

WP22-40 Executive Summary

General Description	Proposal WP22-40 requests that Federally qualified subsistence users be allowed to use a snowmachine to position wolves and wolverines for harvest on Federal public lands in Units 9B, 9C, 17B, and 17C, provided the animals are not shot from a moving snowmachine. <i>Submitted by the Bristol Bay Subsistence Regional Advisory Council.</i>
Proposed Regulation	<p>§ ____ .26 Subsistence taking of wildlife</p> <p>...</p> <p><i>(b) Except for special provisions found at paragraphs (n)(1) through (26) of this section, the following methods and means of taking wildlife for subsistence uses are prohibited:</i></p> <p>...</p> <p><i>(4) Taking wildlife from a motorized land or air vehicle when that vehicle is in motion, or from a motor-driven boat when the boat's progress from the motor's power has not ceased.</i></p> <p><i>(5) Using a motorized vehicle to drive, herd, or molest wildlife.</i></p> <p>§ ____ .26(n)(9)(iii) Unit 9—Unit-specific regulations</p> <p>...</p> <p><i>(I) In Units 9B and 9C, on Federal-managed lands, a snowmachine may be used to position a wolf or wolverine for harvest, provided that the animal is not shot from a moving snowmachine.</i></p> <p>...</p> <p>§ ____ .26(n)(17)(iii) Unit 17—Unit-specific regulations</p> <p>...</p> <p><i>(D) In Units 17B and 17C, on Federal-managed lands, a snowmachine may be used to position a wolf or wolverine for harvest, provided that the animal is not shot from a moving snowmachine.</i></p>

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<p>OSM Conclusion</p>	<p>Support Proposal WP22-40 with modification to utilize the same regulatory language the Board adopted in Proposal WP20-27, and to include all Federal public lands in Unit 17.</p> <p>The modification should read:</p> <p>§ ____ .26(n)(9)(iii) Unit 9—Unit-specific regulations</p> <p>...</p> <p><i>(I) In Units 9B and 9C, on Federal-managed lands, a snowmachine may be used to assist in the taking of a wolf or wolverine and a wolf or wolverine may be shot from a stationary snowmachine. "Assist in the taking of a wolf or wolverine" means a snowmachine may be used to approach within 300 yards of a wolf or wolverine at speeds under 15 miles per hour, in a manner that does not involve repeated approaches or that causes the animal to run. A snowmachine may not be used to contact an animal or to pursue a fleeing animal.</i></p> <p>...</p> <p>§ ____ .26(n)(17)(iii) Unit 17—Unit-specific regulations</p> <p>...</p> <p><i>(D) In Unit 17, on Federal-managed lands, a snowmachine may be used to assist in the taking of a wolf or wolverine and a wolf or wolverine may be shot from a stationary snowmachine. "Assist in the taking of a wolf or wolverine" means a snowmachine may be used to approach within 300 yards of a wolf or wolverine at speeds under 15 miles per hour, in a manner that does not involve repeated approaches or that causes the animal to run. A snowmachine may not be used to contact an animal or to pursue a fleeing animal.</i></p>
<p>Bristol Bay Subsistence Regional Advisory Council Recommendation</p>	<p>Support as modified by OSM with additional modification to clarify the regulatory language.</p>
<p>Western Interior Alaska Subsistence Regional</p>	<p>Support as modified by OSM</p>

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Advisory Council Recommendation	
Interagency Staff Committee Comments	The Interagency Staff Committee found the staff analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Council recommendation and Federal Subsistence Board action on the proposal.
ADF&G Comments	Support with any modification to the proposal that will align state and federal regulations.
Written Public Comments	None

STAFF ANALYSIS

WP22-40

ISSUES

Proposal WP22-40, submitted by the Bristol Bay Subsistence Regional Advisory Council (Council), requests that Federally qualified subsistence users be allowed to use a snowmachine to position wolves and wolverines for harvest on Federal public lands in Units 9B, 9C, 17B, and 17C, provided the animals are not shot from a moving snowmachine.

