to-government tribal consultations on the rural determination process were held between members of the Board and Federally recognized Tribes of Alaska. Additional consultations were held between members of the Board and Alaska Native Corporations.

Altogether, the Board received 475 substantive comments from various sources, including individuals, members of the Councils, and other entities or organizations, such as Alaska Native Corporations and borough governments. In general, this information indicated a broad dissatisfaction with the current rural determination process.

Based on this information, the Board at their public meeting held on April 17, 2014, elected to recommend a simplification of the process by determining which areas or communities are nonrural in Alaska; all other communities or areas would, therefore, be rural. The Board would make nonrural determinations using a comprehensive approach that considers population size and density, economic indicators, military presence, industrial facilities, use of fish and wildlife, degree of remoteness and isolation, and any other relevant material, including information provided by the public. The Board would rely heavily on the recommendations of the Councils. The Board developed a proposal that simplifies the process of rural determinations and submitted its recommendation to the Secretaries on August 15, 2014.

On November 24, 2014, the Secretaries requested that the Board initiate rulemaking to pursue the regulatory changes recommended by the Board. The Secretaries also requested that the Board obtain Council recommendations and public input, and conduct Tribal and Alaska Native Corporation consultation on the proposed changes.

The Departments published a proposed rule on January 28, 2015 (80 FR 4521), to revise the regulations governing the rural determination process in subpart B of 36 CFR part 242 and 50 CFR part 100. Following a process that involved substantial Council and public input, the Departments published the final rule that may be found elsewhere in today's **Federal Register**.

#### Direct Final Rule

During that process, the Board went on to address a starting point for nonrural communities and areas. The May 7, 2007 (72 FR 25688), final rule was justified by the Board's January 3,

1991, notice (56 FR 236) adopting final rural and nonrural determinations and the final rule of May 7, 2002 (67 FR 30559), amending 36 CFR 242.23(a) and 50 CFR 100.23(a) to add the Kenai Peninsula communities (Kenai, Soldotna, Sterling, Nikiski, Salamatof, Kalifornsky, Kasilof, Clam Gulch, Anchor Point, Homer, Kachemak City, Fritz Creek, Moose Pass, and Seward) to the list of areas determined to be nonrural. The 2007 rule added the village of Saxman and the area of Prudhoe Bay to the nonrural list and expanded the nonrural boundaries of the Kenai Area; the Wasilla/Palmer area; the Homer area; and the Ketchikan Area.

Since the 2007 final rule (72 FR 25688; May 7, 2007) was contentious, and so many comments were received objecting to the changes imposed by that rule, the Board has decided to return to the rural determinations prior to the 2007 final rule. The Board further decided that the most expedient method to enact their decisions was to publish this direct final rule adopting the pre-2007 nonrural determinations. As a result, the Board has determined the following areas to be nonrural: Fairbanks North Star Borough; Homer area—including Homer, Anchor Point, Kachemak City, and Fritz Creek; Juneau area—including Juneau, West Juneau, and Douglas; Kenai area—including Kenai, Soldotna, Sterling, Nikiski, Salamatof, Kalifornsky, Kasilof, and Clam Gulch; Ketchikan area—including Ketchikan City, Clover Pass, North Tongass Highway, Ketchikan East, Mountain Point, Herring Cove, Saxman East, Pennock Island, and parts of Gravina Island; Municipality of Anchorage; Seward area—including Seward and Moose Pass, Valdez, and Wasilla area—including Palmer, Wasilla, Sutton, Big Lake, Houston, and Bodenberg Butte.

These final regulations reflect Board review and consideration of Council recommendations, Tribal and Alaska Native Corporations government-to-government tribal consultations, and public comments. Based on concerns expressed by some of the Councils and members of the public, the Board went on to direct staff to develop options for the Board to consider and for presentation to the Councils, to address future nonrural determinations. These options will be presented to the Board and Chairs of each Council at the January 12, 2016, public meeting.

We are publishing this rule without a prior proposal because we view this action as an administrative action by the Federal Subsistence Board. This rule will be effective, as specified above in DATES, unless we receive significant

adverse comments on or before the deadline set forth in DATES. Significant adverse comments are comments that provide strong justifications why the rule should not be adopted or for changing the rule. If we receive significant adverse comments, we will publish a notice in the **Federal Register** withdrawing this rule before the effective date. If no significant adverse comments are received, we will publish a document in the **Federal Register** confirming the effective date.

Because this rule concerns public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text will be incorporated into 36 CFR part 242 and 50 CFR part 100.

#### Conformance With Statutory and Regulatory Authorities

##### *Administrative Procedure Act Compliance*

In compliance with Administrative Procedure Act, the Board has provided extensive opportunity for public input and involvement in its efforts to improve the rural determination process as described in the related final rule published elsewhere in today's **Federal Register**. In addition, anyone with concerns about this rulemaking action may submit comments as specified in **DATES** and **ADDRESSES**.

##### *National Environmental Policy Act Compliance*

A Draft Environmental Impact Statement that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. The Final Environmental Impact Statement (FEIS) was published on February 28, 1992. The Record of Decision (ROD) on Subsistence Management for Federal Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (Alternative IV) defined the administrative framework of an annual regulatory cycle for subsistence regulations.

A 1997 environmental assessment dealt with the expansion of Federal jurisdiction over fisheries and is available at the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior, with concurrence of the Secretary of Agriculture, determined that expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and, therefore, signed a Finding of No Significant Impact.

##### *Section 810 of ANILCA*

An ANILCA section 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. The final section 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Program, under Alternative IV with an annual process for setting subsistence regulations, may have some local impacts on subsistence uses, but will not likely restrict subsistence uses significantly.

During the subsequent environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of this rule was conducted in accordance with section 810. That evaluation also supported the Secretaries' determination that the rule will not reach the "may significantly restrict" threshold that would require notice and hearings under ANILCA section 810(a).

##### *Paperwork Reduction Act*

An agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. This rule does not contain any new collections of information that require OMB approval. OMB has reviewed and approved the collections of information associated with the subsistence regulations at 36 CFR part 242 and 50 CFR part 100, and assigned OMB Control Number 1018-0075, which expires February 29, 2016.

##### *Regulatory Planning and Review (Executive Orders 12866 and 13563)*

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public

where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

##### *Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that two million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of \$3.00 per pound, this amount would equate to about \$6 million in food value Statewide. Based upon the amounts and values cited above, the Departments certify that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

##### *Small Business Regulatory Enforcement Fairness Act*

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of \$100 million or more, will not cause a major increase in costs or prices for consumers, and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

##### *Executive Order 12630*

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this Program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

##### *Unfunded Mandates Reform Act*

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of \$100 million or more

in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies and there is no cost imposed on any State or local entities or tribal governments.

*Executive Order 12988*

The Secretaries have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

*Executive Order 13132*

In accordance with Executive Order 13132, the rule does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

*Executive Order 13175*

The Alaska National Interest Lands Conservation Act, Title VIII, does not provide specific rights to tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Secretaries, through the Board, provided Federally recognized Tribes and Alaska Native corporations opportunities to consult on this rule. Consultation with Alaska Native corporations are based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: “The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.”

The Secretaries, through the Board, provided a variety of opportunities for consultation on the rural determination process: commenting on changes under consideration for the existing regulations; engaging in dialogue at the Council meetings; engaging in dialogue at the Board’s meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process.

Since 2007 multiple opportunities were provided by the Board for Federally recognized Tribes and Alaska Native Corporations to consult on the subject of rural determinations. Federally recognized Tribes and Alaska Native Corporations were notified by mail and telephone and were given the opportunity to attend in person or via teleconference.

*Executive Order 13211*

This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. However, this rule is not a significant regulatory action under E.O. 13211, affecting energy supply, distribution, or use, and no Statement of Energy Effects is required.

**Drafting Information**

Theo Matuskowitz drafted these regulations under the guidance of Eugene R. Peltola, Jr. of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by

- Daniel Sharp, Alaska State Office, Bureau of Land Management;
- Mary McBurney, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Trevor T. Fox, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Thomas Whitford, Alaska Regional Office, U.S. Forest Service.

**Authority**

This rule is issued under the authority of Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126).

**List of Subjects**

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

**Regulation Promulgation**

For the reasons set out in the preamble, the Secretaries amend 36 CFR part 242 and 50 CFR part 100 as set forth below.

**PART—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA**

- 1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 continues to read as follows:

**Authority:** 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

**Subpart C—Board Determinations**

- 2. In subpart C of 36 CFR part 242 and 50 CFR part 100, § 1.23 is revised to read as follows:

**§ 1.23 Rural determinations.**

(a) The Board has determined all communities and areas to be rural in accordance with § .15 except the following: Fairbanks North Star Borough; Homer area—including Homer, Anchor Point, Kachemak City, and Fritz Creek; Juneau area—including Juneau, West Juneau, and Douglas; Kenai area—including Kenai, Soldotna, Sterling, Nikiski, Salamatof, Kalifornsky, Kasilof, and Clam Gulch; Ketchikan area—including Ketchikan City, Clover Pass, North Tongass Highway, Ketchikan East, Mountain Point, Herring Cove, Saxman East, Pennock Island, and parts of Gravina Island; Municipality of Anchorage; Seward area—including Seward and Moose Pass, Valdez, and Wasilla/Palmer area—including Wasilla, Palmer, Sutton, Big Lake, Houston, and Bodenberg Butte.

(b) You may obtain maps delineating the boundaries of nonrural areas from the U.S. Fish and Wildlife Service at the Alaska Regional Office address provided at 50 CFR 2.2(g), or on the Web at <https://www.doi.gov/subsistence>.

Dated: September 30, 2015.

**Eugene R. Peltola, Jr.,**

*Assistant Regional Director, U.S. Fish and Wildlife Service, Acting Chair, Federal Subsistence Board.*

Dated: September 30, 2015.

**Thomas Whitford,**

*Subsistence Program Leader, USDA – Forest Service.*

[FR Doc. 2015–27996 Filed 10–30–15; 8:45 am]

**BILLING CODE 3410–11–4333–15–P**

## **PREDATOR MANAGEMENT POLICY FEDERAL SUBSISTENCE BOARD**

Adopted by the Federal Subsistence Board on  
May 20, 2004

The Federal Subsistence Board recognizes that predators are an important component of Alaska's dynamic ecosystems, beneficial to maintaining balance, health, and diversity within associated wildlife populations and habitats. Furthermore, the Board recognizes the traditional Alaska Native cultural beliefs and values associated with wolves, bears and other predatory species, and the impact that predators can have on ungulate populations valued by subsistence users. In addition, the Board recognizes that predator control may be an appropriate management tool on some Federal public lands for restoring prey populations to provide for subsistence needs where predation has reduced or held prey populations at levels significantly below historical levels of abundance.

As authorized by the Secretaries of Interior and Agriculture [50 CFR Part 100.10 (USDI) and 36 CFR Part 242.10 (USDA)], the Board administers the subsistence taking and uses of fish and wildlife on Federal public lands through regulations that provide for the non-wasteful harvest of fish and wildlife by Federally qualified rural residents, consistent with the maintenance of healthy populations of harvested resources. Such subsistence taking and uses are “... *for direct personal or family consumption* ...” (Section 803 of ANILCA). Wildlife management activities on Federal public lands other than the subsistence take and use of fish and wildlife, such as predator control and habitat management, are the responsibility of and remain within the authority of the individual land management agencies.

Accordingly, the Board will:

- A. Consider all Federal proposals to regulated seasons and dates, methods and means, harvest limits, and customary & traditional use determinations for the subsistence take of fish and wildlife. The Board will ensure that the effect of its decisions is to provide for subsistence take and use of the subject species. The Board will also take into account approved population objectives; management plans, customary and traditional uses, and recognized principles of fish and wildlife management.
- B. Direct the Office of Subsistence Management to provide proponents of predator control proposals (all Federal proposals that specifically indicate that the reason for the proposed regulation(s) is to reduce the predator population to benefit prey populations), with procedures for submitting the proposal to the appropriate agency. Where predators have been determined to be a major contributing factor in the significant reduction of ungulate populations important for subsistence use, or in the chronic suppression of such populations at low densities, the Board will endorse timely, affirmative and effective action consistent with each respective agency's policies and management objectives, to reduce predator populations and allow affected ungulate populations to recover. The Board will monitor actions taken by the agency to address such concerns, and will provide appropriate support where necessary to ensure the continuation of subsistence harvest opportunities.
- C. Ensure that the appropriate Regional Council(s) is informed of predator control proposals by having them printed in the Proposal Booklet and presented to the Council at the next appropriate Council meeting, along with other rejected proposals that address concerns which are outside the authorities of the Federal Subsistence Board.



<b>FP17-01 Executive Summary</b>	
<b>General Description</b>	<p>Proposal FP17-01, requests a new regulation be made to Subdistrict 5D to allow for harvest of salmon during Federally recognized fisheries closures, once the mid-range of the Canadian Interim Management Escapement Goal (IMEG) and the Total Allowable Catch (TAC) goals for Chinook Salmon are projected to be achieved in the Yukon River at the Eagle sonar site. <i>Submitted by: Eastern Interior Alaska Subsistence Regional Advisory Council.</i></p>
<b>Proposed Regulation</b>	<p>§ __.27(i)(3) (i) <i>Unless otherwise restricted in this section, you may take fish in the Yukon-Northern Area at any time. In those locations where subsistence fishing permits are required, only one subsistence fishing permit will be issued to each household per year. You may subsistence fish for salmon with rod and reel in the Yukon River drainage 24 hours per day, 7 days per week, unless rod and reel are specifically otherwise restricted in paragraph (e)(3) of this section.</i></p> <p>(ii) <i>For the Yukon River drainage, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action.</i></p> <p>(xiii)(B) <i>In Subdistrict 5D you may take salmon for subsistence use once the mid-range of the Canadian interim management escapement goal and the total allowable catch goal are projected to be achieved.</i></p>
<b>OSM Preliminary Conclusion</b>	<p><b>Support FP17-01 with modification</b> to change the wording in the proposed regulation from “projected to be achieved” to “achieved,” and to specify that the Federal in-season manager is the person to declare when the IMEG and TAC are achieved.</p>
<b>Yukon-Kuskokwim Delta Regional Advisory Council Recommendation</b>	
<b>Western Interior Alaska Regional Advisory Council Recommendation</b>	
<b>Seward Peninsula Regional Advisory Council Recommendation</b>	
<b>Eastern Interior Alaska Regional Advisory Council Recommendation</b>	

<b>Interagency Staff Committee Comments</b>	
<b>ADF&amp;G Comments</b>	
<b>Written Public Comments</b>	None

**DRAFT STAFF ANALYSIS  
FP17-01**

**ISSUE**

Proposal FP17-01, submitted by the Eastern Interior Alaska Subsistence Regional Advisory Council (Council), requests a new regulation be established in Subdistrict 5D to allow harvest of salmon during Federally recognized fisheries closures, once the mid-range of the Canadian Interim Management Escapement Goal (IMEG) and the Total Allowable Catch (TAC) goal for Chinook Salmon are projected to be achieved in the Yukon River at the Eagle sonar site.

**DISCUSSION**

Subdistrict 5D consists of the Yukon River drainage from the Alaska Department of Fish & Game (ADF&G) regulatory markers located approximately two miles downstream from Waldron Creek upstream to the United States-Canada border. The Federal public waters in this area include Yukon Flats National Wildlife Refuge and the Yukon – Charley Rivers National Preserve. A majority of Subdistrict 5D along the Yukon River is within or adjacent to Federal public lands.

Subsistence fishing on the Yukon River in Subdistrict 5D is open seven days a week with no harvest limit for salmon, unless closed by the in-season managers for conservation purposes. The Council proposes that if an in-season closure for Chinook Salmon is put in place in Subdistrict 5D, the closure will be lifted for Federally qualified subsistence users once the mid-range of the Canadian IMEG (currently 42,500 – 55,000 Chinook) and the TAC goal are projected to be achieved. This proposal, if adopted, would provide an opportunity for Federally qualified subsistence users to harvest both Chinook and fall Chum salmon in Subdistrict 5D when the Federal in-season manager projects the Chinook Salmon passage will reach 48,750 fish at the Eagle sonar site.

The Council's motivation to submit this proposal resulted from the events of the 2015 season, when the IMEG was exceeded (84,015 Chinook Salmon), but the subsistence salmon fishery in Subdistrict 5D remained closed.

**Existing Federal Regulation**

**Yukon-Northern Area – Salmon**

*50 CFR§100.27 Subsistence taking of fish*

*§\_\_\_\_.27(i)(3) (i) Unless otherwise restricted in this section, you may take fish in the Yukon-Northern Area at any time. In those locations where subsistence fishing permits are required, only one subsistence fishing permit will be issued to each household per year. You may subsistence fish for salmon with rod and reel in the Yukon River drainage 24 hours per day, 7 days per week, unless rod and reel are specifically otherwise restricted in paragraph (e)(3) of this section.*

(ii) For the Yukon River drainage, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action.

## Proposed Federal Regulation

### Yukon-Northern Area – Salmon

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(ii) For the Yukon River drainage, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action.

**(xiii)(B) In Subdistrict 5D you may take salmon for subsistence use once the mid-range of the Canadian interim management escapement goal and the total allowable catch goal are projected to be achieved.**

## Existing State Regulation

Chapter 01. Subsistence Finfish Fishery.

Article 4. Yukon Area.

### **5 AAC 01.210. Fishing seasons and periods – Yukon Area**

(a) Unless restricted in this section, or in 5 AAC 01.220 – 5 ACC 01.249, salmon may be taken in the Yukon Area at any time.

(b) When there are no commercial salmon fishing periods, the subsistence fishery in the Yukon River drainage will be based on a schedule implemented chronologically, consistent with migratory timing as the salmon run progresses upstream. The commissioner may alter fishing periods by emergency order, if the commissioner determines that preseason or in-season run indicators indicate it is necessary for conservation purposes. The fishing periods for subsistence salmon fishing in the Yukon River drainage will be established by emergency order as follow:

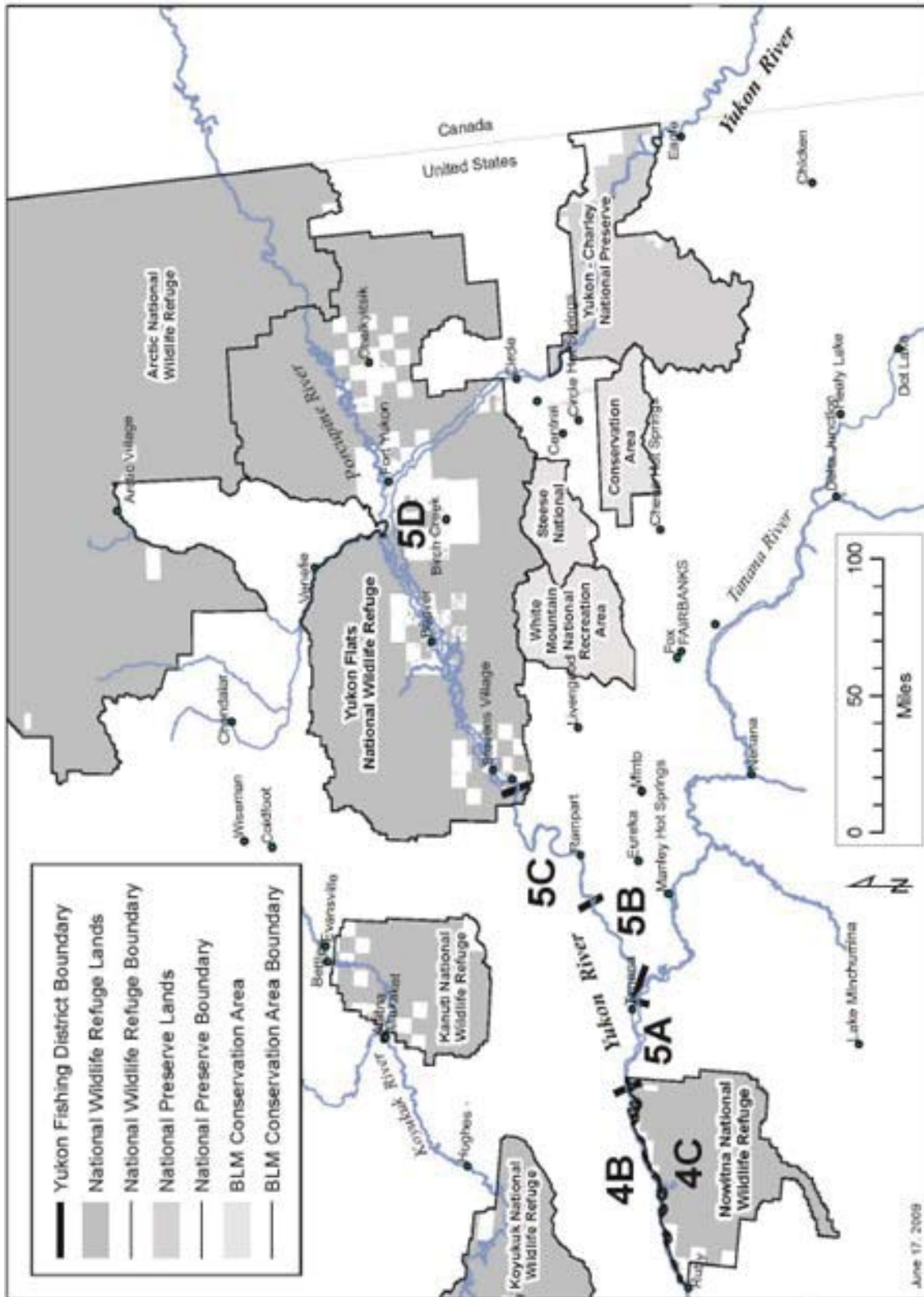
(1) Coastal District, Koyukuk River, Kantishna River, and Subdistrict 5D: seven days

*per week.*

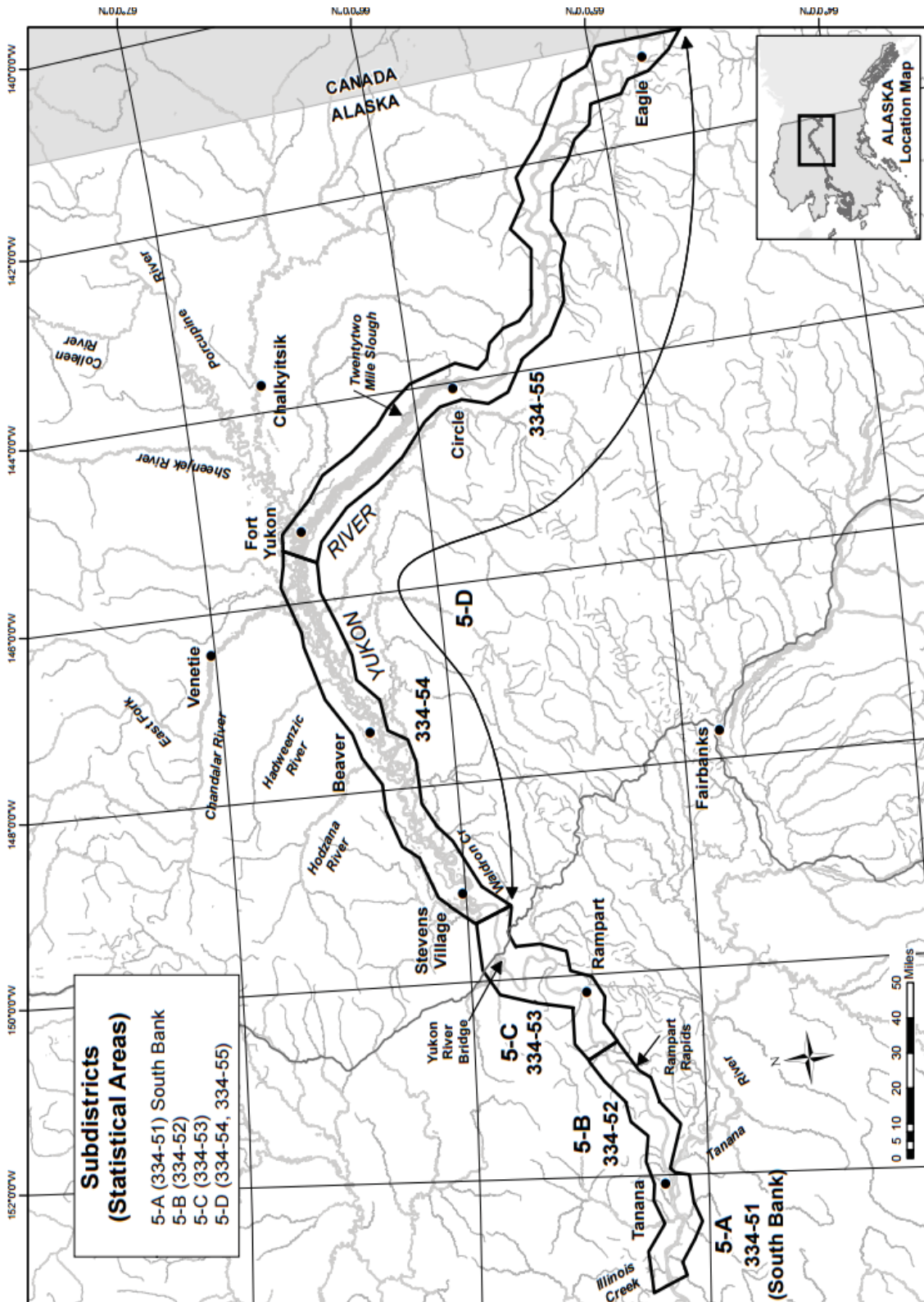
- (c) Notwithstanding the provisions of (A) and (B) of this paragraph, if the commissioner determines it is necessary to ensure that reasonable opportunity for subsistence uses is being provided, the commissioner may, by emergency order, open a subsistence fishing period that may occur during times that are before, during, and after a commercial salmon fishing period.*

### **Extent of Federal Public Waters**

For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. The Federal public waters addressed by this proposal are those portions of the Yukon River located within, or adjacent to, the external boundaries of the Yukon Flats National Wildlife Refuge and the Yukon – Charley Rivers National Preserve. Subdistrict 5D consists of the Yukon River drainage from the Alaska Department of Fish & Game (ADF&G) regulatory markers located approximately two miles downstream from Waldron Creek upstream to the United States-Canada border (**Map 1 and Map 2**).



Map 1. Area map of Subdistrict 5D and surrounding Federal lands (ADF&G 2016).



Map 2. Subdistrict 5D map close up with villages (ADF&G 2016)

## Customary and Traditional Use Determinations

For salmon other than fall Chum Salmon, residents of the Yukon River drainage, and the community of Stebbins have a customary and traditional use determination. For fall Chum Salmon, residents of the Yukon River drainage and the communities of Chevak, Hooper Bay, Scammon Bay and Stebbins have a customary and traditional use determination. For freshwater fish species (other than salmon) residents of the Yukon Northern Area have a customary and traditional use determination within the Yukon River Drainage.

## Cultural Knowledge and Traditional Practices

In the Yukon River drainage, people who are members of Yup'ik Eskimo and *Deg Hit'an*, *Doy Hit'an*, Holikachuk, *Denaakk'e* (Koyukon), *Gwich'in*, *Han*, Tanana, Tanacross, or Upper Tanana Athabaskan cultural groups live in the 61 rural communities with a customary and traditional use determination for Chinook Salmon in the Yukon River (**Table 1**). Settlement patterns since 1900 have been characterized by movement from seasonal camps to permanent settlements located at important harvesting sites, around trading posts and missions, and to send children to school. Others have moved to the area to work in education, government, mining, trade, and other industries (Clark 1981; Fienup-Riordan 1984, 1986; Haynes and Simeone 2007; Hosley 1981; Mishler and Simeone 2004; Nelson 1983; Slobodin 1981; Wolfe and Scott 2010; VanStone 1984; VanStone and Goddard 1981).

Another force of change affecting salmon harvest levels in the upper Yukon River drainage was the use of salmon to feed sled dogs.

The period from 1900 to 1940 encompasses the peak sled dog era in the Yukon River drainage . . . virtually every family maintained a small number of sled dogs . . . . In the 1930s airplanes began to replace commercial dog teams for the movement of freight and mail but sled dogs continued to provide the bulk of winter transportation for individuals and families throughout the Yukon River drainage (Andersen and Scott 2010:2–5).

By the 1970s snowmobiles had largely replaced the family dog team. Some people continue to keep dogs. In the upper Yukon River drainage no one reported harvesting Chinook Salmon for dog food in 2009, 2010, or 2011, nor during a survey conducted in 2008 that included the communities of Tanana and Fort Yukon (Andersen and Scott 2010; Jallen, Decker, and Hamazaki 2012; Jallen, Ayers, and Hamazaki 2012; Jallen and Hamazaki 2011). In 2011, an estimated 40,178 salmon were harvested for dog food in the upper Yukon River drainage (from Tanana, in District 5A, to the Canada Border, in Subdistrict 5D). The majority of this harvest was fall Chum Salmon, but smaller amounts of summer Chum Salmon and Coho Salmon were also harvested to feed dogs.

In contrast to villages in the lower and middle river districts, the populations of communities on the upper Yukon River drainage (from Tanana, in Subdistrict 5A, to the Canada border, in Subdistrict 5D) peaked between 1970 and 2000 and has since declined; the population increased by only 1.5% in the 50 years between 1960 and 2010 (**Table 1**, ADCCED 2014). Upper Yukon villages are generally described as culturally affiliated with Koyukon, *Gwich'in*, and *Han* Athabascans (Clark 1981, Hosley 1981, Mishler and Simeone 2004, Nelson 1983, Slobodin 1981, Wolfe and Scott 2010, VanStone and Goddard 1981). The communities of Eagle City, Chicken, and Central were established as gold mining supply sites; however,



most miners had left the area by 1910. Alaska Native and non-Native residents worked on steamboats, in mines, and in wood chopping camps, as well as on traplines. In the 1970s land auctions attracted new residents to Eagle. Gold miners continue to return to the area seasonally. Roads have linked Eagle on the Yukon with the Alaska Highway since the 1950s and, the Steese Highway connected the Yukon River community of Circle with Fairbanks in 1927. The Dalton Highway, or Haul Road, from Livengood to Deadhorse crosses the Yukon River between the communities of Rampart and Stevens Village (Crow and Obley 1981, Hosley 1981).

A significant factor affecting the management of salmon fisheries in the upper Yukon River drainage is the three highway access points. Federal regulations do not affect the State fisheries at the three highway access points because none are located on Federal public lands. The following is a description of salmon fishing patterns of communities that harvest salmon in Subdistrict 5D.

#### Residents of Eagle and Eagle Village

People rely on large quantities of salmon, including Chinook Salmon, that they harvest from the upper Yukon River drainage in Subdistrict 5D (Jallen, Decker, and Hamazaki 2012). More fall Chum Salmon are harvested than other salmon species. Historically fish, especially salmon, were a vital resource for *Han* people living in the Upper Yukon area encompassing Subdistrict 5D (Mishler and Simeone 2004). Chinook Salmon pass Eagle Village beginning around July 1 and continue through early August. After a short break, the fall Chum Salmon run begins in mid-August and continues to late September. There are fishwheels harvesting salmon from Eagle Village to the Canadian border. “Up until the 1970s, *Han* families usually moved to their fish camps while the salmon were running” (Mishler and Simeone 2004:60). They processed Chinook Salmon for human consumption and Chum Salmon for dog food. They cut salmon fillets into long strips and smoked salmon, kippered and froze salmon, and smoked salmon eggs.

#### Residents of Chicken

The community of Chicken is located on the Taylor Highway on a tributary of the Fortymile River, about 95 highway miles from Yukon River at the community of Circle. Salmon are not observed in the Fortymile River drainage in Alaska except a few Chum Salmon below the Taylor Highway bridge that crosses the Fortymile River about 46 miles from Chicken. No subsistence harvests of salmon have been reported by Chicken residents (Jallen, Decker, and Hamazaki 2012).

#### Residents of Beaver, Birch Creek, Circle, Fort Yukon, Venetie, Chalkyitsik, and Arctic Village

Most residents harvest more fall Chum Salmon than other salmon species from the upper Yukon River drainage (Jallen, Decker, and Hamazaki 2012). Five groups, or bands, of *Gwich'in* were centered historically in the Upper Yukon-Porcupine region of Alaska (Slobodin 1981). In 1983, Caulfield described the harvest of fish. “Traditionally fish were one of the most reliable and abundant food resources in the Upper Yukon-Porcupine region, and this fact remains true today . . . Harvest of fish was a major component of the annual cycle for bands” (Caulfield 1983:36).

Salmon are harvested primarily along the Yukon River . . . King salmon arrive at Fort Yukon during the end of June and are generally caught . . . during the early part of July. Chum Salmon arrive in August . . . The most intensive fishing activity for Chums takes place in late August and early September . . . King salmon are extremely oily and are usually cut into strips and hung to dry in smokehouses. King salmon heads are often split, dried, and used in soups . . . Several thousand Chums may be split and dried on racks in the fall for dog food (Caulfield 1983:74).

Additionally, “Chalkyitsik has traditionally been an important fishing site” located on the Salmon Fork of the Black River (Caulfield 1983:127). “The main reason for the . . . settlement was the presence of an abundant source of whitefish which run down the nearby creek during the fall” (Nelson 1973:18). Traditional territory included the Porcupine and Black rivers. Some Chum Salmon were gaffed in the fall at spawning areas.

Residents of Arctic Village generally harvest salmon from the Chandalar River drainage above Venetie (ADF&G 1986; Caulfield 1983; Jallen, Decker, and Hamazaki 2012). Fall Chum Salmon account for the majority of salmon returning to the Chandalar River and begin to arrive in late July or early August. “Summer Chum Salmon, while not as abundant, have been intermittently observed in the Chandalar River. . . While Chinook Salmon are known to spawn in the Chandalar River, their actual abundance is unknown” (Melegari and Osborne 2008:1).

#### Residents of Central

Central residents harvest some salmon, primarily Chinook Salmon (Jallen, Decker, and Hamazaki 2012). Central is located on the upper reaches of Birch Creek and along the Steese Highway that connects Fairbanks to the community of Circle on the Yukon River, 33 highway miles away. They harvest salmon from the mainstem of the Yukon River. Central was a mining supply site and telegraph maintenance station in the 1890s and early 1900s. Mining activity in the area continues today. Central also provides services to area residents (Hosely 1981; Jallen, Decker, and Hamazaki 2012).

#### Residents of Stevens Village

People harvest more Chinook or fall Chum salmon than summer Chum or Coho salmon (Jallen, Decker, and Hamazaki 2012). Chinook Salmon are generally available in the area from late June or early July through July and in some years into August. Late-run Chinook Salmon are mixed with summer Chum Salmon. Coho Salmon arrive by September. In 1984, Sumida (1986) wrote that all Chinook Salmon were prepared for human consumption, and only some entrails, backbones, and other discarded parts were fed to dogs. Summer Chum Salmon were used primarily for dog food, some fall Chum Salmon were prepared for human consumption and some were fed to dogs, and most Coho Salmon were used for dog food and some were prepared for human consumption. Most fish camps were located along the Yukon River mainstem from just below the Dalton Highway bridge (about 27 river miles downriver) to several miles above Stevens Village. Chinook Salmon were desired by all households in the community. They were cut, smoked, and dried in strips, frozen, salted, and/or canned. Fish heads and roe were sometimes processed for later use. Summer Chum and Coho salmon were selectively cut for human consumption or

dog food based in part on the quality of the fish, number of dogs, and the number of Chinook Salmon already harvested. Salmon for dog food were handled with less care (Sumida 1986). In 2007, about 40% of Stevens Village households had fish camps where they processed and smoked salmon. Most fishing sites were located downriver from the community about halfway to the Dalton Highway bridge where a few fish camps had seasonal occupants from outside the area. The average use of a particular fish camp site by a family was 51 years. Sled dogs were common in Stevens Village (Wolfe and Scott 2010). Wolfe and Scott (2010) quoted from a Stevens Village resident describing the traditional use area and the impact of the Dalton Highway bridge.

You know all these villages of the Interior originally were separate bands . . . . Every band or village had its traditional hunting and fishing ground that the other bands recognized. Traditionally, the Stevens Village people’s traditional use area was forty miles upriver [from the Yukon bridge] halfway to Beaver Village, around Marten Island, then north back to the foothills, south to Hess Creek. On the western edge, the traditional boundary was at the Ray River area, which is now where the Dalton Highway crosses the Yukon. Traditionally, at that Ray River area for a few miles on either side was like an overlap of Rampart people and Stevens Village people.

Now and more contemporary times, with the advent of state fishing regulations and with this road, that traditional type area is not recognized anymore [by outsiders]. You have nonlocal Natives will come in and set up camp right off the road, like you saw last night. In more traditional times, they would ask permission from the tribe of whose area they were in. That’s kind of still a little bit in practice, but not so much, because nowadays people travel, and even Native peoples kind of abide by the state and federal hunting and fishing boundaries and permitting system rather than the traditional form of governance over traditional tribal fishing and hunting boundaries (Wolfe and Scott 2010:28–29).

Residents of Rampart

Rampart is located in District 5C downriver from Subdistrict 5D. People harvest more Chinook and fall Chum salmon than summer Chum or Coho salmon (Jallen, Decker, and Hamazaki 2012). People have fish camps up to the Dalton Highway bridge (in Subdistrict 5D). A stretch of river below the bridge is used by residents of Stevens Village and Rampart. Wolfe and Scott (2010) reported that in 2007 five fish camp families in the area below the bridge were dual residents of Rampart and Fairbanks and four fish camps were occupied by people without connections to the villages.

**Table 1.** The number of people in the customary and traditional use determination for Chinook Salmon in Subdistrict 5D of the upper Yukon River drainage, by community and Fishery Management District, 1960-2010.

