



SOUTHEAST ALASKA SUBSISTENCE  
REGIONAL ADVISORY COUNCIL

*March 17-19, 2015*  
*Sitka, Alaska*



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

An impressive brown bear looks back after a steep climb.



USFWS

**SOUTHEAST ALASKA SUBSISTENCE REGIONAL ADVISORY COUNCIL**

Meeting Dates: March 17-19, 2015.  
Start time: 11:00 a.m. March 17; 9 a.m. March 18-19  
Sitka Tribal Community House  
200 Katlian Street  
Sitka, Alaska 99835

**TELECONFERENCE:** call the toll free number: 1-866560-5984, then when prompted enter the passcode: 12960066

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

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

**AGENDA**

\*Asterisk identifies action item.

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

**10. Old Business (Chair)**

- a. Rural Determination Process Review – Secretarial Proposed Rule\* (OSM)..... Supplement
- b. Customary & Traditional Use Determination – Southeast Council Proposal (OSM)..... 20
- c. Update on the Kootznoowoo Inc. Petition for Extended Federal Jurisdiction (Forest Service)
- d. National Park Service *Subsistence Collections and Uses of Shed or Discarded Animal Parts and Plants from Park Areas in Alaska*\*(NPS)..... 58
- e. Update on the Stikine River Subsistence Fishery (Robert Larson) ..... Supplement

**11. New Business (Chair)**

- a. Wildlife Stock Status Review & Summary of Board of Game Actions (Jeff Reeves) ..... Supplement
- b. Call for Federal Hunting and Trapping Regulatory Proposals\*(Terry Suminski) ..... 61
- c. Funding Notification – Fisheries Resource Monitoring Program (Terry Suminski) ..... 67
- d. Review and Approve FY2014 Annual Report\* (Robert Larson) ..... 70
- e. Charter Revisions\* (Robert Larson) ..... 73

**12. Agency Reports**

- Tribal Governments
- Native Organizations
- USFS
  - Fisheries Stock Status and Review of Special Actions
  - Tongass Land Management Plan Revision
- NPS
- ADF&G
- OSM

**13. Future Meeting Dates**

- Confirm date and location of fall 2015 meeting\* ..... 77
- Winter 2016 All-Council Meeting Update (Meeting Committee)

**14. Closing Comments**

**15. Adjourn (Chair)**

**To teleconference** into the meeting, call the toll free number: 1-866-560-5984, then when prompted enter the passcode: 12960066.

*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 Robert Larson, 907-772-5930, robertlarson@fs.fed.us, or 800-877-8339 (TTY), by close of business on March 9, 2015.

## REGION 1

### Southeast Alaska Subsistence Regional Advisory Council

Seat	Year Appointed <i>Term Expires</i>	Member Name and Community
1	2013 <b>2016</b>	<b>Arthur M. Bloom</b> Tenakee Springs
2	2004 <b>2016</b>	<b>Frank G. Wright Jr.</b> Hoonah
3	1993 <b>2016</b>	<b>Patricia A. Phillips</b> Pelican
4	2000 <b>2016</b>	<b>Michael A. Douville</b> Craig
5	2002 <b>2016</b>	<b>Harvey Kitka</b> Sitka <span style="float: right;"><b>Secretary</b></span>
6	2013 <b>2017</b>	<b>Robert F. Schroeder</b> Juneau
7	2014 <b>2017</b>	<b>Albert H. Howard</b> Angoon
8	2002 <b>2017</b>	<b>Donald C. Hernandez</b> Point Baker
9	2012 <b>2015</b>	<b>Kenneth L. Jackson</b> Kake
10	2012 <b>2015</b>	<b>Mr. Aaron T. Isaacs, Jr.</b> Klawock
11	2010 <b>2017</b>	<b>John A. Yeager</b> Wrangell
12	2003 <b>2015</b>	<b>Michael D. Bangs</b> Petersburg <span style="float: right;"><b>Acting Chair</b></span>
13	2009 <b>2015</b>	<b>Cathy A. Needham</b> Juneau

**SOUTHEAST ALASKA SUBSISTENCE REGIONAL ADVISORY COUNCIL**  
James and Elsie Nolan Center  
Wrangell, Alaska  
October 21-23, 2014  
Meeting Minutes

**Location of Meeting:**

James and Elsie Nolan Center, 296 Campbell Drive, Wrangell AK 99929

**Time and Date of Meeting:**

Tuesday October 21, 2014, 9:30 a.m. – Thursday October 23, 2014, 2:45 p.m.

**Call to Order:**

The fall meeting of the Southeast Alaska Subsistence Regional Advisory Council was called to order Tuesday, October 21 at 9:30 a.m. All Council members were present. Aaron Isaacs provided an invocation.

**Review and Adopt Agenda:**

The Council supported a motion (13-0) to accept the Agenda as a guide with the following changes: there will not be a sea otter presentation, appointment of a Wrangell-St. Elias Subsistence Resource Commission and the Chair will appoint State Board of Game and Board of Fisheries workgroups to assist the Council in formulating recommendations on State proposals.

**Attendees:**

The following persons attended some portion of the Southeast Alaska Council meeting either in person or by teleconference, in addition to the Council members.

Andrea Slusser	Wrangell	USFS
Arnold Enge	Petersburg	Petersburg Advisory Committee
Ben VanAlen	Juneau	USFS
Bob Dalrymple	Wrangell	USFS
Brennon Eagle	Wrangell	Wrangell Advisory Committee
Brian Ashton	Wrangell	Public
Cal Casipit	Juneau	USFS
Carl Johnson	Anchorage	OSM
Chris Zimmer	Juneau	Rivers Without Borders
Chuck Ardizzone	Anchorage	OSM
Dan Sharp	Anchorage	BLM
Davin Holen	Anchorage	ADF&G
Dennis Chester	Juneau	USFS

