



SEWARD PENINSULA
SUBSISTENCE REGIONAL
ADVISORY COUNCIL
Meeting Materials

March 5-6, 2018
Nome



What's Inside

Page

- 1 Agenda
- 3 Roster
- 4 Draft Winter 2017 Council Meeting Minutes
- 14 How to Submit a Proposal to Change Federal Subsistence Regulations
- 17 How to Submit Proposals to Change Nonrural Determinations
- 19 Federal Subsistence Board Policy on Nonrural Determinations
- 40 National Park Service (NPS) Letter to the Council re Consultations on Potential Changes to NPS Regulations Published in October 2015 for Sport Hunting and Trapping in National Preserves in Alaska
- 42 NPS 36 CFR Part 13 Alaska; Hunting and Trapping in National Preserves – Regulatory Review (Nov. 15, 2017)
- 43 NPS 36 CFR Part 13 Alaska; Hunting and Trapping in National Preserves – Final Rule (Oct. 23, 2015)
- 63 Federal Subsistence Board Letter to Proponent of Emergency Special Action Request WSA17-06 and Enclosures
- 78 Fall 2018 Council Meeting Calendar
- 79 Winter 2019 Council Meeting Calendar
- 80 Region 7 – Seward Peninsula Map
- 81 Council Charter

On the cover...

The Bering Sea at Nome typically freezes up around November and breaks up sometime in May but this year there still was open water in mid-January



NPS photo

This page intentionally left blank

SEWARD PENINSULA SUBSISTENCE REGIONAL ADVISORY COUNCIL

Nome Mini Convention Center
Nome

March 5-6, 2018
9:00 a.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. Invocation**
- 2. Call to Order** (*Chair*)
- 3. Roll Call and Establish Quorum** (*Secretary*)..... 3
- 4. Welcome and Introductions** (*Chair*)
- 5. Review and Adopt Agenda*** (*Chair*) 1
- 6. Election of Officers***
 - Chair (*DFO*)
 - Vice-Chair (*New Chair*)
 - Secretary (*New Chair*)
- 7. Review and Approve Previous Meeting Minutes*** (*Chair*) 4
- 8. Reports**
 - Council Member Reports
 - Chair’s Report
- 9. Public and Tribal Comment on Non-Agenda Items** (available each morning)

10. New Business (Chair)

- a. Call for Federal Fisheries Proposals (OSM) 14
- b. Fisheries Resource Monitoring Program Updates and Discussion (OSM).....Supplemental
- c. Call for Nonrural Determination Proposals (OSM) 17
- d. Approve FY2017 Draft Annual Report* (DFO)Supplemental

12. Agency Reports

(Time limit of 15 minutes unless approved in advance)

- Tribal Governments
- Native Organizations
- NPS
- BLM
- ADF&G
- OSM

12. Future Meeting Dates*

- Confirm Fall 2018 meeting date and location78
- Select Winter 2019 meeting date and location79

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 February 26, 2018.

REGION 7
Seward Peninsula Subsistence Regional Advisory Council

Seat	Year Appointed <i>Term Expires</i>	Member Name and Community
1	1993 2018	Theodore Katcheak Stebbins
2	2016 2019	Brandon D. Ahmasuk Nome Secretary
3	2010 2019	Louis H. Green, Jr. Nome Chair
4	2003 2019	Tom L. Gray Nome
5	2017 2020	Deahl Katchatag Unalakleet
6	2016 2020	Leland H. Oyoumick Unalakleet
7	2008 2020	Fred D. Eningowuk Shishmaref Vice-Chair
8	1994 2018	Elmer K. Seetot Jr. Brevig Mission
9	2012 2018	Charles F. Saccheus Elim
10	2015 2018	Ronald D. Kirk Stebbins

SEWARD PENINSULA SUBSISTENCE REGIONAL ADVISORY COUNCIL

October 24-25, 2017

Nome, Alaska

Meeting Minutes

Meeting called to order at 9:08 a.m.

Roll call

A quorum was established with the following Council members present or teleconferencing: Fred Eningowuk (acting Chair), Brandon Ahmasuk, Elmer Seetot, Jr., Charles Saccheus, Ronald Kirk, Tom Gray, Leland Oyoumick. Via telephone: Louis Green, Jr. Absent: Ted Katcheak (*excused*)

Welcome and Introductions

Agency Staff/Public in Attendance

Karen Deatherage, Office of Subsistence Management (OSM), Anchorage
Carl Johnson, OSM, Anchorage
Robbin La Vine, OSM, Anchorage
Gene Peltola, OSM, Anchorage
Suzanne Worker, OSM, Anchorage
Glenn Chen, Bureau of Indian Affairs (BIA), Anchorage
Rosalie Debenham, BIA, Juneau
Jeanette Koelsch, National Park Service (NPS), Nome
Ken Adkisson, NPS, Nome
Nicole Braem, NPS, Nome
Walker Gusse, Law Enforcement, Bureau of Land Management (BLM), Kotzebue/Nome
Bill Dunker, Alaska Department of Fish and Game (ADF&G), Nome
Letty Hughes, ADF&G, Kotzebue
Beth Mikow, ADF&G, Fairbanks
Roy Ashenfelter, Kawerak, Nome
James Mason, Nome Nugget News

Telephone

Mark Burch, ADF&G, Palmer
Carol Damburg, U.S. Fish and Wildlife Service (FWS), Anchorage
Dan Sharp, BLM, Anchorage
Phillip Perry, ADF&G, Bethel
Tony Gorn, ADF&G, Kotzebue

Review and Adopt Agenda

Seetot moved to approve the agenda. Seconded by Gray. Deatherage asked if the Council wished to add participation on the Northern Caribou Working Group to the agenda under New

Business, and Johnson outlined the group's purpose. Kirk moved to approve the agenda as amended. Seconded by Gray and carried unanimously.

Review and Approve Previous Meeting Minutes

Seetot moved to approve the minutes, seconded by Oyoumick and carried unanimously.

Council Member Reports

Gray – The weather has been up and down with beluga hunting up until November last year and this year. Caribou were a struggle to get last year and late coming in this year with poor weather conditions. The moose hunt was just 5-7 days with success only by those who have equipment and technology. It is necessary to carry a satellite phone or use Inreach to report harvesting, which some people can't afford. Regulations, schedules and weather are all changing, and we have to adapt to that process.

Saccheus – There are hardly any moose in our area east of the Darby's. There are plenty of bears. We are still eating caribou from last year and a hunt this year is unlikely because the rivers are still open. Beluga hunting is normal. We have 6 stocks of beluga in Alaska, with the biggest in eastern Norton Sound and the smallest in Cook Inlet. There were 60,000 beluga from Cape Darby to north of the Yukon River intercepting salmon. Beluga dive, pick salmon up, hit them and they go belly up making them easier to eat. Global warming has an effect on sea mammals as we are seeing bowhead whales in January with belugas following them because they cut up the ice. They all feed on little shrimps and silver salmon. There weren't many moose this year, probably because of too much snow and the bears. I can go down to our native store and buy reindeer meat. Climate change is not a hoax. I'm almost 80 and I know the difference. Hopefully we'll get caribou, thank you.

Kirk – Moose hunting in the area was not good. If we don't get rain we can't travel through the drainages. A lot of people from Stebbins went to the Yukon River to hunt moose. A young beluga washed up on our shore but we were unable to get a hold of NMFS. Climate change is impacting our whitefish harvest because we can't set nets.

Oyoumick – Not many moose in our area with hunters getting only 24 of the 34 quota. Not many King salmon and biologists are trying to figure out why. We would like to keep the Unalakleet weir funded so we can figure out why we don't have enough King salmon. As kids, we set nets up at the house and got 30-50 Kings. Now it's different. There are lots of humpies and silvers. Oogruk hunting was like a contest with weather conditions, with only a few days to go hunting. On nice days there were more boats than animals. We don't get caribou in our area, which is much different than it used to be. There were lots of trout last spring, and a lot of bear.

Seetot – Weather is still a big factor in and around our harvest area with cool and wet summers. We had an abundant red salmon run this past summer. I'll oppose commercial fishing for red salmon because when you have something commercial, then you argue and in TEK that means that the animals won't be there for you. We went caribou hunting in late March around Air

Mountain and Serpentine Hot Springs. There was a lot of wolf activity in our area going after reindeer. We are on the forefront of climate change.

Eningowuk – We had a decent spring hunt. Because of climate change we have to get ready a month early, in April vs. May. We got oogrucks but no walrus. Starting in August we had walrus washing up on beach, 36 walrus with tusks and no bullet holes. Something is killing them. There is no funding to do studies on them. We had a good year for red salmon. We are blessed with caribou where we can get them all year around, starting three years ago. Our elders said our caribou would come back, and they were accurate. We don't try to get more than what we need. It was a good season for salmonberries but not blackberries. There are too many bears and too many muskox. We never grew up with muskox and have heard lots complaints from the village.

Ahmasuk – Last spring there were quite a few dead birds washing up on St. Lawrence, Nome, and Stebbins. Tests showed the birds were emaciated. More recent bird tested positive for PSP shellfish poisoning. Walrus are also washing up dead. We have the right to know what's going on with our resources. We asked Norton Sound if they will test, but they were afraid to cause a scare. Climate change is a factor. Whales have washed up and tested positive for PSP. Why aren't the managers of the resource testing the waters and shellfish? We have no complaints about salmon or moose. Thirty-six walrus washed up and the Coast Guard in Kotzebue allowed individuals to get samples for testing.

New Business

a) 2018-2020 Wildlife Proposals.

WP18-37. Worker presented WP18-37 requesting to rescind the Federal public lands moose hunting closure for moose in Unit 22A remainder. This proposal continues the wildlife special action 17-01 request put forth at the winter, 2017 meeting and rejected by the Federal Subsistence Board in April. Little is known about the moose population in this area, which is assumed to be at low density. OSM supports the proposal with modification to open up the lands to all resident hunters in Unit 22, representing a step-wise approach to liberalizing the hunting in this area. Gray received confirmation that the OSM recommendation would not accommodate guides as requested by the proponent, and stated his opposition due to the lack of data. Oyoumick expressed concerns about non-resident hunters intercepting moose before they get to the village. Kirk recognized it was good that guides brought moose to the village but it was not processed well. Dunker remarked that ADF&G was neutral on the proposal and that State lands were currently open to non-local and non-resident hunters. Worker stated that Kronenberger, the hunting guide, was limited to 6 moose a year on State lands which would increase to 8 next year.

Gray moved to adopt WP18-37 with OSM's modification, seconded by Kirk and carried.

WP18-38. Worker presented WP18-38 requesting to rescind the Federal public lands closure for moose hunting in the portion of Unit 22A north of and including the Tagoomenik and Shaktoolik river drainages to allow for a non-resident moose season. This hunt is currently restricted to residents of Unit 22A. Gray shared concerns regarding moose populations and inquired as to whether tribes were consulted. Johnson explained the tribal and ANCSA consultation process

and current low level of involvement. Dunker stated that a moose survey is expected in the spring in the central portion of Unit 22A, with expectations that the moose population has increased.

Gray moved to adopt WP18-38, seconded by Kirk and failed on a unanimous vote.

WP18-39. Worker presented WP18-39 requesting that the harvest limit for brown bears in Unit 22B be increased from one to two bears. This would align harvest limits with state regulations. Gray moved to support WP18-39, seconded by Ahmasuk. Gray shared his concern over the lack of lone bears and believes there is a change in population. He still plans on supporting the proposal, however, to simplify regulations. Seetot remarked on problem bears and harvest increases in Teller. Oyoumick mentioned the high number of bears on the Unalakleet River and coasts of St. Michael and Stebbins. Ahmasuk inquired about the impacts of liberalized State harvests. Hughes responded that it was too early to determine because the regulation was just adopted and the season is currently ongoing. Hughes further replied that there is a 2 bear per year harvest in Unit 22A, with a lot of harvest by non-residents.

Gray moved to adopt WP18-39, seconded by Ahmasuk and carried unanimously.

WP18-40. Worker presented WP18-40 requesting that the Unit 22C brown bear harvest season be extended from May 10 to May 25 to a longer season that runs from April 1 to May 31. This would align Federal seasons with the newly adopted State season. Worker explained that harvests in Unit 22C have increased notably due to liberalized State regulations. There is very little Federal land in Unit 22C so harvests are expected to be negligible.

Gray moved to adopt WP18-40, seconded by Ahmasuk. Ahmasuk remarked that this proposal would align State and Federal regulations and provide better access for spring hunters. Other members were concerned about regulatory confusion as well as the impacts of climate change (earlier springs) on seasons. The motion carried unanimously.

Crossover Proposals

WP18-31. Worker presented WP18-31 which requests that the season for the Mulchatna Caribou Herd be reduced by 15 days. The proposal was put forth due to conservation concerns. Worker explained that this proposal would likely have little impact on the caribou population or subsistence users because hunters could use a State permit. As a result OSM opposes this proposal. Gray inquired about the current population and Worker responded that the population was ranging between 26k and 31k animals at the low end of the population objective. However, the bull/cow ratio appears to be healthy so good recruitment is anticipated. Dunker remarked that ADF&G opposes this proposal because it would misalign State and Federal seasons without providing a benefit to the population.

Kirk moved to adopt WP18-31, seconded by Brandon and failed on a unanimous vote.

WP18-32. Worker presented WP18-32 which requested alignment of Federal caribou seasons in Unit 21D, 22, 23, 24, 25A (West), 26A and 26B. The proponent suggests that this alignment

will prevent deflection of lead cows and protect bulls during the rut. OSM believes these changes would reduce Federal subsistence opportunity and would not contribute to the conservation of cows due to State regulations. As a result, OSM opposes this proposal.

Gray responded that it was unfair for the WIRAC to dictate seasons for Unit 22 as they are vastly different than other regions. ADF&G opposes this proposal because it does not consider individual herd dynamics or local harvest patterns. Ashenfelter spoke on his own behalf, opposing the proposal because it does not apply to Unit 22 in terms of migration. Eningowuk concurred and spoke regarding a resident caribou herd in 22E that does not migrate. Gray moved to adopt WP18-32, seconded by Ahmasuk and failed on a unanimous vote.

WP18-45. Worker presented WP18-45 which requests that the harvest limit for caribou in Unit 23 be reduced from 5 to 3 per day. This proposal would place more restrictions on Federal versus State hunters and potentially make hunting more expensive and less efficient without contributing to conservation of the Western Arctic Caribou Herd. The harvest limit was recently reduced from 15 to 5 caribou per day but there has not been time to understand the impacts of this reduction. As a result, OSM opposes this proposal. Dunker reported that ADF&G has seen positive indicators from the Western Arctic Caribou Herd (WACH) that are encouraging for productivity, and believes this proposal may result in less efficient hunting practices.

Green moved to adopt WP18-45, seconded by Kirk. Council members had mixed feelings on whether to Take No Action or take a position on this proposal. Some Council members were uncomfortable making decisions for other regions. Others felt that the region should take a stronger position against the proposal because the WACH is one herd that many regions are dependent upon. Ahmasuk remarked that users should wait to see the impacts of several new regulations already put in place to preserve the herd. Gray mentioned that the WACH Working Group was aggressively acting on conservation concerns though Green stated that the Council does not receive reports on these activities. The motion failed, 1 to 7.

WP18-46 and WP18-47. Worker presented WP18-46 submitted by WACH Working Group to prohibit caribou hunting in Unit 23 except by Federally Qualified Subsistence Users (FQU). WP18-47 submitted by Enoch Mitchell requested the same for the period 2019-2020 only. OSM's preliminary conclusion is to support WP18-46 with modification to close select Federal lands in Unit 23 except by FQU's and to Take No Action on WP18-47. Worker outlined the history of wildlife special actions to close caribou hunting to non FQU's in Unit 23, including Board approved WSA17-03 which requests closures for specific Federal lands for the 2017/2018 season.

Several Council members expressed concerns about non-resident and non-local hunters being pushed into Unit 22. Dunker said ADF&G does not have specific numbers and that the non-resident season in 22E occurs when the bulk of the caribou are not present in the area. He also remarked that no data were available to confirm non-locals from Anchorage and Fairbanks were being pushed into Unit 22. Seetot recalled that the issue was about hunters on the north side of the Noatak River altering migratory patterns. Dunker stated that ADF&G opposed the proposal as written because it would not improve status of the caribou or subsistence opportunity.

Ashenfelter testified on his own behalf supporting the compromise between the State and Federal agencies to target specific area closures as stipulated in the OSM recommended modification. He also believed more data are needed to understand the impacts of current restrictions and issues. Adkisson testified on his own behalf supporting the reduced closure area found in WSA17-03.

Gray expressed his concern over the lack of adherence to the WACH working group guidelines. Kirk moved to adopt WP17-46 and Take No Action on WP17-47. Seconded by Green. Gray and Green wanted to let current new regulations stand to see the impacts.

Gray proposed to amend WP17-46 with the OSM modification, seconded by Green. Green moved to adopt WP17-46 as amended and Take No Action on WP18-47. The motion was seconded by Seetot and carried unanimously.

WP18-48/49. Worker presented WP18-48 and WP18-49 requesting that reporting requirements for Federal caribou hunts in Units 22, 23 and 26A be aligned with State's registration permit requirements. The OSM preliminary recommendation is to support WP18-48 and Take No Action on WP18-49. Gray asked who would manage the registration permit. Worker confirmed the permit would be valid on State and Federal land and Dunker stated that ADF&G would be doing education and outreach.

Green moved to adopted WP18-49 and Take No Action on WP18-49. Seconded by Kirk and carried unanimously.

WP18-51. Worker presented WP18-51 requesting that Federal regulations be aligned with State regulations to allow for the use of biodegradable (non-natural) materials to bait bears. Worker noted that in 2015 the NPS prohibited bear baiting on park lands and in 2017 prohibited non-natural bait. Hughes confirmed that there is no bear baiting in Unit 22. Gray expressed concern over adopting regulations that are not applicable to Unit 22. Green moved to adopt WP18-51. Seconded by Kirk and carried unanimously.

b) Fisheries Resource Monitoring Program (FRMP)

La Vine introduced the FRMP and current proposed projects. Oyoumick shared his experience visiting the Unalakleet weir and the value of having a count and learning that fish are not handled. Gray stated some areas are deprived because they don't qualify under the program. He complimented the agencies on red salmon management in the region. Green agreed with Gray and expressed frustration over a lack of research on fish migrating from Federal to state waters. Oyoumick expressed concerns over King salmon bycatch. Kirk asked about setting up a weir in the Pikitalik River. Seetot shared concerns over walrus washing up, algae in rivers, discharge from boats, and fish waste.

Ashenfelter asked for reports on all studies from the region, including instream studies for Chums, reds and Kings. He wants results from open ocean fisheries studies that are currently not shared. Ashenfelter is worried about a Tier II fishery in the region and questions why there is no interception fishery in Stebbins.

c) Identify Issues for FY2017 Annual Report

The Council reviewed the FY 2016 report and still had concerns about the lack of fisheries representatives at the Council meetings and suggested a letter to ADF&G Commissioner Sam Cotton. Oyoumick was interested in reports from the North Pacific Fisheries Council. Johnson suggested a letter to the NPFPC requesting a report on bycatch and inclusion of the issue in the Annual Report asking the Board for assistance. Green asked for a migratory study on salmon throughout Norton Sound. Other concerns were the seabird die-off and PSP poisoning.

d) Northern Caribou Working Group Approval

Johnson explained that the goal of a Northern Caribou Working group would be to have discussions between Councils to facilitate more coordination and consistency between the regions. He clarified that this group would not replace or modify the current WACH Working Group. The North Slope and Western Arctic Councils have agreed to serve. Northwest Arctic will take action this week. The meetings will be held as needed and would be teleconferenced. Green moved to participate, seconded by Gray. Gray asked if the Council working group would work directly with the Board. Johnson stated they would only work with the Councils. Eningowuk mentioned that this would help Councils get feedback from each other to make better decisions. Johnson confirmed to Gray that staff support to the working group would be available.

Ashenfelter shared concerns over another working group and the potential for more disagreement. He stated that the WACH Working Group is intended to include Federal, State, tribal, transporters, and guides to include as many voices as possible. He would like to see any Council working group be on a trial basis.

Gray moved to participate in the Northern Caribou Working Group, seconded by Green and carried unanimously. Gray moved to appoint Green, Eningowuk and Ahmasuk to the Northern Caribou Working Group. Seconded by Green and carried unanimously.

Agency Reports

Bureau of Indian Affairs – Seward Peninsula Reindeer

Debenham presented the Bureau of Indian Affairs (BIA) funded reindeer research projects, including a Nome Eskimo Reindeer Youth Camp for ages 9-18. Kawerak Corporation was awarded a grant to update the reindeer industry revitalization strategic plan to address issues such as new markets and climate change. BIA also awarded Tanana Chiefs Conference money for workshops this winter and spring. Reindeer are held in trust by BIA at the University of Fairbanks for the benefit of tribes. BIA is working with the Alaska Reindeer Council to identify potential buyers. BIA will be sending out requests for proposals for future grants to tribes for reindeer and invasive species shortly. Next summer, there are plans to have two BIA-sponsored College interns in the Seward Peninsula to work with herders. Debenham shared the Davis Reindeer Ranch Film highlighting the youth camp.

Gray asked how to get funding for fisheries projects on State lands for Federally qualified users? Debenham explained that current funding was directed for tribal and Native owned lands or hatcheries. Debenham stated it would be good to have conversations with BIA to expand funding opportunities, including grants for migratory fish studies in Norton Sound. Kirk inquired about a reindeer slaughter facility plant in Stebbins. Debenham answered that technical requests of that nature are generally handled by the US Department of Agriculture, though BIA would assist with the funding request. Eningowuk would like to see funding for climate related resiliency projects. Green inquired about the current reindeer herd population and any impacts from predation. Debenham responded that populations were privately reported, but estimates show 30-35k animals. She also stated that predation was a factor on calf mortality in the spring.

Service award

Peltola presented Charles Saccheus with a five-year service award for participation on the Seward Peninsula Subsistence Regional Advisory Council.

Agency Reports continued ...

National Park Service/Bering Land Bridge National Preserve

Adkisson and Koelsch presented updates on park activities including staffing and organization. Bering Land Bridge has split from the Western Arctic Park Lands group and will hire its own biologist. Adkisson is now the Integrated Resource Manager for just the Preserve. Koelsch indicated there will be more emphasis on TEK and local input into projects for research, with a focus on coastal fisheries and marine mammals. Partnerships with the Eskimo Whalers, USFWS, NOAA and Kawerak will be sought, particularly for climate change issues. Adkisson discussed the ongoing work with ADF&G to fund muskox population and composition research as well as moose projects. Ahmasuk asked about continued funding for bear research. Adkisson explained that bear research was difficult and expensive but would be conducted through the NPS Arctic Network in Anchorage once every 5-6 years. Oyoumick inquired about bear surveys in Unalakleet. Adkisson responded that such surveys would be conducted by BLM or ADF&G. Eningowuk inquired about the shelter cabin in Kupik Lagoon. Koelsch responded that Kawerak was given the funding and planning is underway to build sometime this winter into late spring. Council members talked to park representatives about the impacts of climate change.

Alaska Department of Fish and Game

Dunker reported that Carmen Dagget was hired as the new biologist in Kotzebue. ADF&G also hired Warren Hanson as a biologist in the Nome office to work on moose in Units 22 and 23. Additional positions for research on moose and muskox are also being pursued. Recent muskox surveys show modest local growth to 473 animals. The next survey will be in the spring of 2019. Range-wide composition surveys show 1,271 animals with a bull/cow ratio of 36/100 and good productivity. ADF&G regional staff completed a WACH photo census this summer, implementing new technology with high resolution. Estimates should be available for the upcoming WACH working group meeting in December. Tier II outreach will occur for muskox permits. There is a new 3-year project for short yearlings to evaluate winter weight and

nutritional status. ADF&G is continuing to work with NPS for a spring 2018 moose survey in Units 22D and 22E. Hughes explained that a winter hunt will be announced and that Unalakleet did not meet its quota by 6-7 animals. There is no harvest information for bears yet after new State regulations. Gray expressed concerns over lack of single bears and urged composition surveys. Dunker affirmed that the muskox herd is relatively stable, with a harvestable surplus of 33 bull muskox. Green asked when moose would go to a Tier I hunt. Hughes explained that the State's Amount Necessary For Subsistence in Unit 22 was 250-300 animals, and the harvestable surplus is at 315 this year. Tier I would occur when the harvestable surplus is below 250 animals. Hughes stated the brown bear management object was a harvest of 50% or more males. Due to the increase from 1 to 2 bears annually, ADF&G is seeing an increase in harvest and will watch this closely. Kirk questioned the Unalakleet antlered moose quota. Hughes explained that the moose hunt in 22A was for Alaska residents only with registration in Unalakleet. Since 2008, there have been very few non-locals hunting.