DISCUSSION

The proponent states that the use of snowmachines to position wolves and wolverines is a traditional practice in rural areas, and the proposed regulation will mirror Federal regulations in Unit 23. The proponent continues “in April 2020, the Federal Subsistence Board (Board) addressed Proposal WP20-26 to position wolves and wolverines on Bureau of Land Management (BLM) managed lands in Units 17B and C. The Board deferred the proposal to a working group of the Council and Federal/State staff to develop and recommend language to define positioning of animals for the Board to consider.” This proposal replaces deferred Proposal WP20-26.

Existing Federal Regulation

§ ____ .26 Subsistence taking of wildlife

...

(b) Except for special provisions found at paragraphs (n)(1) through (26) of this section, the following methods and means of taking wildlife for subsistence uses are prohibited:

...

(4) Taking wildlife from a motorized land or air vehicle when that vehicle is in motion, or from a motor-driven boat when the boat's progress from the motor's power has not ceased.

(5) Using a motorized vehicle to drive, herd, or molest wildlife.

Proposed Federal Regulation

§ ____ .26 Subsistence taking of wildlife

...

(b) Except for special provisions found at paragraphs (n)(1) through (26) of this section, the following methods and means of taking wildlife for subsistence uses are prohibited:

...

(4) Taking wildlife from a motorized land or air vehicle when that vehicle is in motion, or from a motor-driven boat when the boat's progress from the motor's power has not ceased.

(5) Using a motorized vehicle to drive, herd, or molest wildlife.

§ _____.26(n)(9)(iii) Unit 9—Unit-specific regulations

...

(I) In Units 9B and 9C, on Federal-managed lands, a snowmachine may be used to position a wolf or wolverine for harvest, provided that the animal is not shot from a moving snowmachine.

...

§ _____.26(n)(17)(iii) Unit 17—Unit-specific regulations

...

(D) In Units 17B and 17C, on Federal-managed lands, a snowmachine may be used to position a wolf or wolverine for harvest, provided that the animal is not shot from a moving snowmachine.

Existing State Regulations

AS 16.05.940. Definitions.

...

(34) “take” means taking, pursuing, hunting, fishing, trapping, or in any manner disturbing, capturing, or killing or attempting to take, pursue, hunt, fish, trap, or in any manner capture or kill fish or game.

5 AAC 92.080. Unlawful methods of taking game; exceptions

The following methods of taking game are prohibited:

...

(4) unless otherwise provided in this chapter, from a motor-driven boat or a motorized land vehicle, unless the motor has been completely shut off and the progress from the motor's power has ceased, except that a

...

(B) motorized land vehicle may be used as follows:

(iii) notwithstanding any other provision in this section, in Units 9(B), 9(C), 9(E), 17, 18, 19, 21, 22, 24, 25(C) and 25(D), except on any National Park Service or National Wildlife Refuge lands not approved by the federal agencies, a snowmachine may be used to position a hunter to select an individual wolf for harvest, and wolves may be shot from a stationary snowmachine;

...

(5) except as otherwise specified, with the use of a motorized vehicle to harass game or for the purpose of driving, herding, or molesting game.

5 AAC 92.990. Definitions

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

...

(70) “harass” means to repeatedly approach an animal in a manner which results in the animal altering its behavior;

NOTE: The complete text for 5 AAC 92.080(4)(B) is in **Appendix 1.**

Relevant Federal Regulations

50 CFR 100.4 and 36 CFR 242.4 Definitions

Take or taking as used with respect to fish or wildlife, means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

§ ____ .26(n)(17)(iii) Unit 17—Unit-specific regulations

...

(D) In Unit 17, a snowmachine may be used to assist in the taking of a caribou and caribou may be shot from a stationary snowmachine. "Assist in the taking of a caribou" means a snowmachine may be used to approach within 300 yards of a caribou at speeds under 15 miles per hour, in a manner that does not involve repeated approaches or that causes a caribou to run. A snowmachine may not be used to contact an animal or to pursue a fleeing caribou.

§ ____ .26(n)(23)(iv) Unit 23—Unit-specific regulations

...

(E) A snowmachine may be used to position a hunter to select individual caribou for harvest provided that the animals are not shot from a moving snowmachine. On BLM-managed lands

only, a snowmachine may be used to position a caribou, wolf, or wolverine for harvest provided that the animals are not shot from a moving snowmachine.