Doug Dobyns	Wrangell	Public
Glenn Chen	Homer	BIA
Greg Wood	Wrangell	Public
James Stough	Wrangell	Public
Jason Anderson	Petersburg	USFS
Jeff Brooks	Anchorage	OSM
Jeff Feldspausch	Sitka	Sitka Tribe of Alaska
Jeff Reeves	Craig	USFS
Jennifer Yuhas	Anchorage	ADF&G
Jill Weitz	Juneau	Trout Unlimited
Jim Capra	Yakutat	NPS
Joe Delabruce	Wrangell	USFS
Justin Koller	Sitka	USFS
Kathy Hansen	Juneau	United Fisherman's Alliance
Kim Covalt	Wrangell	Public
Lauren Sill	Juneau	ADF&G
Matt Kookesh	Angoon	Mayor
Meredith Marchioni	Juneau	ADF&G
Peter Naoroz	Juneau	Kootznoowoo Inc.
Pippa Kenner	Anchorage	OSM
Robert Larson	Petersburg	USFS
Steve Kessler	Anchorage	USFS
Steve Reifentstahl	Sitka	NSRAA
Susan Oehlers	Yakutat	USFS
Susan Wise-Eagle	Wrangell	Public
Terry Suminski	Sitka	USFS

**Review and Approve Previous Meeting Minutes:**

The Council supported a motion (13-0) to approve the March 11-13, 2014 Council meeting minutes with the following amendments: inclusion of the climate change comments from Mary-Ann Mills from the joint council meeting with the Southcentral Council and adding Kathy Hansen as a participant by teleconference.

**Presentation of Service Awards:**

The Office of Subsistence management presented Bert Adams with a certificate for 15 years of service and Frank Wright with a certificate for 10 years of service on the Southeast Alaska Council.

**Council Reports:**

Cathy Needham reported there are an increasing number of climate change studies being conducted. That is very important for anticipating the effects of climate change on subsistence. There are plans for a paralytic shellfish poisoning lab in Sitka by the Sitka Tribe. Many Tribes and other groups are requesting water quality sampling of Transboundary Rivers prior to development of mining activities in Canada. There is a university sponsored study underway on the social effects of the increasing sea otter population on residents of Hydaburg, Klawock and Kake.

Mike Douville is concerned with the threatened and endangered species status for wolves in Unit 2. Wolves are not endangered but can be impacted by road closures, hunting, trapping and timber harvest.

Art Bloom reported that sea otters are now present in Tenakee Inlet.

Ken Jackson informed the council that sea otters are increasing in the vicinity of Kake and researchers are counting them using drone aircraft. Shellfish stocks are disappearing but some hunting is starting. The sockeye salmon stock in Pillar Bay is in jeopardy because beavers are preventing access to the lake. He thinks it unfair that sport fishers can take unlimited amounts of fish while subsistence fishers have annual limits. Many of the moose taken in the Kake area are taken by non-local hunters.

Aaron Isaacs is concerned with that the sockeye salmon stock in Klawock River is becoming less abundant and returning later. The areas where and when they return should be identified protected from harvest. The practice of charter operators harvesting small halibut must be stopped.

Mike Bangs was pleased to report that halibut stocks in the Southeast Alaska Area are healthy and the population is growing. Funding has been secured to rebuild the Crystal Lake Hatchery after it was destroyed by fire. The City and Boroughs of Wrangell and Petersburg are becoming more involved in Transboundary River mining issues.

Harvey Kitka reminded the Council that Sitka Sound herring supply almost all of the subsistence herring spawn for the rest of the Southeast Region. He is concerned with management of the Unit 4 goat hunt; there may be a need for a subsistence hunt. Sea otter populations are building again in Sitka Sound. Transboundary mining is a concern as is discharges from cruise ships. Sockeye salmon stocks need to be monitored.

Bert Adams recognizes there are serious problems in Yakutat due to the increasing sea otter population. Hunting is increasing but the regulations need to be relaxed so it is easier to take sea otters. The moose harvest quota was reduced again this year in the area west of the Dangerous River and the hunt was closed by Special Action. Eulachon were present in the Situk River this year. The Council's recommendations on Federal subsistence wildlife proposals were influential in putting the proposal conclusions on the consensus agenda. The Wrangell-St. Elias Subsistence Resource Commission has been discussing the impacts of off road vehicles on trails within the park, the use of aircraft for sheep hunting, portable motors and how to provide firewood for local residents.

Patty Phillips was pleased to report that deer are abundant near Pelican this year. Seasonal residents of Pelican are more numerous each year and they are causing a problem with habituating bears with food during the summer. Storms are becoming more frequent and violent in the spring and fall, likely due to climate change. The Council needs to keep track of annual report replies. The Council should keep in mind the budget, deference to Councils, and subsistence representation on the North Pacific Fisheries Management Council.

Frank Wright used his boat to catch chum salmon from Excursion Inlet for residents of Hoonah. Deer populations are healthy and moose are becoming more common on Chichagof Island. Halibut are plentiful but there is an educational need for people to learn how to take care of these fish after they are caught. The sea otter issue will be with us forever and will continue to impact subsistence and commercial use of shellfish. Mining activities in this region have the potential for negative impacts to our fisheries resources.

Don Hernandez considered the breach of the tailings dam at Mt. Polly a wake-up call to all residents of the Region to the potential dangers of mining. The new Tongass Advisory Committee is a concern because it is focused entirely on maintaining and improving the timber industry. Deer populations in the central portions of Southeast Alaska are still recovering from the severe winter of 2007-2008. Unguided sport fishing activities at fishing lodges is impacting the halibut and rockfish resources in many locations.

Bob Schroeder reminded the Council of future challenges in implementation of a subsistence management program that was designed to be temporary but is now permanent. The success of the Federal program requires a strong council process to provide recommendations to the entire State. The customary and traditional use determination process is an example where the program adopted carry-over regulations from the State. These regulations now require review with fresh eyes to determine whether the rules should be permanent. The Councils were empowered by Congress and chartered to advise the Board on issues effecting subsistence uses of all wild renewable resources. The quality of recommendations is dependent on having good assessment data and information that is culturally significant.

John Yeager informed the Council of the importance of providing a forum for the residents of Wrangell to discuss management of the Stikine River subsistence salmon fishery. The local moose population is healthy and the hunting season successful. He is concerned with possible negative consequences of mining in Canada.