Mikow presented the households surveys for subsistence from Brevig Mission, Teller and White Mountain. Mikow provided a slide handout that cites data from the 2015-2016 study. No guided hunt harvests were included. Seetot mentioned that disturbance by guided hunters diverts caribou.

Office of Subsistence Management

Johnson updated the Council on staffing changes. Peltola reported on the current Continuing Resolution, and the 15% proposed cut to Department of the Interior in the President's budget. The Congress budget does not cut as much. There is 9 million plus in the budget for OSM, which would be in line with the budgets over the past couple years. If there are substantial cuts, OSM would consult with the Councils to minimize the impacts. Johnson stressed the importance of Annual Reports to the Board as a record of Council needs.

Future Meeting Dates

The Council confirmed its Winter 2018 meeting dates of March 5-6, 2018 in Nome. Green moved to hold the Fall, 2018 meeting October 23-24 in Nome. Seconded by Gray and carried unanimously.

Closing Comments

Gray, Ahmasuk, Saccheus, Green, and Kirk remarked that it was a great meeting and thanked Eningowuk for chairing. Saccheus thanked everyone for the service award. Oyoumick asked to have information at next meeting on high seas Chinook Salmon. Green thanked staff and the public for their participation. Seetot remarked that he may not reapply for Council membership. He enjoys being in the village versus traveling to meetings.

Adjourn

Kirk moved to adjourn the meeting, seconded by Green and carried unanimously.

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

October 25, 2017

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

/s/
Fred Eningowuk, Acting Chair
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.

DRAFT



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: Regulatory Affairs Division Chief
(907) 786-3888 or (800) 478-1456
subsistence@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.

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:

1. Connect to 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.”

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. Additional information on the Federal Subsistence Management Program may be found on the web at www.doi.gov/subsistence/index.cfm or by visiting 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: Anthropology Division Supervisor
(907) 786-3888 or (800) 478-1456
subsistence@fws.gov

How to Submit Proposals to Change Nonrural Determinations

A call for proposals to make or rescind nonrural determinations of communities or areas is issued in January every four years beginning in January 2018. Nonrural determinations are for the purpose of identifying rural residents who may harvest fish and wildlife for subsistence uses on Federal public lands in Alaska. The period during which proposals are accepted is no less than 30 calendar days. Proposals must be submitted in writing within this timeframe.

Your proposal must contain:

1. Your full name and mailing address (address, phone, fax, or E-mail address);
2. A statement describing the proposed nonrural determination action requested;
3. A detailed description of the community or area under consideration, including any current boundaries, borders, or distinguishing landmarks, so as to identify which Alaska residents would be affected by the change in rural or nonrural status;
4. Rationale and supporting evidence (law, policy, factors, or guidance) for the Federal Subsistence Board to consider in determining the rural or nonrural status of a community or area;
5. A detailed statement of the facts that illustrate that the community or area is rural or nonrural using the rationale and supporting evidence stated above; and
6. Any additional information supporting the proposed change.

Proposals that fail to include the above information, or proposals that are beyond the scope of authorities in 50 CFR 100.15 and 36 CFR 242.15 (the regulations on nonrural determinations) will be rejected. You may request maps delineating the boundaries of nonrural areas, proposal processing timeline, and/or additional information from the Office of Subsistence Management address below or by calling (800) 478-1456 / (907) 786-3888 or by going to <https://www.doi.gov/subsistence/library/policies> or <https://edit.doi.gov/subsistence/maps>.

You may submit your proposals by:

1. Mail or hand delivery to:
Federal Subsistence Board
Office of Subsistence Management
Attn: Regulations Specialist
1011 E. Tudor Rd., MS-121
Anchorage, Alaska 99503

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 #1381222017.

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.ofraccess.gov/fr/index.html>. All proposals and comments, including personal information, are posted on the Web at <http://www.regulations.gov>.

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. Additional information on the Federal Subsistence Management Program may be found on the web at www.doi.gov/subsistence/index.cfm or by visiting www.facebook.com/subsistencealaska.

POLICY ON NONRURAL DETERMINATIONS

FEDERAL SUBSISTENCE BOARD

Adopted January 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 rescinding nonrural determinations of communities or areas 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 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 ANILCA Section 801 and rural determinations were 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 for 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 (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 rural determination criteria from regulation and allows 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 final rule allowed the Board to 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 that predated the 2007 Final Rule (72 FR 25688; May 7, 2007).

As of November 4, 2015, the Board determined in accordance with 36 CFR 242.15 and 50 CFR 100.15 that the following communities or Census-designated Places (CDPs)¹ are 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/Palmer area – including Wasilla, Palmer, Sutton, Big Lake, Houston, and Bodenber

¹ Census Designated Place (CDP) is defined by the Federal Census Bureau as the statistical counterpart of incorporated places, delineated to provide data for settled concentrations of populations identifiable by name but not legally incorporated under the laws of the state in which they are located. CDPs are delineated cooperatively by state and local officials and the Census Bureau, following Census Bureau guidelines.

Butte (36 CFR 242.23 and 50 CFR 100.23). All other communities and areas in Alaska are, therefore, rural.

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

In accordance with the Administrative Procedures Act (APA), Federal rulemaking undertaken by the Federal Subsistence Management Program requires that any individual, organization, or community be given the opportunity to submit proposals to change Federal regulations. The Board will only address changes to the nonrural status of communities or areas when requested in a proposal. This policy describes the Board's administrative process for addressing proposals to change the nonrural status of a community or area by outlining proposal requirements and submission, identifying a process schedule and general process timeline, and outlining Board decision making when acting on such proposals.

SECTION A: Submitting a Proposal

Proponents must submit a written proposal in accordance with the guidance provided in the same Federal Register notice that includes a call for proposals to revise subsistence taking of fish and shellfish regulations and nonrural determinations. This notice is published in even-numbered years. Proposals to revise nonrural determinations will be accepted every other fish and shellfish regulatory cycle, starting in 2018.

SECTION B: Requirements for Proposals

Making a Nonrural Determination

Proposals can be submitted to the Board to make 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. Proposals seeking a nonrural determination must also include the basic requirements and meet the threshold requirements outlined below.

Basic Requirements

All proposals must contain the following information:

- Full name and mailing address of the proponent;
- A statement describing the proposed nonrural determination action requested;
- A detailed description of the community or area under consideration, including any current boundaries, borders, or distinguishing landmarks, so as to identify which Alaska residents would be affected by the change in nonrural status;

- Rationale and supporting evidence (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 or rural using the rationale and supporting evidence stated above; and
- Any additional information supporting the proposed change.

Threshold Requirements

In addition to the basic requirements outlined above, the following threshold requirements apply. The Board shall only accept a proposal to designate a community or area as nonrural, if the Board determines the proposal meets the following threshold requirements:

- The proposal is based upon information not previously considered by the Board;
- The proposal provides substantive rationale and supporting evidence for determining the nonrural status of a community or area that takes into consideration the unique qualities of the region; and
- The proposal provides substantive information that supports the proponent's rationale that a community or area is nonrural.

The Board shall carefully weigh the initial recommendation from the affected Regional Advisory Council(s) when determining whether the proposal satisfies the threshold requirements outlined above. If the Board determines the proposal does not satisfy the threshold requirements, the proponent will be notified in writing. If it is determined the proposal does meet the threshold, it shall be considered in accordance with the process schedule and timeline set forth below.

Limitation on Submission of Proposals Seeking Nonrural Determinations

The Board is aware of the burden placed on rural communities and areas in defending their rural status. If the rural status of a community or area is maintained after a proposal to change its status to nonrural is rejected, then no proposals to change the rural status of that community or area shall be accepted until the next proposal cycle. If a new proposal is submitted during the next proposal cycle, then it must address a demonstrated change that was not previously considered by the Board. Additionally, the following considerations apply to resubmitting proposals to change a community's status from rural to nonrural:

- Whether or not there has been a "demonstrated change" to the rural identity of a community or area is the burden of the proponent to illustrate by a preponderance of the evidence;
- Many characteristics, individually or in combination, may constitute a "demonstrated change" including, but not limited to, changes in population size and density, economic indicators, military presence, industrial facilities, use of fish and wildlife, or degree of remoteness and isolation; and

- The Board’s most recent decision on the nonrural status of a community or area will be the baseline for any future proposals for that community or area, thus, a “demonstrated change”, as referred to in this portion of the process, must occur after the Board’s most recent decision.

Rescinding a Nonrural Determination

For proposals seeking to have the Board rescind a nonrural determination, it is the proponent’s responsibility to provide the Board with substantive narrative evidence to support their rationale of why the nonrural determination should be rescinded. Proposals seeking to have the Board rescind a nonrural determination must also include the basic requirements and meet the threshold requirements outlined below.

Basic Requirements

All proposals must contain the following information:

- Full name and mailing address of the proponent;
- A statement describing the proposed nonrural determination action requested;
- A description of the community or area considered as 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 and supporting evidence (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 rural using the rationale stated above; and
- Any additional information supporting the proposed change.

Threshold Requirements

In addition to the baseline information outlined above, the following threshold requirements apply. The Board shall only accept a proposal to rescind a nonrural determination, if the Board determines the proposal meets the following threshold requirements:

- The proposal is based upon information not previously considered by the Board;
- The proposal demonstrates that the information used and interpreted by the Board in designating the community as nonrural has changed since the original determination was made;
- The proposal provides substantive rationale and supporting evidence for determining the nonrural status of a community or area that takes into consideration the unique qualities of the region; and
- The proposal provides substantive information that supports the provided rationale that a community or area is rural instead of nonrural.

The Board shall determine whether the proposal satisfies the threshold requirements outlined above after considering the recommendation(s) from the affected Regional Advisory Council(s). If the Board determines the proposal does not satisfy the threshold

requirements, the proponent will be notified in writing. If it is determined the proposal does meet the threshold, it shall be considered in accordance with the process schedule and timeline set forth below.

SECTION C: Decision Making

The Board will 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. 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.

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

- Proceed on a case-by-case basis to address each proposal regarding nonrural determinations;
- Base its decision on nonrural status for a community or area on information of a reasonable and defensible nature contained within the administrative record;
- Make nonrural determinations based on a comprehensive application of evidence and considerations presented in the proposal that have been verified by the Board as accurate;
- Rely heavily on the recommendations from the affected Regional Advisory Council(s);
- Consider comments from government-to-government consultation with affected tribes;
- Consider comments from the public;
- Consider comments from the State of Alaska;
- Engage in consultation with affected ANCSA corporations;
- Have the discretion to clarify the geographical extent of the area relevant to the nonrural determination; and
- Implement a final decision on a nonrural determination in compliance with the APA.

Regional Advisory Council Recommendations

The Board intends to rely heavily on the recommendations of the Councils and recognizes that Council input will be critical in addressing regional differences in the nonrural determination process. 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 community or region.

SECTION D: 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 tribal and ANCSA corporation consultation and public comment, the Board will only accept nonrural determination proposals every other year in even-numbered years 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 creates a three-year period for proposal submission, review, analysis, Regional Advisory Council input, tribal and ANCSA corporation consultation, public comment, and Board deliberation and decision.

SECTION E: General Process Timeline

Outlined in Table 1 and Table 2

Table 1. General Process Timeline

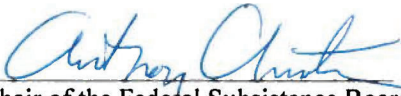
- 1. January to March (Even Year)** – A proposed rule is published in the Federal Register with the call for proposals to revise subsistence taking of fish and shellfish regulations and nonrural determinations.
- 2. April to July (Even Year)** – Staff will verify that proposals include the basic requirements and can be legally addressed by the Federal Subsistence Program. If the proposal is incomplete or cannot be addressed by the Federal Subsistence Program, the proponent will be notified in writing. Additionally for verified proposals, tribal consultation and ANCSA corporation consultation opportunities will be provided during this time.
- 3. August to November (Even Year)** –Affected Regional Advisory Council(s) reviews the verified proposals and provides a preliminary recommendation for the Board. The Council preliminary recommendation may include: relevant regional characteristics; whether or not the Council supports the proposal; and if, in the Council’s opinion, the proposal meets the threshold requirements with justification. This action shall occur at the affected Council’s fall meeting on the record.
- 4. November to December (Even Year)** – The Interagency Staff Committee (ISC) shall provide comments on each verified proposal. Staff shall organize nonrural determination proposal presentations that include the original proposal, the Council preliminary recommendation, tribal and ANCSA consultation comments, and the ISC comments.
- 5. January (Odd Year)** – At the Board’s public meeting, Staff will present the proposals, and the Board will determine if the threshold requirements have been met. If the Board determines the proposal does not satisfy the threshold requirements, the proponent will be notified in writing. If it is determined the proposal does meet the threshold requirements, the Board will direct staff to prepare a full analysis according to established guidelines and address the proposal in accordance with the process schedule and timeline set forth below.
- 6. February (Odd Year) to July (Even Year) (18 months)** – For proposals determined to satisfy the threshold requirements, the Board will conduct public hearings in the communities that may be affected should the proposal be adopted by the Board. During this time period, independent of the fall Council meetings, interested tribes may request formal government-to-government consultation and ANCSA corporations may also request consultation on the nonrural determination proposals.
- 7. August to November (Even Year)** –The Council(s) shall provide recommendations at their fall meetings and the ISC shall provide comments on the draft nonrural determination analyses.
- 8. November to December (Even Year)** – Staff incorporates Council recommendations and ISC comments into the draft nonrural determination analyses for the Board.
- 9. January (Odd Year)** – At the Board’s Fisheries Regulatory meeting, staff present the nonrural determination analyses to the Board. The Board adopts, adopts with modification, or rejects the proposals regarding nonrural determinations.

Table 2. General Process Timeline Comparison with other Cycles

Wildlife & FRMP Cycle	Fishery Cycle	Dates	Board or Activity	Proposed Nonrural Determination Cycle		
		Council Cycle		Even Years	Odd Years	
Wildlife & FRMP Review Cycle	Fishery Review Cycle	January	Board FRMP Work Session	1	Nonrural Proposed Rule	
		February March	Fishery Proposed Rule Jan- Mar			
		April July	Board Meeting	2		Proposal verification, Tribal and ANCSA consultation
		August September October November	Fishery Proposal Review			3
		December		4		
		January	Board Meeting	5		Odd Years - Board determines which proposals meet the threshold requirements
	Wildlife Review Cycle	Fishery Review Cycle	February March	Wildlife Proposed Rule Jan - Mar	6	Odd to Even Years (18 months) - Public Hearings, government-government consultation with the tribes, ANCSA Corporation Consultation, and writing of Nonrural Determination Analyses for proposals that meet the threshold requirements as determined by the Board
			April July			
			August September October November	Wildlife Proposal & FRMP Project Review		
		December				
		January	Board FRMP Work Session			
		February March	Fishery Proposed Rule Jan- Mar			
Fishery Review Cycle	Fishery Review Cycle	April July	Board Meeting	7	Even Years Analysis Review	
		August September October November	Fishery Proposal Review			
		December		8		Finalize Nonrural Determination Analyses
	January	Board Meeting	9	Odd Years – Final Board Decision		

SIGNATORIES

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


Chair of the Federal Subsistence Board

Date: 11-12-17


Regional Director
U.S. Fish and Wildlife Service
Date: 11/12/17

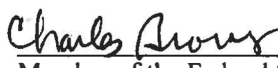

Regional Forester
USDA Forest Service
Date: 11/12/17


Regional Director
National Park Service
Date: 11/12/17


State Director
Bureau of Land Management
Date: 11/12/17


Regional Director
Bureau of Indian Affairs
Date: 11/12/2017


Member of the Federal Subsistence Board
Date: 01/12/2017


Member of the Federal Subsistence Board
Date: 01/12/17

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;
FXRS1261070000-156-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 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. 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.

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 Corporation 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 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.

- 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 —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, § ___.15 is revised to read as follows:

§ ___.15 Rural determination process.

(a) The Board determines which areas or communities in Alaska are nonrural. Current determinations are listed at § ___.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_{2.5} 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_{2.5}) 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; FXRS1261070000-156-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. 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.

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 Bodenbergs 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, § __.23 is revised to read as follows:

§ __.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



United States Department of the Interior



National Park Service
Bering Land Bridge National Preserve
PO Box 220, Nome, Alaska 99762
(907) 443-2522

December 5, 2017

Seward Peninsula Subsistence Regional Advisory Council
c/o U.S. Fish and Wildlife Service
1011 East Tudor Road, MS 121
Anchorage, Alaska 99503

Subject: Invitation to consultation regarding potential changes to NPS regulations published in October 2015 for sport hunting and trapping in national preserves in Alaska

Dear Seward Peninsula Subsistence RAC,

The National Park Service invites the Seward Peninsula RAC to consult with the NPS regarding potential changes to sport hunting and trapping regulations for national preserves in Alaska that were published in October 2015 during your March 5-6 meeting in Nome, Alaska.

The Department of the Interior and the National Park Service (NPS) are revisiting certain aspects of regulations related to the harvesting of wildlife in Alaska national preserves that contradict State of Alaska authorizations and wildlife management decisions in addition to other possible aspects of the rule that may warrant reconsideration. The final rule provided that the NPS does not adopt State of Alaska management actions or laws or regulations that authorize taking of wildlife, which liberalizes predator removal activities in order to benefit ungulate populations. The final rule also changed procedures for closing an area or restricting an activity in NPS areas in Alaska. It also updated obsolete subsistence regulations to reflect federal management of subsistence harvest of fish and wildlife; prohibited obstructing persons engaged in lawful hunting or trapping; and authorized the use of native species as bait for fishing.


On November 15, 2017 the NPS published a notice in the Federal Register to notify the public the NPS intends to initiate a new rulemaking process that will consider changes to regulations applicable to Alaska that were implemented in October 2015. This process includes tribal and ANCSA consultation, NEPA compliance, publication of a proposed rule, an opportunity for public comment, and publication of a final rule. It is expected to take about two years.

We would very much like to hear your council's perspectives on the topic prior to the public comment period. We welcome your comments during the public process as well but wanted to extend the invitation to consult prior to that period.

If you have any questions, please contact me at the address above, call me directly at 907443-6101, or contact me by email at jeanette_koelsch@nps.gov

*National Park Service (NPS) Letter to the Council re Consultations on
Potential Changes to NPS Regulations Published in October 2015 for Sport
Hunting and Trapping in National Preserves in Alaska*

Sincerely,



Jeanette Koelsch
Superintendent

Enclosure:

Copy of rule passed 10.23.15

Federal Register notice 11.15.17



(17) Rights to reproduce and/or distribute other intellectual property;

(18) Outright sales of proprietary rights related to other intellectual property;

(19) Accounting, auditing, and bookkeeping services;

(20) Advertising services;

(21) Auxiliary insurance services;

(22) Computer software, including end-user licenses and customization services;

(23) Cloud computing and data storage services;

(24) Other computer services;

(25) Construction services;

(26) News agency services (excludes production costs related to news broadcasters);

(27) Other information services;

(28) Education services;

(29) Architectural services;

(30) Engineering services;

(31) Surveying, cartography, certification, testing and technical inspection services;

(32) Financial services;

(33) Maintenance services;

(34) Installation, alteration, and training services;

(35) Legal services;

(36) Market research services;

(37) Public opinion polling services;

(38) Other management, consulting, and public relations services;

(39) Merchanting services (net receipts);

(40) Mining services;

(41) Operational leasing;

(42) Trade-related services, other than merchanting services;

(43) Artistic-related services;

(44) Premiums paid on primary insurance;

(45) Losses recovered on primary insurance;

(46) Provision of customized and non-customized research and development services;

(47) Other research and development services;

(48) Telecommunications services;

(49) Health services;

(50) Heritage and recreational services;

(51) Audiovisual and production services;

(52) Contract manufacturing services;

(53) Disbursements for sales promotion and representation;

(54) Photographic services (including satellite photography services);

(55) Space transport services;

(56) Trade exhibition and sales convention services;

(57) Agricultural services;

(58) Waste treatment and depollution services; and

(59) Other selected services n.i.e. (not included elsewhere).

(e) *Types of transactions excluded from the scope of this survey.* (1) Sales and purchases of goods. Trade in goods involves products that have a physical form, and includes payments or receipts for electricity.

(2) Sales and purchases of financial instruments, including stocks, bonds, financial derivatives, loans, mutual fund shares, and negotiable CDs. (However, securities brokerage is a service).

(3) Income on financial instruments (interest, dividends, capital gain distributions, etc).

(4) Compensation paid to, or received by, employees.

(5) Penalties and fines and gifts or grants in the form of goods and cash (sometimes called “transfers”).

(f) *Due date.* A fully completed and certified BE-120 report, or qualifying exemption claim with the determination of reporting status section completed, is due to be filed with BEA not later than June 29, 2018 (or by July 30, 2018 for respondents that use BEA’s eFile system).

[FR Doc. 2017–24422 Filed 11–14–17; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 13

[NPS–AKRO–23925; PPAKAKROZ5,
PPMPRL1Y.L00000]

Alaska; Hunting and Trapping in National Preserves

AGENCY: National Park Service, Interior.

ACTION: Regulatory review.

SUMMARY: The National Park Service (NPS) intends to initiate a rulemaking process that will consider changes to regulations applicable to Alaska that were promulgated in October 2015.

DATES: November 15, 2017.

ADDRESSES: The final rule that is the subject of this announcement may be found at www.regulations.gov in Docket No. NPS–2014–0004–2632.

FOR FURTHER INFORMATION CONTACT: Andee Sears, Regional Law Enforcement Specialist, Alaska Regional Office, 240 West 5th Ave., Anchorage, AK 99501. Phone (907) 644–3410. Email: AKR_Regulations@nps.gov.

SUPPLEMENTARY INFORMATION: On October 23, 2015, the NPS published a final rule (Final Rule) to amend its regulations for sport hunting and trapping in national preserves in Alaska (80 FR 65325). The Final Rule provided that the NPS does not adopt State of

Alaska management actions or laws or regulations that authorize taking of wildlife, which are related to predator reduction efforts (as defined in the Final Rule). The Final Rule affirmed current State prohibitions on harvest practices by adopting them as federal regulation. The Final Rule also changed procedures for closing an area or restricting an activity in NPS areas in Alaska; updated obsolete subsistence regulations; prohibited obstructing persons engaged in lawful hunting or trapping; and authorized the use of native species as bait for fishing. Pursuant to the Congressional Review Act (CRA), the NPS submitted copies of the final rule to Congress on October 16, 2015. A joint resolution of disapproval was not filed by Congress within the time periods specified by the CRA. The Final Rule became effective on November 23, 2015.

The NPS intends to initiate a rulemaking process that will consider changes to the provisions in the Final Rule that were codified in 36 CFR part 13. Throughout this process, the NPS will consider the purpose of Secretarial Order 3347 (“Conservation Stewardship and Outdoor Recreation”) to advance conservation stewardship and increase outdoor recreation opportunities, including hunting and fishing, for all Americans. The NPS will also identify ways to improve recreational hunting and fishing cooperation, consultation, and communication with State of Alaska wildlife managers. The NPS will comply with all applicable laws governing the rulemaking process, including the requirement to provide an opportunity for public comment on any proposed regulatory changes under 5 U.S.C. 553. The NPS is not accepting comments on this announcement. The public will have an opportunity to comment when a proposed rule is published in the **Federal Register**.

Authority: 16 U.S.C. 3124; 54 U.S.C. 100101, 100751, 320102; Sec. 13.1204 also issued under Sec. 1035, Pub. L. 104–333, 110 Stat. 4240.

Jason Larrabee,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2017–24444 Filed 11–14–17; 8:45 am]

BILLING CODE 4312–52–P



their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridges must return to their regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: October 19, 2015.