There is a difference between the proposed regulation and agency-specific regulations. Adoption of this proposal may require clarification between new regulation and conflicting agency-specific regulations. Federal subsistence and agency-specific regulations are as follows:

§ _____.26(n)(17)(ii) Unit 17—In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Except for aircraft and boats and in legal hunting camps, you may not use any motorized vehicle for hunting ungulates, bear, wolves, and wolverine, including transportation of hunters and parts of ungulates, bear, wolves, or wolverine in the Upper Mulchatna Controlled Use Area consisting of Unit 17B, from Aug. 1-Nov. 1.

50 CFR 36.12 (Alaska National Wildlife Refuges) Use of snowmobiles, motorboats, dog teams and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses.

(a) Notwithstanding any other provision of subchapter C of title 50 CFR the use of snowmobiles, motorboats, dog teams and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses is permitted within Alaska National Wildlife Refuges except at those times and in those areas restricted or closed by the Refuge Manager.

...

(d) Snowmobiles, motorboats, dog teams and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses shall be operated (1) in compliance with applicable State and Federal law, (2) in such a manner as to prevent waste or damage to the refuge, and (3) in such a manner as to prevent the herding, harassment, hazing or driving of wildlife for hunting or other purposes.

36 CFR 13.460 (Alaska National Park System) Use of snowmobiles, motorboats, dog teams, and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses.

(a) Notwithstanding any other provision of this chapter, the use of snowmobiles, motorboats, dog teams, and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses is permitted within park areas except at those times and in those areas restricted or closed by the Superintendent.

...

(d) Motorboats, snowmobiles, dog teams, and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses shall be operated:

(1) In compliance with applicable State and Federal law;

(2) In such a manner as to prevent waste or damage to the park areas; and

(3) In such a manner as to prevent the herding, harassment, hazing or driving of wildlife for hunting or other purposes.

43 CFR 8341.1 (Bureau of Land Management)

(f.) No person shall operate an off-road vehicle on public lands: ... (4) In a manner causing or likely to cause significant, undue damage to or disturbance of... wildlife

Extent of Federal Public Lands

Unit 9B is comprised of approximately 34% Federal public lands and consist of 26% National Park Service (NPS) managed lands, and 8% BLM managed lands.

Unit 9C is comprised of approximately 85% Federal public lands and consist of 78% NPS managed lands, 4% BLM managed lands, and 4% U.S. Fish and Wildlife Service managed lands (USFWS). Katmai National Park lands are closed to subsistence hunting.

Unit 17B is comprised of approximately 8% Federal public lands and consist of 6% NPS managed lands, 1% BLM managed lands, and < 1% USFWS managed lands.

Unit 17C is comprised of approximately 25% Federal public lands and consist of 15% USFWS managed lands and 10% BLM managed lands.

Customary and Traditional Use Determination

The Federal Subsistence Board has not made a customary and traditional use determination for wolverines in Unit 9 or Unit 17. Therefore, all rural residents of Alaska may harvest this species in these units.

Rural residents of Units 6, 9, 10 (Unimak Island only), 11-13, Chickaloon, and 16-26 have a customary and traditional use determination for wolves in Units 9 and 17.

Regulatory History

In 1995, Proposal P95-52 requested that snowmachines and motor-driven boats be allowed in the taking of caribou and moose in Unit 25 during established seasons, except shooting from a snowmachine in motion was prohibited. There was no existing regulation on the use of motorized vehicles in Unit 25 prior to this. The Federal Subsistence Board (Board) adopted the recommendation of the Eastern Interior Alaska and Southcentral Alaska Subsistence Regional Advisory Councils who

supported the proposal in recognition that methods change over time and because it supported subsistence uses.

In 2000, the Board adopted Proposal P00-53 with modification allowing the use of snowmachines to position a hunter and select individual caribou for harvest in Units 22 and 23. The Board did this to recognize a longstanding customary and traditional practice in the region (FWS 2000). However, the proponent had asked to position a caribou, not a hunter. The Interagency Staff Committee provided a rationale for the modification:

Following the Regional Council winter meetings, the Deputy Regional Director of the U.S. Fish and Wildlife Service (FWS), Alaska Region, met with the Assistant Regional Director for Law Enforcement, the Staff Committee member for FWS, the Refuge Supervisor for Northern Refuges, and the Native Liaison and, after lengthy discussion, agreed to recommend substituting “a hunter” for “caribou” in the proposal language. They agreed that this is consistent with conservation principles and existing agency regulations as long as herding does not occur and shooting from a moving snowmachine is prohibited (FWS 2000:13).

