



NORTH SLOPE SUBSISTENCE  
REGIONAL ADVISORY COUNCIL

*March 17-18, 2015  
Barrow, Alaska*



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***On the cover...***

A young caribou prances across the tundra.



USFWS

**NORTH SLOPE SUBSISTENCE REGIONAL ADVISORY COUNCIL**

March 17-18, 2015  
9 a.m. to 5 p.m. daily  
Inupiat Heritage Center; Barrow

**TELECONFERENCE:** call the toll free number: 1-877-638-8165, then when prompted enter the passcode: 9060609

**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. + Order of reports at the call of the Chair to best support the development of wildlife regulatory proposals

- 1. **Roll Call and Establish Quorum** (*Secretary*).....4
- 2. **Invocation**
- 3. **Call to Order** (*Chair*)
- 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*) ..... 5
- 8. **Reports**
  - Council Member Reports
  - Chair’s Report
- 9. **Public and Tribal Comment on Non-Agenda Items** (available each morning)

**10. Old Business (Chair)**

- a. Rural Determination Process Review – Secretarial Proposed Rule\* (OSM LT).....21
- b. Customary & Traditional Use Determination – Southeast Council Proposal (Jeff Brooks) .....26
- c. Refuges Proposed Rule on Hunting (USFWS Refuges Regional office staff) .....64
- d. National Park Service Briefing on Subsistence Collections and Uses.....70

**11. New Business (Chair)**

- a. Call for Federal Hunting and Trapping Regulatory Proposals\*(Tom Evans).....73
- b. Funding Notification – Fisheries Resource Monitoring Program (Karen Hyer) .....79
- c. Review and Approve FY2014 Annual Report\* (Council Coordinator) .....82
- d. Tribal Consultation and outreach (Orville Lind – telephonic)
- e. Charter Revisions\* (Council Coordinator).....88

**12. Agency Reports**

(Time limit of 15 minutes unless approved in advance)

- Special Actions
- Tribal Governments
- Native Organizations
- NPS: Gates of the Arctic National Park (Marcy Okada)
- USFWS: Arctic National Wildlife Refuge
- FRMP Projects: Kaktovik Dolly Varden char satellite tagging (Brendan Scanlon)
- ADF&G: Caribou herd and management proposal updates (Lincoln Perett or Geoff Carroll)
- BLM: NPR-A updates and joint caribou herd updates (Dave Yokel)
- OSM

**13. Future Meeting Dates\***

- Confirm date and location of fall 2015 meeting .....92
- Winter 2016 All-Council Meeting Update (Meeting Committee)

**14. Closing Comments**

**15. Adjourn (Chair)**

To teleconference into the meeting, call the toll free number: 1-877-638-8165, then when prompted enter the passcode: 9060609

*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 Eva Patton, 907-786-3358, [eva\\_patton@fws.gov](mailto:eva_patton@fws.gov), or 800-877-8339 (TTY), by close of business on March 9, 2015.

DRAFT

**REGION 10**  
**North Slope Subsistence Regional Advisory Council**

<b>Seat</b>	<b>Year Apptd Term Expires</b>	<b>Member Name and Community</b>
<b>1</b>	2011 <b>2017</b>	<b>Gordon R. Brower</b> Barrow
<b>2</b>	2011 <b>2016</b>	<b>Robert V. Shears</b> Barrow
<b>3</b>	<b>2016</b>	<b>VACANT</b>
<b>4</b>	<b>2016</b>	<b>VACANT</b>
<b>5</b>	1993 <b>2016</b>	<b>Harry K. Brower Jr.</b> <b>Chair</b> Barrow
<b>6</b>	2014 <b>2017</b>	<b>Sam Kunaknana</b> Nuiqsut
<b>7</b>	<b>2008</b> <b>2017</b>	<b>James M. Nageak</b> Anaktuvuk Pass
<b>8</b>	2012 <b>2015</b>	<b>Theodore A. Frankson, Jr.</b> Point Hope
<b>9</b>	2006 <b>2015</b>	<b>Lee Kayotuk</b> <b>Secretary</b> Kaktovik
<b>10</b>	2009 <b>2015</b>	<b>Rosemary Ahtuanguaruak</b> <b>Vice Chair</b> Barrow

NORTH SLOPE SUBSISTENCE REGIONAL ADVISORY COUNCIL

Kisik Community Center  
Nuiqsut, Alaska  
August 19 - 20, 2014

*DRAFT MEETING MINUTES*

**Council Members Present:**

Harry K. Brower, Jr. Chair  
Rosemary Ahtuanguaruak, Vice Chair  
Gordon Brower  
Theodore Frankson  
Lee Kayotuk (via teleconference for the entire meeting)  
Robert Shears  
James Nageak

**Agency staff:**

Gene Peltola, Jr. Area Regional Director, Office of Subsistence Management  
David Jenkins, Policy Coordinator, Office of Subsistence Management  
Tom Evans, Wildlife Biologist, Office of Subsistence Management  
Karen Hyer, Fisheries Biologist, Office of Subsistence Management  
Pat Petrivelli, Anthropologist, Interagency Staff Committee, Bureau of Indian Affairs  
Dave Yokel, Biologist, Bureau of Land Management  
Vince Mathews, Subsistence Coordinator for Arctic, Kanuti and Yukon Flats  
Marcy Okada, Subsistence Coordinator, National Park Service  
Geoff Carroll, Wildlife Biologist, Alaska Department of Fish and Game, Barrow

Via teleconference:

Jeff Brooks, Social Scientist, Office of Subsistence Management  
George Pappas, State Subsistence Liaison, Office of Subsistence Management  
Orville Lind, Acting Native Liaison, Office of Subsistence Management  
Dan Sharp, Interagency Staff Committee, Bureau of Land Management  
Bud Rice, ISC, National Park Service  
Clarence Summers, ISC, National Park Service  
Ken Adkisson, National Park Service, Nome  
Kumi Rattenbury, National Park Service, Fairbanks  
Jennifer Yuhas, State liaison, Alaska Department of Fish and Game  
Drew Crawford, State liaison, Alaska Department of Fish and Game  
Nikki Braem, Division of Subsistence, Alaska Department of Fish and Game

**Tribal Organizations:**

Eli Nukapigak, Vice President, Native Village of Nuiqsut  
Margaret Padue, Native Village of Nuiqsut  
Sam Kunaknana, Native Village of Nuiqsut  
Martha Itta, Native Village of Nuiqsut  
Elizabeth (last name?) Native Village of Nuiqsut

Paul Kaiyelak, NV Sub. Advisor

**Public/NGO's:**

James Taalak, Cultural Coordinator, City of Nuiqsut  
Archie Ahkiviana “they call me the elder here”  
Joseph Nukapigac, Sr. Nuiqsut, Inc.  
Julie, Weber, Nuiqsut, Inc.  
Clayton Kaigelak  
Patrick Easterday  
Jeff Long  
Dora Leavitt  
Clarence Ahnupkana  
Roland Nukapigak  
Bryan Nukapigak  
Nelli Kaigelak, Kuukpik  
Rodger Ahnupkana  
Joseph Akpik

**Roll call and introductions:** Quorum was established on both days. Council member James Nageak shared a preamble in Inupiaq he wrote and translated to English: In order to have a substantial lifestyle without subsidy in the Inupiat culture, you must have a subsistence lifestyle that has substance for you to subsist with dignity.

**Adoption of agenda:** Adopted by unanimous consent. \*Asterisk identifies action item.

**Awards:** Rosemary Ahtuanguaruak was presented with an award for her 5 years of service on the North Slope Subsistence Regional Advisory Council.

**Approval of meeting minutes:\***

Motion on the floor to adopt the minutes of February 19-20, 2014 NSRAC meeting. Council unanimously approved both meeting minutes as written with edits as follows: Page 3 James Nageak notes a correction for misspelling of and in “catch a(nd) preserve the fish” Robert Shears Council member speaking for Wainwright corrected the spelling on page 4 of the Utukok River is spelled “Utuqqaq” (U-t-u-u-q-q-a-q) in Inupiaq means something that is old. Several Council members James Nageak, Teddy Frankson, and Harry Brower elaborate on discussion on page 8 on comments made by Doreen Lampe of ICAS noting that loons are not eaten, that indeed they are eaten by some at times when food is scarce and as James Nageak also stresses to follow the Inupiaq dictum that if you kill something you have to eat it. He notes that animals not commonly eaten can be lifesavers at times when food is scarce or you are out on the land traveling.

**Council Member Reports:**

**Rosemary Ahtuanguaruak:** Rosemary shared that it had been a good year for her family. Her son had been out for hunting this year and while it was slow to get around the caribou it was better than last year with less development activity and less conflict on the ground than last year. The decreased disturbance had allowed for enjoyment of hunting and they were able to get out and get caribou and fish this summer. The village of Nuiqsut is just starting to get caribou and a nephew here was able to get a moose this year.

Rosemary discussed being proactive to address changes that are affecting subsistence. There have been increased conflicts around Nuiqsut and on Native allotments with trucks, four-wheelers, and bigger snow

machines causing tundra damage. She noted a need for creative ways to restrict increased competition for resources throughout the area that are interfering with traditional and cultural harvesting activities, such as educating hunters when they get their license about private allotments, protecting the tundra, and restricting air traffic around the caribou herd. People are frustrated by the lack of effective responsiveness to address these concerns.

**Teddy Frankson:** Shared that Point Hope had a good whaling season this year, enough to eat and send some people some food. Everybody is getting fish now; it's good fishing around Point Hope for everyone right now. Teddy notes he was fishing on the beach and got 15 trout and a couple kings. They are having problems with caribou as usual that big game hunters are chasing caribou back towards Kotzebue. Some have had to travel as far as Kivalina to get just a few caribou. The elders are trying to teach the young hunters not to go too soon when the caribou come through and to let the first group go by so that the rest will follow. But being young and hungry, some young boys have taken off to hunt too soon.

It's been a problem with big game hunters chasing caribou away. The big game hunters go after the big males in the rut when the meat is not edible and Teddy ponders if they like to eat antlers? He is very concerned for the community having to travel so far only being able to get a few caribou and now the sheep are not doing well and that will be closed too. He hopes they can get some things done to help people that depend on these resources. He hopes it's a better year that they can get just what they need to eat.

**Lee Kayotuk:** Reports that springtime in Kaktovik was not so good and a really bad summer so far because it has been really windy and foggy with only one week of boating this summer. Ice was around for a bit and then was west around the Camden Bay area. Fishing was really good for rod a reel and people are still getting fish in their nets like arctic char and cisco and some tomcod and some sculpins. People are catching some fish to put up for fall.

There are some caribou around but it's a mile or two away to the west and east of Kaktovik. The Porcupine Herd has moved far to the south of Kaktovik making it difficult for the community to harvest caribou. Some people just got a few caribou in the past week along the coast by boat and it was one of the only good days to hunt caribou. The mosquitos drove most of the caribou herd to the coast with only a few scattered around a few miles from the village. There is no ice right now, the wind pushed it out east with 30 mile an hour winds for over a week. The wind has made it difficult for people to get out and hunt. Polar bears are around in the Barrier Islands with 5 or 6 showing up in the area just last week.

There are no moose in the area and people know hunting for moose was closed. Lee participated in the moose survey and did not see any moose this spring and only one muskox about 35 miles south of Kaktovik. Sheep hunting is also closed due to the low counts in the area. Also few wolves and wolverine because it was a harsh spring, foggy and cold. Geese and brant were late this year and severe easterly winds affected hunting, but people got a few to get through the summer.

There are a few bowhead whales and beluga that have been in the area around Kaktovik but none landed yet. They did see a lot of seals and bearded seals. Lee notes they saw several barges passing by Barter Island this summer and that they were in bowhead country so the blackout date would be August 25<sup>th</sup> because Kaktovik whalers would be out for the opening day for the bowhead hunt on August 30.

**Robert Shears:** Shares that since the Council last met in February, Wainwright had good late winter catches of wolverine in the area. Robert notes that Wainwright, Point Lay, and Atkasuk have all had unusually high quantity of wolverine harvested but that many were small and immature – not the usual big mature ones usually harvested. He noted that they were often caught in areas that they usually do not get them, such as along the coast scavenging on walrus carcasses and way up in the Brooks Range

mountains. Wolf harvest has tapered off, with fewer wolves harvested in late winter in part because snow conditions were rough on undercarriage of snow machines for running trap lines.

Springtime whaling went very well for Wainwright and he also reported incredibly good duck hunting and good hunting this year. And again this year there was an overwintering herd of caribou near Wainwright and doing well on the Kuk River drainage area.

**James Nageak:** Recounts he grew up in Kaktovik until he was 16 and then his family moved to Barrow and then after highschool he worked summer camps for the Presbyterian Church and met his wife Anna and they have had a good life together since with their 50 year Anniversary coming up in January. James expressed he feels fortunate to have these opportunities to be part of the North Slope: Kaktovik, Barrow, and Anaktuvuk Pass. Having married into Anaktuvuk Pass he learned stories about the Nunamiut and their traditional nomadic life. They follow the caribou when they are moving from the Alachulak, Nag River and Noatak River. They follow them and become part of the environment around the caribou. James recounts that he went through the Western education system and has a degree in Sociology and minored in Anthropology from UAF class of 1973 and then also became a Presbyterian minister and learned how the spirits work. Nunamiut also have a creation story and James told the story of Aiyagmahala. Aiyagmahala was lonesome so he made the Nunamiut (see page 22 - 23 of transcripts for the full story). He also spoke of traditional values that they needed to survive in the arctic.

James shared that people in Anaktuvuk Pass are always happy when the Teshekpuk Herd comes around the village in wintertime and are thankful for opportunity for the fresh meat. And then this time of year (August) the Western Herd comes around and gives an opportunity for fresh meat in the summer but this year there were not very many and he is concerned about the drop in the numbers. Life revolves around caribou and now that the community is stationary and not as nomadic, the timing of the migration is very important. To assist the North Slope Borough Wildlife Department they have created a local organization called United Caribou Association of Nunamiut with the subtitle of TUTTU (Totally Understanding the Tutu Utilization) because of utilizing the whole caribou.

The community is dealing with the caribou coming through when they are healthy before the rut and have begun trilateral meetings to address things that might affect the caribou like the proposed road to Umiat and the controlled use area. The city Council is working with the Nunamiut Tribe to work on submitting a proposal to Board of Game to expand the controlled use area to close it to airplane use during the migration time of herd but are waiting for the right time so as to not jeopardize the current closure that is in place. James elaborated on the word "mitigation" and looked it up in the dictionary to make something less painful, severe or harmful. He fears this word because it means something harmful has already happened for the Inupiat people which is painful and severe. They want to live on the land without having to hear this word but have set up mitigation committees with the oil companies.

Contact creek also goes through and connects with the Koyukuk River and they get a really nice supply of grayling. Eleanor Lake flow into the Anaktuvuk River and it flows into the Colville River and so the migration of fish also affects the Anaktuvuk people. Sheep numbers are low and they support the Gates of the Arctic in closing hunting except for residents of Anaktuvuk Pass.

**Gordon Brower:** Notes he feels stuck with similar concerns he expressed at the previous RAC meeting having a hard time with caribou around the Chipp and Ikpikpuk river area. He stresses he is familiar with caribou movements in that area since he was a young boy and now they are not following the same trails. He and others have shared the concerns about disturbance to the caribou by planes and other disturbance in the path of the caribou herd. Gordon recounts that he has heard from several elders that once caribou move and start following a new trail it might take many years to come back to the old trail if they come back at all. Gordon states he hates to repeat himself again but the connex boxes and bright colored tents

and stuff associated with research is disturbing to the traditional knowledge and impacting the caribou who move away to get around it. He stresses that it is very serious issue that elders have stressed for a long time – that the disturbance can deflect and move and entire herd of 20 - 30,000 animals. Some mitigation in this regard has been easier with oil and gas industry but that it has been hard to work with the Federal government and others conducting studies in the area to engage with the communities. Local communities should be consulted at the beginning to guide the development of the research proposal which would build a better relationship with the local people.

Gordon shared that he has been personally impacted by not being able to reach the caribou and that normally by October he would have harvested 30 caribou which he takes back to Barrow to feed his whaling crew members, his extended family and for Nalukataq, to have the blessed sharing for Nalukataq. He stressed that it is not just whale that is shared, they also serve goose soup and caribou and it is tradition of thousands of years that whaling captains and others have always shared.

Gordon noted that fishing was good this year – the fish came in in large numbers for spawning. However freeze-ups are drastically different and this causes great hardship for both harvesting and preserving the fish. He recounted changes and trends he is seeing over the years of ice up and slush changing with ice not hard enough to walk on to set nets and freeze/thaws that cause slush that damages nets. The thawing causes his sacks of fish to thaw and ferment and then refreeze all stuck together. He used to get 60 sacks of fish a year and now he's down to 45 sacks last year. These are some of the things he and many others are struggling with especially when you fish and hunt to provide for the community. They are providing for many people.

Gordon shared his encounter with some researchers around their connex box and bunch of bright tents and that they had pulled up many caribou antlers that were old with moss on them. He stressed again that these are very important markers and anchors for traditional trap lines and landmarks for finding your way on the landscape. He remarks that antlers and old oil drums are staged as key landmarks before GPS was available and joked that these days if you have GPS its great – “it's like having an elder in a box” You can carry GPS around – it's like having your dad around to tell the way.

Gordon stressed again that the antlers and specific items have been placed in areas for special use and have been traditionally used for markers. He also expressed concern about researchers removing mastodon tusks which are a subsistence resource used for making ulu handles and arts and crafts.

Gordon encouraged researchers to work with the communities and be a part of the process communicate and don't be like the “imieauraq” “You want to do a fish study? Well, come to me, come to Harry, come to those that are fishing and their troubles and work with people. Don't be one of those imieauraq out there where you're hiding and don't want to communicate. Don't set yourself apart like that. Be part of the community is what I think.”

**Chairman Harry Brower:** Discussed that around Barrow it has been a slow summer, nice and cool which has lowered the mosquito count. Hunting has been good for marine mammals with both walrus and ice seals harvested. Duck hunting is happening now in August and quite a bit of fishing going on too. People are making dryfish and picking berries and gathering and preparing food for the oncoming winter. Caribou hunting is happening for some with some using different means such a boats or snow machine to reach the caribou. Chairman Brower shares the same concerns as Gordon that he has been experiencing a lot of flight disturbance around his cabin on the Chipp River and the areas where he traditionally hunts.

#### **Public and Tribal Comment on Non-Agenda Items:**

Many Nuiqsut residents participated throughout the meeting including Sam Kunaknana,

Archie Ahkiviana, Clayton Kaigelak, Dora Leavitt, Martha Itta, and Clarence Ahnupkana. Discussions centered on learning about the Federal Subsistence program and the role of the Council compared to the NPR-A SAC, food security, sport hunter conflicts, and etiquette on the haul road, helicopter disturbance or deflection of caribou, concerns about the health of subsistence fish and contaminants, leaking Navy waste dumps on the Colville river and how to get this addressed, environmental changes observed by subsistence hunters and fishers.

**Joseph Akpik** shares that he has been in the Nuiqsut area for a long time and seen a lot of changes to the river and delta due to erosion but stressed his main concern is extending federal protection for subsistence along the Colville River and Nigliq Channel from impacts of development and also protecting the migration of the caribou along the coast.

**Eli Nukapigak, Native Village of Nuiqsut**, shared history of the Colville River being established as a wild and scenic river under ANILCA and that is very unique and has been a natural source for the village but that changes are happening now. He expressed concern about the mold problems they are having with their whitefish and wonders what is causing it. He notes that this summer the water was cool and a cold winter but that they have previously been having a high volume of warm water in the river. Mr. Nukapigak recounted that last year most of the whitefish caught were all bad and says this is a wake-up call for our people of changes that are happening. He stressed that all the fish bearing lakes need to be protected to prevent the spread of the mold – the fish in the rivers and lakes are the only steady natural resources for our people.

They are seeing changes now in every turn on the river – there are drums coming down out of somewhere and there is a dump site by Umiat that is now eroding into the river and devastating the fish and their livelihood. Mr. Nukapigak asks how they can solve this problem at the Federal level.

Caribou are being diverted away from the community – movement of caribou from the west is diverting around and away from the oil and gas zone. Communication has gotten better with industry – this summer was the first time all three oil and gas activities worked together with flying and chopper activity so that some of the main caribou herd came through and were able to be harvested by the community. This coordination has helped but industry is increasing and it will continue to be an impact to the community. Contamination is a real concern with past exploration sites like Umiat and Chandler affecting the fish and river. Mr. Nukapigak stressed that they are subsistence hunters in Nuiqsut and as part of being Inupiaq they will continue to be subsistence hunters no matter what but they do need some protections for their way of life. The little bit of mitigation (referring to reduction of development activities during a caribou hunt) has helped to create a little bit of time in the summer to hunt and gather.

Mr. Nukapigak notes that weather is changing – they used to be able to predict the weather and asks what will happen in the Colville Delta to their way of life with climate change and oil and gas activity coinciding.

**Annual Report Reply:** The Council received their Annual Report reply from the Federal Subsistence Board and are satisfied and encouraged to have some of their requests met such as staff anthropologist position being filled, meeting in the villages (here in Nuiqsut), and better addressing local subsistence fisheries priority and concerns with the FRMP. The Council commended the Federal Subsistence Board for listening to and responding to the Council and regions concerns. The Council stressed that the anthropology staff are an essential part of the support they seek on wildlife analyses and federal subsistence management, ensuring that cultural and social aspects of subsistence are fully considered in the regulatory process. They stressed that receiving assistance from anthropology staff is key to ensuring that local knowledge and Council and community engagement is integral to the Federal Subsistence Management program.

The Council was also presented with a letter from the Secretary of the Interior responding to the Federal Subsistence Board letter on behalf of the North Slope Council to bring awareness of the Council's concerns about potential impacts to subsistence from proposed development in the region such as the "Road to Umiat".

**805c Report:** The Council received a copy of the Federal Subsistence Board report to the Council on the actions the Board took on North Slope region wildlife regulatory proposals at the spring FSB meeting. The Council discussed that although the Board did support increasing the subsistence harvest quota of 26C moose for the community of Kaktovik, subsequent surveys indicated a population crash which prompted a special action closure.

**Special Actions:**

**Wildlife Special Action WSA14-02 for 26C and B remainder.**

OSM wildlife biologist, Tom Evans, provided a brief update on the Special Action request submitted by the Arctic National Wildlife Refuge to close the moose hunt in Unit 26C and B remainder (26C moose harvest is currently limited to residents of Kaktovik). Recent aerial surveys in 2014 indicated the already very small population (average of 52 moose over the past 10 years) from the Brooks Range to the Coast was reduced by half. Based on the 50% reduction, the conservation concern for the viability of the population led to the closure despite the liberalized harvest supported by the Federal Subsistence Board at the spring meeting prior to the recent surveys. Refuge and OSM staff were in communications with the Kaktovik Tribe and community and a public hearing was held in Kaktovik to provide information, answer questions, and receive feedback.

Geoff Carroll, ADF&G biologist, also shared aerial surveys and radio collar data on moose populations across the North Slope including the Colville River and all had declined by about 50%. North Slope moose are the farthest north moose in the world and have a short growing season. This past year the late winter and spring snow conditions were very harsh and many moose died and few had calves.

**Wildlife Special Action WSA 14-03.**

The Council received an update on the Emergency Special Action submitted by the National Park Service to close the hunting of sheep in Unit 23 and portion of 26A due to recent surveys that indicated a severe drop in the population. Long, harsh winter and late spring snow conditions were thought to have an impact on sheep health and lamb survival. All communities with C&T for sheep in Unit 23 were notified and a public hearing was held in Kotzebue. The Federal Subsistence Board closed Federal public lands in Unit 23 and portions of Unit 26A to the hunting of sheep from August 10, 2014 to April 30, 2015. Ken Adkisson with the National Park Service provided further background under agency reports.