Steven M. Fischer,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2015–26922 Filed 10–22–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 13

[NPS–AKRO–18755; PPAKAKROZ5, PPMRLE1Y.L00000]

RIN 1024–AE21

Alaska; Hunting and Trapping in National Preserves

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service is amending its regulations for sport hunting and trapping in national preserves in Alaska. This rule provides that the National Park Service does not adopt State of Alaska management actions or laws or regulations that authorize taking of wildlife, which are related to predator reduction efforts (as defined in this rule). This rule affirms current State prohibitions on harvest practices by adopting them as federal regulation. The rule also prohibits the following activities that are allowed under State law: Taking any black bear, including cubs and sows with cubs, with artificial light at den sites; taking brown bears and black bears over bait; taking wolves and coyotes during the denning season; harvest of swimming caribou or taking caribou from a motorboat while under power; and using dogs to hunt black bears. The rule also simplifies and updates procedures for closing an area or restricting an activity in National Park Service areas in Alaska; updates obsolete subsistence regulations; prohibits obstructing persons engaged in lawful hunting or trapping; and authorizes the use of native species as bait for fishing.

DATES: This rule is effective November 23, 2015.

FOR FURTHER INFORMATION CONTACT:

Andee Sears, Regional Law Enforcement

Specialist, Alaska Regional Office, 240 West 5th Ave., Anchorage, AK 99501. Phone (907) 644–3417. Email: AKR_Regulations@nps.gov

SUPPLEMENTARY INFORMATION:

Background

Proposed Rule and Public Comment Period

On September 4, 2014, the National Park Service (NPS) published the proposed rule in the **Federal Register** (79 FR 52595). The rule was open for public comment for 90 days, until December 3, 2014. The NPS reopened the comment period from January 15, 2015 through February 15, 2015 (80 FR 2065). The NPS invited comments through the mail, hand delivery, and through the Federal eRulemaking Portal at <http://www.regulations.gov>.

During the first comment period in 2014, the NPS held 17 public hearings in various locations in Alaska. Approximately 168 individuals attended these hearings and approximately 120 participants provided testimony during the formal public comment sessions. During the second comment period, nine public meetings were held in the State. A total of 29 individuals attended the public meetings, and a total of nine attendees spoke during the formal public comment sessions. The NPS also held two statewide government-to-government consultation teleconferences, and offered to consult in person, with tribes. Four comments were received during the statewide government-to-government consultation conference calls and the NPS met with three tribes that requested consultation in person (Allakaket, Tazlina, and Chesh'na (Chistochina)).

The NPS received approximately 70,000 comments on the proposed rule during the public comment period. These included unique comment letters, form letters, and signed petitions. Approximately 65,000 comments were form letters. The NPS also received three petitions with a combined total of approximately 75,000 signatures. Some commenters sent comments by multiple methods. NPS attempted to match such duplicates and count them as one comment. Additionally, many comments were signed by more than one person. NPS counted a letter or petition as a single comment, regardless of the number of signatories.

A summary of comments and NPS responses is provided below in the section entitled “Summary of and Responses to Public Comments.” After considering the public comments and additional review, the NPS made some

changes in the final rule from that proposed. These changes are summarized below in the section entitled “Changes from the Proposed Rule.”

Federal and State Mandates for Managing Wildlife.

In enacting the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 410hh–410hh–5; 3101–3233) in 1980, Congress’s stated purpose was to establish in Alaska various conservation system units that contain nationally significant values, including units of the National Park System, in order to preserve them “for the benefit, use, education, and inspiration of present and future generations[.]” 16 U.S.C. 3101(a). Included among the express purposes in ANILCA are preservation of wildlife, wilderness values, and natural undisturbed, unaltered ecosystems while allowing for recreational opportunities, including sport hunting. 16 U.S.C. 3101(a)–(b).

The legislative history of ANILCA reinforces the purpose of the National Park System units to maintain natural, undisturbed ecosystems. “Certain units have been selected because they provide undisturbed natural laboratories—among them the Noatak, Charley, and Bremner River watersheds.” Alaska National Interest Lands, Report of the Senate Committee on Energy and Natural Resources, Report No. 96–413 at page 137 [hereafter Senate Report]. Legislative history identifies Gates of the Artic, Denali, Katmai, and Glacier Bay National Parks as “large sanctuaries where fish and wildlife may roam freely, developing their social structures and evolving over long periods of time as nearly as possible without the changes that extensive human activities would cause.” Senate Report, at page 137.

The congressional designation of “national preserves” in Alaska was for the specific and sole purpose of allowing sport hunting and commercial trapping, unlike areas designated as national parks. 126 Cong. Rec. H10549 (Nov. 12, 1980) (Statement of Rep. Udall). 16 U.S.C. 3201 directs that national preserves shall be managed “in the same manner as a national park . . . except that the taking of fish and wildlife for sport purposes and subsistence uses, and trapping shall be allowed in a national preserve[.]” Under ANILCA and as used in this document, the term “subsistence” refers to subsistence activities by rural Alaska residents authorized by Title VIII of ANILCA, which ANILCA identifies as the priority consumptive use of fish and

wildlife on public lands. 16 U.S.C. 3144. Subsistence taking of fish and wildlife in NPS areas is generally regulated by the Department of the Interior. Taking wildlife for sport purposes in national preserves is generally regulated by the State of Alaska.

In addressing wildlife harvest, the legislative history provided “the Secretary shall manage National Park System units in Alaska to assure the optimum functioning of entire ecological systems in undisturbed natural habitats. The standard to be met in regulating the taking of fish and wildlife and trapping, is that the preeminent natural values of the Park System shall be protected in perpetuity, and shall not be jeopardized by human uses.” 126 Cong. Rec. H10549 (Nov. 12, 1980) (Statement of Rep. Udall). This is reflected in the statutory purposes of various national preserves that were established by ANILCA, which include the protection of populations of fish and wildlife, including specific references to predators such as brown/grizzly bears and wolves.

Activities related to taking wildlife remain subject to other federal laws, including the mandate of the NPS Organic Act (54 U.S.C. 100101) “to conserve the scenery, natural and historic objects, and wild life” in units of the National Park System and to provide for visitor enjoyment of the same for this and future generations. Policies implementing the NPS Organic Act require the NPS to protect natural ecosystems and processes, including the natural abundances, diversities, distributions, densities, age-class distributions, populations, habitats, genetics, and behaviors of wildlife. NPS Management Policies 2006 §§ 4.1, 4.4.1, 4.4.1.2, 4.4.2. The legislative history of ANILCA reflects that Congress did not intend to modify the NPS Organic Act or its implementing policies in this respect: “the Committee recognizes that the policies and legal authorities of the managing agencies will determine the nature and degree of management programs affecting ecological relationships, population’s dynamics, and manipulations of the components of the ecosystem.” Senate Report, at pages 232–331. NPS policy states that “activities to reduce . . . native species for the purpose of increasing numbers of harvested species (*i.e.* predator control)” are not allowed on lands managed by the NPS. NPS Management Policies 2006 § 4.4.3.

The State’s legal framework for managing wildlife in Alaska is based on sustained yield, which is defined by State statute to mean “the achievement and maintenance in perpetuity of the

ability to support a high level of human harvest of game[.]” AS § 16.05.255(k)(5). To that end, the Alaska Board of Game (BOG) is directed to “adopt regulations to provide for intensive management programs to restore the abundance or productivity of identified big game prey populations as necessary to achieve human consumptive use goals[.]” AS § 16.05.255(e). Allowances that manipulate natural systems and processes to achieve these goals, including actions to reduce or increase wildlife populations for harvest, conflict with laws and policies applicable to NPS areas that require preserving natural wildlife populations. See, *e.g.*, NPS Management Policies 2006 §§ 4.1, 4.4.3.

This potential for conflict was recognized by the Senate Committee on Energy and Natural Resources prior to the passage of ANILCA, when the Committee stated that “[i]t is contrary to the National Park Service concept to manipulate habitat or populations to achieve maximum utilization of natural resources. Rather, the National Park System concept requires implementation of management policies which strive to maintain natural abundance, behavior, diversity and ecological integrity of native animals as part of their ecosystem, and that concept should be maintained.” Senate Report, at page 171.

In the last several years, the State of Alaska has allowed an increasing number of liberalized methods of hunting and trapping wildlife and extended seasons to increase opportunities to harvest predator species. Predator harvest practices recently authorized on lands in the State, including lands in several national preserves, include:

- Taking any black bear, including cubs and sows with cubs, with artificial light at den sites;
- harvesting brown bears over bait (which often includes dog food, bacon/meat grease, donuts, and other human food sources); and
- taking wolves and coyotes (including pups) during the denning season when their pelts have little trophy, economic, or subsistence value.

These practices are not consistent with the NPS’s implementation of ANILCA’s authorization of sport hunting and trapping in national preserves. To the extent such practices are intended or reasonably likely to manipulate wildlife populations for harvest purposes or alter natural wildlife behaviors, they are not consistent with NPS management policies implementing the NPS Organic Act or the sections of ANILCA that

established the national preserves in Alaska. Additional liberalizations by the State that are inconsistent with NPS management directives, policies, and federal law are anticipated in the future.

16 U.S.C. 3201 of ANILCA provides “within national preserves the Secretary may designate zones where and periods when no hunting, fishing, trapping, or entry may be permitted for reasons of public safety, administration, floral and faunal protection, or public use and enjoyment.” In order to comply with federal law and NPS policy, the NPS has adopted temporary restrictions under 36 CFR 13.40(e) to prevent the application of the above listed predator harvest practices to national preserves in Alaska (see, *e.g.*, 2013 Superintendent’s Compendium for Denali National Park and Preserve). These restrictions protect fauna and provide for public use and enjoyment consistent with ANILCA. While the NPS prefers a State solution to these conflicts, the State has been mostly unwilling to accommodate the different management directives for NPS areas. In the last ten years, the NPS has objected to more than fifty proposals to liberalize predator harvest in areas that included national preserves, and each time the BOG has been unwilling to exclude national preserves from State regulations designed to manipulate predator/prey dynamics for human consumptive use goals.

In deciding not to treat NPS lands differently from State and other lands, the BOG suggested the NPS was responsible for ensuring that taking wildlife complies with federal laws and policies applicable to NPS areas, and that the NPS could use its own authority to ensure national preserves are managed in a manner consistent with federal law and NPS policy. See, *e.g.*, Statement of BOG Chairman Judkins to Superintendent Dudgeon, BOG Public Meeting in Fairbanks, Alaska (February 27, 2010) (NPS was testifying in opposition to allowing the take of black bear cubs and sows with cubs with artificial light in national preserves). In the absence of State action excluding national preserves, this rulemaking is required to make the temporary restrictions permanent. 36 CFR 13.50(d). This rule responds to the BOG’s suggestion by promulgating NPS regulations to ensure national preserves are managed consistent with federal law and policy and prevent historically prohibited sport hunting practices from being authorized in national preserves.

The scope of this rule is limited—sport hunting and trapping are still allowed throughout national preserves and the vast majority of State hunting regulations are consistent with federal

law and policy and continue to apply in national preserves. This rule only restricts sport hunting and trapping in national preserves, which constitute less than six percent of the lands in Alaska open to hunting. This rule does not limit the taking of wildlife for Title VIII subsistence uses under the federal subsistence regulations.

Final Rule

Summary of Final Rule

The rule separates regulations that govern the taking of fish and the taking of wildlife into two sections: 13.40 and 13.42, respectively. The rule makes the following substantive changes to existing NPS regulations:

(1) In accordance with NPS policies, taking wildlife, hunting or trapping activities, or management actions involving predator reduction efforts with the intent or potential to alter or manipulate natural predator-prey dynamics and associated natural ecological processes to increase harvest of ungulates by humans are not allowed on NPS-managed lands. It also explains how the NPS will notify the public of specific activities that are not consistent with this section.

(2) Affirms current State prohibitions on harvest practices by adopting them as federal regulation, and also maintains historical prohibitions on certain practices that the State has recently authorized for sport hunting of predators: (i) Taking any black bear, including cubs and sows with cubs, with artificial light at den sites; (ii) taking brown bears over bait; and (iii) taking wolves and coyotes during the denning season. The rule also eliminates exceptions to practices generally prohibited under State of Alaska law, thereby prohibiting: Taking caribou that are swimming, or from a motorboat that is under power, in two game management units (GMU); baiting black bears; and using dogs to hunt black bears.

(3) Prohibits intentionally obstructing or hindering persons actively engaged in lawful hunting or trapping.

(4) Updates and simplifies procedures for implementing closures or restrictions in park areas, including taking fish and wildlife for sport purposes.

(5) Updates NPS regulations to reflect federal assumption of the management of subsistence hunting and fishing under Title VIII of ANILCA from the State in the 1990s.

(6) Allows the use of native species as bait, commonly salmon eggs, for fishing in accordance with applicable federal and non-conflicting State law. This

supersedes for park areas in Alaska the National Park System-wide prohibition on using certain types of bait in 36 CFR 2.3(d)(2).

Prohibiting Predator Reduction

Activities or management actions involving predator reduction efforts with the intent or potential to alter or manipulate natural ecosystems or processes (including natural predator/prey dynamics, distributions, densities, age-class distributions, populations, genetics, or behavior of a species) are inconsistent with the laws and policies applicable to NPS areas. The rule clarifies in regulation that these activities are not allowed on NPS lands in Alaska. Under this rule, the Regional Director will compile a list updated at least annually of activities prohibited by this section of the rule. Notice will be provided in accordance with 36 CFR 13.50(f) of this rule.

Prohibiting Methods and Means of Taking Wildlife in National Preserves

The rule codifies for national preserves current State prohibitions on harvest practices, and also maintains historical prohibitions on certain sport hunting practices that have been recently authorized by the State for taking predators. It also eliminates exceptions (as applied to national preserves) under State laws that authorize sport hunters to take swimming caribou, to take caribou from motorboats under power, to take black bears over bait, and to use dogs to hunt black bears. The elements of the rule that are described in this paragraph will not be implemented until January 1, 2016, to avoid any potential confusion that may arise from issuing this rule during the 2015 hunting seasons. Delaying the implementation of these provisions will give the general public and other stakeholders sufficient time to understand the new rules before the 2016 hunting seasons begin.

Prohibiting the Obstruction of Persons Engaged in Lawful Hunting or Trapping

The rule prohibits the intentional obstruction or hindrance of another person's lawful hunting or trapping activities. This includes (i) placing oneself in a location in which human presence may alter the behavior of the game that another person is attempting to take or alter the imminent feasibility of taking game by another person; or (ii) creating a visual, aural, olfactory, or physical stimulus in order to alter the behavior of the game that another person is attempting to take. These actions are prohibited by State law, but this law is not adopted under the

regulations for national preserves, because it does not directly regulate hunting and trapping. This rule directly codifies these prohibitions into the NPS regulations, to prevent the frustration of lawful hunting and trapping in national preserves.

Updating Closure and Restriction Procedures

The rule updates and simplifies the procedures for implementing closures and restrictions on certain activities in NPS areas in Alaska. These changes will make the procedures in Alaska more consistent with other NPS units outside of Alaska and with Alaska State Parks. The rule clarifies that Superintendents must use the procedures in § 13.50 to implement any closure or restriction in NPS areas in Alaska. This eliminates potential confusion about whether the procedures in § 13.50 apply only when they are referenced in a separate regulation in part 13 (currently found in the regulations for weapons, camping, and taking fish and wildlife), or whether they apply to all closures and restrictions in Alaska.

The rule requires rulemaking for nonemergency closures or restrictions if the closures or restrictions (or the termination or relaxation of them) are of a nature, magnitude and duration that will result in a significant alteration in the public use pattern of the area, adversely affect the area's natural, aesthetic, scenic or cultural values, or require a long-term or significant modification in the resource management objectives of the area. These rulemaking criteria are modeled after the the criteria that apply to closures and restrictions in Alaska State Parks (11 AAC 12.335), which are also similar to the criteria in 36 CFR 1.5(b) that apply to NPS areas outside of Alaska. Emergency closures and restrictions are limited to the duration of the emergency.

Before a nonemergency closure or restriction can be implemented, the NPS must issue a written determination explaining the basis of the closure or restriction. The NPS will also compile in writing a list, updated annually, of all closures and restrictions (*i.e.*, the compendium). The compendium and the written determinations of need will be posted on the NPS Web site and made available at park headquarters.

With respect to nonemergency restrictions on taking of fish and wildlife in national preserves, the final rule requires an opportunity for public comment, including a public meeting near the affected NPS unit, before the action is taken. This rule recognizes that, although the internet has become

an effective method of communicating with the public, in-person public meetings may still be the most effective way to engage Alaskans, particularly those in rural areas. The rule also requires the NPS to consult with the	State prior to adopting such closures and restrictions. Emergency closures or restrictions on the taking of fish or wildlife are limited to 60 days and may only be extended after consultation with the State and an opportunity for public	comment, including a public meeting, near the affected NPS unit. The following table summarizes the changes from the proposed rule regarding procedures to implement closures or restrictions in § 13.50:
Proposed rule procedures		Final rule procedures
Applicability		
Applies only to closures pertaining to weapons, camping, and taking of fish or wildlife.		Applies to all closures or restrictions except when more specific procedures apply in 36 CFR part 13.
Factors used to determine whether to close an area or restrict an activity		
Includes protecting the integrity of naturally-functioning ecosystems as an appropriate reason for a closure or restriction.		Retains factors in existing regulations at 13.50.
Written determinations		
Not required		Requires a written determination explaining the reason for the proposed closure/restriction in nonemergency situations. This determination will be posted on <i>www.nps.gov</i> .
Emergency Closures or Restrictions		
May not exceed 60 days		Duration of the emergency, except for emergency closures or restrictions on taking fish or wildlife, which may not exceed 60 days.
Restrictions on Taking Fish or Wildlife (nonemergency)		
Consultation with the State and opportunity for public comment prior to adopting a closure or restriction.		Consultation with the State and opportunity for public comment, including one or more public meetings near the affected NPS unit, prior to implementing a closure or restriction.
Notice		
Closures or restrictions will be effective upon publication on park website.		Some closures or restrictions will be effective upon publication on park websites, but other closures or restrictions may be posted on a park website prior to taking effect, to give the public adequate time to understand and comply with them. A list of closures and restrictions will be compiled in writing and updated annually, and will be posted on the park websites.

Update Subsistence Regulations to Reflect Federal Management

The rule updates the subsistence provisions in NPS regulations (36 CFR 13.470, 13.480, and 13.490) to reflect the federal government’s assumption of the management and regulation of subsistence take of fish and wildlife under ANILCA and the transfer of subsistence management under Title VIII from the State to the Federal Subsistence Board. The rule makes other non-substantive, editorial changes to the language in 36 CFR 13.490 to streamline, clarify, and better organize this section.

Allowing the Use of Native Species as Bait for Fishing

NPS regulations generally prohibit the use of many forms of bait for fishing to help protect against the spread of nonnative species. Fish eggs from native species (usually salmon), are commonly used for fishing in Alaska. This rule

allows the use of local native species as bait for fishing.

Frequently Asked Questions

This section explains some of the principal elements of the rule in a question and answer format.

Why is this rule necessary?

The rule responds to State hunting regulations that authorize wildlife harvest practices that conflict with ANILCA’s authorization for sport hunting, the statutory purposes for which national preserves were established, and the NPS Organic Act as implemented by the NPS. These include liberalized predator harvest seasons, bear baiting, and the harvest of caribou while swimming. National park areas are managed for natural ecosystems and processes, including wildlife populations. The NPS legal and policy framework prohibits reducing native predators for the purpose of increasing numbers of harvested species.

As discussed above, the rule also responds to a number of other regulatory needs, by updating and streamlining closure procedures, updating subsistence provisions to reflect the program’s actual management, prohibiting interference with lawful hunting consistent with State law, and allowing use of native species as bait for fishing.

Does this rule restrict subsistence harvest of wildlife under Title VIII of ANILCA?

No.

Does this rule prohibit all hunting under State regulations on national preserves in Alaska?

No. This rule restricts certain methods of harvest currently allowed on national preserves by the State of Alaska under its general hunting regulations. These include the taking of any black bear, including cubs and sows with cubs, with artificial light at den sites, taking

brown and black bears over bait, taking wolves and coyotes between May 1 and August 9, harvest of swimming caribou or taking caribou from a motorboat while under power, and using dogs to hunt black bears. Additionally, State laws or regulations involving predator reduction efforts with the intent or potential to alter or manipulate natural predator-prey dynamics and associated natural ecological processes to increase harvest of ungulates by humans will not apply in national preserves, pursuant to this rule. These restrictions will affect a very small percentage of hunting practices authorized by State regulation and less than six percent of the lands in Alaska that are open to hunting.

What regulations apply to hunting and trapping in national preserves?

Title 36 of the Code of Federal Regulations (CFR) applies to sport hunting and trapping in national preserves. State harvest laws and regulations (Alaska Statute Title 16 and Alaska Administrative Code Title 5 AAC) that are consistent with 36 CFR also apply on national preserves. ANILCA Title VIII subsistence harvest of fish and wildlife by Federally-qualified rural residents is authorized in national preserves in Alaska under 36 CFR part 13 and 50 CFR part 100. Please contact the park chief ranger for additional information or assistance.

Do I still have to use the State regulations book when hunting on national preserves?

Yes. State hunting regulations apply to national preserves except when in conflict with federal regulation. Please contact the park chief ranger for additional information or assistance.

Does this rule restrict intensive management of predators on NPS lands?

Yes. Consistent with NPS Management Policies 2006, the NPS Organic Act, and the statutory purposes for which national preserves were established, this rule prohibits predator reduction activities on national preserves that have the intent or potential to alter or manipulate natural predator-prey dynamics and associated natural ecological processes to increase harvest of ungulates by humans.

What is the authority for the NPS to restrict hunting and trapping in this rule?

The NPS Organic Act authorizes the NPS to promulgate regulations that are necessary and proper for the use and management of National Park System units, including national preserves in

Alaska, for the purpose of conserving the wild life and providing for the enjoyment of the wild life in such manner and by such means as will leave them unimpaired for the enjoyment of future generations. 54 U.S.C. 100101(a) and 100751. ANILCA authorizes the Secretary of the Interior, acting through the NPS, to promulgate regulations prescribing restrictions relating to hunting, fishing, or trapping for reasons of public safety, administration, floral and faunal protection, or public use and enjoyment. 16 U.S.C. 3201 and 3202.

The rule says that State laws or management actions involving predator reduction are not adopted in national preserves. How will I know if a State law involves predator reduction?

The Regional Director will compile a list updated at least annually of State laws and regulations that are not adopted in national preserves. This list will be posted at www.nps.gov and available upon request at NPS park headquarters.

I live in a nonrural area and hunt under State subsistence regulations. Does this rule restrict my subsistence harvest practices?

Title VIII of ANILCA limits subsistence activities to local rural residents. This rule does not restrict federally-qualified subsistence users who are hunting in accordance with federal subsistence regulations. But those persons living in nonrural areas (who therefore are not federally-qualified subsistence users) must comply with the restrictions in this rule. For example, only federally qualified subsistence users hunting under federal subsistence regulations will be able to take swimming caribou within national preserves, for all others this practice will now be prohibited in national preserves.

How is hunting on national preserves different than hunting on State land?

Hunting in national preserves is different than on State (or private) lands because NPS regulations also apply and govern in the event of a conflict with State law or regulation. However, harvest opportunities and practices in national preserves vary little from practices allowed under State law, except for some very specific circumstances for which where the NPS has issued regulations. For example, same-day airborne hunting of big game animals, arctic fox, red fox, and lynx has not been allowed on NPS lands since 1995. This rule adds several additional NPS regulations prohibiting the following harvest practices that are

allowed under State law: (1) Taking any black bear, including cubs and sows with cubs, with artificial light at den sites, (2) taking brown bears and black bears over bait, (3) taking wolves and coyotes from May 1 through August 9, (4) harvest of swimming caribou and harvest of caribou from a moving motorboat by those other than local rural residents in those portions of Noatak, Gates of the Arctic, and Bering Land Bridge Preserves that are within GMUs 23 and 26, and (5) using dogs to hunt black bears.

Black bear baiting has been allowed for more than three decades. Why is the NPS prohibiting it now?