In 2012, Proposal WP12-53 was submitted by the Yukon Delta National Wildlife Refuge, and requested unit specific regulation prohibiting a hunter in Unit 18 from pursuing an ungulate that is “fleeing” with a motorized vehicle. The Board adopted the proposal with modification and prohibited the pursuit with a motorized vehicle of an ungulate that was “at or near a full gallop” in Unit 18, providing greater clarity of allowable methods of harvest (FWS 2012).

At its March 2014 meeting, the Alaska Board of Game adopted Proposal 177, which allows a hunter to use a snowmachine in Units 22, 23 and 26A to position a caribou, wolf, or wolverine for harvest, as long as these animals are shot from a stationary snowmachine (see *5 AAC 92.080(4)(B)(i)* at **Appendix 1**). The purpose of the proposal was to allow the use of snowmachines to track these animals.

In 2016, Proposal WP16-48, submitted by the Native Village of Kotzebue, requested that Federally qualified subsistence users be allowed to use snowmachines to position a caribou, wolf, or wolverine for harvest in Unit 23. The Board adopted the proposal with modification to allow this method of harvest only on those lands managed by the Bureau of Land Management. The Board recognized uses of snowmachines to position animals as customary and traditional practice. However, positioning animals by snowmachine is prohibited on National Park Service and U.S. Fish and Wildlife Service lands under agency-specific regulations. Bureau of Land Management regulatory language does not specifically prohibit the use of snowmachines to position animals for hunting and this harvest method is allowed on some State managed lands.

In the spring of 2017, Kenneth Nukwak of Manokotak submitted Proposal WP18-24 requesting that Federally qualified subsistence users be allowed to use a snowmachine to position caribou, wolves, and wolverines for harvest in Unit 17, provided the animals were not shot from a moving vehicle. During the fall 2017 meeting cycle, the Bristol Bay Subsistence Regional Advisory Council voted to oppose Proposal WP18-24, noting a lack of clear definitions for positioning and chasing of an animal.

At its February 2018 meeting in Dillingham, the Alaska Board of Game (BOG) adopted Proposal 148, also submitted by Kenneth Nukwak of Manokotak, with modification. The original proposal requested that Federally qualified subsistence users be allowed to use a snowmachine to position caribou, wolves, and wolverines for harvest in Unit 17, provided the animals would not be shot from a moving vehicle. The modified regulation was limited to caribou and stated that a snowmachine may be used in Unit 17 to assist in the taking of a caribou, and caribou may be shot from a stationary snowmachine, with further clarification describing exactly how the snowmachine may be used for assistance (see 5 AAC 92.080(4)(B)(viii) at **Appendix 1**).

At its winter meeting in March of 2018, the Bristol Bay Subsistence Regional Advisory Council voted to request Proposal WP18-24 be removed from the consensus agenda at the next Board meeting. Reasoning for this included providing an opportunity for the Board to deliberate the proposal on record, in light of BOG deliberation, modification, and adoption of the same proposal on State lands in Unit 17. During the April 2018 Board meeting, Proposal WP18-24 was taken off the consensus agenda. Some public testimony was received in support of the proposal. The Board deliberated the proposal on record and rejected it.

In 2020, the Council submitted Proposals WP20-26 and WP20-27. Proposal WP20-26 requested that Federally qualified subsistence users be allowed to use a snowmachine to position wolves, and wolverines for harvest on BLM managed lands only in Units 9B, 9C, 17B, and 17C, provided the animals are not shot from a moving snowmachine. Proposal WP20-27, also submitted by the Council, requested a unit-specific regulation for Unit 17 allowing use of a snowmachine to assist in taking caribou and allowing caribou to be shot from a stationary snowmachine, using the regulatory language adopted by the BOG in February 2018. That regulatory language read:

In Unit 17, a snowmachine may be used to assist in the taking of a caribou and caribou may be shot from a stationary snowmachine. "Assist in the taking of a caribou" means a snowmachine may be used to approach within 300 yards of a caribou at speeds under 15 miles per hour, in a manner that does not involve repeated approaches or that causes a caribou to run. A snowmachine may not be used to contact an animal or to pursue a fleeing caribou.