Community	1960	1970	1980	1990	2000	2010	2010 number of households
Tanana city	349	120	388	345	308	246	100

Rampart CDP	49	36	50	68	45	24	10
Stevens Village CDP	102	74	96	102	87	78	26
Beaver CDP	101	101	66	103	84	84	36
Fort Yukon city	701	448	619	580	595	583	246
Chalkyitsik CDP	57	130	100	90	83	69	24
Arctic Village CDP	110	85	111	96	152	152	65
Venetie CDP	107	112	132	182	202	166	61
Birch Creek CDP	32	45	32	42	28	33	17
Circle CDP	41	54	81	73	100	104	40
Chicken CDP	0	0	0	0	17	7	5
Central CDP	28	26	36	52	134	96	53
Eagle Village CDP	0	0	54	35	68	67	31
Eagle city	92	36	110	168	129	86	41
<b>District 5 subtotal</b>	<b>1,769</b>	<b>1,267</b>	<b>1,875</b>	<b>1,936</b>	<b>2,032</b>	<b>1,795</b>	<b>755</b>

CDP=Census Designated Place. Blank cell=information is not available. Source: ADCCED 2014.

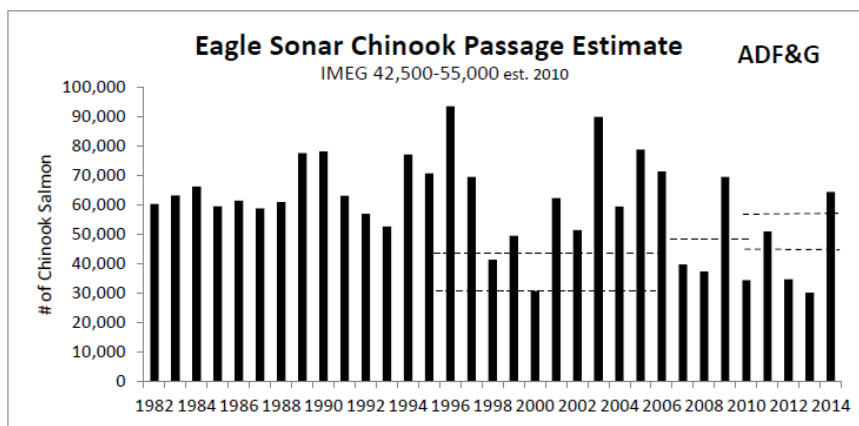
### Regulatory History

Since 2001, the Yukon River Chinook Salmon stock has been categorized as a “stock of yield concern” by the Alaska Board of Fisheries in accordance with the State’s *Policy for the management of sustainable salmon fisheries*. This designation identifies a chronic inability to maintain expected yields or harvestable surpluses above a stock’s escapement needs despite restrictive management actions. Directed commercial fishing for Yukon River Chinook Salmon has been discontinued since 2007 and subsistence fishing opportunities have become increasingly more restrictive in an effort to conserve Chinook Salmon.

For management purposes, the summer season refers to the fishing associated with Chinook and summer Chum Salmon migrations and the fall season refers to the fishing associated with the fall Chum and Coho salmon migrations. During the fishing season, management is based on preseason projections and in-season run assessments. Since 1995 the main river sonar project at Pilot Station has provided in-season estimates of salmon passage for fisheries management. The level of commercial, subsistence, and personal use harvests can be adjusted through the use of State emergency orders and Federal special actions to manage time, gear, and area of openings and closures. For Chinook Salmon, since 2001 there has been an action plan developed through a public process that includes goals, objectives, and provisions necessary to rebuild Chinook Salmon runs (Munro and Tide 2014).

The Canadian IMEG of 42,500– 55,000 Chinook Salmon is based on the Eagle sonar (**Figure 2**). In order to meet this goal, the passage at the Eagle sonar station must include a minimum of 42,500 fish for escapement, provide for a subsistence harvest in the community of Eagle upstream of the sonar (approximately 1,000–2,000 fish), and incorporate Canadian harvest sharing as dictated in the US/Canada Yukon River Treaty which is typically 20–26% of the TAC (ADF&G 2014a). Subsistence fishers have had very limited opportunities to harvest Chinook Salmon in the Yukon River drainage during recent years of low abundance. The 2014 season was “the most conservatively managed Chinook Salmon season in

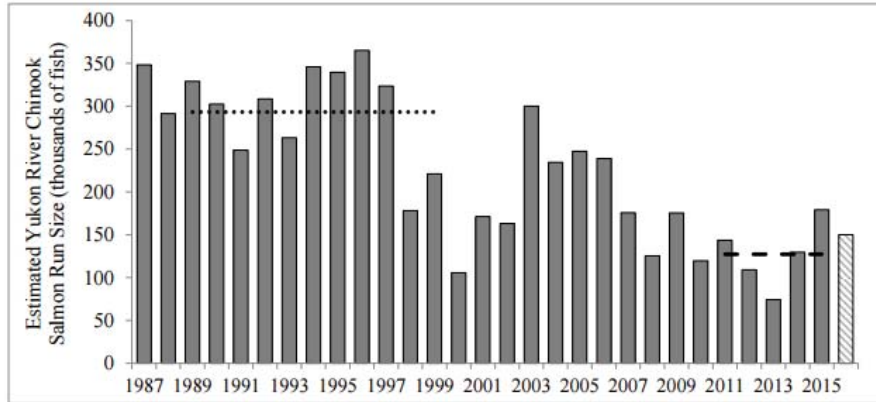
recent history” (ADF&G 2014a). For example, District 5 subsistence fishers were not allowed to use greater than 4-inch mesh-size gillnets for up to 45 days in summer 2014 (ADF&G 2015b). Management of the Yukon River salmon fishery is complex due to the (1) inability to determine stock-specific abundance and timing, (2) overlapping multi-species salmon runs, (3) efficiency of methods and means, (4) allocation issues, and (5) the immense size of the Yukon River drainage. Currently the Yukon River fisheries are managed chronologically to protect the main pulse of the Chinook Salmon run. Federal in-season managers look to manage the fisheries in concordance with pre-season management goals for the predicted year. When opportunities arise for subsistence harvest, in-season managers liberalize the fishery to allow more harvest as was observed in 2016. Due to the nature of this type of adaptive management strategy, calls into question whether FP17-01 is warranted or could be effective if the Federal in-season manager has the ultimate discretion to allow liberalizations to be made or restrictions.



**Figure 2.** Eagle sonar Chinook passage estimates from 1982-2014 (ADF&G 2014b).

### Current Events Involving the Species

The 2013 Chinook Salmon run was one of the poorest runs on record. In response, fishery managers reduced subsistence fishing opportunity to limit harvests to approximately 25% of historical levels. However, even with reduced subsistence harvests, the lower bound of the Canadian IMEG (42,500 – 55,000 fish) was not met and the estimated escapement past the Eagle sonar was 30,752 Chinook Salmon. In 2014 and 2015, the Chinook Salmon fishery was also managed conservatively. Chinook Salmon escapement into Canada exceeded the upper bound of the Canadian IMEG both years, at 63,462 and 84,015 fish, respectively. The 2016 drainage-wide Chinook Salmon outlook is for a run size of 130,000 to 175,000 fish past the Pilot Station sonar site (**Figure 3**; ADF&G 2016b). The preseason forecast for the Yukon River main stem Chinook Salmon return is predicted to be below-average and in this regard, a conservative management approach will likely be required in order to achieve the IMEG (JTC 2016).



**Figure 3.** The 2016 dashed bar represents the approximate midpoint of the projected outlook range of 130,000 to 175,000 Chinook salmon at Pilot Station sonar. The dotted line represents the historical average run size and the dashed line is the recent 5 – year average run size (ADF&G 2016).

As the 2016 season started, in-season fisheries managers proceeded to manage the Chinook fishery with caution and acted in a conservative manner in which they described in their 2016 forecast management plan. As the season progressed and the sonar escapement at Eagle was predicted to be met, in-season fisheries managers began to liberalize the fisheries to increase opportunities for subsistence purposes.

During the early 2016 season, ADF&G and the U.S. Fish and Wildlife Service (USFWS) presented a news release with specific management actions for Subdistrict 5D to restrict gear size of gillnets during specific times. ADF&G management actions for Subdistrict 5D were as follows (**Table 3**):

**Table 3.** News releases of the in-season management actions for the 2016 season.

<u>Area of 5D</u>	<u>Date</u>	<u>Action</u>	<u>Season</u>	<u>Methods</u>	<u>New Release</u>
<b>LOWER</b>	31-May	Open 24 hrs a day	Seven days / week	Fish wheels or gillnets with mesh 7.5 inches or smaller	(NR #7)
<b>MIDDLE</b>					
<b>UPPER</b>					
<b>LOWER</b>	19-Jun	Open 24 hrs a day	Seven days / week	Fish wheels or gillnets with mesh 6 inches or smaller	(NR #17)
<b>MIDDLE</b>	22-Jun	Open 24 hrs a day			(NR # 27)
<b>UPPER</b>	24-Jun	Open 24 hrs a day			(NR # 27)
<b>LOWER</b>	28-Jun	CLOSE			(NR #29)
<b>MIDDLE</b>	1-Jul	CLOSE			(NR #29)
<b>UPPER</b>	3-Jul	CLOSE			(NR #55)

Continued from previous page.

<b>LOWER</b>	11-Jul		One 12-hour period	Fish wheels or gill- nets mesh size 6 inches or smaller	(NR #55)
<b>MIDDLE</b>	13-Jul				(NR #55)
<b>UPPER</b>	15-Jul				(NR #55)
<b>LOWER</b>	17-Jul		One 24-hour period	Fish wheels or gill- nets mesh size 6 inches or smaller	(NR #60)
<b>MIDDLE</b>	17-Jul				(NR #60)
<b>UPPER</b>	15-Jul		One 36-hour period		(NR #60)
<b>LOWER</b>	20-Jul		3.5 day period	Fish wheels or gill- nets mesh size 6 inches or smaller	(NR #61)
<b>MIDDLE</b>	20-Jul				(NR #61)
<b>UPPER</b>	20-Jul				(NR #61)
<b>5D</b>	19-Jul		4.5 day	Fish wheels or gill- nets mesh size 6 inches or smaller	(NR # 64)
<b>5D</b>	24-Jul	Open 24 hrs a day	One 24-hour period	Fish wheels or gill- nets mesh size 7.5-inch or smaller	(NR # 65)
<b>5D</b>	25-Jul	Open 24 hrs a day	Seven days / week	Fish wheels or gill- nets mesh size 6 inches or smaller	(NR # 65)
<b>5D</b>	26-Jul	Open 24 hrs a day	Seven days / week	Fish wheels or gill- nets mesh size 7.5-inch or smaller	(NR #67)

### Biological Background

Recent analyses indicate that Yukon River Chinook Salmon stocks appear to be in the 8th year of a multi-year period of low productivity. Historically, the Yukon River Chinook Salmon stocks show periods of above-average abundance (1982-1997) and periods of below-average abundance (1998 onwards), as well as periods of generally higher productivity (brood years 1993 and earlier) mixed with years of low productivity (brood years 1994-1996 and 2002-2005; Schindler et al. 2013). The minimum spawning escapement target was not achieved in 5 of the past 9 years (Department of Fisheries and Oceans Canada 2016). Presently, the Chinook Salmon escapement at the Eagle sonar site (68,010 fish 8/4/2016) has met the Canadian IMEG and opportunities for subsistence have been provided thru in-season management actions. During 2012 and 2013 the Eagle sonar escapement experienced the lowest returning adults in history (**Table 4**). It is expected that the progeny of the 2012 and 2013 year class will be weak due to low escapement. If this is a true, the expected run strength of the 2017 thru 2019 year class might be weak and management will likely remain cautionary.

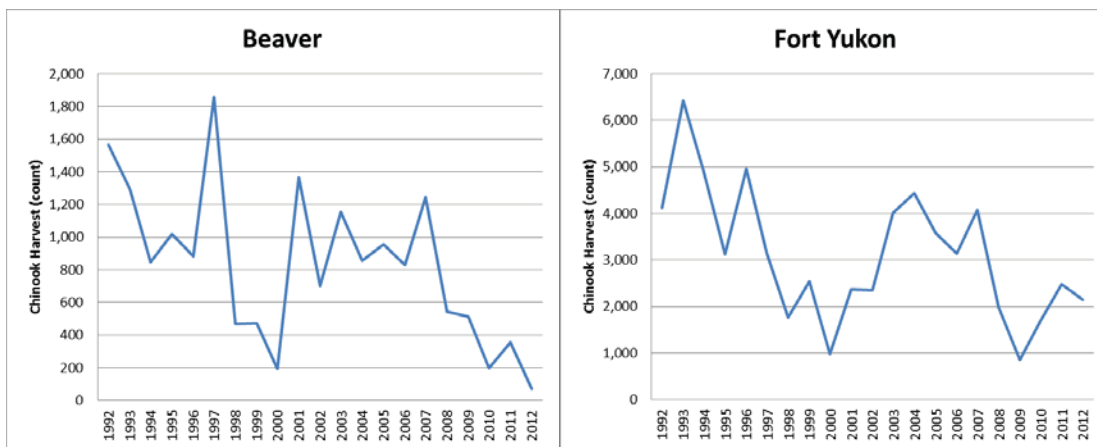
**Table 4.** Eagle sonar Chinook Salmon escapement for the past four years (2012 – 2015).

Cumulative 2015	Cumulative 2014	Cumulative 2013	Cumulative 2012
84,015	63,462	30,725	34,747

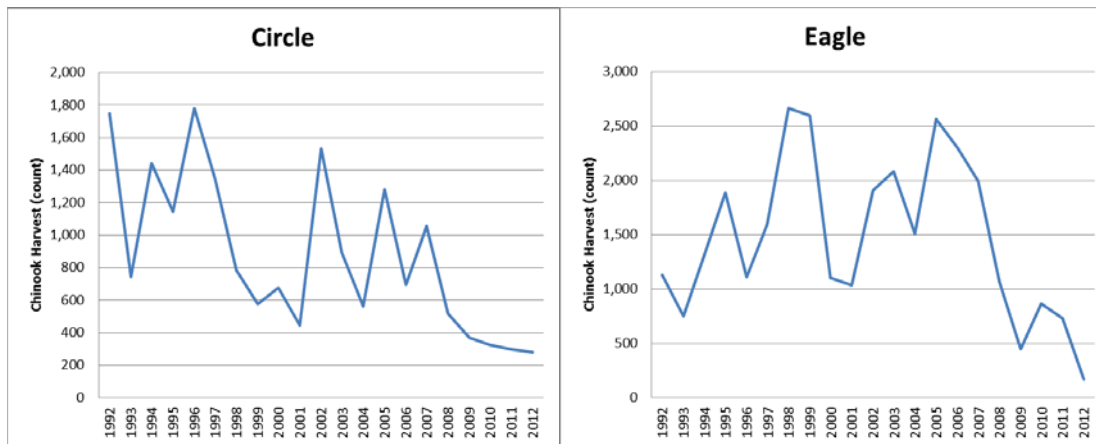
**Harvest History**

Chinook Salmon subsistence harvests average approximately 50,000 fish annually in the Alaskan portion of the Yukon River from 1989 - 1997. However, subsistence harvest levels of Chinook Salmon have declined since 1997 due to declining run abundance and resultant harvest restrictions. In recent years, subsistence fishing has increasingly targeted other species of fish. In order to allow continued subsistence opportunity throughout the season, subsistence fishing activity has been managed to avoid Chinook and allow the harvest of other fish species.

The Yukon River drainage in District 5 includes the communities of Stevens Village, Birch Creek, Beaver, Fort Yukon, Circle, Central, Eagle, Venetie and Chalkyitsik. District 5 harvested an estimated 5-year average (2001–2005) of 13,969 Chinook Salmon annually and 2006 – 2010 averaged 11,252 Chinook Salmon (Jallen et al. 2012). This pattern coincided with a decrease in the other 6 Yukon River management districts. In District 5, only 18% of the surveyed subsistence households responded that their Chinook Salmon needs (76% to 100%) were met, the lowest of any U.S. Yukon River district (Jallen et al. 2012). Declines in harvest of Chinook Salmon have been noticeably observed in four communities (Fort Yukon, Beaver, Circle, and Eagle) of Subdistrict 5D (**Figure 3**). The preliminary harvest estimates of Chinook, Chum (both summer and fall), and Coho salmon were below the State’s amounts necessary for subsistence levels (JTC 2016). The estimated 16 – year harvest of Chinook Salmon for the following communities; (Beaver 983 fish, Circle 1,045 fish, Eagle 1,722 fish, and Fort Yukon 3,495 fish). From 1992 to 2007, the communities of Stevens Village, Birch Creek, Beaver, Fort Yukon, Circle, Eagle, and Venetie harvested an estimated 20% of all the Alaskan villages subsistence Chinook harvest (Fall et al. 2012).







**Figure 3.** 20 year trends of four communities Chinook Salmon harvest in Subdistrict 5D.

Commercial harvest

Commercial fishing has been closed since 2007 for Chinook Salmon and there is not an anticipated fishery for 2016 on the Yukon River in Subdistrict 5D. Currently, there is one permit holder for commercial fishing in Subdistrict 5D (Firmin 2016).

**Effects of the Proposal**

If FP17-01 were adopted, Federally qualified subsistence users would be allowed to harvest salmon during closures when the Federal in-season managers project that the midrange of the Canadian IMEG and the TAC goal are projected to be achieved. In-season managers use a variety of tools to assess the abundance of salmon in the Yukon River, however the estimates do come with uncertainty. Adoption of FP17-01 would ensure timely access to harvest fish in the event the in-season managers delay opportunities. Due to the large size of Subdistrict 5D, run timing is critical for the lower Subdistrict 5D to have opportunities to fish when the Canadian obligations have been achieved. The harvest in Subdistrict 5D has shown to be relatively low in the past and should not significantly impact the population of either Chinook Salmon or fall Chum Salmon if this regulation were adopted. The communities of Eagle, Fort Yukon, Circle, and Beaver have all shown declines in harvest and providing an ensured opportunity to harvest salmon could benefit all of the communities within Subdistrict 5D. It is also likely that an increase in participation from the subsistence users could develop due achieving the “target” with fulfilling Canadian obligations and having a known benchmark to begin fishing.

If FP17-01 were not to be adopted, it is likely that the declining trend of harvest among communities in Subdistrict 5D would persist. Subsistence harvesters might be less inclined to put in the effort to build and assemble fish wheels when waiting for the in-season manager’s decision to open the fishery. Jallen et al. has shown through previous harvest surveys that subsistence needs are rarely met for District 5.

Federal in-season managers would still retain the management actions in a chronological fashion as they have done in the past. Eagle sonar estimates are gathered daily and when the Canadian IMEG has been achieved, it is known almost instantaneously. This information can be relayed via teleconference and it is likely that the fishery for Subdistrict 5D be opened shortly after the Federal in-season manager announces the mid-range of the Canadian IMEG and TAC have been achieved.

## OSM PRELIMINARY CONCLUSION

**Support** Proposal FP17-01 **with modification** to change the wording in the proposed regulation from “projected to be achieved” to “achieved,” and to specify that the Federal in-season manager is the person to declare when the IMEG and TAC are achieved.

The modified regulation should read:

### **Yukon-Northern Area – Salmon**

#### *50 CFR§100.27 Subsistence taking of fish*

*§\_\_\_\_.27(i)(3) (i) Unless otherwise restricted in this section, you may take fish in the Yukon-Northern Area at any time. In those locations where subsistence fishing permits are required, only one subsistence fishing permit will be issued to each household per year. You may subsistence fish for salmon with rod and reel in the Yukon River drainage 24 hours per day, 7 days per week, unless rod and reel are specifically otherwise restricted in paragraph (e)(3) of this section.*

*(ii) For the Yukon River drainage, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action.*

*(xiii)(B) In Subdistrict 5D, **during in-season subsistence fisheries closures**, you may take salmon for subsistence use once the ~~mid-range of the Canadian~~ interim management escapement goal and the total allowable catch goal are projected to be **achieved, and announced by the Federal in-season manager**.*

### **Justification**

Adoption of this proposal with modification could result in additional harvest opportunity for Federally qualified subsistence users in Subdistrict 5D in times of Chinook Salmon conservation. Estimates of in-season run strength usually have a high degree of uncertainty, so it would be prudent to wait until the Eagle sonar counts achieve the mid-range of the IMEG and TAC, before lifting the closure to Federally qualified subsistence users. As was observed in the 2016 season the in-season fisheries managers closely monitored and regulated the fishery until the IMEG was predicted to be met. At that point, the fishery was liberalized to further provide more subsistence opportunity for subsistence purposes drawing in the question if the FP17-01 regulatory proposal is needed if the in-season managers plan to open the fishery when the IMEG and TAC is predicted to be met. The primary cause of concern from the Council is to have ensured opportunity as soon as the Canadian obligations have been fulfilled. Some years such as 2015, the

Canadian obligations were met. However the fishery remained closed, which prompted concern about the continued access to the fishery in future years when the Canadian obligations are met.

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<b>FP17-02 Executive Summary</b>	
<b>General Description</b>	Proposal FP17-02, requests a new regulation be made to Subdistrict 5D to allow for harvest of early-run Chinook Salmon until arrival of the first pulse of Chinook Salmon. This would allow access to a small number of early-run Chinook Salmon while still protecting the main Chinook Salmon run. <i>Submitted by: Eastern Interior Alaska Subsistence Regional Advisory Council.</i>
<b>Proposed Regulation</b>	<p>§ __.27(i)(3) (i) <i>Unless otherwise restricted in this section, you may take fish in the Yukon-Northern Area at any time. In those locations where subsistence fishing permits are required, only one subsistence fishing permit will be issued to each household per year. You may subsistence fish for salmon with rod and reel in the Yukon River drainage 24 hours per day, 7 days per week, unless rod and reel are specifically otherwise restricted in paragraph (e)(3) of this section.</i></p> <p>(ii) <i>For the Yukon River drainage, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action.</i></p> <p>(xiii) <i>In Subdistrict5D you may take early- run salmon migrating up river before the first pulse of Chinook Salmon.</i></p>
<b>OSM Preliminary Conclusion</b>	<b>Support</b> FP17-02
<b>Yukon-Kuskokwim Delta Regional Advisory Council Recommendation</b>	
<b>Western Interior Alaska Regional Advisory Council Recommendation</b>	
<b>Seward Peninsula Regional Avisory Council Recommendation</b>	
<b>Eastern Interior Alaska Regional Advisory Council Recommendation</b>	
<b>Interagency Staff Committee Comments</b>	
<b>ADF&amp;G Comments</b>	
<b>Written Public Comments</b>	None

**DRAFT STAFF ANALYSIS  
FP17-02**

**ISSUE**

Proposal FP17-02 submitted by the Eastern Interior Alaska Subsistence Regional Advisory Council (Council), requests Federally qualified subsistence users in Subdistrict 5D be allowed harvest of early arriving Chinook Salmon until subsistence fishing is closed to protect the first pulse of Chinook Salmon. This would allow Federally qualified subsistence users in portions of Subdistrict 5D access to a small number of Chinook Salmon while still protecting the main Chinook Salmon run.

**DISCUSSION**

Subsistence fishing on the Yukon River in Subdistrict 5D is open 7 days a week with no harvest limit for salmon, unless closed by the inseason managers for conservation purposes. On June 19<sup>th</sup> 2016, as the Chinook Salmon run began to build, the lower portion of Subdistrict 5D was restricted to fishing on the early segment of the run with 6-inch or smaller mesh size gillnets and fish wheels (ADF&G 2016a). On June 28<sup>th</sup>, 2016, subsistence fishing was closed to subsistence salmon fishing with gillnets and fish wheels to protect Chinook Salmon in the lower portion of Subdistrict 5D and followed sequentially to the middle and upper portions as the migration progressed upstream.

Few summer Chum Salmon migrate as far upriver as District 5 therefore, any subsistence opportunity provided would likely target Chinook Salmon, the majority of which are of Canadian-origin. Because few alternative fish species are available for subsistence harvest during the summer season, District 5 often experiences the most restrictive management measures. In an effort to increase harvest opportunity for Federally qualified subsistence users in Subdistrict 5D, the Council proposed allowing harvest of the early arriving Chinook Salmon. Federally qualified subsistence users would be able to harvest the early arriving Chinook Salmon until the first pulse of Chinook Salmon arrived in Subdistrict 5D which is often protected by a fishing closure. Local knowledge defines a pulse of salmon as an aggregate of fish entering the river and traveling upstream together (Bue 2016, pers. comm.). These aggregates of fish usually begin their river migration as a result of changing environmental condition such as tide and wind near the mouth of the river. The aggregates usually represent a mixed of fish that are bound for multiple streams, as they migrate upriver they cause an increase in the fish counts at the escapement projects. Closures to protect the first pulse of Chinook Salmon are not required for Subdistrict by regulation.

**Existing Federal Regulation**

**Yukon-Northern Area –Salmon**

*50 CFR§100.27 Subsistence taking of fish      Year round  
§\_\_\_\_.27(i)(3) (i) Unless otherwise re-*

*stricted in this section, you may take fish in the Yukon-Northern Area at any time. In those locations where subsistence fishing permits are required, only one subsistence fishing permit will be issued to each household per year. You may subsistence fish for salmon with rod and reel in the Yukon River drainage 24 hours per day, 7 days per week, unless rod and reel are specifically otherwise restricted in paragraph (e)(3) of this section.*

*(ii) For the Yukon River drainage, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action.*

**Proposed Federal Regulation**

**Yukon-Northern Area –Salmon**

*50 CFR§100.27 Subsistence taking of fish §\_\_.27(i)(3) (i) Unless otherwise restricted in this section, you may take fish in the Yukon-Northern Area at any time. In those locations where subsistence fishing permits are required, only one subsistence fishing permit will be issued to each household per year. You may subsistence fish for salmon with rod and reel in the Yukon River drainage 24 hours per day, 7 days per week, unless rod and reel are specifically otherwise restricted in paragraph (e)(3) of this section.*

*Year round*

*(ii) For the Yukon River drainage, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action.*



*(xiii) In Subdistrict 5D you may take early-run salmon migrating up river before the first pulse of Chinook Salmon.*

## Existing State Regulation

*Chapter 01. Subsistence Finfish Fishery.*

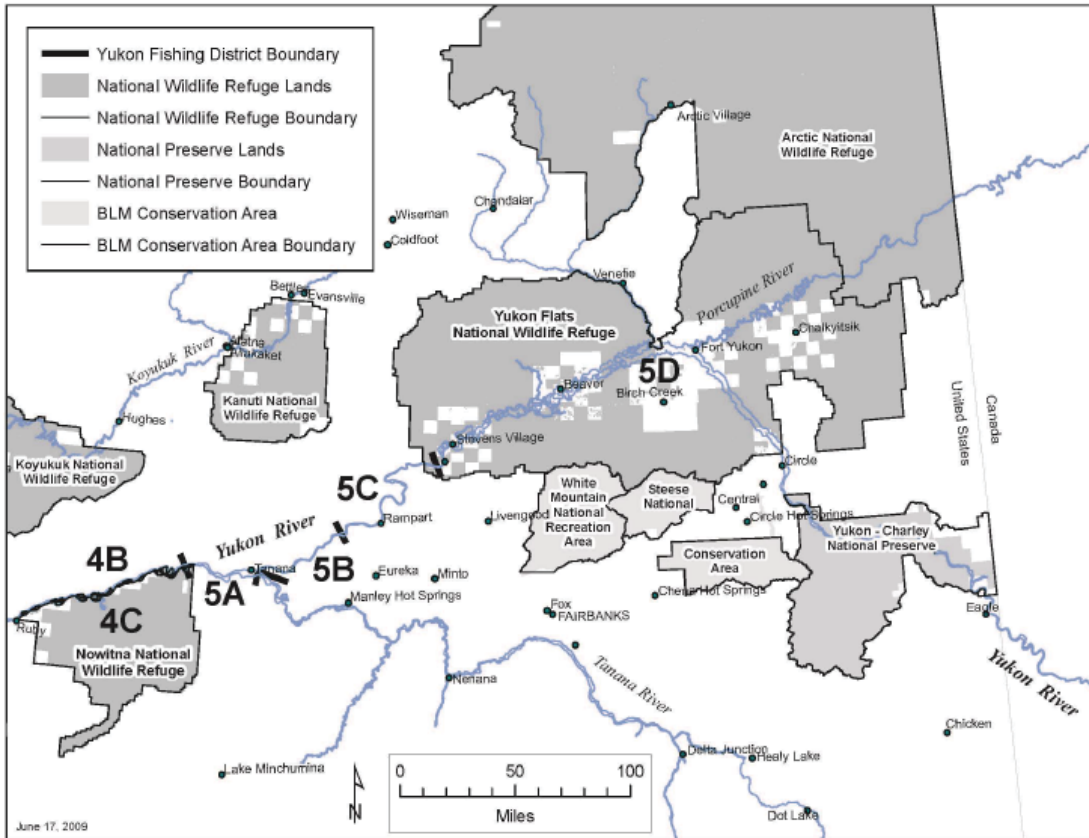
*Article 4. Yukon Area.*

*5 AAC 01.210. Fishing seasons and periods.*

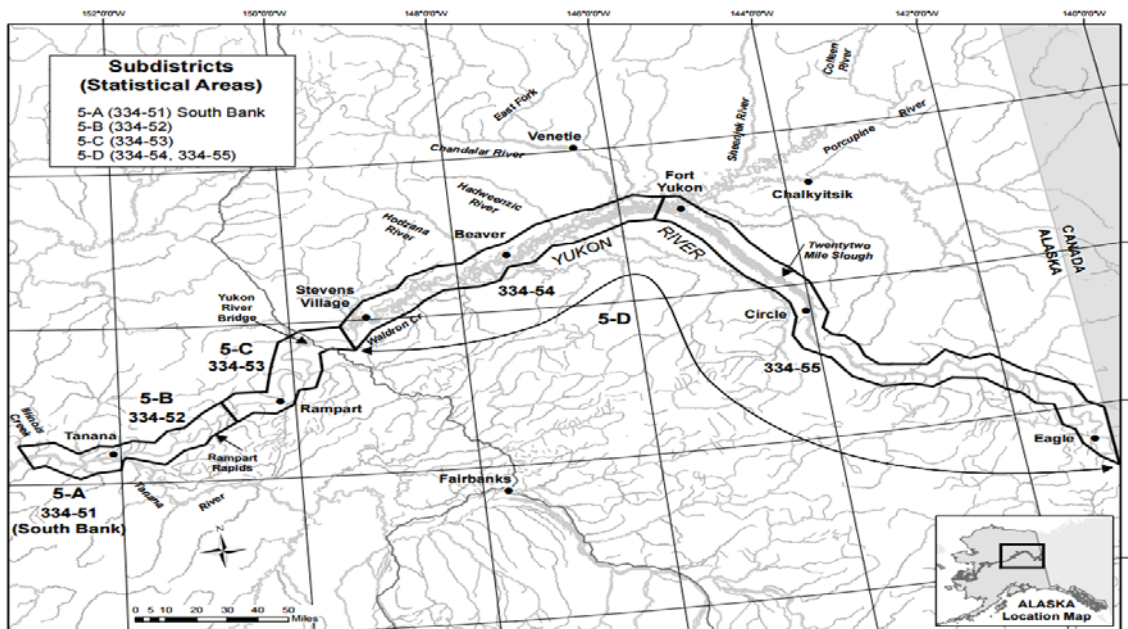
- (a) Unless restricted in this section, or in 5 AAC 01.220 – 5 ACC 01.249, salmon may be taken in the Yukon Area at any time.*
- (b) When there are no commercial salmon fishing periods, the subsistence fishery in the Yukon River drainage will be based on a schedule implemented chronologically, consistent with migratory timing as the salmon run progresses upstream. The commissioner may alter fishing periods by emergency order, if the commissioner determines that preseason or inseason run indicators indicate it is necessary for conservation purposes. The fishing periods for subsistence salmon fishing in the Yukon River drainage will be established by emergency order as follow:*
- (1) Coastal District, Koyukuk River, Kantishna River, and Sub-district 5D: seven days per week.*

## Extent of Federal Public Waters

The area addressed by this proposal includes all Federal public waters of the Yukon River. Federal public waters of the Yukon River watershed include all navigable and non-navigable waters, located within and adjacent to the exterior boundaries of the Innoko, Kanuti, Koyukuk, Nowitna, Tetlin, Yukon Flats, Yukon Delta National Wildlife Refuges (NWR); the Arctic NWR; the Denali Preserve; the 1980 additions to the Denali Park; the gates of the Arctic National Park and Preserve; the Wrangell–St. Elias National Park and Preserve; Yukon-Charley Rivers National Preserve; the Steese National Conservation Area; the White Mountain National Recreation Area, and Preserve, and those segments of the Wild and Scenic River system, of the Yukon River drainage, located outside the boundaries of these Federal Conservation System Units (i.e., portions of Beaver and Birch Creeks and the Delta, and the Fortymile Rivers). The area addressed by this proposal includes all Federal public waters of the Yukon River drainage in Subdistrict 5D, approximately from the village of Stevens Village upstream to the Canadian border. For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. (**Map 1 and Map 2**)



Map 1. Area map of Subdistrict 5D and surrounding Federal lands (ADF&G 2016d).



Map 2. Area map of Subdistrict 5D with local communities (ADF&G 2016d).

## Customary and Traditional Use Determinations

For salmon other than Fall Chum Salmon, residents of the Yukon River drainage, and the community of Stebbins have a positive customary and traditional use determination. For freshwater fish (other than salmon) residents of the Yukon Northern Area have a positive customary and tradition use determination within the Yukon River Drainage.

## Regulatory History

Since 2001, the Yukon River Chinook Salmon stock has been categorized as a “stock of yield concern” by the Alaska Board of Fisheries in accordance with the *Policy for the management of sustainable salmon fisheries* (5 AAC 39.222). This designation identifies a chronic inability to maintain expected yields or harvestable surpluses above a stock’s escapement needs despite restrictive management actions. Directed commercial fishing for Yukon River Chinook Salmon has been discontinued since 2007 and subsistence fishing opportunities have become increasingly more restrictive in an effort to conserve Chinook Salmon.

Management of the Yukon River salmon fishery is complex due to the (1) inability to determine stock-specific abundance and timing, (2) overlapping multi-species salmon runs, (3) efficiency of methods and means, (4) allocation issues, and (5) the immense size of the Yukon River drainage. The 2014 season was “the most conservatively managed Chinook Salmon season in recent history” (ADF&G 2014a). The management strategies implement in 2014 have continued to be in place through 2016 to conserve Chinook Salmon (ADF&G 2016). Once Chinook Salmon began travel through the fishing districts, closures were initiated. The closure would be implemented in fishing districts based on the migratory timing of the salmon. In 2016, the southern portion of the Coastal District was restricted to 6-inch mesh gillnets when Chinook entered the river. The northern portion of the Coastal District and Districts 1 through 4 and Subdistricts 5A, 5B and 5C were closed to gillnets as the first Chinook salmon migrated upriver. The Districts were reopened with dipnets, beach seines, and live-release fishwheels to ensure the live release of Chinook salmon. As Chinook Salmon entered Subdistrict 5D gillnets were restricted to 6-inch. Once Chinook Salmon began travel through the fishing districts, closures were initiated. The closure would be implemented in fishing districts based on the migratory timing of the salmon. During subsistence salmon fishing closures, non-salmon species were harvested by using 4-inch or smaller mesh size gillnets and targeting of Chinook Salmon was not allowed. Subsistence restrictions would be relaxed after the Chinook Salmon run has passed through each section of the river. Finally, sport fishing for Chinook Salmon was closed in the U.S. portion of the Yukon River drainage.

The Canadian Interim Management Escapement Goal of 42,500– 55,000 Chinook Salmon is based on the Eagle sonar program. In order to meet this goal, the passage at the Eagle sonar station must include a minimum of 42,500 fish for the Canadian escapement, plus provide for a subsistence harvest in upstream of the sonar (approximately 1,000–2,000 fish), and incorporate Canadian harvest sharing as dictated in the US/Canada Yukon River Treaty. Few summer Chum Salmon migrate as far upriver as Subdistrict 5 therefore, any subsistence opportunity provided would likely target Chinook Salmon, the majority of which are of Canadian-origin. Subsistence fishers have had very limited opportunities to harvest Chinook Salmon in the Yukon River drainage during years of low abundance.

While the 2016 Yukon River Chinook Salmon run is forecasted to be stronger than previous years, managers predicted a below average return (ADF&G 2016a). It was likely that conservation measures would be necessary to meet the IMEG of 42,000-55,000 Chinook Salmon. The 2016 drainage-wide Chinook Salmon forecast was for a run size of 130,000 to 175,000 fish. The upper end of this range was similar in size to the run observed in 2015 and would likely require subsistence harvest restrictions in order to assure escapement objectives are met. The first Chinook Salmon were caught in the Lower Yukon Test Fishery on May 17 and May 23 indicating that the 2016 Chinook Salmon run had begun entering the river (ADF&G 2016c). As Chinook Salmon move into District 5D, fishing remained open to allow harvest of the early Chinook Salmon ticklers (ADF&G 2016b). However, gillnet mesh size was restricted to no larger than 6-inches in an effort to conserve the larger bodied female component of the run. As the first pulse of Chinook Salmon move up the drainage, subsistence salmon fishing was closed under both State and Federal management actions to protect the migrating Chinook Salmon. The sport and commercial fisheries for Chinook Salmon were closed through the U.S. portion of the Yukon River drainage, excluding the Tanana River drainage. Restrictions for the Tanana Rivers drainage sport fishery were announced in early June.

### **Biological Background**

Recent analyses indicate that Yukon River Chinook Salmon stocks appear to be in the 8th year of a multi-year period of low productivity. Historically, the Yukon River Chinook Salmon stocks show periods of above-average abundance (1982-1997) and periods of below-average abundance (1998 onwards), as well as periods of generally higher productivity (brood years 1993 and earlier) mixed with years of low productivity (brood years 1994-1996 and 2002-2005; Schindler et al. 2013). Conservation efforts have been on going to help protect the fishery from further declines.

The 2016 drainage-wide Chinook Salmon outlook is for a run size of 130,000 to 175,000 fish. The upper ends of this range is similar in size to the run observed in 2015 and will require subsistence harvest restrictions in order to assure minimum escapement objectives are met. As in recent years, initial management will be based on the expectation that the 2016 Chinook Salmon run size will likely be near the lower end of this range. Although an optimistic projection, historically the estimated projection is still considered below average (JTC 2016).