The NPS proposed prohibiting the harvest of brown bears over bait to avoid public safety issues, to avoid food-conditioning bears and other species, and to maintain natural bear behavior as required by NPS law and policy. Other land and wildlife management agencies strive to eliminate the feeding of bears through individual and collective educational efforts due to the increased likelihood that food-conditioned bears will be killed by agency personnel or the public in defense of life or property. Food-conditioned bears are also believed more likely to cause human injury. Baiting tends to occur in accessible areas used by multiple user groups, which contributes to the public safety concerns associated with baiting. The concerns presented with taking brown bears over bait also apply to black bear baiting. After reviewing public comment, the final rule prohibits taking both black bears and brown bears over bait in national preserves.

Why is the NPS prohibiting the take of swimming caribou by individuals who are not federally qualified subsistence users?

Taking swimming big game is already generally prohibited by State law, but there are exceptions in State law for the take of swimming caribou in GMUs 23 and 26, which include portions of Noatak, Bering Land Bridge, and Gates of the Arctic National Preserves. This method of harvest remains available to federally qualified subsistence users in their pursuit of food. However, as is further explained below, this method is one of those that NPS has found is not consistent with ANILCA's authorization for sport hunting in national preserves.

Does this rule impact fishing in NPS units in Alaska?

Yes. This rule allows federally qualified subsistence users to use native species as bait for fishing in accordance with federal subsistence regulations.

Others will also be able to use native species for bait when such use is in accordance with non-conflicting State fishing regulations.

What procedures must the NPS follow to adopt closures and restrictions in NPS units in Alaska?

The procedures in 36 CFR 13.50 apply to all closures and restrictions in NPS units in Alaska, unless there are more specific procedures stated elsewhere in law or regulation. For example, the following regulations have specific procedures:

- Unattended or abandoned property, 36 CFR 13.45
- Use of snowmobiles, motorboats, dog teams, and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses, 36 CFR 13.460
- Subsistence use of timber and plant material, 36 CFR 13.485
- Closure to subsistence uses of fish and wildlife, 36 CFR 13.490

What closures or restrictions will require notice and comment rulemaking that is published in the Federal Register?

Any nonemergency closure or restriction, or the termination or relaxation of such, which is of a nature, magnitude, and duration that will result in a significant alteration in the public use pattern of the area; adversely affect the area's natural, aesthetic, scenic, or cultural values; or require a long-term modification in the resource management objectives of the area.

Doesn't ANILCA require public hearings prior to adopting closures or restrictions?

Public hearings near the affected vicinity are required before restricting: (1) Subsistence harvest of fish or wildlife under Title VIII of ANILCA or (2) access authorized under 16 U.S.C. 3170 (a) of ANILCA. There is no statutory requirement for a public hearing for other types of closures or restrictions.

Did the NPS eliminate a requirement for public hearings in the affected areas before adopting closures or restrictions relating to the take of fish and wildlife?

The proposed rule included a requirement to provide an opportunity for public comment on potential restrictions to taking fish or wildlife. Public comment may include written comments, a public meeting, a public hearing, or a combination thereof. Based upon public comment and to be more consistent with the practices of the BOG and the Federal Subsistence Board, the NPS modified the proposed rule to

provide that the opportunity for comment must include at least one public meeting near the affected NPS unit in nonemergency situations. This is a change from the existing regulations, which require a public hearing. Requiring a "meeting" instead of a "hearing" provides more flexibility on how the event is structured. During the public hearings conducted in 2014, the NPS received feedback that some local communities prefer a less formal approach and more opportunities for dialog with NPS managers. The NPS believes the term "meeting" more appropriately describes this type of informational exchange. The NPS also believes the term public meeting is broad enough to include a public hearing if that is more appropriate for the area.

Where can I find information about closures and restrictions?

Information about closures and restrictions is posted on each park's Web site at www.nps.gov. This information is also available upon request at NPS park headquarters.

Why did the NPS delete the references to State law in the subsistence regulations?

The NPS deleted the provisions adopting non-conflicting State law because the State no longer manages subsistence harvest under Title VIII of ANILCA. Subsistence harvest of fish and wildlife on federal public lands is generally regulated by the Federal Subsistence Board.

Is the NPS required to consult with the State prior to adopting closures or restrictions to taking fish or wildlife?

Yes, except in the case of emergencies.

Is the NPS required to consult with tribes and ANCSA Native Corporations?

Yes, the NPS is required to consult with tribes if an NPS action would have a substantial direct effect on federally recognized Indian tribes. Consultation with ANCSA Native Corporations is required if an NPS action would have a substantial direct effect on ANCSA Native Corporation lands, waters, or interests.

Is the NPS required to consult with affected user groups, such as Regional Advisory Committees, Subsistence Resource Commissions, hunting organizations, or other nongovernmental organizations?

While this kind of consultation is not required by law, the NPS regards the input from these advisory and other

groups as invaluable. The NPS encourages these groups to engage with park managers on topics of interest. The NPS also invites and encourages these committees and groups to provide input on decisions affecting public use of NPS managed lands as outlined in this final rule.

Summary of and Responses to Public Comments

A summary of substantive comments and NPS responses is provided below followed by a table that sets out changes we have made to the proposed rule based on the analysis of the comments and other considerations.

Consultation

1. Comment: Some commenters stated the NPS did not adequately consult with the State of Alaska prior to publishing the proposed rule and in doing so, acted inconsistently with ANILCA, the Master Memorandum of Understanding between the NPS and the Alaska Department of Fish and Game (ADF&G), and Executive Order 12866.

NPS Response: The NPS respects its responsibility to consult with the State (and others) regarding NPS actions, especially given that wildlife management in NPS units is a responsibility that is shared between the NPS and the State. Publication of the proposed rule provided an opportunity for consultation between the NPS and the State. The NPS and the ADF&G met shortly after the publication of the proposed rule, which is consistent with ANILCA's consultation requirement. 16 U.S.C. 3201. The NPS has engaged in ongoing communications with the ADF&G, the BOG, the State of Alaska ANILCA Implementation Program, and the State of Alaska Citizen's Advisory Commission on Federal Areas for a number of years regarding the issues that this rule addresses.

Executive Order 12866 requires federal agencies to "seek views of appropriate State, local, and tribal governments before imposing regulatory requirements that might significantly or uniquely affect those governmental entities." Sec. 1(b)(9). As discussed below, the Office of Management and Budget determined this rule is not a significant regulatory action subject to this requirement. Regardless, the NPS invited the views of State, local, and tribal governments before publishing this final rule, and also complied with its responsibilities under section 4 of the Executive Order by including the proposed rule in the Unified Regulatory Agenda that was published by the Office of Management and Budget on reginfo.gov.

The NPS signed and implemented the Master Memorandum of Understanding (MMOU) with the ADF&G in 1982. The MMOU states that the ADF&G will manage wildlife on NPS managed lands for natural species diversity and natural process. The NPS agreed to recognize ADF&G as having the primary responsibility to manage wildlife on lands in the State and utilize the State's regulatory process to the maximum extent possible. Both agencies agreed to coordinate planning to minimize conflicts from differing legal mandates and consult with each other when developing regulations. The NPS continues to recognize the State as having primary responsibility to manage fish and wildlife on lands in the State. However, the State's responsibility is not exclusive and it does not preclude federal regulation of wildlife on federal public lands, as is well-established in the courts and specifically stated in ANILCA. The NPS also attempted to utilize the State regulatory process to notify the BOG when proposals created a conflict with NPS laws, regulations, and policies, years before the publication of the proposed rule. During this time NPS requested that the conflicts be resolved, as a first resort, through the State regulatory process. Only after conflicts could not be resolved through that process, and the BOG suggested the NPS could use its own authority to meet its mandates for managing wildlife, did the NPS consider modifications to federal regulations to resolve the conflicts.

2. Comment: Some commenters stated that the NPS did not adequately consult with tribes, various advisory committees, and rural residents prior to publishing the proposed rule.

NPS Response: NPS has an obligation to consult with tribes prior to making a decision that would have a substantial direct effect on federally-recognized tribes. Even though the NPS determined that the proposed rule would not have a substantial direct effect on tribes, the NPS initiated consultation shortly after publication of the proposed rule. The NPS emailed a letter to tribes inviting them to consult and notifying them of two statewide conference calls dedicated to tribal consultation in the fall of 2014. No one provided comments or asked questions during the first call. On the second call, four individuals who serve as members of tribal councils provided comments. Park managers also contacted tribes with ties to the park areas by phone, email, and letter to invite them to consult. NPS met in person with three tribes that requested additional consultation. The NPS also provided information to affected

Subsistence Resource Commissions and Regional Advisory Councils beginning when the first temporary wildlife harvest restrictions were considered in 2010, and provided periodic updates throughout the process. Since these harvest restrictions were first proposed, the NPS stated its intention to initiate rulemaking and solicited public comment on these provisions. After the proposed rule was published, the NPS provided 121 days for written comment, met with and provided information to multiple groups, and held an additional 26 public hearings across the State, in rural locations near affected units as well as Anchorage, Fairbanks, Palmer, and Soldotna.

3. Comment: Some commenters stated the NPS did not respond to comments and questions from the State of Alaska on the temporary wildlife harvest restrictions that were included in the proposed rule, which might have enabled the State to take action that would make the proposed harvest restrictions unnecessary. Commenters also suggested the NPS work with the State of Alaska collaboratively to address the wildlife harvest issues in this rule.

NPS Response: The NPS would have preferred a collaborative approach with a solution in State law or regulation rather than federal regulation. To that end, the NPS has testified before the Board of Game many times, requested the Board of Game take specific regulatory action to address NPS concerns, met with ADF&G, provided explanations for the restrictions in writing, and responded to comments in the annual park compendiums. The NPS acknowledges the State requested scientific data to support the temporary restrictions on taking black bears, including cubs and sows with cubs, with artificial light at den sites, taking brown bears over bait, and prohibiting the take of wolves and coyotes during the summer months. However, neither the temporary restrictions nor this rule are based on particular wildlife population levels, and do not require the preparation of such scientific data. The basis of the compendium provisions, as well as the rule, is the NPS legal and policy framework, which has been communicated verbally and in writing several times.

Process for Publishing the Proposed Rule

4. Comment: Several comments stated that the NPS should give more weight to comments on the proposed rule from Alaskans than other members of the public. Another comment urged the NPS to increase cooperation and

dialogue with rural Alaskans. Others expressed concern that the NPS is not considering public comments when developing the final rule, and did not adequately respond to public comments delivered at public meetings.

NPS Response: The NPS agrees that it will continue to strive to increase cooperation and dialogue with rural Alaskans, many of whom live near the national preserves and may be affected by this rule. After consideration of public comments on the proposed rule, the NPS has included a provision in the final rule requiring it hold one or more public meetings near the affected NPS unit before implementing any non-emergency closure or restriction on the sport take of fish or wildlife in national preserves.

During the comment periods for the proposed rule, the NPS held 26 public hearings in Alaska in an effort to solicit the opinions and comments of Alaskans. The NPS has considered all relevant comments it received on the proposed rule, including those from rural Alaskans and those delivered at public meetings. The NPS considers each comment based upon its substantive content, and does not give greater weight to any comment based upon the residence of the commenter. This is also consistent with the statutory purpose for establishing the national preserves in Alaska for the benefit, use, education, and inspiration of present and future generations of all Americans.

5. Comment: Some comments stated that the NPS did not provide the public with sufficient time to review and comment on the proposed rule. Other comments felt that the NPS should not be allowed to make changes to the proposed rule without allowing the public to review and comment on those changes.

NPS Response: The policy of the U.S. Department of the Interior is ordinarily to provide at least 60 days for public comment on any proposed rule that is published in the **Federal Register**. Due to the anticipated interest in this rule, the NPS provided an initial comment period of 90 days so that the public would have additional time to consider the proposal and submit timely comments. After the initial 90-day comment period expired, the NPS received several requests to reopen the comment period to give the public more time to review and prepare comments. Acknowledging the interest in this rule, the NPS agreed with these requests and reopened the comment period for an additional 31 days. In total, the NPS provided the public with 121 days to review and comment on the proposed rule, and appreciates the thoughtful

consideration and responses it received. The NPS believes that the length of the combined public comment period was adequate and does not intend to reopen, for a second time, the public comment period.

After considering public comments and after additional review, the NPS made certain changes to the proposed rule, which are described in the section below entitled “Changes from the Proposed Rule.” The changes are a logical outgrowth of the proposed rule, and were reasonably foreseeable by the public when the proposed rule was published. For example, the NPS specifically requested comment on taking black bears over bait in the proposed rule. This notified the public that the proposed rule could change with respect to this issue after consideration of public comment. Other changes to the proposed rule, such as requiring a public meeting before adopting a closure or restriction for taking wildlife, are consistent with the existing regulations at 36 CFR 13.50.

Comments on Guiding Laws and Regulations

6. Comment: Some commenters stated that NPS does not have the authority to supersede State wildlife regulations, while others requested the NPS clarify its authority to preempt conflicting State regulations under the Property and Supremacy Clauses of the Constitution.

NPS Response: Under the Property and Supremacy Clauses of the U.S. Constitution, State wildlife laws that conflict with NPS’s efforts to carry out its statutory mandate are preempted. *See, e.g. Kleppe v. New Mexico*, 426 U.S. 529 (1976); *Hunt v. United States*, 278 U.S. 96 (1928); *New Mexico State Game Comm’n v. Udall*, 410 F.2d 1197 (10th Cir.), cert. denied, *New Mexico State Game Comm’n v. Hickel*, 396 U.S. 961 (1969); *United States v. Brown*, 552 F.2d 817 (8th Cir. 1977). Certain State-authorized hunting and trapping practices are not consistent with the NPS implementation of the NPS Organic Act and ANILCA. Consequently, the final rule is an appropriate exercise of the authority affirmed by the cases cited above.

7. Comment: Several commenters questioned how any take of wildlife on national preserve lands is permissible when regulations that may “alter the natural predator/prey dynamics, distribution, densities, age-class distributions, populations, genetics or behavior of a species” are interpreted as being incompatible with the laws and policies of the National Park Service.

NPS Response: ANILCA provides for harvest of wildlife in national preserves.

Therefore some level of take is appropriate and compatible with the NPS legal and policy framework for Alaska national preserves. This rule does not prohibit all State-authorized hunting and trapping. The vast majority of State regulations are, and are expected to remain, compatible with the NPS management framework. Over the past several decades, only a handful of State regulations have been superseded by NPS regulations.

The NPS believes that the standard in the rule is a workable and limited standard that satisfies our legal and policy framework and does not include all actions that result in the harvest of wildlife. This rule provides that the NPS does not adopt State management actions or laws or regulations that authorize taking of wildlife, which are related to predator reduction efforts, meaning that they have the intent or potential to alter or manipulate natural predator-prey dynamics and associated natural ecological processes, in order to increase harvest of ungulates by humans. The NPS acknowledges that the public would benefit from greater clarity as to exactly which State laws and regulations are not adopted by the NPS. As a result, the rule requires the Regional Director to publish at least annually a list of all such laws and regulations not adopted in national preserves.

General Comments

8. Comment: Some commenters objected to the NPS description that some of the harvest practices, such as taking swimming caribou and hunting caribou from a motorboat while under power, are “longstanding prohibited.”

NPS Response: The harvest methods prohibited by this rule stem from general hunting and trapping restrictions in State law and regulation, some of which have been relaxed in recent years in response to proposals to the BOG. Some of these proposals to relax hunting and trapping restrictions were adopted in whole or in part to reduce predators. Three of these proposals removed longstanding prohibitions on harvest methods. In response, the NPS prohibited these methods on a temporary basis: (1) Taking any black bear, including cubs and sows with cubs, with artificial light at den sites; (2) taking brown bears over bait; and (3) taking wolves and coyotes during the summer months. This rule makes the temporary restrictions permanent. This rule also prohibits some additional practices that the NPS acknowledges were not historically prohibited. These practices, however, existed only as exceptions to general

prohibitions in State law: (1) Taking swimming caribou or taking caribou from a motorboat while under power, in GMUs 23 and 26; (2) black bear baiting; and (3) using dogs to hunt black bears. For the reasons explained herein, NPS believes these practices should also now be prohibited in national preserves.

9. Comment: Some comments stated that the hunting methods that would be prohibited by the proposed rule were not intended to reduce predators but were allowed by the BOG based on requests from the Alaskans for additional harvest opportunity or to authorize traditional practices. Other comments stated the NPS proposed rule would prefer predators over ungulates. Others supported the proposed rule because it would prohibit harvest practices designed to reduce predators, which is inconsistent with NPS laws.

NPS Response: The NPS acknowledges many of the harvest practices recently authorized by the State were based in whole or in part on proposals from Alaskan hunters, some of whom may also be federally-qualified subsistence users. However, the record shows some of these proposals and the decisions to act on them were based wholly or in part on a desire to reduce predator populations, and often far in excess of any previous authorizations. Before the BOG authorized taking cubs and sows with cubs at den sites, it had only allowed this activity as part of a predator control program. (Findings of the Alaska Board of Game 2012–194–BOG, Board of Game Bear Conservation, Harvest, and Management Policy, expiration June 30, 2016 (January 18, 2012)). The State’s decision to expand wolf and coyote seasons was based in part on a desire to elevate survival rates of moose and caribou calves.

As explained in the background section of this rule, NPS management policies prohibit the manipulation of wildlife populations, and require the NPS to protect natural abundances, distributions, densities, and populations of wildlife. This rule does not favor predators over ungulates, which would also violate NPS management policies. The rule is primarily focused on the take of predators because the allowances implemented by the State target predators, not ungulates. Even in these circumstances, the rule is consistent with NPS policy to allow for the fluctuation of natural populations of all species in national preserves, by prohibiting the purposeful decrease of predator populations to achieve (or attempt) an increase of ungulate populations to benefit hunters.

10. Comment: One commenter stated the NPS misinterpreted the State

sustained yield mandate in the proposed rule and requested the NPS clarify the State's statutory definition to make it clear the State has authority to manage for a variety of beneficial uses of wildlife rather than only to support a high level of human harvest of wildlife.

NPS Response: NPS acknowledges that the State may have broader authorities and goals, but in general, interpretation and clarification of State law is a matter for the State. This rule ensures that taking of wildlife in national preserves is consistent with federal laws and NPS policies that require the NPS to manage national preserves for natural processes.

11. Comment: Several commenters directly or indirectly commented on State-authorized subsistence harvest of fish and wildlife. Some commenters suggested ANILCA authorizes State subsistence separate from Title VIII subsistence. Some comments stated the proposed rule restricts subsistence uses by Alaska Natives. Some commenters stated that federally qualified subsistence users often prefer to harvest wildlife under State regulations because the State regulations are more liberal than federal subsistence regulations and the Federal Subsistence Board regulatory process is cumbersome and takes too long. Conversely, some subsistence hunters voiced support for the proposed regulations as they do not consider some of the methods prohibited by this rule to be traditional or consistent with natural processes and population dynamics.

NPS Response: ANILCA, 16 U.S.C. 3201, states that national preserves shall be managed "in the same manner as a national park . . . except that the taking of fish and wildlife for sport purposes and subsistence uses, and trapping shall be allowed in a national preserve[.]" Under ANILCA and in this rule, the term "subsistence" refers only to subsistence activities authorized by Title VIII of ANILCA, which must comply with the federal subsistence regulations (among other things, they are restricted to rural Alaska residents). ANILCA did not authorize any separate State subsistence activities. Take of wildlife is authorized in national preserves only to the extent it is consistent with either the federal subsistence regulations or taking with regulations applicable to taking of wildlife for "sport purposes."

The NPS acknowledges that some rural residents eligible to harvest wildlife under federal subsistence regulations in NPS units also harvest wildlife under State regulations in national preserves, particularly when

the State methods, seasons, and bag limits are more liberal. To the extent that this harvest does not conflict with NPS regulations applicable to sport hunting, these opportunities are preserved. Any changes to federal subsistence regulations should be proposed to the Federal Subsistence Board.

12. Comment: Some commenters objected to the use of the term "sport hunting" in the proposed rule as offensive and inaccurate in certain cases such as when a federal subsistence user moves out of the area and is no longer eligible to harvest under federal subsistence regulations.

NPS Response: The NPS understands that some hunters who harvest wildlife under State regulations are not hunting for recreation or "sport." Sometimes individuals who are harvesting under State regulations were once rural residents but are no longer federally qualified subsistence users. However, Congress used the term "sport purposes" in ANILCA and it would be inappropriate for the NPS to allow harvest that is neither for "subsistence purposes" nor for "sport purposes" under 16 U.S.C. 3201.

13. Comment: Some commenters supported the prohibition on the methods of take in the proposed rule because they are unsporting or unethical; others stated the NPS should not regulate ethics regarding wildlife harvest.

NPS Response: Although the term "sport" is not defined in ANILCA, each term in a statute is presumed to have meaning. Sportsmanship in hunting has more than a hundred years of tradition and meaning in the conservation movement in America. See John F. Reiger, *American Sportsmen and the Origin of Conservation* (Winchester Press 1975). When methods of harvest go beyond traditionally accepted norms of "sport" in hunting, they may fall outside of what Congress intended when it authorized hunting in statutes like ANILCA. In some such cases, NPS believes regulations may be needed to curtail these activities that were never intended to occur in units of the National Park System. Such situations historically have been rare. Except for the prohibition of same-day airborne hunting in 1995, the NPS has not restricted the practices authorized by the State through federal rulemaking published in the CFR. There has, however, been a departure in recent years by the BOG, which has sought to advance the goals of increasing harvested species by targeting predators. In order to comply with federal law and NPS policy, these recent allowances

have been prohibited by the NPS in national preserves on a temporary basis through compendium actions, and are now permanently prohibited by this rule.

The NPS also recognizes that some practices that are being prohibited for "sport" hunters may be appropriate for subsistence users. An example of this is taking swimming caribou. On NPS lands, the take of swimming caribou for subsistence is allowed in accordance with federal subsistence regulations, but it is not appropriate as a "sport" hunting practice on waters within national preserves.

14. Comment: Some commenters stated the proposed rule would prohibit Alaska residents from participating in State subsistence fisheries.

NPS Response: This rule makes no changes to fishing regulations other than allowing the use of native species as bait for fishing. Fishing in NPS units under federal subsistence regulations must be in accordance with 36 CFR 13.470 and 50 CFR part 100. Other noncommercial fishing is authorized under 36 CFR 13.40 and in accordance with the provisions of 36 CFR 2.3. To the extent it is consistent with those regulations, State-authorized subsistence fishing is allowed within NPS units.

15. Comment: Some commenters asserted that NPS does not have authority to enact the proposed regulations and that the NPS actions are inconsistent with 16 U.S.C. 3114 and 16 U.S.C. 3125(3) of ANILCA.

NPS Response: This final rule is not promulgated under 16 U.S.C. 3114, which provides that subsistence take of fish and wildlife has priority over other uses when it is necessary to restrict the harvest of fish or wildlife to protect the viability of the population or to continue subsistence uses. The restrictions in this rule are not necessary to protect the viability of a population or to continue Title VIII subsistence uses, nor do they affect subsistence uses or priority. The NPS is promulgating this rule under the NPS Organic Act and 16 U.S.C. 3201, which provide NPS with authority to restrict the taking of wildlife for sport purposes in national preserves for reasons of public safety, administration, floral and faunal protection, or public use and enjoyment.

Similarly, 16 U.S.C. 3125(3) does not apply to this rule. That provision provides that "[n]othing in this title shall be construed as . . . authorizing a restriction on the taking of fish and wildlife for nonsubsistence uses . . . unless necessary for the conservation of healthy populations of fish and wildlife . . . to continue subsistence uses of such populations [.]" The phrase "this

title” refers solely to Title VIII of ANILCA—this section does not apply to 16 U.S.C. 3201, which was enacted as part of Title XIII. This section thus does not preclude the NPS from authorizing restrictions under other titles in ANILCA (such as Title XIII) or other federal laws (such as the NPS Organic Act), as is the case here.

16. *Comment:* Some commenters stated the NPS should limit hunting to traditional harvest methods because current technology could result in overharvest. Commenters also stated that resources should be allocated to most local users when harvest must be reduced.

NPS Response: In consultation with the State and the Federal Subsistence Board, the NPS will consider restrictions on specific harvest practices on a case by case basis. In times of shortage ANILCA, 16 U.S.C. 3114, provides priority to local subsistence users over others.

17. *Comment:* Some commenters objected to the statement in the proposed rule that management of wildlife on national preserves must protect natural processes, because ANILCA calls for “healthy” populations, not “natural” populations.