During the April 2020 regulatory Board meeting, the Board first took up Proposal WP20-27, discussed and adopted it. The Board then considered Proposal WP20-26, which was supported by the Bristol Bay, Western Interior, and Yukon-Kuskokwim Delta Councils as it increased subsistence opportunity. The Board deferred Proposal WP20-26 and suggested further consideration of the proposal by the Council working group to 1) expand the analysis to include all Federal lands in Units 9B, 9C, 17B, and 17C; 2) identify specific language that may reduce complexity between State and Federal regulations; and 3) anticipate and address regulatory conflicts between the proposed regulatory language and agency specific regulations.

Current Events

The Nushagak Fish and Game Advisory Committee (AC) submitted Proposal 23 to the BOG for consideration at their January 2022 meeting. Proposal 23 requested allowing the use of a snowmachine

to position wolves or wolverines for harvest in Unit 17, and that they may be shot from a stationary snowmachine. The Nushagak AC stated that Proposal 23 seeks to eliminate current conflicts between regulatory prohibitions and common local hunting practices and that this opportunity is already available to users in Units 18, 22, 23, and 26A.

Following direction from the Board, a working group of Bristol Bay Council members, Federal agency and ADF&G staff formed to develop recommendations for deferred Proposal WP20-26. The working group met several times via teleconference between July 2020 and May 2021. At the February 2021 Council meeting the working group reported to the Council an agreement to expand the analysis to include all Federal public lands in Units 9B, 9C, 17B, and 17C. The working group met again in May and agreed to further clarify the term “position” using the same regulatory language as proposed in Proposal WP20-27.

Biological Background

Wolves and wolverines are present throughout Units 9 and 17. As with other furbearers in Alaska, there is scant objective data on abundance of these animals. Rather, relative abundance has typically been estimated using the results of trapper questionnaires, as well as incidental observations by biologists, hunters, trappers, guides, and others.

Wolves

Historically, wolf density has varied in response to harvest pressure, prey availability, and disease. In Unit 9, wolf densities were low in the early 1980s following the end of the Federal wolf control program. Abundance appears to have increased during the 1990s. Currently, the population is believed to be relatively stable, and monitoring efforts in Units 9C and 9E indicate that the population is 250 – 550 wolves, or 16-18 wolves/1,000 mi² (Crowley and Peterson 2018). Wolf dynamics in Unit 17 have been similar to those in Unit 9, with abundance increasing during the mid-1980s and early 1990s (Barten 2018). Recent observations suggesting that the population is relatively stable (Spivey 2019).

Wolverines

Compared to other furbearers, wolverines occur at low densities (Copeland and Whitman 2003). Though wolverine abundance remains unquantified due to the impracticality of formal assessment (Crowley 2013), low densities appear to be confirmed by local trappers, who report that wolverines in Units 9 and 17 are scarce but stable (Spivey 2019).

Cultural Knowledge and Traditional Practices

During his study years in 1964 and 1965, VanStone (1967:134) documented winter travel along the Nushagak River occurring almost exclusively by dog team. During the winter months dog teams were used to harvest caribou, access trap lines, and provide for the transportation of supplies and people throughout the region. Hunters used traditional methods to harvest wildlife. These methods included a hunter moving animals towards another hunter’s position (Nelson 1983 [1899] and Oswalt 1990). At

the time of his study, VanStone was only aware of a few Bristol Bay residents that possessed snowmachines. Approximately 10 years later, when ADF&G first began conducting research on subsistence harvest activities, dog teams were barely mentioned. Instead, reports noted that the communities of Nushagak Bay had mostly transitioned to the use of boats, aircrafts, and snowmachines as a preferred means of travel and for accessing animals for harvest (Coiley-Kenner et al. 2003; Evans et al. 2013; Fall et al. 1986; Holen et al. 2012; Holen et al. 2005; Krieg et al. 2009; Schichnes and Chythlook 1988; Seitz 1996; Wolfe et al. 1984; Wright et al. 1985).