#### **Old Business:**

##### Customary and Traditional Use Determination Process

Jeff Brooks provided a review of the material provided in the Council book. The process started in 2010 and has been on the Council agendas since that time. There are still three councils that need additional time to consider this issue. There will be a detailed analysis available at the winter council meetings the councils can use as a basis for making additional recommendations to the Board. The Board will then provide a recommendation to the Secretaries. The Southeast Council's recommendations will be highlighted but the State-wide recommendation for review may need to be amended so they can be relevant for all the regions. The Council reauthorized Cathy Needham, Patty Phillips, Don Hernandez and Mike Bangs to work together as representatives of the Council with the Office of Subsistence Management on this issue.

##### Rural Determination Process Review

Chuck Ardizzone informed the Council of Board actions regarding the rural determination process. The Board started the current review process in 2012 and has developed a regulatory change for the Secretaries consideration. The 2007 rule will be in effect if the Secretaries do not implement a new rule prior to 2017. It is likely the Councils will be asked to provide a recommendation soon.

##### Kootznoowoo Inc. Petition to Extend Federal Jurisdiction

Steve Kessler, Cal Casipit and Jennifer Yuhas provided a review of the status of the petition for extraterritorial jurisdiction. The most recent action was completed in 2012 when the Secretaries deferred action for three years to allow for a local solution. The State Board of Fisheries will meet in February 2015 to hear proposals relevant to this issue. What happens next is unclear as the Board of Fisheries actions will need to be evaluated.

**New Business:**

State of Alaska Board of Fisheries Regulatory Proposal Comments

Chairman Adams appointed Mike Bangs, Art Bloom, Aaron Isaacs, Bob Schroeder and Harvey Kitka to a Board of Fisheries workgroup to develop draft recommendations for the council's consideration. The Council provided the following comments to the Alaska Board of Fisheries based on the workgroup's report.

Proposal 148: - Allow for designation of community subsistence harvesters for Hoonah residents, within the adjacent subsistence use area; described in 5AAC 01.716(a)(4).

Current Federal regulations: Federally qualified subsistence users may designate another qualified subsistence user to harvest fish.

Council Position/Recommended Action: **Support with modification to include all species of salmon and commercial fishing gear**

Rationale:

- provides increased opportunity for residents of Hoonah
- provides an opportunity for residents without boats to harvest subsistence fish
- no adverse effect to Federal subsistence users

Proposal 149: - Modify the weekly subsistence salmon fishing schedule for Klawock Inlet, Klawock River, and Klawock Lake, as follows: Change the days of the week in the Klawock River Subsistence Fishery to start at 8:00 a.m. Tuesday and continue until 5:00 p.m. Saturday.

Current Federal regulations: There is no weekly fishing schedule for the Federal subsistence fishery.

Council Position/Recommended Action: **Support**

Rationale:

- provides increased opportunity for subsistence users

Proposal 150: – Close the waters of Klawock River within the waters under Federal jurisdiction.

Current Federal regulations: The Southeast Alaska Subsistence Regional Advisory Council recommended the Federal Subsistence Board close this area to seines and gillnets in July and August.

Council Position/Recommended Action: **Take no action**

Rationale:

- defer to Craig fish and Game Advisory Committee to provide appropriate solution to this pressing conservation concern

Proposal 151: - Close Klawock River to subsistence salmon fishing upstream of the Klawock River Bridge.

Current Federal regulations: The Southeast Alaska Subsistence Regional Advisory Council recommended the Federal Subsistence Board close this area to seines and gillnets in July and August.

Council Position/Recommended Action: **Support**

Rationale:

- defer to the local Craig fish and Game Advisory Committee to provide an appropriate solution to this pressing conservation concern
- restriction is necessary for conservation of sockeye salmon in the Klawock River
- the use of seine and gillnet gear in this area during July and August poses an unacceptable management risk

Proposal 152: - Repeal the outboard motor horsepower restriction for Klawock River

Current Federal regulations: There are no relevant Federal regulations.

Council Position/Recommended Action: **Support with the intent that commercial gear would be prohibited.**

Rationale:

- defer to the local Craig fish and Game Advisory Committee
- increased opportunity for participation in this fishery by local residents

Proposal 153: - Allow subsistence harvest of salmon with purse seine and gillnet gear in the customary and traditional use areas of Districts 12 and 13 near Angoon.

Current Federal regulations: There are no relevant Federal regulations.

Council Position/Recommended Action: **Support with the proposal as potentially modified by residents of Angoon.**

Rationale:

- defer to recommendations made by the local residents of Angoon
- increased opportunity and efficiencies in subsistence fishery by local residents

Proposals 159 and 160: - Establish nonresident annual limits for coho, sockeye, chum, and pink salmon in salt and fresh waters of the Southeast Alaska Area at three times the daily bag limit.

Current Federal regulations: Federal subsistence fisheries generally have possession and annual limits.

Council Position/Recommended Action: **Support.**

Rationale:

- the lack of an annual nonresident limit has the potential of causing conservation concerns in some popular and readily accessible streams
- subsistence users have possession limits for all systems and annual limits for most streams
- it is a recognized principle of fisheries management to cap the number of fish a single person can harvest

#### State of Alaska Board of Game Regulatory Proposal Comments

Chairman Adams appointed Mike Douville, Don Hernandez, Cathy Needham, Ken Jackson and Patty Phillips to serve on a Board of Game workgroup to develop draft recommendations for the council's consideration. The Council provided the following comments to the Alaska Board of Game based on the workgroup's report.

Proposals 1-3 – Open a fall brown bear season for residents in Unit 3.

Current Federal regulations: There is no fall brown bear season in Unit 3.

Council Position/Recommended Action: **Support**

Rationale:

- Provides increased opportunity for Unit 3 rural residents.
- Provides an opportunity to harvest a fall bear for a possible culture camp.
- There appears to be a sustainable population.
- No adverse effect to subsistence users.

Proposal 7 - Modify the definition of a legal moose antler for Units 1B and 3 so points that grow out of the base of the antler shall not be counted when determining legal antlers in the RM038 moose hunt.

Current Federal regulations: There is no similar Federal regulation.

Council Position/Recommended Action: **Support**

Rationale:

- Basal points are hard to see and shouldn't make antlers illegal

Proposal 8 – Establish a resident drawing hunt for goats in Unit 4, Sitka area.

Current Federal regulations: Federal regulations require obtaining a State Registration permit.

