

WP26-34 Executive Summary	
General Description	Wildlife proposal WP26-34 requests that the Federal subsistence Board allow the sale of handicrafts made from the nonedible byproducts of legally harvested brown bear taken under Federal subsistence regulations in Unit 8. <i>Submitted by: Coral Chernoff</i>
Proposed Regulation	Please see Proposed Regulation section
OSM Preliminary Conclusion	<p>Support Proposal WP26-34 with modification to add Unit 8 to the existing unit-specific regulations regarding the sale of specific brown bear parts, to specify that in Unit 8 federally qualified subsistence users may also sell traditional handicrafts made from brown bear intestines.</p> <p>The modification does not limit sales to consignment only, restrict sales to within the United States, require a wildlife transfer agreement for transferred or gifted brown bear parts, or require a bear registration permit number to be attached to and permanently retained with the handicraft</p>
OSM Conclusion	Support Proposal WP26-34 with modification to allow the production and limited sale of handicrafts made from all non-edible byproducts of brown bears except gallbladders , while removing proposed regulatory language requiring: consignment sales only; sales be conducted within the United States only; transferred or gifted non-edible byproducts be accompanied by a wildlife transfer statement; and registration permit numbers be retained with handicrafts.
Kodiak/Aleutians Subsistence Regional Advisory Council Recommendation	Support Proposal WP26-34 with modification to allow the production and limited sale of handicrafts made from all non-edible byproducts of brown bears, while removing proposed regulatory language requiring: consignment sales only; sales be conducted within the United States only; transferred or gifted non-edible byproducts be accompanied by a wildlife transfer statement; and registration permit numbers be retained with handicrafts.
Interagency Staff Committee Comments	The Interagency Staff Committee found the analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and the Federal Subsistence Board action on this proposal.
ADF&G Comments	Oppose

WP26-34 Executive Summary

Written Public Comments	None
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Wildlife Analysis WP26-34

ISSUE

Wildlife Proposal WP26-34, submitted by Coral Chernoff, requests that the Federal subsistence Board (Board) allow the sale of handicrafts made from the nonedible byproducts of legally harvested brown bear taken under Federal subsistence regulations in Unit 8. The proposal requests that sales be permanent and limited to consignment only by the maker/artist, that each article have an attached registration permit number that is retained with the handicraft, and that the sale of these handicrafts not constitute a significant commercial enterprise. The proponent also requests that transferred or gifted nonedible byproducts be accompanied by a wildlife transfer statement that is permanently retained by the handicraft, that handicrafts made from the hide or unattached claws of brown bear be sealed by an authorized ADF&G representative, and that sales be limited to domestic transactions within the United States.

Proponent Statement

The proponent states that residents of Kodiak Island have a long and well documented history of harvesting brown bear for food and using brown bear parts for traditional handicrafts. The proponent notes that historical writings, contemporary publications, and museum collections across the world document that brown bears were traditionally harvested and used by Kodiak residents to produce handicrafts, including *kamleikas* (rain parkas) made from the intestines of brown bears, whales, and seals.

The proponent notes that the sale of handicrafts from nonedible byproducts of legally harvested wildlife is an established practice in Alaska. They also note that Federal regulations already permit handicrafts to be made and sold using nonedible parts of brown bears in some Game Management Units (Units). The proponent states that permitting these uses is not expected to significantly increase the take of brown bear in Unit 8, since the brown bear populations are healthy and only 13 permits are available for federally qualified subsistence users to harvest brown bear in Unit 8 under Federal subsistence regulations. The proponent also states that this regulation would not create a burden on Federal or State agencies to seal, tag, or document the byproducts and/or handicrafts.

The proponent notes that restricting this opportunity to ‘sales by consignment’ aims to limit the commercial sale of handicrafts and prevent bear product sales from becoming a significant commercial enterprise. They state that allowing this use will facilitate the sale of traditional clothing and art for spiritual, ceremonial, and cultural purposes and will provide an economic benefit to the artist while ensuring the items cannot be resold. The proponent notes that handicraft regulations support the cultural expression of Alaskan people, particularly Alaska Natives, to continue making, buying, selling, and trading traditional work.

Current Federal Regulations

§__.25 Subsistence taking of fish, wildlife, and shellfish: general regulations

(j) Utilization of fish, wildlife, or shellfish

...

(7) If you are a Federally qualified subsistence user, you may sell handicraft articles from the skin, hide, pelt, or fur, including claws, of a brown bear taken from Units 1-5, 9A-9C, 9E, 12, 17, 20, 22, 23, 24B (only that portion within Gates of the Arctic National Park), 25, or 26.

(i) In Units 1, 2, 3, 4, and 5, you may sell handicraft articles made from the skin, hide, pelt, fur, claws, bones, teeth, sinew, or skulls of a brown bear taken from Units 1, 4, or 5.

(ii) Prior to selling a handicraft incorporating a brown bear claw(s), the hide or claw(s) not attached to the hide must be sealed by an authorized Alaska Department of Fish and Game representative. Old claws may be sealed if an affidavit is signed indicating that the claws came from a brown bear harvested on Federal public lands by a federally qualified subsistence user. A copy of the Alaska Department of Fish and Game sealing certificate must accompany the handicraft when sold.

...

(11) The sale of handicrafts made from the nonedible products of wildlife, when authorized in this part, may not constitute a significant commercial enterprise.

Proposed Federal Regulations

§__.25 Subsistence taking of fish, wildlife, and shellfish: general regulations

(j) Utilization of fish, wildlife, or shellfish

...

*(7) If you are a federally qualified subsistence user, you may sell handicraft articles from the skin, hide, pelt, or fur, including claws, of a brown bear taken from Units 1-5, **8**, 9A-9C, 9E, 12, 17, 20, 22, 23, 24B (only that portion within Gates of the Arctic National Park), 25, or 26.*

*(i) In Units 1, 2, 3, 4, and 5, you may sell handicraft articles made from the skin, hide, pelt, fur, claws, bones, teeth, sinew, or skulls of a brown bear taken from Units 1, 4, or 5. **In Unit 8, you may sell handicrafts from any nonedible byproducts of brown bear taken from Unit 8.***

(ii) Prior to selling a handicraft incorporating a brown bear claw(s) the hide or claw(s) not attached to a hide must be sealed by an authorized Alaska Department of Fish and Game representative. Old claws may be sealed if an affidavit is signed indicating that the claws came from a brown bear harvested on Federal public lands by a federally qualified subsistence user. A copy of the Alaska Department of Fish and Game sealing certificate must accompany the handicraft when sold. **In Unit 8, each article must also have a bear registration permit number attached and must be permanently retained with the handicraft.**

...

(11) The sale of handicrafts made from the nonedible products of wildlife, when authorized in this part, may not constitute a significant commercial enterprise. **For brown bears harvested in Unit 8, sales may only be permanent and by consignment within the United States. If the nonedible byproduct was transferred (gifted), a signed wildlife transfer statement must be permanently retained with the handicraft.**

Other Relevant Federal Regulations

§__.7 Restriction on Use

...

(b) You may not exchange in customary trade or sell fish or wildlife or their parts, taken pursuant to the regulations in this part, unless provided for in this part.

...

§__.25 Subsistence taking of fish, wildlife, and shellfish: general regulations

(a) Definitions. The following definitions apply to all regulations contained in this part:

...

Handicraft means a finished product made by a rural Alaskan resident from the nonedible byproducts of fish or wildlife and is composed wholly or in some significant respect of natural materials. The shape and appearance of the natural material must be substantially changed by the skillful use of hands, such as sewing, weaving, drilling, lacing, beading, carving, etching, scrimshawing, painting, or other means, and incorporated into a work of art, regalia, clothing, or other creative expression, and can be either traditional or contemporary in design. The handicraft must have substantially greater monetary and aesthetic value than the unaltered natural material alone.