The Council discussed at length its concern that the communications for the sheep closure occurred very shortly prior to the hunt being closed to everyone including local subsistence hunters. Teddy Frankson of Point Hope expressed that there is limited suitable habitat for sheep in the DeLong Mountains "not so long" and that if communications were ongoing with local hunters in the area it would have been evident before the aerial surveys were able to be conducted that the sheep population was stressed in the last year or so. He stressed that while Point Hope hunts only a few sheep, it is still a very important subsistence food, especially when the caribou are not around. The Council shared their concerns about lack of communications earlier prior to the sheep hunt closure, and that actions had not been taken to protect Federal subsistence priority by restricting other hunters prior to complete closure.

**Customary and Traditional Use Determination:** David Jenkins, Policy Coordinator for OSM provided the Council with a brief overview of C&T and the Southeast RAC request for all Councils to review the process, noting that the Board last asked the Councils to review C&T in 2011 following the Secretarial

review of the Federal Subsistence Management Program in 2009. At that time all Councils except SERAC indicated the C&T process was working fine for them. Dr. Jenkins highlighted that this is a review of why the C&T determinations are made but not how they are made. ANILCA does not require C&T determination, it was adopted from the State when the Federal Subsistence Management Program was established in 1990 and the Board adopted a modified set of 8 criteria from the State in order to maintain consistency if the federal program was temporary. The federal program now appears to be permanent. The Federal Subsistence Board does not use C&T determinations to restrict amounts of harvest but rather makes determinations to recognize a community or area whose residents generally exhibits the 8 factors. ANILCA does define section .804 analyses to be used in time of scarcity when allocation of subsistence resources to users is needed. The Council was provided with a table and summary overview of C&T and .804 and the differences between them and how they are applied.

The Council asked many questions and requested a workshop that would provide time to go into greater detail on how C&T is applied, .804 analysis and other aspects of Title 8 of ANILCA. The Council expressed concern about differences in how the State and Federal program is managed and confusion between the two regulatory determinations.

**Rural Determination Process Review:** David Jenkins provided the Council with a handout of the recent letter the Federal Subsistence Board submitted to the Secretary of the Interior on the recommendation they made regarding rural determination. Basically the Board recommended changing the process to determine which communities are non-rural and thus all other communities would be rural. The Board also recommended that eliminating the regulation that specifies the criteria previously relied upon by the Board in making those recommendations. If the Secretaries of Interior and Agriculture adopt the Board's recommendation then it would be published as a proposed rule in the Federal Register and begin another public comment period and RAC feedback solicited at the next meeting cycle.

The Council discussed concerns about expanding development such as ports, roads, population influx of workers that could affect the nature of whether a community is considered rural or non-rural.

**Fisheries Proposals:** George Pappas, OSM provided the Council with an overview of the Statewide fisheries proposal regarding the definition of a hook. The Council discussed at length the details and differences of hook making (manufacture) and use across the region to ensure that all types of subsistence fish hooks used would be covered under the regulations.

The NSRAC unanimously supported a motion to support FP15-01 with modification to include the language adopted by ADF&G for State regulations (for consistency).

#### **Proposal FP15-01**

DESCRIPTION: This proposal, submitted by the Southcentral Alaska Subsistence Regional Advisory Council, proposed changing the definition of a hook in regulation to include a hook with or without a barb. This regulatory change would clarify the type of fishing hook that could be used under Federal subsistence fisheries regulations where hooks are an authorized methods and means to take fish.

Changing the definition is required to prevent the adoption of rules by default that require the use of barbless hooks in Federal subsistence fisheries when the State requires barbless hooks in the sport fishery.

#### **COUNCIL RECOMMENDATIONS:**

Support FP15-01 with modification to define a fishing hook as with or without a barb. This recommendation would align Federal and State definitions of a hook.

*Hook* means a single shanked fish hook with a single eye constructed with 1 or more points with or without barbs. A hook without a "barb" means the hook is manufactured without a barb or the barb has been completely removed or compressed so the barb is in complete contact with the shaft of the hook.

**JUSTIFICATION:**

There is no conservation concern associated with the use of barbed hooks for subsistence fishing and no reason for Federal subsistence users to use the same gear as sport fishers. Subsistence fishers use the most effective means for harvesting fish and should have the flexibility to use whatever type of hook meets their needs or preference.

This wording will allow subsistence users to select the type of fishing hook they would like to use. The Council discussed at length the details and differences of hook making (manufacture) and use across the region to ensure that all types of subsistence fish hooks used would be covered under the regulations.

**Priority Information Needs Development for 2016:** The Fisheries Resource Monitoring Program is a two-year cycle of calls for research proposal submission for funding federal subsistence fisheries related research. The next funding cycle is for 2016 and OSM is developing the “Priority Information Needs” for the next call for proposals. OSM is seeking RAC input on additional information needs that should be considered. The Council discussed at some length the priority information needs for the FRMP, and Karen Hyer will incorporate Council suggestions into the call for proposals.

OSM Fisheries biologist, Karen Hyer, worked through the list of subsistence fish priorities for the research the Council had generated in previous meetings and discussions and the Council provided more details and recommendations. North Slope region research priorities identified by the Council included: Anaktuvuk Pass area lake trout age and abundance, Arctic cisco population assessment and migration along the coast and interaction with development in the Colville River and around Wainwright, baseline fisheries information and monitoring the health of fish around developing areas, sharing of broad whitefish across the region and other subsistence sharing networks across regions, monitoring of changes to lakes and rivers such as water temperature, depth and flow. Overall, the Council expressed interest in funding comprehensive ethnographic research rather than narrowly focused research that fails to illuminate the holistic nature of subsistence.

Mr. Nukapigak of Nuiqsut shared the importance of Arctic cisco for the community; it is rich and oily and is shared widely with relatives inland. Arctic cisco comes to the Colville River in the fall time and they would like long term monitoring of this and other subsistence fish due to potential impacts of industrial development in the area.

**Partner’s Briefing / Preview of Call for Proposals:** The call for Fisheries Monitoring Program proposals to fund community based subsistence fisheries biologists, anthropologists or educators will be announced later in Fall of 2014. The Council provided feedback and recommendations for the program after an overview of the program scoping for feedback on the program. Specifically, the Council requested more communication *within* the communities to enhance the understanding of the program opportunities and partnerships. Concern that Tribes who could best take advantage of the partners program and contribute to research through their own knowledge are not positioned to access it without larger infrastructure or developed network. The Council is very interested in this program for the North Slope region to work directly with communities and build research partnerships with the Tribes and North Slope Borough and to foster youth education in the sciences and interest in becoming biologists to work in their own region. Also the Council further discussed the need for more holistic, comprehensive, subsistence research and monitoring related to food security.

**Council Nominations Process and Outreach:** Carl Johnson, Council Coordination Division Chief provided the Council with an update on the Secretarial appointment process delays for finalizing Council

nominations this year. The final call for applications to the RAC prior to the deadline in March and Council members encouraged to help reach out to active subsistence hunters and fishers or community leaders in the region to apply and participate in the process.

**Recommended changes to the Nominations/Appointment process\*** Carl Johnson provided an overview of the current Council nominations process and discussed with the Council some of the recent challenges with timely appointments by the Secretaries' office. The Council discussed the challenges of filling the vacant seats in part that there is so much going on in the North Slope region that taps people with so many meetings and issues to track. The Council discussed the need to do more direct outreach about the Federal Subsistence Program so people understand what it is and how to use it effectively. They also discussed again the strong desire to build a youth mentorship program on the Council to teach the younger generation to understand and be involved in subsistence management. Overall the Council felt two 2-day meetings a year was insufficient to be able to review, share information, and take action on subsistence issues throughout the region, and wished to hold more meetings or extend the meetings to 3-4 days or more if needed. The details of how long the appointment terms were less of an issue to the Council rather the Council was focused on how to increase interest of knowledgeable subsistence hunters to participate and the Council to be an effective process for the region. Annual recruitment and active alternates were supported.

**All Council meeting Winter 2016 discussion\*** The Council was supportive of an all Council meeting especially for the opportunity for in depth workshops related to subsistence and ANILCA. The Council also identified the last week of February or the first week of March, 2016, as preferable weeks for a joint meeting with all ten Councils.

#### **Agency Reports:**

**Alaska Department of Fish and Game:** Geoff Carroll, Area Wildlife Biologist, Barrow, provided an overview on the status of the Western Arctic and Teshekpuk caribou herds and the Colville River moose population.

Every year ADF&G counts moose in the Colville, Anaktuvuk, and Chandler Rivers. Every third or fourth year they conduct a full census to try to count every moose in Unit 26A. The population was steady from 1970 to 1991 with a max of approximately 1,135 moose. Then the population crashed in the 90's by 70% and slowly built back up, but now the population is the lowest it has ever been at only 295 moose with about half the population lost in the last year. Spring of 2013 was very late, and calf survival over the winter has dropped dramatically – only 2 calves were found in the spring 2014 survey. The severe population crash triggered ADF&G to issue an emergency closure to hunting in order to protect the small remaining population since there was not time to work through the regular Board of Game process. All hunts were closed except those locally accessible by boat on the Colville River which allows Nuiqsut to hunt and also summer hunt allows Point Lay, Wainwright, Atkasuk and Barrow to hunt in the event a moose wanders up there. This moose population crash of declines by nearly 50% occurred across the whole North Slope region which usually indicates weather.

Geoff Carroll reported that caribou numbers are rapidly declining to the point where harvest will have to be reduced one way or another to help sustain the herd. Conservation efforts are needed and so they are communicating and working with hunters and local people as much as possible to get input on the best ways to change regulations to reduce the harvest. ADF&G and the North Slope Borough is making a circuit to visit all communities in the region to discuss ideas and options.

The Council asked questions about closures to non-resident hunters and protection of subsistence priority. Geoff provided background on the State system of determining "Amount Necessary for Subsistence"

however there is not much current data on what harvest levels are. What they do know is the census results of caribou that since 2003 they've declined from 490,000 down to about 225,000, in a steady decline with the decline getting faster more recently and bull:cow ratios are going down. The Council reviewed and discussed the range of options and responses that the department had organized in a table of scenarios stable, declining, or increasing. Until recently the herd size was such that no management response was required; however the current population and downward trend is so low there is need to do conservative management. A combination of things may factor into the decline but a few years of warm winters with bad icing events saw a big decline in the population and now harvest will be a factor in helping rebuild the herd. ADF&G estimates harvest is now very close to the total harvestable surplus. The department is reaching out to communities to discuss conservation strategies and will be submitting an Agenda Change Request to the Board of Game to propose regulation changes for the Western Arctic and Teshekpuk caribou herds. Options for WACH and Teshekpuk herds were discussed separately.

The Council discussed managing for Federal Subsistence Priority on federal lands and requested a follow up to discuss caribou management options through the Federal Subsistence Program.

**National Park Service:** Ken Adkisson, Gates of the Arctic National Park, provided background on the special action closure of sheep in Unit 26A that portion west of Howard Pass and the Etivluk River, DeLong Mountains. Weather had prevented surveys from taking place in the past couple years and when they were able to survey just recently this year, the population had declined dramatically. Severe winter and last spring snow events are likely the cause main cause for decline but the low population required an immediate closure to any harvest in order to protect the small remaining population. Back around 1990's the population also crashed severely and State and Federal closures were put in place and remained closed until the population recovered and harvest expanded through regulatory changes. When sheep hunting was resumed in the late 1990s the Baird Mountains hunt area in Unit 23 remained closed to non-subsistence uses so the only people who could harvest sheep from the late '90s up until now in the Baird Mountains hunt area were Federally qualified subsistence users. However, in the DeLong Mountains, which would include part of that 26A area, west of the Atugaluk River that was mentioned, harvest remained relatively low and the State was able to maintain, both a subsistence hunt and a general hunt, as well as a Federal subsistence hunt was provided in the DeLong Mountains.

Mr. Adkisson noted the weather events were unpredicted and hampered them from conducting survey for 2 years and likely caused the decline. He shared that the comments and recommendations from the Council were very helpful and he would work to incorporate it into the subsistence management.

Marcy Okada clarified that the Anaktuvuk Pass community sheep harvest was unaffected by the recent closures and would still be open July 15<sup>th</sup> until December 31<sup>st</sup>. Marcy Okada provided the Council with an overview and updates for Gates of the Arctic National Park and the Subsistence Resource Commission (SRC). The SRC met in Bettles in April for 2 days and much of the discussion focused on the Ambler Mining District road. The right of way for the Ambler Mining road was included in ANILCA so that National Park Service is fulfilling its obligations for reviewing impacts to subsistence communities in the assessment of the road right of way.

**Bureau of Land Management – NPR-A:** Dr. Dave Yokel provide an update and overview on the development activities on NPR-A lands around Nuiqsut. The draft EIS for the GMT1 proposed development was completed at the end of February and a 60 day public comment period was held with meetings in public meetings in Point Lay, Wainwright, Atqasuk, Barrow, Nuiqsut and Anaktuvuk Pass, as well as Fairbanks and Anchorage. Comments are being compiled to be considered in the final EIS.

An ANILCA section .810 analysis was also conducted which requires a statement if any of the alternatives of this EIS will have a significant restriction on subsistence activities. The .810 analysis for

the draft EIS concluded that all four alternatives and the cumulative case, which would be GMT1, plus other developments in the area, would have a significant restriction on subsistence activities. This would be primarily in terms of the harvest of caribou and the restriction would be due to some combination of avoidance of this area by hunters, because they may not want to hunt in the developed area and also redistribution of caribou resources as a result of the construction of a pipeline and maybe a road. However some of the comments also indicated there could be a positive effect under one of the alternatives that Nuiqsut hunters could use the road to access caribou out of the GMT1 area.

**Arctic National Wildlife Refuge:** Vince Matthews provide the Council with a brief summary of staffing changes at the refuge and a report on the Porcupine Caribou herd. Aerial surveys are conducted as well as a photo census to estimate populations and calving rates. The herd size was estimated to be 197,000 up from the 2001 estimate of 123,000.

Council member Lee Kayotuk shared his observations for Kaktovik that the Porcupine Herd came in recently and only stayed a few days. Usually they see calving in the area but it didn't happen this year, likely due to the high winds that took the herd away to the inner mainland and up by the Brooks Range and the border. He assumed they found a route where the mosquitos were not so bad and so they stayed inland.

**Office of Subsistence Management:** Gene Peltola, Jr. Assistant Regional Director for OSM, provided the Council with an overview and updates for the program. Budgets continue to be a challenge and have affected support to the Councils such as staff travel with more participation required via teleconference. The OSM staff have been reduced to about half in recent years, but they are now able to fill some of those vacant positions, including the anthropology program vacancies that were a specific concern to the Council. As the new Assistant Regional Director for OSM he is focused on making changes to best support the Councils and do some things differently to increase the efficiency of the program and focus on implementation of ANILCA. OSM has been working on the Tribal Consultation implementation guidelines in support of the Federal Subsistence Board policy of consultation with Tribes and ANCSA organizations. OSM is also working on supporting student fisheries internships through partnership with the Alaska Native Science and Engineering Program and a grant from the National Fish and Wildlife Program and Rasmuson Foundation.

**Identify Issues for FY2014 Annual Report:**

The Council identified the following issues for its annual report.

1. The need for a public workshop on customary and traditional use and ANILCA Section .804 determinations.
2. The importance of holding Council meetings in villages.
3. The importance of better education and outreach for the subsistence program, including youth involvement.
4. The need for improved Partners Program and FRMP outreach and networking.
5. The importance of a holistic approach to research, e.g., funding comprehensive ethnographic research.
6. Food security.
7. Issues related to the Haul Road.
8. The need for adequate public notice on emergency closures.
9. The issue of public safety cabins on federal lands.
10. The need to conduct early research on declining animal populations.
11. The problem of closures for multiple species, and the ensuing hardship on subsistence users.

**Council requests and recommendations:**

\*Outreach and networking with communities throughout the region on Federal Subsistence - Management, ANILCA, and how to be involved and effective. Suggested workshops in conjunction with

RAC meeting, booth at the Kivgiq festival to provide information, and encourage application to the Council (Kivgiq is the special whaling festival/ "Messenger Feast" held in Barrow where everyone comes from across the region to celebrate subsistence - ANSEP has information booths at this event)

\*Community engagement in conservation efforts - ongoing communications, information sharing and networking long before problems or Special Action are needed.

\*Council requested again to meet in Kaktovik and stressed the importance of meeting in communities across the region - especially those communities that are affected by numerous subsistence concerns and management actions.

\*Council wishes to pursue State and Federal wildlife proposals to address subsistence management actions in response to the Western Arctic and Teshekpuk Caribou Herd declines. The Council discussed this generally but did not have time to fully develop proposal ideas. They wish to pursue this further and may request an additional Council meeting by teleconference prior to the next scheduled RAC meeting to review information and conservation management strategies.

**Future Meeting Dates\***

**Winter 2015 Meeting Dates:** March 17- 18, 2015 meeting date in Barrow was selected.

**Fall 2015 Meeting Dates:** Fall 2015 selected for November 3 and 4 after the North Slope fall subsistence hunting and fishing schedule. The Council requested again to meet in Kaktovik, Anaktuyuk Pass, or Point Hope specifically because these communities are experiencing closures and hardship due to declines or shifting movement of subsistence resources. The Council would like OSM to strongly consider support for meeting in one of the less represented villages on the North Slope for community opportunity to participate.

**Council members provided closing remarks and thanked the community of Nuiqsut and everyone who participated. The meeting adjourned by unanimous consent.**

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

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Eva Patton, Designated Federal Officer  
USFWS Office of Subsistence Management

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Harry Brower, Jr. Chair  
North Slope Subsistence Regional Advisory Council

\*These minutes will be formally considered by the North Slope Subsistence Regional Advisory Council at its Winter 2015 public meeting. Any corrections or notations will be incorporated in the minutes of that 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**  
January 28, 2015

**Contact:**  
Deborah Coble  
(907) 786-3880 or (800) 478-1456  
[Deborah\\_Coble@fws.gov](mailto:Deborah_Coble@fws.gov)

### Comments Sought on Proposal to Improve Rural Determination Process

*Draft regulatory change would increase flexibility and recognize unique nature of Alaskan communities*

The Federal Subsistence Board (Board), acting for the Secretaries of the Interior and Agriculture (Secretaries), is seeking comment on a proposed regulatory change to the rural determination process for the Federal Subsistence Program in Alaska. Under current regulations, the Board determines which community or area of Alaska is rural using guidelines and characteristics defined by the Secretaries. In response to robust stakeholder input and Tribal consultation, the new, simplified process identified will enable the Board to be more flexible in making decisions and take into account the regional differences found throughout the State.

The Secretaries, through the Board, will hold public meetings in conjunction with the Federal Subsistence Regional Advisory Councils (Councils) to receive comments on this proposed rule on several dates between February 10 and March 19, 2015. The Councils, which play an important role in providing recommendations and information to the Board on a range of issues, will discuss the proposed rule change and make their recommendations to the Board. Tribal consultations will also be held. The Board will review the Councils' recommendations, Tribal input, and public comments, and then provide recommendations for potential changes to the proposed rule to the Secretaries.

The following is the schedule of public meetings in Alaska:

REGION	TIME	DATE	LOCATION	TELECONFERENCE
Kodiak/Aleutians Region	7-9 p.m.	Feb. 10, 2015	Kodiak Best Western Hotel; Kodiak	Telephone: 1-866-560-5984 Passcode: 12960066
Southcentral Region	7-9 p.m.	Feb. 18, 2015	Dimond Hotel; Anchorage	Telephone: 1-866-916-7020 Passcode: 37311548

REGION	TIME	DATE	LOCATION	TELECONFERENCE
Seward Peninsula Region	7-9 p.m.	Feb. 18, 2015	Old St. Joe's Hall; Nome	Telephone: 1-866-560-5984 Passcode:12960066
Bristol Bay Region	7-9 p.m.	Feb. 24, 2015	Naknek Native Village Council Hall; Naknek	Telephone: 1-866-916-7020 Passcode:37311548
Yukon-Kuskokwim Delta Region	7-9 p.m.	Feb. 25, 2015	Yupit Piciryarit Cultural Center; Bethel	Telephone: 1-866-560-5984 Passcode: 12960066
Western Interior Region	7-9 p.m.	Mar. 4, 2015	Pike's Waterfront Lodge; Fairbanks	Telephone: 1-877-638-8165 Passcode: 9060609
Eastern Interior Region	7-9 p.m.	Mar. 4, 2015	Pike's Waterfront Lodge; Fairbanks	Telephone: 1-877-638-8165 Passcode: 9060609
Northwest Arctic Region	7-9 p.m.	Mar. 9, 2015	Northwest Arctic Borough Chambers; Kotzebue	Telephone: 1-877-638-8165 Passcode: 9060609
Southeast Region	7-9 p.m.	Mar. 17, 2015	Sitka Tribal Community House; Sitka	Telephone: 1-866-560-5984 Passcode: 12960066
Southeast Region	11 a.m. - 2 p.m.	March 16, 2015	Saxman Community Center, Saxman	Telephone: 1-866-560-5984 Passcode: 12960066
North Slope Region	7-9 p.m.	Mar. 17, 2015	Inupiat Heritage Center; Barrow	Telephone: 1-877-638-8165 Passcode: 9060609

A notice will be published of specific dates, times, and meeting locations in local and statewide newspapers prior to these meetings. Locations and dates may change based on weather or local circumstances.

**Comments on the proposed rule may be submitted by one of the following methods:**

- *Electronically:* Go to the Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov) and search for FWS-R7-SM-2014-0063, 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, or hand delivery to the Designated Federal Official attending any of the Federal Subsistence Regional Advisory Councils' public meetings.

*In person:* At any of the above listed public meetings.

All public comments must be received by: April 1, 2015.

All comments received will be posted on <http://www.regulations.gov>.

The Federal Subsistence Board is committed to providing access to these meetings for all participants. Please direct all requests for sign language interpreting services, closed captioning, or other accommodation needs to the Office of Subsistence Management by calling <http://www.doi.gov/subsistence/news/general/nr12-16-14.cfm> (800) 478-1456, by emailing [subsistence@fws.gov](mailto:subsistence@fws.gov), or (800)-877-8339 (TTY), seven business days prior to the meeting you would like to participate in.

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

Additional information on the Federal Subsistence Management Program can be found at [www.doi.gov/subsistence/index.cfm](http://www.doi.gov/subsistence/index.cfm) or [www.facebook.com/subsistencealaska](http://www.facebook.com/subsistencealaska)

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Regulatory Affairs & Collaborative Action, (202) 273-4680; [elizabeth.appel@bia.gov](mailto:elizabeth.appel@bia.gov).

**SUPPLEMENTARY INFORMATION:** Tribal consultation sessions on the proposed rule published in the **Federal Register**

of January 2, 2015 (80 FR 13) will be held at the following dates and locations:

Date	Time	Location
Tuesday, February 3, 2015, *NOTE: The session will be held February 3, not February 4..	1 p.m.–5 p.m. (Eastern Standard Time).	(in conjunction with the National American Indian Housing Council legislative conference), Mayflower Renaissance Hotel, 1127 Connecticut Ave. NW. Washington, DC 20036.
Wednesday, February 11, 2015 .....	1 p.m.– 5 p.m. (Alaska Standard Time).	Frontier Building, 3601 C Street, Room 896, Anchorage, AK 99503.
Wednesday, February 18, 2015 .....	1 p.m.– 4 p.m. (Eastern Standard Time).	Teleconference Call-In Number: (888) 455-0045; passcode 1185469.
Thursday, February 26, 2015 .....	1 p.m.–5 p.m. (Eastern Standard Time).	(following the National Congress of American Indian Executive Council Winter Session), Capital Hilton, Room Federal A, 1001 16th Street NW., Washington, DC 20036.