## Harvest History

Chinook Salmon subsistence harvests have been approximately 50,000 fish annually in the Alaskan portion of the Yukon River over the past 20 years. However, subsistence harvest levels of Chinook Salmon have declined since 1997 due to declining run abundance and resultant harvest restrictions. In recent years, subsistence fishing has increasingly targeted non-Chinook Salmon and other species such as whitefish. In order to allow continued subsistence opportunity throughout the season, subsistence fishing activity has been managed to avoid Chinook Salmon and allow the harvest of other fish species. Yukon River drainage District 5 includes the communities of Tanana, Rampart, Steven Village, Birch Creek, Beaver, Fort Yukon, Circle, Central, Eagle, Venetie and Chalkyitsik. District 5 harvested an estimated 5-year average (2001–2005) of 13,969 Chinook Salmon annually and 2006 – 2010 averaged 11,252 (Jallen et al. 2012). A decrease occurred in all 6 management districts. Household harvest surveys are not done with residents of Rampart, Circle, Central, Eagle, Manley, Minto, Nenana, and Healy. Instead, all Alaska residents fishing in these areas must obtain a State subsistence or personal use permit.

## Cultural Knowledge and Traditional Practices

People who are members of Yup'ik Eskimo and *Deg Hit'an*, *Doy Hit'an*, Holikachuk, *Denaakk'e* (Koyukon), *Gwich'in*, *Han*, Tanana, Tanacross, or Upper Tanana Athabaskan cultural groups live in the 61 rural communities and have a customary and traditional use determination for Chinook Salmon in the District 5D of the Yukon River drainage in Alaska (**Table 1**). Settlement patterns since 1900 have been characterized by movement from nomadism to permanent settlements at important harvesting sites, around trading posts, and to send children to school. Others have moved to the area to work in education, government, mining, trade, and other industries (Clark 1981; Fienup-Riordan 1984, 1986; Haynes and Simeone 2007; Hosley 1981; Mishler and Simeone 2004; Nelson 1983; Slobodin 1981; Wolfe and Scott 2010; VanStone 1984; VanStone and Goddard 1981).

A major force of change affecting salmon harvest levels in the upper Yukon River drainage was the use of salmon to feed sled dogs described below.

*The period from 1900 to 1940 encompasses the peak sled dog era in the Yukon River drainage . . . virtually every family maintained a small number of sled dogs . . . . In the 1930s airplanes began to replace commercial dog teams for the movement of freight and mail but sled dogs continued to provide the bulk of winter transportation for individuals and families throughout the Yukon River drainage (Andersen and Scott 2010:2–5).*

By the 1970s snowmobiles had largely replaced the family dog team. Some people continue to keep dogs. In the upper Yukon River drainage no one reported harvesting Chinook Salmon for dog food in 2009, 2010, or 2011, nor during a survey conducted in 2008 that included the communities of Tanana and Fort Yukon (Andersen and Scott 2010; Jallen, Decker, and Hamazaki 2012; Jallen, Ayers, and Hamazaki 2012; Jallen and Hamazaki 2011). In 2011, an estimated 40,178 salmon were harvested for dog food in the upper Yukon River drainage (from Tanana, in District 5A, to the Canada Border, in District 5D). The

majority was fall Chum Salmon. Smaller amounts of summer Chum Salmon and Coho Salmon were also harvested to feed dogs.

In contrast to the lower and middle, the population in only the upper Yukon River (from Tanana, in District 5A, to the Canada border, in District 5D) drainage peaked between 1970 and 2000 and has since declined; the population increased by only 1.5% in the 50 years between 1960 and 2010 (**Table X**, ADCCED 2014). Villages are generally described as culturally affiliated with Koyukon, Gwich'in, and Han Athabascans (Clark 1981, Hosley 1981, Mishler and Simeone 2004, Nelson 1983, Slobodin 1981, Wolfe and Scott 2010, VanStone and Goddard 1981). Eagle City, Chicken, and Central were established as gold mining supply sites; however, most miners had left the area by 1910. Native and non-Natives worked on steamboats, in mines, and in wood chopping camps, as well as on traplines. In the 1970s land auctions attracted new residents to Eagle City. Gold miners continue to return to the area seasonally. Roads have linked Eagle with the Alaska Highway since the 1950s, the Steese Highway connected Central with Fairbanks in 1927, and the Dalton Highway (Haul Road) from Fairbanks crosses the Yukon River between the communities of Rampart and Stevens Village (Crow and Obley 1981, Hosley 1981).

A significant factor affecting the management of salmon fisheries in the upper Yukon River drainage is the three highway access points, described above. Federal regulations do not affect the State fisheries at the three highway access points because none are located on Federal public lands. The following is a description of salmon fishing patterns of communities that harvest salmon in District 5D.

#### Residents of Eagle and Eagle Village

People rely on large quantities of salmon, including Chinook Salmon, that they harvest from the upper Yukon River drainage in District 5D (Jallen, Decker, and Hamazaki 2012). More fall Chum Salmon are harvested than other salmon species. Historically fish, especially salmon, were a vital resource for Han people living in the Upper Yukon area encompassing District 5D (Mishler and Simeone 2004). Chinook Salmon pass Eagle Village around July 1 and continue for about a month. After a short break, the fall Chum Salmon run begins in mid-August and continues to late September. There are fishwheels harvesting salmon from Eagle Village to the Canadian border. "Up until the 1970s, Han families usually moved to their fish camps while the salmon were running" (Mishler and Simeone 2004:60). They processed Chinook Salmon for human consumption and Chum Salmon for dog food. They cut salmon fillets into long strips and smoked salmon, kippered and froze salmon, and smoked salmon fish eggs.

#### Residents of Chicken

The community of Chicken is situated on the Taylor Highway on a tributary of the Fortymile River and about 95 highway miles from Yukon River at the community of Circle. Salmon are not observed in the Fortymile River drainage in Alaska except a few Chum Salmon below the Taylor Highway bridge that crosses the Fortymile River about 46 miles from Chicken. No subsistence harvests of salmon have been reported by Chicken residents (Jallen, Decker, and Hamazaki 2012).

### Residents of Beaver, Birch Creek, Circle, Fort Yukon, Venetie, Chalkyitsik, and Arctic Village

Most residents harvest more fall Chum Salmon than other salmon species from the upper Yukon River drainage (Jallen, Decker, and Hamazaki 2012). Five groups, or bands, of Gwich'in were centered historically in the Upper Yukon-Porcupine region of Alaska (Slobodin 1981). In 1983, Caulfield described the harvest of fish. "Traditionally fish were one of the most reliable and abundant food resources in the Upper Yukon-Porcupine region, and this fact remains true today . . . Harvest of fish was a major component of the annual cycle for bands" (Caulfield 1983:36).

*Salmon are harvested primarily along the Yukon River . . . King salmon arrive at Fort Yukon during the end of June and are generally caught . . . during the early part of July. Chum Salmon arrive in August . . . The most intensive fishing activity for Chums takes place in late August and early September . . . King salmon are extremely oily and are usually cut into strips and hung to dry in smokehouses. King salmon heads are often split, dried, and used in soups . . . Several thousand Chums may be split and dried on racks in the fall for dog food (Caulfield 1983:74).*

Additionally, "Chalkyitsik has traditionally been an important fishing site" located on the Salmon Fork of the Black River (Caulfield 1983:127). "The main reason for the . . . settlement was the presence of abundant source of whitefish which run down the nearby creek during the fall" (Nelson 1973:18). Traditional territory included the Porcupine and Black rivers. Some Chum Salmon were gaffed in the fall at spawning areas.

Residents of Arctic Village generally harvest salmon from the Chandalar River drainage above Venetie (ADF&G 1986; Caulfield 1983; Jallen, Decker, and Hamazaki 2012). Fall Chum Salmon account for the majority of salmon returning to the Chandalar River and begin to arrive in late July or early August. "Summer Chum Salmon, while not as abundant, have been intermittently observed in the Chandalar River. . . While Chinook Salmon are known to spawn in the Chandalar River, their actual abundance is unknown" (Melegari and Osborne 2008:1).

### Residents of Central

Central residents harvest some salmon, primarily Chinook Salmon (Jallen, Decker, and Hamazaki 2012). Central is located on the upper reaches of Birch Creek and along the Steese Highway that connects Fairbanks to the community of Circle on the Yukon River, 33 highway miles away. They harvest salmon from the mainstem of the Yukon River, probably at Circle. Central was a mining supply site and telegraph maintenance station in the 1890s and early 1900s. Mining activity in the area continues today. Central also provides services to area residents (Hosely 1981; Jallen, Decker, and Hamazaki 2012).

### Residents of Stevens Village

People harvest more Chinook or fall Chum Salmon than summer Chum or Coho Salmon (Jallen, Decker, and Hamazaki 2012). Chinook Salmon are generally available in the area from late June or early July through July and in some years into August. Late run Chinook Salmon are mixed with summer Chum

Salmon. Coho Salmon arrive by September. In 1984 Sumida (1986) wrote that all Chinook Salmon were prepared for human consumption, and only some entrails, backbones, and other discarded parts were fed to dogs. Summer Chum Salmon were used primarily for dog food, some fall Chum Salmon were prepared for human consumption and some were fed to dogs, and most Coho Salmon were used for dog food and some were prepared for human consumption. Most fish camps were located along the Yukon River mainstem from just below the Dalton Highway bridge (about 27 river miles downriver) to several miles above Stevens Village. Chinook Salmon were desired by all households in the community. They were cut, smoked, and dried in strips, frozen, salted, and/or canned. Fish heads and roe were sometimes processed for later use. Summer Chum and Coho Salmon were selectively cut for human consumption or dog food based in part on the quality of the fish, number of dogs, and the number of Chinook Salmon already harvested. Salmon for dog food were handled with less care (Sumida 1986). In 2007, about 40% of Stevens Village households had fish camps where they processed and smoked salmon. Most fishing sites were located downriver from the community about halfway to the Dalton Highway bridge where a few fish camps had seasonal occupants from outside the area. The average use of a particular fish camp by a family was 51 years. Sled dogs were common in Stevens Village (Wolfe and Scott 2010). Wolfe and Scott (2010) quoted from a Stevens Village resident describing the traditional use area and the impact of the Dalton Highway bridge.

*You know all these villages of the Interior originally were separate bands . . . Every band or village had its traditional hunting and fishing ground that the other bands recognized. Traditionally, the Stevens Village people's traditional use area was forty miles upriver [from the Yukon bridge] halfway to Beaver Village, around Marten Island, then north back to the foothills, south to Hess Creek. On the western edge, the traditional boundary was at the Ray River area, which is now where the Dalton Highway crosses the Yukon. Traditionally, at that Ray River area for a few miles on either side was like an overlap of Rampart people and Stevens Village people.*

*Now and more contemporary times, with the advent of state fishing regulations and with this road, that traditional type area is not recognized anymore [by outsiders]. You have nonlocal Natives will come in and set up camp right off the road, like you saw last night. In more traditional times, they would ask permission from the tribe of whose area they were in. That's kind of still a little bit in practice, but not so much, because nowadays people travel, and even Native peoples kind of abide by the state and federal hunting and fishing boundaries and permitting system rather than the traditional form of governance over traditional tribal fishing and hunting boundaries (Wolfe and Scott 2010:28–29).*

### Residents of Rampart

Rampart is located in District 5C downriver from District 5D. People harvest more Chinook and fall Chum Salmon than summer Chum or Coho Salmon (Jallen, Decker, and Hamazaki 2012). People have fish camps up to the Dalton Highway bridge (in District 5D). A stretch of river below the bridge is used by residents of Stevens Village and Rampart. Wolfe and



**Table 1.** The number of people in the customary and traditional use determination for Chinook Salmon in District 5D of the upper Yukon River drainage, by community and Fishery Management District, 1960-2010.

U.S. CENSUS POPULATION							
Community	1960	1970	1980	1990	2000	2010	2010 number of households
Stebbins city	158	231	331	400	547	556	134
<b>Outside drainage subtotal</b>	<b>158</b>	<b>231</b>	<b>331</b>	<b>400</b>	<b>547</b>	<b>556</b>	<b>134</b>
Alakanuk city	278	265	522	544	652	677	160
Nunam Iqua city	125	125	103	109	164	187	43
Emmonak city	358	439	567	642	767	762	185
Kotlik city	57	228	293	461	591	577	128
<b>District 1 subtotal</b>	<b>818</b>	<b>1,057</b>	<b>1,485</b>	<b>1,756</b>	<b>2,174</b>	<b>2,203</b>	<b>516</b>
Mountain Village city	300	419	583	674	755	813	184
Pitkas Point CDP	28	70	88	135	125	109	31
Saint Marys city	260	384	382	441	500	507	151
Pilot Station city	219	290	325	463	550	568	121
Marshall city	166	175	262	273	349	414	100
<b>District 2 subtotal</b>	<b>973</b>	<b>1,338</b>	<b>1,640</b>	<b>1,986</b>	<b>2,279</b>	<b>2,411</b>	<b>587</b>
Russian Mission city	102	146	169	246	296	312	73
Holy Cross city	256	199	241	277	227	178	64
Shageluk city	155	167	131	139	129	83	36
<b>District 3 subtotal</b>	<b>513</b>	<b>512</b>	<b>541</b>	<b>662</b>	<b>652</b>	<b>573</b>	<b>173</b>
Anvik city	120	83	114	82	104	85	33
Grayling city	0	139	209	208	194	194	55
Kaltag city	165	206	247	240	230	190	70
Nulato CDP	183	308	350	359	336	264	92
Koyukuk city	128	124	98	126	101	96	42
Huslia city	168	159	188	207	293	275	91
Hughes city	69	85	73	54	78	77	31
Allakaket city	115	174	163	170	97	105	44
Alatna CDP				31	35	37	12
Bettles city	77	57	49	36	43	12	9
Evansville CDP	77	57	45	33	28	15	12
Wiseman CDP	0	0	8	33	21	14	5
Coldfoot CDP					13	10	6
Galena city	261	302	765	833	675	470	190
Ruby city	179	145	197	170	188	166	62
<b>District 4 subtotal</b>	<b>1,542</b>	<b>1,839</b>	<b>2,506</b>	<b>2,582</b>	<b>2,436</b>	<b>2,010</b>	<b>754</b>
Tanana city	349	120	388	345	308	246	100
Rampart CDP	49	36	50	68	45	24	10
Stevens Village CDP	102	74	96	102	87	78	26
Beaver CDP	101	101	66	103	84	84	36
Fort Yukon city	701	448	619	580	595	583	246
Chalkyitsik CDP	57	130	100	90	83	69	24

Continued on next page

Table 1. Continued from previous page

U.S. CENSUS POPULATION							
Community	1960	1970	1980	1990	2000	2010	2010 number of households
Arctic Village CDP	110	85	111	96	152	152	65
Venetie CDP	107	112	132	182	202	166	61
Birch Creek CDP	32	45	32	42	28	33	17
Circle CDP	41	54	81	73	100	104	40
Chicken CDP	0	0	0	0	17	7	5
Central CDP	28	26	36	52	134	96	53
Eagle Village CDP	0	0	54	35	68	67	31
Eagle city	92	36	110	168	129	86	41
<b>District 5 subtotal</b>	<b>1,769</b>	<b>1,267</b>	<b>1,875</b>	<b>1,936</b>	<b>2,032</b>	<b>1,795</b>	<b>755</b>
Livengood CDP					29	13	7
Manley CDP	72	34	61	96	72	89	41
Minto CDP	161	168	153	218	258	210	65
Whitstone CDP						97	22
Nenana city	286	362	470	393	402	378	171
Four Mile Road CDP					38	49	14
Healy CDP	67	79	334	487	1,000	1,021	434
McKinley Park CDP	0	0	60	171	142	185	109
Anderson city	341	362	517	628	367	246	90
Ferry CDP				56	29	33	17
Lake MinChumina CDP	0	0	22	32	32	13	6
Cantwell CDP	85	62	89	147	222	219	104
Delta Junction city	0	703	945	652	840	958	377
Fort Greely CDP	0	1,820	1,635	1,299	461	539	236
Deltana CDP					1,570	2,251	784
Healy Lake CDP	0	0	33	47	37	13	7
Big Delta CDP	0	0	285	400	749	591	206
Dry Creek CDP	0	0	0	106	128	94	29
Dot Lake CDP	56	42	67	70	19	13	7
Dot Lake Village CDP					38	62	19
Tanacross CDP	102	84	117	106	140	136	53
Tetlin CDP	122	114	107	87	117	127	43
Tok CDP	129	214	589	935	1,393	1,258	532
Northway CDP	196	40	73	123	95	71	27
Northway Jct. CDP	0	0	0	88	72	54	20
Northway Village CDP						98	
Alcan border CDP	0	0	0	27	21	33	16
Nabesna CDP						5	3
<b>District 6 subtotal</b>	<b>1,617</b>	<b>4,084</b>	<b>5,557</b>	<b>6,168</b>	<b>8,271</b>	<b>8,856</b>	<b>3,439</b>
<b>TOTAL</b>	<b>7,390</b>	<b>10,328</b>	<b>13,935</b>	<b>15,490</b>	<b>18,391</b>	<b>18,404</b>	<b>6,358</b>

CDP=Census Designated Place.

Black cell=information is not available.

Source: ADCCED 2014.

## **Effects of the Proposal**

If FP17-02 were adopted, it would give Federally qualified subsistence users in Subdistrict 5D the ability to harvest early arriving Chinook Salmon, migrating through portions Subdistrict 5D, without action from the Federal inseason manager, provided a surplus is available for harvest. In times of low Chinook Salmon abundance, when conservation actions are required, the inseason manager may still impose a subsistence fishing schedule and/or gear restrictions through Federal Special Actions. Since 2014, Federally qualified subsistence users have been allowed to harvest the earliest returning Chinook Salmon with gear restrictions. Once the first pulse of Chinook Salmon arrived in the subdistrict, the inseason manager issued a closure to protect the salmon pulse. If this proposal were adopted, the Federally qualified subsistence users in Subdistrict 5D would have that same opportunity as they have had in recent years without a Federal Special Action.

## **OSM PRELIMINARY CONCLUSION**

**Support** Proposal FP17-02.

## **Justification**

Adoption of this proposal would result in continued opportunity for Federally qualified subsistence users in portions of Subdistrict 5D adjacent to Federal Management Units to harvest the earliest returning Yukon River Chinook Salmon. Since 2014, Federally qualified subsistence users were allowed to harvest Chinook Salmon until the inseason manager closed the district to protect the first pulse of Chinook Salmon. Adoption of this proposal would provide a preference to Federally qualified subsistence users to continue harvesting the earliest Chinook Salmon arriving in Subdistrict 5D without a Federal Special Action when the remaining waters not adjacent to Federal Management Units are closed.

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<b>FP17-03 Executive Summary</b>	
<b>General Description</b>	Proposal FP17-03 is a request to allow subsistence drift gillnet fishing for Chum Salmon in the lower portion of the Yukon River Subdistrict 4A annually between Jun. 10 and Aug. 2. <i>Submitted by: Western Interior Alaska Subsistence Regional Advisory Council.</i>
<b>Proposed Regulation</b>	<p><i>50CFR§100.27 Subsistence Taking of Fish</i></p> <p><i>(e)(3) Yukon-Northern Area</i></p> <p><i>(xv) In Districts 4, 5, and 6, you may not take salmon for subsistence purposes by drift gillnets, except as follows:</i></p> <p style="padding-left: 40px;"><i>(A) In Subdistrict 4A upstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14, and chum salmon by drift gillnets after August 2.</i></p> <p style="padding-left: 40px;"><i>(B) In Subdistrict 4A downstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14, <b>unless closed by the Federal In-season Manager; from June 10 through August 2, the Federal In-season Manager may open fishing periods during which Chum salmon may be taken by drift gillnets.</b></i></p>
<b>OSM Preliminary Conclusion</b>	<b>Support</b> Proposal FP17-03 <b>with modification</b> to include the proposed changes to the upper section of Yukon River Subdistrict 4A as well.
<b>Western Interior Alaska Regional Advisory Council Recommendation</b>	
<b>Yukon Kuskokwim Delta Regional Advisory Council Recommendation</b>	
<b>Seward Peninsula Regional Advisory Council Recommendation</b>	

<b>Eastern Interior Alaska Regional Advisory Council Recommendation</b>	
<b>Interagency Staff Committee Comments</b>	The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Council recommendation and Federal Board action on the proposal.
<b>ADF&amp;G Comments</b>	
<b>Written Public Comments</b>	

**DRAFT STAFF ANALYSIS  
FP17-03**

**ISSUE**

Proposal FP17-03, submitted by the Western Interior Alaska Subsistence Regional Advisory Council, seeks to allow subsistence drift gillnet fishing for Chum Salmon in the lower portion of the Yukon River Subdistrict 4A annually between June 10 and August 2.

**DISCUSSION**

The proponent's intent is to amend the current Federal regulations to match that of the State regulations for Subdistrict 4A downstream of the mouth of Stink Creek. The proposed change would make State and Federal regulations consistent by allowing Federally qualified subsistence users to have the same subsistence opportunities for targeting summer Chum Salmon with drift gillnets during times of Chinook Salmon conservation. The Federal in-season manager can already modify gear, time, and area, while the State manager has authority over time and area, but not gear.

**Existing Federal Regulation**

**Yukon-Northern Area—Salmon**

*50CFR§100.27 Subsistence Taking of Fish*

*(e)(3) Yukon-Northern Area*

*(ii) For the Yukon River drainage, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action.*

*(xv) In Districts 4, 5, and 6, you may not take salmon for subsistence purposes by drift gillnets, except as follows:*

*(A) In Subdistrict 4A upstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14, and chum salmon by drift gillnets after August 2.*

*(B) In Subdistrict 4A downstream from the mouth of Stink Creek, you may take Chinook salmon by drift*



*gillnets less than 150 feet in length from June 10 through July 14;*

## **Proposed Federal Regulation**

### **Yukon-Northern Area—Salmon**

*50CFR§100.27 Subsistence Taking of Fish*

*(e)(3) Yukon-Northern Area*

*(ii) For the Yukon River drainage, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action.*

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*(A) In Subdistrict 4A upstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14, and chum salmon by drift gillnets after August 2.*

*(B) In Subdistrict 4A downstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14, **unless closed by the Federal In-season Manager; from June 10 through August 2, the Federal In-season Manager may open fishing periods during which Chum salmon may be taken by drift gillnets.***

## **Existing State Regulation**

### **Yukon Area—Subsistence Finfish Fishery**

*Chapter 01. Subsistence Finfish Fishery.*

*Article 4. Yukon Area.*

*5 AAC 01.220. Lawful gear and gear specifications*

*(a) Salmon may be taken only by gillnet, beach seine, a hook and line attached to a rod or pole, handline, or fish wheel, subject to the restrictions set out in this section, 5 AAC 01.210, and 5 AAC 01.225–5 AAC 01.249.*

*(e) In Districts 4, 5, and 6, salmon may not be taken for subsistence purposes by drift gillnets, except as follows:*

*(1) In Subdistrict 4A upstream from the mouth of Stink Creek,*

*(A) king salmon may be taken by drift gillnets from June 10 through July 14, unless closed by emergency order;*

*(B) from June 10 through August 2, the commissioner may open, by emergency order, fishing periods during which chum salmon may be taken by drift gillnets; and*

*(C) chum salmon may be taken by drift gillnets after August 2*

*(2) In Subdistrict 4A downstream from the mouth of Stink Creek*

*(A) king salmon may be taken by drift gillnets from June 10 through July 14, unless closed by emergency order;*

*(B) from June 10 through August 2, the commissioner may open, by emergency order, fishing periods during which chum salmon may be taken by drift gillnets;*

*(3) A person may not operate a drift gillnet that is more than 150 feet in length during the seasons described in (1) and (2) of this subsection.*

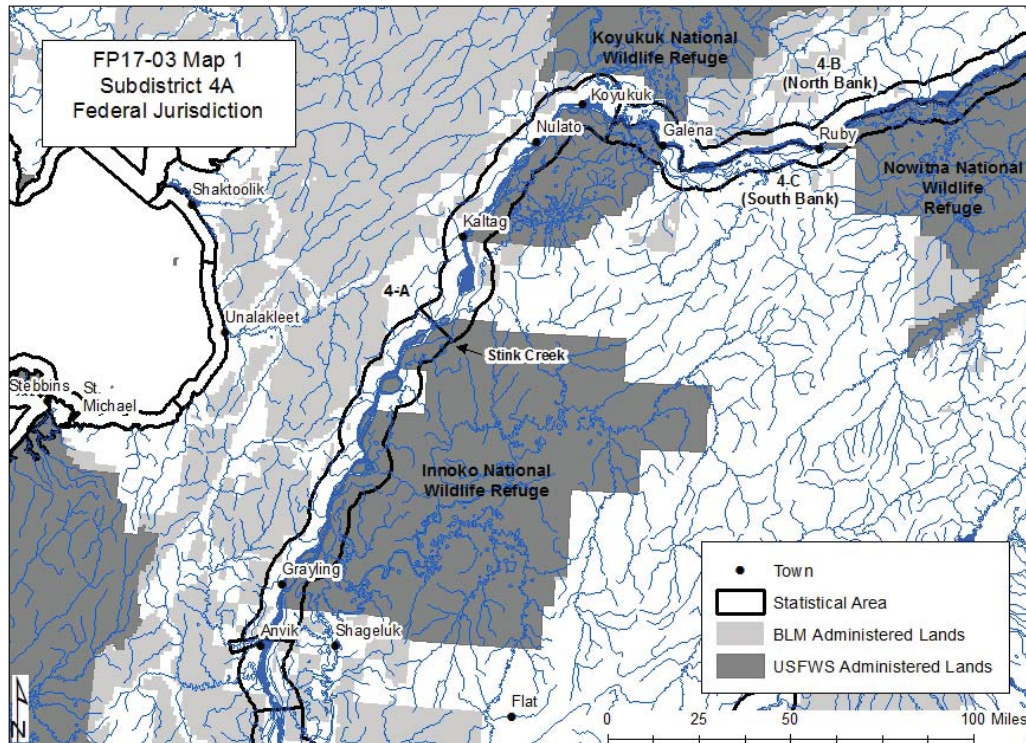
**Extent of Federal Public Waters**

For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. The Federal public waters addressed by this proposal are those portions of the Yukon River located adjacent to Innoko National Wildlife Refuge in District 4, specifically State of Alaska Subdistrict 4A.

Per 5 AAC 05.200, Subdistrict 4A consists of that portion of the Yukon River drainage from an ADF&G regulatory marker at the mouth of an unnamed slough three-fourths of a mile downstream from Old Paradise Village upstream to the tip of Cone Point (**Map 1**).

Communities located in the lower section of Subdistrict 4A include Anvik and Grayling; while the

upstream communities include Kaltag, Nulato, Koyukuk, and Galena.



### Customary and Traditional Use Determinations

Residents of the Yukon River drainage have a customary and traditional use determination for salmon species other than fall Chum Salmon in Subdistrict 4A of the Yukon River drainage.

### Regulatory History

#### State of Alaska Regulatory History

Historically, Subdistrict 4A has had relatively minor State subsistence regulation changes compared to other subdistricts in the surrounding area. Outlined below is a brief summary of State regulatory changes and thoughts pertaining to the use of drift gillnets in Subdistrict 4A.

In December 1976, the Alaska Board of Fisheries prohibited the use of drift gillnets for subsistence Chinook Salmon fishing in the middle and upper Yukon Areas (Districts 4-6). The Alaska Board of Fisheries discussions at that time indicated that the possible increase in the use of drift gillnets could seriously impact both the conservation and allocation of middle and upper Yukon River salmon stocks, which were being harvested at maximum levels (ADF&G 2001). Subsistence users were allowed to continue using drift gillnets throughout the Yukon River drainage until the 1977 season.

In 1981, drift gillnets were again allowed for subsistence Chinook Salmon harvest in Subdistrict 4A upstream from the mouth of Stink Creek.

In 1994, the Alaska Board of Fisheries questioned the need for drift gillnets to provide for adequate subsistence opportunity. State staff comments suggested that at that time it did not appear necessary (ADF&G 2001). The Alaska Board of Fisheries stated that the Alaska Department of Fish and Game could allow increased time for subsistence fishing with other gear types by Emergency Order, as an alternative, if subsistence needs were not being met. No Alaska Board of Fisheries action was taken.

During the 1995 season, the remainder of Subdistrict 4A, below Stink Creek, was reopened to the use of drift gillnets for subsistence Chinook Salmon harvest.

In March 2015, the Alaska Board of Fisheries adopted a new regulation that allowed the use of drift gillnets to harvest summer Chum Salmon for subsistence purposes during times of Chinook conservation from June 10 through August 2, by emergency order, in the upper portion of Subdistrict 4A [5 AAC 01.220(e)(1)].

In January 2016, the Alaska Board of Fisheries adopted the same regulations [5 AAC 01.220 (e) (2)] in the lower portion of the Subdistrict 4A.

### Federal Regulatory History

Federal regulatory history in Subdistrict 4A is limited and, until recently, has mirrored State regulatory changes in the area.

Since October 1999, Federal subsistence management regulations for the Yukon-Northern Area stipulated that, unless otherwise restricted, rural residents may take salmon in the Yukon-Northern Area at any time by gillnet, beach seine, fish wheel, or rod and reel unless exceptions are noted.

In 2002, the Federal Subsistence Board delegated some of its authority to manage Yukon River drainage subsistence salmon fisheries to the Branch Chief for Subsistence Fisheries, U.S. Fish and Wildlife Service, in Fairbanks, Alaska. The Federal Subsistence Board's delegation allows the Federal manager to open or close Federal subsistence fishing periods or areas provided under codified regulations, and to specify methods and means.

Currently, Federal regulations in both the upper and lower portions of Subdistrict 4A are not consistent with State regulations adopted by the Alaska Board of Fisheries in March 2015 and January 2016. This proposal seeks to alleviate this difference for the downstream section of Subdistrict 4A.

### **Biological Background**

#### Chinook Salmon

Recent analyses indicate that Yukon River Chinook Salmon stocks appear to be in the 8th year of a multi-year period of low productivity. Historically, the stocks show periods of above-average abundance (1982-

1997) and periods of below-average abundance (1998 onwards), as well as periods of generally higher productivity (brood years 1993 and earlier) mixed with years of low productivity (brood years 1994-1996 and 2002-2005; Schindler et al. 2013).

The 2014 run was expected to be the smallest on record, with a projected size of 64,000-121,000 fish. Despite initial concerns, the cumulative passage estimate at the mainstem Yukon River sonar project in Pilot Station was approximately 138,000±17,000 (90% CI) fish (**Figure 1**). The passage estimate was still below the historical average of 143,000 fish and below the average of 195,800 fish for years with early run timing. Even with below average run sizes, all escapement goals that could be assessed were achieved (JTC 2015).

The 2015 projected run size was 118,000-140,000 fish, which was once again below average but higher than the previous year's projection. Cumulative passage estimates at the sonar station in Pilot Station were approximately 116,000±30,000 fish (90% CI) (**Figure 1**). As with the previous year, this number was still below the historical average. All escapement goals were again met (JTC 2016).

The 2016 run outlook is a below-average run of 130,000–176,000 fish (**Figure 1**) (JTC 2016). As of July 17, the cumulative Chinook Salmon passage at the sonar project near Pilot Station was approximately 175,000 fish. Preliminary run timing dates suggest the 2016 Chinook salmon run was up to four days earlier than the historical average run timing (ADFG News Release)

### Summer Chum Salmon

Summer Chum Salmon runs in the Yukon River have provided a harvestable surplus in each of the last 13 years, 2003-2015. In 2014, the projected outlooks were for a run size of approximately 1.3-1.5 million fish, while the 2015 projection was approximately 1.8-2.4 million fish.

In 2014, approximately 1.9 million ±100,000 (90% CI) fish passed the Yukon River sonar project at Pilot Station, which was identical to the historical median for the project. In 2015, the passage estimate at Pilot Station dropped slightly to 1.4 million ±100,000 (90% CI) (**Figure 2**). Most tributaries experienced average to above-average escapement in 2015, with the exception of the Anvik and Salcha rivers, which had below-average escapements (JTC 2015, JTC 2016). The 2016 projections are slightly lower than the 2015 total run size estimate of 1.8 million summer Chum Salmon. The 2016 run is anticipated to provide for escapements, normal subsistence harvest, and a surplus for commercial harvest (JTC 2015, JTC 2016). As of July 17, the cumulative summer Chum Salmon passage at the sonar project near Pilot Station is approximately 1,900,000 fish, which is above the historical cumulative median of 1,700,000 fish for this data. The escapement goal of at least 40,000 summer Chum Salmon at the East Fork Andreafsky River weir was achieved on July 10. Summer Chum Salmon passage estimates at the Gisasa and Henshaw creek weirs are well above average for this date; however summer Chum Salmon passage at the Anvik sonar project is below average for this date (ADFG News Release).

## Harvest History

### Chinook Salmon

The 2014 Chinook Salmon subsistence harvest of 2,720 fish was the lowest on record for the Alaska portion of the Yukon River drainage. Harvest increased slightly to approximately 6,640 Chinook Salmon in 2015 (**Figure 3**). Although the increase looks large when comparing successive years, both of these harvest numbers are still well below the 5-year subsistence harvest average (2011-2015) of 17,774 fish and well below the 2006-2010 average of 44,308 (JTC 2015, JTC 2016) .

Subdistrict 4A's harvest trends appear to follow the same trajectory as the Yukon River, with severely declining harvest after 2010. The subdistrict's subsistence harvest comprised around 19% of the total subsistence harvest from the Yukon River, until 2014 when the subdistrict's harvest plummeted to 2% (**Figure 3, Figure 4**) On average, the communities surrounding the upstream section of Subdistrict 4A tends to harvest a larger portion compared to the downstream section (Estensen et al. 2015) (**Table 1**).

### Summer Chum Salmon

In 2014, subsistence users in the Alaska portion of the Yukon River harvested 74,240 summer Chum Salmon. Preliminary 2015 estimates show a marked decrease, with only 62,803 fish harvested (**Figure 5**). In both years subsistence harvest was below the recent 5-year average of 82,098 fish (JTC 2015, JTC 2016).

Subsistence harvest in the communities surrounding Subdistrict 4A has historically averaged around 7% of the total Yukon River harvest. The subdistrict's harvest trends follow the total Yukon River harvest very well (**Figure 5, Figure 6**). Since 2004, communities surrounding the upstream section in Subdistrict 4A tend to have slightly larger subsistence harvest than the downstream section. (Estensen et al. 2015; **Table 2**).

## Cultural Knowledge and Traditional Practices

The use and importance of salmon and other non-salmon species for Yukon River communities has been documented through oral histories and harvest surveys conducted in the area. Historically, many Yukon communities followed a semi-nomadic, subsistence lifestyle, spending time at seasonal camps, migrating with the resources and harvesting various species of fish, along with hunting and gathering subsistence resources. Humans have lived in the Yukon area for over 10,000 years and fishing was a family and community activity, deeply ingrained in to the cultures of the people in this area. People traditionally used weirs and fish traps, and nets made of animal sinew and willow bark and more recently employed set nets along with fish wheels for salmon at their fish camps. Multi-generational family groups would travel to seasonal camps to harvest fish and wildlife. Although fewer young people spend time at seasonal camps now due to employment, school, and other responsibilities, subsistence fishing continues to be important for communities up and down the river. According to surveys, many older people recalled whole families spending long hours at their fish camps, harvesting, processing, and preserving fish. Children learned about subsistence activities from their elders at fish camp (Brown, Koster, and Koontz 2010; Brown and Godduhn 2015).

Customary trade of fish is an important part of continuing trade networks in rural areas of Alaska. Salmon fishing takes place in the summer and timing is based on the runs for various species. Local residents also use nets under the ice to fish for pike, whitefish, or sheefish in the spring before breakup. Communities have used various types of nets and fish wheels to harvest fish through the generations. Fish wheels are used less now than they were in the past when people were catching more fish to feed sled dogs, but are still used in some areas, mainly to catch fish for human consumption (Brown, Koster, and Koontz 2010). Chum salmon, once primarily used for dog food, was caught using nets set from the shore but is now consumed by people in the US and overseas. As more village runways were built, increasing air travel, and more snow machines were brought to the villages, the dependency on sled dogs was reduced, reducing the need for harvesting fish to feed dogs (Brown, Koster, and Koontz 2015).

Salmon is considered the most reliable and significant subsistence resource on the Lower Yukon River. Salmon has always been an important part of the culture, economically and socially, and the knowledge of how to catch, process, and preserve fish has been passed down from generation to generation. Before contact by outsiders dried fish was regularly traded between Yukon villages along with other commodities such as furs and sea mammal products (Wolfe 1981).

Yukon River residents are dependent on the harvest of salmon, especially Chinook Salmon, for both subsistence and commercial uses. Some people in places like Nulato, for example, became more interested in the cash earned from commercial fishing than in spending time at their fish camps for subsistence fishing. Starting in the late 1990s, Chinook Salmon began to decline so people harvested more summer and fall Chum Salmon along with other subsistence resources (Brown and Godduhn 2015).

In the 1960s, people started using gillnets to drift fish for salmon for personal and commercial use. Today fishing still plays an important cultural role in the communities along the lower and middle Yukon River, and the knowledge of how and when to fish is still passed down from generation to generation.

### **Effects of the Proposal**

Adopting this proposal as submitted will allow Federally qualified subsistence users located in the lower portions of Subdistrict 4A the opportunity to harvest summer Chum Salmon with drift gillnets during times of Chinook Salmon conservation. This would provide more harvest opportunity for the affected communities when summer Chum Salmon are abundant and harvest of Chinook Salmon is limited. It also gives discretion to the Federal in-season manager, who can control the opening and closing of the driftnet harvest, based on the best-available data of salmon runs and timing in the area. Effects on summer Chum Salmon and Chinook Salmon are negligible as the State already allows drift gillnets in Subdistrict 4A during times of Chinook Salmon conservation.

Although increased opportunities of subsistence harvest for Federally qualified users is a large part of what this document covers, the crux of the proposal is to fix the inconsistency between State and Federal regulations pertaining to Subdistrict 4A. Currently, Federal regulations in both the upper and lower portions of Subdistrict 4A are not consistent with State regulations recently adopted by the Alaska Board of Fisheries. If adopted, this proposal would make State and Federal management consistent in the downstream area, but does not alter the upstream area consistency.