...

Skin, hide, pelt, or fur means any tanned or untanned external covering of an animal's body. However, for bear, the skin, hide, pelt, or fur means the external covering with claws attached.

(j) Utilization of fish, wildlife, or shellfish

...

(2) If you take wildlife for subsistence, you must salvage the following parts for human use:

...

(ii) The hide and edible meat of a brown bear, except that the hide of brown bears taken in Units 5, 9B, 17, 18, portions of 19A and 19B, 21D, 22, 23, 24, and 26A need not be salvaged;

...

§__.26 Subsistence taking of wildlife

...

(j) Sealing of bear skins and skulls

(1) Sealing requirements for brown bear taken apply in all Units, except as specified in this paragraph (j). Sealing requirements for black bears of all color phases taken apply in Units 1-7, 13-17, and 20.

(2) You may not possess or transport from Alaska the untanned skin or skull of a bear unless the skin and skull have been sealed by an authorized representative of ADF&G in accordance with State or Federal regulations, except that the skin and skull of a brown bear taken under a registration permit in Units 5, 9B, 9E, 17, 18, 19A, and 19B downstream of and including the Aniak River drainage, and Units 21D, 22, 23, 24, and 26A need not be sealed unless removed from the area.

(3) You must keep a bear skin and skull together until a representative of the ADF&G has removed a rudimentary premolar tooth from the skull and sealed both the skull and the skin; however, this provision does not apply to brown bears taken within Units 5, 9B, 9E, 17, 18, 19A, and 19B downstream of and including the Aniak River drainage, and Units 21D, 22, 23, 24, and 26A and which are not removed from the unit.

Current State Regulations

5 AAC 92.200. Purchase and sale of game

- (a) *In accordance with AS 16.05.920(a) and 16.05.930(e), the purchase, sale, or barter of game or any part of game is permitted except as provided in this section.*
- (b) *Except as provided in 5 AAC 92.031, a person may not purchase, sell, advertise, or otherwise offer for sale:*
- (1) *Any part of a brown bear, except an article of handicraft made from the fur of a brown bear, and except skulls and hides with claws attached of brown bears harvested in areas where the bag limit is two bears per regulatory year* by permit issued under 5 AAC 92.031*
 - (2) *A big game trophy, or a black bear trophy of any kind;*
 - (3) *A big game animal skull, except the skull of a black bear, wolf, or wolverine, or a horn or antler that is still attached to any part of the skull;*
 - ...
 - (8) *the meat of big game and small game, except hares and rabbits;*
 - (9) *the gallbladder of a bear.*
- (c) *A person may not barter, advertise for barter, or otherwise offer for barter*
- (1) *a big game trophy, or a black bear trophy of any kind;*
 - ...
 - (3) *the gallbladder of a bear*
 - ...

***Note:** The State harvest limit for a resident hunting in Unit 8 is 1 brown bear every 4 regulatory years (5 AAC 92.132 Bag limit for brown bears).

5 AAC 92.990. Definitions.

- (a) *In addition to the definitions in AS 16.05.940, in 5 AAC 84 – 5 AAC 92, unless the context requires otherwise,*

...

(9) “big game” means black bear, brown bear, bison, caribou, Sitka black-tailed deer, elk, mountain goat, moose, muskox, Dall sheep, wolf, and wolverine; “big game”, for the purposes of a youth hunt, does not include bison or muskox;

...

(14) “brown bear” means *Ursus arctos* including grizzly bears; the terms brown bear and grizzly bear are synonymous;

...

(33) “handicraft” means a finished product in which the shape or appearance of the natural material has been substantially changed by skillful use of the hands, such as by sewing, carving, etching, scrimshawing, painting, or other means, and which has substantially greater monetary and aesthetic value than the unaltered natural material alone;

...

(36) “hide” means any untanned external covering of any game animal’s body, but does not include a handicraft or other finished product; “hide” of a bear means the entire external covering with claws attached;

...

(57) “pelt” has the same meaning as “hide”;

...

(73) “skin” has the same meaning as “hide”;

...

(82) “trophy” means the mount of a big game animal, including the skin of the head (cape) or the entire skin, in a lifelike representation of the animal, including a lifelike representation made from any part of a big game animal; “trophy” also includes a “European mount” in which the horns or antlers and the skull or a portion of the skull are mounted for display;

Extent of Federal Public Lands

Unit 8 is comprised of approximately 52% Federal public lands, almost all of which are U.S. Fish and Wildlife Service (USFWS) managed lands, except for a small (<1%) amount of Bureau of Land Management (BLM) managed lands.

Customary and Traditional Use Determination

Rural residents of Akhiok, Larsen Bay, Karluk, Old Harbor, Ouzinkie, and Port Lions have a customary and traditional use determination for brown bear in Unit 8.

Overview of Regulatory History

The sale of brown bear parts has been regulated since the early 1900s and became stricter after brown bears were added to Appendix II of the Convention on International Trade in Endangered Species (CITES) of Wild Fauna and Flora in 1975. In 1980, the Alaska National Interest Lands Conservation Act (ANILCA) defined subsistence uses as including the making and selling of handicrafts from nonedible byproducts of fish and wildlife (§803). Federal subsistence regulations governing the use of brown bear parts in handicrafts, particularly the use of brown bear claws, have been contentious due to concerns about incentivizing harvest of a species with a low reproductive rate, the high value of some brown bear parts in international markets, and variation in local cultural norms related to the use and sale of bear parts. Subsistence Regional Advisory Councils (Councils) have historically varied in their recommendations on proposals to allow the sale of handicrafts made using bear parts. The Board has, therefore, primarily implemented regionally specific regulations to allow brown bear parts to be used in handicrafts made for sale only where it is considered culturally appropriate to do so. A more detailed history of the use of brown bear parts in handicrafts is provided below.

Regulatory History

In 1908, Alaska game law defined brown bears as a game animal, which made it unlawful for a person to sell the hides or heads of brown bears and required an export fee to ship brown bear parts out of state (Sherwood 1981, Title X, Chapter 1, Sec. 330 [Joint Committee on Territories of the Senate and House of Representative 1913]). In 1925, the definition of “game animal” was revised to include both brown and grizzly bears (Chapter III, Sec. 41 & 43 [Law Revision Board 1933]), and commercial brown bear hunting was prohibited (Svoboda and Crye 2023).

In 1939, regulations allowed the purchase and sale of “...the parka hood trimmings cut from the hide of grizzly bears into strips not to exceed 4 inches in width in fur districts 5 and 8 (Arctic Coast, Kotzebue, and Y-K Delta areas)” (Alaska Game Commission 1939, Sherwood 1981). These regulations remained in place through 1960 (Alaska Game Commission 1959). In 1960, the State of Alaska listed both black and brown bears as “big game animals” and required brown bear hides to be sealed, and in 1961, the “*purchase, sale and barter of grizzly and brown bears*” was prohibited (State of Alaska 1960; 1961, Troyer 1961). In 1968, the State began requiring sealing of brown bear skulls (ADF&G 2002).