These dates supersede the dates listed in the January 2, 2015, **Federal Register**. Please visit the following Web site for additional updates: <http://www.bia.gov/WhoWeAre/AS-IA/ORM/HIP/index.htm>.

Dated: January 14, 2015.

**Kevin K. Washburn,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 2015-01582 Filed 1-27-15; 8:45 am]

**BILLING CODE 4310-4J-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-2014-0063; FXFR13350700640-156-FF07J00000; FBMS#4500075014]

**RIN 1018-BA62**

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

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

**ACTION:** Proposed rule.

**SUMMARY:** The Secretaries propose to revise the regulations governing the rural determination process for the Federal Subsistence Program in Alaska. Under current regulations, the Federal Subsistence Board (Board) defines which community or area of Alaska is rural using guidelines and characteristics defined by the Secretaries. This new process will enable the Board to be more flexible in making decisions and take into account the regional differences found throughout the State.

**DATES:** *Public comments:* Comments and proposals to change this proposed rule must be received or postmarked by April 1, 2015.

*Public meetings:* The Secretaries, through the Board, will hold public meetings in conjunction with the Federal Subsistence Regional Advisory Councils (Councils) to receive comments on this proposed rule on several dates between February 10 and March 19, 2015. In addition, the Councils will discuss and make their recommendations to the Board. The Board will discuss and evaluate proposed regulatory changes during a public meeting in Anchorage, AK, on or before April 2016 and make recommendations on the proposed rule to the Secretary of the Interior and the Secretary of Agriculture. See **SUPPLEMENTARY INFORMATION** for specific information on dates and locations of the public meetings and for requesting reasonable accommodations.

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

- *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov> and search for FWS-R7-SM-2014-0063, 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, or hand delivery to the Designated Federal Official attending any of the Federal Subsistence Regional Advisory Council public meetings. See **SUPPLEMENTARY INFORMATION** for additional information on locations of the public meetings.

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

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

**FOR FURTHER INFORMATION CONTACT:**

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

**SUPPLEMENTARY INFORMATION:**

**Background**

Under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111-3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program (Program). The Program provides a preference to rural Alaskan residents for taking fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. Because the 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 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 public members participate in the development of regulations for subparts C and D, which, among other things, set forth program eligibility and specific harvest seasons and limits. The Board determines which areas of Alaska are rural and which areas are nonrural. Alaska residents living in areas determined to be nonrural are not eligible to participate in the Program.

In administering the Program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Regional Advisory Council. The Regional Advisory 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 Regional Advisory 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 were 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 how 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 and nonrural determination process and, if needed, recommendations for regulatory changes.

The Board met on January 20, 2012, to consider the Secretarial directive, consider the Councils' recommendations, and review all public, Tribal, and Native Corporation comments on the initial review of the rural determination process. After discussion and careful review, the Board voted unanimously to initiate a review of the rural determination process and the 2010 decennial review. Consequently, based on that action, 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 and nonrural determinations until after the review of the rural determination process and the decennial review are complete or in 5 years, whichever comes first. The Board published a final rule (77 FR 12477; March 1, 2012) extending the compliance date.

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

Due to a lapse in appropriations on October 1, 2013, and the subsequent closure of the Federal Government, some of the preannounced public meetings and Tribal consultations to

receive comments on the rural determination process during the closure were cancelled. The Board decided that an extension to the comment period was needed to allow for the complete participation from the Councils, public and Tribes to address this issue (78 FR 66885; November 7, 2013).

The Councils were briefed on the Board's **Federal Register** notice 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 consultations on the rural determination process were held between members of the Board and Federally recognized Tribes of Alaska, and 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 takes into consideration population size and density, economic indicators, military presence, industrial facilities, use of fish and wildlife, degree of remoteness and isolation, any other relevant material, and 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 and nonrural 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 Process—Comments, Proposals, and Public Meetings**

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

Region 1—Southeast Regional Council	Yakutat	March 17, 2015.
Region 2—Southcentral Regional Council	Anchorage	February 18, 2015.
Region 3—Kodiak/Aleutians Regional Council	Kodiak	February 10, 2015.
Region 4—Bristol Bay Regional Council	Naknek	February 24, 2015.
Region 5—Yukon—Kuskokwim Delta Regional Council	Bethel	February 25, 2015.
Region 6—Western Interior Regional Council	Fairbanks	March 3, 2015.
Region 7—Seward Peninsula Regional Council	Nome	February 18, 2015.
Region 8—Northwest Arctic Regional Council	Kotzebue	March 9, 2015.
Region 9—Eastern Interior Regional Council	Fairbanks	March 4, 2015.
Region 10—North Slope Regional Council	Barrow	March 17, 2015.

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

The Board will conduct tribal and Alaska Native Corporations consultations and discuss and evaluate proposed changes to the rural determination regulations during a public meeting scheduled to be held in Anchorage, Alaska, on or before April 2016. The Council Chairs, or their designated representatives, will present their respective Council’s recommendations at the Board meeting. Additional public testimony to the Board will be allowed during the meeting. At that public meeting, the Board will deliberate and make final recommendations to the Secretaries on this proposed rule.

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

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

*Reasonable Accommodations*

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

*Tribal Consultation and Comment*

As expressed in Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments,” the Federal officials that have been delegated authority by the Secretaries are committed to honoring the unique government-to-government political relationship that exists between the Federal Government and Federally Recognized Indian Tribes (Tribes) as listed in 79 FR 4748 (January 29, 2014). Consultation with Alaska Native Corporations is based on Public Law 108-199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108-447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which

provides that: “The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.”

ANILCA does not provide specific rights to Tribes for the subsistence taking of wildlife, fish, and shellfish. However, because Tribal members are affected by subsistence regulations, the Secretaries, through the Board, will provide Federally recognized Tribes and Alaska Native Corporations an opportunity to consult on this proposed rule.

The Board will engage in outreach efforts for this proposed rule, including a notification letter, to ensure that Tribes and Alaska Native Corporations are advised of the mechanisms by which they can participate. The Board provides a variety of opportunities for consultation: Commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Council meetings; engaging in dialogue at the Board’s meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process. The Board commits to efficiently and adequately providing an opportunity to Tribes and Alaska Native Corporations for consultation in regard to subsistence rulemaking.

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

**Compliance With Statutory and Regulatory Authorities***National Environmental Policy Act*

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

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

*Section 810 of ANILCA*

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

During the subsequent environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of 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 proposed 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 reviewed this rule and 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 would be by Federal agencies, and no cost would be 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 proposed rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

*Executive Order 13175*

Title VIII of ANILCA does not provide specific rights to tribes for the subsistence taking of wildlife, fish, and

shellfish. However, the Board will provide Federally recognized Tribes and Alaska Native Corporations an opportunity to consult on this proposed rule. Consultation with Alaska Native Corporations are based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: “The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.”

The Secretaries, through the Board, will provide a variety of opportunities for consultation: Engaging in dialogue at the Regional Council meetings; engaging in dialogue at the Board’s meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process.

#### *Executive Order 13211*

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

#### *Clarity of the Rule*

We are required by Executive Orders 12866 and 12988, and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the proposed rule, your comments should be as specific as possible.

#### **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 Fox, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Steve Kessler and Thomas Whitford, Alaska Regional Office, U.S. Forest Service.

#### **List of Subjects**

##### *36 CFR Part 242*

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

##### *50 CFR Part 100*

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

#### **Proposed Regulation Promulgation**

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

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

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

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

#### **Subpart 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.

#### **Sally Jewell,**

*Secretary of the Interior.*

Dated: December 12, 2014.

#### **Beth G. Pendleton,**

*Regional Forester, USDA-Forest Service.*

[FR Doc. 2015–01621 Filed 1–26–15; 11:15 am]

**BILLING CODE 3410–11–P;4310–55–P**

#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Parts 174 and 180**

[EPA–HQ–OPP–2014–0008; FRL–9921–55]

#### **Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities**

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

**ACTION:** Notice of filing of petitions and request for comment.

**SUMMARY:** This document announces EPA’s receipt of several initial filings of pesticide petitions requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

**DATES:** Comments must be received on or before February 27, 2015.

**ADDRESSES:** Submit your comments, identified by the Docket Identification (ID) Number and the Pesticide Petition Number (PP) of interest as shown in the body of this document, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

#### **FOR FURTHER INFORMATION CONTACT:**

Robert McNally, Biopesticides and Pollution Prevention Division (BPPD) (7511P), main telephone number: (703) 305–7090, email address:

[BPPDFRNotices@epa.gov](mailto:BPPDFRNotices@epa.gov); or Susan Lewis, Registration Division (RD) (7505P), main telephone number: (703) 305–7090, email address:

[RDFRNotices@epa.gov](mailto:RDFRNotices@epa.gov). The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. As part of the mailing address, include the contact person’s

## **BRIEFING**

### **CUSTOMARY AND TRADITIONAL USE DETERMINATION PROCESS**

In 2010, the Secretary of the U.S. Department of the Interior asked the Federal Subsistence Board (Board) to review, with Regional Advisory Council input, the customary and traditional use determination process and present recommendations for regulatory changes. All 10 Regional Advisory Councils have been reviewing the process (see **Appendix A**).

In April 2014, the Southeast Alaska Regional Advisory Council sent a letter to the Board (see **Appendix B**) requesting an analysis of the effects of possible changes to the customary and traditional use determination process that are the focus of this briefing. The Southeast Alaska Council requested staff to analyze the effects of

- (1) eliminating the “eight factors” from the customary and traditional use determination process (see the Existing Federal Regulation described below),
- (2) allowing each Regional Advisory Council to determine its own process to identify subsistence users,
- (3) and requiring the Board to defer to Regional Advisory Council recommendations on customary and traditional use determinations.

The purpose of the following analysis is to better inform the Southeast Alaska Council of the possible effects of these changes to the determination process.

### **DISCUSSION**

The changes could affect the process the Board uses to identify subsistence users. A Federal regulation shall affect only the people, resources, and lands identified through this process. The people, resources, and lands that the Board identifies, taken together, are called a “customary and traditional use determination.” The people identified in a customary and traditional use determination are called “Federally qualified subsistence users.” Below is an example of a customary and traditional use determination for moose in a portion of Unit 18. Only rural residents described in the determination (residents of Unit 18, St. Michael, Stebbins, and Upper Kalskag in this case) are Federally qualified subsistence users and therefore eligible to hunt in the Federal harvesting season.

The Southeast Alaska Council describes the result of such a determination as an unnecessary closure to other rural residents of the state because concerns for the viability of the moose population (conservation concerns) do not exist. The Southeast Alaska Council observes that if conservation concerns for a resource (moose in this example) exist, there is already a process in regulation to restrict who can hunt. The process involves a determination of who is most dependent on the resource based on the three criteria found in Section 804 of the Alaska National Interest Lands Conservation Act (ANILCA):

- (1) customary and direct dependence upon the populations as the mainstay of livelihood,
- (2) local residency, and
- (3) the availability of alternative subsistence resources.

Customary and Traditional Use Determination		Harvest limit and season
<div style="border: 1px solid black; padding: 2px; width: fit-content; margin: 0 auto;">Resource</div> <p style="text-align: center;">↓</p>	<div style="border: 1px solid black; padding: 2px; width: fit-content; margin: 0 auto;">Area</div> <p style="text-align: center;">↓</p>	<i>Unit 18 Remainder Area. Aug. 1–Mar. 31. 2 moose, only one of which may be antlered. Antlered bulls may not be harvested from Oct. 1 through Nov. 30.</i>
<p><i>Moose. Unit 18, that portion north of a line from Cape Romanzof to Kuzilvak Mountain to Mountain Village, and all drainages north of the Yukon River downstream from Marshall—Resident of Unit 18, St. Michael, Stebbins, and Upper Kalskag</i></p> <p style="text-align: center;">↑</p> <div style="border: 1px solid black; padding: 2px; width: fit-content; margin: 0 auto;">Federally qualified subsistence users</div>		

The proposed changes will not eliminate the customary and traditional use determination process from regulation. They can only eliminate the eight factors from regulation. The eight factors require the Board to restrict harvesting in a Federal season to *only people who can demonstrate subsistence uses*. The changes will eliminate the eight factors from regulation so the Board can adopt proposals that allow *any rural resident* to harvest a resource in a Federal season when no conservation concerns exist.

Some Regional Advisory Councils prefer the eight-factor process. The changes can allow a Regional Advisory Council to use the eight factors to identify subsistence users when it deems it appropriate. No changes to existing customary and traditional use determinations can occur until a proposal is submitted and a Regional Advisory Council recommends a change to an existing customary and traditional use determination.

The changes will affect a regulation in Subpart B that concerns the structure of the Federal Subsistence Management Program in Alaska. Proposals to change regulations in Subpart B are made directly to the Secretary of the U.S. Department of the Interior and the Secretary of the U.S. Department of Agriculture who are appointed by the President. The departments represent the five Federal agencies in the Federal Subsistence Management Program that are as follows: U.S. Bureau of Indian Affairs, U.S. Bureau of Land Management, U.S. Fish and Wildlife Service, U.S. Forest Service, and National Park Service.

In the future, the Southeast Alaska Council can, and it may decide to, submit a proposal to the Secretaries to change the customary and traditional use determination process in Federal regulations.

**Existing Federal Regulation**

**36 CFR 242.16 and 50 CFR 100.16 Customary and traditional use determination process**

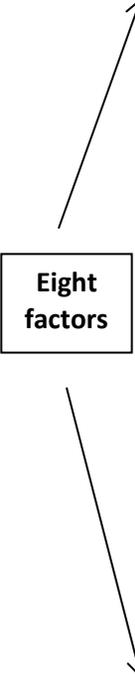
*(a) The Board shall determine which fish stocks and wildlife populations have been customarily and traditionally used for subsistence. These determinations shall identify the specific community's or area's use of specific fish stocks and wildlife populations. For areas managed by*

*the National Park Service, where subsistence uses are allowed, the determinations may be made on an individual basis.*

*(b) A community or area shall generally exhibit the following factors, which exemplify customary and traditional use. The Board shall make customary and traditional use determinations based on application of the following factors:*

- (1) A long-term consistent pattern of use, excluding interruptions beyond the control of the community or area;*
- (2) A pattern of use recurring in specific seasons for many years;*
- (3) A pattern of use consisting of methods and means of harvest which are characterized by efficiency and economy of effort and cost, conditioned by local characteristics;*
- (4) The consistent harvest and use of fish or wildlife as related to past methods and means of taking; near, or reasonably accessible from, the community or area;*
- (5) A means of handling, preparing, preserving, and storing fish or wildlife which has been traditionally used by past generations, including consideration of alteration of past practices due to recent technological advances, where appropriate;*
- (6) A pattern of use which includes the handing down of knowledge of fishing and hunting skills, values, and lore from generation to generation;*
- (7) A pattern of use in which the harvest is shared or distributed within a definable community of persons; and*
- (8) A pattern of use which relates to reliance upon a wide diversity of fish and wildlife resources of the area and which provides substantial cultural, economic, social, and nutritional elements to the community or area.*

**Eight factors**



*(c) The Board shall take into consideration the reports and recommendations of any appropriate Regional Council regarding customary and traditional uses of subsistence resources.*

*(d) Current determinations are listed in § 100.24*

### **Proposed Federal Regulation**

#### **36 CFR §242.16 and 50 CFR §100.16 Customary and traditional use determination process**

*(a) The Board shall determine which fish stocks and wildlife populations have been customarily and traditionally used for subsistence **within a geographic area.** ~~These determinations shall identify the specific community's or area's use of specific fish stocks and wildlife populations.~~ **When it is necessary to restrict the taking of fish and wildlife and other renewable resources to assure continued viability of a fish or wildlife population, a priority for the taking of such population for non-wasteful subsistence uses shall be implemented based on the application of the following criteria; customary and direct dependence upon the populations as the mainstay of livelihood; local residency; and the availability of alternative resources.** For areas managed*

by the National Park Service, where subsistence uses are allowed, the determinations may be made on an individual basis.

~~(b) A community or area shall generally exhibit the following factors, which exemplify customary and traditional use. The Board shall make customary and traditional use determinations based on application of the following factors:~~

~~(1) A long-term consistent pattern of use, excluding interruptions beyond the control of the community or area;~~

~~(2) A pattern of use recurring in specific seasons for many years;~~

~~(3) A pattern of use consisting of methods and means of harvest which are characterized by efficiency and economy of effort and cost, conditioned by local characteristics;~~

~~(4) The consistent harvest and use of fish or wildlife as related to past methods and means of taking; near, or reasonably accessible from, the community or area;~~

~~(5) A means of handling, preparing, preserving, and storing fish or wildlife which has been traditionally used by past generations, including consideration of alteration of past practices due to recent technological advances, where appropriate;~~

~~(6) A pattern of use which includes the handing down of knowledge of fishing and hunting skills, values, and lore from generation to generation;~~

~~(7) A pattern of use in which the harvest is shared or distributed within a definable community of persons; and~~

~~(8) A pattern of use which relates to reliance upon a wide diversity of fish and wildlife resources of the area and which provides substantial cultural, economic, social, and nutritional elements to the community or area.~~

**(b) Each region may recommend customary and traditional use determinations specific to that region.**

**(c) The Board shall take into consideration the reports and recommendations of any appropriate Regional Council regarding customary and traditional uses of subsistence resources. The Board shall give deference to recommendations of the appropriate Regional Council(s). Councils will make recommendations regarding customary and traditional uses of subsistence resources based on its review and evaluation of all available information, including relevant technical and scientific support data and the traditional knowledge of local residents in the region.**

**(d) Current determinations are listed in §\_\_\_100.24**

## Relevant Federal Regulations

### 36 CFR 242.4 and 50 CFR 100.4 Definitions

Subsistence uses means the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade.

### 36 CFR 242.17 and 50 CFR 100.17 Determining priorities for subsistence uses among rural Alaska residents

(a) Whenever it is necessary to restrict the subsistence taking of fish and wildlife on public lands in order to protect the continued viability of such populations, or to continue subsistence uses, the Board shall establish a priority among the rural Alaska residents after considering any recommendation submitted by an appropriate Regional Council.

(b) The priority shall be implemented through appropriate limitations based on the application of the following criteria to each area, community, or individual determined to have customary and traditional use, as necessary:

- (1) Customary and direct dependence upon the populations as the mainstay of livelihood;
- (2) Local residency; and
- (3) The availability of alternative resources.

(c) If allocation on an area or community basis is not achievable, then the Board shall allocate subsistence opportunity on an individual basis through application of the criteria in paragraphs (b)(1) through (3) of this section.

(d) In addressing a situation where prioritized allocation becomes necessary, the Board shall solicit recommendations from the Regional Council in the area affected.

## Relevant Section of Title VIII of ANILCA

### ANILCA Section 804

Except as otherwise provided in this Act and other Federal laws, the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded priority over the taking on such lands of fish and wildlife for other purposes. Whenever it is necessary to restrict the taking of populations of fish and wildlife on such lands for subsistence uses in order to protect the continued viability of such populations, or to continue such uses, such priority shall be implemented through appropriate limitations based on the application of the following criteria:

- (1) customary and direct dependence upon the populations as the mainstay of livelihood;

- (2) local residency; and
- (3) the availability of alternative resources.

Note: Current customary and traditional use determinations in each region are available in a handout.

**Regulatory Background**

The Southeast Alaska Council is concerned that the Board give “deference” to Regional Advisory Council recommendations on customary and traditional use determinations. Deference means respectful submission or yielding to the judgment, opinion, will, et cetera, of another (Random House 2015). Currently, the Board’s stated policy is to generally defer to Regional Advisory Councils on customary and traditional use determinations. The Board reported this to Regional Advisory Councils in winter 2011 and to the Secretary of the U.S. Department of the Interior in a letter dated April 2012.

Some Councils are interested in a customary and traditional use determination process that allows the Board to adopt determinations for large geographic areas. Currently, customary and traditional use determinations may include geographic areas larger than the precise area in which residents of a community have demonstrated customary and traditional uses of fish or wildlife. The eight factors in regulation require that determinations must be tied somehow to an area where there is a demonstrated pattern of use. Councils have recommended, and the Board has adopted, determinations that include entire management units or entire management areas when residents of a community have demonstrated taking fish or wildlife in only a portion of a management unit or a management area.

**Effects of the Proposal**

The proposed changes could not affect existing customary and traditional use determinations until a proposal was submitted and a Regional Advisory Council recommended a change to an existing customary and traditional use determination. The following sections provide regional examples of what current customary and traditional use determinations might look if they were reevaluated under the proposed changes.

Southeast Alaska Region

In Unit 3 (Kupreanof Island and surrounding islands) any rural resident may harvest black bears, coyotes, foxes, hares, lynx, wolves, wolverines, grouse, and ptarmigan in Federal seasons on Federal public lands. These are examples of what a new customary and traditional use determination might look like if the proposed changes were adopted.

<b>Customary and Traditional Use Determination</b>	
<i>Unit 3 black bear, coyote, fox, harelynx, wolf, wolverine, grouse, and ptarmigan</i>	<i>All rural residents</i>

There are no examples of ANILCA Section 804 determinations in the Southeast Alaska Region. For Unit 3 there is an example of a customary and traditional use determination for moose. For the portion of Unit 3 on Mitkof Island and Wrangell Island, only residents of Units 1B, 2, and 3 are eligible to harvest in the Federal season on Federal public lands. In the remainder area of Unit 3, all rural residents are eligible, as shown below:

Customary and Traditional Use Determination	Harvest Season and Limit
<p><i>Deer Unit 3 Mitkof and Wrangell Islands—Residents of Units 1B, 2, and 3</i></p> <p><i>Deer Unit 3 remainder—All rural residents</i></p>	<p><i>Sept. 15–Oct. 15. One antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on either antler, or antlers with 2 brow tines on both sides by State registration permit only.</i></p>

If the proposed changes were adopted and applied to the above customary and traditional use determination, the determination could be modified to include all rural residents. If the moose population was large enough, any rural resident would be eligible to hunt moose in Federal seasons on Federal public lands. On Mitkof and Wrangell Islands, if the Federal manager determined that only enough moose were available to meet the needs of rural residents, he could close Federal public lands to hunting under the State season. If the Federal manager determined that not enough moose were available to meet the needs of all rural residents, he could ask the Board to adopt an ANILCA Section 804 determination. This would restrict who could hunt in the Federal season to only rural residents who were most dependent on Unit 3 moose based on three criteria: (1) customary and direct dependence upon the populations as the mainstay of livelihood, (2) local residency, and (3) the availability of alternative subsistence resources. The new regulation might look like the example below:

Customary and Traditional Use Determination	Harvest Season and Limit
<p><i>Deer Unit 3—All rural residents</i></p> <div data-bbox="186 1417 349 1480" style="border: 1px solid black; padding: 2px; display: inline-block;">EXAMPLE</div>  <div data-bbox="349 1564 592 1669" style="border: 1px solid black; padding: 2px; display: inline-block; margin-top: 20px;"> <p style="text-align: center;"><b>EXAMPLE</b> ANILCA Section 804 determination</p> </div> 	<p><i>Sept. 15–Oct. 15. One antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on either antler, or antlers with 2 brow tines on both sides by State registration permit only.</i></p> <p><b><i>Federal public lands on Mitkof and Wrangell Islands are closed to the taking of moose except by residents of Units 1B, 2, and 3.</i></b></p>

Southcentral Alaska Region

In Unit 6 (the Prince William Sound Area), any rural resident may harvest deer, coyotes, foxes, hares, lynx, wolverines, grouse, and ptarmigan in Federal seasons on Federal public lands. These are examples of what a new customary and traditional use determination might look like if the proposed changes were adopted.