Council Position/Recommended Action: **Oppose**

Rationale:

- Reduces opportunity for subsistence users

Proposal 14 – Reduce the harvest level of wolves in Unit 2 from 30% to 20% of the fall population and wounded wolves would count against a hunter's bag limit for the regulatory year.

Current Federal regulations:

Hunting: *Wolf: 5 wolves. Federal hunting and trapping season may be closed when the combined Federal-State harvest quota is reached. Any wolf taken in Unit 2 must be sealed within 14 days of harvest.*

Trapping: *Wolf: No limit. Federal hunting and trapping season may be closed when the combined Federal-State harvest quota is reached. Any wolf taken in Unit 2 must be sealed within 14 days of harvest.*

Council Position/Recommended Action: **Support**

Rationale:

- The Unit 2 wolf population is at an appropriate level.
- 20% harvest provides sufficient management flexibility and control at this time (can change later if needed).
- This action addresses current Threatened and Endangered Species listing concerns.

Proposal 15 – Allow trappers to take beaver in Unit 2 with a firearm.

Current Federal regulations: Firearms are prohibited for taking beaver in Unit 2.

Council Position/Recommended Action: **Support**

Rationale:

- Increases opportunity for subsistence users

Proposal 17 – Increase the resident bag limit for deer on Lincoln, Shelter and Sullivan Islands to six deer of which the last 2 must be male.

Current Federal regulations: The harvest limit for deer in Unit 1C is 4 deer; female deer may be only taken from September 15 through December 31.

Council Position/Recommended Action: **Oppose**

Rationale:

- Would increase competition with subsistence users.
- Long-term effects on population would reduce hunter opportunity.
- Would provide a divergence between Federal and State regulations because the State harvest limit would become more liberal than the Federal subsistence limit.

Proposal 22 – Shift the resident moose season two weeks earlier in Unit 5B, Manby Shore area. The season would change from September 1-December 15 to August 15-December 1.

Current Federal regulations: The moose season for 5B is September 1 through December 15.

Council Position/Recommended Action: **Oppose**

Rationale:

- The weather is still warm prior to September 1 and there will be an increased opportunity for wasting meat.

Proposal 27 – Allow elderly and disabled hunters to start hunting deer earlier in the session in Units 1-5

Current Federal regulations: There are no associated Federal regulations.

Council Position/Recommended Action: **Oppose**

Rationale:

The Federal Subsistence Board rejected a similar proposal (WP14-04) in the 2014 Federal wildlife regulatory cycle. The Southeast Alaska Subsistence Regional Advisory Council provided the following rationale for rejection which was accepted by the Board as justification for opposing the proposal:

- There is no conservation concern with the present deer regulations in Unit 2 that is addressed by this proposal.
- Determining disability has been shown to be complex and problematic, and add an additional administrative barrier to participants because this provision would require a separate Federal subsistence hunting permit. The requirement for a separate permit is not valid if the State adopts this proposal. Adopting this proposal would result in a divergence between State and Federal regulations.
- Establishing a hunting season that spans two regulatory years creates complexity by requiring hunters maintain two sets of harvest tickets, and harvest reporting would be delayed by almost half a year.
- The proposal is unnecessary to provide additional opportunity as the current season provides for ample chances for residents, of any age or physical condition to either hunt for themselves or to designate others to hunt for them.

Proposal 37 – In southeast Alaska, Add five days at the start or end of all hunting seasons and allocate 75% of all drawing permits to residents.

Current Federal regulations: There are no corresponding Federal regulations.

Council Position/Recommended Action: **Oppose**

Rationale:

- Seasons are sufficiently liberal.
- Residents of Southeast Alaska already receive more than 75% of drawing permits.

Federal Subsistence Fisheries Regulatory Proposal Comments

The Council provided the following recommendations to the Board regarding Federal fisheries proposals.

Proposal FP15-01, 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.

**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.***

This wording will allow subsistence users to select the type of fishing hook they would like to use. 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.

Proposal FP15-12, submitted by Mark Kruse of Craig, Alaska requests that bow and arrow be added as a method to take salmon in the Southeastern Alaska Area. The proponent would like to have an increased opportunity to harvest salmon for subsistence.

### **Opposed FP15-12**

The Council determined that using a bow and arrow for fishing is a recreational type of activity that is not allowed in either State or Federal regulations. This activity is not a customary and traditional method in this Region. The Council was concerned there were unknown conservation concerns due to fishing mortalities associated with wounding.

Proposal FP15-13, submitted by the Petersburg Fish and Game Advisory Committee, requests several changes to the Stikine River subsistence salmon fisheries. These changes include:

- establishing harvest quotas of 125 Chinook salmon, 2,000 sockeye salmon and 400 coho salmon
- specifying that the annual individual harvest limit in subsequent years would be reduced if the total fishery annual harvest exceeds the quota
- requiring the day, location, species and number of fish harvested be recorded prior to leaving the fishing location
- establishing a 4:00 a.m. to 9:00 p.m. daily fishing schedule
- Requiring nets be closely attended with the permit holder or member of the household listed on the permit present at the fishing site with the permit available for inspection while the net is in the water. Closely attended is defined as “a member of a household listed on the permit must be available within two hours.”

**Support FP15-13 with modification** to eliminate the subsistence Chinook, sockeye and coho salmon annual guideline harvest levels from Federal regulation and require nets be checked at least twice each day.

Proposed regulatory language:

§ \_\_.27(e)(13) (xiv)

~~(E) The total annual guideline harvest level for the Stikine River fishery is 125 Chinook, 600 sockeye, and 400 coho salmon. All salmon harvested, including incidentally taken salmon, will count against the guideline for that species.~~

**(E) Fishing nets must be checked at least twice each day.**

The subsistence salmon harvest is a component of the total U.S. Allowable Catch and there is no allocation or conservation concern that would be addressed by changing guideline harvest levels to quotas. The guideline harvest levels themselves are outdated and unnecessary for in-season management. Federal regulations already require fishers to record harvests before they leave the fishing location. Harvest rates are often better at night and having daily fishing periods would add management complexity to the fishery without benefiting subsistence users. Manning the nets while they are fishing is not a realistic requirement because of the nature of the fishing locations nor is it necessary for enforcement or minimizing unaccounted for fishing mortalities due to drop-outs or seal predation. Requiring fishers to check their nets twice each

day would not be an imposition on subsistence users and would facilitate enforcement if anyone is thought to be fishing in a fashion that results in wasting salmon or not accounting for fishing mortalities.