In 1975, the North American brown bear was listed in Appendix II of CITES, which regulates international trade in endangered and threatened species (Hemley 1994). Inclusion in Appendix II indicates that a species may become threatened with extinction if trade of that species is not monitored and regulated. Since brown bears were added to Appendix II of CITES, the State of Alaska has permitted only limited sale of brown bear parts. In 2006, the Alaska Board of Game (BOG) adopted

regulations allowing the sale of a sealed, untanned brown bear hide with claws attached, if the bear was harvested under a State permit in specific predator control management areas (5 AAC 92.031(d)). In 2016, the BOG adopted regulations permitting the sale of brown bear hides and/or skulls by Alaskan residents in units where the harvest limit is two bears per regulatory year (5 AAC 92.031(g)). These opportunities were not available in Unit 8 because there have been no predator control efforts targeting brown bears in Unit 8 since the 1960s, and since 1969, the State harvest limit for brown bears in Unit 8 has been 1 bear every four regulatory years (ADF&G 2002, Harper and McCarthy 2013).

In 1980, ANILCA was passed. Title VIII of ANILCA, which addresses subsistence management on public lands in Alaska, defined “subsistence uses” as “*the customary and traditional uses by rural Alaska residents of wild renewable resources*” for multiple purposes, including “*for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption*” (§803).

In 1992, the Federal Subsistence Management Program published regulations to govern the harvest of fish and wildlife on Federal public lands (57 Fed. Reg. 103, 22940 [May 28,1992]). These regulations permitted the customary trade and barter of fish and wildlife taken for subsistence uses (§ __.7(a)), with “customary trade” defined as the “*cash sale of fish and wildlife resources regulated herein, not otherwise prohibited by State or Federal law or regulation, to support personal and family needs; and does not include trade which constitutes a significant commercial enterprise*” and “barter” defined as “*the exchange of fish or wildlife or their parts taken for subsistence uses; for other fish, wildlife or their parts; or, for other food or for nonedible items other than money, if the exchange is of a limited and noncommercial nature*” (§ __.4) (57 Fed. Reg. 103, 22953 [May 28,1992])).

In 1995, the BOG rejected Proposal 16, which requested allowing the sale of bear gall bladders (which are highly valued internationally), citing concerns over sealing internal organs, enforcement issues, and CITES implications. In 1998, the BOG defined “handicraft” in State regulations and permitted the use of black bear fur, excluding claws, in handicrafts (5 AAC 92.200(b)(2) and 92.990(57)).

In 1999, the BOG was petitioned by the Native American Rights Fund to permit the claws of black bears and brown bears to also be included in handicrafts (Kendall Miller 1999). The BOG created a committee to discuss this petition. Most committee members opposed the sale of bear parts based on concerns about incentivizing illegal hunting and conservation concerns due to the low reproductive rate of brown bears. The committee also noted that Alaska Native traditions surrounding the care, treatment, and handling of harvested bear parts were strong throughout Alaska, and for individuals adhering to these beliefs, it would be inappropriate to sell bear parts (Anderson 2000, as cited in OSM 2002). However, the committee did note that allowing the sale of bear parts would provide economic opportunity for bear harvesters and would invite bear harvest in areas where predators are suppressing ungulate populations (Anderson 2000, as cited in OSM 2002). The BOG ultimately rejected the petition (OSM 2002).

In 1999, the Federal subsistence regulations stating that “*when fish and wildlife are taken pursuant to these regulations, trade of the fish and wildlife, other than for customary trade or barter, is*

prohibited” were revised to state: “*You may not trade or sell fish and wildlife, taken pursuant to the regulations in this part, except as provided for in § __.25, § __.26, and § __.27 ((§ __.7(a))* (64 Fed. Reg. 5, 1289 [January 8, 1999])). The limited exchange of cash for subsistence harvested fish, their parts, and their eggs were permitted under § __.26(c)(11), but no other allowances for customary trade or sale of handicrafts were in regulation at the time.

In 2002, the Board opposed a request to reclassify black and brown bears as fur bearers, which would have permitted the legal sale of bear hides under Federal subsistence regulations (FSB 2002, OSM 2002). Recommendations from Regional Advisory Councils varied widely. The Kodiak/Aleutians Council opposed the proposal, citing concerns about incentivizing illegal harvest of bears and noted that it was not considered culturally appropriate to sell bear parts in their region (OSM 2002). However, the Kodiak/Aleutians Council and several other Councils did support aligning State and Federal regulations by allowing the sale of handicrafts that incorporate black bear fur (OSM 2002). Following these recommendations, the Board did not reclassify bears as furbearers but did adopt the State’s definition of “handicraft” into Federal subsistence regulations ((§ __.25(a) (67 Fed. Reg. 125, 43723 [June 28, 2002])) and adopted regulations stating that “*You may sell handicraft articles made from the fur of a black bear*” ((§ __.25(j)(6)) (67 Fed. Reg. 125, 43726 [June 28, 2002])). Because Federal subsistence regulations defined “skin, hide, pelt, or fur” of a bear as “*the entire external covering with claws attached*” (59 Fed. Reg. 106, 29037 [June 3, 1994]), black bear claws were permitted to be used in handicrafts under Federal regulations.

Beginning in the 2004/05 regulatory year, the BOG adopted regulations permitting brown bear fur, not including claws, to be used in handicrafts made for sale (OSM 2004a, 5 AAC 92.200(b)(1)).

In 2004, the Board considered three proposals related to the use of bear parts: WP04-01 requested that the Board allow for the sale of handicrafts made from brown bear fur, which under Federal regulations would include claws. WP04-53 requested that the Board increase the brown bear harvest limit and allow for the sale of black and brown bear parts in Unit 21E, and WP04-78 requested that the Board allow for the sale of black and brown bear hides, skulls, and claws taken in Unit 25. WP04-53 was rejected as part of the consensus agenda due to conservation concerns and concerns about enforcing unit-specific regulations permitting the sale of bear parts (OSM 2004b, FSB2004a: 5). WP04-78 was withdrawn based on the Board’s adoption of WP04-01 with modification (FSB 2004b: 356).

During the Board’s deliberations on WP04-01, there was significant discussion regarding enforcement of CITES and whether claws should be included in the definition of fur under Federal subsistence regulations. OSM staff reported that the Board’s intent when allowing the use of black bear fur in handicrafts was to mirror State regulations, which did not permit the use of black bear claws. Staff discussed plans to address this concern by revising regulations to reflect the Board’s intent (FSB 2004c: 211). Discussion amongst Board members and Council chairs emphasized that subsistence users have a long history of using claws in handicrafts and that changes to this regulation should go through the formal regulatory process (FSB 2004c).

All Councils except the Southeast, Bristol Bay, and Eastern Interior Councils opposed Proposal WP04-01 (OSM 2004a). The Kodiak/Aleutians Council stated there was no evidence for the customary and traditional use of brown bear fur in handicrafts in their region and noted that some elders objected to the public display of brown bear hides. The Council also voiced concerns about the commercialization of brown bears (OSM 2004a). The Board voted to support WP04-01 with modification to permit the use of brown bear fur and claws in handicrafts only in the Southeast, Bristol Bay, and Eastern Interior regions. The published regulation read: “*You may sell handicraft articles made from the fur or claws of a brown bear taken from Units 1-5, 9A-9C, 9E, 12, 17, 20, and 25*” ((§__.25(j)(7)) (69 Fed Reg. 126, 40189 [July 1, 2004]). The State of Alaska requested the Board reconsider their decision to permit the sale of handicrafts made using bear claws, but the Board determined the decision did not meet the criteria for reconsideration (FSB 2005: 147).

As a result of the discussion surrounding the use of claws in handicrafts, Federal subsistence regulations were initially revised to explicitly define “fur” as excluding claws, hooves, teeth, horns, or antlers (§__.25(a), 69 Fed Reg. 126, 40189 [July 1, 2004]). However, these regulations were later amended to remove the definition of “fur” and remove the definition of “skin, hide, or pelt.” These definitions were replaced by the term “skin, hide, pelt, or fur,” which was defined as “*any tanned or untanned external covering of an animal’s body; excluding bear. The skin, hide, pelt, or fur of a bear is the entire external covering with claws attached*” ((§__.25(a)). These regulations also specified that only federally qualified subsistence users may sell handicraft articles made from black and brown bear fur, where permitted (69 Fed. Reg. 1698, 53012 [August 31, 2004]).