Customary and Traditional Use Determination	
<i>Unit 6 deer, coyote, fox, hare, lynx, wolverine, grouse, and ptarmigan</i>	<i>All rural residents</i>

An example of an ANILCA Section 804 determination in the Southcentral Alaska Region is a moose season in a portion of Unit 7 on the Kenai Peninsula. Because of conservation concerns, Federal public lands were closed to hunting in the State season, and who could hunt moose in the Federal season was reduced from residents of Chenega Bay, Cooper Landing, Hope, and Tatitlek to only residents of Chenega Bay and Tatitlek. As a result, a Federal season may open sooner. The regulation reads:

Customary and Traditional Use Determination	Harvest limit and season
<p><i>Moose. Unit 7—Residents of Chenega Bay, Cooper Landing, Hope, and Tatitlek</i></p> <div style="border: 1px solid black; padding: 5px; display: inline-block; margin-top: 20px;"> <p><b>ANILCA Section 804 determination</b></p> </div> <p style="margin-left: 20px;">→</p>	<p><i>Unit 7, that portion draining into Kings Bay. No Federal open season.</i></p> <p><i>Federal public lands are closed to the taking of moose except by residents of Chenega Bay and Tatitlek.</i></p>

Kodiak/Aleutians Region

In Unit 8 (the Kodiak Area), any rural resident may harvest foxes, hares, and ptarmigan in Federal seasons on Federal public lands. These are examples of what a new customary and traditional use determination might look like if the proposed changes were adopted.

Customary and Traditional Use Determination	
<i>Unit 8 fox, hare, and ptarmigan</i>	<i>All rural residents</i>

There are no examples of ANILCA Section 804 determinations in the Kodiak/Aleutians Region. Where there are conservation concerns, Federal managers used a quota to limit harvest; a Federal season remained open until a harvest quota was reached. When a quota was effective, then an ANILCA Section 804 determination was generally not necessary. In the following regulation, the Federal manager limited the harvest of elk using a quota that was 15% of the herd.

Customary and Traditional Use Determination	Harvest limit and season
<p><i>Elk Unit 8—residents of Unit 8</i></p>	<p><i>Unit 8 Kodiak, Ban, Uganik, and Afognak Islands. Sept. 15–Nov. 30. One elk per household by Federal registration permit only. The season will be closed . . . when the combined Federal-State harvest reaches 15% of the herd.</i></p> <div style="text-align: right; margin-top: 20px;"> <div style="border: 1px solid black; padding: 2px 10px;">Harvest quota</div>  </div>

If the quota in the above example was no longer effective in managing the harvest, the Federal manager could close Federal public lands to hunting in the State season. Then if the quota system was still not effective, the Federal manager could ask the Board to adopt an ANILCA Section 804 determination. This is an example of the step down process that occurs before an ANILCA Section 804 determination should be considered. In this example, currently, only residents of Unit 8 can hunt elk in the Federal season. If the Federal season opened to all rural residents, it would be more likely that the quota system would not be effective. A new regulation might look like the following:

Customary and Traditional Use Determination	Harvest limit and season
<p><i>Elk Unit 8—all rural residents</i></p> <div style="margin-top: 20px;"> <div style="border: 1px solid black; padding: 2px 10px; display: inline-block;">EXAMPLE</div>  </div> <div style="margin-top: 40px; text-align: center;"> <div style="border: 1px solid black; padding: 5px 10px; display: inline-block;">EXAMPLE ANILCA Section 804 determination</div>  </div>	<p><i>Unit 8 Kodiak, Ban, Uganik, and Afognak Islands. Sept. 15–Nov. 30. One elk per household by Federal registration permit only.</i></p> <p><b><i>Federal public lands are closed to the taking of elk except by residents of Unit 8</i></b></p>

Bristol Bay Region

In Unit 17 of the Bristol Bay Region, any rural resident may harvest sheep, coyotes, arctic foxes, red foxes, hares, lynx, wolverines, grouse, and ptarmigan in Federal seasons on Federal public lands. These are examples of what a new customary and traditional use determination might look like if the proposed changes were adopted.

<b>Customary and Traditional Use Determination</b>	
<i>Unit 17 sheep, coyote, arctic fox, red fox, hare, lynx, wolverine, and ptarmigan</i>	<i>All rural residents</i>

There are no examples of ANILCA Section 804 determinations in the Bristol Bay Region. The customary and traditional use determination for moose in Unit 17 is an example of the complexity of the determination process. The determinations for moose in Units 17A, 17B, and 17C was divided into five overlapping areas. In Unit 17, only people that were shown to use an area were eligible to hunt moose in Federal seasons in an area. The determination includes residents of communities that were outside the Bristol Bay Region, as shown below:

<b>Customary and Traditional Use Determination</b>	
<i>Moose Unit 17A, that portion north of Togiak Lake that includes Izavieknik River drainages</i>	<i>Residents of Akiak, Akiachak</i>
<i>Moose Unit 17A and Unit 17B, those portions north and west of a line beginning from the Unit 18 boundary at the northwestern end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast to the northern point of Nuyakuk Lake, northeast to the point where the Unit 17 boundary intersects the Shotgun Hills</i>	<i>Residents of Kwethluk.</i>
<i>Moose Unit 17A</i>	<i>Residents of Unit 17, Goodnews Bay and Platinum</i>
<i>Moose Unit 17B, that portion within the Togiak National Wildlife Refuge</i>	<i>Residents of Akiak, Akiachak.</i>
<i>Moose Units 17B and Unit 17C</i>	<i>Residents of Unit 17, Goodnews Bay, Levelock, Nondalton, and Platinum.</i>

If the proposal was adopted and applied to the above customary and traditional use determination, it might look like the example below. All of the information in the above table could be reduced to six words “Moose Unit 17—All rural residents.”

Customary and Traditional Use Determination	Federal Season and Limit
<p><i>Moose Unit 17—All rural residents</i></p> <div style="text-align: center;">  </div> <div style="text-align: center; border: 1px solid black; width: fit-content; margin: 0 auto; padding: 5px;"> <b>EXAMPLE</b> </div>	<p><i>Unit 17A. Aug. 25–Sept. 20. One bull by State registration permit.</i></p>
	<p><i>Unit 17A. Up to a 31-day season may be announced between Dec. 1–Jan. 31. Up to 2 moose by State registration permit.</i></p>
	<p><i>Units 17B and 17C . Aug. 20–Sept. 15. One bull.</i></p> <p><i>During the period Aug. 20–Sept. 15—One bull by State registration permit</i></p> <p style="text-align: center;"><i>or</i></p> <p><i>During the period Sept. 1–15—One bull with spike-fork or 50-inch antlers or antlers with 3 or more brow tines on at least one side with a State harvest ticket;</i></p> <p style="text-align: center;"><i>or</i></p> <p><i>During the period Dec. 1–31—One antlered bull by State registration permit.</i></p>

Most of Unit 17A is Federal public lands within the Togiak National Wildlife Refuge. In Unit 17A, if the moose population was large enough, any rural resident would be eligible to hunt moose in Federal seasons on Federal public lands. If the Federal manager determined that only enough moose were available to meet the needs of rural residents, he could close Federal public lands to hunting under the State season. If the Federal manager determined that not enough moose were available to meet the needs of all rural residents, he could ask the Board to adopt an ANILCA Section 804 determination. This would restrict who could hunt in the Federal season to only rural residents who were most dependent on Unit 17A moose based on three criteria: (1) customary and direct dependence upon the populations as the mainstay of livelihood, (2) local residency, and (3) the availability of alternative subsistence resources. The new regulation might look like the example below:

Customary and Traditional Use Determination	Federal Season and Limit
<p><i>Moose Unit 17—All rural residents</i></p> <div data-bbox="191 321 365 380" style="border: 1px solid black; padding: 2px; display: inline-block;">EXAMPLE</div> <div data-bbox="305 548 578 684" style="border: 1px solid black; padding: 5px; display: inline-block; margin-top: 100px;"> <p style="text-align: center;"><b>EXAMPLE</b> ANILCA Section 804 determination</p> </div>	<p><i>Unit 17A . Aug. 25–Sept. 20. One bull by State registration permit.</i></p> <p><i>Up to a 31-day season may be announced between Dec. 1–Jan. 31—Unit 17A—up to 2 moose by State registration permit.</i></p> <p><b><i>Federal public lands are closed to the taking of moose except by residents of Unit 17, Akiak, Akiachak, Goodnews Bay, Kwethluk, and Platinum</i></b></p>

Yukon Kuskokwim Delta Region

In Unit 18 (the Yukon Kuskokwim Delta Region), any rural resident may harvest beavers, coyotes, arctic foxes, red foxes, hares, lynx, wolverines, grouse, and ptarmigan in Federal seasons on Federal public lands. These are examples of what a new customary and traditional use determination might look like if the proposed changes were adopted.

<b>Customary and Traditional Use Determination</b>	
<p><i>Unit 18 beaver, coyote, arctic fox, red fox, hare, lynx, wolverine, grouse, and ptarmigan</i></p>	<p><i>All rural residents</i></p>

The moose season in the Kuskokwim River drainage portion of Unit 18 is an example of an ANILCA Section 804 determination. Because of conservation concerns, Federal public lands were closed to hunting under the State season, and who could hunt moose in the Federal season went from residents of Unit 18, Aniak, Chuathbaluk, and Kalskag to residents of only 14 communities (Akiachak, Akiak, Atmauthluak, Bethel, Eek, Kalskag, Kasigluk, Kwethluk, Lower Kalskag, Napakiak, Napakiak, Nunapitchuk, Oscarville, Tuluksak, and Tuntutuliak). The Board determined that residents of the 14 communities were the most dependent on the moose in the Kuskokwim River drainage area in Unit 18. The existing regulation is below:

Customary and Traditional Use Determination	Federal Season and Limit Unit 18
<p><i>Moose Unit 18, that portion of the Yukon River drainage upstream of Russian Mission and that portion of the Kuskokwim River drainage upstream of (but excluding) the Tuluksak River drainage—Residents of Unit 18, Aniak, Chuathbaluk, and Kalskag.</i></p> <p><i>Moose Unit 18, that portion north of line from Cape Romanzof to Kusilvak Mountain to Mountain Village, and all drainages north of the Yukon River downstream from Marshall—Residents of Unit 18, St. Michael, Stebbins, and Upper Kalskag</i></p> <p><i>Moose Unit 18 remainder—Residents of Unit 18 and Upper Kalskag</i></p> <div style="text-align: center; margin-top: 20px;"> <div style="border: 1px solid black; padding: 5px; display: inline-block;"> <p><b>ANILCA Section 804 determination</b></p> </div> <span style="font-size: 2em; margin: 0 10px;">→</span> </div>	<p><i>Unit 18, that portion east of a line running from the mouth of the Ishkowik River to the closest point of Dall lake, then to the east bank of the Johnson River at its entrance into Nunavakanukakslak Lake, continuing upriver along a line ½ mile south and east of, and paralleling a line along the southerly bank of the Johnson River to the confluence of the east bank of Crooked Creek, then continuing upriver to the outlet at Arhymo Lake, then following the south bank east of the Unit 18 border and then north of and including the Eek River drainage. Sept. 1–30. One antlered bull by State registration permit; quotas will be announced annually by the Yukon Delta National Wildlife Refuge Manager.</i></p> <p><i>Federal public lands are closed to the taking of moose except by residents of Akiachak, Akiak, Atmauthluak, Bethel, Eek, Kalskag, Kasigluk, Kwethluk, Lower Kalskag, Napakiak, Napaskiak, Nunapitchuk, Oscarville, Tuluksak, and Tuntutuliak.</i></p>

Western Interior Region

In Unit 19 (the Kuskokwim Area), any rural resident may harvest black bears, sheep, coyotes, foxes, hares, lynx, wolverines, grouse, and ptarmigan in Federal seasons on Federal public lands. These are examples of what a new customary and traditional use determination might look like if the proposed changes were adopted.

Customary and Traditional Use Determination	
<p><i>Unit 19 black bear, sheep, coyote, fox, hare, lynx, wolverine, grouse, and ptarmigan</i></p>	<p><i>All rural residents</i></p>

The moose season in Unit 19A remainder is an example of an ANILCA Section 804 determination. Because of conservation concerns, Federal public lands were closed to hunting in the State season, and

who could hunt moose in the Federal season went from residents of Unit 18 within the Kuskokwim River drainage upstream from, and including, the Johnson River and Unit 19 to only residents of Aniak, Chuathbaluk, Crooked Creek, Lower Kalskag, Tuluksak, and Upper Kalskag. It is important to note that Tuluksak was outside of the Western Interior Region, and it was in the ANILCA Section 804 determination because it qualified based on the three criteria: (1) customary and direct dependence upon moose as the mainstay of livelihood, (2) local residency, and (3) the availability of alternative subsistence resources. The regulation is the following:

Customary and Traditional Use Determination	Federal Season and Limit
<p><i>Moose Unit 19A and 19B—Residents of Unit 18 (within the Kuskokwim River drainage upstream from, and including, the Johnson River) and Unit 19.</i></p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;"> <p><b>ANILCA Section 804 determination</b></p> </div> <p style="text-align: center;">→</p>	<p><i>Unit 19A remainder. Sept. 1–Sept. 20. One antlered bull by Federal drawing permit or State permit</i></p> <p><i>Federal public lands are closed to the taking of moose except by residents of Aniak, Chuathbaluk, Crooked Creek, Kalskag, Lower Kalskag, and Tuluksak.</i></p>

Seward Peninsula Region

In Unit 22 (the Seward Peninsula Region), any rural resident may harvest coyotes, beavers, arctic foxes, red foxes, hares, lynx, martens, minks and weasels, otters, and wolverines in Federal seasons on Federal public lands. These are examples of what a new customary and traditional use determination might look like if the proposed changes were adopted.

Customary and Traditional Use Determination	
<p><i>Unit 22 coyote, beaver, arctic fox, red fox, hare, lynx, marten, mink and weasel, and wolverine</i></p>	<p><i>All rural residents</i></p>

There are examples of ANILCA Section 804 determinations in the Seward Peninsula Region for moose and muskoxen. For example, the moose season in Units 22A, 22B, 22C, and 22D, and 22E was divided into 14 subareas. In five of the subareas, an ANILCA Section 804 determination is in effect. Because of conservation concerns, the Board restricted who could hunt moose in the Federal season on Federal public lands by adopting an ANILCA Section 804 determination. It is important to note that the customary and traditional use determination for moose already restricted who could hunt in the Federal season to only

residents of Unit 22. The ANILCA Section 804 determination further restricted who can hunt to only residents of Unit 22A, as shown below:

Customary and Traditional Use Determination	Federal Season and Limit
<p><i>Moose Unit 22—Residents of Unit 22</i></p> <div data-bbox="358 527 599 648" style="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;"> <p><b>ANILCA Section 804 determination</b></p> </div> 	<p><i>Unit 22A, that portion north of including the Tagoomenik and Shaktoolik river drainages Aug. 1–Sept. 30. One bull.</i></p> <p><i>Federal public lands are closed to the taking of moose except by residents of Unit 22A.</i></p>

Northwest Arctic Region

In Unit 23 (the Northwest Arctic Region), any rural resident may harvest coyotes, beavers, arctic foxes, red fox, hares, lynx, muskrats, and wolverines in Federal seasons on Federal public lands. These are examples of what a new customary and traditional use determination might look like if the proposed changes were adopted.

Customary and Traditional Use Determination	
<p><i>Unit 23 coyote, beaver, arctic fox, red fox, hare, lynx, muskrat, wolverine</i></p>	<p><i>All rural residents</i></p>

There are no examples of ANILCA Section 804 determinations in the Northwest Arctic Region. However, Federal public lands were closed to hunting in the State season for muskoxen and sheep because of conservation concerns in a portion of Unit 23. The Federal season remained open to residents mentioned in the customary and traditional use determinations. Therefore, these are not examples of ANILCA Section 804 determinations. Even though conservation concerns exist, the Board is unlikely to adopt an ANILCA Section 804 determination because only the people who are most dependent on the resource are in the customary and traditional use determination. For example:

Customary and Traditional Use Determination	Federal Season and Limit
<p><i>Muskoxen Unit 23 south of Kotzebue Sound and west of and including the Buckland River drainage—Residents of Unit 23 south of Kotzebue Sound and west of and including the Buckland River drainage.</i></p> <div data-bbox="363 495 634 617" style="border: 1px solid black; padding: 5px; display: inline-block; margin-top: 20px;"> <p><b>This is not an ANILCA Section 804 determination.</b></p> </div> <div data-bbox="656 541 786 569" style="display: inline-block; vertical-align: middle; margin-left: 10px;"> <p>→</p> </div>	<p><i>Unit 23 south of Kotzebue Sound and west of and including the Buckland River drainage. Aug. 1–Mar. 15. One bull by State or Federal registration permit.</i></p> <p><i>Federal public lands are closed to the taking of moose except by Federally qualified subsistence users hunting under these regulations.</i></p>

Eastern Interior Region

In Unit 25, any rural resident may harvest muskoxen, coyotes, beavers, hares, lynx, wolverines, grouse, and ptarmigan in Federal seasons on Federal public lands. These are examples of what a new customary and traditional use determination might look like if the proposed changes were adopted.

Customary and Traditional Use Determination	
<p><i>Unit 25 muskox, coyote, beaver, hare, lynx, wolverine, grouse, ptarmigan</i></p>	<p><i>All rural residents</i></p>

There is one example of an ANILCA Section 804 determination in the Eastern Interior Alaska Region. It is the caribou season in Unit 12. Because of conservation concerns, Federal public lands were closed to hunting in the State season, and who may hunt moose in the Federal season on Federal public lands was reduced from residents of Units 12, 13C, and Healy Lake to only residents of Chisana, Chistochina, Mentasta, Northway, Tetlin, Tok, Unit 12 along the Nabesna Road (mileposts 25–46), and that portion of Unit 12 east of the Nabesna River and the Nabesna Glacier and south of the Winter Trail. The regulation is below.

Customary and Traditional Use Determination	Federal Season and Limit
<p><i>Caribou Unit 12— that portion east of the Nabesna River and the Nabesna Glacier and south of the Winter Trail running southeast from Pickeral Lake to the Canadian border—Residents of Units 12, 13C, and Healy Lake</i></p> <div data-bbox="423 674 634 779" style="border: 1px solid black; padding: 5px; width: fit-content; margin: 20px auto;"> <p><b>ANILCA Section 804 determination.</b></p> </div> <div data-bbox="656 722 797 747" style="text-align: center;"> <p>→</p> </div>	<p><i>Unit 12, that portion east of the Nabesna River and the Nabesna Glacier and south of the Winter Trail running southeast from Pickeral Lake to the Canadian border. Aug. 10–Sept. 30. One bull by Federal registration permit</i></p> <p><i>Federal public lands are closed to the taking of caribou except by residents of Chisana, Chistochina, Mentasta, Northway, Tetlin, Tok, Unit 12 along the Nabesna Road (mileposts 25–46), and that portion of Unit 12 east of the Nabesna River and the Nabesna Glacier and south of the Winter Trail.</i></p>

In Unit 25, there is an example of many customary and traditional use determinations statewide that include so few rural residents that they are like ANILCA Section 804 determinations. An ANILCA Section 804 determination is not likely to be considered because of the customary and traditional use determination. The determination already includes only rural residents who are most dependent on the resource. The example concerns moose in Unit 25D west, described below:

Customary and Traditional Use Determination	Federal Season and Limit
<p><i>Moose Unit 25D west—Residents of Unit 25D west</i></p> <div data-bbox="277 779 557 884" style="border: 1px solid black; padding: 5px; width: fit-content; margin: 20px auto;"> <p><b>This is not an ANILCA Section 804 determination.</b></p> </div> <div data-bbox="581 825 776 848" style="text-align: center;"> <p>→</p> </div>	<p><i>Unit 25D west. Aug. 25–Feb. 28. One bull by a Federal registration permit.</i></p> <p><i>Permits will be available in the following villages:</i></p> <p><i>Beaver (25 permits)</i></p> <p><i>Birch Creek (10 permits), and</i></p> <p><i>Stevens Village (25 permits).</i></p> <p><i>For residents of 25D west who do not live in one of the three villages, permits will be available by contacting the Yukon Flats National Wildlife Refuge Office in Fairbanks or a local Refuge Information Technician. Moose hunting on Federal public lands in Unit 25D west is closed at all times except for residents of Unit 25D west hunting under these regulations. The moose season will be closed by the National Wildlife Refuge Manager when 60 moose have been harvested in the entirety (from Federal public lands and non-Federal public lands) of Unit 25D west.</i></p>

If the proposal was adopted and applied to the above customary and traditional use determination, it might look like the example below. The quota and distribution of permits would be determined by the Federal manager in consultation with other managers and the villages. The quota and distribution of permits probably would not be included in the regulation because they might change from year to year.

Customary and Traditional Use Determination	Federal Season and Limit
<p><i>Moose Unit 25D west—All rural residents</i></p> <div data-bbox="196 1598 375 1640" style="border: 1px solid black; padding: 2px; width: fit-content; margin: 10px;"> <p><b>EXAMPLE</b></p> </div> <div data-bbox="391 1556 488 1577" style="text-align: center;"> <p>→</p> </div> <div data-bbox="451 1619 727 1755" style="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;"> <p><b>EXAMPLE ANILCA Section 804 determination</b></p> </div> <div data-bbox="743 1675 808 1696" style="text-align: center;"> <p>→</p> </div>	<p><i>Unit 25D west. Aug. 25–Feb. 28. One bull by a Federal registration permit.</i></p> <p><i>Federal public lands are closed to the harvest of moose except by residents of Unit 25D west.</i></p>

North Slope Region

In Unit 26 (the North Slope Region), any rural resident may harvest foxes, hares, lynx, wolverines, and ptarmigan in Federal seasons on Federal public lands. These are examples of what a new customary and traditional use determination might look like if the proposed changes were adopted.

Customary and Traditional Use Determination	
<i>Unit 26 fox, hare, lynx, wolverine, ptarmigan</i>	<i>All rural residents</i>

There is one example of an ANILCA Section 804 determination in the North Slope Region. It is for moose in Unit 26. Because of conservation concerns, Federal public lands were closed to hunting in the State season, and who could hunt moose in a Federal season was reduced from rural residents of Unit 26, Anaktuvuk Pass, and Point Hope to only residents of Kaktovik. Unit 26C is almost all Federal public lands within the Arctic National Wildlife Refuge. The regulation is shown below:

Customary and Traditional Use Determination	Federal Season and Limit
<p><i>Moose Unit 26— rural residents of Unit 26, Anaktuvuk Pass, and Point Hope</i></p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;"> <p><b>ANILCA Section 804 determination</b></p> </div> <p style="text-align: center;">→</p>	<p><i>Unit 26C. July 1–June 30. One moose by Federal registration permit by residents of Kaktovik only. The harvest quota is 5 moose. You may not take a cow accompanied by a calf in Unit 26B. Only 5 Federal registration permits be issued.</i></p> <p><i>Federal public lands are closed to the taking of moose except by residents Kaktovik holding a Federal registration permit and hunting under these regulations.</i></p>

Summary

If the proposed changes were submitted and adopted, there could be no changes to existing customary and traditional use determinations until a proposal was submitted and a recommendation made by a Regional Advisory Council.