NPS Response: Title VIII of ANILCA refers to conserving “healthy” populations of wildlife on federal public lands in Alaska. ANILCA also states that nothing in the statute modifies or repeals any federal law governing the conservation or protection of fish and wildlife. The statute explicitly identifies the NPS Organic Act as one of those federal laws. The NPS Organic Act requires the NPS to conserve the wild life in units of the National Park System (including national preserves) and to provide for visitor enjoyment of the wild life for this and future generations. 54 U.S.C. 100101. Policies implementing the NPS Organic Act require the NPS to protect natural ecosystems and processes, including the natural abundances, diversities, distributions, densities, age-class distributions, populations, habitats, genetics, and behaviors of wildlife. NPS Management Policies 2006 §§ 4.1, 4.4.1, 4.4.1.2, 4.4.2. The legislative history of ANILCA reflects that Congress did not intend to modify the NPS Organic Act in this respect: “the Committee recognizes that the policies and legal authorities of the managing agencies will determine the nature and degree of management programs affecting ecological relationships, population’s dynamics, and manipulations of the components of the ecosystem.” Senate Report 96–413, Committee on Energy and Natural Resources at pages 232–233

(hereafter Senate Report 96–413). This is reflected in the statutory purposes of various national preserves that were established by ANILCA, which include the protection of populations of fish and wildlife.

18. *Comment:* Some commenters stated the proposed rule includes ambiguous terms and gives too much discretion to park superintendents.

NPS Response: The NPS believes the actions the superintendents are authorized to take in the rule are consistent with federal law and are comparable to the actions superintendents have long been authorized to take in similar circumstances. It also recognizes that superintendents are the subject matter experts regarding management of the park unit and have been delegated responsibility to take action and respond to changing circumstances that may affect the values and resources of a park unit.

19. *Comment:* Some commenters questioned the basis of the proposed rule because the NPS did not cite or provide evidence or data related to wildlife population-level effects or any conservation concern.

NPS Response: As discussed above, the rule is based on the NPS legal and policy framework, which among other things “requires implementation of management policies which strive to maintain natural abundance, behavior, diversity and ecological integrity of native animals as part of their ecosystem” Senate Report 96–413, at page 171. This rule is not based on particular wildlife population levels, and did not require the preparation of data on those levels. Rather the rule reflects the NPS responsibility to manage national preserves for natural processes, including predator-prey relationships, and responds to practices that are intended to alter those processes.

20. *Comment:* A couple of commenters asked for clarification about the harvest opportunities that would be prohibited by the proposed rule on a unit by unit basis.

NPS Response: The NPS believes the rule clearly describes the harvest practices that are prohibited. All but three of these practices are already prohibited by either NPS temporary actions or existing State law. The only currently allowed harvest practices that will be prohibited under this rule are taking caribou that are swimming or taking caribou from a motorboat while under power (currently allowed in portions of Noatak, Gates of the Arctic, and Bering Land Bridge National Preserves), black bear baiting, and using dogs to hunt black bears. The NPS will

assist the public to understand the impacts of the rule on sport harvest of wildlife in national preserves. The public and visitors are encouraged to contact or visit the local NPS offices for information or assistance.

21. *Comment:* One commenter opposed the prohibition on the take of muskrats at pushups, adding that this practice has been authorized by the State since 1967 and that the practice is not known to have caused conservation or user problems.

NPS Response: The proposed rule would have prohibited the take of muskrats at pushups, which is currently authorized under State regulations. This was not the NPS’s intent, and the final rule has been modified to allow for this practice.

22. *Comment:* One commenter stated the allowance in the proposed rule for using electronic calls to take big game (except moose) should be modified to allow electronic calls for all game (except moose).

NPS Response: The NPS agrees with the suggestion, which is consistent with State law. The NPS has modified the rule accordingly.

23. *Comment:* Some commenters objected to the practice of trapping and snaring generally due to the potential for user conflicts and safety concerns due to traps and snares on or near trails. Some commenters specifically objected to snaring bears. Some commenters said trapping should not be allowed near trails used by others in order to protect those visitors and their pets. Some commenters said trappers should be required to identify their traps with their name and contact information.

NPS Response: ANILCA generally allows for trapping (including snaring) in national preserves. Under this rule and adopted State law, there are restrictions on animals that may be trapped under a trapping license, types of traps, as well as restrictions on locations where traps may be set. Because pets are required to be leashed, traps—even those set near trails—have not been a concern historically. In the event that trapping presents safety concerns, the NPS will address those concerns on a case-by-case basis.

24. *Comment:* Commenters suggested there is an inconsistency between what is being proposed for NPS lands in Alaska and allowances in some Lower 48 parks, including taking coyotes year-round.

NPS Response: Units of the National Park System are “united through their interrelated purposes and resources into one National Park System,” and managed in a manner “consistent with and founded in the purpose established

by” the NPS Organic Act, “to the common benefit of all the people of the United States.” 54 U.S.C. 100101. But units also are managed consistent with their enabling statutes and other laws specifically applicable to those units, such as ANILCA. Hunting of any kind is generally prohibited in units of the National Park System, 36 CFR 2.2, except where specifically authorized by statute, as is the case for national preserves in Alaska (as well as subsistence activities in other Alaska units). In those units that do allow hunting, hunting seasons for particular species generally vary from unit to unit and are often set by State law. When NPS sets seasons or other restrictions by regulation, it does so case by case, based on the resource and management needs of the particular unit.

25. Comment: Some commenters suggested that the rule should prohibit the more subtle means of affecting the natural functioning ecosystem, such as hunters not being required to obtain tags or permits for predators, same-day airborne hunting and trapping, and sale of raw hides and skulls.

NPS Response: Many of the activities described by the commenter are already prohibited under federal regulations. For example, same-day airborne hunting of big game animals, arctic fox, red fox, or lynx is not allowed on NPS lands. Additionally, sale of raw hides and skulls is not allowed under existing NPS regulations. The NPS has not identified a need for NPS-issued tags and permits and consequently has not required harvest permits and tags beyond those required by State regulations and federal subsistence regulations.

26. Comment: One commenter said that while ungulates will probably remain the focus of the State’s intensive management program, it is conceivable that another species could become the focus in the future due to fads or economic interests. The commenter suggested that NPS needs the flexibility to include additional species when necessary to provide for naturally functioning ecosystems.

NPS Response: While naturally functioning ecosystems include natural diversity and abundances of native wildlife populations, the NPS does not believe it is necessary to modify the proposed rule to address this concern. Should the issue arise in the future, the NPS will work with the State and consider appropriate action at that time.

27. Comment: One commenter suggested adding “intercepting” wildlife to the list of prohibited actions that cannot be taken by an aircraft, snowmachine, or other motor vehicle. Also, the term “positioning” is used to

refer to the practice of using snowmachines for lining caribou up for a shot. It should be clarified whether this practice is considered “herding.”

NPS Response: Paragraph (g)(4) of this rule prohibits using an aircraft, snowmachine, off-road vehicle, motorboat, or other motor vehicle to harass wildlife, including chasing, driving, herding, molesting, or otherwise disturbing wildlife. Using an aircraft, snowmachine, or other motor vehicle to “intercept” or “position” wildlife is prohibited by this provision, because the wildlife would be (among other things) harassed, chased, driven, herded, molested, or otherwise disturbed by the use of the aircraft, snowmachine, or motor vehicle. As a result, the NPS does not believe it is necessary to revise the proposed rule to specifically prohibit “intercepting” or “positioning” wildlife as these activities are already covered by the rule.

28. Comment: Some commenters stated the NPS should also address bag limits for certain species, such as wolves.

NPS Response: The NPS generally believes bag limits are more appropriately addressed through the State regulatory process and Federal Subsistence Program in conjunction with harvest information and population data. Should bag limits become a concern in the future, the NPS will work with the State and the Federal Subsistence Board as appropriate.

29. Comment: Some commenters objected to prohibiting the harvest methods identified in the proposed rule as unnecessary since they duplicate State regulations already in effect or would eliminate harvest opportunities for Alaskans.

NPS Response: The NPS affirms current State prohibitions on harvest methods by codifying them as federal law. Should exceptions to these State prohibitions be made in the future, the NPS will consider whether to adopt the same exceptions for national preserves. The majority of existing harvest opportunities provided under State law will still be available for hunters in national preserves.

Annual List of Harvest Regulations Not Adopted

30. Comment: Some commenters objected to the provision in the proposed rule requiring the Regional Director to compile an annual list of State laws and regulations that are not adopted in national preserves because they are aimed at reducing predators. Some comments suggested that the NPS hold public hearings and a public comment period before the Regional

Director places laws and regulations on this list. Other commenters stated this provision is inconsistent with ANILCA and would give superintendents too much discretionary authority.

NPS Response: The provision requiring the Regional Director to identify State laws and regulations not adopted under paragraph (f) is designed to remove any ambiguity about which State-authorized activities are prohibited on national preserves. The NPS does not believe that a hearing or public comment period is appropriate for the annual list because these activities will be prohibited by paragraph (f)(2) without any further action by the NPS or the Regional Director. The purpose of the list is to inform the public about which laws and regulations are not adopted by the NPS so that there is no confusion about what is forbidden in national preserves. The list is expected to change only to the extent the State authorizes new predator reduction activities that otherwise would affect national preserves. The overall goal of this provision is to maintain the traditional status quo and prevent the introduction of new predator reduction activities in national preserves.

ANILCA allows the Secretary of the Interior (acting through the NPS) to restrict sport hunting and trapping in national preserves after consultation with the State of Alaska, and does not diminish the authority of the Secretary of the Interior over the management of public lands. See the Background section of this final rule for more information about NPS authority to promulgate this rule. The NPS believes that compiling and annually updating a list of the activities prohibited by paragraph (f) is consistent with the statutory authority provided to the NPS for the management of national preserves.

Taking Bears Over Bait

31. Comment: Some commenters stated that the practice of baiting black bears and brown bears is appropriate because it will not have adverse ecological or public safety effects. Others commented that baiting black bears and brown bears should be prohibited because it may create public safety issues, food-conditioned bears, or impact natural populations or processes.

NPS Response: The NPS proposed prohibiting the harvest of brown bears over bait to avoid public safety issues, to avoid food conditioning bears and other species, and to maintain natural bear behavior as required by the NPS legal and policy framework. By design, baiting typically uses human or pet food

to alter the natural behavior of bears to predictably attract them to a specific location for harvest. Land and wildlife management agencies strive to eliminate the feeding of bears through individual and collective educational efforts, due to the increased likelihood that food-conditioned bears are killed by agency personnel or the public in defense of life or property. Food-conditioned bears are also believed more likely to cause human injury. To that end, NPS regulations prohibit feeding wildlife and the practice of baiting is at odds with this.

Because the concerns presented by taking brown bears over bait also apply to black bear baiting, the NPS requested public comment on whether taking black bears over bait should be allowed to continue on national preserves. After reviewing public comment, the NPS has decided to prohibit taking black bears over bait in national preserves. This decision is consistent with State regulations applicable to Denali State Park, where taking of wildlife is authorized but taking black bears over bait is prohibited (see 2014–2015 Alaska Hunting Regulations, p. 27 and 78 and 5 AAC 92.044 for game management units where the practice is authorized).

Bait stations tend to be located in accessible areas due to the infrastructure (typically a 55 gallon drum) and quantity (including weight) of bait used to engage in this activity and the frequency with which the stations must be replenished. Because of the accessibility of these areas, they are typically used by multiple user groups, which contributes to the public safety concerns associated with baiting. Although there are State regulations that prohibit bait stations within a certain distance of structures (cabins/residences), roads, and trails, these distances lack biological significance relative to bears, whose home ranges can include tens to hundreds of square miles.

32. Comment: Some commenters stated that bear baiting should be allowed in national preserves because it is a historical practice that predates the establishment of national preserves and it is a customary practice by many Alaskans. Commenters also stated the practice should be allowed because the amount of take is or would be small.

NPS Response: According to information provided by the State of Alaska, harvest of black bears over bait was authorized by State regulations in 1982. The creation of all NPS areas in Alaska preceded this date. Harvest of bears over the remains of legally-harvested animals not required to be salvaged will continue to be lawful

provided the remains are not moved. To the extent the practice of baiting bears is a customary and traditional practice by rural residents, those uses may be authorized for Federally qualified rural residents pursuant to regulations adopted by the Federal Subsistence Board.

The NPS recognizes that the number of bears harvested over bait in national preserves may not be large. However, this provision is not based on how many bears are harvested or whether that harvest would impact bear population levels. It is based on the legal and policy framework that governs national preserves and calls for maintaining natural ecosystems and processes and minimizing safety concerns presented by food-conditioned bears.

33. Comment: One commenter recommended the definition of bait exclude legally taken fish and that bait should exclude legally taken wildlife that is not required to be salvaged under federal as well as State law. A comment was received that game that died of natural causes should not be considered bait.

NPS Response: The NPS has modified the definition of bait in a manner that excludes native fish, consistent with State law. Upon review, the NPS determined it is not necessary to reference State or federal law regarding salvage requirements in the definition of bait. The result is that parts of legally taken fish or wildlife that are not required to be salvaged are not considered bait if the parts are not moved from the kill site. The rule excludes from the definition of bait game that died of natural causes, if not moved from the location where it was found.

Taking Black Bears With Artificial Light at Den Sites

34. Comment: Some comments stated that the use of artificial light to aid the harvest of black bears in dens should be allowed to ensure proper species identification, prevent take of cubs or sows with cubs, and facilitate a human shot placement. Others commented that the use of artificial light to aid the harvest of black bears in dens should be prohibited due to effects on ecological processes and populations and the potential for dangerous orphaned cubs.

NPS Response: Although artificial light may, in some cases, aid the harvest of black bears in dens by assisting with species identification and shot placement, the NPS does not support authorizing this practice for sport hunting in national preserves. For rural subsistence users, the NPS believes this matter is more appropriately addressed

by the Federal Subsistence Board. The final rule maintains the proposed prohibition on using artificial light to take wildlife, subject to certain exceptions.

Using Dogs To Hunt Black Bears

35. Comment: In response to a question in the proposed rule, some commenters supported the use of unleashed dogs to hunt black bears pursuant to a State permit. Some commenters stated that the use of dogs to hunt black bears has been allowed since 1970 and is not historically illegal. Other commenters opposed the use of dogs to hunt black bears. These comments stated that this activity would increase stress and trauma for the dogs and bears, reduce bear populations in national preserves, disrupt the natural balance of predator-prey dynamics, alter bear feeding patterns, harass other wildlife, transmit diseases to wildlife, interfere with other sport and subsistence hunters, and be dangerous for the dogs and humans in the area (including by driving bears into roadways and onto private property). Several comments stated that dogs used for hunting roam over large portions of the land, often out of the sight and control of their handlers. Some comments stated that this activity is unethical, unsportsmanlike, and does not have a traditional or cultural basis in Alaska. Other comments stated that dogs are often used to “tree” bears, which makes it difficult to determine the sex of the bear and could result in the killing of females with cubs.

NPS Response: Commenters are correct that using dogs to hunt black bears is not “historically illegal.” While State of Alaska law generally prohibits taking big game with the aid or use of a dog, there is an exception for using a dog to take black bears pursuant to a non-transferable permit issued by the ADF&G. The NPS agrees that this practice could have some of the adverse impacts suggested by commenters who oppose the practice. The NPS also believes the use of unleashed dogs to hunt black bears is one of the practices that is inconsistent with the traditional “sport hunting” that is authorized by ANILCA, as discussed above. The rule generally prohibits taking big game with the aid of use of a dog. The proposed rule has been modified to eliminate an exception that would have allowed the use of dogs to harvest black bears under a State permit.

36. Comment: Some commenters supported the use of unleashed dogs to hunt “problem animals” and the use of leashed dogs to hunt wounded black bears.

NPS Response: There is no allowance in State law to use unleashed dogs to hunt “problem animals.” Current State law allows use of a single, leashed dog in conjunction with tracking and dispatching a wounded big game animal, including black bear. The intent of the leash requirement is to ensure that native wildlife are not pursued, harassed, or killed by unleashed dogs and to prevent any contact between native wildlife and domestic dogs. The State-authorized use of a single, leashed dog in conjunction with tracking and dispatching a wounded big game animal will remain authorized in national preserves. The NPS will take appropriate action to protect the safety of park visitors and other wildlife from problem animals, such as bears.

37. Comment: Some commenters supported using sled dogs to travel to and from hunting and trapping areas, in search of game, and to haul out taken game, but not to chase wildlife.

NPS Response: Sled dogs are allowed under 16 U.S.C. 3121(b) of ANILCA for subsistence uses and under 16 U.S.C. 3170(a) of ANILCA for other traditional activities, unless prohibited or restricted on a site specific basis. There are currently no prohibitions or restrictions on this activity in areas where hunting and trapping are authorized. Herding, harassing, hazing, or driving wildlife is prohibited under NPS regulations. This includes “chasing” wildlife.

Wolves and Coyotes

38. Comment: Several commenters supported the limitations on taking wolves and coyotes in the proposed rule, and suggested additional protections such as extending the duration of the no-take period and imposing bag limits. These comments were concerned about hunting pressure, declining populations, and protecting pregnant females to avoid orphaned pups and unsuccessful rearing. Other commenters opposed the limitations on taking wolves and coyotes in the proposed rule, and suggested additional allowances for taking these species, including adoption of the State hunting seasons. Several commenters stated that extended hunting seasons for wolves and coyotes allow for a traditional form of hunting specifically authorized under the State subsistence program, and are not meant to be predator control.

NPS Response: The rule prohibits taking wolves and coyotes from May 1 through August 9. These dates reflect previously longstanding State harvest seasons that provided harvest opportunities while maintaining viable wolf and coyote populations. The rule maintains the decades-old management

paradigm of State and federal managers, rather than adopting recently liberalized State regulations that lengthen the hunting seasons. Should wolf or coyote population levels become a concern in the future, the NPS will work with the State and consider appropriate action at that time.

39. Comment: Some commenters stated that coyotes are not native to Alaska.

NPS Response: Coyotes are native to North America, and while coyotes may not have historically occupied all of their current range, their expansion most likely occurred through natural processes. Consequently, the NPS manages coyotes in the same manner as other native species consistent with NPS Management Policies (§§ 4.1, 4.4.1, 4.4.1.2, 4.4.2).

40. Comment: A few commenters questioned whether wolf pelts taken during the denning season have limited value.

NPS Response: The NPS understands that some individuals may have uses for wolf pelts that are harvested outside the normal trapping season. This rule, however, protects wolves during the denning season when they are vulnerable. The rule preserves the opportunity to harvest wolves when the pelts are thicker for cold winter temperatures. A pelt that has begun to shed out for summer is thinner, may become patchy, and for these reasons is not generally considered as valuable.

Swimming Caribou

41. Comment: One commenter stated that the proposed prohibition on taking swimming caribou would be difficult to enforce because the harvest opportunities are along the river’s edge and animals often fall in the low spots or the water. Another commenter supported the prohibition, noting that there are sufficient opportunities for sport hunters to harvest caribou on land.

NPS Response: NPS agrees that there are adequate opportunities for sport hunters to harvest caribou on land. Although there may be a few situations where it is difficult to tell whether a caribou was taken while swimming, the NPS believes that the prohibition will be enforceable. Also, under existing State regulations, this practice is limited to waters in GMUs 23 and 26. Noatak, Gates of the Arctic, and Bering Land Bridge are the only national preserves within these GMUs. To the extent individuals who are not federally qualified subsistence users engage in this activity elsewhere (e.g., Onion Portage within Kobuk Valley National Park), such use is not authorized under existing NPS regulations, which allow

only federally qualified subsistence users to hunt within certain national parks and monuments in Alaska.

42. Comment: Several commenters opposed the prohibition on the take of swimming caribou, stating that it would prevent those who no longer live in rural Alaska from harvesting foods in a traditional manner. Commenters stated that former residents would not be allowed to return to hunt or to assist elders with hunting in traditional ways. Other commenters supported the proposed prohibition of taking caribou while swimming, noting that it is unsporting and not consistent with fair chase.

NPS Response: The NPS recognizes that taking caribou while swimming is a customary and traditional subsistence practice in some areas of the State. The NPS supports continuation of this practice under federal subsistence regulations in NPS units. The NPS also agrees with the comment that the practice of taking caribou while swimming is not consistent with fair chase and thus believes it is not appropriate to allow as a sport hunting practice. Although former local residents who no longer qualify to hunt under federal subsistence regulations will not be able to engage in such subsistence harvests, they may participate in other aspects of the traditional practice.

Obstruction of Hunting

43. Comment: Some commenters opposed the proposed prohibition on obstructing hunting activities as unnecessary or providing special treatment to hunters. Others questioned the need for the provision because it is already in State law.

NPS Response: In the past, the NPS has received reports of individuals actively attempting to obstruct others from hunting. While this conduct is prohibited under State law, it is not currently prohibited under NPS regulations. Consequently, in the event of a violation of this type in a national preserve, only the State could take enforcement action. This rule allows the NPS also to take enforcement action. This protects the lawful rights of hunters in national preserves, but does not afford them special treatment above what they are currently entitled to by State law.

Bait for Fishing

44. Comment: Commenters generally supported using native species as bait for fishing. Some commenters suggested the species used should be obtained from the waters being fished to avoid introducing a species that is native to

Alaska but not native to a particular watershed.

NPS Response: The NPS agrees that bait species should be limited to those native to Alaska, but does not believe that allowing the use of species not native to a particular watershed poses a risk that new species will be introduced into that watershed. Existing State and federal regulations already prohibit the use of live fish for bait in fresh water, and using dead fish or unfertilized eggs removed from a harvested fish will not result in the introduction of new species that are not native to a particular watershed. In marine waters, existing regulations already require that any fish used for bait come from the same waters being fished.

45. Comment: One commenter supported allowing bait for fishing but stated the rule is not necessary because State regulations that allow bait apply to NPS units.

NPS Response: Section 13.40(b) provides that fishing must be consistent with 36 CFR 2.3. Section 2.3 prohibits the use of live or dead minnows or other bait fish, amphibians, nonpreserved fish eggs or fish roe as bait for fishing in fresh waters, along with methods other than hook and line. Consequently this rule is necessary to allow the use of native species of fish or fish eggs as bait for fishing.

46. Comment: Some commenters supported the intent to allow bait for fishing since it is a common practice and commonly allowed in Alaska, but said it would create confusion on waters where the State has prohibited bait. These commenters also noted the State allows many forms of bait that would not be considered native species, such as natural or synthetic scents, and natural or processed vegetable matter.

NPS Response: NPS regulations adopt non-conflicting State regulations. Under existing NPS regulations, the use of bait is allowed in accordance with State law under 36 CFR 2.3 except for the use of fish, amphibians or their eggs. This rule allows the use of native fish, amphibians, and their eggs as bait if authorized by the State. If the State does not allow the use of these types of bait in waters within NPS areas, State law will govern and the use of native fish, amphibians, and their eggs as bait will not be allowed.

Updating Federal Subsistence Regulations

47. Comment: Some commenters opposed removal of regulatory language providing for consultation with the State regarding potential closures to subsistence harvest of fish and wildlife. A suggestion was made to retain the

provision adopting non-conflicting State laws for subsistence harvest of fish and wildlife. A comment also suggested adding several provisions to the subsistence closure procedures in 36 CFR 13.490, including consultation with various stakeholders, holding public hearings in the affected vicinity, and holding hearings in coordination with other meetings.

NPS Response: The existing provision that adopts non-conflicting State laws is not necessary due to the assumption by the Federal Subsistence Board of regulatory authority over Title VIII subsistence harvest of fish and wildlife. Federal subsistence regulations, which apply in NPS units where Title VIII subsistence is allowed, include regulatory language that adopts non-conflicting State laws. The provision in 36 CFR 13.490 is no longer necessary and will be removed by this rule.

Upon review of comments and considering the practices of the Federal Subsistence Board, the NPS agrees with the recommendation to retain the language providing for consultation with the State prior to the NPS implementing closures to subsistence take of fish and wildlife. Because harvest is regulated by the Federal Subsistence Board, the NPS has modified the proposed rule to also include consultation with the Federal Subsistence Board.

Finally, for consistency with 36 CFR 13.50, which was modified based upon comments (addressed below), the rule has been modified to specify that public hearings will be held near the affected park unit (rather than the “affected vicinity”) prior to implementing the management action in nonemergency situations.