In the past, prior to the use of snowmachines, people in the region were more nomadic. Residents of Southwest Alaska practiced an annual round of harvest activities that allowed them to effectively position themselves in proximity to important resources that supported their families through extended travel to seasonal subsistence camps. In La Vine and Lisac (2003), elders describe a harvest year that began at fish camp in the early summer, moved up the river to hunting and trapping camps for the fall and winter, traveled through mountain passes and down rivers to bays and estuaries for the spring harvest of migratory waterfowl and eggs, finally returning to fish camp once again in early summer. A trip such as this required travel by boat, sled, and foot and took the family hundreds of miles and 12 months to complete. As village life solidified around schools and economic opportunities, technological advances like boats with outboard motors and snowmachines allowed people to travel further over shorter periods of time in order to access resources they once had to follow over seasons instead of hours.

Wolves and Wolverine

Across Alaska, both wolves and wolverines are highly prized for their fur, which is used to trim locally made parkas and other items of clothing or handicrafts. While not as prominent an activity as in the past, rural residents still participate in trapping as a source of income in the Bristol Bay region, particularly for wolverine, which continues to fetch a high price for quality fur (Woolington 2013). Snowmachines were the primary means of transportation used by hunters and trappers for taking wolves and furbearers in Unit 17 from 2008 through 2012 (Woolington 2012 and 2013). Most wolves were harvested by firearm between the regulatory years of 1992 and 2010, while wolverines were more frequently taken by trap or snare.

The Division of Subsistence at ADF&G conducts household subsistence harvest surveys periodically throughout Alaska. Though this survey data is only available for some communities in some years, it is an additional source for documenting patterns of use in rural Alaska. The most recent surveys conducted in the Bristol Bay region describe the harvest and use of wolves and wolverines as varied between communities and study years (Evans et al. 2013; Holen et al. 2012; Holen et al. 2011; Holen et al. 2005; Krieg et al. 2009). A common pattern described in most reports is that a smaller percentage of households in each community report harvest or attempted harvest and use of furbearers than those reporting harvest and use of salmon or large land mammals like moose and caribou. In most cases only a few households are responsible for the majority of the harvest and use of furbearers, likely in association with keeping a trap line.

Harvest History

Wolves

Harvest of wolves is influenced by weather and travel conditions, which can result in variable harvest from year to year. Alaska Department of Fish and Game sealing records indicate that from 2010 to 2014, the most recent five-year period for which unit-specific sealing data is available, reported harvest ranged from 44 to 142 wolves in Unit 9. On average 64 wolves were harvested annually (Crowley and Peterson 2018).

Reported harvest was also variable in Unit 17, where between 6 and 105 wolves were harvest annually from 2010 to 2014. During that period, annual harvest averaged 47 wolves. In Unit 17, 70% of harvested wolves were shot, 18% were trapped or snared, and 69% of hunters and trappers used snowmachines to harvest wolves (Barten 2018).

Wolverines

Like wolf harvest, wolverine harvest can vary from year to year, reflecting trapper effort that varies with travel conditions. For 2007 – 2016, the most recent ten-year period for which unit-specific sealing data is available, reported harvest ranged from 9 to 36 wolverines in Unit 9. On average, annual reported harvest was 25 wolverines, 89% of which were trapped or snared, and 10% of which were shot. Snowmachines were used in 28% of wolverines harvested during this period (Crowley 2013; Rinaldi 2019, pers. comm.).

In Unit 17, sealing records indicate that reported harvest ranged from 8 to 63 wolverines annually during 2007 – 2016, averaging 37 wolverines annually. During this time period, 79% of wolverines were trapped or snared and 17% were shot. Snowmachines were used 46% of the time (Woolington 2013; Rinaldi 2019, pers. comm.).