Proposal FP15-14, submitted by the Wrangell Fish and Game Advisory Committee, requests the same changes to the Stikine River subsistence salmon fisheries as the Petersburg Advisory Committee's proposal except they propose the permit holder remain at the fishing site while the net is fishing.

**No action**

**Took no action on FP15-14** based on action taken on **FP15-13**

Proposal FP15-15, submitted by Southeast Alaska Subsistence Regional Advisory Council, requests the Federal public waters of the Klawock River/Lake drainage be closed to the use of seine and gillnets during July and August due to conservation concerns. The Craig Fish and Game Advisory Committee also submitted a similar proposal to the Alaska Board of Fisheries.

**Support FP15-15**

Recent escapements of sockeye salmon into Klawock Lake have been very low, and increased fishing effort, primarily with seines, is occurring in the lower portion of the river where sockeye are easier to catch. The use of seine and gillnet gear in this area poses an unacceptable risk of overharvest at current escapement levels.

Proposal FP15-16, submitted by the Southeast Alaska Subsistence Regional Advisory Council, requests that steelhead harvested in the Prince of Wales/Kosciusko Islands subsistence steelhead fisheries be immediately recorded on the subsistence fishing permit.

**Oppose FP15-16**

The Council previously identified a potential conservation and enforcement issue where fishers are in possession of steelhead yet have not recorded these fish on a subsistence fishing permit because they have not left the fishing location. Although the requirement to record the harvest of steelhead "immediately upon harvest" would not cause any undue burden to subsistence users, the need to change this regulation is not clear. The evidence of a conservation or enforcement concern was not apparent to the Council. The Council determined it was unnecessary to change current regulations at this time and directed the in-season manager to address specific concerns through subsistence fishing permit conditions.

Proposal FP15-17, submitted by the Sitka Tribe of Alaska, as originally proposed would close the Federal public waters in the Makhnati Island area near Sitka to the harvest of herring and herring spawn except for sport and subsistence herring harvest and subsistence harvest of herring spawn. The proponent subsequently altered the original proposal to request closing the Federal public waters in the Makhnati Island area near Sitka to the harvest of herring and herring spawn except by Federally qualified subsistence users.

**Support FP15-17 with modification** to close the Federal Public Waters of Sitka Sound to the harvest of herring with the use of commercial herring purse seine gear.

Recommended language:

36 CFR 242 and 50 CFR 100

**§ \_\_.27(i)(13)(xx) The Federal public waters in the Makhnati Island area, as defined in § \_\_.3(b)(5) are closed to the harvest of herring with the use of commercial herring purse seine gear.**

There is a conservation concern for the Sitka Sound herring stock and the conduct of the commercial fishery displaces herring that would normally spawn in waters under Federal jurisdiction. Substantial evidence of the need to close all the Federal Public waters in the Makhnati Island area to the use of commercial purse seine gear was provided in public testimony. Specifically:

- Subsistence harvest in Sitka Sound in recent years has been lower.
- Conservation concern with herring stocks in Southeast Alaska.
- Commercial activity near subsistence spawn gathering areas reduces harvest by subsistence users.
- Council noted that if the Alaska Board of Fisheries expands the area closed to commercial sac roe fishing to include the rest of the Federal waters, a Federal closure would not be necessary. The Alaska Board of Fisheries will be deliberating proposals to expand the closed area in February.

Deferred Proposal FP13-19, submitted by the Southeast Alaska Subsistence Regional Advisory Council, requests the annual guideline harvest level (GHL) for the subsistence sockeye salmon fishery on the Stikine River be increased from 600 sockeye salmon to 2,000 sockeye salmon. At their fall 2013 meeting, the Council recommended the sockeye salmon subsistence fishing GHL be eliminated from both Federal regulations and the Pacific Salmon Treaty. The Board deferred the proposal to the current fishery cycle for final action.

**Support Deferred Proposal FP13-19 with modification** to eliminate Paragraph (E) consistent with action taken previously on Proposal FP15-13.

The Council considered this proposal to be housekeeping due to previous action on FP15-13. They noted that although they supported this proposal to eliminate the guideline harvest level for sockeye salmon, previous action also recommended removing the guideline harvest levels for Chinook and coho salmon. There is no conservation concern that is addressed by the guideline harvest levels and the current regulations specifying a GHL have the potential to cause confusion regarding their intent. The Council was aware that Federal regulatory changes to the Stikine River for Chinook, sockeye, and coho salmon subsistence fisheries that require changes to the Treaty are first authorized by the Federal Subsistence Board (Board) with implementation contingent upon concurrence by the Pacific Salmon Commission (PSC) through the Transboundary River Panel (TBR).

#### Fisheries Resource Monitoring Program Briefing

Terry Suminski and Ben VanAlen summarized the process used by the Fisheries Monitoring Program to solicit proposals based on Council information needs. There is a call for proposals in 2014 and a council recommendation in 2015 for project implementation in 2016. Sockeye assessment studies were suggested for Pillar Bay, Manhattan Lake, Kasook, Port Houghton (Rusty River) and Hunter Bay, in addition to those

already suggested. Harvest monitoring studies are needed for Klawock River and Eek. Cal Casipit reminded the Council that the SE Region is not active in the Partners Program because it uses the same source of funds as the Fisheries Resource Monitoring Program.

### 2014 Annual Report Topics

The Council identified the following topics for inclusion in the 2014 draft Annual Report. The Annual Report will be approved during the winter meeting.

#### **Issue 1: Transboundary River Mining**

The potential negative effects of mining in Canada on the fishery resources in Southeast Alaska, is the most pressing issue identified by the Council. There is a groundswell of concern by Tribes, fisheries stakeholders and communities within the Region. Because of the international nature of this activity, the Department of State must be informed of these concerns. The Council is troubled that there has been no response from the Secretaries to the letter from the Council on this issue written in March. The Council approved a follow-up letter at their October meeting. The residents of Canada reap the benefits of this activity and the residents of Southeast Alaska bear the brunt of the risk. The Council requests the Board report the status of attempts to engage the Secretaries in addressing this issue.