In discussions with the Subsistence Specialist for the Koyukuk/Nowitna/Innoko National Wildlife Refuge, it was noted that some local Federally qualified subsistence users in the lower section of Subdistrict 4A would prefer to have the same regulations as the upper section of Subdistrict 4A, which would allow Federally qualified subsistence users to utilize drift gillnets to harvest Chum Salmon after August 2. The reasoning behind this is that Chum Salmon arriving before August 2 can be of good quality, but a majority of them are pretty close to spawning. As the current regulations exist, fishermen can only use set nets, which have very limited quality locations. As local fishermen see it, the extension of the drift gillnet fishing season matching the upper section of Subdistrict 4A would grant them increased harvest opportunities for quality fish other than Chinook Salmon during times of Chinook conservation (Havener 2016, pers. comm.).

## OSM PRELIMINARY CONCLUSION

**Support** Proposal FP17-03 **with modification** to include the proposed changes to the upper section of Subdistrict 4A.

The modified regulation should read:

### Yukon-Northern Area—Salmon

#### *50CFR§100.27 Subsistence Taking of Fish*

*(e)(3)(ii) For the Yukon River drainage, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action.*

*(e)(3)(xv) In Districts 4, 5, and 6, you may not take salmon for subsistence purposes by drift gillnets, except as follows:*

*(A) In Subdistrict 4A upstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14, and chum salmon by drift gillnets after August 2, **unless closed by Federal Special Action; from June 10 through August 2, the Federal In-season Manager may open fishing periods during which Chum Salmon may be taken by drift gillnets.***

*(B) In Subdistrict 4A downstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14, **unless closed by Federal Special Action; from June 10 through August 2, the Federal In-season Manager may open fishing periods during***



*which Chum Salmon may be taken by drift gillnets.*

### **Justification**

Adoption of this proposal will provide more harvest opportunity for Federally qualified subsistence users in the affected communities to meet their subsistence salmon needs during times of Chinook Salmon conservation and when summer Chum Salmon concurrently abundant.

Adding the same regulations as the downstream section of Subdistrict 4A to the upstream section of sub-district 4A would make Federal and State regulations consistent. It would also provide managers the ability to enact separate restrictions to the subdistrict areas should the need arise.

While the suggested modifications would address the upper section of Subdistrict 4A, it is important to note that although State and Federal regulations will mirror each other, there will still remain a discrepancy amongst regulations in the upper and lower sections of the subdistrict. The upper area of the subdistrict allows Chum Salmon harvest via gillnet after August 2, while the lower area does not.

## **LITERATURE CITED**

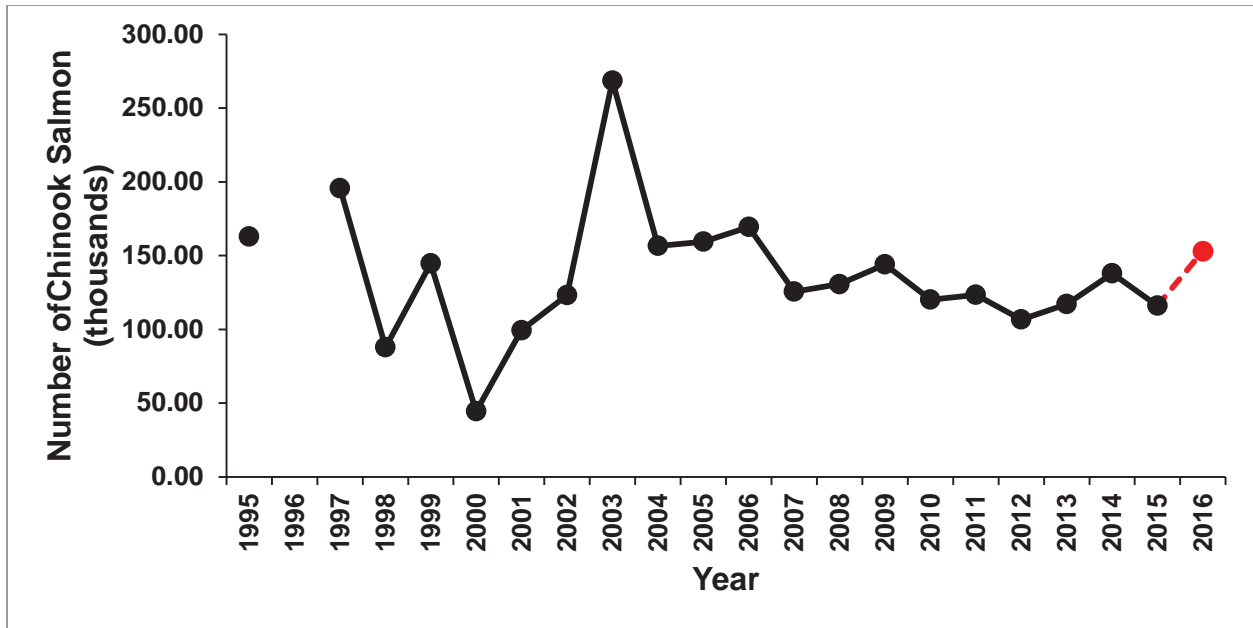
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**Table 1.** Chinook Salmon subsistence harvest totals from communities downstream and upstream of the mouth of Stink Creek, as estimated from postseason survey, returned permits and test fishery projects, Yukon Area, 2004-2015. The totals from downstream are from the communities of Anvik and Grayling, while the totals from upstream are from Kaltag, Nulato, Koyukuk, and Galena (Estensen et al. 2015).

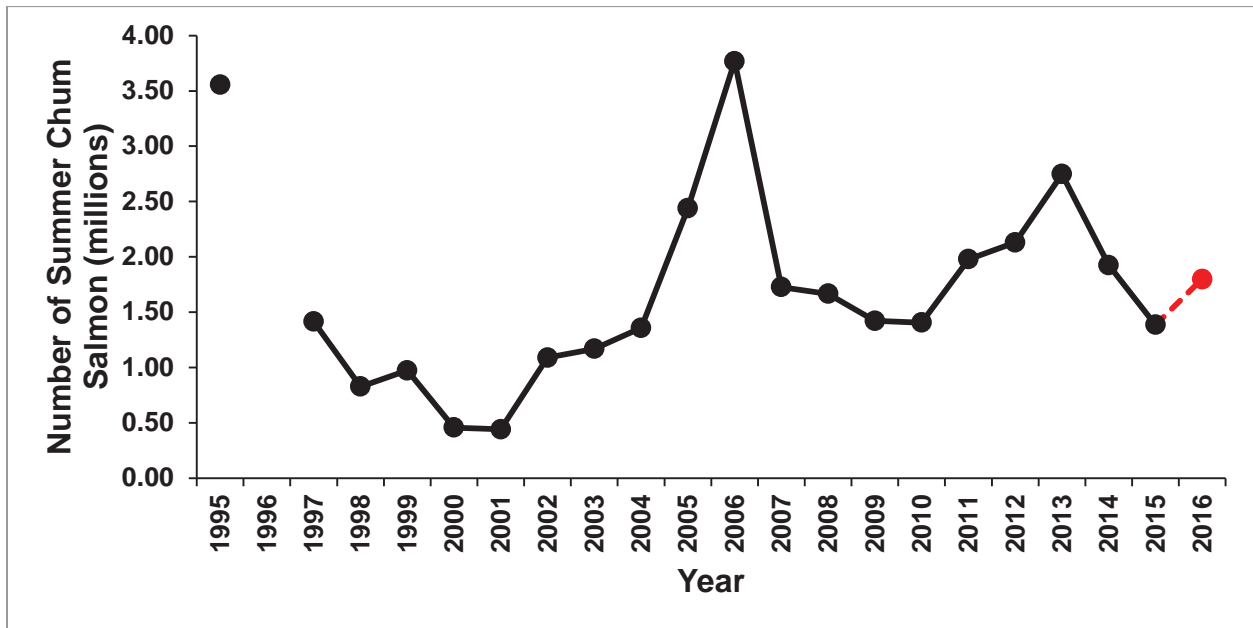
Year	Downstream	Upstream	Subdistrict 4A	Yukon Total
2004	3,457	10,551	10,672	53,675
2005	3,084	9,376	9,602	52,561
2006	2,660	8,755	9,102	47,710
2007	2,821	7,209	7,557	53,976
2008	3,194	6,398	7,000	43,694
2009	1,929	5,873	6,771	32,900
2010	3,191	8,404	8,679	43,259
2011	2,426	6,809	8,932	40,211
2012	1,516	4,657	7,127	28,311
2013	347	2,123	2,123	10,991
2014	3	63	63	2,718
2015	N/A	N/A	N/A	6,640

**Table 2.** Summer Chum Salmon subsistence harvest totals from communities downstream and upstream of the mouth of Stink Creek, as estimated from postseason survey, returned permits and test fishery projects, Yukon Area, 2004-2015. The totals from downstream are from the communities of Anvik and Grayling, while the totals from upstream are from Kaltag, Nulato, Koyukuk, and Galena (Estensen et al. 2015).

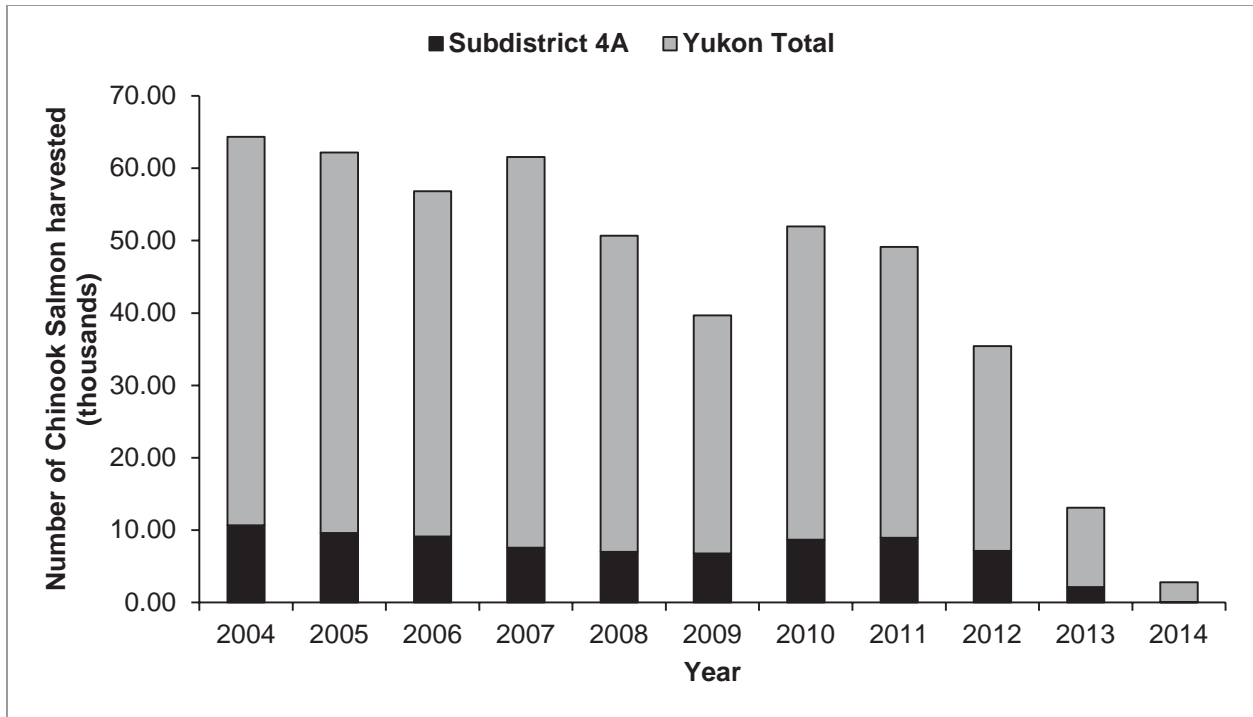
Year	Downstream	Upstream	Subdistrict 4A	Yukon Total
2004	1,916	2,836	4,752	69,672
2005	1,377	1,522	2,899	78,902
2006	1,312	2,864	4,176	90,907
2007	1,031	2,596	3,627	76,805
2008	5,891	2,031	7,922	68,394
2009	1,000	3,246	4,246	67,742
2010	1,706	3,279	4,985	65,948
2011	2,063	2,572	4,635	77,715
2012	1,058	4,713	5,771	103,751
2013	3,987	1,986	5,973	91,979
2014	1,448	5,106	6,554	74,240
2015	N/A	N/A	N/A	62,803



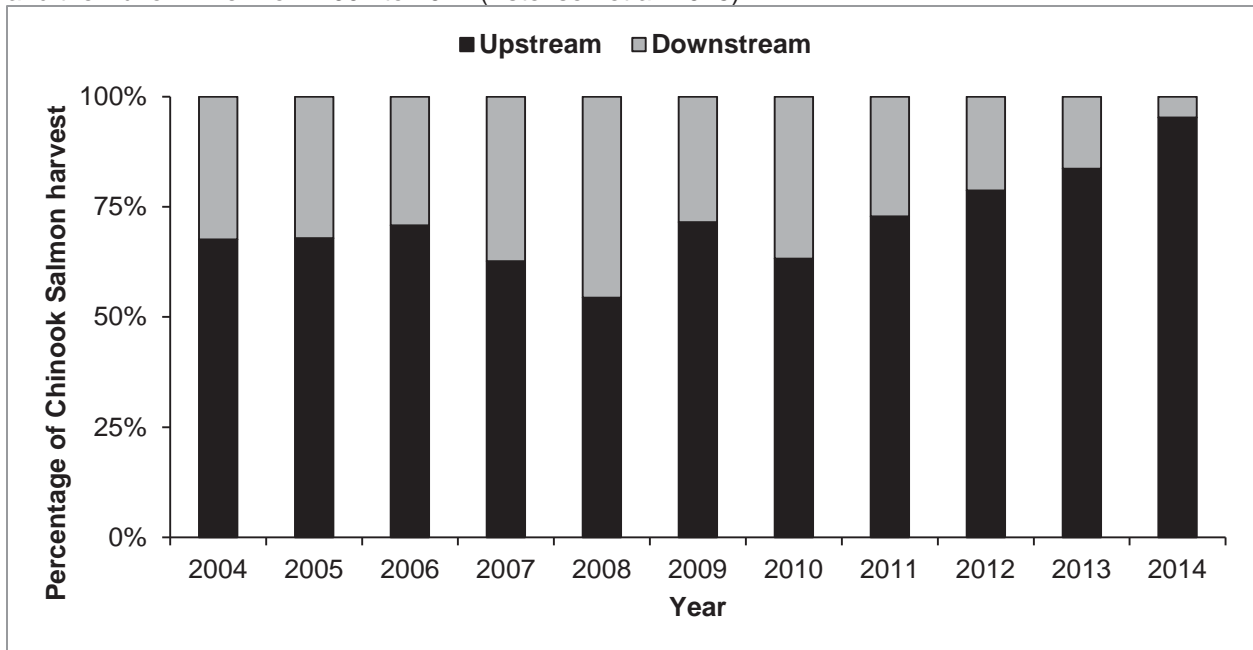
**Figure 1.** Chinook Salmon passage estimates based on the mainstem Yukon River sonar near Pilot Station, Yukon River drainage, 1995 and 1997-2015, with 2016 projection (JTC 2016, Appendix A2.). Red dashed line indicates the 2016 Chinook salmon passage outlook.



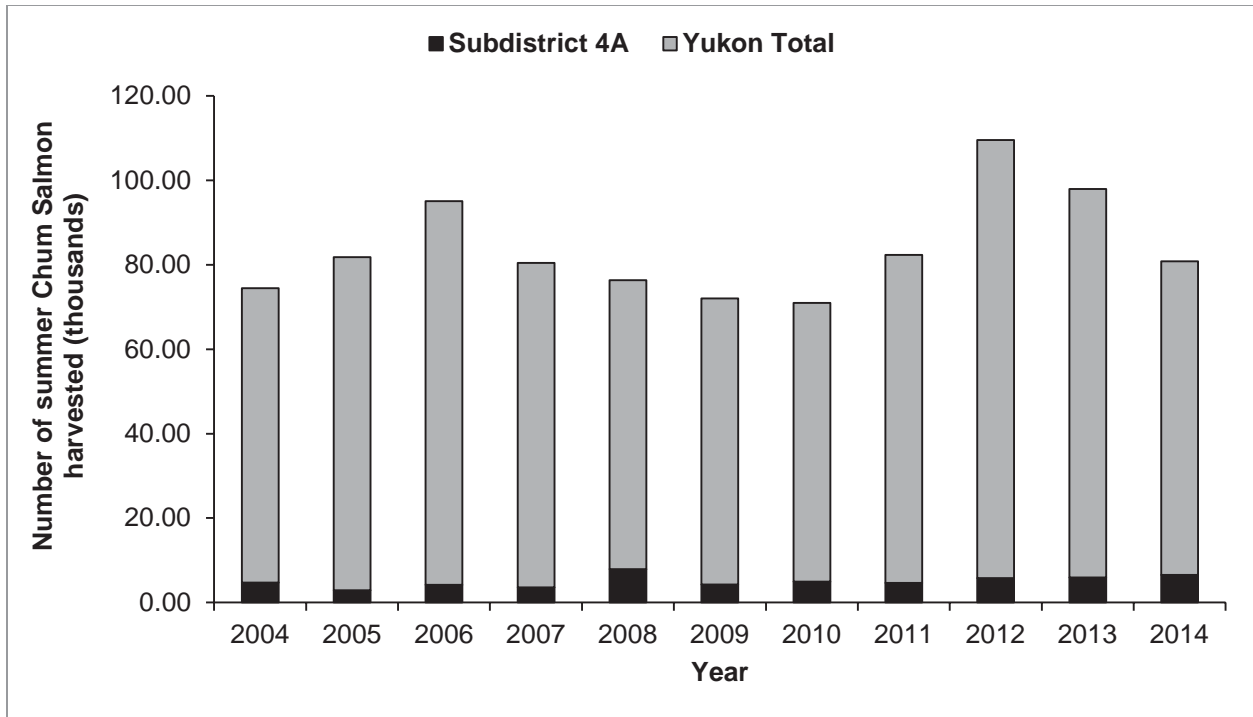
**Figure 2.** Summer Chum Salmon passage estimates based on the mainstem Yukon River sonar near Pilot Station, Yukon River drainage, 1995 and 1997-2015, with 2016 projection (JTC 2016, Appendix A2.). Red dashed line indicates the 2016 Summer Chum salmon passage outlook.



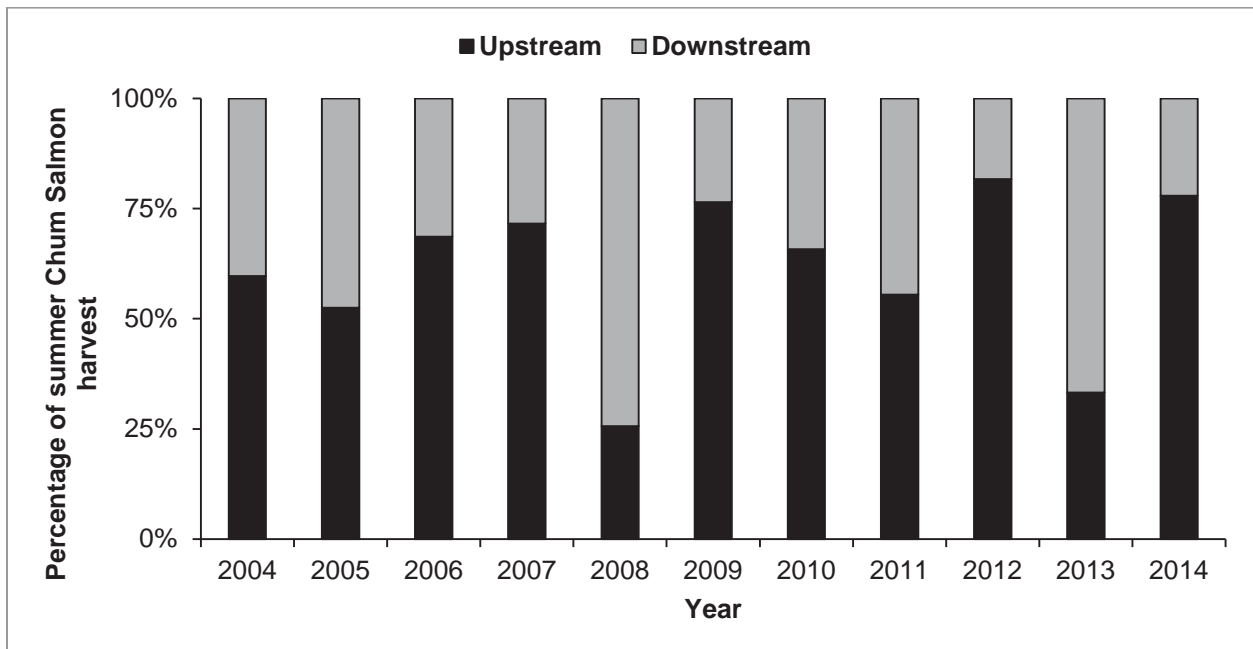
**Figure 3.** Comparison of Chinook Salmon subsistence harvest in communities surrounding Subdistrict 4A and the Yukon River from 2004 to 2014 (Estensen et al. 2015).



**Figure 4.** Comparison of upstream and downstream Chinook Salmon subsistence harvest in communities surrounding Subdistrict 4A from 2004-2014 (Estensen et al. 2015).



**Figure 5.** Comparison of summer Chum Salmon subsistence harvest in communities surrounding Subdistrict 4A and the Yukon River from 2004 to 2014 (Estensen et al. 2015).



**Figure 6.** Comparison of upstream and downstream summer Chum Salmon subsistence harvest in communities surrounding Subdistrict 4A from 2004-2014 (Estensen et al. 2015).

<b>FP17-04 Executive Summary</b>	
<b>General Description</b>	<p>Proposal FP17-04, requests increased gillnet obstruction of Racetrack Slough of the Koyukuk River and sloughs of the Huslia River drainage between ice out and June 15.</p> <p><i>Submitted by: Western Interior Alaska Subsistence Regional Advisory Council.</i></p>
<b>Proposed Regulation</b>	<p><i>§ __.27(e)(3)(ii) For the Yukon River drainage, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action.</i></p> <p><i>(e)(3)(xvi) Unless otherwise specified in this section, you may take fish other than salmon by set gillnet, drift gillnet, beach seine, fish wheel, long line, fyke net, dip net, jigging gear, spear, lead, or rod and reel, subject to the following restrictions, which also apply to subsistence salmon fishing:</i></p> <p><i>(F) In Racetrack Slough on the Koyukuk River and in the sloughs of the Huslia River drainage, from when each river is free of ice through June 15, the offshore end of the set gillnet may not be closer than 20 feet from the opposite bank, unless closed by Federal special action.</i></p>
<b>OSM Preliminary Conclusion</b>	<b>Support</b> Proposal FP17-04
<b>Western Interior Alaska Regional Advisory Council Recommendation</b>	
<b>Yukon/Kuskokwim Delta Regional Advisory Council Recommendation</b>	
<b>Seward Peninsula Regional Advisory Council Recommendation</b>	
<b>Eastern Interior Alaska Regional Advisory Council Recommendation</b>	
<b>North Slope Regional Advisory Council Recommendation</b>	
<b>Interagency Staff Committee Comments</b>	
<b>ADF&amp;G Comments</b>	
<b>Written Public Comments</b>	

**DRAFT STAFF ANALYSIS  
FP17-04**

**ISSUES**

Proposal FP17-04, submitted by the Western Interior Alaska Subsistence Regional Advisory Council (Council), requests that the Federal Subsistence Board allow an increase in the portion of Racetrack Slough on the Koyukuk River and sloughs of the Huslia River drainage that may be covered with a gillnet to provide more subsistence harvest opportunity for Northern Pike between ice out and June 15.

**DISCUSSION**

The Council submitted this proposal to be more consistent with State regulations approved by the Alaska Board of Fisheries in January 2016 (State Proposal 144 with modified language adopted from RC 57). The proposed regulatory changes would provide more subsistence harvest opportunity for Northern Pike in Racetrack Slough on the Koyukuk River and sloughs of the Huslia River drainage (**Map 1**), primarily residents of Huslia. Federal subsistence regulations currently allow for a fishery at this time; however, gillnets may not obstruct more than one-half of the width of any stream.

**Existing Federal Regulation**

*§\_\_\_\_.27 Subsistence taking of fish.*

*(b)(4) Except as otherwise provided for in this section, you may not obstruct more than one-half the width of any stream with any gear used to take fish for subsistence uses.*

*(e)(3)(ii) For the Yukon River drainage, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action.*

*(e)(3)(xvi) Unless otherwise specified in this section, you may take fish other than salmon by set gillnet, drift gillnet, beach seine, fish wheel, long line, fyke net, dip net, jigging gear, spear, lead, or rod and reel, subject to the following restrictions, which also apply to subsistence salmon fishing:*

**Proposed Federal Regulation**

*§\_\_\_\_.27 Subsistence taking of fish.*

*(b)(4) Except as otherwise provided for in this section, you may not obstruct more than one-half the width of any stream with any gear used to take fish for subsistence uses.*

*(e)(3)(ii) For the Yukon River drainage, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska*



*Statutes (AS 16.05.060), unless superseded by a Federal Special Action.*

*(e)(3)(xvi) Unless otherwise specified in this section, you may take fish other than salmon by set gillnet, drift gillnet, beach seine, fish wheel, long line, fyke net, dip net, jigging gear, spear, lead, or rod and reel, subject to the following restrictions, which also apply to subsistence salmon fishing:*

**(F) In Racetrack Slough on the Koyukuk River and in the sloughs of the Huslia River drainage, from when each river is free of ice through June 15, the offshore end of the set gillnet may not be closer than 20 feet from the opposite bank, unless closed by Federal special action.**

### **Existing State Regulation**

*5 AAC 01.220. Lawful gear and gear specifications. – Yukon Area*

*(f) Unless otherwise specified in this section, fish other than salmon and halibut may be taken only by set gillnet, drift gillnet, beach seine, fish wheel, longline, fyke net, dip net, jigging gear, spear, a hook and line attached to a rod or pole, handline, or lead, subject to the following restrictions, which also apply to subsistence salmon fishing:*

*(4) a gillnet may not obstruct more than one-half the width of any fish stream and any channel or side channel of a fish stream; a stationary fishing device may not obstruct more than one-half the width of any salmon stream and any channel or side channel of a salmon stream, except that in Racetrack Slough off of the Koyukuk River and in the sloughs of the Huslia River drainage, from when each river is free of ice through June 15, the offshore end of the gillnet may not be closer than 20 feet from the opposite bank, unless closed by emergency order;*

### **Extent of Federal Public Waters**

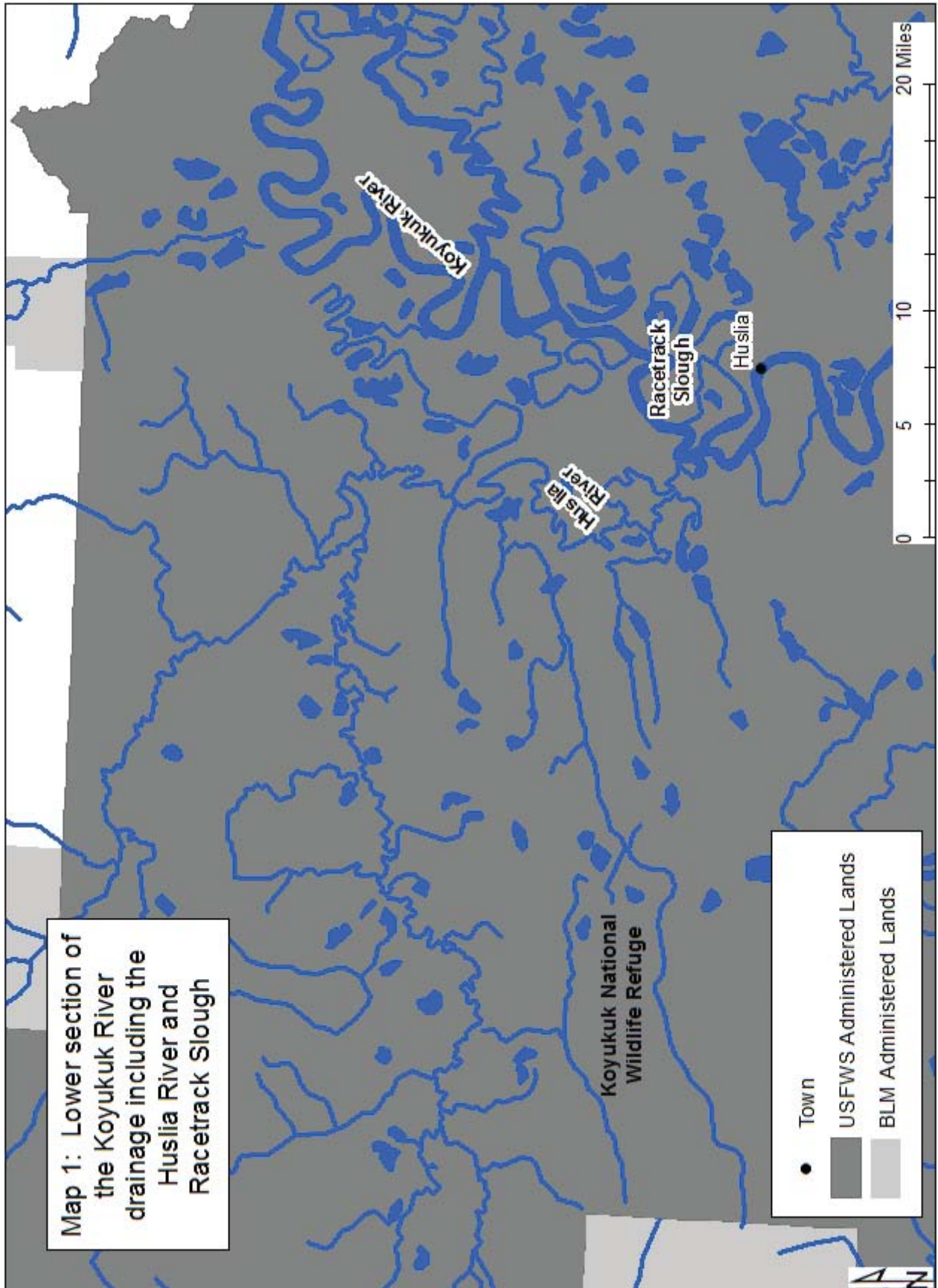
For the purpose of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. The Federal public waters addressed by this proposal are Racetrack Slough on the Koyukuk River (**Map 1**), as well as those portions of the Huslia River located within, or adjacent to, the external boundaries of the Koyukuk National Wildlife Refuge (**Map 2**).

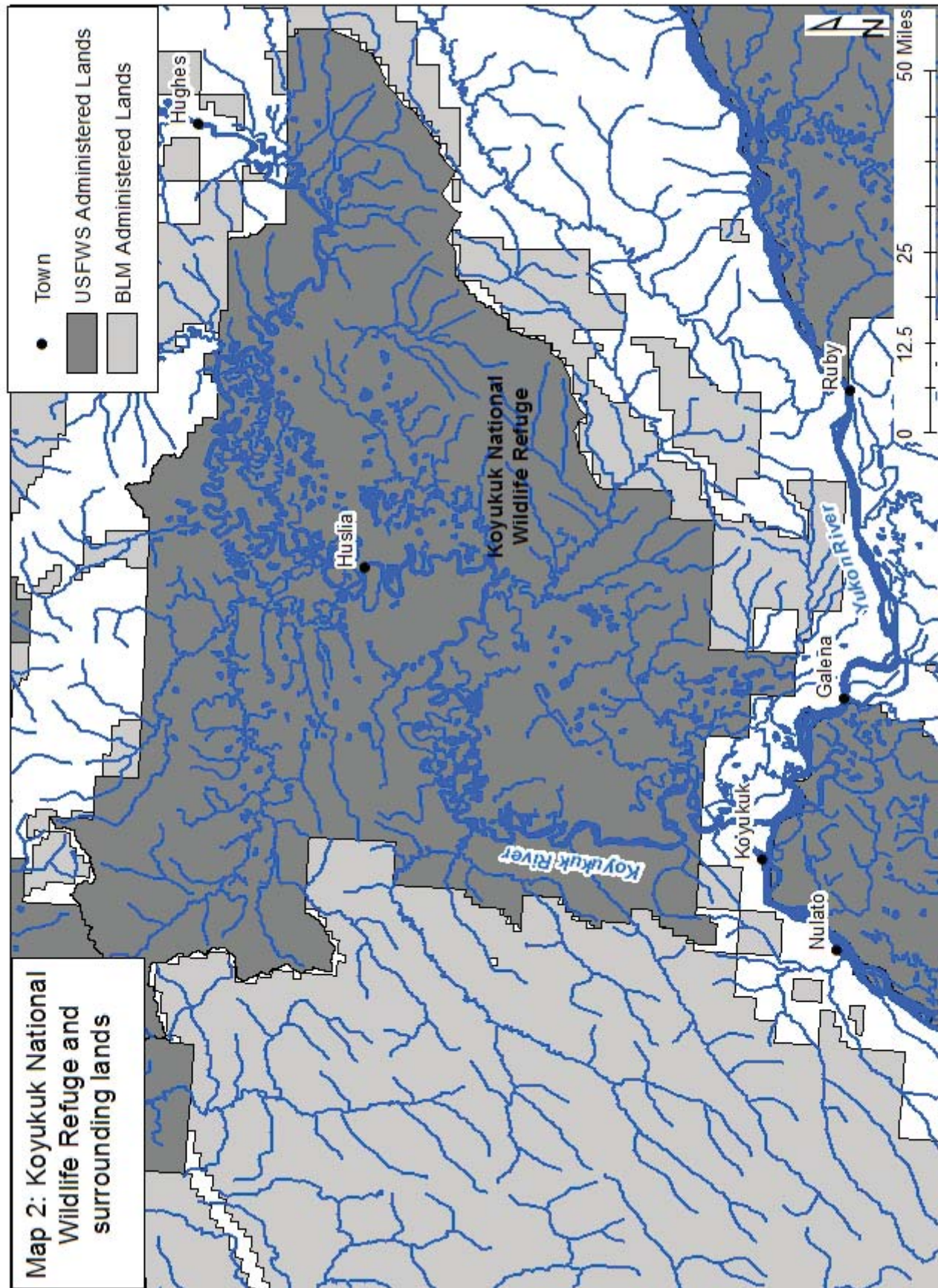
### **Customary and Traditional Use Determinations**

Residents of the Yukon-Northern Area have a customary and traditional use determination for all freshwater fish, other than salmon.

### **Regulatory History**

Federal subsistence fishing in the Koyukuk River for freshwater species (other than salmon) including Sheefish, whitefish, lamprey, Burbot, Longnose Sucker, Arctic Grayling, Northern Pike, char, and Alaska





Blackfish is open year-round with no harvest limits. Stationary fishing gear may not obstruct more than one-half the width of any stream.

Subsistence fishing under State regulations in the Koyukuk River is open with 7.5 inch or smaller mesh size gillnets, 24 hours per day, seven days per week before June 15. These regulations restrict gillnets to obstructing not more than one-half of the width of any fish stream and any channel or side channel of a fish stream for this region. These regulations have been recently updated, however, to provide an exception for Racetrack Slough on the Koyukuk River and sloughs of the Huslia River, allowing for gillnet obstruction of all but 20 feet of a stream or channel between ice out and June 15.

This proposal was submitted to make Federal regulations more consistent with State of Alaska regulations approved by the Alaska Board of Fisheries (State Proposal 144 with modified language adopted from RC 57) at the Arctic/Yukon/Kuskokwim Finfish meeting held January 12-16, 2016.

### **Biological Background**

Northern Pike *Esox lucius* is a freshwater fish found throughout the northern hemisphere, including the Yukon River drainage. They are opportunistic feeders that prefer soft-rayed fish such as whitefish as prey, but will consume other fish species depending on what is available (Eklöv & Hamrin 1989). They will also consume smaller pike, as well as other animals including waterfowl, frogs, insects, and small mammals like mice and shrews (Morrow 1980).

Little is known of the population numbers for Northern Pike in the region covered by this proposal. They would likely be migrating to spawning locations during the time period, which are typically shallow weedy areas (McPhail and Lindsay 1970). The species is susceptible to overharvest, which can lead to early maturation (Diana 1983) and stunting (Diana 1987).

While Northern Pike are the main targeted species identified in this proposal, other species are also present in this area and may also be captured between ice out and June 15. Surveys in the North Fork Huslia River and Billy Hawk Creek (both in the Huslia River drainage) found Broad Whitefish, Humpback Whitefish, Round Whitefish, Arctic Grayling, Longnose Sucker, and Burbot to be present (Wiswar 1994). Species present in the greater Koyukuk River drainage after mid-summer include Sheefish (Alt 1978), Chum Salmon (Wiswar 1994), Chinook Salmon, Coho Salmon, and Sockeye Salmon (Johnson and Litchfield 2015). Rates of incidental capture of other species of fish when targeting Northern Pike are unknown at this time, and may be dependent upon the mesh-size of nets in use during the time period and location specified in this request.

The proposal would revise the methods and means for this specific area through June 15, with the intent of switching back to standard regulations prior the arrival of salmon in the area. Run timing for Chinook and Chum Salmon at the Gisasa River Weir, which is on a tributary approximately 90 km upriver from the mouth of the Koyukuk River, indicates that salmon would not be in the area covered under this proposal during the time period in question. Between the years 1995 and 2013, the earliest returns to the Gisasa weir of Chinook and Chum Salmon was June 20 and June 16, respectively (Carlson 2014). The waters that

would be impacted by this proposal are approximately 300 km upriver from the mouth of the Koyukuk River, and therefore would have an even later date of return for these species.

## **Harvest Histories**

### *Subsistence*

Northern Pike is an important subsistence resource for the community of Huslia, generally ranking only behind summer Chum Salmon, fall Chum Salmon, and large whitefish in number harvested (Marcotte 1986; Jallen et al. 2015). Subsistence harvests of Northern Pike by Huslia residents averaged 1,209 fish per year (range of 94 – 5,191 fish) between 1993 and 2015 (Jallen 2016, pers. comm.).