The proposed changes could allow a Federal season to remain open to all rural residents of the state when no conservation concerns existed for a resource; a rural resident of the state might fly in and hunt, fish, or trap in Federal openings with friends or relatives living in the area. In other words, a person might not have to demonstrate subsistence use of a resource in an area in order to hunt, fish, or trap in Federal openings. All rural residents of the state might be “Federally qualified subsistence users.”

If the proposed changes were adopted and, later, a Council recommended modifying a customary and traditional use determination to allow all rural residents to harvest fish or wildlife, under normal circumstances, Federal public lands should be closed to the State season before the Federal season was restricted to only people most dependent on fish or wildlife. The determination of who was most dependent should be based on the three criteria in ANILCA Section 804.

Even without the proposed changes, currently, the Board's stated policy is to generally defer to the recommendations of Regional Advisory Councils on customary and traditional use determinations. Additionally, the Board can adopt Council recommendations on determinations that include entire management units or entire management areas when residents of a community have demonstrated taking fish or wildlife in a portion of a management unit or management area.

## **CONCLUSION**

Staff responded to the Southeast Alaska Council's request by analyzing possible effects of modifying the customary and traditional use determination process. The Board uses the process to identify subsistence users by making a determination based on eight factors that are currently in regulation. If the eight factors were eliminated, the Board could adopt proposals for customary and traditional use determinations that included "all rural residents"; any rural resident of the state might be eligible to hunt, fish, or trap in a Federal season on Federal public lands. However, a Regional Advisory Council could continue to use the eight factors to identify subsistence users if it deemed it appropriate. No customary and traditional use determination currently in regulation could be affected.

## **LITERATURE CITED**

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## **APPENDIX A**

### **STATUS OF THE REVIEW OF THE CUSTOMARY AND TRADITIONAL USE DETERMINATION PROCESS**

#### **BACKGROUND**

The current regulations on the Federal customary and traditional use determination process, including the eight factors, were based on pre-existing State regulations. The Federal program adopted this framework, with some differences, when it was thought that Federal subsistence management would be temporary. A purpose of customary and traditional use determinations by the State is to limit the subsistence priority by adopting "negative" determinations for specific fish and wildlife species in specific areas.

A "positive" customary and traditional use determination in State regulations recognizes subsistence use and provides residents with a legal protection to engage in priority subsistence activities. Unlike the State process, in which some lands are excluded from subsistence use (nonsubsistence use areas), most Federal public lands are available for subsistence use by rural residents (with some exceptions).

The Federal program uses the customary and traditional use determination process to restrict which rural residents can participate in subsistence. The abundance of fish or wildlife is not a factor in deciding which rural residents can participate in subsistence, and some residents may be restricted in times of abundance.

The Federal customary and traditional use determination process is actually a means of closing an area to some rural residents, but there are no provisions for periodic review of this action similar to the review policy on other closures.

A draft policy on customary and traditional use determinations was subject to public comment during the fall 2007 Regional Advisory Council meeting window. The Federal Subsistence Board decided not to take action on the policy in March of 2008.

In October of 2009, Secretary of the Interior Ken Salazar announced that there would be "a review of the Federal subsistence program to ensure that the program is best serving rural Alaskans and that the letter and spirit of Title VIII are being met." In a detailed report from the U.S. Department of the Interior in September 2009, the Secretary of the Interior, with concurrence of the Secretary of Agriculture, directed the Board to do several tasks. The first relevant task was to review, with Regional Advisory Council input, "federal subsistence procedural and structural regulations adopted from the state in order to ensure federal authorities are fully reflected and comply with Title VIII (changes would require new regulations)." The second relevant task was to review the customary and traditional use determination process "to provide clear, fair, and effective determinations in accord with Title VIII goals and provisions (changes would require new regulations)."

In a letter to Mr. Tim Towarak in December 2010, Secretary of the Interior Ken Salazar requested that the Board review, with Regional Advisory Council input, "the customary and traditional use determination process and present recommendations for regulatory changes."

In their 2011 Annual Report, the Southeast Alaska Council suggested that the Board consider modifying current regulations to be more representative of the way people use subsistence resources. The Southeast Alaska Council suggested the following specific regulatory change:

**36 CFR 242.16 and 50 CFR 100.16 Customary and traditional use determination process**

(a) *The Board shall determine which fish stocks and wildlife populations have been customarily and traditionally used for subsistence. These determinations shall identify the specific community's or area's use of ~~specific fish stocks and wildlife populations~~ **all species of fish and wildlife that they have traditionally used, in their (past and present) geographical areas.** For areas managed by the National Park Service, where subsistence uses are allowed, the determinations may be made on an individual basis.*

In the Annual Report reply, the Board encouraged the Southeast Alaska Council to develop recommendations in a proposal format for additional review. The Office of Subsistence Management pledged staff assistance if the Council wished to pursue the matter further.

During the March 2012 meeting in Juneau, an update on the Secretarial Review stated that nine Councils felt the customary and traditional use determination process was adequate and only the Southeast Council had comments for changes to the process.

The Southeast Alaska Council formed a workgroup to review materials and provide a report on the issue during the March 2012 Southeast Alaska Council meeting and develop a recommendation for consideration by the Southeast Alaska Council at the September 2012 meeting.

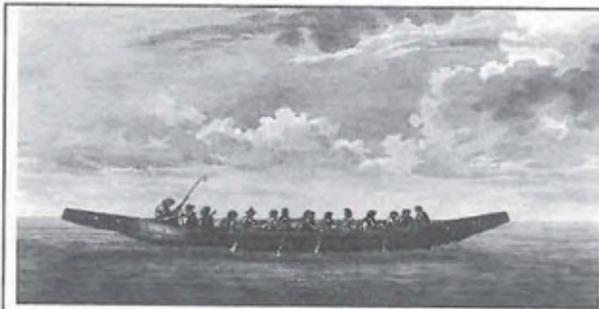
In January 2013, the Southeast Alaska Council sent a letter, shown below, to the other Regional Advisory Councils regarding perceived deficiencies in the current customary and traditional use determination process. This letter asked the other councils to review, during their fall 2013 meetings, whether the process was serving the needs of the residents of their region and report their findings to the Southeast Alaska Council. If it were the desire of the other Councils, a proposal for amending or eliminating current regulations could be developed for consideration by all the Councils.

The Southeast Alaska Council continued in its letter that an eight factor framework for Federal customary and traditional use determination analysis was first adopted by the Alaska Board of Fisheries and is not found in ANILCA.

Although there are clearly some instances where it is appropriate to provide a preference to local residents (for instance, an early start to the moose season in Yakutat), the Southeast Alaska Council has a history of recommending customary and traditional use determinations for a large geographic area.

When necessary, the Board can restrict who can harvest a resource by applying ANILCA Section 804 criteria:

- Customary and direct dependence upon the populations as the mainstay of livelihood;
- Local residency; and
- The availability of alternative resources.



*Southeast Alaska Subsistence Regional  
Advisory Council*

**Bertrand Adams Sr., Chair**  
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Yakutat, Alaska 99689

*kaadashan@alaska.net*

RAC SE13001.RL

JAN 11 2013

Mr. Jack L. Reakoff, Chair  
Western Interior Alaska Subsistence  
Regional Advisory Council  
114 Newhouse Street  
Wiseman, Alaska 99790

Dear Mr. Reakoff:

During the spring of 2011, pursuant to the Secretarial Review of the Federal Subsistence Program, the Federal Subsistence Board (Board) sought input from the Federal Subsistence Regional Advisory Councils (Councils) on the current customary and traditional use determination process. The Board subsequently reported to the Secretaries that 9 of the 10 Councils thought the process was working. The Southeast Alaska Subsistence Regional Advisory Council (SE Council) does not agree that the process is being implemented as intended in the Alaska National Interest Lands Conservation Act (ANILCA). We are asking your Council to review your evaluation of the current customary and traditional use determination process (36 CFR 242.16 and 50 CFR 100.16) and join with us in crafting a petition to the Secretaries to address deficiencies in the current regulations. The SE Council's preferred solution is to eliminate the customary and traditional use determination regulations and allocate resources as directed in Section 804 of ANILCA.

The SE Council has formed a workgroup to assist us in evaluating the current customary and traditional use determination process. The workgroup reviewed the 2007 draft Customary and Traditional Use Determination Policy, the public comments to this policy, the 2011 transcripts from all 10 Council meetings, and the 2012 Board transcripts where each of the Councils' input was summarized. The 2007 draft Customary and Traditional Use Determination Policy and the public comments to this policy are enclosed with this letter.

The SE Council workgroup noted that there were inconsistent briefings in 2011 regarding the input sought from the Councils. Different staff presented different levels of information, and in some instances Councils were led to believe other Councils thought the process was working.

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In addition, there was a lack of direction or background information provided to the Councils that would be necessary to formulate an informed opinion. There was no mention or discussions of the strengths and deficiencies of the current customary and traditional use determination process as detailed in the review of the 2007 draft Customary and Traditional Use Determination Policy.

During its March 2011 meeting, the SE Council included the topic in its 2011 Annual Report. The SE Council made the following recommendation to the Board:

*Given that ANILCA does not require the Board make customary and traditional use determinations, the Council recommends the Federal Subsistence Board eliminate the current regulations for customary and traditional use determinations, and task the Office of Subsistence Management (OSM) with drafting regulations which adhere to provisions contained within Section 804 of ANILCA.*

The current Federal customary and traditional use determination regulations (and the eight factors) were based on pre-existing State regulations. Customary and traditional use determinations are a necessary step in State of Alaska management because only fish and wildlife with a "positive" determination are managed for the subsistence preference and those with a "negative" determination do not have the preference. The decision whether there is or is not a subsistence priority is not necessary under Federal rules because ANILCA already provides rural residents a preference for subsistence uses on Federal public land. The current customary and traditional use determination process is being used to allocate resources between rural residents, often in times of abundance. This is an inappropriate method of deciding which residents can harvest fish or wildlife in an area and may result in unnecessarily restricting subsistence users. The SE Council has a history of generally recommending a broad geographic scale when reviewing proposals for customary and traditional use determinations. Subsistence users primarily harvest resources near their community of residence and there is normally no management reason to restrict use by rural residents from distant communities. If there is a shortage of resources, Section 804 of ANILCA provides direction in the correct method of allocating resources.

The SE Council has determined that the Office of Subsistence Management did not give the directive from the Secretaries the due diligence it deserves and the program would benefit from additional evaluation and dialog. We request your Council reconsider its recommendation to the Board on how well the current customary and traditional use process is serving the needs of the residents in your region. The SE Council is interested in either eliminating or improving the process but, since this is a statewide issue, we do not want to propose a solution that is not supported by the other Councils. We encourage your Council to read the briefing paper provided to you by the SE Council at a winter 2013 Council meeting and review the enclosed background information. We would like your Council to consider what would be most beneficial to your region: eliminate customary and traditional use determinations, change the way customary and traditional use determinations are made, or make no change. After reviewing these materials, we

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encourage your Council to include this subject as an agenda action item at its fall 2013 meeting. The Office of Subsistence Management has committed personnel to help in your further consideration of the customary and traditional use process at your fall 2013 meeting.

Please address any questions and report any actions taken regarding this request either directly to me or through Mr. Robert Larson, Council Coordinator, U. S. Forest Service, Box 1328, Petersburg, Alaska 99833, 1-907-772-5930, robertlarson@fs.fed.us.

Gunalchéesh (thank you).

Sincerely,  
/s/

Bertrand Adams Sr., Chair

#### Enclosures

cc: Peter J. Probasco, Assistant Director, OSM  
Kathy O'Reilly-Doyle, Deputy Assistant Director, OSM  
Federal Subsistence Board  
Interagency Staff Committee  
Administrative Record

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The ANILCA Section 804 process is a management tool that can allow seasons on Federal public lands and waters to remain open to all rural residents until there is a need to reduce the pool of eligible harvesters. Replacing the Federal customary and traditional use determination eight factors with ANILCA Section 804 three criteria may be a preferred method of restricting who can harvest a resource.

Briefing materials provided by staff at fall 2013 and winter 2014 meetings of the Councils asked them to consider whether or not to (1) eliminate customary and traditional use determinations and instead use the ANILCA Section 804 criteria when necessary, (2) change the way such determinations are made by making area-wide customary and traditional use determinations for all species, (3) make other changes, or (4) make no change.

At the end of the fall 2014 meeting cycle, four Councils postponed action until more information was forthcoming, three Councils supported changes to the existing customary and traditional use determination process, and three Councils supported keeping the process as is, as described below.

Voted to change the customary and traditional use determination process:

- Southeast Alaska Council (winter 2011)

- Southcentral Alaska Council (fall 2013)
- Yukon Kuskokwim Delta Council (fall 2013)

Voted to keep the determination process as is:

- Kodiak Aleutians Council (fall 2013)
- Western Interior (winter 2014)
- Eastern Interior Council (fall 2013)

Action postponed:

- Bristol Bay Council
- Seward Peninsula Council
- Northwest Arctic Council
- North Slope Council

## **REGIONAL ADVISORY COUNCIL COMMENTS**

Some Council members described aspects of the customary and traditional use determination process that were specific to their regions. The comments for each region of the state are described below. Transcripts of Regional Advisory Council meetings can be accessed at the Office of Subsistence Management website (<http://www.doi.gov/subsistence/library/transcripts/index.cfm>).

### **Southcentral Alaska Council Members**

Several Council members recommended, for the purpose of customary and traditional use determinations, that the region be divided into two subareas: Prince William Sound/Copper River drainage and Cook Inlet/Kenai Peninsula. Determinations could be specific to each area. Another comment that several Council members agreed with was

Our tribe and councils down there have had to go an extra mile in defining what our customary and traditional use is to the point of hundreds of thousands of dollars and lawsuits and et cetera. I've heard it both ways, could be thrown out, you could go to .804. The fact of the matter remains that we are in a time of shortage, we are in a competition for the resource and customary and traditional use. I truly believe if you have a customary and traditional use of a resource in your area that it should be for everything. We had to prove it for every species, from a spruce hen to a moose (SCASRAC 2013:80).

One Council member said that determinations held up in court because of the analysis and deliberations that went into them, and change to the process may put those determinations in jeopardy.

Outstanding issues, concerns, and questions raised throughout the discussion process included, if a change were adopted:

- What would happen to the 300 or so existing customary and traditional use determinations?
- What benefits would a change in process bring rural residents on the Kenai Peninsula where most of the management is under State regulation?

- How would the change impact the Southcentral Alaska Region where many rural residents lived on the road system and were more mobile?

Based on action taken at its fall 2013 meeting, the Council supports Option 2 “Change the way such determinations are made by making area-wide customary and traditional use determinations for all species,” and supports other Regional Advisory Councils when choosing a process that works best in their regions.

### **Kodiak/Aleutians Subsistence Regional Advisory Council**

In general, Council members supported Southeast’s efforts to change the customary and traditional use determination process in ways that worked for in Southeast. Expressed concerns were a lack of Federal nexus for much of the Kodiak/Aleutian Area and the impact of extending customary and traditional use determinations to all resources in an area. The Council understood that in Southeast the customary and traditional use determination process unnecessarily restricted users of fish or wildlife when no conservation concerns existed, and Council members did not perceive this as a common issue in their region.

Outstanding issues, concerns, and questions raised throughout the discussion process include, if a change were adopted:

- How would a change in the Federal customary and traditional use determination process impact an area that was mostly under State management?
- How would extending a customary and traditional use determination for salmon on the Buskin River to all species in the area conflict with local access and opportunity to hunt wildlife?

Based on action taken at its fall 2013 meeting, the Council supports Option 4 “Make no change,” while recognizing the issues and concerns raised by the Southeast Council, but not supporting the Southeast position.

### **Bristol Bay Subsistence Regional Advisory Council**

Some Council members recognized the review as an opportunity to develop a process tailored for the Bristol Bay Region. Bristol Bay was very different from Southcentral or Southeast and had its own “personality.” Some indicated that Section VIII of ANILCA (the section concerning subsistence) identified a process where decisions were made from the “ground level up,” and approved of the approach. Several members said that the Council had been hampered from providing harvesting opportunities for local subsistence users because of large areas of State-managed lands in the region.

A Council member commented that while the Bristol Bay Region was a bit of an island, other regions had resource and ecosystem overlap, a circumstance that could pose additional challenges for regions that wanted a different determination process. “One region has one system and the adjoining one has a different, is there going to be a way to avoid conflicts, competition, some system of resolving differences because there's overlap?” (BBSRAC 2014: 21).

Outstanding issues, concerns, and questions raised throughout the discussion process include, if a change were adopted:

- Which process would be most helpful to the Council when most lands area State-managed?

- What potential impacts would moving to a Section 804 process have for the Bristol Bay Region?

At its winter 2013 meeting, Council members indicated that before taking any action, they were requesting comments from local communities and tribes on the customary and traditional use determination process.

### **Yukon-Kuskokwim Delta Subsistence Regional Advisory Council**

A concern common among local residents was expressed, that when people stopped needing or harvesting fish and wildlife, fish and wildlife would become scarce. It was explained that what is “customary and traditional” should be as simple as “I used it and I’m still using it” (YKDSRAC 2014: 47) implying where ever and however he takes fish and wildlife is a “subsistence use.” In some villages, such as on Nelson Island, outreach must occur for people to participate in developing regulations.

Outstanding issues, concerns, and questions raised throughout the discussion process include, if a change were adopted:

- Would people without an established pattern of subsistence use get priority over other rural residents based solely on proximity, or could other factors, such as relying on smoked and dried salmon, distinguish one user group from another?
- Would the Board recognize differences between users, a way of life, and specific regions, such as those that had strong commercial fisheries and those that did not?

Based on action taken at its fall 2013 meeting, the Council supports Option 1 “Eliminate C&T use determinations and instead use the 804 criteria when necessary.” The general intent of the Council was to ensure access for rural residents to their traditional foods and not restrict or criminalize rural residents. The ability to hunt, fish, and trap in an area should be based on a community’s dependence on fish and wildlife. People in the region travelled long distances to harvest what they needed for their families’ food supplies. People in the region were self-sufficient despite the apparent low levels of cash-economy infrastructure.

### **Western Interior Alaska Subsistence Regional Advisory Council**

Some Council members were concerned that the determination process allowed a new rural resident to have the same access and opportunity as someone who had lived in a region for generations. They would rather define a subsistence user as someone who could demonstrate local subsistence uses, and a scoring system should be added to the ANILCA Section 804 process that in times of shortage distinguished and favored individuals with long-term customary and traditional uses in an area. Regional overlap with the Western Interior was identified, and eliminating existing customary and traditional use determinations would likely increase the number of people coming to the region to harvest fish and wildlife. Because of the regional overlap, if the customary and traditional use determination process was eliminated, the ANILCA Section 804 process in regulation should be modified to be more effective, specifically so that in a time of shortage a person with a long established pattern of customary and traditional use would get priority over new rural residents. Making Section 804 determinations would become a major part of the Council’s workload.

Outstanding issues, concerns, and questions raised throughout the discussion process include, if a change were adopted:

- If one community had a customary and traditional use determination for a certain species, under the proposed changes, would all communities in the region have the same determination?
- Would people without an established pattern of subsistence use have priority over other rural residents based solely on proximity ever if they are recent residents of the region?
- If a community were already determined rural, why and how would they be unreasonably restricted by the eight factors in times of abundance?
- If each Regional Advisory Council is able to determine a unique customary and traditional use determination process in their region and each process is different, what of those regions that have determinations that overlap for a particular species?

At its winter 2014 meeting, the majority of Council members expressed support for Option 4 “Make no change.” Southeast should be able to develop an approach that met their needs, but it should not be applied statewide.

### **Seward Peninsula Subsistence Regional Advisory Council**

Several Council members said that the language used in the materials and briefings did not clarify the intent of the Southeast Alaska Council. The issue of allocating muskoxen, an introduced species, to hunters was a concern.

Outstanding issues, concerns, and questions raised include, if changes were adopted:

- Would extending a customary and traditional use determination to all species negatively impact users’ access to all resources in an area if there was a conservation concern only for one, and how would this be managed?
- Would the new process allow a customary and traditional use determination for a new or introduced species, like bison or muskoxen?
- Would persons without an established pattern of subsistence use get priority over other rural residents based solely on proximity, for example, for a rural resident with a long-held summer fishcamp in a different area from his permanent residence, which system would recognize his right to harvest resources when he was there in summer?
- What would such a change look like in the region, and what are the differences between the two processes?
- What would the Federal Solicitor say about different ways of doing things under Federal regulations in different areas?
- Would the proposed process allow Councils to determine who has access to fish and wildlife populations?

At its fall 2014 meeting, the Council withheld any motion until more information was forthcoming.

### **Northwest Arctic Subsistence Regional Advisory Council**

Many on the Council expressed unease with making any formal recommendation. In order to do so they would need more information for themselves and to pass on to the communities in the region for feedback. The Council requested that staff provide them with an analysis of the impacts regulatory changes would have in their region.

### **Eastern Interior Alaska Subsistence Regional Advisory Council**

At its fall 2013 meeting, Council members asked what process would the Council go through in making its area-wide determinations? Would the eight factors still be used? Concern was indicated for the larger populations of people in nonrural areas and increased hunting pressure (the Fairbanks North Star Borough is in the Eastern Interior Alaska Region).

Based on action taken at its fall 2013 meeting, the Council supports Option 4 “Make no change.” The supporting discussion was that it was better to keep things simple, the process was generally working for subsistence users, and making a big change in the process might result in unforeseen challenges.

### **North Slope Subsistence Regional Advisory Council**

One Council member expressed a common local concern about the possible negative effects of fighting over fish and wildlife.

I would hate to have to argue over our indigenous right to subsist on these lands. I'm saying these lands, meaning whatever is in there. I have the right to subsist harvest in the way I've done, my forefathers did, without having to write it on a piece of paper . . . . I kind of agree with having a customary use determination by area that encompasses all the animals and resources in the land and take the arguments away (NSSRAC 2013: 57).

Concern was expressed about the possibility of increased hunting pressure on caribou in the region if more people qualified to hunt in the Federal season. The regional overlap that the North Slope had with other regions was described. Resources in the northern half of the state were mobile and accessible to a number of different regions. The eight factors were very specific and define most closely the practice of Alaska Native people in the region.

The Council expressed interest in having a workshop on customary and traditional use determinations and the Section 804 process and an analysis from Office of Subsistence Management staff to inform their decision-making process.

**APPENDIX B**

**SOUTHEAST ALASKA COUNCIL LETTER TO FEDERAL SUBSISTENCE BOARD**



***Southeast Alaska  
Subsistence Regional  
Advisory Council***

**Bertrand Adams Sr., Chairman  
P. O. Box 349  
Yakutat, Alaska 99689**

RAC SE14012.RL

**APR 01 2014**

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

Dear Chairman Towarak:

Thank you for your diligence in providing expanded information on our Council's proposed changes to the customary and traditional use determination process (§ .16) to all of the other Regional Advisory Councils. It is our understanding that there has been quality discussion of this issue at many of those other Council meetings.

As a part of our Council's continued effort to review and revise § .16, we authorized a work group to develop preliminary regulatory language. The work group reported to the Council at its March 2014 meeting in Anchorage and the Council adopted the work group's product as our own.

Enclosed is the Council's background paper which includes our recommendation on § .16 regulatory language. Key aspects of our recommendation are that: 1) councils would have the autonomy to recommend customary and traditional use determinations specific to their Region; 2) any restrictions for the taking of fish and wildlife shall be implemented using the criteria established in ANILCA 804 (and repeated in this regulatory language); 3) deference on customary and traditional use determination recommendations would be given to the applicable Regional Advisory Council; and, 4) the current eight factors considered for making customary and traditional use determinations would be eliminated.