In 2005, the Board considered two overlapping proposals related to the use of bear parts in handicrafts: WP05-01 and WP05-03. The Board did not act on WP05-03 due to action taken on WP05-01. Proposal WP05-01 was submitted by the USFWS to clarify what qualifies as a handicraft, to address concerns about whether handicrafts could be sold in urban giftshops or only by rural residents, to clarify whether handicrafts could be manufactured outside Alaska, and to clarify the difference between skin, hide, pelt, and fur (FSB 2005).

The Kodiak/Aleutians Council recommended that the Board not allow the use of brown bear claws in any region. The Council felt that brown bear claws had the greatest potential for abuse if sales were allowed of handicrafts made from claws (OSM 2005). However, several Council recommendations emphasized that regulations related to the use of brown and black bear parts should be regionally specific to ensure the permitted use of bear parts was culturally appropriate in each region (OSM 2005, FSB 2005). The Board took several actions on WP05-01 (70 Fed. Reg. 119 [June 22, 2005]):

- (1) The Board amended the definition of “handicraft” to mean “*a finished product **made by a rural Alaskan resident from the nonedible byproducts of fish or wildlife and is composed wholly or in some significant respect of natural materials. The shape and appearance of the natural materials must be substantially changed by the skillful use of hands, such as sewing, weaving, drilling, lacing, beading, carving, etching, scrimshawing, painting, or other means, and incorporated into a work of art, regalia, clothing, or other creative expression, and can be either traditional or contemporary in design. The handicraft must***”

have substantially greater monetary and aesthetic value than the unaltered natural material alone” ((§ ____.25(a)).

- (2) The Board amended the definition of “skin, hide, pelt, or fur” for bears to mean “*the entire external covering with claws attached*” ((§ ____.25(a)).
- (3) The Board expanded the permitted uses of brown bears: “*If you are a Federally qualified subsistence user, you may sell handicraft articles made from the **skin, hide, pelt, or fur, including claws, of a brown bear taken from Units 1-5, 9A-9C, 12, 17, 20, and 25***” ((§ ____.26(j)(7)).
- (4) Based on recommendations provided by the Southeast Council, the Board implemented regulations specific to Units 1-5 stating that “*you may sell handicrafts made from the skin, hide, pelt, fur, claws, bones, teeth, sinew, or skulls*” of black and brown bears taken from Units 1, 2, 3, or 5 (§ ____.25(j)(6)(i) and § ____.25(j)(7)(i)).
- (5) The Board deferred action on implementing regulations that would specify what constitutes commercial sales of handicrafts.

In 2006, the Board acted on the deferred elements of WP05-01, which proposed implementing specific regulations that would disallow the commercialization of handicrafts made using bear parts (OSM 2005, 2006). Specifically, the proposal requested: (1) prohibiting entities operating as a business (as defined in Alaska Statute 43.60.110(1)) from selling handicrafts made from the claws of black or brown bears, unless the bear was taken in Units 1-5; (2) prohibiting businesses from purchasing, as part of business transactions, handicrafts made from black or brown bear parts, unless the bear was taken in Units 1-5; (3) prohibiting the sale of handicrafts made from the nonedible byproducts of brown and black bears from constituting a significant commercial enterprise. The Board also considered WP06-02, which requested that the Board align Federal and State regulations (5 AAC 92.200) by authorizing the sale of handicrafts made from nonedible byproducts of wildlife, other than bears, harvested for subsistence uses.

The Board’s deliberations of WP05/06-01 indicated that consignment sales refer to those sales that profit only the artist/maker of the handicraft, and that businesses selling handicrafts on behalf of an artist would not retain profit from the sale of those items (FSB 2006). While some Board members and Councils supported the proposed regulations, there was also notable discussion that such regulations would be confusing for subsistence users and be difficult to enforce (FSB 2006). One Board member noted that, “making and selling handicrafts is something that ANICLA provides for, and we’ve been struggling for the last several years on how to try and maybe define that it not become a commercially significant enterprise, which we don’t allow or don’t want. But I also think that by adhering to the established limits that this Board has in regulation for the taking of brown and black bears, we’re not seeing, we have not seen and will not see a significant commercial enterprise” (FSB 2006: 45).

As with earlier handicraft proposals, recommendations from Councils on restrictions to the sale of handicrafts were diverse and sometimes conflicting (OSM 2005, 2006). The Kodiak/Aleutians Council

recommended that the Board adopt regulations that would prohibit the sale of handicrafts made with the claws of black or brown bears. The Council stated their concern for potential conservation issues and abuse of handicraft regulations if the sale of handicrafts made from bear claws was permitted. The Council also noted that there were legal concerns regarding trade of bear claws, especially since sales could not be tracked. They recommended only allowing trade, barter, and sharing of bear claws (OSM 2006).

The Board ultimately rejected WP05-01 and adopted WP06-02. The revised regulations read that “*the sale of handicrafts made from the nonedible byproducts of wildlife, when authorized in this part, may not constitute a significant commercial enterprise*” ((§ ___.25(j)(11)) and that “*If you are a Federally qualified-subsistence user, you may sell handicraft articles made from the nonedible byproducts of wildlife harvested for subsistence uses (excluding bear), to include: skin, hide, pelt, fur, claws, bones (except skulls of moose, caribou, elk, deer, sheep, goat, and muskox), teeth, sinew, antlers and/or horns (if not attached to any part of the skull or made to represent a big game trophy) and hooves*” ((§ ___.25(j)(10)) (71 Fed. Reg. 126, 37658 [June 30, 2006])).

In 2007, the Board considered WP07-01, which was submitted by ADF&G, requesting that the definition of “skin, hide, pelt, or fur” exclude claws and that the sale of handicrafts made from claws, bones, teeth, sinew, or skulls of black and brown bears only be allowed to occur between federally qualified subsistence users. Most Councils, including the Kodiak/Aleutians Council, opposed this proposal. The Kodiak/Aleutians Council stated that they did not wish to make a recommendation that would affect people living outside their region and that the current regulations were carefully developed to consider regional differences in subsistence practices and values (OSM 2007).

The Board opposed WP07-01, stating that it would be an unnecessary restriction on subsistence users and that there was no evidence these permitted uses posed a conservation concern (FSB 2007: 17-37). ADF&G requested this decision be reconsidered (RFR07-01), stating that permitting the sale of bear claws created conservation concerns and that the regulations prohibiting significant commercial enterprises from the sale of handicrafts were unenforceable. The Board determined this request did not meet the criteria for reconsideration.

In 2008, the Board considered two proposals related to brown bear handicrafts. Proposal WP08-12 pertained to the use of brown bear parts in handicrafts in the Southcentral region and was opposed by the Board based on the recommendation of the Southcentral and Eastern Interior Councils’ recommendation (OSM 2008a). Proposal WP08-05 was submitted by ADF&G, and it made three requests. The proposal requested that brown bear claws not be permitted to be sold in handicrafts, that provisions for the use of other brown bear parts in handicrafts made for sale be statewide instead of regionally specific, and that the sale of handicrafts made using brown bear claws, bone, teeth, sinew, or skulls be limited to sales between federally qualified subsistence users (OSM 2008b). The Kodiak/Aleutians Council recommended adopting a modified version of this proposal that would prohibit the sale of handicrafts that included brown bear claws and limit sales of other brown bear handicrafts to transactions between federally qualified subsistence users only. However, the Council

also recommended retaining regionally specific regulations so that parts of brown bears harvested in Unit 8 could not be used in handicrafts made for sale (OSM 2008b).