#### **Issue 2: Petition for Extraterritorial Jurisdiction**

The Council represents all subsistence users of the Region including residents of Angoon and is concerned that there has been limited communication from the Board or the State in how the issues identified in the petition are being addressed. The Council believes they have a role in promoting the continuation of subsistence uses by the residents of Angoon and by extension, all the qualified users of the Region. The Council requests a detailed report on the status of the petition and a suggestion on how the Council can remain involved and contribute to the resolution of the issue.

#### **Issue 3: Subsistence User Representation on the North Pacific Fisheries Management Council**

This issue is a continuation of the concern identified in the Council's 2013 Annual Report.

“Many of the fisheries managed by the North Pacific Fisheries Management Council have a significant effect on the abundance and availability of salmon and halibut; resources of vital importance to subsistence users of this region. The Southeast Alaska Subsistence Regional Advisory Council recommends identifying one of the voting members of the NPFMC as a subsistence representative. The Council will provide a letter to the Board requesting assistance in elevating this issue to the appropriate Secretaries as expeditiously as possible. The lack of representation of subsistence uses on the NPFMC is an issue that affects all 10 Councils and every other Council should be made aware of the Southeast Council's concerns and be given an opportunity to provide their comments to the Board.”

The issue of identifying and minimizing incidental mortalities of salmon in remote trawl fisheries is of interest to every council. The Southeast Alaska Council recommends a response from the Board summarizing the concerns and actions from the other councils on by-catch in the Bering Sea and Gulf of Alaska trawl fisheries. One of the most obvious ways to protect the interests of subsistence users would be to have

a designated seat representing subsistence users on the NPFMC. The Council would appreciate hearing of any plans or progress to making that type of appointment.

#### Recommended Changes to Nominations/Appointment Process

The council discussed the options but did not vote to support any one option. They did believe some changes to the process may avoid problems with the current appointment process.

#### All Chairs and All Council Meetings

The Council expressed a desire to have a meeting of the chairs and a willingness to participate in an all Council meeting. The all council meeting will be an educational opportunity to better understand the concerns and positions of other councils.

#### **Agency Reports:**

##### Alaska Department of Fish and Game

Doug Larson and Ryan Scott provide the Council with reasons to support the State's proposal to the Board of Game to reduce the harvest level of wolves in Unit 2. The newest population assessment for wolves in Unit 2 has a lower confidence level of 130 wolves. The joint harvest quota is proposed as 25 wolves for the 2014-15 hunting and trapping season. There were 57 wolves harvested in Unit 2 during the 2013-2014 hunting and trapping season. The ADF&G is planning to conduct a deer pellet DNA study in Unit 3 after the conclusion of a vegetative assessment survey. The relationship between bears, wolves and deer in Unit 3 needs to be investigated. The drawing hunt for moose in Berners Bay is being reinstated. There are now more than 100 moose in this area and permits will be issued for up to 5 bulls.

Davin Holen and Meredith Marchioni are expecting to have a subsistence use report for sockeye salmon available prior to the Alaska Board of Fisheries meeting that may be of interest in evaluating the Chatham Straits fisheries proposals.

Jeff Reeves provided a summary of the Federal subsistence fisheries in the region and a review of in-season management actions.

Jason Anderson provided a progress report from the Tongass Advisory Committee regarding possible amendments to the Forest Plan required to expedite the transition to harvesting young growth. There are representatives from the State and local governments, Tribes, the timber industry and the public but no representatives designated to represent subsistence interests. A recommendation will be developed in 2015.

Steve Kessler reported the Secretaries are expected to move forward with the Board's recommendation on the rural determination process. There is a demonstration project being developed for co-management on the Kuskokwim River. Steve is retiring in January 2015 and being replaced by Thomas Whitford. The Forest Service has a good budget forecast and the Agency will likely be able to fund additional FRMP projects.

#### **Council Actions:**

Motion approved to send a letter to the Northern Southeast Regional Aquaculture Association for advice in whether there are additional opportunities for sockeye salmon enhancement at Kanalku.

Motion approved to send a letter to the Secretaries of the Interior and Agriculture expressing concern about the potential for large scale mining in Canada to negatively affect subsistence resources on Transboundary rivers in Southeast Alaska.

Motion approved for the Fisheries Resource Monitoring Program to include information needs as assessment studies for sockeye salmon at Pillar Bay, Manhattan Lake, Kasook, Hunter Bay, Rusty River, Gut Bay, Red Bay, Kah Sheets, Karta, Salmon Bay, Sarkar and Hoktaheen. Harvest monitoring needs include Klawock, Eek, Hatchery Creek, Gut Bay, Red Bay, Kah Sheets, Salmon Bay, Sarkar, Kanalku and Hoktaheen.

The Council appointed Bert Adams to serve as representative on the Wrangell-St. Elias Subsistence Resource Commission.

The Council approved a request to send Mike Douville to represent the Council at the State Board of Game meeting and send Mike Bangs to represent the Council at the State Board of Fisheries meeting.

The Council reauthorized Cathy Needham, Patty Phillips, Don Hernandez and Mike Bangs to work together as representatives of the Council with the Office of Subsistence Management on the customary and traditional use determination issue.

**Public and Tribal Comments:**

Lee Wallace commented that subsistence only takes 1% of the total fish harvested yet is perceived as putting a strain on the system. The State should increase harvest limits wherever possible. Saxman appreciates the support from the Council in keeping Saxman rural. The proposed regulatory change is supported by Saxman. Although Saxman has filed suit regarding the rural determination process, the community is in favor of the current proposal and hopes to have final action soon.

Chris Zimmer and Jill Weitz reported that a mining boom is anticipated in Canada within the drainages of the Transboundary Rivers. The British Columbia government has relaxed environmental oversight and has constructed an electrical transmission line in support of future developments. They recommended the Council stay informed on this issue and follow-up on their previous correspondence.

Kim Covalt checks his nets three times each day and does not consider seal predation as a big issue. He is in favor of accurate reporting but is opposed to any requirement where he has to stay with the net while it is fishing. He is unaware of anyone that leaves a net and returns to town.