We request that Federal staff review our recommendation and provide to us an analysis at our fall 2014 meeting. That analysis should provide staff's best estimate of the effect on both the Southeast Region as well as the other regions of the state. The Council would also

Chairman Towarak

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appreciate a review of the proposed language with possible modifications for regulatory clarity, while maintaining our intent.

Any questions regarding this letter can be addressed directly to me or through Mr. Robert Larson, Council Coordinator, U. S. Forest Service, Box 1328, Petersburg, Alaska 99833, (907) 772-5930, robertlarson@fs.fed.us. Thank you for your attention.

Gunalchéesh,



Bertrand Adams Sr.,  
Chair

Enclosure

cc: Beth Pendleton, Regional Forester, USFS  
Eugene R. Peltola, Jr., Assistant Regional Director, OSM  
David Jenkins, Policy Coordinator, OSM  
Jack Lorrigan, Native Liaison, OSM  
Carl Johnson, Council Coordination Division Chief, OSM  
Robert Larson, Subsistence Council Coordinator, USFS  
Chairs, Federal Subsistence Regional Advisory Councils  
Administrative Record

## **Customary and Traditional Use Determination Proposal and Rationale Southeast Alaska Subsistence Regional Advisory Council**

**Introduction:** During the fall 2013 regular council meeting, the Council tasked the customary and traditional determination (C&T) workgroup with developing a region-specific proposal for amending the current C&T determination regulations. The workgroup members (C. Needham, D. Hernandez, P. Phillips, and M. Bangs) submitted that work to the Council which adopted the recommendation as its own. The Council considers it vitally important that the intent of the proposal be clearly communicated to the Board and other councils.

**Problem:** The current federal C&T determination regulations, including the eight factor analysis, were adopted from pre-existing State Regulations. The federal program adopted this framework, with some differences, when it was thought that federal subsistence management would be temporary. As a result of the 2009-2010 comprehensive Federal Subsistence Program Review, the Secretary of the Interior issued a letter of direction, with the concurrence of the Secretary of Agriculture, requesting that the Federal Subsistence Board “review [the] customary and traditional determination process to provide clear, fair, and effective determinations in accord with Title VIII goals and provisions (changes would require new regulations)”. It was stated that this be conducted with regional advisory councils input.

**Recommended solution:** The intent of this proposed regulation change is to provide a statewide framework for making C&T determinations (see subpart a) while providing an option for region specific regulations that match particular characteristic of each region (see subpart b). The proposal will also provide deference to regional councils (see subpart e).

The Council wanted each regional council to be able to develop region specific regulations that suit their own region, and therefore took the approach to change the umbrella statewide regulation in order to do so. Subpart b of the proposed regulation provides an opportunity for region specific process to be incorporated into the regulation.

The Council’s intent for the Southeast Region would be to make very broad customary and traditional use determinations so that seasons on Federal public lands and waters would remain open to all Federally-qualified rural residents until there is a need to reduce the pool of eligible harvesters using the process described in ANILCA 804. In effect, ANILCA 804 would replace the current Federal C&T determination eight factors with a three-criterion method of restriction on who can harvest a resource.

**CURRENT LANGUAGE OF §§ .16 and .17:**

**§242.16 Customary and traditional use determination process.**

(a) The Board shall determine which fish stocks and wildlife populations have been customarily and traditionally used for subsistence. These determinations shall identify the specific community's or area's use of specific fish stocks and wildlife populations. For areas managed by the National Park Service, where subsistence uses are allowed, the determinations may be made on an individual basis.

(b) A community or area shall generally exhibit the following factors, which exemplify customary and traditional use. The Board shall make customary and traditional use determinations based on application of the following factors:

- (1) A long-term consistent pattern of use, excluding interruptions beyond the control of the community or area;
- (2) A pattern of use recurring in specific seasons for many years;
- (3) A pattern of use consisting of methods and means of harvest which are characterized by efficiency and economy of effort and cost, conditioned by local characteristics;
- (4) The consistent harvest and use of fish or wildlife as related to past methods and means of taking; near, or reasonably accessible from, the community or area;
- (5) A means of handling, preparing, preserving, and storing fish or wildlife which has been traditionally used by past generations, including consideration of alteration of past practices due to recent technological advances, where appropriate;
- (6) A pattern of use which includes the handing down of knowledge of fishing and hunting skills, values, and lore from generation to generation;
- (7) A pattern of use in which the harvest is shared or distributed within a definable community of persons; and
- (8) A pattern of use which relates to reliance upon a wide diversity of fish and wildlife resources of the area and which provides substantial cultural, economic, social, and nutritional elements to the community or area.

(c) The Board shall take into consideration the reports and recommendations of any appropriate Regional Council regarding customary and traditional uses of subsistence resources.

(d) Current determinations are listed in §242.24.

**§242.17 Determining priorities for subsistence uses among rural Alaska residents.**

(a) Whenever it is necessary to restrict the subsistence taking of fish and wildlife on public lands in order to protect the continued viability of such populations, or to continue subsistence uses, the Board shall establish a priority among the rural Alaska residents after considering any recommendation submitted by an appropriate Regional Council.

(b) The priority shall be implemented through appropriate limitations based on the application of the following criteria to each area, community, or individual determined to have customary and traditional use, as necessary:

- (1) Customary and direct dependence upon the populations as the mainstay of livelihood;
- (2) Local residency; and
- (3) The availability of alternative resources.

(c) If allocation on an area or community basis is not achievable, then the Board shall allocate subsistence opportunity on an individual basis through application of the criteria in paragraphs (b)(1) through (3) of this section.

(d) In addressing a situation where prioritized allocation becomes necessary, the Board shall solicit recommendations from the Regional Council in the area affected.

**Southeast Alaska Council's Proposed Language**

(36 CFR §242.16 and 50 CFR §100.16) Customary and traditional use determination process

(a) The Board shall determine which fish and wildlife have been customarily and traditionally used for subsistence within a geographic area. When it is necessary to restrict the taking of fish and wildlife, and other renewable resources to assure continued viability of a fish or wildlife population, a priority for the taking of such population for non-wasteful subsistence uses shall be implemented based on the application of the following criteria; customary and direct dependence upon the populations as the mainstay of livelihood; local residency; and the availability of alternative resources. For areas managed by the National Park Service, where subsistence uses are allowed, the determinations may be made on an individual basis.

(b) Each region shall have the autonomy to recommend customary and traditional use determinations specific to that region.

(c) The Board shall give deference to recommendations of the appropriate Regional Council(s). Councils will make recommendations regarding customary and traditional uses of subsistence resources based on its review and evaluation of all available information, including relevant technical and scientific support data and the traditional knowledge of local residents in the region.

(d) Current determinations are listed in § 100.24

\*NOTE: The Council did not change §242.17, which would therefore remain in effect.

**CURRENT LANGUAGE OF §§ .16 and .17:**

**§242.16 Customary and traditional use determination process.**

(a) The Board shall determine which fish stocks and wildlife populations have been customarily and traditionally used for subsistence. These determinations shall identify the specific community's or area's use of specific fish stocks and wildlife populations. For areas managed by the National Park Service, where subsistence uses are allowed, the determinations may be made on an individual basis.

(b) A community or area shall generally exhibit the following factors, which exemplify customary and traditional use. The Board shall make customary and traditional use determinations based on application of the following factors:

- (1) A long-term consistent pattern of use, excluding interruptions beyond the control of the community or area;
- (2) A pattern of use recurring in specific seasons for many years;
- (3) A pattern of use consisting of methods and means of harvest which are characterized by efficiency and economy of effort and cost, conditioned by local characteristics;
- (4) The consistent harvest and use of fish or wildlife as related to past methods and means of taking; near, or reasonably accessible from, the community or area;
- (5) A means of handling, preparing, preserving, and storing fish or wildlife which has been traditionally used by past generations, including consideration of alteration of past practices due to recent technological advances, where appropriate;
- (6) A pattern of use which includes the handing down of knowledge of fishing and hunting skills, values, and lore from generation to generation;
- (7) A pattern of use in which the harvest is shared or distributed within a definable community of persons; and
- (8) A pattern of use which relates to reliance upon a wide diversity of fish and wildlife resources of the area and which provides substantial cultural, economic, social, and nutritional elements to the community or area.

(c) The Board shall take into consideration the reports and recommendations of any appropriate Regional Council regarding customary and traditional uses of subsistence resources.

(d) Current determinations are listed in §242.24.

**§242.17 Determining priorities for subsistence uses among rural Alaska residents.**

(a) Whenever it is necessary to restrict the subsistence taking of fish and wildlife on public lands in order to protect the continued viability of such populations, or to continue subsistence uses, the Board shall establish a priority among the rural Alaska residents after considering any recommendation submitted by an appropriate Regional Council.

(b) The priority shall be implemented through appropriate limitations based on the application of the following criteria to each area, community, or individual determined to have customary and traditional use, as necessary:

- (1) Customary and direct dependence upon the populations as the mainstay of livelihood;
- (2) Local residency; and
- (3) The availability of alternative resources.

(c) If allocation on an area or community basis is not achievable, then the Board shall allocate subsistence opportunity on an individual basis through application of the criteria in paragraphs (b)(1) through (3) of this section.

(d) In addressing a situation where prioritized allocation becomes necessary, the Board shall solicit recommendations from the Regional Council in the area affected.

## Appendix

### **Southeast Alaska Council, 2011 Annual Report Topics**

#### **Issue 1: Customary and traditional determinations**

At the March 2011 Council meeting, the Council was asked to review how the current customary and traditional use determination process was working. The Council observed that the Federal customary and traditional use determination process and the eight factor analysis is a carryover from State of Alaska regulation. Now that it appears the Federal program will be permanent; it would be appropriate to develop a Federal process based on ANILCA rather than a process developed to address State regulatory authorities. Unfortunately, the Office of Subsistence Management did not provide sufficient information to the Council regarding how the current customary and traditional use determination process was being applied to allow the Council to make definitive recommendations to the Board. The Council wishes to reiterate the recommendation made to the Board during the March 2011 meeting:

Given that ANILCA does not require the Board make customary and traditional use determinations, the Council recommends the Federal Subsistence Board eliminate the current regulations for customary and traditional use determinations, and task the Office of Subsistence Management with drafting regulations which adhere to provisions contained within Section 804 of ANILCA.

The Council reiterates support for the following specific regulatory change as recommended at the March 2011 meeting:

Modify 50 CFR 100.16 (a). The regulation should read: "The Board shall determine which fish and wildlife have been customarily and traditionally used for subsistence. These determinations shall identify the specific community's or area's use of [specific fish stock and wildlife population] **all species of fish and wildlife that have traditionally used, in their (past and present) geographic areas**".

### **Southeast Alaska Council, 2012 Annual Report Topics**

#### **Issue 1: Customary and Traditional Use Determination Recommendation**

The Council believes the current method of restricting access to fish and wildlife resources through a customary and traditional use determination process was not intended by ANILCA. Although SE Council recognizes that there are a number of possible solutions to address this problem, it's preferred solution is to eliminate the customary and traditional use determination regulations (36 CFR 242.16 and 50 CFR 100.16) and allocate resources as directed in Section 804 of ANILCA. The Council wrote a letter to the other Councils requesting that they reconsider the issue of whether the current customary and traditional use determination process is appropriate and is truly meeting the needs of the residents of their regions. The Council requests the Board provide adequate staff resources to assist the other councils in making an informed decision regarding this complex issue.

#### **Southeast Alaska Council letter to the other Councils, January 11, 2013**

The SE Council's preferred solution is to eliminate the customary and traditional use determination regulations and allocate resources as directed in Section 804 of ANILCA. We would like your Council to consider what would be most beneficial to your region: eliminate customary and traditional use determinations, change the way customary and traditional use determinations are made, or make no change.

# Alaska Refuges

## Possible Statewide Regulatory Changes



Lisa Hupp/USFWS

Kodiak brown bear sow with cub.

National Wildlife Refuges (refuges) in Alaska are mandated to conserve species and habitats in their natural diversity and ensure that the biological integrity, diversity, and environmental health of the National Wildlife Refuge System are maintained for the continuing benefit of present and future generations of Americans. The U.S. Fish and Wildlife Service (USFWS) is considering amending regulations governing administration of Alaska refuges (under 50 CFR 36) to ensure that we are managing Alaska refuges in accordance with our mandates; to increase consistency with other Federal laws, regulations, and policies; and to more effectively engage the public.

Over the last decade, the State of Alaska has allowed particular practices for the harvest of predators that are inconsistent with our Federal mandates for the administration of refuges in Alaska. Predator reduction activities with the intent or potential to alter or manipulate natural diversity, biological integrity, or environmental health on refuges in Alaska conflict with laws and policies that the USFWS is required to follow. The proposed regulatory changes we are considering would clarify allowable practices for the take of wildlife on refuges in Alaska, as well as update existing Alaska refuge regulations for closures and restrictions.

We recognize the importance of the fish, wildlife and other natural resources in the lives and cultures of Alaska Native peoples and in the lives of all rural Alaskans. These proposed regulatory changes would not change Federal subsistence regulations (36 CFR 242 and 50 CFR § 100) or restrict taking of fish or wildlife under Federal subsistence regulations. The Alaska National Interest Lands Conservation Act (ANILCA) provides a priority to rural Alaskans for the nonwasteful taking of fish and wildlife for subsistence uses on refuges in Alaska. Under ANILCA all refuges in Alaska (except the Kenai Refuge) also have a purpose to provide the opportunity for continued

subsistence use by rural residents, as long as this use is not in conflict with refuge purposes to conserve fish and wildlife populations and habitats in their natural diversity or fulfill international treaty obligations of the United States.

### The changes we are considering would:

- Clarify existing Federal mandates for conserving the natural diversity, biological integrity, and environmental health on refuges in Alaska in relation to predator harvest. Predator reduction activities with the intent or potential to alter or manipulate the natural diversity of species populations or habitats (e.g., artificially increasing or decreasing wildlife populations to provide for more harvest opportunity) would be prohibited on refuges in Alaska.
- Prohibit the following methods and means for predator harvest on refuges in Alaska (would not apply to the taking of fish or wildlife under Federal subsistence regulations):
  - take of bear cubs or sows with cubs (exception allowed for resident hunters to take black bear cubs or sows with cubs under customary and traditional use activities at a den site October 15 – April 30 in specific game management units in accordance with State law)
  - take of brown bears over bait;
  - take of bears using traps or snares;
  - take of wolves and coyotes during the spring and summer denning season; and
  - take of bears from an aircraft or on the same day as air travel has occurred. Note: take of wolves or wolverines from an aircraft or on the same day as air travel has occurred is already prohibited under current refuge regulations.

- Update the Public Participation and Closure Procedures to make them more consistent with other Federal regulations and more effectively engage the public. The following table summarizes portions of the current regulations and potential updates we are considering.

**Public Participation and Closure Procedures**

Current	Potential Updates
<b>Authority</b>	
Refuge Manager may close an area or restrict an activity on an emergency, temporary, or permanent basis.	No updates being considered
<b>Criteria (50 CFR 36.42(b))</b>	
Criteria includes: public health and safety, resource protection, protection of cultural or scientific values, subsistence uses, endangered or threatened species conservation, and other management considerations necessary to ensure that the activity or area is being managed in a manner compatible with refuge purposes.	Add conserving the natural diversity, biological integrity, and environmental health of the refuge to the current list of criteria.
<b>Emergency closures or restrictions (50 CFR 36.42(c))</b>	
Emergency closure may not exceed 30 days.  Closure effective upon notice as prescribed in 50 CFR 36.42 (f) (see below for details). Closures related to the taking of fish and wildlife shall be accompanied by notice with a subsequent hearing.	Increase the period from 30 to 60 days, with extensions beyond 60 days being subject to nonemergency closure procedures (i.e. temporary or permanent).  Closure effective upon notice as prescribed in 50 CFR 36.42 (f) (see below for details).
<b>Temporary closures or restrictions (50 CFR 36.42(d))</b>	
May extend only for as long as necessary to achieve the purpose of the closure or restriction, not to exceed or be extended beyond 12 months.  Closure effective upon notice as prescribed in 50 CFR 36.42 (f) (see below for details). Closures related to the taking of fish and wildlife effective upon notice and hearing in the vicinity of the area(s) affected by such closures or restriction, and other locations as appropriate	May extend only for as long as necessary to achieve the purpose of the closure or restriction, May not exceed or be extended beyond 5 years; In most cases, extensions beyond 5 years would be subject to revised permanent closure requirements, including publication in the Federal Register and Code of Federal Regulations at 50 CFR 36.  Closure subject to notice procedures as prescribed in 50 CFR 36.42 (f) (see below for details). Closures related to the taking of fish and wildlife would require consultation with the State and affected Tribes and Native Corporations, as well as the opportunity for public comment or a public meeting in the affected area.
<b>Permanent closures or restrictions (50 CFR 36.42(e))</b>	
No time limit.  Closure effective after notice and public hearings in the affected vicinity and other locations as appropriate, and after publication in the Federal Register.	No time limit.  Closures related to the taking of fish and wildlife would require consultation with the State and affected Tribes and Native Corporations, as well as the opportunity for public comment or a public meeting in the affected area. Closures would continue to be published in the Federal Register. Permanent closures that will result in a significant alteration in the public use pattern; adversely affect the natural, aesthetic, scenic, or cultural values; or require a long-term modification in the resource management objectives of the area would be published in the Code of Federal Regulations under 50 CFR 36.
<b>Notice (50 CFR 36.42(f))</b>	
Notice is to be provided through newspapers, signs, and radio.	Add the use of the Internet or other available methods, in addition to continuing to use the more traditional methods of newspapers, signs, and radio.

## Questions and Answers on Regulatory Changes Being Considered by the U.S. Fish & Wildlife Service for National Wildlife Refuges in Alaska

### 1. What are the regulatory changes being considered?

National Wildlife Refuges (refuges) in Alaska are mandated to conserve species and habitats in their natural diversity and ensure that the biological integrity, diversity, and environmental health of the National Wildlife Refuge System (Refuge System) are maintained for the continuing benefit of present and future generations of Americans. The U.S. Fish and Wildlife Service (USFWS) is considering amending regulations governing Alaska refuges (under 50 CFR 36) to ensure that we are managing those refuges in accordance with our mandates; to increase consistency with other Federal laws, regulations, and policies; and to more effectively engage the public.

The changes we are considering would:

- Clarify existing Federal mandates for conserving the natural diversity, biological integrity, and environmental health on refuges in Alaska in relation to predator harvest. Predator reduction activities with the intent or potential to alter or manipulate the natural diversity of species populations or habitats (e.g., artificially increasing or decreasing wildlife populations to provide for more harvest opportunity) would be prohibited on refuges in Alaska.
- Prohibit the following methods and means for predator harvest on refuges in Alaska (would not apply to the taking of fish or wildlife under Federal subsistence regulations):
  - take of bear cubs or sows with cubs (*exception allowed for resident hunters to take black bear cubs or sows with cubs under customary and traditional use activities at a den site October 15 – April 30 in specific game management units in accordance with State law*);
  - take of brown bears over bait;
  - take of bears using traps or snares;
  - take of wolves and coyotes during the spring and summer denning season; and
  - take of bears from an aircraft or on the same day as air travel has occurred. *Note: take of wolves or wolverines from an aircraft or on the same day as air travel has occurred is already prohibited under current refuge regulations.*
- Update the Public Participation and Closure Procedures to make them more consistent with other Federal regulations and more effectively engage the public

Important notes:

- These proposed changes would not apply to the take of fish or wildlife under Federal subsistence regulations.
- Hunting and trapping of predators would still be allowed on refuges and most State of Alaska hunting and trapping regulations, including harvest limits, would still apply.

## **2. Why is the U.S. Fish & Wildlife Service considering making these changes?**

We are considering these regulatory changes to ensure that the taking of fish and wildlife on National Wildlife Refuges in Alaska is managed consistent with federal laws and USFWS policies. Over the last decade, the State of Alaska (State) has allowed particular practices for the harvest of predators that are inconsistent with our Federal mandates for the administration of refuges in Alaska. Predator reduction activities with the intent or potential to alter or manipulate natural diversity, biological integrity, or environmental health (e.g., artificially increasing or decreasing wildlife populations to provide for more harvest opportunity) on refuges in Alaska conflict with laws and policies that the USFWS is required to follow. The proposed regulatory changes we are considering would clarify allowable practices for the take of wildlife on refuges in Alaska, as well as update existing Alaska refuge regulations for closures and restrictions.

The mission of the Refuge System is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans. As such, refuges are required to work to conserve species and habitats for the long-term, benefiting not only the present, but also future generations of Americans and in Alaska, this includes the continuation of the subsistence way of life.

The USFWS is required by law to manage refuges “to ensure that . . . biological integrity, biological diversity, and environmental health are maintained” (National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997). The Alaska National Interest Lands Conservation Act (ANILCA) sec. 101(a) states that the primary purpose of the Act is “to preserve for the benefit, use, education, and inspiration of present and future generations certain lands and waters in the State of Alaska that contain nationally significant natural, scenic, historic, archeological, geological, scientific, wilderness, cultural, recreational, and wildlife values...” Further, sections 302, 1-9 and 303, 1-7 of ANILCA establish or redefine all refuges in Alaska with the primary purpose to “conserve fish and wildlife populations and habitats in their natural diversity.” These proposed regulatory changes are aimed at ensuring that natural ecological processes and functions are maintained and wildlife populations and habitats are conserved and managed to function in their natural diversity on Alaska refuges. The latter may be interpreted as not only the natural diversity of species but also the natural variations and fluctuations in both predator and prey populations over time.

The overarching goal of the USFWS’s wildlife-dependent recreation policy is to enhance opportunities and access to quality visitor experiences on refuges and to manage the refuge to conserve fish, wildlife, plants, and their habitats (605 FW 1.6). We consider hunting to be an important wildlife management tool and one of many priority uses of the Refuge System (when and where compatible with refuge purposes) that is a healthy, traditional outdoor pastime, deeply rooted in the American heritage (605 FW 2).

### **3. Will the proposed regulatory changes apply to subsistence hunting and trapping on National Wildlife Refuges?**

We recognize the importance of fish and wildlife and other natural resources in the lives of rural Alaskans and in the lives and cultures of Alaska Native peoples. We take seriously our responsibility to provide the opportunity for continued subsistence use by rural Alaskans on refuges under ANILCA. These proposed regulatory changes will not change Federal subsistence regulations (36 CFR 242 and 50 CFR 100) or restrict taking of fish or wildlife under Federal subsistence regulations.

We recognize there may be some impacts to local communities that result from these changes. We have worked to address several concerns that were raised during Tribal consultations, and are open to discussing others that arise through the public comment process.

### **4. What authority does the U.S. Fish & Wildlife Service have to establish hunting and trapping regulations? Isn't it the State's job to manage wildlife in Alaska?**

We recognize that the State has obligations to manage wildlife in Alaska according to the directives in the State constitution. The USFWS similarly must ensure that activities on refuges are consistent with Federal laws and USFWS policy and has final authority for managing plants, fish, and wildlife on refuges in Alaska.

We prefer to defer to the State on regulation of hunting and trapping on refuges in Alaska; unless, in doing so, we are out of compliance with Federal laws and USFWS policy. In the absence of State action to exercise their authority to exclude refuges from Intensive Management designation and associated actions, as well as general hunting and trapping regulations that are inconsistent with our legal mandates, we believe these regulatory changes are necessary to resolve conflicting activities.