Updating Closure and Restriction Procedures

48. Comment: Some commenters objected to the changes in 36 CFR 13.50 as inconsistent with ANILCA or not appropriate for Alaska.

NPS Response: The changes to 36 CFR 13.50 bring procedures for implementing closures and restrictions more in line with procedures that apply to the entire National Park System under 36 CFR 1.5, as well as procedures used by Alaska State Parks. 11 AAC 12.355. The public will benefit from aligning procedures with other NPS units as well as Alaska State Parks. This consistency will enable the public to more effectively engage managers regarding their uses of the public lands and the resources on them.

While commenters referred generally to the proposed changes as being inconsistent with ANILCA, the only

provision cited was 16 U.S.C. 3202. That section contains general savings provisions preserving the Secretary’s authority to manage public lands and preserving the State’s non-conflicting authority to manage fish and wildlife on those lands. Nothing in that section is specifically relevant to the closure and restriction provisions of 36 CFR 13.50; accordingly the NPS finds no conflict between ANILCA and these procedural updates.

49. Comment: Some commenters stated the proposed rule would give too much authority to the superintendents to adopt restrictions, specifically on taking of fish or wildlife for sport purposes. Some commenters stated that closures or restrictions must be based upon demonstrated biological considerations (e.g., wildlife population data).

NPS Response: Federal statutes, including ANILCA, provide the NPS with substantial discretion in managing units of the National Park System. Generally, National Park System regulations need only be “necessary or proper for the use and management of System units.” 54 U.S.C. 100751. With respect to sport hunting in national preserves in Alaska, Congress authorized the NPS to restrict these activities for reasons of “public safety, administration, floral and faunal protection, or public use and enjoyment.” 16 U.S.C. 3201. The NPS thus is not required to base its management decisions regarding these restrictions only on biological considerations. The rule maintains the superintendent’s long established authority to make management decisions for NPS units based upon a variety of criteria. The NPS plans to continue to require review of all proposed closures and restrictions at the regional level.

50. Comment: Some commenters were concerned that the proposed changes to 36 CFR 13.50 would limit Alaskans’ ability to comment on potential closures and restrictions on NPS-managed areas by shortening the comment period, soliciting comments from non-residents of Alaska, and reducing the number of public meetings.

NPS Response: While hearings are required in certain circumstances (e.g., restricting subsistence harvest of fish or wildlife under Title VIII of ANILCA or access authorized under 16 U.S.C. 3170(a)), there is no statutory requirement to take public comment on closures or restrictions that are not required to be published in the **Federal Register**. The NPS believes, however, that public involvement is an important component of managing NPS units.

Alaskans and all Americans have an important say in how these national interest lands are managed. Accordingly, except in emergencies, the rule requires an opportunity for public comment, including holding at least one public meeting near the affected NPS unit, prior to adopting a closure or restriction related to taking fish or wildlife. The changes to § 13.50 will not limit any existing opportunities, including public meetings, for Alaskan residents to comment on proposed closures and restrictions for NPS units in Alaska. The NPS posts online proposed closures and restrictions for NPS units in Alaska and invites public comment on them. The NPS intends to continue this practice.

51. Comment: Some commenters objected to removing the requirement that the NPS hold a hearing before implementing closures or restrictions on taking of fish and wildlife for sport purposes. Some were concerned that the NPS would cease meeting with local communities or that the change would give superintendents too much discretion to decide whether to meet with local communities. Some commenters stated the NPS should not consider the time or expense to the government or anticipated number of attendees in determining whether to hold public hearings.

NPS Response: The proposed rule would have replaced the existing regulatory requirement to hold a hearing in the affected vicinity with a requirement to provide an opportunity for public comment, which could include a written comment period, public meeting, public hearing, or a combination thereof. After reviewing comments and considering the similar procedures used by the BOG and the Federal Subsistence Board, the NPS modified the proposed rule to add a requirement to hold one or more public meetings near the affected park unit prior to implementing a closure or restriction on taking fish and wildlife in national preserves, except in the case of emergencies. The NPS will attempt to hold public meetings in conjunction with other events, like Subsistence Resource Commission meetings, when possible. The NPS will consider holding more than one public meeting depending on the nature of the action, local interest, and other opportunities for engagement. The rule will also require the NPS to continue the current practice of providing an opportunity for public comment prior to implementing proposed closures and restrictions related to taking fish and wildlife. The NPS intends to continue its current practice of accepting written comments

submitted electronically or by mail or hand delivery. This will give Alaskans and other Americans an opportunity to provide meaningful input on these management actions.

52. Comment: Some comments suggested the NPS provide public notice and hold a hearing prior to adopting emergency closures relating to fish and wildlife.

NPS Response: Although the NPS supports providing the public with a meaningful opportunity to comment, in certain circumstances action may be necessary to protect wildlife or public safety before there is an opportunity for public comment or a hearing. The NPS will provide appropriate notice of emergency closures and restrictions in accordance with the provisions of 36 CFR 13.50.

53. Comment: Some commenters stated the proposed rule would eliminate a requirement to do written determinations stating the basis for closures, restrictions, and other designations.

NPS Response: Although the procedures in 36 CFR 1.5(c) require a written determination of need explaining the reasons for closures or restrictions on public use, the current procedures in § 13.50 do not. The NPS however, has provided such determinations for all proposed closures and restrictions in NPS units in Alaska to better inform the public about the reasons for its decisions. This comment highlights the complexity regarding the various procedural regulations that currently apply to NPS units in Alaska. The NPS believes it is in the public's interest to streamline procedures as much as possible in order to make them more consistent. This will make it easier for the public to be involved in NPS decision-making in Alaska. Accordingly, the NPS has decided to apply the procedures of 36 CFR 13.50, as revised in this rule, to all closures and restrictions in NPS units in Alaska unless a more specific regulation in part 13 provides otherwise (*i.e.*, 36 CFR 13.490 pertaining to closures to subsistence harvest of fish and wildlife). These revised procedures that apply to all NPS units in Alaska require a written determination explaining the basis of the restriction.

54. Comment: Some commenters objected to utilizing web-based tools for information sharing and taking public comment since not all Alaskans have reliable internet. Other commenters objected to using the internet because it is easier for individuals outside Alaska to provide input. Some commenters interpreted the proposed rule to imply

that the NPS will engage the public using social media exclusively.

NPS Response: The NPS acknowledges that some individuals, especially in rural Alaska, may not have reliable internet access or may prefer other methods of communicating with the NPS. The methods of providing notice in the rule are consistent with NPS practices in place in Alaska for more than a decade. The primary method of notifying the public of closures or restrictions has been posting notice online and disseminating press releases by email. It has been the practice for the NPS to invite public comment through electronic means as well as by mail or hand delivery. The majority of public comments are received electronically. The NPS will continue to accept written comments through electronic and traditional means (mail or hand delivery). The NPS will also use other notification procedures such as posting in local post offices and other public places when practical. Individuals may also request copies of the park compendium and other NPS documents by mail or in person. Social media is a valuable tool to inform as well as engage a certain segment of the public, but it is not, and will not be, the only way the NPS engages and communicates with the public. The NPS believes that using the internet will make it easier for some segments of the American public, regardless of residency, to provide input on proposed management actions for NPS units in Alaska. This is appropriate because National Park System units are federal lands that are protected and preserved for all Americans.

55. Comment: Some commenters suggested that the proposed rule should provide opening procedures.

NPS Response: The procedures in the rule apply to the termination and relaxation of closures and restrictions, which includes actions that open areas and allow activities that had been closed or restricted.

56. Comment: Some commenters suggested retaining the distinction between permanent and temporary restrictions. These commenters recommend temporary restrictions be limited to 12 months and rulemaking be required for all permanent restrictions or those restrictions in place longer than 12 months. Other comments stated the existing 30-day limitation on emergency closures should be retained with no extensions.

NPS Response: The categories distinguishing permanent and temporary closures or restrictions have been problematic and difficult to implement, as noted by the State and

others during the annual compendium review process on several occasions. Under current regulations, closures or restrictions in place for more than 12 months must be implemented by rulemaking and cannot be extended, regardless of significance or public interest. The result of this structure is that the NPS must repropose and reissue temporary closures or restrictions each year, even in circumstances where there is little public interest in the action, or where the action is an insignificant management decision. The existing framework is overly rigid and complicated, and unnecessarily compromises the NPS's ability to protect resources and provide for public use and enjoyment. The NPS has determined that the criteria-based rulemaking structure that exists in the nationwide NPS regulations (and is mirrored by Alaska State Parks) provides a better framework. A criteria-based framework requires notice and comment rulemaking based on the impact the closure or restriction will have on the values, resources, and visitors of the park unit. This framework allows the superintendent to implement closures or restrictions that do not significantly impact values, resources, or visitor use without needing to publish a rule in the **Federal Register** or propose the same action again every year. For example, a prohibition on smoking near fuel storage tanks would not necessarily require a rulemaking, but closing an area to all sport harvest on a permanent basis would. The criteria-based framework allows managers to be more flexible and adapt to changing circumstances. The improved consistency with other NPS units and Alaska State Parks will also make it easier for the public to be involved in decision-making regarding the use of public lands in Alaska.

With regard to the duration of emergency closures, the NPS rule is more consistent with the practice of other agencies and NPS regulations that apply outside of Alaska. The existing regulations limit emergency closures to 30 days without extension. Federal subsistence regulations regarding subsistence harvest of fish and wildlife provide for emergency closures of up to 60 days and allow for extensions. National Park System-wide regulations and Alaska State Parks regulations do not provide a time limit on emergency closures. 36 CFR 1.5, 11 AAC 12.355. With respect to restrictions on taking fish and wildlife for sport purposes in national preserves, the NPS adopts the 60-day timeframe and allows for extensions—after consultation with the

State and public comment (including a public meeting)—if the emergency persists. The NPS believes the public will benefit from this consistency with respect to emergency closures or restrictions on taking of fish or wildlife. Other emergency actions will have no explicit expiration date and may exist until the emergency is resolved. This is consistent with regulations for NPS units located outside of Alaska and for Alaska State Parks.

57. Comment: Some commenters stated the NPS should retain the provision requiring consultation with the State and with “representatives of affected user groups” prior to adopting restrictions on the take of wildlife for sport purposes, including Subsistence Resource Commissions, federal subsistence regional advisory councils, local fish and game advisory committees, tribes, and others. Some commenters also stated the NPS must implement the recommendations of Subsistence Resources Commissions unless the criteria of 16 U.S.C. 3118(b) apply.

NPS Response: 16 U.S.C. 3201 requires the NPS to consult with the State prior to prescribing restrictions relating to hunting, fishing, or trapping in national preserves. The rule does not eliminate that statutory requirement; it has moved this requirement into § 13.50 because it relates to closures and restrictions. The rule also requires the NPS to provide an opportunity for public comment, including one or more public meetings near the affected national preserve prior to implementing a closure or restriction on taking fish or wildlife. This will provide representatives of affected user groups an opportunity to provide comments to the NPS prior to the action being implemented. User groups are invited and encouraged to provide input on all such proposed actions.

The NPS agrees that input from advisory groups, NPS Subsistence Resource Commissions, and others is important and valuable and the NPS encourages these groups to engage with the park superintendents on topics of interest. The NPS, however, does not agree that the provisions of 16 U.S.C. 3118(b) apply as broadly as suggested. Under 16 U.S.C. 3118, Subsistence Resource Commissions are established for areas designated as national parks and monuments (not national preserves) to provide subsistence hunting program recommendations. ANILCA further provides that a subsistence hunting program recommendation for national parks and monuments must be implemented unless it “violates recognized principles of wildlife

conservation, threatens the conservation of healthy population of wildlife . . . is contrary to the purposes for which the park or park monument is established, or would be detrimental to the satisfaction of subsistence needs of local residents.” While Subsistence Resource Commissions provide valuable input on multiple topics that affect national parks, monuments, and national preserves, the Subsistence Resource Commission’s statutory charge is specific to Title VIII subsistence hunting program recommendations in national parks and monuments. This rule does not restrict Title VIII subsistence and applies only to sport harvest on national preserves. Therefore 16 U.S.C. 3118(b) does not apply.

58. Comment: Some commenters stated that the factors in the rule that must be considered by superintendents prior to adopting a closure or restriction are ambiguous and give too much discretion to park superintendents. Other commenters suggested adding factors, including “natural,” “natural and healthy,” “healthy,” and “species of concern,” to those in the proposed rule. Other commenters suggested retaining the reference to emergencies.

NPS Response: The factors that must be considered by superintendents place appropriate guidelines around their authority to manage NPS units in Alaska. The discretionary authority granted to superintendents recognizes that they are subject matter experts regarding management of the park unit and allows them to take action and respond to changing circumstances in the unit.

Under the existing regulations, the superintendent must consider factors including public health and safety, resource protection, protection of cultural or scientific values, subsistence uses, conservation of endangered or threatened species, and other management considerations in determining whether to adopt closures or restrictions on an emergency basis. These factors appear elsewhere in 36 CFR part 13 (e.g., 36 CFR 13.460(b) and 13.485(c)). The NPS proposed to modify this section by requiring the superintendent to consider these factors for all closures and restrictions (not just emergencies), and adding the criteria of “naturally functioning ecosystems” based on *NPS Management Policies 2006*, which implement the NPS Organic Act.

In the final rule, the NPS has decided that adding a requirement that the superintendent consider protecting “naturally functioning ecosystems” is unnecessary because this consideration is encompassed by the existing

requirement that the superintendent consider “resource protection.” The NPS considered adding the terms “natural,” “natural and healthy,” “healthy,” and “species of concern,”

but determined such terms are not necessary because they are a part of “resource protection” or in some cases “conservation of endangered or threatened species.”

Changes From the Proposed Rule

After taking the public comments into consideration and after additional review, the NPS made the following substantive changes in the final rule:

§ 13.1	Added an exception to the definition of “bait” for legally taken fish not required to be salvaged if not moved from the kill site. This change is consistent with State law and would exclude this practice from the prohibition on using bait in the rule. The term “game” was changed to “wildlife” for consistency with NPS terminology.
§ 13.42(g)	Delayed implementation of the prohibited methods of taking wildlife until January 1, 2016.
§ 13.42(g)(8)	Added an allowance for using electronic calls to take all game animals (not limited to big game animals) except for moose.
§ 13.42(g)(10)	Removed an exception that would have allowed the taking black bears over bait, which is now prohibited.
§ 13.42(g)(11)	Removed an exception that would have allowed the use of dogs to take black bears under a State permit.
§ 13.42(g)(14)	Added an exception to the prohibition on taking a fur animal by disturbing or destroying a den to allow taking muskrats at pushups or feeding houses.
§ 13.42(e)	Modified an existing requirement that individuals transporting wildlife through park areas must identify themselves and the location where the wildlife was taken to any NPS personnel. This information must now only be given to NPS law enforcement personnel. This type of information is relevant for law enforcement purposes and accordingly, the identification requirement should be limited to law enforcement officers.
§ 13.50(a)	Modified to reflect the applicability of § 13.50 to all NPS closures and restrictions in Alaska unless more specific procedures in part 13 apply.
§ 13.50(b)	Changed the title from “criteria” to “factors” because the regulatory text refers to the considerations as “factors.” Removed “protecting the integrity of naturally functioning ecosystems” as factor that must be considered by the superintendent in determining whether to close an area or restrict an activity.
§ 13.50(c)	Change the title from “duration” to “rulemaking requirements” to accurately reflect the content of the subsection. Removed the provision limiting all emergency closures and restrictions to 60 days.
§ 13.50(d)	Added a provision requiring written explanation of the reasons for implementing, relaxing, or terminating a closure or restriction, except in emergencies.
§ 13.50(e)	Prior to implementing nonemergency closures or restrictions on taking fish or wildlife, added a requirement to hold one or more public meetings near the affected NPS unit. Added a 60-day time limit for emergency closures or restrictions on taking fish or wildlife with extensions only upon consultation with the State and public comment, including a meeting near the affected NPS unit.
§ 13.50(f)	Closures or restrictions will be “posted on the NPS website” rather than “effective upon publication on the NPS website.” This change reflects that the NPS may post closures or restrictions on the NPS website prior to them taking effect. Also added a requirement to compile a written list, updated annually, of closures and restrictions which is posted on the NPS website.
§ 13.50	Removed existing regulations on “Openings” and “Facility closures and restrictions” because they are redundant with the revisions to this section.
§ 13.50(g)	Shortened for clarity and brevity.
§ 13.490	Added a requirement to consult with the State and the Federal Subsistence Board before temporary restrictions on taking fish or wildlife for subsistence uses under Title VIII of ANILCA. Updated the language regarding location of hearings to near the “affected NPS unit” for consistency with the changes in § 13.50.

Compliance With Other Laws, Executive Orders, and Department Policy

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 rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 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. Executive Order 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

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based on the cost-benefit and regulatory flexibility analyses found in the report entitled “Cost-Benefit and Regulatory Flexibility Analyses: Proposed Revisions to Wildlife Harvest Regulations in National Park System Alaska Region” which can be viewed online at <http://parkplanning.nps.gov/akro>, by clicking the link entitled “Amend Hunting and Trapping Regulations in National Preserves In Alaska” and then clicking the link entitled “Document List.”

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the SBREFA. This rule:

- a. Does not have an annual effect on the economy of \$100 million or more.
- b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions
- c. 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.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on state, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on state, local or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

This rule does not effect a taking of private property or otherwise have taking implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. The rule’s effect is limited to federal lands managed by the NPS in Alaska and it will not have a substantial direct effect on state and local government in Alaska. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

- (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and
- (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation with Indian Tribes (E.O. 13175 and Department policy) and ANCSA Native Corporations

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the criteria in Executive Order 13175 and under the Department’s tribal consultation and Alaska Native Claims Settlement Act (ANCSA) Native Corporation policies and have determined that tribal consultation is not required because the rule will have no substantial direct effect on federally recognized Indian tribes. While the NPS has determined the rule will have no substantial direct effect on federally recognized Indian tribes or ANCSA Native Corporation lands, water areas, or resources, the NPS consulted with Alaska Native tribes and Alaska Native Corporations on the proposed rule, as discussed above.

Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not required. 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.

National Environmental Policy Act

The NPS has analyzed this rule in accordance with the criteria of the National Environmental Policy Act (NEPA) and 516 DM. We prepared an environmental assessment entitled “Wildlife Harvest On National Park System Preserves In Alaska” (EA) to determine whether this rule will have a significant impact on the quality of the human environment. This rule does not constitute a major Federal action

significantly affecting the quality of the human environment, and an environmental impact statement is not required, because we reached a Finding of No Significant Impact (FONSI). The EA and FONSI are available online at <http://www.parkplanning.nps.gov/akro>, by clicking on the link entitled “Amend Hunting and Trapping Regulations in National Preserves In Alaska” and then clicking on the link entitled “Document List.”

Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

Drafting Information

The primary authors of this regulation are Jay Calhoun, Regulations Program Specialist, National Park Service, Division of Jurisdiction, Regulations, and Special Park Uses; Philip Hooge, Denali National Park and Preserve; Barbara Cellarius, Wrangell-St. Elias National Park and Preserve; and Guy Adema, Debora Cooper, Joel Hard, Grant Hilderbrand, Brooke Merrell, Bud Rice, and Andee Sears of the Alaska Regional Office, National Park Service.

List of Subjects in 36 CFR Part 13

Alaska, National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service amends 36 CFR part 13 as set forth below:

PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA

- 1. The authority citation for part 13 continues to read as follows:

Authority: 16 U.S.C. 3124; 54 U.S.C. 100101, 100751, 320102; Sec. 13.1204 also issued under Sec. 1035, Pub. L. 104–333, 110 Stat. 4240.

- 2. In § 13.1, add in alphabetical order the terms “Bait”, “Big game”, “Cub bear”, “Fur animal”, “Furbearer”, and “Trapping” to read as follows:

§ 13.1 Definitions.

* * * * *

Bait means, for purposes of taking wildlife other than fish, any material used to attract wildlife by sense of smell or taste except:

- (1) Parts of legally taken wildlife or fish that are not required to be salvaged if the parts are not moved from the kill site; or
- (2) Wildlife or fish that died of natural causes, if not moved from the location where it was found.

Big game means black bear, brown bear, bison, caribou, Sitka black-tailed deer, elk, mountain goat, moose, muskox, Dall's sheep, wolf, and wolverine.

* * * * *

Cub bear means a brown (grizzly) bear in its first or second year of life, or a black bear (including the cinnamon and blue phases) in its first year of life.

* * * * *

Fur animal means a classification of animals subject to taking with a hunting license, consisting of beaver, coyote, arctic fox, red fox, lynx, flying squirrel, ground squirrel, or red squirrel that have not been domestically raised.

Furbearer means a beaver, coyote, arctic fox, red fox, lynx, marten, mink, least weasel, short-tailed weasel, muskrat, land otter, red squirrel, flying squirrel, ground squirrel, Alaskan marmot, hoary marmot, woodchuck, wolf and wolverine.

* * * * *

Trapping means taking furbearers under a trapping license.

* * * * *

■ 3. In § 13.40, revise the section heading and paragraphs (d) and (e) to read as follows:

§ 13.40 Taking of fish.

* * * * *

(d) *Use of native species as bait.* Use of species native to Alaska as bait for

fishing is allowed in accordance with non-conflicting State law and regulations.

(e) *Closures and restrictions.* The Superintendent may prohibit or restrict the non-subsistence taking of fish in accordance with the provisions of § 13.50.

■ 4. Add § 13.42 to read as follows:

§ 13.42 Taking of wildlife in national preserves.

(a) Hunting and trapping are allowed in national preserves in accordance with applicable Federal and non-conflicting State law and regulation.

(b) Violating a provision of either Federal or non-conflicting State law or regulation is prohibited.

(c) Engaging in trapping activities as the employee of another person is prohibited.

(d) It shall be unlawful for a person having been airborne to use a firearm or any other weapon to take or assist in taking any species of bear, caribou, Sitka black-tailed deer, elk, coyote, arctic and red fox, mountain goat, moose, Dall sheep, lynx, bison, musk ox, wolf and wolverine until after 3 a.m. on the day following the day in which the flying occurred. This prohibition does not apply to flights on regularly scheduled commercial airlines between regularly maintained public airports.

(e) Persons transporting wildlife through park areas must identify themselves and the location where the wildlife was taken when requested by NPS law enforcement personnel.

(f) State of Alaska management actions or laws or regulations that authorize taking of wildlife are not adopted in park areas if they are related to predator reduction efforts. Predator reduction efforts are those with the intent or potential to alter or manipulate natural predator-prey dynamics and associated natural ecological processes, in order to increase harvest of ungulates by humans.

(1) The Regional Director will compile a list updated at least annually of State laws and regulations not adopted under this paragraph (f).

(2) Taking of wildlife, hunting or trapping activities, or management actions identified in this paragraph (f) are prohibited. Notice of activities prohibited under this paragraph (f)(2) will be provided in accordance with § 13.50(f).

(g) This paragraph applies to the taking of wildlife in park areas administered as national preserves except for subsistence uses by local rural residents pursuant to applicable Federal law and regulation. As of January 1, 2016, the following are prohibited:

Prohibited acts	Any exceptions?
(1) Shooting from, on, or across a park road or highway	None.
(2) Using any poison or other substance that kills or temporarily incapacitates wildlife.	None.
(3) Taking wildlife from an aircraft, off-road vehicle, motorboat, motor vehicle, or snowmachine.	If the motor has been completely shut off and progress from the motor's power has ceased.
(4) Using an aircraft, snowmachine, off-road vehicle, motorboat, or other motor vehicle to harass wildlife, including chasing, driving, herding, molesting, or otherwise disturbing wildlife.	None.
(5) Taking big game while the animal is swimming	None.
(6) Using a machine gun, a set gun, or a shotgun larger than 10 gauge	None.
(7) Using the aid of a pit, fire, artificial salt lick, explosive, expanding gas arrow, bomb, smoke, chemical, or a conventional steel trap with an inside jaw spread over nine inches.	Killer style traps with an inside jaw spread less than 13 inches may be used for trapping, except to take any species of bear or ungulate.
(8) Using any electronic device to take, harass, chase, drive, herd, or molest wildlife, including but not limited to: artificial light; laser sights; electronically enhanced night vision scope; any device that has been airborne, controlled remotely, and used to spot or locate game with the use of a camera, video, or other sensing device; radio or satellite communication; cellular or satellite telephone; or motion detector.	(i) Rangefinders may be used. (ii) Electronic calls may be used for game animals except moose. (iii) Artificial light may be used for the purpose of taking furbearers under a trapping license during an open season from Nov. 1 through March 31 where authorized by the State. (iv) Artificial light may be used by a tracking dog handler with one leashed dog to aid in tracking and dispatching a wounded big game animal. (v) Electronic devices approved in writing by the Regional Director.
(9) Using snares, nets, or traps to take any species of bear or ungulate	None.
(10) Using bait	Using bait to trap furbearers.
(11) Taking big game with the aid or use of a dog	Leashed dog for tracking wounded big game.
(12) Taking wolves and coyotes from May 1 through August 9	None.
(13) Taking cub bears or female bears with cubs	None.
(14) Taking a fur animal or furbearer by disturbing or destroying a den	Muskrat pushups or feeding houses.