The Board deferred this proposal at the suggestion of ADF&G pending the formation of a working group to address the issue of tracking brown bear claws used in handicrafts made for sale (OSM 2012a). The Board directed the working group to include representatives from all interested Councils and State and Federal staff (FSB 2008: 102-119). The Board deferred the proposal again in 2010 (WP10-02) until the working group, which included representatives from nine Councils, could meet again and come to a consensus on a plan or proposal. WP10-02 was subsequently withdrawn and replaced by Proposal WP12-01, which was put forward by the Brown Bear Claw Handicraft Working Group (OSM 2012a).

WP12-01 requested the Board require that, in order to sell a handicraft that incorporates brown bear claws, the hide or claws not attached to a hide must be sealed by an authorized ADF&G representative. This required a modification to the State's sealing requirement to include an option on the certificate to indicate that the bear was harvested on Federal public lands by a federally qualified subsistence user (OSM 2012b). The Kodiak/Aleutians Council opposed this proposal, again stating that they did not support selling handicrafts made with brown bear claws (OSM 2012b). The Board adopted this proposal in 2012, with the OSM modification to add language that old claws may be sealed if an affidavit is signed to verify that the brown bear was harvested by a federally qualified subsistence user on Federal public lands (§ __.25(j)(7)(ii), 77 Fed. Reg. 114, 35498 [June 13, 2012]).

In 2016, the BOG adopted Proposal 57 to allow the sale of brown bear hides and/or skulls by Alaska residents in units where the harvest limit is two bears annually: "*A person may sell, advertise, or otherwise offer for sale a skull or hide with claws attached of a brown bear harvested in an area where the bag limit is two bears per regulatory year...*" (5 AAC 92.031(g)). During deliberations for this proposal, Wildlife Troopers testified that law enforcement tracks internet activity and attempts to verify permit and sealing records when bear products are encountered. They provided testimony that few brown bear hides had been encountered, and all those that were sold by Alaska residents were appropriately harvested under an intensive management permit (OSM 2024).

In 2024, the Board considered WP24-01, which requested allowing the sale of brown bear hides for brown bears harvested under Federal subsistence regulations statewide. When deliberating this proposal, the Kodiak/Aleutians Council again discussed whether it was culturally appropriate for hunters in their region to sell brown bear hides, and they expressed concern over regulatory changes that could increase brown bear harvest in their region (KARAC 2023). However, the Council ultimately voted to support the proposal, noting that it would likely lead to minimal additional harvest but would provide some subsistence users another means to help offset the high cost of living in rural Alaska (OSM 2024).

The Board deferred WP24-01 to provide additional time to further investigate how brown bear hides could be legally sold in areas with a one bear harvest limit, given the current restrictions under State regulations and CITES (FSB 2024). In February 2025, the Board again deferred WP24-01 to allow all

ten Councils to reconsider the revised analysis, which contained new information and a revised OSM conclusion. In March 2025, the Kodiak/Aleutians Council considered this amended version of the WP24-01 analysis, which included the revised OSM conclusion to establish a Federal customary trade permit that would allow the domestic sale of brown bear hides harvested under Federal subsistence regulations, regardless of harvest limit. By limiting sales to domestic purchases, the revised OSM conclusion was determined to be in compliance with CITES, because CITES only applies to international sales. The revised OSM conclusion also eliminated regulations requiring the skin of the skull and claws of brown bear hides to be retained at the time of sealing in certain areas. The Kodiak/Aleutians Council's motion to support the proposal failed on a tie vote. Council members opposed to the proposal stated that it was not culturally appropriate in their region to sell the hides of brown bears, while Council members in support of the proposal stated that the proposed changes would allow subsistence users to more fully utilize the resource while helping to offset the high cost of living in Alaska (KARAC 2025). All other councils supported WP24-01 as modified by OSM in February 2025.

In July 2025, the Board adopted deferred proposal WP24-01 as modified by OSM. However, this regulation cannot be implemented until the Office of Management and Budget (OMB) approves the creation and use of the new OSM Customary Trade Permit.

Current Events

Two other proposals related to brown bears in Unit 8 were submitted in 2025. These proposals will also be considered by the Kodiak/Aleutians Council in fall 2025 and by the Board at its April 2026 regulatory meeting.

WP26-32, submitted by the Kodiak/Aleutians Council, requests that the Board recognize the customary and traditional use of brown bears in Unit 8 by residents of the Kodiak Island road system, except those residing on the U.S. Coast Guard base or in other military housing. If adopted, residents of this area would become federally qualified subsistence users eligible to harvest brown bear in Unit 8.

WP26-33, also submitted by the Kodiak/Aleutians Council, requests up to four Federal subsistence brown bear permits be allocated to the community of Kodiak. Consideration of WP26-33 is contingent on adoption of WP26-32, and if the customary and traditional use of brown bears in Unit 8 by residents of the Kodiak Road System is recognized. If both are adopted, the number of Federal brown bear subsistence permits available in Unit 8 would increase from 13 to 17.

Biological Background

Please see the staff analysis of Proposal WP26-33 for biological information on Unit 8 Brown Bear.

Cultural Knowledge and Traditional Practices

Handicrafts and subsistence uses

The production of handicrafts in Alaska is a cultural practice that engages artists in natural resource use and management (Woldstad 2020). In some regions of Alaska, handicrafts are produced primarily in the winter months, and much of the sale of handicrafts occurs at informal markets such as regional and statewide craft fairs (Lincoln 2019). While many of the handicrafts produced were made traditionally, others have emerged since European contact and have been produced explicitly for sale, such as the Yup'ik *mingqaaq* (coiled baskets made from dried sea grass) made in the Yukon-Kuskokwim Delta region (Lee 2004). Although some handicrafts emerged as part of market economies, their production is still intertwined with and shaped by traditional subsistence practices (Lee 2004).

The sale of handicrafts is a critical economic activity for many Alaskan residents that helps, in part, to fund fishing and hunting activities (Hollowell 2004, Lincoln 2019). As Lincon (2019: 27) describes, “selling Alaska Native art is a strategy people use to maintain harvesting perspectives and practices amid place-based hunting laws and their financial restrictions.” The production and sale of handicrafts is not just a byproduct of subsistence resource use but is itself an important activity that supports the continuation of subsistence practices (Hollowell 2004, Lee 2004, Lincoln 2019, Woldstad 2020).

Notably, regulatory and legal precedent underscore that as long as the *use* (i.e., harvest for personal or family consumption) of a resource is customary and traditional, the ways specific parts of that resource are used after harvest do not need to be determined customary and traditional in order to be permitted. Specifically, the U.S. District Court previously found that handicrafts permitted under the Marine Mammal Protection Act do not need to have been made in living memory to be considered traditional, and that the method of production (i.e., being handmade rather than commercially produced) is a key element in determining whether a handicraft is considered traditional. Based on these Court findings, previous analyses related to handicrafts within Federal subsistence regulations suggested that if an item is not mass-produced and it is made using parts of fish or wildlife customarily taken for subsistence, it may fall under the definition of a handicraft (OSM 2005, Tomsen 2002, *Didrickson v. U.S. Department of Interior* 796 F. Supp. 1289).

Use of brown bear by Kodiak Island residents

Archaeological evidence from prehistoric sites documents that Kodiak Alutiiq people have consistently harvested and used brown bears for as long as they have been on the island (Svoboda and Crye 2023, Van Daele 2003). Brown bear faunal remains are present across several archaeological sites, but they typically rank below marine mammal remains in terms of frequency of occurrence. Additional archaeological evidence highlighting the long-term importance of brown bears includes pictographs and symbolic imagery dating back to at least 2,500 years ago (ADF&G 2002, Clark 1974). Some labrets (lip plugs) found at Koniag archaeological sites feature carvings of bear paws or inlays of animal teeth (Steffian 2024).