## **5. What is the process and timeline for making these regulatory changes? Can I participate?**

We have been consulting with Alaska Tribes and Alaska Native Claims Settlement Act (ANCSA) Corporations, as well as having discussions with the State and the Federal Subsistence Regional Advisory Councils on the changes we are considering. We anticipate publishing a proposed rule (draft regulations) in the Federal Register around March of 2015, at which time a 60 day public comment period will begin. We will prepare an Environmental Assessment (EA) in accordance with the requirements of the National Environmental Policy Act (NEPA) for these proposed regulatory changes, which will be made available for comment at the same time. During the public comment period, we plan to hold meetings and hearings around the state. Comments and input we receive will be used to update the proposed rule as needed. Our goal is to have a final rule published sometime in the beginning of 2016.

Local engagement is very important to us and we are committed to providing meaningful opportunities for consultation with the Tribal Governments and ANCSA Corporations in Alaska. We greatly value local knowledge in our work and are committed to strengthening our Tribal-Federal government relations by working closely with the Tribes on conservation issues in Alaska.

We would like to hear from you, whether at a community meeting or via written comment. We welcome public comment during the comment period, and will continue to offer Tribal Consultation to Federally recognized Tribes and ANCSA Corporations through the end of the comment period.

For the most current information, visit [http://www.fws.gov/alaska/nwr/ak\\_nwr\\_pr.htm](http://www.fws.gov/alaska/nwr/ak_nwr_pr.htm).

**To:** Federal Subsistence Regional Advisory Councils  
**Date:** December 2014  
**Subject:** Scoping for Regulations to Allow *Subsistence Collections and Uses of Shed or Discarded Animal Parts & Plants from National Park System Areas in Alaska*

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**Issue:**

The National Park Service (NPS) selected a modified Alternative D to implement its April 2014 decision regarding the environmental assessment (EA) on *Subsistence Collections and Uses of Shed or Discarded Animal Parts and Plants from Park Areas in Alaska*. The selected alternative will allow subsistence collections and uses of shed or discarded animal parts and plants to make into handicrafts for personal or family purposes, to barter, or to sell as customary trade. NPS-qualified subsistence users are residents of communities and areas with federally-recognized customary and traditional (C&T) use determinations for each species in each game management unit within the affected park areas. Subsistence users who have C&T eligibility for animal species will also be allowed to collect plant materials from those areas to make and use or sell handicrafts. The decision clears the way for the NPS to promulgate regulations to authorize such subsistence collections and resource uses on park areas in Alaska. The NPS has attempted to address concerns expressed by several Subsistence Resource Commissions (SRC) and federal Subsistence Regional Advisory Councils.

Alaska-specific regulations are needed to overcome the general nationwide NPS regulation at 36 Code of Federal Regulations (CFR) 2.1, which prohibits: “Possessing, destroying, injuring, defacing, removing, digging, or disturbing from its natural state: Living or dead wildlife and fish, or their parts or products thereof, such as antlers or nests; Plants or the parts or products thereof.” ANILCA Titles II and VIII authorize in park areas subsistence uses “of wild, renewable resources for direct or family consumption ...; for making and selling handicraft articles out of nonedible byproducts of wildlife resources taken ...; for barter ...; and for customary trade.”

The NPS indicated in a press release it would begin the process of drafting new regulations within a year of the decision. That process is underway, and we have a preliminary draft rule to available for review during the winter/spring 2015 SRC and RAC meetings. Once proposed regulations are published in the Federal Register, they are available for a 60-day public comment period. The final rule would be published after consideration of the public comments.

These regulations will provide a general framework for authorizing federally-qualified subsistence collections with provisions allowing Superintendents to customize the implementation as needed for local conditions through unit-specific regulations or compendia. NPS will continue consulting with SRCs, RACs, and tribes as the regulations and associated provisions to implement them are developed. Two-way discussions are needed to identify key concerns for the regulations and their implementing provisions such as appropriate types of written authorizations, specific local resource concerns that may need to be addressed in each

park area, and flexibility to address changing conditions in park areas regarding subsistence collections.

**Discussion Points:**

The EA decision specified the following:

- NPS-qualified subsistence users must have written authorization from the area Superintendent. Such authorization can take many forms. For example, individual permits could be issued to qualified subsistence users or written authorizations could be provided for specific resident zone communities or for areas with customary and traditional use findings for various resources.

*Which type of written authorization would be best for your area and why?*

- The decision adopted mitigating measures to minimize potential adverse effects on resources and values of affected NPS areas, including visitor use and enjoyment. Mitigating measures may include conditions and limits for collection activities, such as allowable quantities, locations, timing restrictions, or other restrictions to reduce resource impacts or user conflicts. Examples of areas that may be subject to restrictions of subsistence collections include archeological and historic sites; public facilities and travel corridors such as roads, airports and landing strips; and commonly used trails, rivers, and shores of ocean coasts and large lakes. Education programs and materials could be developed to inform the public and qualified subsistence users about the authorized collections.

*Which areas and resources should be opened or not opened to subsistence collections and why?*

*What should be included in a public education program?*

**Contacts:**

Bud Rice, Subsistence Manager, Alaska Regional Office, [bud\\_rice@nps.gov](mailto:bud_rice@nps.gov), 907-644-3597

**PRELIMINARY DRAFT**

Section 13.420 is amended as follows:

By adding the following definitions:

*Handicraft* article is a finished product in which the shape and appearance of the natural material has been substantially changed by the skillful use of hands, such as sewing, carving, etching, scrimshawing, painting, or other means, which has substantially greater monetary and aesthetic value than the unaltered natural material(s). This term does not include a trophy or European mount of horns or antlers.

*Wild renewable byproducts of wildlife* means the nonedible antlers, horns, bones, teeth, claws, hooves, hides, fur, hair, feathers and quills, that have been:

- (1) Naturally shed,
- (2) Discarded from a lawfully hunted or trapped animal, or
- (3) Occur through natural mortality.

By revising the definition of *Subsistence uses*, subparagraphs (2) and (3) as follows:

(2) “Barter” shall mean the exchange of handicraft articles or fish or wildlife or their parts taken for subsistence uses—

- (i) For other fish or game or their parts; or
- (ii) For other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature; and

(3) “Customary trade” shall be limited to the exchange of handicraft articles or furs for cash (and such other activities as may be designated for a specific park area in the applicable special regulations of this part).

Section 13.482 is added as follows:

§ 13.482 Subsistence collection and use of animal parts

(a) Local rural residents may collect wild renewable byproducts of wildlife, excluding migratory birds and marine animals, for subsistence uses in park areas where subsistence uses are allowed, provided that:

- (1) The resident has a federal customary and traditional use determination for the species collected in the game management unit where the collecting occurs (50 CFR Part 100), and
- (2) The resident has written authorization from the superintendent.

(b) The superintendent may establish conditions, limits, and other restrictions on collection activities. Areas opened to collections will be identified on a map posted on the park website and available at the park visitor center. Violating a condition, limit, or restriction is prohibited.

(c) Non-conflicting State regulations regarding the use of bear claws that are now or may later be in effect are adopted as a part of these regulations.

We are currently accepting proposals for:  
**Federal Subsistence Hunting and Trapping Regulations**

Ending Date: March 25, 2015

**How to Prepare Your Proposal**

When preparing your proposal, it is important that you include the following information:

- Name
- Organization
- Contact information (Address, Phone, Fax or Email)

Your proposal must include the following information:

1. What regulations do 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.”
2. How should the new regulation read? Write the regulation the way you would like to see it written in the regulations.
3. Why should this regulation change be made?

You should also provide any additional information that you believe will help the Board in evaluating the proposed change.

**How to Submit a Proposal**

**By mail or hand delivery:**

Federal Subsistence Board  
Office of Subsistence Management  
Attn: Theo Matuskowitz  
1011 E. Tudor Rd., MS-121  
Anchorage, AK 99503

**In person at any Federal Subsistence  
Regional Advisory Council meeting:**

[www.doi.gov/subsistence/calendars/index.cfm](http://www.doi.gov/subsistence/calendars/index.cfm)

**On the Web:**

Go to the Federal eRulemaking Portal:  
[www.regulations.gov](http://www.regulations.gov) and search for FWS-R7-  
SM-2014-0062, which is the docket number for  
this rulemaking.

**Questions?** Call (800) 478-1456 or (907) 786-3888

All proposals and comments, including personal information provided, are posted on the Web at  
[www.regulations.gov](http://www.regulations.gov).

**§ 891.650 Conditions for receipt of vacancy payments for assisted units.**

\* \* \* \* \*

(b) *Vacancies during rent-up.* For each unit that is not leased as of the effective date of the HAP contract, the owner is entitled to vacancy payments in the amount of 80 percent of the contract rent for the first 30 days of a vacancy, if the owner:

\* \* \* \* \*

(c) *Vacancies after rent-up.* If an eligible family vacates a unit, the owner is entitled to vacancy payments in the amount of 80 percent of the contract rent for the first 30 days of a vacancy, if the owner:

\* \* \* \* \*

(d) *Debt-service vacancy payments.* If a unit continues to be vacant after the vacancy period specified in paragraph (b) or (c) of this section, the owner may apply to receive additional vacancy payments in an amount equal to the principal and interest payments required to amortize that portion of the debt service attributable to the vacant unit for up to 12 additional months for the unit if:

\* \* \* \* \*

■ 25. In § 891.655, revise the definition of “Vacancy payment” to read as follows:

**§ 891.655 Definitions applicable to 202/162 projects.**

\* \* \* \* \*

*Vacancy payment* means the housing assistance payment made to the owner by HUD for a vacant assisted unit if certain conditions are fulfilled.

\* \* \* \* \*

■ 26. In § 891.705, remove the word “Borrower” and add in its place the word “Owner” wherever it appears, and revise paragraph (c)(2) to read as follows:

**§ 891.705 Project assistance contract.**

\* \* \* \* \*

(c) \* \* \*  
(2) *Payments to the owner for vacant assisted units (vacancy payments).* The amount of and conditions for vacancy payments are described in § 891.790. HUD makes the project assistance payments monthly upon proper requisition by the owner, except payments for vacancies under § 891.790(d), which HUD makes semiannually upon requisition by the owner.

\* \* \* \* \*

■ 27. In § 891.790, remove the word “Borrower” and add in its place the word “Owner” wherever it appears, and revise the introductory text of paragraphs (b), (c), and (d) to read as follows:

**§ 891.790 Conditions for receipt of vacancy payments for assisted units.**

\* \* \* \* \*

(b) *Vacancies during rent-up.* For each unit (or residential space in a group home) that is not leased as of the effective date of the PAC, the owner is entitled to vacancy payments in the amount of 80 percent of the contract rent (or pro rata share of the contract rent for a group home) for the first 30 days of a vacancy, if the owner:

\* \* \* \* \*

(c) *Vacancies after rent-up.* If an eligible family vacates an assisted unit (or residential space in a group home) the owner is entitled to vacancy payments in the amount of 80 percent of the contract rent (or pro rata share of the contract rent for a group home) for the first 30 days of a vacancy, if the owner:

\* \* \* \* \*

(d) *Debt-service vacancy payments.* If an assisted unit (or residential space in a group home) continues to be vacant after the vacancy period specified in paragraph (b) or (c) of this section, the owner may apply to receive additional vacancy payments in an amount equal to the principal and interest payments required to amortize that portion of the debt service attributable to the vacant unit (or, in the case of group homes, the residential space) for up to 12 additional months for the unit, if:

\* \* \* \* \*

Dated: December 11, 2014.

**Biniam Gebre,**  
*Acting Assistant Secretary for Housing—  
Federal Housing Commissioner.*  
[FR Doc. 2015–00357 Filed 1–13–15; 8:45 am]  
BILLING CODE 4210–67–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–2014–0062;  
FXFR13350700640–156–FF07J00000;  
FBMS#4500074738]

RIN 1018–BA39

**Subsistence Management Regulations for Public Lands in Alaska—2016–17 and 2017–18 Subsistence Taking of Wildlife Regulations**

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would establish regulations for hunting and trapping seasons, harvest limits, and methods and means related to taking of wildlife for subsistence uses during the 2016–17 and 2017–18 regulatory years. The Federal Subsistence Board is on a schedule of completing the process of revising subsistence taking of wildlife regulations in even-numbered years and subsistence taking of fish and shellfish regulations in odd-numbered years; public proposal and review processes take place during the preceding year. The Board also addresses customary and traditional use determinations during the applicable cycle. When final, the resulting rulemaking will replace the existing subsistence wildlife taking regulations. This rule would also amend the general regulations on subsistence taking of fish and wildlife.

**DATES: Public meetings:** The Federal Subsistence Regional Advisory Councils will hold public meetings to receive comments and make proposals to change this proposed rule on several dates between February 10 and March 19, 2015, and then hold another round of public meetings to discuss and receive comments on the proposals, and make recommendations on the proposals to the Federal Subsistence Board, on several dates between August 17 and November 4, 2015. The Board will discuss and evaluate proposed regulatory changes during a public meeting in Anchorage, AK, in April 2016. See **SUPPLEMENTARY INFORMATION** for specific information on dates and locations of the public meetings.

*Public comments:* Comments and proposals to change this proposed rule must be received or postmarked by March 25, 2015.

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

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

- *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov> and search for FWS–R7–SM–2014–0062, 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, or hand delivery to the Designated

Federal Official attending any of the Federal Subsistence Regional Advisory Council public meetings. See

**SUPPLEMENTARY INFORMATION** for additional information on locations of the public meetings.

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

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

**SUPPLEMENTARY INFORMATION:**

**Background**

Under Title VIII of 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 rural 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 final regulations were published in the **Federal Register** on May 29, 1992 (57 FR 22940). The Program has subsequently amended these regulations 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 242.1-28 and 50 CFR 100.1-28, 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 public members participate in the development of regulations for subparts C and D, which, among other things, set forth program eligibility and specific harvest seasons and limits.

In administering the program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Regional Advisory Council. The Regional Advisory 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 Regional Advisory Council members represent varied geographical, cultural, and user interests within each region.

**Public Review Process—Comments, Proposals, and Public Meetings**

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

- Region 1—Southeast Regional Council, Yakutat, March 17, 2015
- Region 2—Southcentral Regional Council, Anchorage, February 18, 2015
- Region 3—Kodiak/Aleutians Regional Council, Kodiak, February 10, 2015
- Region 4—Bristol Bay Regional Council, Naknek, February 24, 2015
- Region 5—Yukon-Kuskokwim Delta Regional Council, Bethel, February 25, 2015
- Region 6—Western Interior Regional Council, Fairbanks, March 3, 2015
- Region 7—Seward Peninsula Regional Council, Nome, February 18, 2015
- Region 8—Northwest Arctic Regional Council, Kotzebue, March 9, 2015
- Region 9—Eastern Interior Regional Council, Fairbanks, March 4, 2015
- Region 10—North Slope Regional Council, Barrow, March 17, 2015

During April 2015, the written proposals to change the subpart D, take of wildlife regulations, and subpart C, customary and traditional use determinations, will be compiled and distributed for public review. During the 45-day public comment period, which is presently scheduled to end on May 15, 2015, written public comments will be accepted on the distributed proposals.

The Board, through the Regional Advisory Councils, will hold a second series of public meetings in August through October 2015, to receive comments on specific proposals and to develop recommendations to the Board at the following locations in Alaska, on the following dates:

- Region 1—Southeast Regional Council, Petersburg, October 13, 2015
- Region 2—Southcentral Regional Council, Seldovia, October 20, 2015
- Region 3—Kodiak/Aleutians Regional Council, Adak, September 25, 2015
- Region 4—Bristol Bay Regional Council, Dillingham, October 27, 2015
- Region 5—Yukon-Kuskokwim Delta Regional Council, TBD, October 7, 2015
- Region 6—Western Interior Regional Council, Kaltag, November 3, 2015
- Region 7—Seward Peninsula Regional Council, Nome, October 14, 2015
- Region 8—Northwest Arctic Regional Council, Buckland, October 6, 2015
- Region 9—Eastern Interior Regional Council, Fairbanks, October 29, 2015
- Region 10—North Slope Regional Council, Kaktovik, November 3, 2015

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

The Board will discuss and evaluate proposed changes to the subsistence management regulations during a public meeting scheduled to be held in Anchorage, Alaska, in April 2016. The Federal Subsistence Regional Advisory Council Chairs, or their designated representatives, will present their respective Councils' recommendations at the Board meeting. Additional oral testimony may be provided on specific proposals before the Board at that time. At that public meeting, the Board will deliberate and take final action on proposals received that request changes to this proposed rule.

Proposals to the Board to modify the general fish and wildlife regulations, wildlife harvest regulations, and

customary and traditional use determinations must include the following information:

- a. Name, address, and telephone number of the requestor;
- b. Each section and/or paragraph designation in this proposed rule for which changes are suggested, if applicable;
- c. A description of the regulatory change(s) desired;
- d. A statement explaining why each change is necessary;
- e. Proposed wording changes; and
- f. Any additional information that you believe will help the Board in evaluating the proposed change.

The Board immediately rejects proposals that fail to include the above information, or proposals that are beyond the scope of authorities in § \_\_\_.24, subpart C (the regulations governing customary and traditional use determinations), and §§ \_\_\_.25 and \_\_\_.26, subpart D (the general and specific regulations governing the subsistence take of wildlife). If a proposal needs clarification, prior to being distributed for public review, the proponent may be contacted, and the proposal could be revised based on their input. Once distributed for public review, no additional changes may be made as part of the original submission. During the April 2016 meeting, the Board may defer review and action on some proposals to allow time for cooperative planning efforts, or to acquire additional needed information. The Board may elect to defer taking action on any given proposal if the workload of staff, Regional Advisory Councils, or the Board becomes excessive. These deferrals may be based on recommendations by the affected Regional Advisory Council(s) or staff members, or on the basis of the Board's intention to do least harm to the subsistence user and the resource involved. A proponent of a proposal may withdraw the proposal provided it has not been considered, and a recommendation has not been made, by a Regional Advisory Council. The Board may consider and act on alternatives that address the intent of a proposal while differing in approach.

You may submit written comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. If you submit a comment via <http://www.regulations.gov>, your entire comment, including any personal identifying information, will be posted on the Web site. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from

public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy comments on <http://www.regulations.gov>.

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

#### *Reasonable Accommodations*

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

#### *Tribal Consultation and Comment*

As expressed in Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments," the Federal officials that have been delegated authority by the Secretaries are committed to honoring the unique government-to-government political relationship that exists between the Federal Government and Federally Recognized Indian Tribes (Tribes) as listed in 79 FR 4748 (January 29, 2014). Consultation with Alaska Native corporations is based on Public Law 108-199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108-447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: "The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175."

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

The Board will engage in outreach efforts for this rule, including a notification letter, to ensure that Tribes and Alaska Native corporations are advised of the mechanisms by which they can participate. The Board provides a variety of opportunities for consultation: proposing changes to the

existing rule; commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process. The Board commits to efficiently and adequately providing an opportunity to Tribes and Alaska Native corporations for consultation in regard to subsistence rulemaking.

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

#### **Developing the 2016-17 and 2017-18 Wildlife Seasons and Harvest Limit Regulations**

Subpart C and D regulations are subject to periodic review and revision. The Federal Subsistence Board currently completes the process of revising subsistence take of wildlife regulations in even-numbered years and fish and shellfish regulations in odd-numbered years; public proposal and review processes take place during the preceding year. The Board also addresses customary and traditional use determinations during the applicable cycle.

Applicable portions of the regulations in the final rules that published June 13, 2012 (77 FR 35482), and June 19, 2014 (79 FR 35232), for the 2012-2014 and 2014-16 subparts C and D regulations constitute the text of the regulations in this proposed rule. The June 2012 rule sets forth the proposed text for § \_\_\_.25, and the June 2014 rule sets for the proposed text for §§ \_\_\_.24 and \_\_\_.26. These regulations will remain in effect until subsequent Board action changes elements as a result of the public review process outlined above in this document.

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

##### *National Environmental Policy Act*

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

regulatory cycle for subsistence regulations.

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

#### *Section 810 of ANILCA*

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

During the subsequent environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of this rule was conducted in accordance with § 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 § 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 proposed 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 242 and 50 CFR 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 reviewed this rule and 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 no cost will be 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 §§ 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

#### *Executive Order 13132*

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

#### *Executive Order 13175*

The Alaska National Interest Lands Conservation Act, Title VIII, does not provide specific rights to tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Board will provide Federally recognized Tribes and Alaska Native corporations an opportunity 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, will provide a variety of opportunities for consultation: commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Council meetings; engaging in dialogue

at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process.

#### Executive Order 13211

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

#### Drafting Information

Theo Matuskowitz drafted these 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
- Steve Kessler and Thomas Whitford, Alaska Regional Office, U.S. Forest Service.

#### List of Subjects

##### 36 CFR Part 242

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

##### 50 CFR Part 100

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

#### Proposed Regulation Promulgation

For the reasons set out in the preamble, the Federal Subsistence Board proposes to amend 36 CFR part 242 and 50 CFR part 100 for the 2016–17 and 2017–18 regulatory years. The text of the proposed amendments to 36 CFR 242.24 and 242.26 and 50 CFR 100.24 and 100.26 is the final rule for the 2014–16 regulatory period (79 FR 35232; June 19, 2014). The text of the proposed amendments to 36 CFR 242.25 and 50 CFR 100.25 is the final rule for the 2012–2014 regulatory period (77 FR 35482; June 13, 2012).

Dated: December 12, 2014.

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

Dated: December 15, 2014.

**Steve Kessler,**  
Subsistence Program Leader, USDA–Forest Service.

[FR Doc. 2015–00425 Filed 1–13–15; 8:45 am]

**BILLING CODE 3410–11–P; 4310–55–P**

#### POSTAL SERVICE

##### 39 CFR Part 111

#### Clarification of Content Eligibility for Standard Mail Marketing Parcels

**AGENCY:** Postal Service.™

**ACTION:** Proposed rule.

**SUMMARY:** The Postal Service proposes to clarify *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) to reaffirm basic eligibility standards for Standard Mail Marketing Parcels.

**DATES:** Submit comments on or before February 13, 2015.

**ADDRESSES:** Mail or deliver written comments to the Manager, Product Classification, U.S. Postal Service, 475 L'Enfant Plaza SW., Room 4446, Washington, DC 20260–5015. You may inspect and photocopy all written comments at USPS Headquarters Library, 475 L'Enfant Plaza SW., 11th Floor North, Washington, DC, by appointment only, between 9 a.m. and 4 p.m., Monday through Friday by calling 202–268–2906 in advance. Email comments, containing the name and address of the commenter, may be sent to: [ProductClassification@usps.gov](mailto:ProductClassification@usps.gov), with a subject line of “Marketing Parcels.” Faxed comments are not accepted.

**FOR FURTHER INFORMATION CONTACT:** Lizbeth Dobbins at 202–268–3789, John F. Rosato at 202–268–8597, or Suzanne Newman at 202–695–0550.

**SUPPLEMENTARY INFORMATION:** To ensure consistency and clarity about the content eligibility of Standard Mail Marketing Parcels, the Postal Service recently published an article in *Postal Bulletin* 22406 (January 8, 2015) to remind customers about the basic eligibility and address format standards for this classification of mail.

#### Background

Standard Mail Marketing Parcels were specifically designed for mailers to send items or samples to potential customers. Our original intent was to build a low

cost prospecting vehicle and we built in a few factors to minimize handling costs. One of those factors, the alternative addressing format, was required so that the current resident became the recipient of the mailpiece if the named addressee had moved. This avoided extra delivery and forwarding handling costs. Another was that these pieces needed to be similar in shape and weight if mailed in a single mailing. Other types of size restrictions were also a requirement.