(h) The Superintendent may prohibit or restrict the non-subsistence taking of wildlife in accordance with the provisions of § 13.50.

(i) A person may not intentionally obstruct or hinder another person's lawful hunting or trapping by:

(1) Placing oneself in a location in which human presence may alter the behavior of the game that another person is attempting to take or the imminent feasibility of taking game by another person; or

(2) Creating a visual, aural, olfactory, or physical stimulus in order to alter the behavior of the game that another person is attempting to take.

■ 5. Revise § 13.50 to read as follows:

§ 13.50 Closure and restriction procedures.

(a) *Applicability and authority.* The Superintendent will follow the provisions of this section to close an area or restrict an activity, or terminate or relax a closure or restriction, in NPS areas in Alaska.

(b) *Factors.* In determining whether to close an area or restrict an activity, or whether to terminate or relax a closure or restriction, the Superintendent must ensure that the activity or area is managed in a manner compatible with the purposes for which the park area was established. The Superintendent's decision under this paragraph must therefore be guided by factors such as public health and safety, resource protection, protection of cultural or scientific values, subsistence uses, conservation of endangered or threatened species, and other management considerations.

(c) *Rulemaking requirements.* This paragraph applies only to a closure or restriction, or the termination or relaxation of such, which is of a nature, magnitude and duration that will result in a significant alteration in the public use pattern of the area; adversely affect the area's natural, aesthetic, scenic, or cultural values; or require a long-term modification in the resource management objectives of the area. Except in emergency situations, the closure or restriction, or the termination or relaxation of such, must be published as a rulemaking in the **Federal Register**.

(d) *Written determination.* Except in emergency situations, prior to implementing or terminating a closure or restriction, the superintendent shall prepare a written determination justifying the action. That determination shall set forth the reasons the closure or restriction authorized by paragraph (a) of this section has been established. This determination will be posted on the NPS Web site at www.nps.gov.

(e) *Restrictions on taking fish or wildlife.* (1) Except in emergencies, the NPS will consult with the State agency having responsibility over fishing, hunting, or trapping and provide an opportunity for public comment, including one or more public meetings near the affected NPS unit, prior to implementing a closure or restriction on taking fish or wildlife.

(2) Emergency closures or restrictions may not exceed a period of 60 days and may not be extended without following the nonemergency procedures of this section.

(f) *Notice.* A list of closures and restrictions will be compiled in writing and updated annually. The list will be posted on the NPS Web site at www.nps.gov and made available at park headquarters. Additional means of notice reasonably likely to inform residents in the affected vicinity will also be provided where available, such as:

(1) Publication in a newspaper of general circulation in the State or in local newspapers;

(2) Use of electronic media, such as the internet and email lists;

(3) Radio broadcast; or

(4) Posting of signs in the local vicinity.

(g) Violating a closure or restriction is prohibited.

§ 13.400 [Amended]

■ 6. In § 13.400, remove paragraph (e) and redesignate paragraph (f) as new paragraph (e).

■ 7. Revise § 13.470 to read as follows:

§ 13.470 Subsistence fishing.

Fish may be taken by local rural residents for subsistence uses in park areas where subsistence uses are allowed in compliance with applicable Federal law and regulation, including the provisions of §§ 2.3 and 13.40 of this chapter. Local rural residents in park areas where subsistence uses are allowed may fish with a net, seine, trap, or spear; or use native species as bait, where permitted by applicable Federal law and regulation.

■ 8. Revise § 13.480 to read as follows:

§ 13.480 Subsistence hunting and trapping.

Local rural residents may hunt and trap wildlife for subsistence uses in park areas where subsistence uses are allowed in compliance with this chapter and 50 CFR part 100.

■ 9. In § 13.490, revise paragraph (a) to read as follows:

§ 13.490 Closures and restrictions to subsistence uses of fish and wildlife.

(a) The Superintendent may temporarily restrict a subsistence activity or close all or part of a park area to subsistence uses of a fish or wildlife population after consultation with the State and the Federal Subsistence Board in accordance with the provisions of this section. The Superintendent may make a temporary closure or restriction notwithstanding any other provision of this part, and only if the following conditions are met:

(1) The restriction or closure must be necessary for reasons of public safety, administration, or to ensure the continued viability of the fish or wildlife population;

(2) Except in emergencies, the Superintendent must provide public notice and hold a public hearing near the affected NPS unit;

(3) The restriction or closure may last only so long as reasonably necessary to achieve the purposes of the closure.

* * * * *

Dated: September 9, 2015.

Michael Bean,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2015-26813 Filed 10-22-15; 8:45 am]

BILLING CODE 4310-EJ-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2015-0337; FRL-9936-05-Region 4]

Approval and Promulgation of Implementation Plans; Florida; Regional Haze Plan Amendment—Lakeland Electric C.D. McIntosh

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing approval of the State of Florida's March 10, 2015, State Implementation Plan (SIP) revision, submitted by the Florida Department of Environmental Protection (FDEP). This submittal fulfills Florida's commitment to EPA to provide a regional haze SIP revision with a Best Available Retrofit Technology (BART) nitrogen oxides (NOx) emissions limit for Unit 1 at the Lakeland Electric—C.D. McIntosh Power Plant (McIntosh) reflecting best operating practices for good combustion. States are required to address the BART provisions of the Clean Air Act (CAA or Act) and EPA's



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

Federal Subsistence Board

**1011 East Tudor Road, MS 121
Anchorage, Alaska 99503 - 6199**



FOREST SERVICE

DEC 01 2017

OSM 17010.SW

Bureau of Land Management
c/o Mr. Bruce Seppi
Anchorage Field Office
4700 BLM Road
Anchorage, Alaska 99507

Dear Mr. Seppi:

This letter responds to your Emergency Special Action Request WSA17-06, requesting that the cow moose season in Unit 22D remainder be closed Dec. 1 – 31, 2017. This would result in a harvest limit of one bull, rather than the current one moose.

As authorized by the Federal Subsistence Board, the Office of Subsistence Management has reviewed the request and, with unanimous consent of the Interagency Staff Committee, has approved this request with modification to allow the harvest of one antlered bull during the Dec. 1 – 31, 2017 season.

The moose population in Unit 22D remainder is currently below State management goals and has been declining at a rate of 14% annually since 2011. In addition, the current estimated annual harvest is above sustainable levels. Antlerless hunts are typically used to reduce increasing populations that are above sustainable levels. Due to this declining population, the State has removed antlerless hunts from their regulations in Unit 22 and eliminated non-resident harvest opportunity in the area.

Limiting the harvest to antlered bulls only will help prevent accidental harvest of cows, since most bulls will have dropped their antlers by December, making sexes hard to distinguish in the field. An antlered moose season also serves to reduce mid-winter harassment of non-antlered moose by hunters trying to distinguish sex of an animal. Although eliminating the antlerless moose season may limit short-term subsistence opportunity for Federally qualified subsistence users, it will help to assure the long term viability of this moose population.

Mr. Seppi

2

The enclosed copies of the staff analysis and Interagency Staff Committee recommendation provide further information and justification for this action. If you have any questions, please contact Chris McKee, Wildlife Division Chief, OSM, at (907) 786-3572.

Sincerely,



Eugene Peltola Jr.
Assistant Regional Director
Office of Subsistence Management

Enclosures

cc: Federal Subsistence Board

Thomas Doolittle, Deputy Assistant Regional Director, Office of Subsistence Management
Jennifer Hardin, PhD., Subsistence Policy Coordinator, Office of Subsistence Management
Chris McKee, Wildlife Division Chief, Office of Subsistence Management
Karen Deatherage, Subsistence Council Coordinator, Office of Subsistence Management
Louis H. Green, Jr., Chair, Seward Peninsula Subsistence Regional Advisory Council
Bonnie Million, Manager, Anchorage Field Office, Bureau of Land Management
Jill Klein, Federal Subsistence Liaison Team Leader, Alaska Department of Fish and Game
Interagency Staff Committee
Administrative Record

STAFF ANALYSIS
EMERGENCY SPECIAL ACTION
WSA17-06

ISSUES

Emergency Special Action Request WSA17-06, submitted by the Bureau of Land Management, requests the closure of the Dec. 1-Dec. 31 cow moose season in Unit 22D remainder.

DISCUSSION

The proponent is concerned with the harvest of cow moose in Unit 22D remainder due to a declining population trend since 2011. The proponent stated that moose population surveys conducted by the Alaska Department of Fish and Game (ADF&G) showed an annual decline of 14% between 2011 and 2014, which resulted in the Alaska Board of Game (BOG) closing antlerless moose hunts in the area in 2015. The proponent claims that continued harvest of cow moose in Unit 22D remainder will lead to further declines in the population before Federal proposals can be submitted to close the antlerless hunt.

The applicable Federal regulations are found in 50 CFR 100.19(a) (Emergency Special Actions) and state that:

“...In an emergency situation, if necessary to ensure the continued viability of a fish or wildlife population, to continue subsistence uses of fish or wildlife, or for public safety reasons, the Board may immediately open or close public lands for the taking of fish and wildlife for subsistence uses, or modify the requirements for take for subsistence uses, or close public lands to take for nonsubsistence uses of fish and wildlife, or restrict the requirements for take for nonsubsistence uses.”

Existing Federal Regulation

Unit 22D—Moose

Unit 22D, remainder – 1 moose; however, no person may take a calf or Dec. 1 – Dec. 31 a cow accompanied by a calf

Proposed Federal Regulation

Unit 22D—Moose

*Unit 22D, remainder – 1 ~~bull moose~~; however, no person may take a ~~Dec. 1 – Dec. 31~~
~~ealf or a cow accompanied by a calf~~*

Existing State Regulation

Unit 22D—Moose

<i>22D remainder</i>	<i>Residents: One bull</i>	<i>Aug. 10 – Sept. 14</i>
	<i>OR</i>	
	<i>One bull</i>	<i>Oct. 1 – Nov. 30</i>
	<i>OR</i>	
	<i>One antlered bull</i>	<i>Dec. 1 – Jan. 31</i>
	<i>Nonresidents</i>	<i>no open season</i>

Extent of Federal Public Lands

Federal public lands comprise approximately 23% of Unit 22D and consist of 12% Bureau of Land Management (BLM) managed lands, and 11% National Park Service (NPS) managed lands (**Figure 1**).

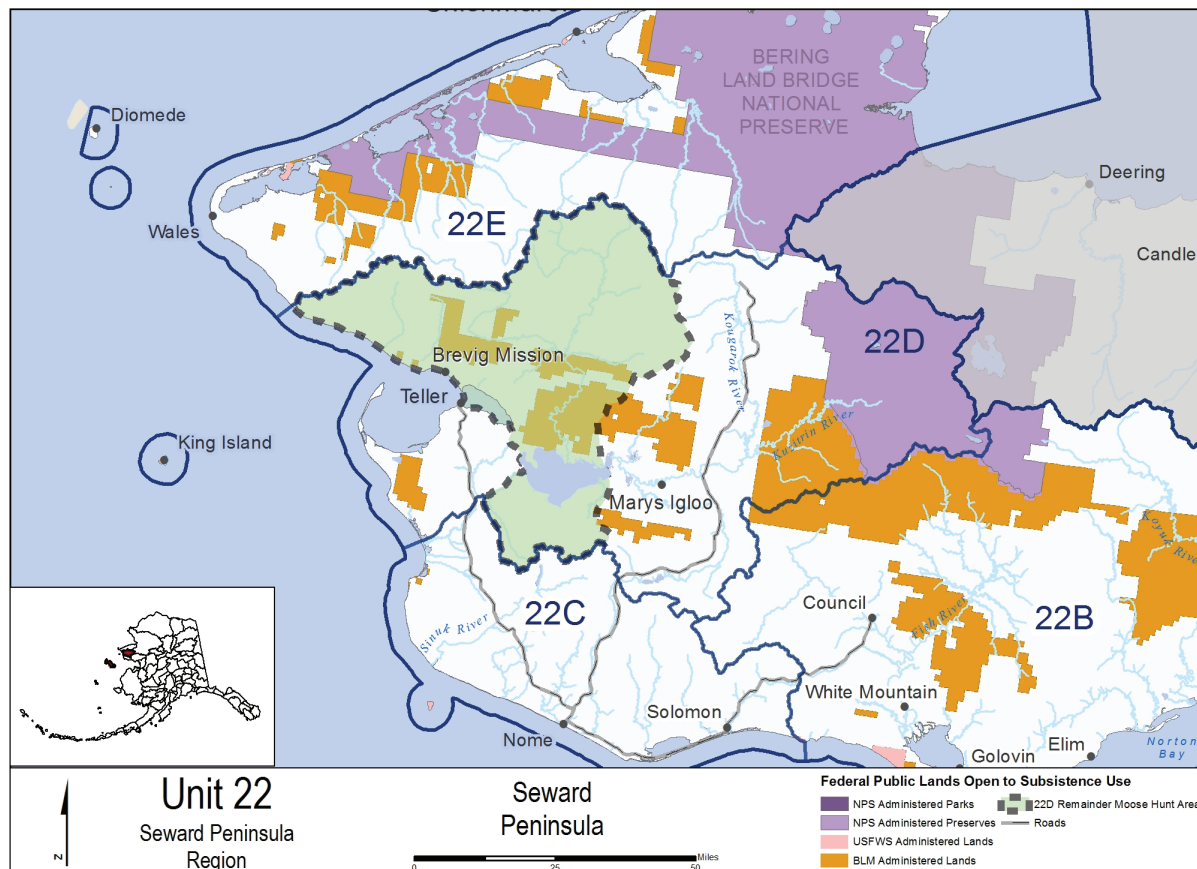


Figure 1. Unit 22D Remainder Moose Hunt Area.

Customary and Traditional Use Determinations

Residents of Unit 22 have a customary and traditional use determination for moose in Unit 22.

Regulatory History

In 1998, the Federal Subsistence Board (Board) adopted WP98-087, which placed regulatory restrictions on moose harvest in a portion of Unit 22D just east of Unit 22D remainder, due to a declining local moose population and heavy hunting pressure. As a result of a continuing regional trend in declining moose populations, the Board also restricted the harvest in adjacent Unit 22B in 2000. In 2001, the Board reviewed and adopted with modification two Special Action Requests (WSA01-09 and WSA01-11) to close Federal public lands to non-Federally qualified users in Unit 22B west of the Darby Mountains,

Unit 22D within the Kuzitrin River drainage and west of the Tisuk River drainage and Canyon Creek, and Unit 22E, and modify the seasons and harvest limits for the 2001 fall and winter seasons. As a follow-up to these actions, the BOG addressed concerns about declining moose populations in parts of Unit 22 by shortening seasons in portions of Units 22B and 22D, adding registration permit requirements in Unit 22D, dividing Unit 22D into additional hunt areas, and modifying harvest limits and closing nonresident hunts in portions of Units 22B, 22D, and 22E, which went into effect in regulatory year 2002/03. The BOG decided to restrict the season in Unit 22D remainder, despite a relatively healthier moose population. The fall season was closed from Sept. 15-Sept. 30 to match other portions of Unit 22D to prevent focusing hunting efforts on the American and Agiapuk River drainages when all the other areas would have been closed.

In May 2002, the Board adopted Proposal WP02-34 with modification to add State registration permit requirements to the portion of Unit 22B west of the Darby Mountains, the portion of Unit 22D that lies within the Kuzitrin River drainage, and the portion of Unit 22D west of the Tisuk River drainage and to modify harvest limits to bull only hunts in Units 22B, 22D (Kuzitrin River drainage and west of the Tisuk River drainage), and Unit 22E, and shorten seasons in these areas. It also closed Federal public lands in Unit 22D remainder and Unit 22E to the taking of moose except by Federally qualified subsistence users. The Board's justification stated that the closure "would improve rural subsistence harvest opportunities in an area recently deemed necessary by the State to restrict the moose harvest" (OSM 2002: 15).

ADF&G issued an Emergency Order in 2005, changing the State fall moose hunt in Unit 22D to Sept. 1-Sept. 14. In 2005, the Board approved Special Action Request WSA05-01, which reduced the hunting season for all of Unit 22D from Aug. 20-Sept. 30 to Sept. 1-Sept. 14, in response to conservation concerns from harvests exceeding the joint State/Federal harvest quota for the Kuzitrin River drainage in 2003 and 2004 (OSM 2005). Overharvesting occurred in 2003 and 2004 despite State and Federal efforts to reduce the harvest by closing the seasons early.

Upon consideration of Federal Wildlife Closure Review WCR06-15 in 2006, the Seward Peninsula Subsistence Regional Advisory Council (Council) recommended maintaining the closure put in place in 2002 to all non-Federally qualified users. In 2007, the Board adopted Proposal WP07-38, submitted by the Council, which requested eliminating the closure to non-Federally qualified users in Unit 22D remainder, and aligning Federal hunting season dates with State season dates. The Council justified the request by stating that "land closures are no longer necessary to protect the moose population because numbers have increased unit wide and have remained stable for at least ten years; recruitment rates are up; and bull:cow ratios are consistently high despite a five-month Federal season" (OSM 2007: 468).

In 2015, the BOG modified State regulations, transitioning to an all bull moose hunt within Unit 22D remainder. For regulatory years 2015/16 and 2016/17, ADF&G established a three moose harvest quota for nonresident hunters in Unit 22D remainder to prevent excessive harvest. This harvest quota was enacted due to a decline in moose populations since 2011. ADF&G issued emergency orders in regulatory years 2015/16 and 2016/17 to close this season early due to the quota being met (ADF&G 2016a).

At its March 2016 meeting, the Council submitted Proposal 28 to the BOG requesting elimination of the nonresident moose season in Units 22E and 22D remainder until the relationship between the changing moose population distribution and growth and decline between the subunits was better understood. During discussion of the proposal, ADF&G Area Biologist Tony Gorn was asked for an overview of the moose population in the area. Mr. Gorn brought his concern about the decreasing population numbers in Unit 22D to the attention of the Council, mentioning that moose in Unit 22D were last counted in 2014, and that declines in the population were observed in both of the major survey areas. Additionally, Mr. Gorn noted that some Unit 22D moose may have migrated to Unit 22E. Even with the possible migration taken into consideration, a significant decline in Unit 22D moose was observed during the 2014 survey (SPRAC 2016). This proposal was adopted in Unit 22D remainder by the BOG prior to the 2017/18 regulatory year.

Special Action Request WSA16-07, submitted by the Bureau of Land Management and requesting that the December cow season be closed, was presented to the Council on November 2, 2016. The Council supported WSA16-07, stating that hunters had expressed concern about the moose populations in the area. In particular, the Council Chair discussed the need to refrain from harvesting cow moose during population declines and asked the current ADF&G Area Biologist Bill Dunker to explain the current levels of antlerless moose harvest and the potential impacts to the population. Mr. Dunker noted that the average annual harvest of cow moose in Unit 22D over the last ten years totaled one moose per year, but that an antlerless harvest as low as 3% could have a substantial negative impact to the population. The Council Chair emphasized that this Special Action would only close the Federal cow moose hunting season for one month. The Board approved WSA16-07 on November 30, 2016.

Biological Background

Moose have been present in Unit 22 for a relatively short time, with very few being observed prior to 1930. The moose population on the Seward Peninsula grew and reached its peak in the mid-1980s (Gorn and Dunker 2014, Nelson 1995). This rise in the population was followed by multiple severe winters, which greatly reduced the population and overall moose density due to limited winter browse resources (Nelson 1995). Brown bear predation on calves is now considered the main limiting factor on the Unit 22 moose population, although no formal study has yet been conducted regarding this concept (Gorn and Dunker 2014).

State management goals for moose in Unit 22 include maintaining a unit-wide combined population of 5,100-6,800 moose, and more specifically, maintaining a population of 2,000-2,500 moose in Unit 22D while maintaining a minimum bull:cow ratio of 30:100. The population goal in Unit 22D would provide for an increased and stabilized population following recent declines (Gorn and Dunker 2014).

During a moose population survey conducted in 2014, the population estimate for moose in all of Unit 22D was 1,106 observable moose, which represents a 13% annual rate of decline from 2011 (1,681 observable moose). Specifically in the Agiapuk River drainage, the population estimate was 491 (0.39 moose/mi²) observable moose (**Figure 2**). This is a 14% annual rate of decline since the 2011 survey

(Gorn 2012, Dunker 2016, pers. comm.). Another population survey is planned for March of 2018 in Units 22D and 22E.

Fall composition surveys indicate a decline in the moose population within Unit 22D remainder. Composition surveys in the Agiapuk River Drainage were conducted in 2011 for the first time since 2003, and found 35 bulls:100 cows which is within State management goals (Gorn 2012). In 2013, efforts to complete composition surveys were hampered by poor weather conditions. The limited data obtained from these attempts indicated that the bull:cow ratio had likely declined since the 2011 surveys (Dunker 2016, pers. comm.). This was confirmed during the most recent composition survey in this area, which was completed in fall of 2016. Results showed a bull:cow ratio of 23 bulls:100 cows, which is below the State management goal (Dunker 2017, pers. comm.).

Weight measurements were taken on short-yearling (10-month old) moose in Unit 22D from April 2007-2009. Annual average weights ranged from 372-393 pounds. Snowfall was greater than normal levels in both 2008 and 2009, but did not have a significant impact on average short-yearling weights. Consistently low calf weights may be influenced by competition for browse in high-density areas and research indicates that short-yearling weights less than 385 pounds are considered an indication that moose are resource limited (Gorn and Dunker 2014).

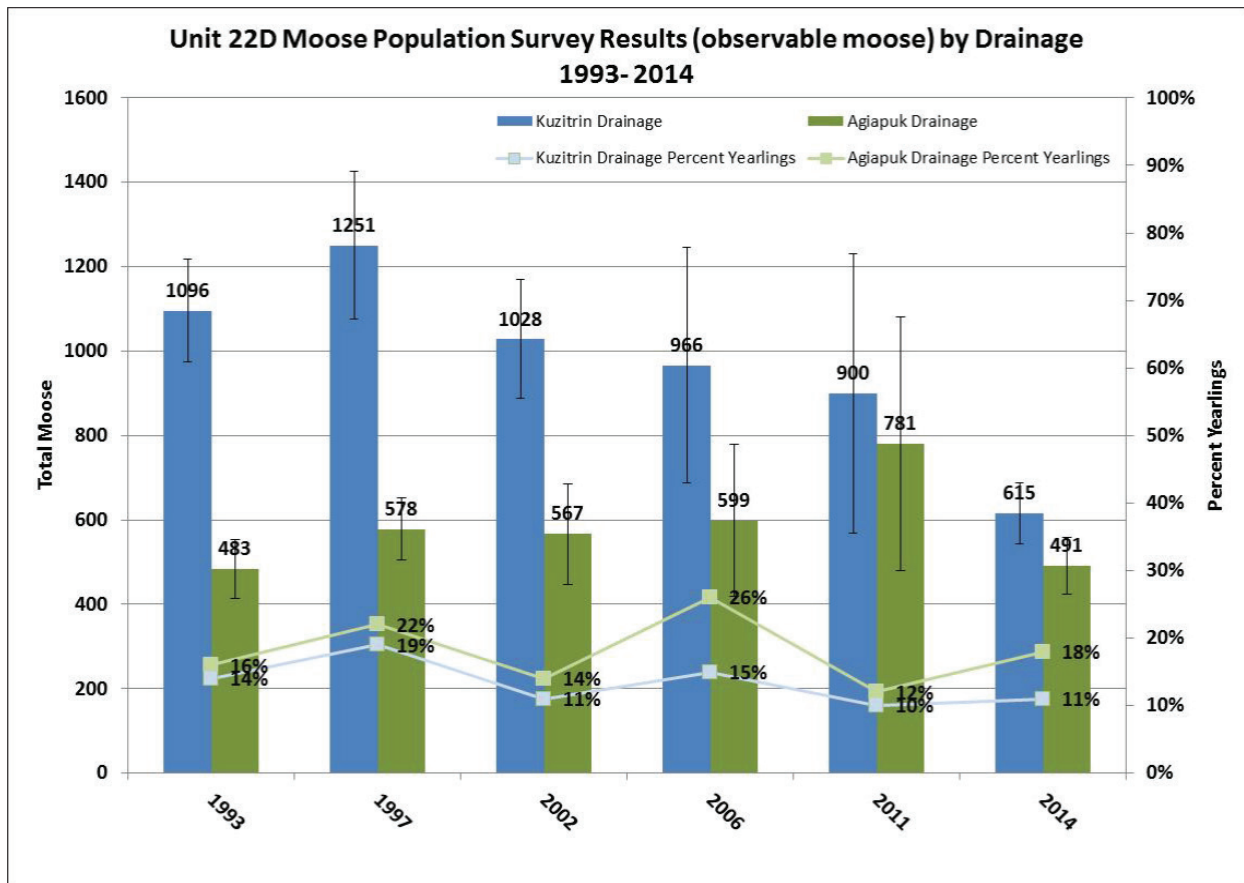


Figure 2. Moose population estimates and recruitment rates for Unit 22D (Dunker 2016, pers.