Written accounts from the late 1700s through the early 1900s describe traditional patterns of brown bear hunting on Kodiak Island (Kidder 1904, Smith 1904, ADF&G 2002, KARAC 1996, Van Daele

2003, Steffian 2024). From the late 1800s through the 1930s, Alutiiq hunters regularly earned income selling bear hides or working as brown bear hunting guides (ADF&G 2002, Steffian 2024), and some residents describe the guiding industry as one aspect of continuing these subsistence uses (e.g., KARAC 1996: 31). Harvest of brown bears by residents of Kodiak Island have also been shaped by regulatory changes in brown bear harvest limits, season dates, and permit availability that have been implemented since the 1920s (see WP26-32 for more in-depth overview of these topics).

More recent historic records, oral histories, traditional stories, and ethnographic data document the continuing use of brown bears for subsistence and highlight Kodiak Island residents' spiritual connections to bears (Kidder 1904, Fall et al. 1992, as cited in OSM 1996, Van Daele 2003, Svoboda and Crye 2023, Keating et al. 2024, Steffian 2024). Accounts from hunters participating in commercial brown bear hunting in the early 1900s note that residents of Kodiak Island harvested bears for meat and would also benefit economically from guiding hunts and selling bear hides (Kidder 1904). One brown bear trophy hunter described Kodiak residents' relationship with bears as becoming more important following declines in the sea otter population (Smith 1904: 231):

The sea otter and bear have always been most intimately connected with the lives of the “Kadiakers,” and have exercised a more important influence on their characters than any of their surroundings except the sea. It is no wonder, then, that the native endowed these animals with a strength and size which easily takes them into the realm of mythology. The sea otter being nearly extinct, the bear is now made to shoulder all the large stories, and, strong as he is, this is no light burden.

Many of the oral traditions recorded in Kodiak villages are similar to those described by Alutiiq people on the Alaska Peninsula (Fall and Scarborough 1992, as cited in OSM 1996). Oral histories recorded from Kodiak Alutiiq elders tell of the similarity between bears and humans, “including the ability for bears to change into people and vice versa, and the mystical nature of bears because of their proximity to the spirit world” (ADF&G 2002: 2-3). Some of these oral traditions were recorded by Afognak Tribal elders as recently as 1997 (Christiansen 2013, Davis, 2013), indicating the continuing cultural importance of brown bears on Kodiak Island.

These traditions and beliefs have shaped peoples' use of bears over time. For instance, upon harvesting their first bear, hunters were encouraged to put their arms down the throat of the bear and rub a handful of mucus and slime on their bare chest to reduce their fear of bears (Fall et al. 1992, Melovedoff et al. 1992, as cited in Fall and Scarborough, 1996). Additional practices related to bears that were documented in Kodiak villages in the late 1980s include needing to discard clothes worn while burying someone before bear hunting, wearing amulets (probably made of bear claw) for good luck, cooking land and sea animals separately, and placing the vein from a bear around the wrist of a baby when they are born for strength (OSM 1996). Today, residents of Kodiak continue hold deep respect for brown bears (e.g., KARAC 2008).

Historical and ethnographic data indicate that all parts of harvested brown bears were used for food except the hide, bones, claws, head, and entrails. Bear hides were either left at the kill site or used as

bed covers or sleeping pads in *ciqlluut* (traditional sod houses) (Holmberg 1985, OSM 1996, Schmidt 2018). Bones were used for tools and for traditional medicine, and teeth were used for adornment. The skulls of harvested bears were historically left in the field because people believed it was disrespectful to the animal to use it (KARAC 1996: 20-21, Van Daele 2003).

Brown bear intestines (*qilut*) and sinew were traditionally used to make rainproof parkas (*kamleika*, **Figure 1-3**), bags, hats, window coverings, and drums. Bear intestines were considered stronger and therefore better for these purposes than sea lion intestines, but were also harder to acquire (Black 1977, Davydov 1977, Holmberg 1985, Schmidt 2018, Steffian 2024, Van Daele 2003). Traditionally, lengths of bear intestines were soaked in urine to remove fat before being turned inside out, scraped clean, inflated, and hung to dry. Then, the intestines were split into swaths of material that were used to sew jackets with waterproof stitches. Skin sewers folded a piece of ryegrass into each seam to absorb any water that seeped through the holes made by their needles, and decorated garments with beads, feathers, hair, strips of dyed skin, and bird beaks (Alutiiq Museum, n.d.) Alutiiq women were commissioned to produce these highly prized garments for Russian traders, who wore them as status symbols and gifted them to visiting dignitaries (Alutiiq Museum, n.d.).

Some artists continue to produce these traditional garments (e.g., Burke Museum 2015, Larsen 2023). Traditional ecological knowledge shared by one artisan—who learned the information from an elder—described that *kamleikas* are better made from bears harvested in the spring, because bears harvested in the fall can have holes in their intestines from the salmon bones consumed over the summer (Larsen 2023).

Regional perspectives on handicraft regulations and sale of brown bear parts

In the past, the Kodiak/Aleutians Council has consistently voted to oppose proposals that would allow for the sale of brown bear hides or claws (OSM 2002; 2004; 2005; 2006; 2008; 2012b, KARAC 2025). When discussing a brown bear handicraft proposal in 2008, one Council member shared that in the “...Kodiak Island villages, as far as I can remember from my elders talking to me, we have never made available sale of bear parts from subsistence hunts. If another region wishes to start doing that, I wouldn’t object, but it’s kind of against our tradition to disrespect a bear like that” (KARAC 2008: 30). A member of the public agreed that bear parts were not traditionally sold, stating, “I was born and raised in Kodiak and I’m 76. What I’m hearing here is exactly the way it should be in Kodiak because that’s the way it’s been in the past. From all my discussions with my mother, dad, their grandparents, it’s always been the same.” (KARAC 2008: 31).

Many of these types of discussions also expressed concern regarding potential over-harvest of brown bears if such changes were permitted, as well as the difficulty of tracking the sale of handicrafts made using brown bear parts. However, the Kodiak/Aleutians Council has not considered a proposal related specifically to brown bear handicrafts since Federal regulations were implemented to require any claws that would be used in handicrafts to be sealed by ADF&G. Additionally, the Council was recently divided regarding a proposal that would permit the sale of brown bear hides (WP24-01), including claws, harvested by federally qualified subsistence users under Federal subsistence

regulations (KARAC 2025). Some Council members who opposed this proposal emphasized that selling brown bear parts is not traditional on Kodiak Island, but that perspectives on those uses may be changing:

You know, in the past, our RAC has always been opposed to selling of brown bear parts for Kodiak. For as long as I can remember, we have been. However, I recognize...there's not very many subsistence bears killed off of Kodiak. If this [proposal] is passed, it's probably not going to increase that number very much. I still don't like the idea of selling brown bear parts, but the State kind of threw the doors wide open on that a number of years ago when they started making it legal in two bear areas (KARAC 2025: 62).

It seems like [for] the present generation, then this [sale of bear parts] is an acceptable thing. And so, I'm—I just really don't know how I'm going to go on this because, you know, I'm not a Native, but... is selling a hide and claws a 'use'? It probably wasn't before, but anyway, I'm still muddled (KARAC 2025: 64).