Building upon our original intent, and to keep this product a viable promotional and cost-effective vehicle, we are adding stronger language about content eligibility and address format. All Standard Marketing parcels (regular and nonprofit) must bear an alternate addressing format and cannot be used for “fulfillment purposes” (*i.e.* the sending of items specifically purchased or requested by the customer of a mailer). The one exception will be if a customer selects samples as a result of an ordering mechanism and the samples are sent in a separate package and not inside the same package as the fulfillment item. Moreover, the alternate address format must be on the same line as the addressee's name, or on the address line directly above or below the addressee's name.

We look forward to feedback from the mailing community to help maintain Standard Mail Marketing Parcels as a viable, cost-effective product.

#### List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Although we are exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), we invite public comments on the following proposed revisions to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1. Accordingly, 39 CFR part 111 is proposed to be amended as follows:

#### PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), as follows:



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

## Federal Subsistence Board News Release



Forest Service

### For Immediate Release

January 9, 2015

### Contact:

Durand Tyler  
(907) 786-3886 or (800) 478-1456  
durand\_tyler@fws.gov

### Notice of Funding Availability for the 2016 Fisheries Resource Monitoring Program March 11, 2015 is the Deadline to Submit Project Proposals

The Office of Subsistence Management's Fisheries Resource Monitoring Program is seeking technically sound proposals that gather information to manage and conserve subsistence fishery resources on Federal public lands and waters in Alaska.

Proposals that provide information needed for subsistence fisheries management on Federal public lands and waters in Alaska (National Wildlife Refuges, National Forests, National Parks and Preserves, National Conservation Areas, National Wild and Scenic River Systems, National Petroleum Reserves, and National Recreation Areas) will be considered.

The Request for Proposal # F15AS00052 has been posted to [www.grants.gov/web/grants/search-grants.html](http://www.grants.gov/web/grants/search-grants.html). The full application package, including a complete list of priority information needs and issues, is available on the Federal Subsistence Management Program Website at [www.doi.gov/subsistence/monitor/fisheries/applying-for-funding.cfm](http://www.doi.gov/subsistence/monitor/fisheries/applying-for-funding.cfm)

Proposals must be submitted to the Office of Subsistence Management no later than **March 11, 2015, 5:00 PM Alaska standard time.**

For additional information, please contact Durand Tyler at the Office of Subsistence Management at (800) 478-1456 or (907) 786-3886.

###

## ANNUAL REPORTS

### **Background**

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

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

### **Report Content**

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

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

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

### **Report Clarity**

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

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

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

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

### **Report Format**

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

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

**North Slope Subsistence Regional Advisory Council**  
**c/o U.S. Fish and Wildlife Service**  
**1011 East Tudor Road, MS 121**  
**Anchorage, Alaska 99503**  
**Phone: (907) 786- 3888, Fax: (907) 786-3898**

Mr. Tim Towarak, Chairman  
Federal Subsistence Board  
1011 East Tudor Road, MS 121  
Anchorage, Alaska 99503

Dear Chairman Towarak:

The North Slope Subsistence Regional Advisory Council (Council) appreciates the opportunity to submit this annual report to the Federal Subsistence Board (Board) under Section 805(a) (3)(D) of the Alaska National Interest Lands Conservation Act (ANILCA). At its public meeting on August 19 - 20, 2014 in Barrow, Alaska, the Council identified these concerns and recommendations for its fiscal year 2014 report.

**1. The need for a public workshop on ANILCA and specifically ANILCA Section 804 determinations and how customary and traditional use is applied in the Federal Management Program.**

The Council would like to more fully understand and be actively engaged in aspects of the Federal Subsistence Management Program policy and functional process of ANILCA in order to better aid subsistence management with local knowledge and affect the outcome of regulatory determinations. The Council would also like more public engagement in the Federal Subsistence Management Program and Regional Advisory Council process. An in-depth workshop organized on ANILCA and the Federal subsistence policy and process would be most beneficial to the Council. The Council also believes if this workshop were organized as a joint Council/public training opportunity, it would help rural residents understand and become engaged in subsistence management and increase participation at Regional Advisory Council meetings or development of proposals.

**2. Wildlife Special Action Closures – request for ongoing research and earlier communications on declining animal populations.**

The Council was taken by surprise on several wildlife special action closures this year that had very short public notice. The Council strongly recommends advance communications and ongoing information sharing and networking long before conservation problems arise requiring

an emergency or temporary special action closure. In particular this year, only 48 hours public notice was provided to affected communities and Tribes prior to the closure of sheep hunting in Unit 23 and western Unit 26A.

The Council has representatives from this region that are very knowledgeable about sheep and habitat limitations in the area affected by the special action. Tribes also commented on their knowledge of population trends, observations of reproductive success, and environmental conditions that may affect health and survival and yet were not consulted or communicated with prior to the closure. Communities that hunt in the area could have provided indications of environmental stressors and possible declines in the population prior to reaching the crisis level, since aerial surveys are only able to be conducted under good weather conditions. Both the Council and Tribes in the region encourage sharing information on an ongoing basis between biologists, managers, and the communities. This will help create more robust, informed management by combining local knowledge and expertise with scientific data. Ongoing communication and collaboration will also help build trust and communities would have an opportunity to initiate conservation measures themselves which may generate stronger support from the community if they are initiated by elders and community leaders.

### **3. Food Security.**

The Council is concerned about food security for the communities it serves. In just the past year in the North Slope region, there have been several wildlife special actions closing subsistence hunts for moose and sheep, as well as ongoing closures for muskox. It also seems increasingly likely that there will be conservation actions required that will affect subsistence harvest of the Western Arctic and Teshekpuk caribou herds. Some communities are experiencing declining catches of whitefish and Dolly Varden char. Subsistence resources managed by other Federal agencies such as walrus are also experiencing decline or shifting migration patterns that pose hardship to many communities. Ongoing industrial development in the National Petroleum Reserve-Alaska and other oil, gas, mining, and roads development in the region also has an impact on subsistence wildlife and fish resources in areas where communities traditionally hunt and gather. Climate change impacts are also being felt by many communities with changes to lands and waters that support subsistence resources and activities. The Council would like to engage with the Federal Subsistence Management Program to discuss these declines to subsistence resources and begin to work on strategies for possible flexible management actions. The Council is seeking ways to manage so that in times of shortage of one or more subsistence resources, other options might be available that will help support families and communities to meet their subsistence needs.

### **4. The importance of holding Council meetings in villages.**

The Council would like to express appreciation for the opportunity to meet in the community of Nuiqsut at the fall 2014 Council meeting. The Council was greatly encouraged by the high level of local participation in the meeting. Council and community members alike expressed just how much they learned from each other and the opportunity to participate directly in subsistence management. The Council would like to reiterate just how important it is to meet in rural

communities throughout the region.

Regional Advisory Council members are appointed to represent the whole region, not just the communities where they live or where meetings occur. Budget restrictions that have limited the Council to holding meetings only in hub communities – and in this Council’s case, only one community – has greatly hindered the ability of the Council to hear from and network directly with the rural communities its members serve. The Federal Subsistence Management Program and the Regional Advisory Councils are established under ANILCA to serve rural communities, and the travel budget needs to be adjusted in order to fulfill that mandate. Additionally, travel related to Council meetings should not be subject to the cap on travel budgets, as Council meetings are mandated by law.

Several communities have requested that the Council conduct a meeting in their village to directly address their subsistence concerns. The Council strongly feels it should meet in each of the communities in the region over time to hear and learn directly from the rural residents there and also facilitate public participation that the Federal Subsistence Management Program and Council meetings are intended to have. At a minimum, the Council requests to be able to hold meetings in a community other than Barrow once a year.

At this time there are several North Slope Region communities that are facing hardship due to declines in subsistence resources and industrial activities that have deflected caribou migration routes further from communities. The Council requests to meet in Kaktovik in the fall of 2015 in order to address management approaches to these issues.

#### **5. The importance of education and outreach for the subsistence program, including youth involvement.**

The Council would like to see the Federal Subsistence Management Program engage in more networking and outreach directly with rural communities throughout the region. This overlaps with several other requests the Council has to be more effective and engaged locally. In addition to holding meetings in rural communities, the Council would like to see more solicitation of feedback from communities who have a lot of knowledge and expertise to contribute to the understanding of fish and wildlife management. The Council would also like to see more direct consultation with Tribes on subsistence matters that affect them.

The Council suggests public workshops in conjunction with Council meetings, a booth at the Kivgiq festival to provide subsistence program information and encourage applications to the Council (Kivgiq is the special whaling festival/ “Messenger Feast” held in Barrow where everyone comes across the region to celebrate subsistence). If in-person meetings are not possible, more could be done through utilizing the local radio stations for informational announcements.

The Council is particularly interested in active programs in the school system to engage youth in subsistence and would like to develop a Council/student mentorship program to share their experience and to help foster knowledgeable subsistence leaders for the future. The Council would like to see much more community partnerships developed through the Fisheries Resource

Monitoring Program with directed youth opportunities and /or biology work (such as summer youth research internships in conjunction with FRMP).

**6. Establishment of safety cabins for subsistence activities in remote access areas on Federal Lands.**

The Council addressed this in its annual report two years ago and would like to revisit the request and inquire if the Interagency Staff Committee could research options that exist for public use safety cabins on Federal lands of the agencies they each represent. The Council feels the response in the previous letter was not an adequate effort by the Federal land management representatives to look into the policies and options regarding this request. In the North Slope Region, subsistence activities are conducted across a vast area including Bureau of Land Management, National Wildlife Refuge, and National Park Service lands.

Changing weather conditions in recent years have brought about increasingly frequent and severe storms as well as changing land and water conditions, making travel more hazardous during times when subsistence harvests occur. Strategic placement public use safety cabins could assist local hunters in conducting normal seasonal subsistence activities with some opportunity for safety during increasingly unpredictable and inclement weather. The Council also seeks suggestions for possible sources of funding to build such cabins.

**7. The importance of a holistic approach to research, e.g., funding comprehensive ethnographic research – effective means for addressing subsistence information, management and community concerns.**

The Council brought these concerns before the Board in its Annual Report last year and appreciates the Board's response. However, the Council would like to revisit and raise awareness about these concerns and engage in further discussion with the Board on approaches to more effective subsistence management. The Council would like to explore opportunities for pursuing comprehensive ethnographic research that may lead to a more holistic approach to subsistence management.

The Council works diligently to attend to the subsistence issues and concerns of North Slope Region communities. Yet, the Council is greatly challenged in the limited scope of the Federal Subsistence Management Program addressing only fish and wildlife management on Federal public lands. Subsistence foods and the subsistence way of life are holistic and integral to the community and culture of the region. Many Council members are engaged in subsistence management and advisory bodies on many levels in order to encompass all critical subsistence issues.

While the Council recognizes the limitations of the authority of the Federal Subsistence Board due to the current structure of the Federal and State laws that govern natural resource management, the Council does ask for greater understanding and awareness of the integrated nature of subsistence in the lives of people in the North Slope region. There are several aspects that the Federal Subsistence Management Program can be more engaged in to better support the

concerns of the Council and community:

- 1) Better understanding of local culture and communication norms and support to the Council and public in this regard.
- 2) Greater consideration and inclusion of local and traditional knowledge in subsistence management. Council members are appointed based on their expert knowledge of the region and long-term engagement with subsistence, please consider information shared by the Council, Tribes, and local public carefully in drafting proposal analyses and in management decision making.
- 3) Understanding and awareness of the interaction of all subsistence foods and activities. For example, while the Federal Subsistence Board cannot directly address marine walrus or whale harvests, when these important subsistence foods are not able to be harvested then there is a greater need for other foods such as caribou and fish to sustain communities for the year. They are interrelated – impacts to one affect the need and subsequent management of another.
- 4) Understanding and awareness of the interaction between industrial development and subsistence activities. While the Federal Subsistence Board does not have direct jurisdiction over development activities on the North Slope, impacts to subsistence foods on Federal lands is a direct concern of the program in that barriers to migratory routes, disturbance that deflects or stresses animals, or contaminants that may impact subsistence foods all have direct bearing on access, harvest, and safe consumption of important subsistence foods that the federal program does manage.
- 5) Awareness and monitoring of climate change impacts to subsistence. The Federal Subsistence Management Program does have a directive to monitor the impacts of climate change. The Council and communities have shared observations and experiences of changes to the North Slope region lands, waters, and weather that are already impacting subsistence activities, safe access, timing, and changes to critical habitat for many important subsistence species managed by the program. The Council asks for awareness on how these changes impact subsistence (e.g. flexible management approaches that can accommodate changing timing of subsistence activities due to storm severity or ice up/break-up or seasonality of harvest due to changing timing of migrations or rut) greater support and networking to monitor climate change and address research priorities identified by the Council.

Thank you for the opportunity for this Council to assist the Federal Subsistence Management Program to meet its charge of protecting subsistence resources and uses of these resources on Federal Public lands and waters. We look forward to continuing discussions about the issues and concerns of subsistence users of the North Slope Region. If you have any questions regarding this correspondence, please contact Eva Patton, Subsistence Council Coordinator, Office of Subsistence Management at 1-800-478-1456 or (907) 786-3358.

Sincerely,

Harry K. Brower, Chair

cc: North Slope Subsistence Regional Advisory Council  
Federal Subsistence Board  
Eugene R. Peltola, Jr., Assistant Regional Director, OSM  
Chuck Ardizzone, Acting Deputy Assistant Regional Director, OSM  
Carl Johnson, Council Coordination Division Chief, OSM  
Interagency Staff Committee  
Administrative Record

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

**North Slope Subsistence Regional Advisory Council**

**Charter**

1. **Committee's Official Designation.** The Council's official designation is the North Slope Subsistence Regional Advisory Council (Council).
2. **Authority.** The Council is reestablished by virtue of the authority set out in the Alaska National Interest Lands Conservation Act (16 U.S.C. 3115 (1988)) Title VIII, and under the authority of the Secretary of the Interior, in furtherance of 16 U.S.C. 410hh-2. The Council is established in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., Appendix 2.
3. **Objectives and Scope of Activities.** The objective of the Council is to provide a forum for the residents of the region with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal lands and waters in the region.
4. **Description of Duties.** The Council possesses the authority to perform the following duties:
  - a. Recommend the initiation of, review, and evaluate proposals for regulations, policies, management plans, and other matters relating to subsistence uses of fish and wildlife on public lands within the region.
  - b. Provide a forum for the expression of opinions and recommendations by persons interested in any matter related to the subsistence uses of fish and wildlife on public lands within the region.
  - c. Encourage local and regional participation in the 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. Appoint one member to the Gates of the Arctic National Park Subsistence Resource Commission in accordance with Section 808 of the Alaska National Interest Lands Conservation Act (ANILCA).
  - f. Make recommendations on determinations of customary and traditional use of subsistence resources.
  - g. Make recommendations on determinations of rural status.
  - h. Provide recommendations on the establishment and membership of Federal local advisory committees.
5. **Agency or Official to Whom the Council Reports.** The Council reports to the Federal Subsistence Board Chair, who is appointed by the Secretary of the Interior with the concurrence of the Secretary of Agriculture.
  6. **Support.** The U.S. Fish and Wildlife Service will provide administrative support for the activities of the Council through the Office of Subsistence Management.
  7. **Estimated Annual Operating Costs and Staff Years.** The annual operating costs associated with supporting the Council’s functions are estimated to be \$120,000, including all direct and indirect expenses and 0.9 staff years.
  8. **Designated Federal Officer.** The DFO is the Subsistence Council Coordinator for the region or such other Federal employee as may be designated by the Assistant Regional Director – Subsistence, Region 7, U.S. Fish and Wildlife Service. The DFO is a full-time Federal employee appointed in accordance with Agency procedures. The DFO will:
    - Approve or call all of the advisory committee’s and subcommittees’ meetings,
    - Prepare and approve all meeting agendas,
    - Attend all committee and subcommittee meetings,
    - Adjourn any meeting when the DFO determines adjournment to be in the public interest, and
    - Chair meetings when directed to do so by the official to whom the advisory committee reports.

9. **Estimated Number and Frequency of Meetings.** The Council will meet 1-2 times per year, and at such times as designated by the Federal Subsistence Board Chair or the DFO.
10. **Duration.** Continuing.
11. **Termination.** The Council will terminate 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 4-year terms. If no successor is appointed on or prior to the expiration of a member's term, then the incumbent member may continue to serve until the new appointment is made or 120 days past the expiration of term, whichever is sooner. A vacancy on the Council will be filled by an appointed alternate, if available, or 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, a Vice-Chair, and a 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 may

participate in any specific party matter in which the member has a direct financial interest in a lease, license, permit, contract, claim, agreement, or related litigation with the Department.

14. **Subcommittees.** Subject to the DFO's approval, subcommittees may be formed for the purposes of compiling information or 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. The Council Chair, with the approval of the DFO, will appoint subcommittee members. Subcommittees will meet as necessary to accomplish their assignments, subject to the approval of the DFO and the availability of resources.
  
15. **Recordkeeping.** Records of the Council, and formally and informally established subcommittees or other subgroups of the Council, must be handled in accordance with General Records Schedule 26, Item 2, or 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

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Date Filed

## Fall 2015 Regional Advisory Council Meeting Calendar

August–November 2015

Meeting dates and locations are subject to change.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Aug. 16	Aug. 17 <b>WINDOW OPENS</b>	Aug. 18	Aug. 19	Aug. 20	Aug. 21	Aug. 22
Aug. 23	Aug. 24	Aug. 25	Aug. 26	Aug. 27	Aug. 28	Aug. 29
Aug. 30	Aug. 31	Sept. 1	Sept. 2	Sept. 3	Sept. 4	Sept. 5
Sept. 6	Sept. 7 <b>HOLIDAY</b>	Sept. 8	Sept. 9	Sept. 10	Sept. 11	Sept. 12
Sept. 13	Sept. 14	Sept. 15	Sept. 16	Sept. 17	Sept. 18	Sept. 19
Sept. 20	Sept. 21	Sept. 22	Sept. 23	Sept. 24	Sept. 25	Sept. 26
					<b>K/A—Adak</b>	
Sept. 27	Sept. 28	Sept. 29	Sept. 30 <i>End of Fiscal Year</i>	Oct. 1	Oct. 2	Oct. 3
Oct. 4	Oct. 5	<b>NWA—Buckland (tent.)</b>		Oct. 8	Oct. 9	Oct. 10
			<b>YKD—TBA</b>			
Oct. 11	Oct. 12	Oct. 13	Oct. 14	Oct. 15	Oct. 16	Oct. 17
		<b>SE—Petersburg</b>				
			<b>SP—Nome</b>			
Oct. 18	Oct. 19	Oct. 20	Oct. 21	Oct. 22	Oct. 23	Oct. 24
		<b>SC - Seldovia</b>				
Oct. 25	Oct. 26	Oct. 27	Oct. 28	Oct. 29	Oct. 30	Oct. 31
		<b>BB - Dillingham</b>		<b>EI - Fairbanks</b>		
Nov. 1	Nov. 2	Nov. 3	Nov. 4	Nov. 5	Nov. 6	Nov. 7
		<b>WI - Kaltag</b>			<b>WINDOW CLOSSES</b>	
		<b>NS—Kaktovik (tent.)</b>				

## **Subsistence Regional Advisory Council Correspondence Policy**

The Federal Subsistence Board (Board) recognizes the value of the Regional Advisory Councils' role in the Federal Subsistence Management Program. The Board realizes that the Councils must interact with fish and wildlife resource agencies, organizations, and the public as part of their official duties, and that this interaction may include correspondence. Since the beginning of the Federal Subsistence Program, Regional Advisory Councils have prepared correspondence to entities other than the Board. Informally, Councils were asked to provide drafts of correspondence to the Office of Subsistence Management (OSM) for review prior to mailing. Recently, the Board was asked to clarify its position regarding Council correspondence. This policy is intended to formalize guidance from the Board to the Regional Advisory Councils in preparing correspondence.

The Board is mindful of its obligation to provide the Regional Advisory Councils with clear operating guidelines and policies, and has approved the correspondence policy set out below. The intent of the Regional Advisory Council correspondence policy is to ensure that Councils are able to correspond appropriately with other entities. In addition, the correspondence policy will assist Councils in directing their concerns to others most effectively and forestall any breach of department policy.

The Alaska National Interest Lands Conservation Act, Title VIII required the creation of Alaska's Subsistence Regional Advisory Councils to serve as advisors to the Secretary of the Interior and the Secretary of Agriculture and to provide meaningful local participation in the management of fish and wildlife resources on Federal public lands. Within the framework of Title VIII and the Federal Advisory Committee Act, Congress assigned specific powers and duties to the Regional Advisory Councils. These are also reflected in the Councils' charters. (*Reference: ANILCA Title VIII §805, §808, and §810; Implementing regulations for Title VIII, 50 CFR 100 .11 and 36 CFR 242 .11; Implementing regulations for FACA, 41 CFR Part 102-3.70 and 3.75*)

The Secretaries of Interior and Agriculture created the Federal Subsistence Board and delegated to it the responsibility for managing fish and wildlife resources on Federal public lands. The Board was also given the duty of establishing rules and procedures for the operation of the Regional Advisory Councils. The Office of Subsistence Management was established within the Federal Subsistence Management Program's lead agency, the U.S. Fish and Wildlife Service, to administer the Program. (*Reference: 36 CFR Part 242 and 50 CFR Part 100 Subparts C and D*)

### **Policy**

1. The subject matter of Council correspondence shall be limited to matters over which the Council has authority under §805(a)(3), §808, §810 of Title VIII, Subpart B §\_\_.11(c) of regulation, and as described in the Council charters.
2. Councils may, and are encouraged to, correspond directly with the Board. The Councils are advisors to the Board.
3. Councils are urged to also make use of the annual report process to bring matters to the

Board's attention.

4. As a general rule, Councils discuss and agree upon proposed correspondence during a public meeting. Occasionally, a Council chair may be requested to write a letter when it is not feasible to wait until a public Council meeting. In such cases, the content of the letter shall be limited to the known position of the Council as discussed in previous Council meetings.
5. Except as noted in Items 6, 7, and 8 of this policy, Councils will transmit all correspondence to the Assistant Regional Director (ARD) of OSM for review prior to mailing. This includes, but is not limited to, letters of support, resolutions, letters offering comment or recommendations, and any other correspondence to any government agency or any tribal or private organization or individual.
  - a. Recognizing that such correspondence is the result of an official Council action and may be urgent, the ARD will respond in a timely manner.
  - b. Modifications identified as necessary by the ARD will be discussed with the Council chair. Councils will make the modifications before sending out the correspondence.
6. Councils may submit written comments requested by Federal land management agencies under ANILCA §810 or requested by regional Subsistence Resource Commissions (SRC) under §808 directly to the requesting agency. Section 808 correspondence includes comments and information solicited by the SRCs and notification of appointment by the Council to an SRC.
7. Councils may submit proposed regulatory changes or written comments regarding proposed regulatory changes affecting subsistence uses within their regions to the Alaska Board of Fisheries or the Alaska Board of Game directly. A copy of any comments or proposals will be forwarded to the ARD when the original is submitted.
8. Administrative correspondence such as letters of appreciation, requests for agency reports at Council meetings, and cover letters for meeting agendas will go through the Council's regional coordinator to the appropriate OSM division chief for review.
9. Councils will submit copies of all correspondence generated by and received by them to OSM to be filed in the administrative record system.
10. Except as noted in Items 6, 7, and 8, Councils or individual Council members acting on behalf of or as representative of the Council may not, through correspondence or any other means of communication, attempt to persuade any elected or appointed political officials, any government agency, or any tribal or private organization or individual to take a particular action on an issue. This does not prohibit Council members from acting in their capacity as private citizens or through other organizations with which they are affiliated.

Approved by the Federal Subsistence Board on June 15, 2004.



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