### *Sport Fishing*

There are no directed sport fisheries in this area, but there are a substantial number of guided moose hunters in the fall and some degree of sport fishing for Northern Pike and Arctic Grayling associated with those users (Viavant 2016, pers. comm.). For the years 1996 to 2014, harvests of Northern Pike in the Huslia River were only reported in 1997 (N=103), while catches were reported in both 1997 (N=687) and 2011 (N=35) in the Alaska Sport Fishing Survey Database (2016). No harvests were reported by this statewide survey for any other years.

### *Commercial Fishing*

No commercial fishing takes place in this portion of the Yukon River drainage.

## **Cultural Knowledge and Traditional Practices**

Huslia is an Athabaskan village which had a population of 274 in 2014 (City-Data.com 2016). The village is located within the Koyukuk National Wildlife Refuge on the north bank of the Koyukuk River, about 290 air miles west of Fairbanks and 170 miles by river from Galena and is dependent on subsistence resources. The current residents are descendants of Koyukon Athabascans who lived between the south fork of the Koyukuk River and the Kateel River and who hunted and fished near present day Huslia. In the mid-1800s Russian explorers made contact with their Athabaskan ancestors approximately 50 miles downriver from Huslia. The community moved to their current location in 1949 because where they were located was prone to flooding and the ground was swampy. The first school was established there in 1950, followed by a post office and an airport in 1952. During this time families began to settle permanently in Huslia. The city was incorporated in 1969 (Tananachiefs.org 2016).

According to a report based on research done by Marcotte in 1983, people in Huslia harvested a variety of fish along with other subsistence resources. Fish nets were used for Sheefish and whitefish, starting in early May. Chinook and Chum Salmon were caught in set nets starting in June. Pike were caught along with Arctic Grayling and Longnose Suckers June through October (Marcotte 1986). In 1983, 28 households reported harvesting pike with the mean household harvest of 69.5 pounds for a total community

harvest of 1,947 fish. Residents reported harvesting fish in various locations near Huslia and processing fish at their fish camps which were often on their Native allotments (Marcotte 1986).

### **Effects of the Proposal**

If FP17-04 were adopted, Federally qualified subsistence users would be allowed to use gillnets to obstruct all but 20 feet of a channel between ice out and June 15 for Racetrack Slough on the Koyukuk River and sloughs of the Huslia River drainage. This would allow Federally qualified subsistence users the same opportunities as subsistence users under State of Alaska regulations. There would likely be an increase the harvest of Northern Pike and other resident fish species during this time period.

Adoption of this proposal would likely increase the rate of capture of Northern Pike and other fish species, as well as incidental capture of other animals such as ducks and small mammals. The Federal in-season fisheries manager has expressed some concern about the unknown impacts of this regulatory change, should it take place, and has suggested the use of a post-season harvest survey or registration permit to better understand use patterns and harvests (Bue 2016, pers. comm.).

If FP17-04 were not adopted, there would continue to be an inconsistency between State and Federal subsistence regulations for this area, and Federally qualified subsistence users would be held to the regional regulation allowing for obstruction of no more than one-half of a stream. This would also increase enforcement or management complexity.

### **OSM PRELIMINARY CONCLUSION**

**Support** Proposal FP17-14.

#### **Justification**

Adoption of this proposal would result in additional opportunity for Federally qualified subsistence users in Racetrack Slough on the Koyukuk River and the sloughs of the Huslia River drainage. The Alaska Board of Fisheries recently authorized these same changes for this region under State of Alaska regulations. The timeline for this gear change under the proposal would curtail this activity prior the arrival of salmon into these systems.

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## FISHERIES RESOURCE MONITORING PROGRAM NORTHERN ALASKA OVERVIEW

### BACKGROUND

Beginning in 1999, the Federal government assumed expanded management responsibility for subsistence fisheries on Federal public lands in Alaska under the authority of Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA). Expanded subsistence fisheries management introduced substantial new informational needs for the Federal system. Section 812 of ANILCA directs the Departments of the Interior and Agriculture, cooperating with the State of Alaska and other Federal agencies, to undertake research on fish and wildlife and subsistence uses on Federal public lands. To increase the quantity and quality of information available for management of subsistence fisheries, the Fisheries Resource Monitoring Program (Monitoring Program) was established within the Office of Subsistence Management (OSM). The Monitoring Program was envisioned as a collaborative interagency, interdisciplinary approach to enhance existing fisheries research and monitoring, and effectively communicate information needed for subsistence fisheries management on Federal public lands.

To implement the Monitoring Program, a collaborative approach is utilized in which five Federal agencies (U.S. Fish and Wildlife Service, Bureau of Land Management, National Park Service, Bureau of Indian Affairs, and U.S. Forest Service) work with the Alaska Department of Fish and Game, Regional Advisory Councils, Alaska Native Organizations, and other organizations. An interagency Technical Review Committee provides scientific evaluation of project proposals submitted for funding consideration. The Regional Advisory Councils provide strategic priorities and recommendations, and public comment is invited. The Interagency Staff Committee also provides recommendations. The Federal Subsistence Board takes into consideration recommendations and comments from the process, and forwards the successful proposals on to the Assistant Regional Director of OSM for final approval and funding.

During each biennial funding cycle, the Monitoring Program budget funds ongoing multi-year projects (2, 3 or 4 years) as well as new projects. Budget guidelines are established by geographic region (**Table 1**). The regional guidelines were developed by the Federal Subsistence Board using six criteria that included level of risk to species, level of threat to conservation units, amount of subsistence needs not being met, amount of information available to support subsistence management, importance of a species to subsistence harvest and level of user concerns with subsistence harvest. Budget guidelines provide an initial target for planning; however they are not final allocations and will be adjusted annually as needed.

**Table 1.** Regional allocation guideline for Fisheries Resource Monitoring Funds.

Region	Department of Interior Funds	Department of Agriculture Funds
Northern	17%	0%
Yukon	29%	0%
Kuskokwim	29%	0%
Southwest	15%	0%
Southcentral	5%	33%
Southeast	0%	67%
Inter-regional	5%	0%

Two primary types of research projects are solicited for the Monitoring Program including Harvest Monitoring/Traditional Ecological Knowledge (HMTEK) and Stock, Status and Trends (SST), although projects that combine these approaches are also encouraged. Definitions of the two project types are listed below:

- **Stock Status and Trends Studies (SST)** - These projects address abundance, composition, timing, behavior, or status of fish populations that sustain subsistence fisheries with linkage to Federal public lands.
- **Harvest Monitoring and Traditional Ecological Knowledge (HMTEK)** - These projects address assessment of subsistence fisheries including quantification of harvest and effort, and description and assessment of fishing and use patterns.

### **PRIORITY INFORMATION NEEDS**

OSM staff works with the Regional Advisory Councils, Federal and State fishery managers and land managers to ensure the Monitoring Program focuses on the highest priority information needs for management of Federal subsistence fisheries. Input from the Regional Advisory Councils is used to develop the Priority Information Needs by identifying issues of local concern and knowledge gaps related to subsistence fisheries. The Priority Information Needs provide a framework for evaluating and selecting project proposal. Successful project proposal selection may not be limited to the identified Priority Information Needs but project proposals not addressing a priority information need must include compelling justification with respect to strategic importance.

### **PROJECT EVALUATION PROCESS**

In the current climate of increasing conservation concerns and subsistence needs, it is imperative that the Monitoring Program prioritizes high quality projects that address critical subsistence questions. Projects are selected for funding through an evaluation and review process that is designed to advance projects that are strategically important for the Federal Subsistence Program, technically sound, administratively competent, promote partnerships and capacity building, and are cost effective.

Five criteria are used to evaluate project proposals:

1. **Strategic Priority** - Studies must be responsive to identified issues and priority information needs. All projects must have a direct linkage to Federal public lands and/or waters to be eligible for funding under the Monitoring Program.
2. **Technical-Scientific Merit** - Technical quality of the study design must meet accepted standards for information collection, compilation, analysis, and reporting.

3. **Investigator Ability and Resources** - Investigators must demonstrate that they are capable of successfully completing the proposed study by providing information on the ability (training, education, and experience) and resources (technical and administrative) they possess to conduct the work.
4. **Partnership-Capacity Building** - Partnerships and capacity building are priorities of the Monitoring Program. ANILCA mandates that rural residents be afforded a meaningful role in the management of Federal subsistence fisheries. Investigators are requested to include a strategy for integrating local capacity development in their investigation plans.
5. **Cost Benefit** – Each proposal is evaluated for “best value” and overall project costs.

### PROJECTS FUNDED UNDER THE MONTORING PROGRAM

Since the inception of the Monitoring Program in 2000, 51 projects have been funded in the Northern Alaska Region including seven new projects operating during 2016 (**Table 2**).

**Table 2.** Fisheries Resource Monitoring Program projects funded in the Northern Alaska Region from 2000 to 2016.

Project Number	Project Title	Project Cost
00-001	Northwest Dolly Varden and Arctic Char Stock Identification	\$91,000
00-002	Eastern NS Dolly Varden Spawning and Over-wintering Assessment	\$41,500
00-020	Hotham Inlet Kotzebue Winter Subsistence Sheefish Harvest	\$69,900
01-101	Eastern NS (Kaktovik) Subsistence Fish Harvest Assessment	\$198,000
01-113	Eastern NS Dolly Varden Genetic Stock ID Stock Assessment	\$696,500
01-224	Nome Sub-district Subsistence Salmon Survey	\$70,000
01-136	Northwestern Alaska Dolly Varden Genetic Diversity	\$198,000
01-137	Northwestern Alaska Dolly Varden Spawning Stock Assessment	\$737,800
02-020	Pikmiktalik River Salmon Site Surveys and Enumeration	\$19,800
02-023	Qaluich Nigingnaqtuat: Fish That We Eat	\$48,027
02-040	Kotzebue Sound Whitefish Traditional Knowledge	\$131,802
02-050	NS (Anaktuvik Pass) Subsistence Fish Harvest Assessment	\$150,506
03-012	SST of Arctic Cisco and Dolly Varden in Kaktovik Lagoons	\$167,050
03-016	Selawik River Harvest ID, Spring and Fall Subsistence Fisheries	\$43,628
04-101	Selawik River Inconnu Spawning Abundance	\$432,016
04-102	Selawik Refuge Whitefish Migration and Habitat Use	\$222,500
04-103	North Slope Dolly Varden Sonar Feasibility	\$343,900
04-105	Pikmiktalik river Chum and Coho Salmon Enumeration	\$229,089
04-109	Wulik River Dolly Varden Wintering Stocks	\$115,272
04-151	Customary Trade of Fish in the Seward Peninsula Area	\$235,600
04-157	Exploring Approaches to Sustainable Fisheries Harvest Assessment	\$127,300
05-101	Unalakleet River Coho Salmon Distribution and Abundance	\$169,400

*Fisheries Resource Monitoring Program Northern Alaska Overview*

06-101	Pikmiktalik River Chum and Coho Salmon Enumeration	\$428,994
06-108	North Slope Dolly Varden Aerial Monitoring	\$81,743
07-105	North Slope Dolly Varden Genetic Baseline Completion	\$76,433
07-107	Hulahula River Dolly Varden Sonar Enumeration	\$119,023
07-151	Northwest Alaska Subsistence Fish Harvest Patterns and Trends	\$340,363
08-103	Kobuk River Sheefish Spawning and Run Timing	\$199,855
10-100	Selwik Drainage Sheefish Winter Movement Patterns	\$569,818
10-102	Unalakleet River Chinook Salmon Assessment	\$585,395
10-104	Selawik Lake and Hotham Inlet Sheefish Genetic Analysis	\$328,565
10-151	Bering Strait Non-salmon Fish Local Ecological Knowledge	\$575,190
10-152	Northwest Alaska Climate Change and Subsistence Fisheries	\$184,478
12-100	Selawik River Inconnu Assessment	\$376,546
12-102	Kuk River Rainbow Smelt Assessment	\$625,171
12-103	Kobuk River Sheefish Assessment	\$41,400
12-104	Noatak River Dolly Varden Assessment	\$223,321
12-153	Northwest Alaska Fisheries Harvest Surveys	\$442,129
12-154	North Slope Emerging Salmon Fishery Traditional Ecological Knowledge	\$166,262
12-155	North Slope Climate Change and Subsistence Use of Whitefish	\$187,156
14-101	Unalakleet River Chinook Salmon Escapement Assessment	\$474,316
14-103	Beaufort Sea Dolly Varden Satellite Telemetry	\$400,978
14-104	Selawik River Inconnu Age Structure and Spawning Population Abundance	\$359,589
16-101	Canning River Dolly Varden Over-wintering Habitats Radio Telemetry	\$105,400
16-103	Kobuk River Dolly Varden Population Genetic Diversity	\$21,500
16-104	Selawik River Inconnu Age Structure and Spawning Population Abundance	\$390,560
16-105	Kobuk River Sheefish Spawning Abundance	\$183,592
16-106	North Slope Over-wintering Dolly Varden Aerial Monitoring	\$229,302
16-107	Chandler Lake Trout Spawning Aggregations	\$245,686
16-152	Meade River Changes in Subsistence Fish	\$329,495
<b>Total</b>		<b>\$12,830,850</b>

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(11 Aug 2016)

MEMORANDUM OF UNDERSTANDING

For

Coordinated Interagency Fish and Wildlife Management for Subsistence Uses on Federal Public Lands in Alaska

between the

Federal Subsistence Board

(U.S. Fish and Wildlife Service, USDA Forest Service, National Park Service, Bureau of Land Management, Bureau of Indian Affairs, and Secretarial Appointees)

and

State of Alaska

(Alaska Department of Fish and Game (ADF&G) and Alaska Board of Fisheries and Alaska Board of Game (State Boards))

**I. PREAMBLE**

This Memorandum of Understanding (MOU) between the Federal Subsistence Board and the State of Alaska establishes guidelines to coordinate management of subsistence uses of fish and wildlife resources on Federal public lands in Alaska.

WHEREAS, the Secretaries of Agriculture and the Interior (Secretaries), by authority of the Alaska National Interest Lands Conservation Act (ANILCA) and other laws of Congress, regulations, and policies, are responsible for ensuring that the taking of fish and wildlife for nonwasteful subsistence uses on Federal public lands, as discussed in ANILCA §802(2) and defined in ANILCA §803, shall be accorded priority over the taking on such lands of fish and wildlife for other purposes as provided for in ANILCA §804; and that the Secretaries are responsible for protecting and providing the opportunity for rural residents of Alaska to engage in a subsistence way of life on Federal public lands in Alaska, consistent with the conservation of healthy populations of fish and wildlife and recognized scientific principles; and that these lands are defined in ANILCA §102 and Federal regulation (36 CFR Part 242 and 50 CFR Part 100); and that the Secretaries primarily implement this priority through the Federal Subsistence Board, providing for public participation through Regional Advisory Councils and Subsistence Resource Commissions as authorized by ANILCA §805 and §808 and Federal regulations (above); and,

WHEREAS, the State of Alaska, under its laws and regulations, is responsible for the management, protection, maintenance, enhancement, rehabilitation, and extension of the fish and wildlife resources of the State of Alaska on the sustained yield principle, subject to preferences among beneficial uses, such as providing a priority for subsistence harvest and use of fish and wildlife (where such uses are customary and traditional), and implements its program through the State Boards and the ADF&G, providing for public participation

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through Advisory Committees authorized in the State's laws and regulations (Alaska Statutes Title 16; Alaska Administrative Code Title 5) and through Alaska Administrative Procedure Act; and,

WHEREAS, ANILCA, Title VIII, authorizes the Secretaries to enter into cooperative agreements in order to accomplish the purposes and policies of Title VIII, and the Federal Subsistence Board and the State of Alaska believe it is in the best interests of the fish and wildlife resources and the public to enter into this Memorandum of Understanding;

THEREFORE, the signatories endorse coordination of Federal and State regulatory processes and the collection and exchange of data and information relative to fish and wildlife populations and their use necessary for subsistence management on Federal public lands. This MOU forms the basis for such cooperation and coordination among the parties with regard to subsistence management of fish and wildlife resources on Federal public lands.

## **II. PURPOSE**

The purpose of this MOU is to provide a foundation and direction for coordinated interagency fish and wildlife management for subsistence uses on Federal public lands, consistent with specific Federal and State authorities as stated above, that will protect and promote the sustained health of fish and wildlife populations, ensure conservation of healthy populations and stability in fish and wildlife management, and include meaningful public involvement. The signatories hereby enter this MOU to accomplish this purpose and to establish guidelines for subsequent agreements and protocols to implement coordinated management of fish and wildlife resources used for subsistence purposes on Federal public lands in Alaska.

## **III. GUIDING PRINCIPLES**

- 1) Ensure conservation of fish and wildlife resources while providing for continued uses of fish and wildlife, including a priority for subsistence uses, through interagency subsistence management and regulatory programs that promote coordination, cooperation, and exchange of information between Federal and State agencies, regulatory bodies, Regional Advisory Councils, Subsistence Resource Commissions, State Advisory Committees, state and local organizations, tribes and/or other Alaska Native organizations, and other entities;
- 2) Recognize that wildlife management activities on Federal public lands, other than the subsistence take and use of fish and wildlife remain within the authority of the individual land management agencies.
- 3) Use the best available information, including scientific, cultural and local knowledge and knowledge of customary and traditional uses, for decisions regarding fish and wildlife management for subsistence uses on Federal public lands;

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- 4) Avoid duplication in research, monitoring, and management;
- 5) Involve subsistence and other users in the fisheries and wildlife management planning processes;
- 6) Promote stability in fish and wildlife management and minimize unnecessary disruption to subsistence and other uses of fish and wildlife resources; and
- 7) Promote clear and enforceable hunting, fishing, and trapping regulations.

**IV. THE FEDERAL SUBSISTENCE BOARD AND STATE OF ALASKA MUTUALLY AGREE**

- 1) To cooperate and coordinate their respective research, monitoring, regulatory, and management actions to help ensure the conservation of fish and wildlife populations for subsistence use on Federal public lands.
- 2) To recognize that fish and wildlife population data and information, including local knowledge of customary and traditional uses, are important components of successful implementation of Federal responsibilities under ANILCA Title VIII.
- 3) To recognize a Federal priority for rural residents on Federal public lands for subsistence uses of fish and wildlife resources. Additionally, to allow for other uses of fish and wildlife resources when harvestable surpluses are sufficient, consistent with ANILCA and Alaska Statute 16.05.
- 4) To recognize that cooperative funding agreements implementing the provisions of this MOU be negotiated when necessary and as authorized by ANILCA §809 and other appropriate statutory authorities. Federal funding agreements for cooperative research and monitoring studies of subsistence resources with organizations representing local subsistence users and others are, and will continue to be, an important component of information gathering and management programs.
- 5) To recognize that Federal and State scientific standards for conservation of fish and wildlife populations are generally compatible. When differences interpreting data are identified, the involved agencies should appoint representatives to seek resolution of the differences.
- 6) To cooperatively pursue the development of information to clarify Federal and State regulations for the public.
- 7) To recognize that the signatories establish protocols or other procedures that address data collection and information management, data analysis and review, in-season fisheries and wildlife management, and other key activities and issues jointly agreed upon that affect subsistence uses on Federal public lands. (See Appendix)

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- 8) To have Federal and State staff work cooperatively with Regional Advisory Councils, Subsistence Resource Commissions, State Advisory Committees, tribes and other stakeholders, as appropriate, to review data analyses associated with regulatory proposals, harvest assessment and monitoring studies, and subsistence resource management.
- 9) To designate liaisons for policy and program communications and coordination between the Federal and State programs.
- 10) To provide adequate opportunity for the appropriate Federal and State agencies to review analyses and justifications associated with special actions and emergency orders affecting subsistence uses on Federal public lands, prior to implementing such actions. Where possible and as required, Federal and State agencies will provide advance notice to Regional Advisory Council, Subsistence Resource Commission, and/or State Advisory Committee representatives, tribes and other interested members of the public before issuing special actions or emergency orders. Where conservation of the resource or continuation of subsistence uses is of immediate concern, the review shall not delay timely management action.
- 11) To cooperatively review existing, and develop as needed, Federal subsistence management plans and State fish and wildlife management plans that affect subsistence uses on Federal public lands. Provide an opportunity for Regional Advisory Council, Subsistence Resource Commission and/or State Advisory Committee representatives, tribes and other public to participate in the review. Consider Federal, State and cooperative fish and wildlife management plans as the initial basis for any management actions so long as they provide for subsistence priorities. Procedures for management plan reviews and revisions will be developed by the respective Federal and State Boards in a protocol.
- 12) To use the State's harvest reporting and assessment systems supplemented by information from other sources to monitor subsistence uses of fish and wildlife resources on Federal public lands. In some cases, Federal subsistence seasons, harvest limits, or data needs necessitate separate Federal subsistence permits and harvest reports.
- 13) To ensure that local residents, tribes and other users will have meaningful involvement in subsistence wildlife and fisheries regulatory processes that affect subsistence uses on Federal public lands.

**V. GENERAL PROVISIONS**

- 1) No member of, or Delegate to, Congress shall be admitted to any share or part of this document, or to any benefit that may arise from it.
- 2) This MOU is complementary to and is not intended to replace the Master Memoranda of Understanding between the individual Federal agencies and ADF&G, with the exception of specific Federal responsibilities for subsistence uses of fish and wildlife on



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Federal public lands. Supplemental protocols to this document may be developed to promote further interaction and coordination among the parties.

- 3) Nothing herein is intended to conflict with Federal, State, or local laws or regulations.
- 4) Nothing in this MOU enlarges or diminishes each party's existing responsibilities and authorities.
- 5) Upon signing, the parties shall each designate an individual and an alternate to serve as the principal contact or liaison for implementation of this MOU.
- 6) This MOU becomes effective upon signing by all signatories and will remain in force until such time as the Secretary of the Interior determines that the State of Alaska has implemented a subsistence management program in compliance with Title VIII of ANILCA, or, signatories terminate their participation in this MOU by providing 60 days written notice. Termination of participation by one signatory has no impact on this MOU's effectiveness between the remaining signatories.
- 7) Regional Advisory Councils, Subsistence Resource Commissions and State Advisory Committees will be asked annually to provide comments to the signatories concerning Federal/State coordination. The signatories will meet annually or more frequently if necessary, to review coordinated programs established under this MOU, to consider Regional Advisory Council, Subsistence Resource Commission and State Advisory Committee comments, and to consider modifications to this MOU that would further improve interagency working relationships. Any modifications of this MOU shall be made by mutual consent of the signatories, in writing, signed and dated by all parties.
- 8) Nothing in this document shall be construed as obligating the signatories to expend funds or involving the United States or the State of Alaska in any contract or other obligations for the future payment of money, except as may be negotiated in future cooperative funding agreements.
- 9) This MOU establishes guidelines and mutual management goals by which the signatories shall coordinate, but does not create legally enforceable obligations or rights.
- 10) This MOU does not restrict the signatories from participating in similar agreements with other public or private agencies, tribes, organizations, and individuals.

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SIGNATORIES

In WITNESS THEREOF, the parties hereto have executed this MOU as of the last  
date written bellow.

\_\_\_\_\_  
Commissioner  
Alaska Department of Fish and Game  
Date:

\_\_\_\_\_  
Chair of the Federal Subsistence Board  
Date:

\_\_\_\_\_  
Chair  
Alaska Board of Fisheries  
Date:

\_\_\_\_\_  
Regional Director  
U.S. Fish and Wildlife Service  
Date:

\_\_\_\_\_  
Chair  
Alaska Board of Game  
Date:

\_\_\_\_\_  
Regional Forester  
USDA Forest Service  
Date:

\_\_\_\_\_  
Regional Director  
National Park Service  
Date:

\_\_\_\_\_  
State Director  
Bureau of Land Management  
Date:

\_\_\_\_\_  
Regional Director  
Bureau of Indian Affairs  
Date:

\_\_\_\_\_  
Member of the Federal Subsistence Board  
Date:

\_\_\_\_\_  
Member of the Federal Subsistence Board  
Date:

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**APPENDIX**

**SCOPE FOR PROTOCOLS AND/OR PROCEDURES**

- 1) Joint technical committees or workgroups may be appointed to develop protocols and/or procedures.
- 2) Individual protocols and/or procedures should:
  - a. Be developed by an interagency committee. The committee shall involve, as appropriate, Regional Advisory Council, Subsistence Resource Commissions and/or State Advisory Committee representatives and other Federal/State regional or technical experts.
  - b. Identify the subject or topic of the protocol and provide justification.
  - c. Identify the parties to the protocol.
  - d. Identify the process to be used for implementing the protocol.
  - e. Provide for appropriate involvement of Regional Advisory Councils, Subsistence Resource Commissions and/or State Advisory Committees, tribes and/or other Alaska Native organizations, governmental organizations, and other affected members of the public when implementing protocols.
  - f. Specify technical committee or workgroup memberships.
  - g. Develop a timeline to complete tasks.
  - h. Identify funding obligations of the parties.
  - i. Define the mechanism to be used for review and evaluation.
- 3) Protocols or procedures require concurrence by the land agencies party to the specific protocols as appropriate and prior to implementation.

applicants by the proposed priority would be limited to paperwork burden related to preparing an application for a discretionary grant program that is using the priority in its competition. Because the costs of carrying out activities would be paid for with program funds, the costs of implementation would not be a burden for any eligible applicants, including small entities.

**Regulatory Flexibility Act Certification:** For these reasons as well, the Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

**Intergovernmental Review:** Some of the programs affected by this proposed priority are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for these programs.

**Accessible Format:** Individuals with disabilities can obtain this document in an accessible format (e.g., Braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

**Electronic Access to This Document:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys). At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

**John B. King, Jr.,**  
 Secretary of Education.

[FR Doc. 2016-13456 Filed 6-7-16; 8:45 am]

BILLING CODE 4000-01-P

**DEPARTMENT OF AGRICULTURE**

**Forest Service**

**36 CFR Part 242**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 100**

[Docket No. FWS-R7-SM-2015-0159; FXRS1261070000167-FF07J00000; FBMS# 4500088147]

RIN 1018-BB22

**Subsistence Management Regulations for Public Lands in Alaska—Applicability and Scope; Tongass National Forest Submerged Lands**

**AGENCY:** Forest Service, Agriculture; Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. District Court for Alaska in its October 17, 2011, order in *Peratrovich et al. v. United States and the State of Alaska*, 3:92-cv-0734-HRH (D. Alaska), enjoined the United States “to promptly initiate regulatory proceedings for the purpose of implementing the subsistence provisions in Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) with respect to submerged public lands within Tongass National Forest” and directed entry of judgment. To comply with the order, the Federal Subsistence Board (Board) must initiate a regulatory proceeding to identify those submerged lands within the Tongass National Forest that did not pass to the State of Alaska at statehood and, therefore, remain Federal public lands subject to the subsistence provisions of ANILCA.

Following the Court’s decision, the Bureau of Land Management (BLM) and the USDA–Forest Service (USDA–FS) started a review of hundreds of potential pre-statehood (January 3, 1959) withdrawals in the marine waters of the Tongass National Forest. In April and October of 2015, BLM submitted initial lists of submerged public lands to the Board. This proposed rule would add those submerged parcels to the subsistence regulations to ensure compliance with the Court order. Additional listings will be published as BLM and the USDA–FS continue their review of pre-statehood withdrawals.

**DATES:** *Public comments:* Comments on this proposed rule must be received or postmarked by August 8, 2016.

*Public meetings:* The Federal Subsistence Regional Advisory Councils

(Councils) will hold public meetings to receive comments on this proposed rule on several dates between September 28 and November 2, 2016, and make recommendations to the Federal Subsistence Board. The Board will discuss and evaluate proposed regulatory changes during a public meeting in Anchorage, AK, in January 2017. See **SUPPLEMENTARY INFORMATION** for specific information on dates and locations of the public meetings.

**ADDRESSES:** *Public meetings:* The Federal Subsistence Board and the Federal Subsistence Regional Advisory Councils’ public meetings will be held at various locations in Alaska. See **SUPPLEMENTARY INFORMATION** for specific information on dates and locations of the public meetings.

*Public comments:* You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov> and search for FWS-R7-SM-2015-0159, which is the docket number for this rulemaking.
- *By hard copy:* U.S. mail or hand-delivery to: USFWS, Office of Subsistence Management, 1011 East Tudor Road, MS 121, Attn: Theo Matuskowitz, Anchorage, AK 99503-6199.

We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Review Process section below for more information).

**FOR FURTHER INFORMATION CONTACT:** Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Eugene R. Peltola, Jr., Office of Subsistence Management; (907) 786-3888 or [subsistence@fws.gov](mailto:subsistence@fws.gov). For questions specific to National Forest System lands, contact Thomas Whitford, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region; (907) 743-9461 or [twhitford@fs.fed.us](mailto:twhitford@fs.fed.us).

**SUPPLEMENTARY INFORMATION:**

**Background**

Under Title VIII of ANILCA (16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program. This program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. The Secretaries published temporary regulations to carry out this program in the **Federal Register** on June 29, 1990 (55 FR 27114), and published final regulations in the **Federal Register**

on May 29, 1992 (57 FR 22940). The program regulations have subsequently been amended a number of times. Because this program is a joint effort between Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): Title 36, "Parks, Forests, and Public Property," and Title 50, "Wildlife and Fisheries," at 36 CFR 242.1–242.28 and 50 CFR 100.1–100.28, respectively. The regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

Consistent with subpart B of these regulations, the Secretaries established a Federal Subsistence Board to administer the Federal Subsistence Management Program (Program). The Board comprises:

- A Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture;
- The Alaska Regional Director, U.S. Fish and Wildlife Service;
- The Alaska Regional Director, National Park Service;
- The Alaska State Director, Bureau of Land Management;
- The Alaska Regional Director, Bureau of Indian Affairs;
- The Alaska Regional Forester, U.S. Forest Service; and
- Two public members appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture.

Through the Board, these agencies and public members participate in the development of regulations for subparts C and D, which, among other things, set forth program eligibility and specific harvest seasons and limits.

In administering the program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Regional Advisory Council (Council). The Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska. The Council members represent varied geographical, cultural, and user interests within each region.

#### Public Review Process—Comments and Public Meetings

The Federal Subsistence Regional Advisory Councils have a substantial role in reviewing this proposed rule and making recommendations for the final rule. The Federal Subsistence Board, through the Councils, will hold public meetings on this proposed rule at the

following locations in Alaska, on the following dates:

- Region 1—Southeast Regional Council, Petersburg, October 4, 2016
- Region 2—Southcentral Regional Council, Anchorage, October 18, 2016
- Region 3—Kodiak/Aleutians Regional Council, Cold Bay, September 28, 2016
- Region 4—Bristol Bay Regional Council, Dillingham, October 26, 2016
- Region 5—Yukon-Kuskokwim Delta Regional Council, Bethel, October 12, 2016
- Region 6—Western Interior Regional Council, McGrath, October 11, 2016
- Region 7—Seward Peninsula Regional Council, Nome, November 1, 2016
- Region 8—Northwest Arctic Regional Council, Selawik, October 5, 2016
- Region 9—Eastern Interior Regional Council, Fort Yukon, October 25, 2016
- Region 10—North Slope Regional Council, Barrow, November 1, 2016

A public notice of specific dates, times, and meeting locations will be published in local and statewide newspapers prior to each meeting. Locations and dates may change based on weather or local circumstances. The Regional Advisory Council's agenda determines the length of each Council meeting based on workload.

The Board will discuss and evaluate submitted comments and public testimony on this proposed rule during a public meeting scheduled for January 2017 in Anchorage, Alaska. The Federal Subsistence Regional Advisory Council Chairs, or their designated representatives, will present their respective Councils' recommendations at the Board meeting. Additional public testimony may be provided to the Board on this proposed rule at that time. At that public meeting, the Board will deliberate and make final recommendations to the Secretaries on this proposed rule.

You may submit written comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. If you submit a comment via <http://www.regulations.gov>, your entire comment, including any personal identifying information, will be posted on the Web site. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy comments on <http://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we

used in preparing this proposed rule, will be available for public inspection on <http://www.regulations.gov>, or by appointment, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays, at: USFWS, Office of Subsistence Management, 1011 East Tudor Road, Anchorage, AK 99503.

#### Reasonable Accommodations

The Federal Subsistence Board is committed to providing access to these meetings for all participants. Please direct all requests for sign language interpreting services, closed captioning, or other accommodation needs to Deborah Coble, 907-786-3880, [subsistence@fws.gov](mailto:subsistence@fws.gov), or 800-877-8339 (TTY), seven business days prior to the meeting you would like to attend.

#### Tribal Consultation and Comment

As expressed in Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments," the Federal officials that have been delegated authority by the Secretaries are committed to honoring the unique government-to-government political relationship that exists between the Federal Government and Federally Recognized Indian Tribes (Tribes) as listed in 75 FR 60810 (October 1, 2010). Consultation with Alaska Native corporations is based on Public Law 108-199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108-447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: "The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175."

The Alaska National Interest Lands Conservation Act does not provide specific rights to Tribes for the subsistence taking of wildlife, fish, and shellfish. However, because tribal members are affected by subsistence fishing, hunting, and trapping regulations, the Secretaries, through the Board, will provide Federally recognized Tribes and Alaska Native corporations an opportunity to consult on this proposed rule.

The Board will engage in outreach efforts for this proposed rule, including a notification letter, to ensure that Tribes and Alaska Native corporations are advised of the mechanisms by which they can participate. The Board provides a variety of opportunities for consultation: Proposing changes to the existing rule; commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Advisory Council meetings; engaging in dialogue

at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process. The Board will commit to efficiently and adequately providing an opportunity to Tribes and Alaska Native corporations for consultation in regard to subsistence rulemaking.

The Board will consider Tribes' and Alaska Native corporations' information, input, and recommendations, and address their concerns as much as practicable.

#### **Jurisdictional Background and Perspective**

The *Peratrovich* case dates back to 1992 and has a long and involved procedural history. The plaintiffs in that litigation raised the question of which marine waters in the Tongass National Forest, if any, are subject to the jurisdiction of the Federal Subsistence Management Program. In its May 31, 2011, order, the U.S. District Court for Alaska (Court) stated that "it is the duty of the Secretaries [Agriculture & Interior] to identify any submerged lands (and the marine waters overlying them) within the Tongass National Forest to which the United States holds title." It also stated that, if such title exists, it "creates an interest in [the overlying] waters sufficient to make those marine waters public lands for purposes of [the subsistence provisions] of ANILCA."

Most of the marine waters within the Tongass National Forest were not initially identified in the regulations as public lands subject to the subsistence priority based upon a determination that the submerged lands were State lands, and later through reliance upon a disclaimer of interest filed by the United States in *Alaska v. United States*, No. 128 Orig., 546 U.S. 413 (2006). In that case, the State of Alaska had sought to quiet title to all lands underlying marine waters in southeast Alaska, which includes most of the Tongass National Forest. Ultimately, the United States disclaimed ownership to most of the submerged lands in the Tongass National Forest. The Supreme Court accepted the disclaimer by the United States to title to the marine waters within the Tongass National Forest, excepting from that disclaimer several classes of submerged public lands that generally involve small tracts. *Alaska v. United States*, 546 U.S. at 415.

When the United States took over the subsistence program in Alaska in 1990, the Departments of the Interior and Agriculture stated in response to comments on the scope of the program during promulgation of the interim

regulations that "the United States generally does not hold title to navigable waters and thus navigable waters generally are not included within the definition of public lands" (55 FR 27115; June 29, 1990). That position was changed in 1999 when the subsistence priority was extended to waters subject to a Federal reserved water right following the *Katie John* litigation. The Board identified certain submerged marine lands that did not pass to the State and, therefore, where the subsistence priority applied. However, the Board did not attempt to identify each and every small parcel of submerged public lands and thereby marine water possibly subject to the Federal Subsistence Management Program because of the potentially overwhelming administrative burden. Instead the Board invited the public to petition to have submerged marine lands included. Over the years, several small areas of submerged marine lands in the Tongass National Forest have been identified as public lands subject to the subsistence priority.

In its May 31, 2011, order, the Court stated that the petition process was not sufficient and found that "concerns about costs and management problems simply cannot trump the congressional policy that the subsistence lifestyle of rural Alaskans be preserved as to public lands." The Court acknowledged in its order that inventorying all these lands could be an expensive undertaking, but that it is a burden "necessitated by the 'complicated regulatory scheme' which has resulted from the inability of the State of Alaska to implement Title VIII of ANILCA." The Court then "enjoined" the United States "to promptly initiate regulatory proceedings for the purpose of implementing the subsistence provisions in Title VIII of ANILCA with respect to submerged public lands within Tongass National Forest" and directed entry of judgment.

The BLM and USDA-FS started a time- and resource-consuming review of hundreds of potential pre-statehood (January 3, 1959) withdrawals in the marine waters of the Tongass National Forest. Both agencies are reviewing their records to identify dock sites, log transfer sites, and other areas that may not have passed to the State at statehood. The review process is ongoing and expected to take quite some time.

#### **Developing the Applicability and Scope; Tongass National Forest Submerged Lands Proposed Regulations**

In April and October of 2015, BLM submitted initial listings of parcels of

submerged public lands to the Board. This proposed rule will add those listings to the subsistence regulations to ensure compliance with the Court's order. Additional listings will be published as BLM and USDA-FS continue their reviews of pre-statehood withdrawals. In addition, this proposed rule would make nonsubstantive changes to 36 CFR 242.3 and 50 CFR 100.3 to correct errors, such as misspellings and punctuation errors, which occur in the existing regulations.

Because this proposed rule concerns public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text will be incorporated into 36 CFR part 242 and 50 CFR part 100.

#### **Compliance With Statutory and Regulatory Authorities**

##### *National Environmental Policy Act*

A Draft Environmental Impact Statement that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. The Final Environmental Impact Statement (FEIS) was published on February 28, 1992. The Record of Decision (ROD) on Subsistence Management for Federal Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (Alternative IV) defined the administrative framework of an annual regulatory cycle for subsistence regulations.

A 1997 environmental assessment dealt with the expansion of Federal jurisdiction over fisheries and is available at the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior, with concurrence of the Secretary of Agriculture, determined that expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and, therefore, signed a Finding of No Significant Impact.