Brenda Swartz-Yeager informed the Council of the importance of the Stikine River subsistence fishery as a source of food for local residents and the cultural significance of this activity. She questioned why the Council would spend much time evaluating this proposal because there is no conservation concern. Seals will eat the same number of fish whether they find one in a net or catch it for themselves. There is no need for a net tending regulation as fishers operate the nets for maximum efficiency already. She has not observed nets that are not checked regularly as people are there to catch fish.

Brennon Eagle provided testimony in support of FP15-14 and considered the proposal necessary to increase the accountability of the Stikine River subsistence fishery. The night closure will lower predation by seals, net tending needs a definition and a cap on the subsistence harvest will control the fishery.

Arnold Enge is a member of the Transboundary Panel of the Pacific Salmon Commission and informed the Council that Proposal FP15-13 is the result of a public process to address issues that have been brought to the Petersburg Fish and Game Advisory Committee. Fifty percent of the total harvests of Stikine River origin sockeye salmon are allocated to the State. The U.S. management agencies will decide how those fish are allocated between users. The subsistence fishery is a new fishery and a review of the management is appropriate.

Matt Kookesh and Peter Naoroz summarized the State Board of Fisheries proposals that were important to the residents of Angoon. Angoon and Kootznoowoo Inc. are in favor of commercial fishing closures to allow sockeye to return to the terminal areas since the real issue is having more fish available for harvest, not more opportunity for subsistence fishing.

James Stough informed the Council the frequency the nets need to be checked on the Stikine River is related to river level. Nets are checked as often as necessary to be efficient. Seals and sea lions are becoming more prevalent but he did not have any fish taken this summer by seals. Sockeye salmon move at night so he does not support a night closure.

Doug Dobyns believes it is necessary to start a water quality testing program on Transboundary Rivers. He believes it important to have Tribal consultations regarding Transboundary mining issues.

Jeff Feldspausch and Harvey Kitka testified the miles of herring spawn in Sitka Sound is decreasing and the Tribes concern for the health of this stock is very real. Sitka Sound is the last healthy herring stock in the region and the only stock to provide eggs for subsistence. The current closure has been effective in protecting subsistence uses of these fish. The number of users is decreasing because of efforts by the commercial fishing industry to assist fishers in obtaining eggs.

### **Future Meeting Dates**

The Council approved the winter meeting for March 17-19, 2015 in Yakutat (if possible). The fall meeting was tentatively approved for Petersburg October 13-15, 2015.

The Council meeting adjourned at 2:45 p.m. October 23, 2014.

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

*ls\ Robert Larson*

*December 16, 2014*

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*Robert Larson, DFO, USFS Subsistence Management Program*

*ls\ Mike Bangs*

*December 16, 2014*

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*Mike Bangs, vice-Chair, Southeast Alaska Subsistence Regional Advisory Council These minutes will be formally considered by the Southeast Alaska Subsistence Regional Advisory Council at its next meeting, and any corrections or notations will be incorporated in the minutes of that meeting.*

DRAFT

## **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> ↓	<div style="border: 1px solid black; padding: 2px; width: fit-content; margin: 0 auto;">Area</div> ↓	<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> <div style="border: 1px solid black; padding: 2px; width: fit-content; margin: 0 auto; text-align: center;">                     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 style="border: 1px solid black; padding: 2px; width: fit-content; margin-top: 10px;">EXAMPLE</div> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin-top: 20px; text-align: center;"> <p><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><i><b>Federal public lands on Mitkof and Wrangell Islands are closed to the taking of moose except by residents of Units 1B, 2, and 3.</b></i></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; width: fit-content; margin: 10px auto;"> <p><b>ANILCA Section 804 determination</b></p> </div> <p style="text-align: center;">→</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 data-bbox="1161 779 1404 829" style="border: 1px solid black; padding: 2px; display: inline-block;"> <p><b>Harvest quota</b></p> </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 data-bbox="198 1392 360 1438" style="border: 1px solid black; padding: 2px; display: inline-block;"> <p><b>EXAMPLE</b></p> </div>  <div data-bbox="435 1476 685 1585" style="border: 1px solid black; padding: 2px; display: inline-block; margin-top: 20px;"> <p><b>EXAMPLE ANILCA Section 804 determination</b></p> </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

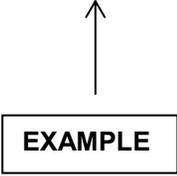
In Unit 17 of the Bristol Bay Region, any rural resident may harvest sheep, coyotes, arctic foxes, red foxes, hares, lynx, wolverines, grouse, and ptarmigan in Federal seasons on Federal public lands. These are examples of what a new customary and traditional use determination might look like if the 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;">  <p><b>EXAMPLE</b></p> </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><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><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="191 319 365 380" 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><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></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.

Customary and Traditional Use Determination	
<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="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;"> <p style="text-align: center;"><b>ANILCA Section 804 determination</b></p> </div> <p style="text-align: center;">→</p>	<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="358 527 599 651" 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; width: fit-content; margin: 10px auto;"> <p><b>This is not an ANILCA Section 804 determination.</b></p> </div> <div data-bbox="656 541 786 569" style="text-align: center;"> <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="586 825 776 848" 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 802 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="text-align: center;"> <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; vertical-align: middle;">→</span> </div>	<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.

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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.

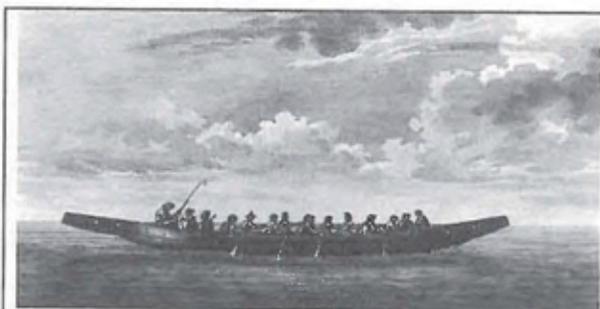
In January 2013, the Southeast Alaska Council sent a letter, shown below, to the other Regional Advisory Councils regarding perceived deficiencies in the current customary and traditional use determination process. This letter asked the other councils to review, during their fall 2013 meetings, whether 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*

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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.