Members in support of WP24-01 highlighted the value of making full use of a harvested animal:

I'm for full utilization if an animal is killed and I believe that, you know, we live today in a system where, you know, we don't call it barter or trade anymore, but in fact, exchange for money is a barter and trade system. And you know, it's often costly to hunt. And I'm just all for full utilization. I know there are already a lot of bear, up to 200 every year, killed and the meat is not utilized, and the hide and skull is utilized. So once again, I'll just say I'm all for full utilization of an animal killed (KARAC 2025: 64).

I am supportive of utilizing all of the bear and I'm supportive of, you know, the people in communities that are eligible to participate in a subsistence harvest to be able to have that, to be able to sell the hide rather than having it either go to waste or, you know, get piled up on somebody's floors, on somebody's wall, you know, and which is what happens anyway..." (KARAC 2025: 65)

The diversity of perspectives expressed by Council members underscores the complexity of this issue and the cultural value of bears on Kodiak Island. While the Council has historically opposed the sale of brown bear parts, more recent Council discussions indicate that some Council members may today support broader use of these parts under Federal subsistence regulations.



Figure 1. Bear gut parka collected on Kodiak in 1842-1843, in the collections of the Peter the Great Museum of Anthropology and Ethnography in St. Petersburg, No. 2868-231. Image taken from Steffian (2024).



Figure 2. Sugpiat/Alutiiq children's bear gut parka from Kodiak Island housed in the Burke Museum collections in Seattle, Washington (Burke Museum 2015).



Figure 3. Educational demonstration by Sven Haakanson Jr. showing how the intestines of a brown bear are processed to make a traditional parka (Larsen 2023).

Harvest History

Please see the staff analysis of Proposal WP26-33 for harvest history regarding Unit 8 Brown Bear.

Discussion and Effects

Adopting this proposal would permit federally qualified subsistence users to use all nonedible parts of brown bears (including fur, claws, teeth, skulls, sinew, and intestines) harvested under Federal subsistence regulations in Unit 8 in the production and limited sale of handicrafts. Any handicraft made with brown bear claws would need to be sealed by a representative of ADF&G at their Kodiak Office prior to being sold. Currently, State regulations do not permit the sale of any brown bear parts from Unit 8, except for an article of handicraft made from brown bear fur. Adopting this proposal is unlikely to increase brown bear harvest or pose conservation issues, particularly since the opportunity to harvest brown bears under Federal subsistence regulations is limited to a small number of permits, the brown bear population in Unit 8 is closely managed, and hunters would continue to be required to salvage the meat of any brown bear taken under Federal subsistence regulations. However, it will likely be necessary to specifically restrict the use of gallbladders if this proposal is adopted as written, or as modified by the Kodiak/Aleutians Council during their September 2025 meeting.

If this proposal is not adopted, federally qualified subsistence users harvesting brown bear in Unit 8 would not legally be able to use the byproducts of harvested brown bears in handicrafts made for sale.

OSM PRELIMINARY CONCLUSION

Support Proposal WP26-34 **with modification** to add Unit 8 to the existing unit-specific regulations regarding the sale of specific brown bear parts, and to specify that in Unit 8 federally qualified subsistence users may also sell traditional handicrafts made from brown bear intestines.

The modification presented below does not: (1) include language limiting sales to consignment only, (2) restrict sales to within the United States, (3) require a wildlife transfer agreement for transferred or gifted brown bear parts, or (4) require a bear registration permit number to be attached to and permanently retained with the handicraft. Adopting these elements of the proposal would increase regulatory complexity and make Federal subsistence handicraft regulations more restrictive in Unit 8 than in other areas of Alaska.

The draft regulations read:

§__.25 Subsistence taking of fish, wildlife, and shellfish: general regulations

(j) Utilization of fish, wildlife, or shellfish

...

*(7) If you are a Federally qualified subsistence user, you may sell handicraft articles from the skin, hide, pelt, or fur, including claws, of a brown bear taken from Units 1-5, **8**, 9A-9C, 9E, 12, 17, 20, 22, 23, 24B (only that portion within Gates of the Arctic National Park), 25, or 26.*

*(i) In Units 1, 2, 3, 4, ~~and~~ **5, and 8**, you may sell handicraft articles made from the skin, hide, pelt, fur, claws, bones, teeth, sinew, or skulls of a brown bear taken from Units 1, 4, ~~or~~ **5, or 8**. **In Unit 8, you may also sell handicrafts made from the intestines of brown bear taken from Unit 8.***

(ii) Prior to selling a handicraft incorporating a brown bear claw(s) the hide or claw(s) not attached to a hide must be sealed by an authorized Alaska Department of Fish and Game representative. Old claws may be sealed if an affidavit is signed indicating that the claws came from a brown bear harvested on Federal public lands by a federally qualified subsistence user. A copy of the Alaska Department of Fish and Game sealing certificate must accompany the handicraft when sold.

...

(11) The sale of handicrafts made from the nonedible products of wildlife, when authorized in this part, may not constitute a significant commercial enterprise.

Justification

Allowing the sale of handicrafts made using brown bear parts would allow federally qualified subsistence users to more fully utilize brown bears that were harvested for subsistence under Federal regulations. There is ample evidence that brown bear parts, particularly intestines, have long been used to produce handicrafts on Kodiak Island. Allowing the sale of handicrafts made with the non-edible byproducts of brown bears would allow federally qualified subsistence users making these handicrafts a limited degree of economic benefit from such practices.

The Council has repeatedly expressed concern about allowing the sale of brown bear claws in their region. Federal subsistence regulations define handicrafts in such a way that the parts used must be changed significantly, which is intended to ensure valuable items like bear claws are not simply appended to handicrafts and sold as “raw” items. Additionally, ADF&G is now able to seal and track brown bear claws used in handicrafts. Previous information documented during Board of Game meetings indicates that brown bear harvest did not increase substantially after the State began allowing the limited sale of brown bear hides, and that internet-based sales of brown bear hides and parts are monitored by law enforcement to ensure they come from legally harvested bears. Furthermore, there are currently only 13 Federal subsistence permits available to harvest brown bears in Unit 8 and current Federal subsistence regulations require that the hide and edible meat of harvested brown bears be salvaged. Given these factors, allowing the use of brown bear claws and byproducts in handicrafts appears unlikely to result in increased brown bear harvesting.

OSM recognizes that the Council has a long history of opposing the sale of any brown bear parts in their region. Many residents of Kodiak feel that it is inappropriate to sell bear parts. Yet, several Council members have recently expressed support for selling brown bears harvested for subsistence, and OSM likewise supports those residents in their efforts. The regulatory history indicates provisions allowing the sale of handicrafts made using brown bear parts should be regionally specific and culturally appropriate, and the available information suggests that adopting this proposal may be considered appropriate by the Council.

The OSM modification presented above would largely align the Federal subsistence brown bear handicraft regulations in Unit 8 with those of other regions that allow such practices, thereby reducing regulatory complexity. The proposed regulations to restrict sales to consignment only are not recommended because there is already regulatory language stating that the sale of handicrafts may not constitute a significant commercial enterprise. Additionally, the Board and several Regional Advisory Councils previously voted against adopting specific regulations that may potentially limit the sale of handicrafts in business establishments, and it is not clear how the current proposal would limit such sales or whether such limitations are necessary. Finally, to prevent handicraft regulations from being more restrictive in Unit 8 than in other areas of Alaska, the modification presented above does not: (1) restrict sales to within the United States, (2) require a wildlife transfer agreement for transferred or gifted brown bear parts, or (3) require a bear registration permit number to be attached to and permanently retained with the handicraft.

ANALYSIS ADDENDUM

OSM CONCLUSION

Support WP26-34 with modification to allow the production and limited sale of handicrafts made from all non-edible byproducts of brown bears except gallbladders, while removing proposed regulatory language requiring: consignment sales only; sales be conducted within the United States only; transferred or gifted non-edible byproducts be accompanied by a wildlife transfer statement; and registration permit number be retained with handicrafts.