##### *Section 810 of ANILCA*

An ANILCA § 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. The final § 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Federal Subsistence Management

Program, under Alternative IV with an annual process for setting subsistence regulations, may have some local impacts on subsistence uses, but will not likely restrict subsistence uses significantly.

During the subsequent environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of the subsistence program regulations was conducted in accordance with § 810. This evaluation also supported the Secretaries' determination that the regulations will not reach the "may significantly restrict" threshold that would require notice and hearings under ANILCA § 810(a).

#### *Paperwork Reduction Act of 1995 (PRA)*

This proposed rule does not contain any new collections of information that require Office of Management and Budget (OMB) approval under the PRA (44 U.S.C. 3501 *et seq.*) OMB has reviewed and approved the collections of information associated with the subsistence regulations at 36 CFR 242 and 50 CFR 100, and assigned OMB Control Number 1018-0075. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

#### *Regulatory Planning and Review (Executive Order 12866)*

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this proposed rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this proposed rule in a manner consistent with these requirements.

#### *Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires

preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this proposed rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that two million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of \$3.00 per pound, this amount would equate to about \$6 million in food value statewide. Based upon the amounts and values cited above, the Departments certify that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

#### *Small Business Regulatory Enforcement Fairness Act*

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this proposed rule is not a major rule. It will not have an effect on the economy of \$100 million or more, will not cause a major increase in costs or prices for consumers, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

#### *Executive Order 12630*

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these proposed regulations have no potential takings of private property implications as defined by Executive Order 12630.

#### *Unfunded Mandates Reform Act*

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this proposed rulemaking will not impose a cost of \$100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies and there is no cost imposed on any State or local entities or tribal governments.

#### *Executive Order 12988*

The Secretaries have determined that these proposed regulations meet the applicable standards provided in §§ 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

#### *Executive Order 13132*

In accordance with Executive Order 13132, the proposed rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

#### *Executive Order 13175*

The Alaska National Interest Lands Conservation Act, Title VIII, does not provide specific rights to tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Secretaries, through the Board, will provide Federally recognized Tribes and Alaska Native corporations an opportunity to consult on this proposed rule. Consultation with Alaska Native corporations are based on Public Law 108-199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108-447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: "The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175."

The Secretaries, through the Board, will provide a variety of opportunities for consultation: commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process.

#### *Executive Order 13211*

This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. However, this proposed rule is not a significant regulatory action under E.O. 13211, affecting energy supply, distribution, or use, and no Statement of Energy Effects is required.

#### **Drafting Information**

Theo Matuskowitz drafted these proposed regulations under the guidance of Gene Peltola of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by:

- Daniel Sharp, Alaska State Office, Bureau of Land Management;
- Mary McBurney, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;

- Trevor Fox, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Thomas Whitford, Alaska Regional Office, USDA—Forest Service.

### List of Subjects

#### 36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

#### 50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

### Proposed Regulation Promulgation

For the reasons set out in the preamble, the Secretaries propose to amend 36 CFR part 242 and 50 CFR part 100 as set forth below.

### PART—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

- 1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 continues to read as follows:

**Authority:** 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

#### Subpart A—General Provisions

- 2. In subpart A of 36 CFR part 242 and 50 CFR part 100, amend § 3 as follows:
- a. In paragraph (a), remove the word “or” and in its place add the word “of” and remove the word “poortion” and in its place add the word “portion”;
  - b. In paragraph (b)(1)(iii), remove the word “A” and in its place add the word “All”;
  - c. In paragraph (b)(1)(v), remove the word “Latitute” and in its place add the word “Latitude”;
  - d. In paragraph (b)(2), remove “70 10” and in its place add “70°10’” and remove “145 51” and in its place add “145°51’”;
  - e. In paragraph (b)(3), remove the word “cape” and in its place add the word “Cape”, remove the word “Latitute” and in its place add the word “Latitude”, and remove “161 46” and in its place add “161°46’”; and
  - f. Revise paragraph (b)(5) to read as set forth below:

#### § 3 Applicability and scope.

\* \* \* \* \*

(5) Southeastern Alaska, including the:

(i) Makhnati Island Area: Land and waters beginning at the southern point of Fruit Island, 57°02'35" north latitude, 135°21'07" west longitude as shown on

United States Coast and Geodetic Survey Chart No. 8244, May 21, 1941; from the point of beginning, by metes and bounds; S. 58° W., 2,500 feet, to the southern point of Nepovorotni Rocks; S. 83° W., 5,600 feet, on a line passing through the southern point of a small island lying about 150 feet south of Makhnati Island; N. 6° W., 4,200 feet, on a line passing through the western point of a small island lying about 150 feet west of Makhnati Island, to the northwestern point of Signal Island; N. 24° E., 3,000 feet, to a point, 57°03'15" north latitude, 134°23'07" west longitude; East, 2,900 feet, to a point in course No. 45 in meanders of U.S. Survey No. 1496, on west side of Japonski Island; southeasterly, with the meanders of Japonski Island, U.S. Survey No. 1,496 to angle point No. 35, on the southwestern point of Japonski Island; S. 60° E., 3,300 feet, along the boundary line of Naval reservation described in Executive Order No. 8216, July 25, 1939, to the point of beginning, and that part of Sitka Bay lying south of Japonski Island and west of the main channel, but not including Aleutski Island as revoked in Public Land Order 925, October 27, 1953, described by metes and bounds as follows: Beginning at the southeast point of Japonski Island at angle point No. 7 of the meanders of U.S. Survey No. 1496; thence east approximately 12.00 chains to the center of the main channel; thence S. 45° E. along the main channel approximately 20.00 chains; thence S. 45° W. approximately 9.00 chains to the southeastern point of Aleutski Island; thence S. 79° W. approximately 40.00 chains to the southern point of Fruit Island; thence N. 60° W. approximately 50.00 chains to the southwestern point of Japonski Island at angle point No. 35 of U.S. Survey No. 1496; thence easterly with the meanders of Japonski Island to the point of beginning including Charcoal, Harbor, Alice, Love, and Fruit islands and a number of smaller unnamed islands.

(ii) Tongass National Forest:

(A) Beacon Point, Frederick Sound, and Kupreanof Island are shown on the U.S. Coast and Geodetic Survey Chart No. 8210—Sheet No. 16. The reference location is marked as 57 south, 79 east, CRM, SEC 8, U.S. Survey No. 1604. The point begins on the low-water line at N. 63° W., true and approximately 1,520 feet from Beacon Point beacon; thence due south true 1,520 feet; thence true East 1,800 feet, more or less to an intersection with a low-water line; thence following, is the low-water line round the point to point of the beginning (Approx. Long. 133°00' W. Lat. 56°56¼' N.).

(B) Bushy Island and Snow Passage are shown on the U.S. Coast and Geodetic Survey Chart, labeled No. 8160—Sheet No. 12. The reference location is marked as 64 south, 80 east, CRM, SEC. 31/32 on the map labeled, USS 1607. The point begins on a low-water line about ¼ nautical miles and southwesterly from the northwest point of the island, from which a left tangent to an island that is 300 yards in diameter and 100 yards offshore, bears the location—N. 60° W., true; thence S. 60° E., true and more or less 2,000 feet to an intersection with a low-water line on the easterly side of the island; thence forward along the winding of the low-water line northwesterly and southwesterly to the point of the beginning, including all adjacent rocks and reefs not covered at low water (Approx. Long. 132°58' W. Lat. 56°16½' N.).

(C) Cape Strait, Frederick Sound, and Kupreanof Island are shown on the U.S. Coast and Geodetic Survey Chart No. 8210—Sheet No. 16. The reference location is marked as 56 south, 77478 east, CRM, on the map labeled as USS 1011. It begins at a point on a low-water line that is westerly from the lighthouse and distant 1,520 feet in a direct line from the center of the concrete pier upon which the light tower is erected; thence South 45° E., true by 1,520 feet; thence east true by 1,520 feet, more or less to an intersection with the low-water line; thence north-westerly and westerly, following the windings of the low-water line to the point of beginning (Approx. Long. 133°05' W. Lat. 57°00' N.).

(D) Point Colpoys and Sumner Strait are shown on the U.S. Coast and Geodetic Survey Chart No. 8160—Prince of Wales Island—Sheet No. 12. The reference location is marked as 64 south, 78 east, CRM, SECs. 10, 11, 12 on the map labeled as USS 1634. Location is north of a true east-and-west line running across the point to 1,520 feet true south from the high-water line at the northernmost extremity. Map includes all adjacent rocks and ledges not covered at low water and also includes two rocks awash about 1¼ nautical miles east and South and 75° East, respectively, from the aforementioned point (Approx. Long. 133°12' W. Lat. 56°20' N.).

(E) Vank Island and Stikine Strait are shown on the U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 18. Located at 62 south, 82 east, CRM, SEC 34, on the map labeled as USS 1648. This part of the island is lying south of a true east-and-west line that is drawn across the island from low water to low water. Island is 760 feet due North from



the center of the concrete pier upon which the structure for the light is erected (Approx. Long. 132°35' W. Lat. 56°27' N.).

(F) High Point, and Woronkofski Island, Alaska, are shown on the U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 18. The location begins at a point on low water at the head of the first bight easterly of the point and about 1/8 nautical mile distant therefrom; thence south true 1,520 feet; thence west true 1,100 feet, more or less to an intersection with the low-water line; thence northerly and easterly, following the windings of the low-water line to point of the beginning (Approx. Long. 132°33' W. Lat. 56°24' N.).

(G) Key Reef and Clarence Strait are shown on the U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 11. The reef lies 1 3/4 miles S. 80° E., true, from Bluff Island and becomes awash at extreme high water. Chart includes all adjacent ledges and rocks not covered at low water (Approx. Long. 132°50' W. Lat. 56°10' N.).

(H) Low Point and Zarembo Island, Alaska, are shown on U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 22. The location begins at a point on a low-water line that is 760 feet in a direct line, easterly, from the center of Low Point Beacon. The position is located on a point of shoreline about 1 mile easterly from Low Point; thence S. 35°, W true 760 feet; thence N. 800 feet and W. 760 feet, more or less, to an intersection with the low-water line to the point of beginning (Approx. Long. 132°55 1/2' W. Lat. 56°27 1/2' N.).

(I) McNamara Point and Zarembo Island, Alaska, are shown on U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 25. Location begins at a point on a low-water line that is 1,520 feet in a direct line, northerly, from McNamara Point Beacon—a slatted tripod structure; thence true east 1,520 feet; thence true south, more or less, 2,500 feet to an intersection with the low-water line; thence northwesterly and northerly following the windings of the low-water line to the point of the beginning (Approx. Long. 133°04' W. Lat. 56°20' N.).

(J) Mountain Point and Wrangell Narrows, Alaska, are shown on the U.S. Coast and Geodetic Survey Chart No. 8170—Sheet No. 27. The location begins at a point on a low-water line southerly from the center of Mountain Point Beacon and distant there from 1,520 feet in a direct line; thence true west 1,520 feet; thence true north, more or less, 3,480 feet to an intersection with the low-water line; thence southeasterly and southerly following the windings of the low-water line to the point of the

beginning (Approx. Long. 132°57 1/2' W. Lat. 56°44' N.).

(K) Angle Point, Revillagigedo Channel, and Bold Island are shown on the U.S. Coast and Geodetic Survey Chart No. 8075—Sheet No. 3. The reference location is marked as 76 south, 92 east, CRM, USS 1603. The location begins at a point on a low-water line abreast of the lighthouse on Angle Point, the southwestern extremity of Bold Island; thence easterly along the low-water line to a point that is 3,040 feet in a straight line from the beginning point; thence N. 30° W. True 3,040 feet; thence true west to an intersection with the low-water line, 3,000 feet, more or less; thence southeasterly along the low-water line to the point of the beginning (Approx. Long. 131°26' W. Lat. 55°14' N.).

(L) Cape Chacon, Dixon Entrance, and Prince of Wales Island are shown on the U.S. Coast and Geodetic Survey Chart No. 8074—Sheet No. 29. The reference location is marked as 83 south, 89 and 90 east, CRM, USS 1608. The location begins at a point at the low-water mark on the shore line of Dixon Entrance from which the southern extremity of Cape Chacon bears south 64° true East and approximately 3/4 nautical miles; thence N. 45° true East and about 1 nautical mile, more or less, to an intersection with a low-water line on the shore of Clarence Strait; thence southerly, following the meanderings of the low-water line of the shore, to and around Cape Chacon, and continuing to the point of the beginning. Reference includes all adjacent islands, islets, rocks, and reefs that are not covered at the low-water line (Approx. Long. 132° W. Lat. 54°42' N.).

(M) Lewis Reef and Tongass Narrows are shown on the U.S. Coast and Geodetic Survey Chart No. 8094—Sheet No. 71. The reference location is marked as 75 south, 90 east, CRM, SEC 9. The area point begins at the reef off of Lewis Point and partly bare at low water. This part of the reef is not covered at low water and lies on the northeast side of a true northwest-and-southeast line that is located 300 feet true southwest from the center of the concrete pier of Lewis Reef Light (Approx. Long. 131°44 1/2' W. Lat. 55°22'25" N.).

(N) Lyman Point and Clarence Strait are shown on the U.S. Coast and Geodetic Survey, Chart No. 8076—Sheet No. 8. The reference location is marked as 73 south, 86 east, CRM, SEC 13, on a map labeled as USS 2174 TRC. It begins at a point at the low-water mark. The aforementioned point is 300 feet in a direct line easterly from Lyman Point light; thence due south 300 feet; thence due west to a low-water mark 400 feet,

more or less; thence following the winding of the low-water mark to place of beginning (Approx. Long. 132°18' W. Lat. 35°35' N.).

(O) Narrow Point, Clarence Strait, and Prince of Wales Island are shown on the U.S. Coast and Geodetic Survey Chart No. 8100—Sheet No. 9. The reference location is marked as 70 south, 84 east, CRM, on a map labeled as USS 1628. The point begins at a point on a low-water line about 1 nautical mile southerly from Narrow Point Light, from which point a left tangent to a high-water line of an islet about 500 yards in diameter and about 300 yards off shore, bears south 30° true East; thence north 30° W., true 7,600 feet; thence N. 60° E., 3,200 feet, more or less to an intersection with a low-water line; thence southeasterly, southerly, and southwesterly, following the winding of the low-water line to the point of the beginning. The map includes all adjacent rocks not covered at low water (Approx. Long. 132°28' W. Lat. 55°47 1/2' N.).

(P) Niblack Point, Cleveland Peninsula, and Clarence Strait, Alaska, are shown on the U.S. coast and Geodetic Survey Chart No. 8102—Sheet No. 6, which is the same sheet used for Caamano Point. The location begins at a point on a low-water line from which Niblack Point Beacon, a tripod anchored to three concrete piers, bears southeasterly and is 1,520 feet in a direct line; thence true northeast 1,520 feet; thence true southeast 3,040 feet; thence true southwest at 600 feet, more or less, to an intersection with a low-water line; thence northwesterly following the windings of the low-water line to the point of the beginning (Approx. Long. 132°07' W. Lat. 55°33' N.).

(Q) Rosa Reef and Tongass Narrows are shown on the U.S. Coast and Geodetic Survey Chart No. 8094—Sheet No. 71. The reference location is marked as 74 south, 90 east, CRM, SEC 31. That part of the reef is not covered at low water and lies east of a true north-and-south line, located 600 feet true west from the center of the concrete pier of Rosa Reef Light. The reef is covered at high water (Approx. Long. 131°48' W. Lat. 55°24'15" N.).

(R) Ship Island and Clarence Strait are shown on the U.S. Coast and Geodetic Survey Chart No. 8100—Sheet No. 9. The reference location is marked as south, 8 east, CRM, SEC 27. The point begins as a small island on the northwesterly side of the Clarence Strait, about 10 nautical miles northwesterly from Caamano Point and 1/4 mile off the shore of Cleveland Peninsula. The sheet includes all

adjacent islets and rocks not connected to the main shore and not covered at low water (Approx. Long. 132°12' W. Lat. 55°36' N.).

(S) Spire Island Reef and Revillagigedo Channel are shown on the U.S. Coast and Geodetic Survey Chart No. 8075—Sheet No. 3. The reference location is marked as 76 south, 92 east, CRM, SEC 19. The detached reef, covered at high water and partly bare at low water, is located northeast of Spire Island. Spire Island Light is located on the reef and consists of small houses and lanterns surmounting a concrete pier. See chart for “Angle Pt.” (Approx. Long. 131°30' W. Lat. 55°16' N.).

(T) Surprise Point and Nakat Inlet are shown on the U.S. Coast and Geodetic Survey Chart No. 8051—Sheet No. 1. The reference location is marked as 80 south, 89 east, CRM. This point lies north of a true east-and-west line. The true east-and-west line lies 3,040 feet true south from the northernmost extremity of the point together with adjacent rocks and islets (Approx. Long. 130°44' W. Lat. 54°49' N.).

(U) Caamano Point, Cleveland Peninsula, and Clarence Strait, Alaska, are shown on the U.S. Coast and Geodetic Survey Chart No. 8102—Sheet No. 6. Location consists of everything apart of the extreme south end of the Cleveland Peninsula lying on a south side of a true east-and-west line that is drawn across the point at a distance of 800 feet true north from the southernmost point of the low-water line. This includes off-lying rocks and islets that are not covered at low water (Approx. Long. 131°59' W. Lat. 55°30' N.).

(V) Meyers Chuck and Clarence Strait, Alaska, are shown on the U.S. and Geodetic Survey Chart No. 8124—Sheet No. 26. The small island is about 150 yards in diameter and located about 200 yards northwest of Meyers Island (Approx. Long. 132°16' W. Lat. 55°44½' N.).

(W) Round Island and Cordova Bay, Alaska, are shown on the U.S. coast and Geodetic Survey Chart No. 8145—Sheet No. 36. The Southwestern Island of the group is about 700 yards long, including off-lying rocks and reefs that are not covered at low water (Approx. Long. 132°30½' W. Lat. 54°46½' N.).

(X) Mary Island begins at a point that is placed at a low-water mark. The aforementioned point is southward 500 feet from a crosscut on the side of a large rock on the second point below Point Winslow and Mary Island; thence due west ¾ mile, statute; thence due north to a low-water mark; thence following the winding of the low water

to the place of the beginning (Approx. Long. 131°11'00" W. Lat. 55°05'55" N.).

(Y) Tree Point starts a point of a low-water mark. The aforementioned point is southerly ½ mile from extreme westerly point of a low-water mark on Tree Point, on the Alaska Mainland; thence due true east, ¾ mile; thence due north 1 mile; thence due west to a low-water mark; thence following the winding of the low-water mark to the place of the beginning (Approx. Long. 130°57'44" W. Lat. 54°48'27" N.).

\* \* \* \* \*

Dated: May 31, 2016.

Dated: February 17, 2016.

**Sally Jewell,**

*Secretary of the Interior.*

**Beth G. Pendleton,**

*Regional Forester USDA—Forest Service.*

[FR Doc. 2016–13374 Filed 6–7–16; 8:45 am]

**BILLING CODE 3410–11–4333–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R04–OAR–2016–0247; FRL–9947–40–Region 4]

### Air Plan Approval; South Carolina; Prong 4—2008 Ozone, 2010 NO<sub>2</sub>, SO<sub>2</sub>, and 2012 PM<sub>2.5</sub>

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to conditionally approve the portions of revisions to the South Carolina State Implementation Plan (SIP), submitted by the South Carolina Department of Health and Environmental Control (SC DHEC), addressing the Clean Air Act (CAA or Act) visibility transport (prong 4) infrastructure SIP requirements for the 2008 8-hour Ozone, 2010 1-hour Nitrogen Dioxide (NO<sub>2</sub>), 2010 1-hour Sulfur Dioxide (SO<sub>2</sub>), and 2012 annual Fine Particulate Matter (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, commonly referred to as an “infrastructure SIP.” Specifically, EPA is proposing to conditionally approve the prong 4 portions of South Carolina’s July 17, 2008, 8-hour Ozone infrastructure SIP submission; April 30, 2014, 2010 1-hour NO<sub>2</sub> infrastructure SIP submission; May 8, 2014, 2010 1-hour SO<sub>2</sub> infrastructure SIP submission; and December 18, 2015,

2012 annual PM<sub>2.5</sub> infrastructure SIP submission. All other applicable infrastructure requirements for these SIP submissions have been or will be addressed in separate rulemakings.

**DATES:** Comments must be received on or before July 8, 2016.

**ADDRESSES:** Submit your comments, identified by Docket ID No EPA–R04–OAR–2016–0247 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

### FOR FURTHER INFORMATION CONTACT:

Sean Lakeman of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Lakeman can be reached by telephone at (404) 562–9043 or via electronic mail at [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Background

By statute, SIPs meeting the requirements of sections 110(a)(1) and (2) of the CAA are to be submitted by states within three years after promulgation of a new or revised NAAQS to provide for the implementation, maintenance, and enforcement of the new or revised NAAQS. EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of sections 110(a)(1) and 110(a)(2) as “infrastructure SIP” submissions. Sections 110(a)(1) and (2) require states to address basic SIP elements such as the requirements for monitoring, basic program requirements, and legal



THE STATE  
of ALASKA

GOVERNOR BILL WALKER

Department of Natural Resources

DIVISION OF MINING, LAND AND WATER

DIRECTOR'S OFFICE

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Anchorage, AK 99501-3576

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August 8, 2016

US Fish and Wildlife Service  
Office of Subsistence Management  
1011 East Tudor Road  
MS 121  
Attn: Theo Matuskowitz  
Anchorage, AK 99503-6199

VIA ELECTRONICALLY & US MAIL

Re: Docket No. FWS-R7-SM-2015-0159

Dear Mr. Matuskowitz:

The State of Alaska reviewed the June 8, 2016 Federal Register Notice regarding the proposed rule to add certain submerged parcels of land to the subsistence management regulations for public lands in Alaska as indicated by the above-mentioned docket number. The proposed rule intends to identify and add the following submerged lands as "lands within the Tongass National Forest that did not pass to the State of Alaska at Statehood" and, therefore, are subject to the subsistence provisions of ANILCA:

(5) Southeastern Alaska, including the:

(i) Makhnati Island Area: Land and waters beginning at the southern point of Fruit Island, 57°02'35" north latitude, 135°21'07" west longitude as shown on United States Coast and Geodetic Survey Chart No. 8244, May 21, 1941; from the point of beginning, by metes and bounds; S. 58° W., 2,500 feet, to the southern point of Nepovorotni Rocks; S. 83° W., 5,600 feet, on a line passing through the southern point of a small island lying about 150 feet south of Makhnati Island; N. 6° W., 4,200 feet, on a line passing through the western point of a small island lying about 150 feet west of Makhnati Island, to the northwestern point of Signal Island; N. 24° E., 3,000 feet, to a point, 57°03'15" north latitude, 134°23'07" west longitude; East, 2,900 feet, to a point in course No. 45 in meanders of U.S. Survey No. 1496, on west side of Japonski Island; southeasterly, with the meanders of Japonski Island, U.S. Survey No. 1,496 to angle point No. 35, on the southwestern point of Japonski Island; S. 60° E., 3,300 feet, along the boundary line of Naval reservation described in Executive Order No. 8216, July 25, 1939, to the point of beginning, and that part of Sitka Bay lying south of Japonski Island and west of the main channel, but not including Aleutski Island as revoked in Public Land Order 925, October 27, 1953, described by metes and bounds as follows: Beginning at the southeast point of Japonski Island at angle point No. 7 of the meanders of U.S. Survey No. 1496; thence east approximately 12.00 chains to the center of the main channel; thence S. 45° E. along the main channel approximately 20.00 chains; thence S. 45° W. approximately 9.00 chains to the southeastern point of Aleutski Island; thence S. 79° W. approximately 40.00 chains to the southern point of Fruit Island; thence N. 60° W. approximately 50.00 chains to the southwestern point of Japonski Island at angle point No. 35 of U.S. Survey No.

Docket No. FWS-R7-SM-2015-0159  
USFWS Letter of Objection  
August 8, 2016  
Page 2

1496; thence easterly with the meanders of Japonski Island to the point of beginning including Charcoal, Harbor, Alice, Love, and Fruit islands and a number of smaller unnamed islands.

The State of Alaska objects to the inclusion of these above-described lands as being identified as remaining in Federal public ownership. Title to the above-described lands has already passed to and is held by the State of Alaska by virtue of the Patent issued February 15, 1968 as Patent No. 50-68-0194 and by virtue of the Patent issued May 11, 1990 as Patent No. 50-90-0267. These lands are no longer part of the federal public domain. Rather, they are state-owned lands, managed and controlled by the State of Alaska.

The State of Alaska does not oppose or object to the inclusion of the remainder of lands identified as Federal public lands subject to the subsistence provisions of ANILCA.

Thank you for your consideration.

Sincerely,



Kristin A. Hess  
Division Operations Manager  
State of Alaska  
Department of Natural Resources  
Division of Mining, Land & Water

## ANNUAL REPORTS

### **Background**

ANILCA established the Annual Reports as the way to bring regional subsistence uses and needs to the Secretaries' attention. The Secretaries delegated this responsibility to the Board. Section 805(c) deference includes matters brought forward in the Annual Report.

The Annual Report provides the Councils an opportunity to address the directors of each of the four Department of Interior agencies and the Department of Agriculture Forest Service in their capacity as members of the Federal Subsistence Board. The Board is required to discuss and reply to each issue in every Annual Report and to take action when within the Board's authority. In many cases, if the issue is outside of the Board's authority, the Board will provide information to the Council on how to contact personnel at the correct agency. As agency directors, the Board members have authority to implement most of the actions which would effect the changes recommended by the Councils, even those not covered in Section 805(c). The Councils are strongly encouraged to take advantage of this opportunity.

### **Report Content**

Both Title VIII Section 805 and 50 CFR §100.11 (Subpart B of the regulations) describe what may be contained in an Annual Report from the councils to the Board. This description includes issues that are not generally addressed by the normal regulatory process:

- an identification of current and anticipated subsistence uses of fish and wildlife populations within the region;
- an evaluation of current and anticipated subsistence needs for fish and wildlife populations from the public lands within the region;
- a recommended strategy for the management of fish and wildlife populations within the region to accommodate such subsistence uses and needs related to the public lands; and
- recommendations concerning policies, standards, guidelines, and regulations to implement the strategy.

Please avoid filler or fluff language that does not specifically raise an issue of concern or information to the Board.

### **Report Clarity**

In order for the Board to adequately respond to each Council's annual report, it is important for the annual report itself to state issues clearly.

- If addressing an existing Board policy, Councils should please state whether there is something unclear about the policy, if there is uncertainty about the reason for the policy, or if the Council needs information on how the policy is applied.
- Council members should discuss in detail at Council meetings the issues for the annual report and assist the Council Coordinator in understanding and stating the issues clearly.

- Council Coordinators and OSM staff should assist the Council members during the meeting in ensuring that the issue is stated clearly.

Thus, if the Councils can be clear about their issues of concern and ensure that the Council Coordinator is relaying them sufficiently, then the Board and OSM staff will endeavor to provide as concise and responsive of a reply as is possible.

### **Report Format**

While no particular format is necessary for the Annual Reports, the report must clearly state the following for each item the Council wants the Board to address:

1. Numbering of the issues,
2. A description of each issue,
3. Whether the Council seeks Board action on the matter and, if so, what action the Council recommends, and
4. As much evidence or explanation as necessary to support the Council's request or statements relating to the item of interest.



FISH and WILDLIFE SERVICE  
BUREAU of LAND MANAGEMENT  
NATIONAL PARK SERVICE  
BUREAU of INDIAN AFFAIRS

## Federal Subsistence Board

1011 East Tudor Road, MS121  
Anchorage, Alaska 99503



FOREST SERVICE

FWS/OSM 16082.CJ

SEP 14 2016

Louis Green, Chair  
Seward Peninsula Subsistence  
Regional Advisory Council  
U.S. Fish and Wildlife Service  
Office of Subsistence Management  
1011 East Tudor Road, MS 121  
Anchorage, Alaska 99503

Dear Chairman Green:

This letter responds to the Seward Peninsula Subsistence Regional Advisory Council's (Council) fiscal year 2015 Annual Report. The Secretaries of the Interior and Agriculture have delegated to the Federal Subsistence Board (Board) the responsibility to respond to these reports. The Board appreciates your effort in developing the Annual Report. Annual Reports allow the Board to become aware of the issues outside of the regulatory process that affect subsistence users in your region. We value this opportunity to review the issues concerning your region.

### ***1. Fisheries Resource Monitoring Program (FRMP)***

*The Council appreciated the Office of Subsistence Management (OSM) presentation on the FRMP at its October 14-15, 2015 meeting in Nome. The Office of Subsistence Management staff agreed to submit our concerns and recommendations to the FRMP program lead. The Council stressed its frustration over the lack of federal land in the area available for project approval, despite the fact that resources across jurisdictions are needed for subsistence. Migratory species such as caribou and fish should receive funding for research for migratory patterns on the Seward Peninsula, wherever they occur.*

*Recommendations: The Council recommends the FRMP adopt an ecosystem approach for funding approval, and would also appreciate OSM staff assistance with identifying areas or subjects with the required Federal nexus so that they can be incorporated into the region's Priority Information Needs for the Fisheries Resource Monitoring Program.*

Chairman Green

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**Response:**

The Mission of the Fisheries Resource Monitoring Program (FRMP) is to identify and provide information needed to sustain subsistence fisheries on Federal public lands for rural Alaskans through a multidisciplinary collaborative program. The FRMP is administered by the Office of Subsistence Management (OSM). Projects are selected for funding through an evaluation and review process that is designed to advance projects that are strategically important for the Federal Subsistence Management Program, technically sound, administratively competent, promote capacity building and are cost effective. The FRMP is intended to be a coordinated resource monitoring program which adds to, is consistent with, and does not duplicate existing efforts by government agencies and organizations already engaged in assessment of subsistence fisheries and subsistence fishery resources.

The concerns forwarded by the Seward Peninsula Subsistence Regional Advisory Council (SPRAC) will be addressed by the FRMP program and the Technical Review Committee (TRC) in early fall. The Office of Subsistence Management (OSM) is currently assisting working groups with development of Priority Information Needs (PIN) potential project ideas. A long standing concern of the SPRAC is the lack of federal land to develop a project and meet the requirements of the FRMP. The FRMP program was designated to be used on Federal lands and have a Federal nexus. The original FRMP guidelines were put in place for Federal lands only in order to eliminate duplicative efforts of other funding programs and to protect from excessive broadening of scope that would diminish the overall efforts in any one area. The OSM will continue to work with the SPRAC to find creative solutions to subsistence questions, through the FRMP or other funding mechanisms.

**2. Ownership/Management of Reindeer Herds**

*The Council would like the Board to know that reindeer herds have become a critical subsistence resource for residents on the Seward Peninsula, particularly given the continued downward spiral of ungulate populations such as musk ox, caribou, and moose. The Council needs clarification about who is responsible for managing reindeer herds in the region and believes the Federal government made a promise to keep herds going for the local people. The communities of Saint Michael and Stebbins have community herds and would like for the Board to recognize these herds as subsistence resources. There used to be as many as 35,000 reindeer but locals now believe current populations are between 5,000-10,000 animals. Communities do not have the resources to count reindeer but would like a census to determine the current population of the Stebbins/St. Michael and Katcheak herds. The Council has heard from many communities that food security is a major issue and with some assistance, reindeer herds could alleviate some of these concerns.*



**Response:**

Reindeer are privately owned and are defined as livestock in both Federal and State regulation. The authority of the Board is limited to the administration of the subsistence taking and uses of fish and wildlife on public lands. It does not have any management authority for reindeer, as Section 803 of ANILCA defines subsistence uses as “the customary and traditional uses by rural residents of **wild** renewable resources...” (emphasis added). As such, they will never be managed as a subsistence species. However, the Board recognizes that reindeer herding has historical and cultural significance and that it can be a locally important food resource. As a result, the Board does consider the impact to reindeer herding activities when evaluating proposed regulation changes. This is reflected in the Board’s April 2016 decisions on WP16-37 and WP16-45, which limited the expansion of an existing caribou hunt area due to its proximity to active reindeer grazing ranges.

While Federal agencies bear no responsibility for the management of individual reindeer herds, including activities related to estimating herd size, Federal and State agencies do have a role in monitoring reindeer grazing activities on public lands on the Seward and Baldwin Peninsulas. Specifically, the Bureau of Land Management (BLM), the National Park Service (NPS), and the Alaska Department of Natural Resources (DNR) are responsible for administering reindeer grazing permits on public lands in these areas. In addition, the Bureau of Indian Affairs (BIA), in order to preserve the Alaska Native character of the reindeer industry, has responsibilities governing the acquisition of Alaska reindeer by non-Natives and the probate of Alaska Native reindeer herds. In the Seward Peninsula Region, the BIA also works with local tribal entities to provide technical assistance for the Alaska Native reindeer industry. Also, the Natural Resource Conservation Service (NRCS) is available to provide technical assistance to reindeer herders, when requested. These roles and responsibilities are outlined in a 2010 Memorandum of Agreement among BLM, NPS, DNR and NRCS concerning management of reindeer grazing permits in Northwestern Alaska. There is also some reindeer husbandry operating within the borders of the Yukon Delta National Wildlife Refuge on Nunivak Island.

**3. Federalizing the Yukon River**

*Rural residents of Stebbins have a customary and traditional use determination for Yukon River salmon. The Council is greatly concerned about current management of Chinook Salmon on the Yukon River, and would like the fisheries system to be federalized similar to how it was for the Kuskokwim River in 2014 and 2015. Food security is an inherent guarantee of Title VIII of ANILCA and the federal government has an obligation to ensure that subsistence needs are met for the communities that depend on the salmon.*

Chairman Green

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**Response:**

There are three mechanisms available to address this issue: a regulatory proposal or a special action request to close the harvest of Chinook Salmon to non-Federally qualified subsistence users, or apply extra-territorial jurisdiction of the entire Yukon River drainage. Even with the special actions that have been implemented on the Kuskokwim River, the periods of purely federal management have been limited. However, the geography of the Yukon River is quite distinct from the Kuskowkim in that there is more of a mixture of State and Federal waters. Fisheries special actions were submitted in 2015 to take action similar to that on the Kuskokwim River, but they were not approved by the Board. In order to achieve Federal management of the entire reach of the Yukon River, the Federal government would have to take control of state waters. This could only be accomplished through exercising extra-territorial jurisdiction. It is worth noting, however, that despite several petitions, the Secretaries of the Interior and Agriculture have never exercised such authority in the history of Federal subsistence management. We are enclosing information that relates to each of these options.

***4. Guided Hunting of Moose in Unit 22E***

*The ADF&G area biologist Tony Gorn reported that moose in Unit 22E are stabilized and reproducing, but still at very low densities. Mr. Gorn indicated that research shows moose migrating back and forth between Units 22D and 22E. The Council is very concerned about non-resident hunting of moose being allowed in this region, particularly given the shortage of moose in communities such as Teller. The Council has requested that OSM staff prepare a proposal to the Alaska Board of Game for its Interior Alaska cycle to shut down non-resident hunting in the western portion of Unit 22D.*

**Response:**

On behalf of the Council, a proposal was submitted to the Alaska Board of Game for consideration during their 2016/2017 meeting cycle (Log Number EG-F16\_035). The proposal requests that the Board of Game close non-resident moose hunting in Units 22D remainder and Unit 22E (RM855), due to low moose density and uncertainty regarding the relationship between changing moose densities and distributions in Units 22D and 22E. Proposals for Unit 22 are scheduled to be deliberated by the Board of Game at its Arctic and Western Region meeting in Bethel, January 6-9, 2017.

***5. Climate Change and Baseline Studies***

*The Council is alarmed by changing weather and water temperatures, impacts on salmon populations and the current lack of comparative baseline data. Communities have reported sightings of dead and floating salmon, which could be caused by increased water temperatures.*

Chairman Green

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*The Council is troubled that few data exist on disease and invasive species, extreme population shifts such as the crowding of sockeye in Salmon Lake, and the overall health of the ecosystem.*

**Response:**

The Board shares the Council's concern over the impact of climate change on fish, wildlife, plants, access, and traditional food harvest. Through the Fisheries Resource Monitoring Program, the Board has continued to seek research proposals that fund projects addressing changes in subsistence fishery resources in the context of climate change. One example is a Northern Alaska Region project that was funded through the 2016 Fisheries Resource Monitoring Plan to study changes in harvest and abundance of salmon and nonsalmon species in the Meade River. The primary object of the study is to document subsistence user harvest changes and establish baseline information that can be used to monitor fish populations over time.

***6. Extirpation of Chinook Salmon***

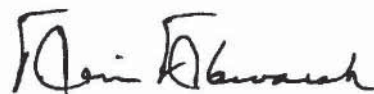
*The Council believes that Chinook Salmon have now been extirpated in some parts of the region, particularly near Teller. The Council is interested in how Chinook Salmon might be restored to the region through a formal reintroduction program.*

**Response:**

The Board recognizes the concern and validity of the need to help protect the wild stocks of Chinook Salmon to the Seward Peninsula near Teller. The only available avenue through the Federal Subsistence Management Program for funding any research is the Fisheries Resource Monitoring Program. However, that program would not apply to this situation as it does not allow funding opportunities for projects that include formal stocking of fish. Additionally, the waters near Teller are not Federal waters and thus not eligible. Anyone who would wish to pursue research on this issue should contact the Alaska Department of Fish and Game.

In closing, I want to thank you and your Council for their continued involvement and diligence in matters regarding the Federal Subsistence Management Program. I speak for the entire Board in expressing our appreciation for your efforts and our confidence that the subsistence users of the Seward Peninsula Region are well represented through your work.