Habitat

There is limited habitat data for Unit 22D. Although winter browse was seen as a limiting factor when moose density/numbers were at their highest, during the mid-1980s, current moose populations have been managed based on what winter browse can easily support throughout Unit 22D. Browse is no longer viewed as a limiting factor to moose in this Unit, and brown bear predation on calves is now seen as the most significant factor influencing moose numbers (Gorn and Dunker 2014).

Harvest History

Harvest remains well below levels seen in the 1980s, in part, due to more stringent hunting regulations in Unit 22D. According to the ADF&G harvest report website, 178 (133 male, 45 female) moose were harvested throughout Unit 22D in 1986, with 39.9% hunter success throughout the Unit. Conversely, 63 moose were harvested in Unit 22D in 2016, with 28% hunter success throughout the Unit. Average annual harvest from 2005-2016 was 66 moose (**Table 1**). A majority of moose taken over these years have been bulls, in accordance with State and Federal regulations. Residents of Unit 22D accounted for 72% of the total harvest between 2005 and 2016 (**Table 1**). In Unit 22D remainder, the average annual reported moose harvest by State residents between 2006 and 2015 was 16 moose (Dunker 2016, pers. comm.). Household community harvest surveys conducted during 2012 in Brevig Mission and Teller showed under-reporting in Unit 22D remainder. It is estimated that average annual harvest (resident and nonresident) for Unit 22D remainder is 35-45 moose (Dunker 2016, pers. comm.). This estimate is greater than the estimated sustainable harvest level of 23-35 moose annually for the area (Dunker 2016, pers. comm.).

Table 1. Reported moose harvest in Unit 22D for 2005-2016 (ADF&G 2016b, ADF&G 2017a).

Year	Species	Local Resident Harvest	Nonlocal Resident Harvest	Total Resident Harvest	Unknown Residency Harvest	Nonresident Harvest	Total Harvest	Male	Female	Unknown Gender
2016	Moose	52	8	60	0	3	63	63	0	0
2015	Moose	54	12	66	1	5	72	69	0	3
2014	Moose	43	11	54	2	8	64	61	2	1
2013	Moose	45	10	55	1	3	59	58	1	0
2012	Moose	50	12	62	1	6	69	66	2	1
2011	Moose	50	19	69	1	9	79	76	2	1
2010	Moose	39	12	51	3	4	58	55	2	1
2009	Moose	54	15	69	0	7	76	74	1	1
2008	Moose	42	10	52	1	7	60	57	1	2
2007	Moose	52	14	66	1	5	72	70	2	0
2006	Moose	47	11	58	0	8	66	65	1	0
2005	Moose	47	4	51	0	6	57	56	0	1
Average:		48	12	59	1	6	66	64	1	1
Total:		575	138	713	11	71	795	770	14	11

Cultural Knowledge and Traditional Practices

The Iñupiaq people of the Seward Peninsula have a deeply rooted practice of subsistence hunting, fishing, and gathering of wild resources (Ray 1984). Traditionally, food and most of raw materials used in the making of clothing, boats, and tents were obtained from marine mammals and caribou. Historically, during the winter months, people often lived in permanent villages along the coast where they harvested seals, belugas, other marine mammals, fish and small land mammals. During warmer months they established family fish camps near rivers and lakes to harvest fish and plant resources. *Qawiaraq* people traditionally were the main caribou hunters in the Seward Peninsula and their territory overlaps with the remainder area of Unit 22D. Unlike other tribal groups, the primary village of *Qawiaraq* people was not on the coast (Ray 1984 and MacLean 2012). The *Qawiaraq* dialect is spoken in Brevig Mission and Teller today. Many residents of Teller were originally from Diomedede, Wales, Mary's Igloo and King Island and moved there for better access to schools and health care (Kawerak Inc. 2016). The present location of Teller was established in 1900 when the Bluestone Placer Mine was established 15 miles to the south. Teller had a population of 5,000 during the boom time of the mine and was a major, regional trading center (ADCCED 2016).

Large land mammals were not abundant in the Seward Peninsula during the 1800s. Moose did not start migrating into the Seward Peninsula area until the 1940s. Caribou numbers declined in the 1800s (Dau 2000). Reindeer were brought to the Seward Peninsula from Siberia in 1892 under a Federal program, initiated by Rev. Sheldon Jackson, to provide more meat for the Inupiat people in the area (Stern et al. 1980). He had observed that local people were not able to get enough meat in their diet, due to declining caribou herds. As moose moved into the region, people hunted moose for subsistence.

The ADF&G Division of Subsistence works with communities to conduct household harvest surveys. The communities of Golovin, Stebbins, Diomedede, and Shishmaref each participated in a household harvest survey covering a one-year study period between 2012 and 2014 (Braem et al. 2014, ADF&G 2017b). Estimated community harvests during one-year study periods ranged from a low of 2 moose at Diomedede in 2013 to a high of 20 moose at Stebbins in 2013. According to these surveys, most communities harvested more caribou than moose, but moose were still an important part of the subsistence diet for many households (Braem et al. 2014).

Effects of the Proposal

If this Special Action is approved, it would limit subsistence opportunity for Federally qualified subsistence users in Unit 22D remainder. Due to low moose densities in the area and a declining population that is below State management goals, approval of this Special Action would eliminate cow harvest, which could provide benefits to the moose population in the Unit. Typically, antlerless hunts are used to reduce a population that is growing.

LITERATURE CITED

ADCCED (Alaska Department of Commerce, Community, and Economic Development). 2016. Teller: Census Population History. Community Information Database – Community and Regional Affairs. <https://www.commerce.alaska.gov/dcra/DCRAExternal/community>. Retrieved: November 7, 2016.

- ADF&G. 2016a. State Closes Nonresident Moose Hunt in Remainder of Unit 22D. Emergency Order 05-05-16. Division of Wildlife Conservation. Nome, AK.
- ADF&G. 2016b. General harvest reports. <https://secure.wildlife.alaska.gov/index.cfm>. Retrieved: October 26, 2016.
- ADF&G. 2017a. General harvest reports. <https://secure.wildlife.alaska.gov/index.cfm>. Retrieved: November 20, 2017.
- ADF&G. 2017b. Community subsistence information system. Online database, <http://www.adfg.alaska.gov/sb/CSIS/>, accessed November 30, 2017. Division of Subsistence, Anchorage, AK.
- Braem, N.M., E.H. Mikow, and M.L. Kostick, editors. 2014. Chukchi Seas and Norton Sound observation network: harvest and use of wildlife resources in 9 communities in Arctic Alaska, 2012–2014. ADF&G Division of Subsistence Technical Paper No. 403. Fairbanks, AK. 797 pages.
- Dau, J. 2000. *Managing Reindeer and Wildlife on Alaska's Seward Peninsula*. Polar Research 19(1), 57-62.
- Dunker, W. 2016. Wildlife biologist/Area biologist. Personal communication: email. ADF&G. Nome, AK.
- Dunker, W. 2017. Wildlife biologist/Area biologist. Personal communication: email. ADF&G. Nome, AK.
- Gorn, T. 2012. Unit 22 moose management report. Pages 534–559 in P. Harper, editor. Moose management report of survey and inventory activities 1 July 2009–30 June 2011. ADF&G, Species Management Report, ADF&G/DWC/SMR-2012-5, Juneau, AK.
- Gorn, T. and W. R. Dunker. 2014. Unit 22 moose management report. Pages 31-1 through 31-38 in P. Harper and Laura A. McCarthy, editors. Moose management report of survey and inventory activities 1 July 2011–30 June 2013. ADF&G, Species Management Report ADF&G/DWC/SMR-2014-6, Juneau, AK.
- Kawerak Inc. 2016. www.kawerak.org Retrieved: November 2, 2016
- Nelson, R.R. 1995. Unit 22 moose survey-inventory progress report. Pages 405-419 in M.V. Hicks, editor. Management report of survey-inventory activities 1 July 1993 – 30 June 1995. Federal aid in wildlife restoration progress report, Project W-24-2, W-24-3, Study 1.0. Juneau, AK.
- OSM. 2002. Staff Analysis WP02-34. Pages 12-26 in Federal Subsistence Board Meeting Materials May 13-15, 2002. Office of Subsistence Management, FWS. Anchorage, AK. 676 pp.
- OSM. 2005. Staff Analysis WSA05-01. Office of Subsistence Management, FWS. Anchorage, AK.
- OSM. 2007. Staff Analysis WP07-37. Pages 467-475 in Federal Subsistence Board Meeting Materials April 30-May 2, 2007. Office of Subsistence Management, FWS. Anchorage, AK. 643 pp.
- Ray, D.J. 1984. Bering Strait Eskimo. Pages 285–302 in W.C Surtevand, editor). *The Handbook of North American Indians*, Volume 5: Arctic. Smithsonian Institution, Washington D.C.

*Federal Subsistence Board Letter to Proponent of Emergency Special Action
Request WSA17-06 and Enclosures*

SPRAC. 2016. Transcripts of the Seward Peninsula Subsistence Regional Advisory Council proceedings, March 09, 2016 in Anchorage, Alaska. Office of Subsistence Management, FWS. Anchorage, AK.

Stern, O., E.L. Arobio, L.L. Naylor, and W.C. Thomas. 1980. Eskimos, Reindeer, and Land. University of Alaska Fairbanks – School of Agriculture and Land Resources Management Bulletin. 59: 93 pp.

INTERAGENCY STAFF COMMITTEE RECOMMENDATION

Support Special Action Request WSA17-06 **with modification** to change the harvest limit from 1 bull to 1 antlered bull.

The modified regulation should read:

Unit 22D—Moose

*Unit 22D, remainder – 1 antlered bull moose; however, no person may Dec. 1 – Dec. 31
take a calf or a cow accompanied by a calf*

Justification

The moose population in Unit 22D remainder is currently below State management goals and has been declining at a rate of 14% annually since 2011. In addition, the current estimated annual harvest is above sustainable levels. Antlerless hunts are typically used to reduce increasing populations that are above sustainable levels. Due to this declining population, the State has removed antlerless hunts from their regulations in Unit 22 and eliminated non-resident harvest opportunity in the area.

Limiting the harvest to antlered bulls only will help prevent accidental harvest of cows, since most bulls will have dropped their antlers by December, making sexes hard to distinguish in the field. An antlered moose season also serves to reduce the mid-winter harassment of non-antlered moose by hunters trying to distinguish the sex of an animal. Although eliminating the antlerless moose season may limit short-term subsistence opportunity for Federally qualified subsistence users, it will help to assure the long term viability of this moose population.

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

Bureau of Land Management, Anchorage Field Office
4700 BLM Road, Anchorage, AK 99507 (907) 267-1282

Describe the action you are requesting. Reference the current regulations you wish to change.

The closure of a cow moose hunt on Federal lands in Unit 22D remainder to take effect December 1, 2017 through the end of the regulatory year.

Have there 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?

BLM is concerned about allowing the harvest of cow moose in unit 22D remainder in relation to the overall population trend since 2011. Moose population surveys completed by ADF&G in March 2014 show estimated moose numbers have declined by 14% annually between 2011 and 2014. ADF&G closed the antlerless harvest beginning in 2015 over concerns of the decline in the population related to the negative impacts of a cow harvest.

The season was closed through a Special Action request submitted by BLM in 2016. However, a proposal to permanently close the season was not submitted for the Federal subsistence Board to consider. Therefore, an antlerless moose harvest is currently open from December 1 to December 31, 2017 on federal lands in unit 22D remainder.

Is the requested action need for reasons of public safety or administration?

No.

What are the extenuating circumstances that necessitate a regulatory change before the next regulatory review?

The continued harvest of cow moose from unit 22D remainder would likely cause further declines in the population before any proposals to close the harvest of cow moose could be submitted to and considered by the Federal Subsistence Board in their next meeting.



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



Forest Service

Federal Subsistence Board News Release

For Immediate Release:
December 01, 2017

Contact: Chris McKee
(907) 786-3572 or (800) 478-1456
paul_mckee@fws.gov

Federal Subsistence Board eliminates December cow moose season in Unit 22D remainder

The Federal Subsistence Board (Board) has approved Emergency Special Action WSA 17-06 with modification to change the harvest limit from one moose to one antlered bull in Unit 22D remainder for the December 1 – 31, 2017 season.

The moose population in Unit 22D has declined since 2011, and the estimated annual harvest from the Unit 22D remainder hunt area exceeds the estimated sustainable harvest level. Approval of this request is consistent with recent conservation measures taken by the State to eliminate antlerless hunts from their regulations, and it provides additional protection for the Unit 22D moose population. While this decision may result in reduced opportunity for Federally qualified subsistence users in the short term, it is intended to ensure long term population viability and subsistence opportunity.

For more information, contact Chris McKee at (907) 786-3572 or (800) 478-1456 or paul_mckee@fws.gov.

Additional information on the Federal Subsistence Management Program may be found on the web at www.doi.gov/subsistence or by visiting www.facebook.com/subsistencealaska.

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.

-###-

Fall 2018 Regional Advisory Council Meeting Calendar

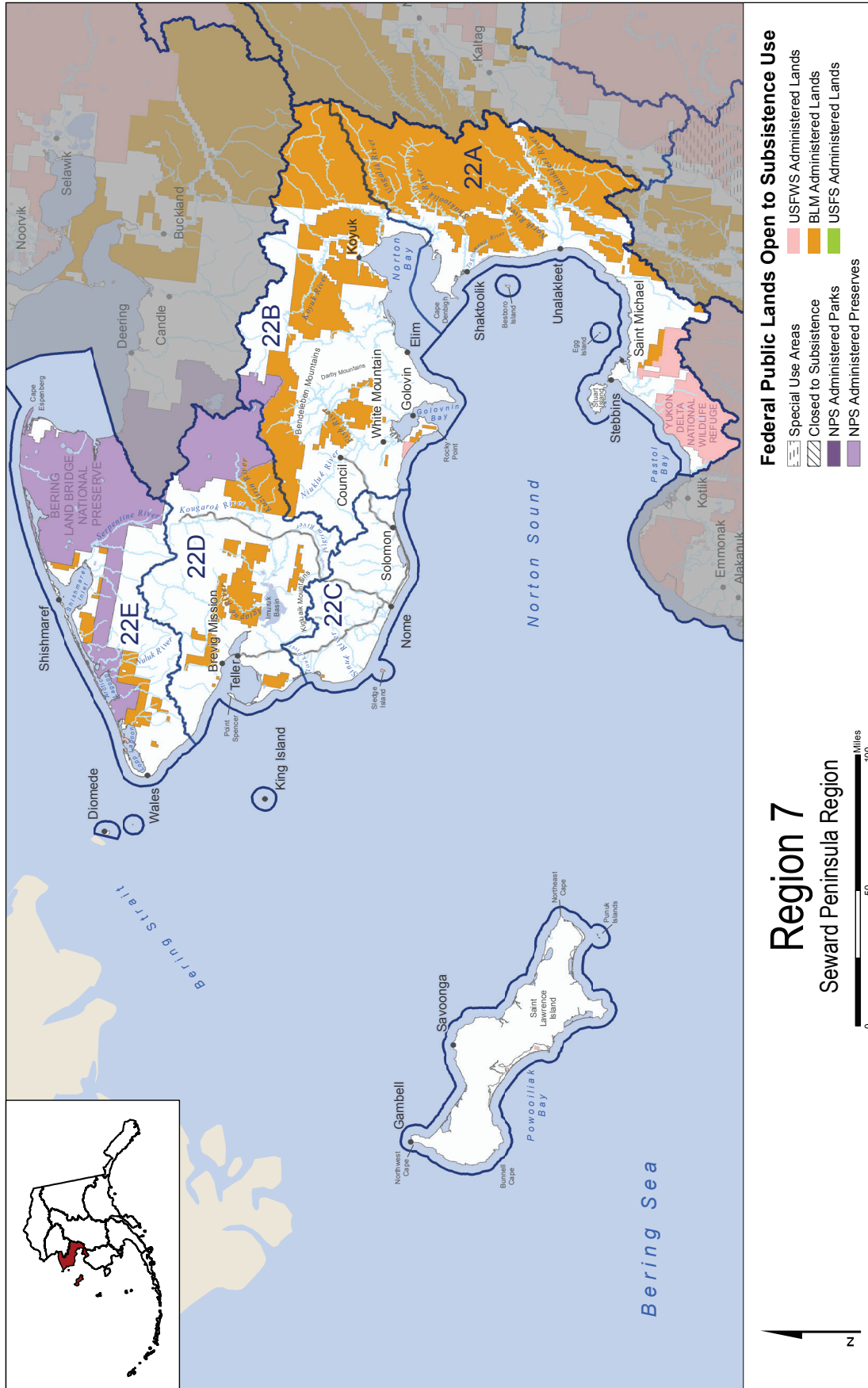
Due to travel budget limitations placed by Department of the Interior on the U.S. Fish and Wildlife Service and the Office of Subsistence Management, the dates and locations of these meetings will be subject to change.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Aug. 19	Aug. 20	Aug. 21 NS — Point Hope	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 LABOR DAY HOLIDAY	Sept. 4	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 K/A — Sand Point	Sept. 19	Sept. 20	Sept. 21	Sept. 22
Sept. 23	Sept. 24	Sept. 25	Sept. 26	Sept. 27 YKD — Bethel	Sept. 28	Sept. 29
Sept. 30	Oct. 1	Oct. 2 SE — Sitka	Oct. 3	Oct. 4	Oct. 5	Oct. 6
Oct. 7	Oct. 8 COLUMBUS DAY HOLIDAY	Oct. 9 EI — Tanana	Oct. 10 WI — Galena	Oct. 11	Oct. 12	Oct. 13
Oct. 14	Oct. 15	Oct. 16	Oct. 17	Oct. 18 AFN — Anchorage	Oct. 19	Oct. 20
Oct. 21	Oct. 22	Oct. 23 SP — Nome	Oct. 24 NW — Anchorage	Oct. 25	Oct. 26	Oct. 27
Oct. 28	Oct. 29 SC — TBD	Oct. 30	Oct. 31	Nov. 1	Nov. 2	Nov. 3
Nov. 4	Nov. 5	Nov. 6 BB — Dillingham	Nov. 7	Nov. 8	Nov. 9	Nov. 10

Winter 2019 Regional Advisory Council Meeting Calendar

Due to travel budget limitations placed by Department of the Interior on the U.S. Fish and Wildlife Service and the Office of Subsistence Management, the dates and locations of these meetings will be subject to change.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<i>Feb. 3</i>	<i>Feb. 4</i> <i>Window Opens</i>	<i>Feb. 5</i>	<i>Feb. 6</i>	<i>Feb. 7</i>	<i>Feb. 8</i>	<i>Feb. 9</i>
<i>Feb. 10</i>	<i>Feb. 11</i>	<i>Feb. 12</i>	<i>Feb. 13</i>	<i>Feb. 14</i>	<i>Feb. 15</i>	<i>Feb. 16</i>
<i>Feb. 17</i>	<i>Feb. 18</i> PRESIDENT'S DAY HOLIDAY	<i>Feb. 19</i>	<i>Feb. 20</i>	<i>Feb. 21</i>	<i>Feb. 22</i>	<i>Feb. 23</i>
<i>Feb. 24</i>	<i>Feb. 25</i>	<i>Feb. 26</i>	<i>Feb. 27</i>	<i>Feb. 28</i>	<i>Mar. 1</i>	<i>Mar. 2</i>
<i>Mar. 3</i>	<i>Mar. 4</i>	<i>Mar. 5</i>	<i>Mar. 6</i>	<i>Mar. 7</i>	<i>Mar. 8</i>	<i>Mar. 9</i>
<i>Mar. 10</i>	<i>Mar. 11</i>	<i>Mar. 12</i>	<i>Mar. 13</i>	<i>Mar. 14</i>	<i>Mar. 15</i> <i>Window Closes</i>	<i>Mar. 16</i>



**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 (Council).
- 2. Authority.** The Council is renewed by virtue of the authority set out in the Alaska National Interest Lands Conservation Act (ANILCA) (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.** Council duties and responsibilities, where applicable, are as follows:
 - 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 decision-making 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.
- h. Provide recommendations for implementation of Secretary's Order 3347: Conservation Stewardship and Outdoor Recreation, and Secretary's Order 3356: Hunting, Fishing, Recreational Shooting, and Wildlife Conservation Opportunities and Coordination with States, Tribes, and Territories. Recommendations shall include, but are not limited to:
 - (1) Assessing and quantifying implementation of the Secretary's Orders, and recommendations to enhance and expand their implementation as identified;
 - (2) Policies and programs that:
 - (a) increase outdoor recreation opportunities for all Americans, with a focus on engaging youth, veterans, minorities, and other communities that traditionally have low participation in outdoor recreation;
 - (b) expand access for hunting and fishing on Bureau of Land Management, U.S. Fish and Wildlife Service, and National Park Service lands in a manner that respects the rights and privacy of the owners of non-public lands;
 - (c) increase energy, transmission, infrastructure, or other relevant projects while avoiding or minimizing potential negative impacts on wildlife; and
 - (d) create greater collaboration with states, tribes, and/or territories.
- i. Provide recommendations for implementation of the regulatory reform initiatives and policies specified in section 2 of Executive Order 13777: Reducing Regulation and Controlling Regulatory Costs; Executive Order 12866: Regulatory Planning and Review, as amended; and section 6 of Executive Order 13563: Improving Regulation and Regulatory Review. Recommendations shall include, but are not limited to:

- (1) eliminate jobs, or inhibit job creation;
- (2) are outdated, unnecessary, or ineffective;
- (3) impose costs that exceed benefits;
- (4) create a serious inconsistency or otherwise interfere with regulatory reform initiative and policies;
- (5) rely, in part or in whole, on data or methods that are not publicly available or insufficiently transparent to meet the standard for reproducibility; or
- (6) derive from or implement Executive Orders or other Presidential and Secretarial directives that have been subsequently rescinded or substantially modified.

At the conclusion of each meeting or shortly thereafter, provide a detailed recommendation meeting report, including meeting minutes, to the Designated Federal Officer (DFO).

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 \$155,000, 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:
 - (a) Approve or call all of the advisory committee's and subcommittees' meetings;
 - (b) Prepare and approve all meeting agendas;
 - (c) Attend all committee and subcommittee meetings;
 - (d) Adjourn any meeting when the DFO determines adjournment to be in the public interest; and

(e) 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 Council or subcommittee deliberations or votes relating to a specific party matter before the Department or its bureaus and offices including a lease, license, permit, contract, grant, claim, agreement, or litigation in which the member or the entity the member represents has a direct financial interest.
14. **Subcommittees.** Subject to the DFOs 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. Subcommittees must not provide advice or work products directly to the Agency. 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

DEC 01 2017

Date Signed

DEC 04 2017

Date Filed

Follow and “Like” us on Facebook!
www.facebook.com/subsistencealaska