The draft regulations read:

§__.25 Subsistence taking of fish, wildlife, and shellfish: general regulations

(j) Utilization of fish, wildlife, or shellfish

...

(7) If you are a Federally qualified subsistence user, you may sell handicraft articles from the skin, hide, pelt, or fur, including claws, of a brown bear taken from Units 1-5, 8, 9A-9C, 9E, 12, 17, 20, 22, 23, 24B (only that portion within Gates of the Arctic National Park), 25, or 26.

*(i) In Units 1, 2, 3, 4, and 5, you may sell handicraft articles made from the skin, hide, pelt, fur, claws, bones, teeth, sinew, or skulls of a brown bear taken from Units 1, 4, or 5. **In Unit 8, you may sell handicrafts made from any nonedible byproducts of brown bear taken from Unit 8, except gallbladders.***

(ii) Prior to selling a handicraft incorporating a brown bear claw(s) the hide or claw(s) not attached to a hide must be sealed by an authorized Alaska Department of Fish and Game representative. Old claws may be sealed if an affidavit is signed indicating that the claws came from a brown bear harvested on Federal public lands by a federally qualified subsistence user. A copy of the Alaska Department of Fish and Game sealing certificate must accompany the handicraft when sold.

...

(11) The sale of handicrafts made from the nonedible products of wildlife, when authorized in this part, may not constitute a significant commercial enterprise.

Justification

Allowing the sale of handicrafts made using brown bear parts would allow federally qualified subsistence users to more fully utilize brown bears that were harvested for subsistence under Federal regulations. There is ample evidence that brown bear parts, particularly intestines, have long been used to produce handicrafts on Kodiak Island. Allowing the sale of handicrafts made with the non-edible

byproducts of brown bears would allow federally qualified subsistence users making these handicrafts a limited degree of economic benefit from such practices. The revised OSM conclusion would provide for a regulation more in keeping with the modifications proposed by the Kodiak/Aleutians Council at their September 2025 meeting. However, it is necessary to specifically restrict the use of brown bear gallbladders in the proposed regulation, as not doing so could potentially provide a loophole for use and sales of these gallbladders in valuable international markets for traditional medicine made from the bile. Furthermore, the sale or barter of bear gallbladders is prohibited under State regulations and there is a specific resolution under CITES designed to limit trade in bear parts or products made from bear parts like gallbladders.

Federal subsistence regulations define handicrafts in such a way that the parts used must be changed significantly, which is intended to ensure valuable items like bear claws are not simply appended to handicrafts and sold as “raw” items. Additionally, ADF&G is now able to seal and track brown bear claws used in handicrafts. Previous information documented during Board of Game meetings indicates that brown bear harvest did not increase substantially after the State began allowing the limited sale of brown bear hides, and that internet-based sales of brown bear hides and parts are monitored by law enforcement to ensure they come from legally harvested bears. Furthermore, there are currently a maximum of 13 Federal subsistence permits available to harvest brown bears in Unit 8 each year (17 permits if WP26-33 is adopted), and current Federal subsistence regulations require that the hide and edible meat of harvested brown bears be salvaged. Given these factors, allowing the use of all non-edible byproducts except gallbladders in handicrafts appears unlikely to result in conservation concerns regarding brown bear harvesting by federally qualified subsistence users.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATION

Kodiak-Aleutians Subsistence Regional Advisory Council:

Support WP26-34 with modification. The Council supported the proposal with modification to allow the production and limited sales of handicrafts made from all non-edible byproducts of brown bear, while removing the proposed regulatory language restricting sales of these handicrafts to consignment only, removing the requirement that sales be conducted within the United States only; removing the requirement that transferred or gifted non-edible byproducts be accompanied by a wildlife transfer statement; and removing the requirement that registration permit numbers be retained with handicrafts.

The Council felt that adopting the proposal as modified would allow rural subsistence users to more fully utilize all parts of brown bears harvested under Federal subsistence regulations, while helping to offset the high cost of living in rural Alaska, and maintain subsistence traditions. The Council felt that adopting the proposal as modified would not present a conservation concern due to the relatively low number of Federal subsistence permits available for brown bear harvest in Unit 8 each year, the fact that the hide and edible meat of brown bears harvested under Federal subsistence regulations must be salvaged, and the close management and monitoring of brown bears in Unit 8.

The draft regulations read:

§__.25 Subsistence taking of fish, wildlife, and shellfish: general regulations

(j) Utilization of fish, wildlife, or shellfish

...

(7) If you are a Federally qualified subsistence user, you may sell handicraft articles from the skin, hide, pelt, or fur, including claws, of a brown bear taken from Units 1-5, 8, 9A-9C, 9E, 12, 17, 20, 22, 23, 24B (only that portion within Gates of the Arctic National Park), 25, or 26.

*(i) In Units 1, 2, 3, 4, and 5, you may sell handicraft articles made from the skin, hide, pelt, fur, claws, bones, teeth, sinew, or skulls of a brown bear taken from Units 1, 4, or 5. **In Unit 8, you may sell handicrafts made from any nonedible byproducts of brown bear taken from Unit 8.***

(ii) Prior to selling a handicraft incorporating a brown bear claw(s) the hide or claw(s) not attached to a hide must be sealed by an authorized Alaska Department of Fish and Game representative. Old claws may be sealed if an affidavit is signed indicating that the claws came from a brown bear harvested on Federal public lands by a federally qualified subsistence user. A copy of the Alaska Department of Fish and Game sealing certificate must accompany the handicraft when sold.

...

(11) The sale of handicrafts made from the nonedible products of wildlife, when authorized in this part, may not constitute a significant commercial enterprise.

INTERAGENCY STAFF COMMITTEE COMMENTS

The Interagency Staff Committee found the analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and the Federal Subsistence Board action on this proposal.

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Wildlife Proposal WP26-34

This proposal seeks to allow the sale of handicrafts made from the nonedible byproducts of legally harvested brown bear taken under Federal subsistence regulations in Game Management Unit 8.

Position

The Alaska Department of Fish & Game (ADF&G) is **OPPOSED** to this proposal as it sees its passage as an unnecessary deviation from State regulations and contrary to Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) and recent directives from the President and Secretary of the Interior because it is not necessary.

ANILCA §1314(a) explicitly states: "Nothing in this Act is intended to enlarge or diminish the responsibility and authority of the State of Alaska for management of fish and wildlife on the public lands except as may be provided in Title VIII..." Title VIII provides only a narrow exception allowing the Secretary to restrict State-authorized harvest when necessary to meet the needs of federally qualified rural residents. Section 802(2) establishes the policy that "nonwasteful subsistence uses of fish and wildlife and other renewable resources shall be the priority consumptive use of all such resources on the public lands of Alaska **when it is necessary to restrict taking in order to assure the continued viability of a fish or wildlife population or the continuation of subsistence uses of such population...**" [emphasis added]. Section 804 reiterates this policy and establishes criteria to implement a priority when the above conditions are met. It does not authorize wholesale replacement of State management. Per §815(3) of ANILCA, "...restriction on nonsubsistence uses are only authorized when necessary for the conservation of healthy wildlife populations or to continue subsistence uses."

Executive Order 15153, Sec. 3(b)(xxii) directs the Department of the Interior to conduct meaningful consultation with State fish and wildlife agencies prior to enacting land management plans or regulations affecting hunting and fishing opportunities on public lands. This directive was reinforced by Secretarial Order 3447, which calls for removing unnecessary barriers to hunting and fishing, expanding access where compatible, improving coordination with State agencies, and ensuring transparent review of any proposed restrictions.