Sincerely,



Tim Towarak  
Chair

Chairman Green

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Enclosures

cc: Seward Peninsula Subsistence Regional Advisory Council  
Eugene R. Peltola, Jr., Assistant Regional Director, Office of Subsistence Management  
Stewart Cogswell, Acting Deputy Assistant Regional Director  
Office of Subsistence Management  
Carl Johnson, Council Coordination Division Chief, Office of Subsistence Management  
Karen Deatherage, Subsistence Council Coordinator, Office of Subsistence Management  
Federal Subsistence Board  
Interagency Staff Committee  
Administrative Record



U.S. Fish and Wildlife Service  
Bureau of Land Management  
National Park Service  
Bureau of Indian Affairs

## Federal Subsistence Board Informational Flyer



Forest Service

**Contact:** Deborah Coble  
(907) 786-3880 or (800) 478-1456  
deborah\_coble@fws.gov

### How to Submit a Proposal to Change Federal Subsistence Regulations

Alaska residents and subsistence users are an integral part of the Federal regulatory process. Any person or group can submit proposals to change Federal subsistence regulations, comment on proposals, or testify at meetings. By becoming involved in the process, subsistence users assist with effective management of subsistence activities and ensure consideration of traditional and local knowledge in subsistence management decisions. Subsistence users also provide valuable wildlife harvest information.

A call for proposals to change Federal subsistence fishing regulations is issued in January of even-numbered years and odd-numbered years for wildlife. The period during which proposals are accepted is no less than 30 calendar days. Proposals must be submitted in writing within this time frame.

You may propose changes to Federal subsistence season dates, harvest limits, methods and means of harvest, and customary and traditional use determinations.

#### **What your proposal should contain:**

*There is no form to submit your proposal to change Federal subsistence regulations. Include the following information in your proposal submission (you may submit as many as you like):*

- Your name and contact information (address, phone, fax, or E-mail address)
- Your organization (if applicable).
- What regulations you wish to change. Include management unit number and species. Quote the current regulation if known. If you are proposing a new regulation, please state, “new regulation.”
- Write the regulation the way you would like to see it written in the regulations.
- Explain why this regulation change should be made.
- You should provide any additional information that you believe will help the Federal Subsistence Board (Board) in evaluating the proposed change.

1011 East Tudor Road MS-121 • Anchorage, Alaska 99503-6199 • subsistence@fws.gov • (800) 478-1456 / (907) 786-3888  
This document has been cleared for public release #0605132015.

**You may submit your proposals by:**

1. By mail or hand delivery to:  
Federal Subsistence Board  
Office of Subsistence Management  
Attn: Theo Matuskowitz  
1011 E. Tudor Rd., MS-121  
Anchorage, AK 99503
2. At any Federal Subsistence Regional Advisory Council meeting (A schedule will be published in the Federal Register and be announced statewide, bi-annually, prior to the meeting cycles)
3. On the Web at <http://www.regulations.gov>

Submit a separate proposal for each proposed change; however, do not submit the same proposal by different accepted methods listed above. To cite which regulation(s) you want to change, you may reference [50 CFR 100](#) or [36 CFR 242](#) or the proposed regulations published in the Federal Register: <http://www.gpoaccess.gov/fr/index.html>. All proposals and comments, including personal information, are posted on the Web at <http://www.regulations.gov>.

For the proposal processing timeline and additional information contact the Office of Subsistence Management at (800) 478-1456/ (907) 786-3888 or go to <http://www.doi.gov/subsistence/proposal/submit.cfm>.

**How a proposal to change Federal subsistence regulations is processed:**

1. Once a proposal to change Federal subsistence regulations is received by the Board, the U.S. Fish and Wildlife Service, Office of Subsistence Management (OSM) validates the proposal, assigns a proposal number and lead analyst.
2. The proposals are compiled into a book for statewide distribution and posted online at the Program website. The proposals are also sent out the applicable Councils and the Alaska Department of Fish and Game (ADF&G) and the Interagency Staff Committee (ISC) for review. The period during which comments are accepted is no less than 45 calendar days. Comments must be submitted within this time frame.
3. The lead analyst works with appropriate agencies and proponents to develop an analysis on the proposal.
4. The analysis is sent to the Councils, ADF&G and the ISC for comments and recommendations to the Board. The public is welcome and encouraged to provide comments directly to the Councils and the Board at their meetings. The final analysis contains all of the comments and recommendations received by interested/affected parties. This packet of information is then presented to the Board for action.
5. The decision to adopt, adopt with modification, defer or reject the proposal is then made by the Board. The public is provided the opportunity to provide comment directly to the Board prior to the Board's final decision.
6. The final rule is published in the Federal Register and a public regulations booklet is created and distributed statewide and on the Program's website.

**A step-by-step guide to submitting your proposal on [www.regulations.gov](http://www.regulations.gov):**

1. Connect to [www.regulations.gov](http://www.regulations.gov) – there is no password or username required.
2. In the white space provided in the large blue box, type in the document number listed in the news release or available on the program webpage, (for example: FWS-R7-SM2014-0062) and select the light blue “Search” button to the right.

3. Search results will populate and may have more than one result. Make sure the Proposed Rule you select is by the U.S. Fish and Wildlife Service (FWS) and **not** by the U.S. Forest Service (FS).
4. Select the proposed rule and in the upper right select the blue box that says, “Comment Now!”
5. Enter your comments in the “Comment” box.
6. Upload your files by selecting “Choose files” (this is optional).
7. Enter your first and last name in the spaces provided.
8. Select the appropriate checkbox stating whether or not you are providing the information directly or submitting on behalf of a third party.
9. Fill out the contact information in the drop down section as requested.
10. Select, “Continue.” You will be given an opportunity to review your submission.
11. If everything appears correct, click the box at the bottom that states, “I read and understand the statement above,” and select the box, “Submit Comment.” A receipt will be provided to you. Keep this as proof of submission.
12. If everything does not appear as you would like it to, select, “Edit” to make any necessary changes and then go through the previous step again to “Submit Comment.”

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**Missing out on the latest Federal subsistence issues?** If you’d like to receive emails and notifications on the Federal Subsistence Management Program you may subscribe for regular updates by emailing [fws-fsb-subsistence-request@lists.fws.gov](mailto:fws-fsb-subsistence-request@lists.fws.gov). Additional information on the Federal Subsistence Management Program may be found on the web at [www.doi.gov/subsistence/index.cfm](http://www.doi.gov/subsistence/index.cfm) or by visiting [www.facebook.com/subsistencealaska](http://www.facebook.com/subsistencealaska).



U.S. Fish and Wildlife Service  
Bureau of Land Management  
National Park Service  
Bureau of Indian Affairs

## Federal Subsistence Board Informational Flyer



Forest Service

**Contact:** Deborah Coble  
(907) 786-3880 or (800) 478-1456  
Deborah\_coble@fws.gov

### How to submit a Special Action Request to the Federal Subsistence Board

The regulatory cycle for changes to fish/shellfish and wildlife regulations take place every two years. A call for proposals to change fishing regulations is issued in January of even numbered years and odd numbered years for wildlife. A Special Action Request is an out-of-cycle change in a season, harvest limit, or method of harvest. Special Actions are taken when unusual situations arise, such as a significant change in resource abundance that could not reasonably have been anticipated. The Federal Subsistence Board may take a Special Action to restrict, close, open, or reopen the taking of fish and wildlife on Federal public lands and waters. Such actions are taken to ensure the continued viability of a particular fish or wildlife population, to ensure continued subsistence use, or for reasons of public safety. These guidelines and requirements can be found in [36 CFR 242.19](#) and [50 CFR 100.19](#).

#### To submit a Special Action request, please provide the following information:

- Name
- Address
- Telephone number
- Fax number (if applicable)
- E-mail address
- Organization (if applicable)
- Describe the action you are requesting; reference the current regulations you wish to change
- List if there have been unusual or significant changes in resource abundance or unusual conditions affecting harvest opportunities that could not reasonably have been anticipated and that potentially could have significant adverse effects on the health of fish and wildlife populations or subsistence users
- State if requested action is to ensure the continued viability of a fish or wildlife population, to continue subsistence uses of fish or wildlife, or for public safety reasons
- State the extenuating circumstances that necessitate a regulatory change before the next regulatory review

#### How a Special Action request is processed:

1. A Special Action that is 60 days or less in duration is an emergency special action. A special action lasting 61 days or more is a temporary special action.

1011 East Tudor Road MS-121 • Anchorage, Alaska 99503-6119 • subsistence@fws.gov • (800) 478-1456 / (907) 786-3880  
This document has been cleared for public release #0505122015.



2. Special Actions are assigned to an analyst who works with the requestor and field staff to develop a recommendation to the Federal Subsistence Board.
3. The analysis and recommendation is presented to the Interagency Staff Committee (ISC), the affected Regional Advisory Council (Council) chair(s), and the Alaska Department of Fish and Game (ADF&G).
4. If the request is a temporary special action, a public meeting is held in the affected area(s) to allow for public comment.
5. If the timing of a regularly scheduled Council meeting permits without incurring undue delay, the Board **may** seek Council recommendations on proposed Emergency Special Actions.
6. If timing of a regularly scheduled Council meeting permits without incurring undue delay, the Board **will** seek Council recommendations on proposed Temporary Special Actions.
7. Prior to taking any action the Board (or ISC) will consult with ADF&G and the chairs of the affected Councils.
8. If there is unanimous consent of the ISC, the Assistant Regional Director for the Office of Subsistence Management may approve the request.
9. If there is not unanimous consent of the ISC the analysis goes to the Board. The decision to adopt, adopt with modification or reject is then made by the Board.
10. Once a decision is made, a response letter, and a copy of the complete analysis and recommendations, is sent to the requesting proponent with a copy sent to the affected Council chair(s), State Federal Liaison Team Lead and Federal and State law enforcement.
11. If needed, the OSM subsistence outreach coordinator or the Federal agency requesting the Special Action will prepare a news release.

**Submit your request by:**

**Mail:**

Office of Subsistence Management  
Attn: Subsistence Policy Coordinator  
1011 East Tudor Road, Mail Stop 121  
Anchorage, Alaska 99503

**Fax:** (907) 786-3898

**E-mail:** [subsistence@fws.gov](mailto:subsistence@fws.gov)

The Federal Subsistence Management Program website link to this information may be found here:  
[http://www.doi.gov/subsistence/proposal/special\\_action/index.cfm](http://www.doi.gov/subsistence/proposal/special_action/index.cfm)

Missing out on the latest Federal subsistence issues? If you'd like to receive emails and notifications on the Federal Subsistence Management Program you may subscribe for regular updates by emailing [fws-fsb-subsistence-request@lists.fws.gov](mailto:fws-fsb-subsistence-request@lists.fws.gov). Additional information on the Federal Subsistence Management Program may be found on the web at [www.doi.gov/subsistence/index.cfm](http://www.doi.gov/subsistence/index.cfm) or by visiting [www.facebook.com/subsistencealaska](http://www.facebook.com/subsistencealaska).

## **FEDERAL SUBSISTENCE BOARD PROCEDURES ADDRESSING PETITIONS FOR SECRETARIAL EXTENSION OF JURISDICTION FOR THE IMPLEMENTATION OF A FEDERAL SUBSISTENCE PRIORITY**

The US Code Title 5 Section 553(e); 7 CFR 1.28; and 43 CFR 14 allow citizens to petition the Secretaries of the Interior and Agriculture (Secretaries). The Secretaries will accept for consideration petitions to exert authority over hunting, fishing, or trapping activities occurring on non-Federal lands when such petitions indicate that those activities may be interfering with subsistence hunting, fishing, or trapping on the Federal public lands and waters to such an extent as to result in a failure to provide the subsistence priority as specified in Title VIII of the Alaska National Interest Lands Conservation Act.

The Secretaries carefully review each case and use a very high threshold when making their decision whether to extend Federal jurisdiction. Petitioners should submit sufficient facts and/or analytic standards to document both the failure to maintain a subsistence priority and how the failure relates to activities occurring off of Federal lands.

The Federal Subsistence Management Regulations for Public Lands in Alaska (36 CFR Part 242 and 50 CFR Part 100, §\_\_\_\_.10) clarify that the Secretaries have not delegated the authority to restrict or eliminate activities occurring on non-Federal lands to the Federal Subsistence Board (Board). However, §\_\_\_\_.10(d)(4)(xvii) of those regulations gives the Board the authority to evaluate whether activities on non-Federal lands may interfere with subsistence activities on Federal public lands or waters, to consult with the State of Alaska, the Regional Councils, and other Federal agencies, and to make recommendations to the Secretaries.

The Board will utilize the following procedures and any additional directions provided by the Secretaries when developing recommendations on a request for extension of Federal jurisdiction.

### **PROCEDURES**

1. Petitions should be addressed to the Secretaries of the Interior and Agriculture as follows:

Secretary of the Interior and Secretary of Agriculture  
c/o Chair, Federal Subsistence Board  
U.S. Fish and Wildlife Service, Office of Subsistence Management  
1101 East Tudor Road, MS 121  
Anchorage, AK 99503-6199

2. Each petition must clearly identify the affected subsistence activity, the Federal public lands or waters where that activity occurs, and how the subsistence priority has been harmed so as to result in a failure. Each petition should present substantial evidence demonstrating that the failure of the subsistence priority is specifically due to a hunting, fishing, or trapping activity that is occurring off of Federal public lands or waters. The information should describe what the interfering activity is, where and when it is taking place, and how it is causing the failure of the subsistence priority on the Federal public lands and waters.
3. Each petition should describe the desired result from Secretarial extension of jurisdiction and propose Federal regulations which would accommodate the subsistence priority.
4. The Board, upon receipt of such a petition, will forward the petition to the Secretaries, notify the State of Alaska and affected Regional Council(s), and may issue a notice to the general public of the request for extension of Federal jurisdiction.
5. If the Secretaries believe that public comment on the issue or extensive analysis will aid in consideration of the petition, they may request the Federal Subsistence Board to hold public meetings to solicit comments and to develop a more detailed analysis of the issue.
6. If directed to do so by the Secretaries, the Board and staff may conduct additional research and assemble information that assists in a thorough analysis. In developing their recommendation to the Secretaries, the Board may meet in public session and accept testimony on the petition.
7. Following review of all information, staff analyses, and public comments, the Board will forward their confidential recommendation to the Secretaries.

Following receipt of a recommendation from the Board, the Secretaries will promptly notify the petitioners of their final decision relative to the petition. A Secretarial decision constitutes the final administrative remedy for any petition.

Approved by the Federal Subsistence Board on July 18, 2005.

**Department of the Interior  
U. S. Fish and Wildlife Service**

**Seward Peninsula Subsistence Regional Advisory Council**

**Charter**

1. **Committee's Official Designation.** The Council's official designation is the Seward Peninsula Subsistence Regional Advisory (Council).
2. **Authority.** The Council is renewed by virtue of the authority set out in the Alaska National Interest Lands Conservation Act (16 U.S.C. 3115 (1988)), and under the authority of the Secretary of the Interior, in furtherance of 16 U.S.C. 410hh-2. The Council is regulated by the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. Appendix 2.
3. **Objectives and Scope of Activities.** The objective of the Council is to provide a forum for the residents of the Region with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal lands and waters in the Region.
4. **Description of Duties.** The Council has authority to perform the following duties:
  - a. Recommend the initiation of, review, and evaluate proposals for regulations, policies, management plans, and other matters relating to subsistence uses of fish and wildlife on public lands within the Region.
  - b. Provide a forum for the expression of opinions and recommendations by persons interested in any matter related to the subsistence uses of fish and wildlife on public lands within the Region.
  - c. Encourage local and regional participation in the decisionmaking process affecting the taking of fish and wildlife on the public lands within the Region for subsistence uses.
  - d. Prepare an annual report to the Secretary containing the following:
    - (1) An identification of current and anticipated subsistence uses of fish and wildlife populations within the Region.
    - (2) An evaluation of current and anticipated subsistence needs for fish and wildlife populations within the Region.
    - (3) A recommended strategy for the management of fish and wildlife populations within the Region to accommodate such subsistence uses and needs.

- (4) Recommendations concerning policies, standards, guidelines, and regulations to implement the strategy.
    - e. Make recommendations on determinations of customary and traditional use of subsistence resources.
    - f. Make recommendations on determinations of rural status.
    - g. Provide recommendations on the establishment and membership of Federal local advisory committees.
5. **Agency or Official to Whom the Council Reports.** The Council reports to the Federal Subsistence Board Chair, who is appointed by the Secretary of the Interior with the concurrence of the Secretary of Agriculture.
6. **Support.** The U.S. Fish and Wildlife Service will provide administrative support for the activities of the Council through the Office of Subsistence Management.
7. **Estimated Annual Operating Costs and Staff Years.** The annual operating costs associated with supporting the Council's functions are estimated to be \$140,000, including all direct and indirect expenses and 1.0 staff years.
8. **Designated Federal Officer.** The DFO is the Subsistence Council Coordinator for the Region or such other Federal employee as may be designated by the Assistant Regional Director – Subsistence, Region 7, U.S. Fish and Wildlife Service. The DFO is a full-time Federal employee appointed in accordance with Agency procedures. The DFO will:
  - Approve or call all of the advisory committee's and subcommittees' meetings,
  - Prepare and approve all meeting agendas,
  - Attend all committee and subcommittee meetings,
  - Adjourn any meeting when the DFO determines adjournment to be in the public interest, and
  - Chair meetings when directed to do so by the official to whom the advisory committee reports.
9. **Estimated Number and Frequency of Meetings.** The Council will meet 1-2 times per year, and at such times as designated by the Federal Subsistence Board Chair or the DFO.
10. **Duration.** Continuing.
11. **Termination.** The Council will be inactive 2 years from the date the Charter is filed, unless prior to that date it is renewed in accordance with the provisions of Section 14 of the FACA. The Council will not meet or take any action without a valid current charter.

- 12. Membership and Designation.** The Council's membership is composed of representative members as follows:

Ten members who are knowledgeable and experienced in matters relating to subsistence uses of fish and wildlife and who are residents of the Region represented by the Council. To ensure that each Council represents a diversity of interests, the Federal Subsistence Board in their nomination recommendations to the Secretary will strive to ensure that seven of the members (70 percent) represent subsistence interests within the Region and three of the members (30 percent) represent commercial and sport interests within the Region. The portion of membership representing commercial and sport interests must include, where possible, at least one representative from the sport community and one representative from the commercial community.

The Secretary of the Interior will appoint members based on the recommendations from the Federal Subsistence Board and with the concurrence of the Secretary of Agriculture.

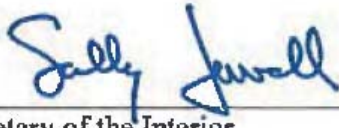
Members will be appointed for 3-year terms. A vacancy on the Council will be filled in the same manner in which the original appointment was made. Members serve at the discretion of the Secretary.

Council members will elect a Chair, Vice-Chair, and Secretary for a 1-year term.

Members of the Council will serve without compensation. However, while away from their homes or regular places of business, Council and subcommittee members engaged in Council, or subcommittee business, approved by the DFO, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service under Section 5703 of Title 5 of the United States Code.

- 13. Ethics Responsibilities of Members.** No Council or subcommittee member will participate in any specific party matter in which the member has a direct financial interest in a lease, license, permit, contract, claim, agreement, or related litigation with the Department
- 14. Subcommittees.** Subject to the DFO's approval, subcommittees may be formed for the purpose of compiling information and conducting research. However, such subcommittees must act only under the direction of the DFO and must report their recommendations to the full Council for consideration. Subcommittee members must not provide advice or work products directly to the Agency. The Council Chair, with the approval of the DFO, will appoint subcommittee members. Subcommittees will meet as necessary to accomplish their assignments, subject to the approval of the DFO and the availability of resources.

- 15. Recordkeeping.** Records of the Council, and formally and informally established subcommittees or other subgroups of the Council, shall be handled in accordance with General Records Schedule 6.2, and other approved Agency records disposition schedule. These records shall be available for public inspection and copying, subject to the Freedom of Information Act, 5 U.S.C. 552.



Secretary of the Interior

NOV 20 2015

Date Signed

DEC 03 2015

Date Filed

## **Subsistence Regional Advisory Councils**

U.S. Fish and Wildlife Service  
c/o Office of Subsistence Management  
1011 East Tudor Road M/S 121  
Anchorage, Alaska 99503

RAC 15083.RL

**AUG 25 2016**

Mr. Tim Towarak, Chair  
Federal Subsistence Board  
c/o U.S. Fish and Wildlife Service  
Office of Subsistence Management  
1011 E. Tudor Road, Mail Stop 121  
Anchorage, Alaska 99503

Dear Chairman Towarak:

The ten Federal Subsistence Regional Advisory Councils (Councils) appreciated the opportunity to meet in Anchorage for a joint session on March 7-8, 2016. The meeting was extremely informative, and the Council members were unanimous in finding value in hearing summary reports from each Council. While there were numerous concerns that were specific to each region, it was very enlightening to hear there were several subsistence concerns that were common to all regions.

The Councils would like to inform the Federal Subsistence Board (Board) of the issues that resonated with each of the Councils. Although many of these issues have been brought up previously by individual Councils in their annual reports, we would like to take this opportunity to jointly bring these requests to the Board as a collective voice:

1. We request the Board seek an increase in funding to meet the programmatic requirements of operating as a Regional Advisory Council. Reduced program funding has made it difficult for us to do our business. One example is our inability to regularly meet in the remote communities we are appointed to represent. We are currently restricted to hub communities, with only occasional opportunities to meet in non-hub communities.
2. We request the Board seek an increase in funding for conducting fish and wildlife population assessments and monitoring. The data collected in these projects are essential for us to continue to make recommendations on managing these resources appropriately. Initiate funding for a wildlife resource monitoring program was identified as an issue of concern during the Secretarial Review, but has not been acted upon due to lack of funding.
3. We request the Board seek an avenue for having a designated subsistence seat on the North Pacific Fisheries Management Council. The representative for such a seat



Chairman Towarak

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should have experience on a Council. The Councils have expressed this recently to the Board, asking that the Board forward the request to the Secretary of Commerce. The response, however, did not address the underlying concern.

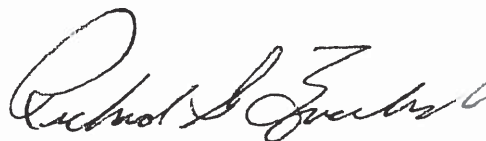
4. We request the Board develop a program that will allow each of the ten Councils a mechanism to engage youth in the subsistence regulatory process. This would be in line with the Secretary of the Interior's implementation of a Play Learn Serve and Work Program, oriented toward developing youth programs. The Secretary specifically created a position in Alaska to facilitate implementation of that program.
5. We request the Board engage in formal rulemaking that includes giving deference to the Councils not only in taking of fish and wildlife, but also for other regulatory issues affecting subsistence users in our regions such as non-rural and customary and traditional use determinations. While this is currently the policy of the Board, there is no assurance that a future Board would implement policy unless it is clear in regulation.
6. The identification of priority information needs is the basis for soliciting fisheries projects for the Fisheries Resource Monitoring Program. The Councils appreciate recent efforts to make the development of those priorities more accessible and successful. The Councils request the Board to continue to support the provision of adequate technical support that will enable us to make meaningful recommendations.
7. Bringing all the Councils together allows the effective sharing of information between council members and allows the councils to identify common concerns for big picture issues. The Councils request the Board engage the Office of Subsistence Management to allow the periodic planning of joint council meetings. It is the recommendation of the Councils that such joint sessions occur at least once every five years.

In summary, we feel the joint Council meeting was very successful and will enable Council members the experiences and training necessary for us to be more effective and productive members of our Councils. We have made new friends and established contacts within the greater subsistence management community that will allow us to communicate more effectively among ourselves and with the staff. Thank for your making this opportunity available to us.

Sincerely,



Michael Bangs, Chair  
Southeast Alaska Subsistence  
Regional Advisory Council



Richard G. Encelewski, Chair  
Southcentral Alaska Subsistence  
Regional Advisory Council



Speridon M. Simeonoff, Chair  
Kodiak/Aleutians Subsistence  
Regional Advisory Council



Molly Chythlook, Chair  
Bristol Bay Subsistence  
Regional Advisory Council



Lester Wilde, Sr., Chair  
Yukon-Kuskokwim Delta Subsistence  
Regional Advisory Council



Jack Reakoff, Chair  
Western Interior Alaska Subsistence  
Regional Advisory Council



Louis Green, Chair  
Seward Peninsula Subsistence  
Regional Advisory Council



Raymond Stony, Chair  
Northwest Arctic Subsistence  
Regional Advisory Council

Chairman Towarak

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Sue Entsminger, Chair  
Eastern Interior Alaska Subsistence  
Regional Advisory Council



Rosemary Ahtuanguaruak, Acting Chair  
North Slope Subsistence  
Regional Advisory Council

cc: Federal Subsistence Board  
Southeast Alaska Subsistence Regional Advisory Council  
Southcentral Alaska Subsistence Regional Advisory Council  
Kodiak/Aleutians Subsistence Regional Advisory Council  
Bristol Bay Subsistence Regional Advisory Council  
Yukon-Kuskokwim Delta Subsistence Regional Advisory Council  
Western Interior Alaska Subsistence Regional Advisory Council  
Seward Peninsula Subsistence Regional Advisory Council  
Northwest Arctic Subsistence Regional Advisory Council  
Eastern Interior Alaska Subsistence Regional Advisory Council  
North Slope Subsistence Regional Advisory Council  
Eugene R. Peltola, Jr., Assistant Regional Director, Office of Subsistence Management  
Stewart Cogswell, Acting Deputy Assistant Regional Director,  
Office of Subsistence Management  
Carl Johnson, Council Coordination Division Chief, Office of Subsistence Management  
Chris Mckee, Wildlife Division Chief, Office of Subsistence Management  
Mitch Ellis, Director of Refuges, Alaska Region, U.S. Fish and Wildlife Service  
Interagency Staff Committee  
Administrative Record

## Office of Subsistence Management

### Staffing Update Fall 2016

#### *Departures*

The following staff have left the Office of Subsistence Management since the last staffing update:

**Chuck Ardizzone** left his position as Deputy Assistant Regional Director to take another position with U.S. Fish and Wildlife Service in the Lower 48. Recruitment efforts are currently underway to find a replacement. In the interim, Stewart Cogswell has been serving as the Acting Deputy Assistant Regional Director.

**Deborah Coble** left her position as Subsistence Outreach Coordinator to take a position with the National Park Service at its Alaska Region headquarters. Recruitment efforts are currently underway to find a replacement. Katya Wessels and Kayla McKinney have been performing the duties as Subsistence Outreach Coordinator.

**Melinda Burke** left her position as Council Coordinator to become the Tribal Relations Program Manager for U.S. Forest Service in Alaska.

#### *New Arrivals*

**Scott Ayers** was hired as a Fisheries Biologist and will be providing expertise with analysis of fisheries regulatory and Fisheries Resource Monitoring Program proposals. He was previously employed by the Alaska Department of Fish and Game (ADFG) in Anchorage. As the permit coordinator for ADFG, he had statewide responsibility for reviewing application materials and drafting permits for freshwater and estuarine projects for the take of fish outside the Board of Fisheries promulgated regulations. He was involved with analyzing applications to ensure correct sampling methodologies were used that did not conflict with existing users or damage fish populations and were authorized under ADFG's statutory responsibilities. Scott also has experience as a field crew leader on the Kuskokwim and Yukon Rivers. He also has extensive experience working remotely throughout Alaska on various weir and radio telemetry surveys. Scott received his Bachelor and Master's Degrees from the University of Alaska-Fairbanks.

**Gary Decossas** was hired as the Fisheries Biometrician and will provide statistical expertise and assistance with the Fisheries Resource Monitoring Program and with fishery regulatory proposals. He was previously employed by the Louisiana Department of Wildlife and Fisheries (LDWF), where he was responsible for the design, analysis, and management of various fisheries data (recreational, commercial, independent) collected by the LDWF. He created the various statistical inputs and estimates that go into fisheries stock assessment models that are used to inform marine and freshwater managers about the status of the fisheries stock within and across the coast of Louisiana. As a part of his tenure at LDWF, he created the LA CREEL program, which is a large complementary creel survey used to estimate real-time estimates of

fisheries landings, angler effort, and harvest rates. He also assisted with various fisheries dependent and independent sampling programs undertaken by biologists working for the department. As a part of the stock assessment team, he updated and strengthened the statistical catch-at-age models used by the state to manage a large saltwater fishing industry. As a statistician with a fisheries background, he always strives to bridge the gap between the complex/easily misunderstood statistical realm with that of the sturdiness and practicality of the fisheries world. Gary received his Bachelor and Masters Degrees from the Louisiana State University.

**Srinath Doraiswamy** was hired as the IT Oracle Database Administrator. He moved from Houston, Texas, with his wife and child, enjoys biking, walking, outdoor sports, loves nature, and travel. He previously worked for more than six years in IT for the Texas State Department of Family Protective Services, Health and Human Service Commission, Texas Tech University Health Sciences Center, and University of Texas Permian Basin. He looks forward to exploring Alaska.

**Frank Harris** was hired as a Fisheries Biologist and will be providing expertise with analysis of fisheries regulatory and Fisheries Resource Monitoring Program proposals. This includes assisting with the preparation of preliminary plans and technical specifications for projects designed to collect and analyze data related to fishery resources including habitat quality, sport, commercial, and subsistence fishing areas and areas impacted by development. He previously was employed by the Koyukuk/Nowitna/Innoko National Wildlife Refuge. Frank has lived in Alaska for almost 20 years and has built strong relationships throughout the State. He has been responsible for developing fisheries inventory and monitoring plans, working with native and rural organizations, conducting fisheries studies and performing regulatory duties. With his experience comes an understanding of subsistence uses, including the people and places of rural/remote Alaska. Frank has been with the U.S. Fish and Wildlife Service for over 14 years and brings strong fisheries experience and an extensive knowledge of working in remote areas of Alaska to this position. Frank received his Bachelor Degree from the Central Michigan University and will complete his Master's Degree from West Virginia University in May 2017.

**Megan Klosterman** was hired as a new Wildlife Biologist. Megan has been working as a Wildlife Refuge Specialist for the Arapaho National Wildlife Refuge Complex in Colorado since April of 2015. In this position, she has conducted wildlife surveys in remote Refuge locations and served as the manager of the GIS database for these surveys. She has worked with a diverse variety of stakeholders on complex natural resource issues and has prepared technical written documents related to resource surveys, grazing plans, and grant proposals. Prior to her position at Arapaho National Refuge, she worked as a Wildlife Biologist for the USDA's Wildlife Services Division, and as a Wildlife Intern with Lassen Volcanic National Park in California. She earned her Bachelors of Science in Wildlife Science from Ohio State University, and a Masters of Science in Zoology from North Dakota State University.

**Dr. Joshua Ream** joined the Anthropology Division as a new cultural anthropologist in June of 2016. Dr. Ream is an interdisciplinary scientist and ethnobiologist with an academic and professional background focusing on the relationships between humans and the natural world. His doctoral research involved the use of local and traditional knowledge, citizen science, and

service learning programs to document species diversity and distributions in Alaska, specifically amphibians. Dr. Ream spent the last five years working as a Subsistence Resource Specialist with the Division of Subsistence at the Alaska Department of Fish and Game. His academic and professional trajectories have shaped his understanding of the traditional and customary uses of wild resources in Alaska and cultivated his dedication to supporting the subsistence priority of rural Alaskans. He is delighted to join the team at OSM.

**Michelle St. Peters** was hired as the new Grants Management Specialist. Her prior work assignment was in the Financial Assistance department where she assisted with Region 7 USFWS Grants and Cooperative Agreements. Before doing grants and cooperative agreements, Michelle was a biologist with USFWS Migratory Bird Management for 8 years. During that time, she worked for the seabird section, was the assistant coordinator of the Avian Influenza program, and eventually transitioned into a budget technician. Michelle moved to Alaska in 2001 and spent 7 years with the U.S. Geological Service (Alaska Science Center) assisting on the development of the North Pacific pelagic seabird database.

**Khristoffer Santos** was hired as the new IT Specialist. Besides providing customer support for OSM employees, he is responsible for maintenance of the OSM permits database. His prior assignment was from Information Resources and Technology Management (IRTM), USFWS Region 7 headquarters as an IT Assistant. During his tenure in IRTM, Khristoffer was part of the IRTM team which provided customer and hardware support for the entirety of Region 7. He has also worked as a Junior Systems Administrator for Copper River Seafoods. His job included server maintenance of the email system, hardware/software support and assisting Alaskan fishermen with day-to-day technological needs.

**Sabrina Schmidt** was hired as a new receptionist. She previously worked for almost three years as an Office Automation Assistant at the Child Development Center on Joint Base Elmendorf-Richardson for the 673<sup>rd</sup> Force Support Squadron. Prior to that, she worked several positions including forklift operator at a blower factory, security guard, financial representative and did work for the Chickasaw Nation. She is an avid outdoors person and has lived most of her life in small towns of Minnesota, Oklahoma and South Dakota.

**Zach Stevenson** was hired as a Council Coordinator, and has been assigned to the Western Interior and Northwest Arctic regions. Zach was previously employed with the Northwest Arctic Borough as a Subsistence Mapping Coordinator, where he worked for five years on an extensive project to map the subsistence activities and resources in the NWA Borough. The final document, an 800-page report, required extensive travel to villages and stakeholder development and will provide incredible levels of detail for use by land managers. Prior to that, he worked as a campaign manager for a State House campaign, a Development Officer for Planned Parenthood of the Great Northwest, and as a Program Director for the Renewable Resources Coalition.

**Jarred Stone** was hired as a Graduate Pathways Program Student Trainee in the Fisheries Division. Jarred attained his undergraduate in Fisheries Management from Northland College in Ashland, Wisconsin. Since then he has come to Alaska and worked as a fisheries crew leader with the USFWS and other agencies. Jarred was accepted into Alaska Pacific University Fisheries Aquatic Science & Technology Lab where he is studying Eastern Bering Sea juvenile

Chinook Salmon stock origin, and the role of diet on growth and condition. This research will lead to a Masters degree and will enhance the knowledge of the marine life phase of juvenile Chinook and how important diet and condition are for pre-winter survival. Jarred and his wife live in Palmer and have resided in Alaska for the past six years.

**Katya Wessels** was hired as a Council Coordinator, and has been assigned to the Eastern Interior Region. She is also responsible for the Regional Advisory Council meeting book production. Katya was previously employed by the National Park Service as a Beringia Program Specialist for sixteen years. In that capacity, she managed numerous cooperative agreements and facilitated several annual meetings to carry out the mandates of the program. During her employment with NPS, she also worked several detail assignments with the USFWS Marine Mammals Program and the U.S.-Russia Polar Bear Commission. Prior to 1999, she worked as an interpreter and historian through the Smithsonian Institute for the National Park Service, Alaska Regional Office.

As of the date of this report, the Office of Subsistence Management is staffed at 38 out of 44 positions on its organization chart. Of the six vacancies, two are student trainee positions. This is the first time in over five years where the Fisheries, Wildlife, and Anthropology divisions are fully staffed with all full-time analysts and division chiefs on the organization chart.



FISH and WILDLIFE SERVICE  
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## Federal Subsistence Board

1011 East Tudor Road, MS121  
Anchorage, Alaska 99503



FOREST SERVICE

JUL 15 2016

FWS/OSM 16056.PM

Field Office Manager  
BLM Anchorage Field Office  
4700 BLM Road  
Anchorage, Alaska 99507

Dear Field Office Manager:

This letter delegates specific regulatory authority from the Federal Subsistence Board (Board) to the BLM Anchorage Field Office Manager to issue emergency or temporary special actions if necessary to ensure the conservation of a healthy wildlife population, to continue subsistence uses of wildlife, for reasons of public safety, or to assure the continued viability of a wildlife population. This delegation only applies to the Federal public lands subject to Alaska National Interest Land Conservation Act (ANILCA) Title VIII jurisdiction within Unit 22 remainder as it applies to caribou on these lands.

It is the intent of the Board that actions related to management of caribou by Federal officials be coordinated, prior to implementation, with the Office of Subsistence Management, the Alaska Department of Fish and Game (ADF&G) and the Chair of the Seward Peninsula Subsistence Regional Advisory Council (Council) to the extent possible. Federal managers are expected to work with managers from the State and other Federal agencies, the Council Chair, and applicable Council members to minimize disruption to subsistence resource users and existing agency programs, consistent with the need for special action.

### DELEGATION OF AUTHORITY

**1. Delegation:** The BLM Anchorage Field Office Manager is hereby delegated authority to issue emergency or temporary special actions affecting caribou on Federal lands as outlined under the **Scope of Delegation** below. Any action greater than 60 days in length (temporary special action) requires a public hearing before implementation. Special actions are governed by regulation at 36 CFR 242.19 and 50 CFR 100.19.



Field Office Manager

2

**2. Authority:** This delegation of authority is established pursuant to 36 CFR 242.10(d)(6) and 50 CFR 100.10(d)(6), which state: “The Board may delegate to agency field officials the authority to set harvest and possession limits, define harvest areas, specify methods or means of harvest, specify permit requirements, and open or close specific fish or wildlife harvest seasons within frameworks established by the Board.”

**3. Scope of Delegation:** The regulatory authority hereby delegated is limited to the following authorities within the limits set by regulation at 36 CFR 242.26 and 50 CFR 100.26:

You may announce season dates for caribou on Federal public lands in Unit 22C, 22D remainder and 22E remainder.

This delegation may be exercised only when necessary to conserve caribou populations, to continue subsistence uses, for reasons of public safety, or to assure the continued viability of the population.

All other proposed changes to codified regulations, such as customary and traditional use determinations, adjustments to methods and means of take, or closures and restriction for take for only non-Federally qualified users shall be directed to the Federal Subsistence Board.

The Federal public lands subject to this delegated authority are those within Unit 22C, 22D remainder, and 22E remainder.

**4. Effective Period:** This delegation of authority is effective from the date of this letter and continues until superseded or rescinded.

**5. Guidelines for Delegation:** You will become familiar with the management history of the wildlife species relevant to this delegation in the region, with current State and Federal regulations and management plans, and be up-to-date on population and harvest status information. You will review special action requests or situations that may require a special action and all supporting information to determine (1) consistency with 36 CFR 242.19, (2) if the request/situation falls within the scope of authority, (3) if significant conservation problems or subsistence harvest concerns are indicated, and (4) what the consequences of taking an action or no action may be on potentially affected subsistence users and non-Federally qualified users. Requests not within your delegated authority will be forwarded to the Federal Subsistence Board for consideration. You will maintain a record of all special action requests and rationale for your decision. A copy of this record will be provided to the Administrative Records Specialist in the Office of Subsistence Management (OSM) no later than sixty days after development of the document.