Mr. Jack L. Reakoff

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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

Mr. Jack L. Reakoff

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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.

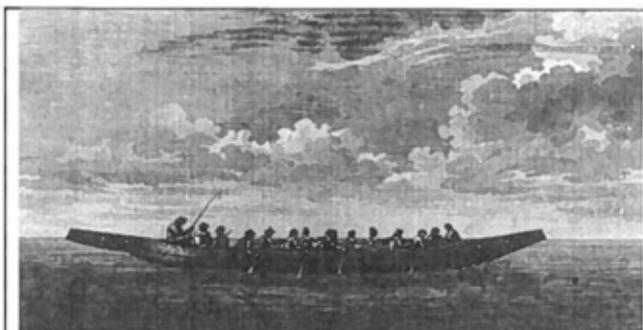
I would hate to have to argue over our indigenous right to subsist on these lands. I'm saying these lands, meaning whatever is in there. I have the right to subsist harvest in the way I've done, my forefathers did, without having to write it on a piece of paper . . . . I kind of agree with having a customary 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

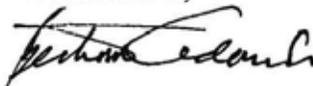
Chairman Towarak

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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**

(36CFR §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.

**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.



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

**Michael Bangs, Chairman**

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

Greetings Chairman Towarak:

This is the fiscal year 2014 Annual Report of the Southeast Alaska Subsistence Regional Advisory Council (Council) as authorized under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA), Section 805(a)(3)(D). The Council wishes to share information and raise a number of concerns dealing with implementation of Title VIII of ANILCA and the continuation of subsistence uses in the Yakutat and Southeastern Alaska areas.

In 2014, the Council met in Anchorage, March 11-13, and in Wrangell, October 21-23. During the March meeting, the Council submitted a letter to the Board with a proposal to amend the customary and traditional use determination regulations. The Council also asked to have staff prepare an analysis of the effects of this type of statewide regulatory change. The Council submitted a letter to you detailing the need for a subsistence use representative on the North Pacific Fisheries Management Council. There were two Federal subsistence fisheries proposals submitted and five proposals submitted to the State Board of Fisheries. Letters were written to the Angoon Cooperative Association, the community of Angoon and Kootznoowoo Inc. explaining the Council's interest in submitting proposals that affect the Angoon area. During the October meeting, the Council approved comments on Federal fisheries proposals, State Board of Game proposals and State Board of Fisheries proposals. There were two letters approved, the first regarding enhancement possibilities at Kanalku Lake and the second to the Secretaries

detailing the Council's concerns with the effects of mining in Canada on fisheries in the United States. The Council also approved at its March 2014 meeting of bringing the following issues to your attention.

**Issue 1: Transboundary River Mining**

The potential negative effects of mining in Canada on fisheries in Southeast Alaska is the most pressing issue identified by the Council. There is a groundswell of concern by Tribes, fisheries stakeholders and communities within the Region. Because of the international nature of this activity, the Department of State must be informed of these concerns. The Council is troubled that there has been no response from the Secretary of Agriculture to the letter from the Council on this issue written in March (enclosed). Even though the Secretary of the Interior responded, there is no indication the issue was forwarded to the Secretary of State as requested. The Council approved a follow-up letter at its October meeting (enclosed). The residents of Canada reap the benefits of this activity and the residents of Southeast Alaska bear the brunt of the risk. The Council requests the Board provide a report to the Council on the status of attempts to engage the Secretaries in addressing this issue.

**Issue 2: Petition for Extraterritorial Jurisdiction**

The Council represents all subsistence users of the Region, including residents of Angoon, and is concerned that there has been limited communication from the Board or the State on how the issues identified in the petition are being addressed. The Council believes they have a role in promoting the continuation of subsistence uses by the residents of Angoon and by extension, all the qualified users of the Region. The Council requests a detailed report on the status of the petition and a suggestion on how the Council can remain involved and contribute to the resolution of the issue.

**Issue 3: Subsistence User Representation on the North Pacific Fisheries Management Council**

This issue is a continuation of the concern identified in the Council's 2013 Annual Report.

Many of the fisheries managed by the North Pacific Fishery Management Council have a significant effect on the abundance and availability of salmon and halibut; resources of vital importance to subsistence users of this region. The Southeast Alaska Subsistence Regional Advisory Council recommends identifying one of the voting members of the NPFMC as a subsistence uses representative. The Council will provide a letter to the Board requesting assistance in elevating this issue to the appropriate Secretaries as expeditiously as possible. The lack of representation of subsistence uses on the NPFMC is an issue that affects all 10 Councils and every other Council should be made aware of the Southeast Council's concerns and be given an opportunity to provide their comments to the Board.

The issue of identifying and minimizing incidental mortalities of salmon in remote trawl fisheries is of interest to every council. The Southeast Alaska Council recommends a response from the Board summarizing the concerns and actions from the other councils on by-catch in the Bering Sea and Gulf of Alaska trawl fisheries. One of the most obvious ways to protect the

interests of subsistence users would be to have a designated seat representing subsistence users on the NPFMC. The Council would appreciate hearing of any plans or progress to making that type of appointment.

Thank you for considering the management and program issues of concern to the Council. Please address any questions with this letter directly to Mr. Robert Larson, Council Coordinator, U. S. Forest Service, Box 1328, Petersburg, AK 99833, (907) 772-5930, robertlarson@fs.fed.us.

Sincerely,

Michael Bangs  
Vice Chair

cc. Federal Subsistence Board  
Southeast Alaska Subsistence Regional Advisory Council  
Eugene R. Peltola, Jr., Assistant Regional Director, OSM  
Chuck Ardizzone, 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**

**Southeast Alaska Subsistence Regional Advisory Council**

**Charter**

1. **Committee's Official Designation.** The Council's official designation is the Southeast Alaska 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 Wrangell-St. Elias 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 \$175,000, including all direct and indirect expenses and 1.15 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 is subject to biennial review and will terminate 2 years from the date the charter is filed, unless prior to that date, the Charter 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:

Thirteen 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.

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Secretary of the Interior

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Date Signed

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

## **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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