Field Office Manager

3

You will consult with OSM and coordinate with local ADF&G managers and the Chair of the Seward Peninsula Subsistence Regional Advisory Council regarding special actions under consideration. You will issue decisions in a timely manner. Before the effective date of any decision, reasonable efforts will be made to notify the public, OSM, affected State and Federal managers, law enforcement personnel, and Council representatives. If an action is to supersede a State action not yet in effect, the decision will be communicated to the public, OSM, affected State and Federal Managers, and the local Council representatives at least 24 hours before the State action would be effective. If a decision to take no action is made, you will notify the proponent of the request immediately. A summary of special action requests and your resultant action must be provided to the coordinator of the appropriate Subsistence Regional Advisory Council(s) at the end of each calendar year for presentation to the Council(s).

You may defer a special action request, otherwise covered by this delegation of authority, to the Federal Subsistence Board in instances when the proposed management action will have a significant impact on a large number of Federal subsistence users or is particularly controversial. This option should be exercised judiciously and may be initiated only when sufficient time allows for it. Such deferrals should not be considered when immediate management actions are necessary for conservation purposes. The Federal Subsistence Board may determine that a special action request may best be handled by the Board, subsequently rescinding the delegated regulatory authority for the specific action only.

**6. Support Services:** Administrative support for regulatory actions will be provided by the Office of Subsistence Management, U.S. Fish and Wildlife Service, Department of the Interior.

Sincerely,



Tim Towarak  
Chair

cc: Assistant Regional Director, Office of Subsistence Management  
Deputy Assistant Regional Director, Office of Subsistence Management  
Subsistence Council Coordinator, Office of Subsistence Management  
Chair, Seward Peninsula Regional Advisory Council  
Commissioner, Alaska Department of Fish and Game  
Federal Subsistence Liaison Team Leader, Alaska Department of Fish and Game  
Federal Subsistence Board  
Interagency Staff Committee  
Administrative Record



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NATIONAL PARK SERVICE  
BUREAU of INDIAN AFFAIRS

## Federal Subsistence Board

1011 East Tudor Road, MS121  
Anchorage, Alaska 99503



FOREST SERVICE

FWS/OSM 16044.PM

JUN 21 2016

Field Office Manager  
BLM Anchorage Field Office  
4700 BLM Road  
Anchorage, Alaska 99507

Dear Field Office Manager:

This letter delegates specific regulatory authority from the Federal Subsistence Board (Board) to the BLM Anchorage Field Office Manager to issue emergency or temporary special actions if necessary to ensure the conservation of a healthy wildlife population, to continue subsistence uses of wildlife, for reasons of public safety, or to assure the continued viability of a wildlife population. This delegation only applies to the Federal public lands subject to Alaska National Interest Land Conservation Act (ANILCA) Title VIII jurisdiction within Unit 22B west of Golovin Bay and west of a line along the west bank of the Fish and Niukluk Rivers to the mouth of the Libby River, and excluding all portions of the Niukluk River drainage upstream from and including the Libby River drainage as it applies to caribou on these lands.

It is the intent of the Board that actions related to management of caribou by Federal officials be coordinated, prior to implementation, with the Office of Subsistence Management, the Alaska Department of Fish and Game (ADF&G) and the Chair of the Seward Peninsula Subsistence Regional Advisory Council (Council) to the extent possible. Federal managers are expected to work with managers from the State and other Federal agencies, the Council Chair, and applicable Council members to minimize disruption to subsistence resource users and existing agency programs, consistent with the need for special action.

### DELEGATION OF AUTHORITY

**1. Delegation:** The BLM Anchorage Field Office Manager is hereby delegated authority to issue emergency or temporary special actions affecting caribou on Federal lands as outlined under the **Scope of Delegation**. Any action greater than 60 days in length (temporary special action) requires a public hearing before implementation. Special actions are governed by regulation at 36 CFR 242.19 and 50 CFR 100.19.

Field Office Manager

2

**2. Authority:** This delegation of authority is established pursuant to 36 CFR 242.10(d)(6) and 50 CFR 100.10(d)(6), which state: “The Board may delegate to agency field officials the authority to set harvest and possession limits, define harvest areas, specify methods or means of harvest, specify permit requirements, and open or close specific fish or wildlife harvest seasons within frameworks established by the Board.”

**3. Scope of Delegation:** The regulatory authority hereby delegated is limited to the following authorities within the limits set by regulation at 36 CFR 242.26 and 50 CFR 100.26:

You may open a season between May 1 and Sept. 30 for caribou on Federal public lands in Unit 22B west of Golovin Bay and west of a line along the west bank of the Fish and Niukluk Rivers to the mouth of the Libby River, and excluding all portions of the Niukluk River drainage upstream from and including the Libby River drainage in consultation with ADF&G.

This delegation may be exercised only when necessary to conserve caribou populations, to continue subsistence uses, for reasons of public safety, or to assure the continued viability of the population.

All other proposed changes to codified regulations, such as customary and traditional use determinations, adjustments to methods and means of take, or closures and restriction for take by only non-Federally qualified users shall be directed to the Federal Subsistence Board.

The Federal public lands subject to this delegated authority are those within Unit 22B west of Golovin Bay and west of a line along the west bank of the Fish and Niukluk Rivers to the mouth of the Libby River, and excluding all portions of the Niukluk River drainage upstream from and including the Libby River drainage.

**4. Effective Period:** This delegation of authority is effective from the date of this letter and continues until superseded or rescinded.

**5. Guidelines for Delegation:** You will become familiar with the management history of the wildlife species relevant to this delegation in the region, with current State and Federal regulations and management plans, and be up-to-date on population and harvest status information. You will review special action requests or situations that may require a special action and all supporting information to determine (1) consistency with 36 CFR 242.19, (2) if the request/situation falls within the scope of authority, (3) if significant conservation problems or subsistence harvest concerns are indicated, and (4) what the consequences of taking an action or no action may be on potentially affected Federally qualified subsistence users and non-Federally qualified users. Requests not within your delegated authority will be forwarded to the Federal Subsistence Board for consideration. You will maintain a record of all special action requests and rationale for your decision. A copy of this record will be provided to the Administrative

Field Office Manager

3


Records Specialist in the Office of Subsistence Management (OSM) no later than sixty days after development of the document.

You will consult with OSM and coordinate with local ADF&G managers and the Chair of the Seward Peninsula Subsistence Regional Advisory Council regarding special actions under consideration. You will issue decisions in a timely manner. Before the effective date of any decision, reasonable efforts will be made to notify the public, OSM, affected State and Federal managers, law enforcement personnel, and Council representatives. If an action is to supersede a State action not yet in effect, the decision will be communicated to the public, OSM, affected State and Federal Managers, and the local Council representatives at least 24 hours before the State action would be effective. If a decision to take no action is made, you will notify the proponent of the request immediately. A summary of special action requests and your resultant action must be provided to the coordinator of the appropriate Subsistence Regional Advisory Council(s) at the end of each calendar year for presentation to the Council(s).

You may defer a special action request, otherwise covered by this delegation of authority, to the Federal Subsistence Board in instances when the proposed management action will have a significant impact on a large number of Federal subsistence users or is particularly controversial. This option should be exercised judiciously and may be initiated only when sufficient time allows for it. Such deferrals should not be considered when immediate management actions are necessary for conservation purposes. The Federal Subsistence Board may determine that a special action request may best be handled by the Board, subsequently rescinding the delegated regulatory authority for the specific action only.

**6. Support Services:** Administrative support for regulatory actions will be provided by the Office of Subsistence Management, U.S. Fish and Wildlife Service, Department of the Interior.

Sincerely,



Tim Towarak  
Chair

cc: Commissioner, Alaska Department of Fish and Game  
Assistant Regional Director, Office of Subsistence Management  
Deputy Assistant Regional Director, Office of Subsistence Management  
Subsistence Council Coordinator, Office of Subsistence Management  
Chair, Seward Peninsula Regional Advisory Council  
Federal Subsistence Liaison Team Leader, Alaska Department of Fish and Game  
Federal Subsistence Board  
Interagency Staff Committee  
Administrative Record



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NATIONAL PARK SERVICE  
BUREAU of INDIAN AFFAIRS

## Federal Subsistence Board

1011 East Tudor Road, MS121  
Anchorage, Alaska 99503



FOREST SERVICE

**JUN 21 2016**

FWS/OSM 16045.PM

Field Office Manager  
BLM Anchorage Field Office  
4700 BLM Road  
Anchorage, Alaska 99507

Dear Field Office Manager:

This letter delegates specific regulatory authority from the Federal Subsistence Board (Board) to the BLM Anchorage Field Office Manager to issue emergency or temporary special actions if necessary to ensure the conservation of a healthy wildlife population, to continue subsistence uses of wildlife, for reasons of public safety, or to assure the continued viability of a wildlife population. This delegation only applies to the Federal public lands subject to Alaska National Interest Land Conservation Act (ANILCA) Title VIII jurisdiction within Unit 22D in the Pilgrim River Drainage as it applies to caribou on these lands.

It is the intent of the Board that actions related to management of caribou by Federal officials be coordinated, prior to implementation, with the Office of Subsistence Management, the Alaska Department of Fish and Game (ADF&G) and the Chair of the Seward Peninsula Subsistence Regional Advisory Council (Council) to the extent possible. Federal managers are expected to work with managers from the State and other Federal agencies, the Council Chair, and applicable Council members to minimize disruption to subsistence resource users and existing agency programs, consistent with the need for special action.

### **DELEGATION OF AUTHORITY**

**1. Delegation:** The BLM Anchorage Field Office Manager is hereby delegated authority to issue emergency or temporary special actions affecting caribou on Federal lands as outlined under the **Scope of Delegation** below. Any action greater than 60 days in length (temporary special action) requires a public hearing before implementation. Special actions are governed by regulation at 36 CFR 242.19 and 50 CFR 100.19.

Field Office Manager

2

**2. Authority:** This delegation of authority is established pursuant to 36 CFR 242.10(d)(6) and 50 CFR 100.10(d)(6), which state: “The Board may delegate to agency field officials the authority to set harvest and possession limits, define harvest areas, specify methods or means of harvest, specify permit requirements, and open or close specific fish or wildlife harvest seasons within frameworks established by the Board.”

**3. Scope of Delegation:** The regulatory authority hereby delegated is limited to the following authorities within the limits set by regulation at 36 CFR 242.26 and 50 CFR 100.26:

You may announce a season between the dates of May 1 – Sept. 30 for caribou on Federal public lands in Unit 22D in the Pilgrim River Drainage.

This delegation may be exercised only when necessary to conserve caribou populations, to continue subsistence uses, for reasons of public safety, or to assure the continued viability of the population.

All other proposed changes to codified regulations, such as customary and traditional use determinations, adjustments to methods and means of take, or closures and restriction for take by only non-Federally qualified users shall be directed to the Federal Subsistence Board.

The Federal public lands subject to this delegated authority are those within Unit 22D in the Pilgrim River Drainage.

**4. Effective Period:** This delegation of authority is effective from the date of this letter and continues until superseded or rescinded.

**5. Guidelines for Delegation:** You will become familiar with the management history of the wildlife species relevant to this delegation in the region, with current State and Federal regulations and management plans, and be up-to-date on population and harvest status information. You will review special action requests or situations that may require a special action and all supporting information to determine (1) consistency with 36 CFR 242.19, (2) if the request/situation falls within the scope of authority, (3) if significant conservation problems or subsistence harvest concerns are indicated, and (4) what the consequences of taking an action or no action may be on potentially affected Federally qualified subsistence users and non-Federally qualified users. Requests not within your delegated authority will be forwarded to the Federal Subsistence Board for consideration. You will maintain a record of all special action requests and rationale for your decision. A copy of this record will be provided to the Administrative Records Specialist in the Office of Subsistence Management (OSM) no later than sixty days after development of the document.

You will consult with OSM and coordinate with local ADF&G managers and the Chair of the Seward Peninsula Subsistence Regional Advisory Council regarding special actions under consideration. You will issue decisions in a timely manner. Before the effective date of any

Field Office Manager

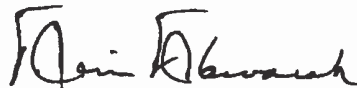
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decision, reasonable efforts will be made to notify the public, OSM, affected State and Federal managers, law enforcement personnel, and Council representatives. If an action is to supersede a State action not yet in effect, the decision will be communicated to the public, OSM, affected State and Federal Managers, and the local Council representatives at least 24 hours before the State action would be effective. If a decision to take no action is made, you will notify the proponent of the request immediately. A summary of special action requests and your resultant action must be provided to the coordinator of the appropriate Subsistence Regional Advisory Council(s) at the end of each calendar year for presentation to the Council(s).

You may defer a special action request, otherwise covered by this delegation of authority, to the Federal Subsistence Board in instances when the proposed management action will have a significant impact on a large number of Federal subsistence users or is particularly controversial. This option should be exercised judiciously and may be initiated only when sufficient time allows for it. Such deferrals should not be considered when immediate management actions are necessary for conservation purposes. The Federal Subsistence Board may determine that a special action request may best be handled by the Board, subsequently rescinding the delegated regulatory authority for the specific action only.

**6. Support Services:** Administrative support for regulatory actions will be provided by the Office of Subsistence Management, U.S. Fish and Wildlife Service, Department of the Interior.

Sincerely,



Tim Towarak  
Chair

cc: Commissioner, Alaska Department of Fish and Game  
Assistant Regional Director, Office of Subsistence Management  
Deputy Assistant Regional Director, Office of Subsistence Management  
Subsistence Council Coordinator, Office of Subsistence Management  
Chair, Seward Peninsula Regional Advisory Council  
Federal Subsistence Liaison Team Leader, Alaska Department of Fish and Game  
Federal Subsistence Board  
Interagency Staff Committee  
Administrative Record





FISH and WILDLIFE SERVICE  
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NATIONAL PARK SERVICE  
BUREAU of INDIAN AFFAIRS

## Federal Subsistence Board

1011 East Tudor Road, MS121  
Anchorage, Alaska 99503



FOREST SERVICE

**JUN 21 2016**

FWS/OSM 16043.PM

Field Office Manager  
BLM Anchorage Field Office  
4700 BLM Road  
Anchorage, Alaska 99507

Dear Field Office Manager:

This letter delegates specific regulatory authority from the Federal Subsistence Board (Board) to the BLM Anchorage Field Office Manager to issue emergency or temporary special actions if necessary to ensure the conservation of a healthy wildlife population, to continue subsistence uses of wildlife, for reasons of public safety, or to assure the continued viability of a wildlife population. This delegation only applies to the Federal public lands subject to Alaska National Interest Land Conservation Act (ANILCA) Title VIII jurisdiction within Unit 22A remainder as it applies to caribou on these lands.

It is the intent of the Board that actions related to management of caribou by Federal officials be coordinated, prior to implementation, with the Office of Subsistence Management, the Alaska Department of Fish and Game (ADF&G) and the Chair of the Seward Peninsula Subsistence Regional Advisory Council (Council) to the extent possible. Federal managers are expected to work with managers from the State and other Federal agencies, the Council Chair, and applicable Council members to minimize disruption to subsistence resource users and existing agency programs, consistent with the need for special action.

### **DELEGATION OF AUTHORITY**

**1. Delegation:** The BLM Anchorage Field Office Manager is hereby delegated authority to issue emergency or temporary special actions affecting caribou on Federal lands as outlined under the **Scope of Delegation**. Any action greater than 60 days in length (temporary special action) requires a public hearing before implementation. Special actions are governed by regulation at 36 CFR 242.19 and 50 CFR 100.19.

Field Office Manager

2

**2. Authority:** This delegation of authority is established pursuant to 36 CFR 242.10(d)(6) and 50 CFR 100.10(d)(6), which state: “The Board may delegate to agency field officials the authority to set harvest and possession limits, define harvest areas, specify methods or means of harvest, specify permit requirements, and open or close specific fish or wildlife harvest seasons within frameworks established by the Board.”

**3. Scope of Delegation:** The regulatory authority hereby delegated is limited to the following authorities within the limits set by regulation at 36 CFR 242.26 and 50 CFR 100.26:

You may announce season dates for caribou on Federal public lands in Unit 22A remainder.

This delegation may be exercised only when necessary to conserve caribou populations, to continue subsistence uses, for reasons of public safety, or to assure the continued viability of the population.

All other proposed changes to codified regulations, such as customary and traditional use determinations, adjustments to methods and means of take, or closures and restriction for take by only non-Federally qualified users shall be directed to the Federal Subsistence Board.

The Federal public lands subject to this delegated authority are those within Unit 22A remainder.

**4. Effective Period:** This delegation of authority is effective from the date of this letter and continues until superseded or rescinded.

**5. Guidelines for Delegation:** You will become familiar with the management history of the wildlife species relevant to this delegation in the region, with current State and Federal regulations and management plans, and be up-to-date on population and harvest status information. You will review special action requests or situations that may require a special action and all supporting information to determine (1) consistency with 36 CFR 242.19, (2) if the request/situation falls within the scope of authority, (3) if significant conservation problems or subsistence harvest concerns are indicated, and (4) what the consequences of taking an action or no action may be on potentially affected Federally qualified subsistence users and non-Federally qualified users. Requests not within your delegated authority will be forwarded to the Federal Subsistence Board for consideration. You will maintain a record of all special action requests and rationale for your decision. A copy of this record will be provided to the Administrative Records Specialist in the Office of Subsistence Management (OSM) no later than sixty days after development of the document.

You will consult with OSM and coordinate with local ADF&G managers and the Chair of the Seward Peninsula Subsistence Regional Advisory Council regarding special actions under consideration. You will issue decisions in a timely manner. Before the effective date of any decision, reasonable efforts will be made to notify the public, OSM, affected State and Federal

Field Office Manager

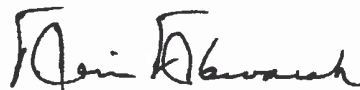
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managers, law enforcement personnel, and Council representatives. If an action is to supersede a State action not yet in effect, the decision will be communicated to the public, OSM, affected State and Federal Managers, and the local Council representatives at least 24 hours before the State action would be effective. If a decision to take no action is made, you will notify the proponent of the request immediately. A summary of special action requests and your resultant action must be provided to the coordinator of the appropriate Subsistence Regional Advisory Council(s) at the end of each calendar year for presentation to the Council(s).

You may defer a special action request, otherwise covered by this delegation of authority, to the Federal Subsistence Board in instances when the proposed management action will have a significant impact on a large number of Federal subsistence users or is particularly controversial. This option should be exercised judiciously and may be initiated only when sufficient time allows for it. Such deferrals should not be considered when immediate management actions are necessary for conservation purposes. The Federal Subsistence Board may determine that a special action request may best be handled by the Board, subsequently rescinding the delegated regulatory authority for the specific action only.

**6. Support Services:** Administrative support for regulatory actions will be provided by the Office of Subsistence Management, U.S. Fish and Wildlife Service, Department of the Interior.

Sincerely,



Tim Towarak  
Chair

cc: Commissioner, Alaska Department of Fish and Game  
Assistant Regional Director, Office of Subsistence Management  
Deputy Assistant Regional Director, Office of Subsistence Management  
Subsistence Council Coordinator, Office of Subsistence Management  
Chair, Seward Peninsula Regional Advisory Council  
Federal Subsistence Liaison Team Leader, Alaska Department of Fish and Game  
Federal Subsistence Board  
Interagency Staff Committee  
Administrative Record

*Notification of Published Federal Regulations for Alaska National Wildlife Refuges:  
Nonsubsistence Take of Wildlife, and Public Participation and Closure Procedures, on  
National Wildlife Refuges in Alaska*



United States Department of the Interior

FISH AND WILDLIFE SERVICE  
1011 E. Tudor Rd.  
Anchorage, Alaska 99503



IN REPLY REFER TO:  
FWS/R7/NWRS0054

August 3, 2016

Subject: Notification of Published Federal Regulations for Alaska National Wildlife Refuges:  
Non-subsistence Take of Wildlife, and Public Participation and Closure Procedures, on National  
Wildlife Refuges in Alaska

Dear Regional Advisory Council Coordinators and Chairs:

The United States Fish and Wildlife Service has published final regulations in the Federal Register for National Wildlife Refuges (refuges) in Alaska that clarify when predator control will be authorized on refuges, limits allowable practices for the non-subsistence take of predators on refuges, and updates existing refuge regulations for closures and restrictions. The rule was developed in response to public interest and concern about predator control and recent liberalization of predator harvest within the State of Alaska.

General (sport) hunting remains a priority public use on refuges in Alaska. Also under the Alaska National Interest Lands Conservation Act (ANILCA), all refuges in Alaska are mandated to provide the opportunity for continued subsistence use by rural Alaska residents in a manner consistent with the purposes of the refuges and the conservation of healthy fish and wildlife populations. The final rule does not change Federal subsistence regulations (36 CFR 242 and 50 CFR 100) or restrict taking of fish or wildlife for subsistence uses under Federal subsistence regulations. The Service will continue to support sustainable harvest of fish and wildlife, including predators. We thank you for your engagement and input received during our comment period (1/8/2016 to 4/7/2016) and we are available to clarify any questions you may have about the new regulations.

The final rule, environmental assessment, Finding of No Significant Impact (FONSI), and other informative materials will be available from our website ([http://www.fws.gov/alaska/nwr/ak\\_sp\\_hunt\\_regs.htm](http://www.fws.gov/alaska/nwr/ak_sp_hunt_regs.htm)).

If you would like to meet with someone to discuss the final rule, please contact myself at 907-786-3667 ([mitch\\_ellis@fws.gov](mailto:mitch_ellis@fws.gov)).

Sincerely,

Mitch Ellis  
Chief of Refuges - Alaska  
National Wildlife Refuge System



FISH and WILDLIFE SERVICE  
BUREAU of LAND MANAGEMENT  
NATIONAL PARK SERVICE  
BUREAU of INDIAN AFFAIRS

## Federal Subsistence Board

1011 East Tudor Road, MS121  
Anchorage, Alaska 99503



FOREST SERVICE

FWS/OSM 16068.CJ

**AUG 26 2016**

Louis H. Green Jr.,  
Seward Peninsula Subsistence  
Regional Advisory Council  
P.O. Box 1890  
Nome, Alaska 99762

Dear Mr. Green:

Enclosed with this letter is a report of the Federal Subsistence Board's non-consensus agenda action items at its April 12-14, 2016 meeting regarding proposed changes to subsistence wildlife regulations and customary and traditional use determinations. In total, the Board accepted the recommendations of the Subsistence Regional Advisory Councils – in whole or with modifications – in 67 of the 69 proposals on the agenda. Details of these actions and the Board's deliberations are contained in the meeting transcripts. Copies of the transcripts may be obtained by calling our toll free number, 1-800-478-1456, and are available online at the Federal Subsistence Management Program website, <http://www.doi.gov//subsistence/index.cfm>.

The Board uses a consensus agenda on those proposals where there is agreement among the affected Subsistence Regional Advisory Council(s), the Interagency Staff Committee, and the Alaska Department of Fish and Game concerning a proposed regulatory action. These proposals were deemed non-controversial and did not require a separate discussion. Consensus agenda items for the Seward Peninsula Region, including crossover proposals, were WP16-33 (adopted), WP 16-34 (rejected), WP16-43 (rejected), and WP16-47 (rejected). All Board actions on these proposals were consistent with the Council's recommendations.

The Federal Subsistence Board appreciates the Seward Peninsula Subsistence Regional Advisory Council's active involvement in and diligence with the regulatory process. The ten Regional Advisory Councils continue to be the foundation of the Federal Subsistence Management Program, and the stewardship shown by the Regional Advisory Council chairs and their representatives at the Board meeting was noteworthy.

Mr. Green

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If you have any questions regarding the summary of the Board's actions, please contact Karen Deatherage, Council Coordinator, at (907) 786-3564.

Sincerely,



Tim Towarak  
Chair

Enclosure

cc: Federal Subsistence Board  
Seward Peninsula Subsistence Regional Advisory Council  
Eugene R. Peltola, Jr., Assistant Regional Director, Office of Subsistence Management  
Stewart Cogswell, Acting Deputy Assistant Regional Director  
Office of Subsistence Management  
Carl Johnson, Council Coordination Division Chief, Office of Subsistence Management  
Interagency Staff Committee  
Administrative Record

## FEDERAL SUBSISTENCE BOARD NON-CONSENSUS ACTION REPORT

April 12-14, 2016

William A. Egan Civic and Convention Center, Anchorage, Alaska

### MULTIREGION CROSSOVER PROPOSALS

#### Proposal WP16-35

DESCRIPTION: This proposal, submitted by Martin Nicolai of Kwethluk, requested the use of artificial light be allowed to aid in the harvesting of a bear at a den site in Unit 18.

#### COUNCIL RECOMMENDATIONS:

Bristol Bay Subsistence Regional Advisory Council – **Support**

Yukon-Kuskokwim Delta Subsistence Regional Advisory Council - **Support**

Western Interior Subsistence Regional Advisory Council – **Support with OSM modification**

Seward Peninsula Subsistence Regional Advisory Council – **Support with OSM modification**

#### BOARD ACTION: **Adopted**

JUSTIFICATION: The Board adopted WP16-35 as written. The Board recognizes this is a traditional practice within each of the supporting Council regions. The Board concurred with some Councils that the definition of artificial light under the OSM modification did not provide clarity and was unnecessary. The Board also agreed that some users would consider snow machine headlights as artificial light used to hunt bears at den sites and use of lights provide safety for the hunter and better visual for a clean shot.

#### Proposal WP16-37

DESCRIPTION: This proposal, submitted by Jack Reakoff of Wiseman, requested changes to caribou harvest regulations in Units 21D, 22, 23, 24, 26A and 26 B, including: reduction in harvest limits; shortening bull and cow seasons, creation of new hunt areas and to be announced season; and a prohibition on the take of calves and cows with calves.

#### COUNCIL RECOMMENDATIONS:

Seward Peninsula Subsistence Regional Advisory Council – **Support with modification** for Unit 22; **no action taken** on all other units.

Western Interior Subsistence Regional Advisory Council – **Support** for Units 21D and 24; **support** language in WP16-64 for Unit 26B; **no action taken** for remaining units.

Northwest Arctic Subsistence Regional Advisory Council – **Support with OSM modification** to mirror regulations recommended in **WP16-49**; **no action taken** on all other units.

Eastern Interior Alaska Subsistence Regional Advisory Council – **No action taken**

North Slope Subsistence Regional Advisory Council – **No action taken**

**BOARD ACTION: Adopted with OSM modifications**

**JUSTIFICATION:** The Board unanimously adopted WP16-37 with modifications. The portion of the adopted proposal addressing caribou harvests in Unit 22 was generally consistent with the recommendations of the Seward Peninsula Council. Slight changes by the Board include: 1) the boundary in Unit 22E was changed from Trout Creek to Tin Creek due to potential conflicts with reindeer herds; 2) the Council’s recommended year-round “may be announced” seasons in Unit 22D Pilgrim River drainage and Unit 22B west of Golovin Bay were changed to provide additional harvest opportunity for Federally qualified subsistence users by opening the season from October 1 to April 30. A “may be announced” season was created for the remainder of the year in both areas to align with state regulations.

The Board recognized that Unit 22 has historically been outside of the core range of the Western Arctic Caribou Herd (WACH), resulting in a general lack of caribou and low harvest in this region. As such, the Board agreed with the Council that harvest opportunities for caribou in Unit 22 should be increased and would not adversely affect the conservation efforts for the WACH. The Board also agreed with the Council that “may be announced seasons” in some areas would help reduce conflicts between caribou hunters and reindeer herds when caribou are present.

### **Proposal WP16-49/52**

**DESCRIPTION:** This proposal, submitted by the Northwest Arctic Subsistence Regional Advisory Council and Upper and Lower Kobuk Fish and Game Advisory Committee, respectively, requested a change in harvest limits, season dates and harvest restrictions for caribou in Unit 23.

**COUNCIL RECOMMENDATIONS:**

Seward Peninsula Subsistence Regional Advisory Council – **No action taken**

Western Interior Subsistence Regional Advisory Council – **No action taken**

Northwest Arctic Subsistence Regional Advisory Council – **Support WP16-49 with modification**

North Slope Subsistence Regional Advisory Council – **Support with OSM modification**

**BOARD ACTION: No action taken**

**JUSTIFICATION:** Proposal WP16-49 and WP16/52 were similar to proposed changes for caribou harvests, seasons and restrictions in Unit 23 under WP16-37. As a result, the Board took



no action on these proposals, and deliberated on the request through WP16-37. The Seward Peninsula Council took no action on WP16-49/52 because it was outside Unit 22.

## SEWARD PENINSULA REGIONAL PROPOSALS

### Proposal WP16-44

DESCRIPTION: This proposal, submitted by the Seward Peninsula Subsistence Regional Advisory Council, requested to extend the brown bear season, establish a new brown bear hunt area and increase the brown bear harvest for portions of Units 22C and 22D. At their Fall, 2016 meeting, the Council modified WP16-44 to propose a year-round season for brown bear in Unit 22C to accommodate better access for bear hunters during early spring months.

COUNCIL RECOMMENDATIONS: **Support with modification.**

BOARD ACTION: **Adopted with OSM modification** to retain the split season in Unit 22C, revise the hunt area description for Unit 22D to be more specific, and in the newly described Unit 22D hunt area, revise season dates to reflect the regulatory year and require the use of a Federal registration permit.

JUSTIFICATION: The Board voted to adopt WP16-44 with the OSM modification. The Board agreed with OSM that the creation of a year-round season in Unit 22C would not align with State regulations and would create confusion with a new Federal permit system in Unit 22C where there are few Federal public lands and limited harvest opportunity. The Board did agree with the Council that extending the season to year round in Unit 22D would represent some additional opportunity to hunt brown bear. The OSM modification adopted by the Board would also stipulate that a Federal registration permit would be required for the newly created 22D southwest hunt to allow for a harvest limit of two bears per season, as requested by the Council. The State permit currently limits harvest to one bear per season.

### Proposal WP16-45

DESCRIPTION: This proposal, submitted by the Seward Peninsula Subsistence Regional Advisory Council, requested to establish a new boundary for caribou in Unit 22E.

COUNCIL RECOMMENDATIONS: **Support**

BOARD ACTION: **No action taken**

JUSTIFICATION: Proposal WP16-45 was similar to proposed changes for caribou harvests, seasons and restrictions requested in WP16-37. As a result, the Board took no action on this proposal, and deliberated on the request through WP16-37.

**Proposal WP16-46**

DESCRIPTION: This proposal, submitted by the Seward Peninsula Subsistence Regional Advisory Council, requested rescinding the closure to non-resident hunters for moose in Unit 22E.

COUNCIL RECOMMENDATIONS: **Oppose**

BOARD ACTION: **Rejected**

JUSTIFICATION: The Board rejected this proposal, consistent with the recommendation of the Council. The Council had submitted WP16-46 to rescind the closure to non-resident hunters for moose in Unit 22E. However, upon hearing updated information from ADF&G at the Council's Fall, 2016 meeting regarding the overall low density of moose in these units and possible moose distribution between Units 22E and 22C, they reversed their position and voted to reject the proposal. The Board shared the Council's concerns that Unit 22E is an area with very low moose density and an adjacent area is experiencing declining moose numbers. There are also few data on the habitat in this area and the overall health of the moose population in 22E.

**Seward Peninsula Subsistence Regional Advisory Council**

U.S. Fish and Wildlife Service  
C/o Office of Subsistence Management  
1011 East Tudor Road, MS 121  
Anchorage, Alaska 99503

RAC SP15076.KD

**APR 12 2016**

Herbert C. Frost, Ph.D.  
Regional Director, Alaska  
National Park Service  
240 West 5<sup>th</sup> Avenue  
Anchorage, Alaska 99501

RIN: 1024-AE28, Comments on the Proposed Rule for Subsistence Collections

Dear Dr. Frost,

The Seward Peninsula Subsistence Regional Advisory Council (Council) appreciates the opportunity to submit comments regarding the National Park Service proposed regulations to allow federally qualified subsistence users to collect and use nonedible fish and wildlife parts and plant materials for the creation and subsequent disposition (use, barter or sale) of handicrafts. The rule would also (1) clarify that collecting or possessing living wildlife is generally prohibited and (2) limit the types of bait that may be used to take bears for subsistence uses (Proposed Rule).

The Council was established by the authority in Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) and is chartered under the Federal Advisory Committee Act. Section 805 of ANILCA and the Council's charter recognize the Council's authority to initiate, review and evaluate proposals for regulations, policies, management plans, and other matters related to subsistence uses of fish and wildlife on Federal public lands within the region. The Council provides a forum for the expression of opinions and recommendations regarding any matter related to the subsistence uses of fish and wildlife within the region. The Council represents subsistence harvesters of fish and wildlife resources on Federal public lands and waters of the Seward Peninsula, including Bering Land Bridge National Preserve.

At its public meeting held March 9, 2016 in Anchorage, the Council did not vote to either support or oppose the Proposed Rule. The Council did request that the following comments from the meeting be submitted for the record:

- Bear baiting does not represent a natural process and is therefore opposed and/or not practiced in many communities. Traditionally, elders tracked down and shot bears that came too close to villages.

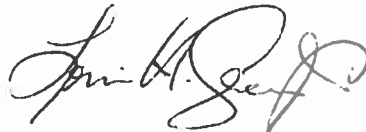
Herbert C. Frost

2

- The collection of antlers poses a problem for reindeer herders. People travel from different villages on four-wheelers or snowmachines and collect reindeer antlers to sell to handicraft vendors. Reindeer are private property, but that is not acknowledged by those who collect their antlers.
- The requirement to obtain written authorization from the Superintendent to collect non-edible materials from parklands hinders a long-standing customary and traditional practice. The NPS should consider providing a blanket authorization to tribes or to the Indian Reorganization Act (IRA) Council so all members would be approved under one permit.
- Alaska Natives have lived on these lands for thousands of years and should not be required to have written authorization to harvest any resources from their lands.
- NPS should reconsider the prohibition on the sale of raw materials collected from parklands. Antlers have been used for traditional carvings for thousands of years. These materials are a financial asset to villages where there is no cash economy.
- There is opposition to the capture and use of live falcon chicks.

Thank you once again for the opportunity to comment. Please contact Karen Deatherage, Council Coordinator, Office of Subsistence Management, at (907) 786-3564 or [karen\\_deatherage@fws.gov](mailto:karen_deatherage@fws.gov) with any questions.

Sincerely,



Louie Green, Jr.  
Chair

cc: Seward Peninsula Subsistence Regional Advisory Council  
Federal Subsistence Board  
Interagency Staff Committee  
Eugene R. Peltola, Jr., Assistant Regional Director, Office of Subsistence Management  
Stewart Cogswell, Acting Deputy Assistant Regional Director, Office of Subsistence Management  
Amee Howard, Policy Coordinator, Office of Subsistence Management  
Carl Johnson, Council Coordination Division Chief, Office of Subsistence Management  
Jill Klein, Special Assistant to the Commissioner, Alaska Department of Fish and Game  
Administrative Record

# Winter 2017 Regional Advisory Council Meeting Calendar

February-March 2017

Meeting dates and locations are subject to change.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Feb. 5	Feb. 6 <i>Window Opens</i>	Feb. 7	Feb. 8 <b>NS — Barrow</b>	Feb. 9	Feb. 10	Feb. 11
		<b>EI — Fairbanks</b>				
Feb. 12	Feb. 13	Feb. 14	Feb. 15 <b>YKD — Bethel</b>	Feb. 16	Feb. 17	Feb. 18
	<b>SC — Anchorage</b>					
Feb. 19	Feb. 20 <b>PRESIDENT'S DAY HOLIDAY</b>	Feb. 21 <b>WI — Fairbanks</b>	Feb. 22 <b>K/A — Kodiak</b>	Feb. 23	Feb. 24	Feb. 25
Feb. 26	Feb. 27	Feb. 28 <b>BB — Naknek</b>	Mar. 1 <b>NWA — Kotzebue</b>	Mar. 2	Mar. 3	Mar. 4
Mar. 5	Mar. 6 <b>SP — Nome</b>	Mar. 7	Mar. 8	Mar. 9	Mar. 10	Mar. 11
Mar. 12	Mar. 13	Mar. 14 <b>SE — Saxman</b>	Mar. 15	Mar. 16	Mar. 17 <i>Window Closes</i>	Mar. 18

# Fall 2017 Regional Advisory Council Meeting Calendar

August - November 2017

Meeting dates and locations are subject to change.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Aug. 20	Aug. 21 Window Opens	Aug. 22	Aug. 23	Aug. 24	Aug. 25	Aug. 26
Aug. 27	Aug. 28	Aug. 29	Aug. 30	Aug. 31	Sept. 1	Sept. 2
Sept. 3	Sept. 4 <b>LABOR DAY HOLIDAY</b>	Sept. 5	Sept. 6	Sept. 7	Sept. 8	Sept. 9
Sept. 10	Sept. 11	Sept. 12	Sept. 13	Sept. 14	Sept. 15	Sept. 16
Sept. 17	Sept. 18	Sept. 19 <b>KARAC - Cold Bay</b>	Sept. 20	Sept. 21	Sept. 22	Sept. 23
Sept. 24	Sept. 25	Sept. 26	Sept. 27	Sept. 28	Sept. 29	Sept. 30
Oct. 1	Oct. 2	Oct. 3	Oct. 4	Oct. 5	Oct. 6	Oct. 7
Oct. 8	Oct. 9 <b>COLUMBUS DAY HOLIDAY</b>	Oct. 10	Oct. 11	Oct. 12	Oct. 13	Oct. 14
Oct. 15	Oct. 16	Oct. 17	Oct. 18	Oct. 19	Oct. 20 <b>AFN - Anchorage</b>	Oct. 21
Oct. 22	Oct. 23	Oct. 24	Oct. 25	Oct. 26	Oct. 27	Oct. 28
Oct. 29	Oct. 30	Oct. 31	Nov. 1	Nov. 2	Nov. 3	Nov. 4
Nov. 5	Nov. 6	Nov. 7	Nov. 8	Nov. 9	Nov. 10 Window Closes <b>VETERANS DAY HOLIDAY</b>	Nov. 11

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