Other Alternatives Considered

When Proposal WP20-26 was proposed, it requested changes to regulations on BLM lands only in Units 9 and 17. BLM lands only occur in Subunits 9B, 9C, 17B, and 17C. When the proponent submitted Proposal WP22-40, the request was expanded to include all Federal public lands in the same subunits as before. An alternative to consider is that leaving out Unit 17A was an oversight, and the proposed regulatory changes should take place on all Federal public lands in Units 9B, 9C, and all of Unit 17. The Council may want to further consider this alternative.

Effects of the Proposal

If adopted, Proposal WP22-40 would allow hunters to use a snowmachine to position wolves and wolverines for selection and harvest, as long as they are not shot from a moving snowmachine. The most recent available reports suggest that, in the Bristol Bay region, the majority of wolves are harvested by firearm, while the majority of wolverine are harvested by trapping. The proposed

regulation may not result in an increase in harvest of wolves and wolverines by trap or snare. However, such regulatory changes could increase the take of wolves and wolverines by firearm and may result in more opportunistic harvest. Currently, the wolf population is believed to be stable. Less is known about the resident wolverine population. However, as this is a traditional and common local practice, adopting the proposal may simply legalize a practice that is already occurring, therefore resulting in minimal changes in harvest.

Regulations for the use of snowmachines when harvesting wolves or wolverines would be different on State managed lands. However, this is already the case and should the proposal be adopted, it does not add regulatory complexity that does not already exist. Specifically, in State regulations, a snowmachine may be used to position a hunter to select an individual wolf for harvest, and wolves may be shot from a stationary snowmachine; in Federal regulations, a snowmachine could be used to position a wolf or wolverine for harvest, and shot from a stationary snowmachine. If both this proposal and State Proposal 23 are adopted, then State and Federal regulations would align in Units 17B and 17C but remain disparate in Units 9 and 17A.

OSM CONCLUSION

Support Proposal WP22-40 **with modification** to utilize the same regulatory language the Board adopted in Proposal WP20-27, and to include all Federal public lands in Unit 17.

The modification should read:

§____.26(n)(9)(iii) Unit 9—Unit-specific regulations

...

(I) In Units 9B and 9C, on Federal-managed lands, a snowmachine may be used to assist in the taking of a wolf or wolverine and a wolf or wolverine may be shot from a stationary snowmachine. "Assist in the taking of a wolf or wolverine" means a snowmachine may be used to approach within 300 yards of a wolf or wolverine at speeds under 15 miles per hour, in a manner that does not involve repeated approaches or that causes the animal to run. A snowmachine may not be used to contact an animal or to pursue a fleeing animal.

...

§____.26(n)(17)(iii) Unit 17—Unit-specific regulations

...

(D) In Unit 17, on Federal-managed lands, a snowmachine may be used to assist in the taking of a wolf or wolverine and a wolf or wolverine may be shot from a stationary snowmachine. "Assist in the taking of a wolf or wolverine" means a snowmachine may be used to approach within 300 yards of a wolf or wolverine at speeds under 15 miles per hour,

in a manner that does not involve repeated approaches or that causes the animal to run. A snowmachine may not be used to contact an animal or to pursue a fleeing animal.

Justification

Hunters using snowmachines to position wolves and wolverines for harvest is a traditional practice in the Bristol Bay area. While methods and means for taking wildlife in ethnographic literature describe hunters employing traditional strategies that might affect game behavior, until the 1960s hunters largely used dog sled or walked (Nelson 1983 [1899]; Oswalt 1990; VanStone 1967). As means for travel, access, and harvest continue to change over time, hunters persist in using traditional methods purposefully meant to alter the behavior of wildlife and position them for harvest because these methods are efficient. Additionally, the Board adopted a similar regulation in Unit 23, in recognition of the snowmachine as a customary and traditional harvest method. The proposed regulation change might increase opportunity through a more efficient method to harvest wolverines and could result in more harvest. Impacts to wolverine populations are unknown at this time and are difficult to track.

Finally, the proposed modification would align with similar regulations for hunting caribou on Federal public lands in all of Unit 17 as well as comply with agency specific regulations.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Bristol Bay Subsistence Regional Advisory Council

Support WP22-40 as modified by OSM with additional modification to clarify the regulatory language.

The modified regulations should read:

§ ____ .26(n)(9)(iii) Unit 9—Unit-specific regulations

...

(I) In Units 9B and 9C, on Federal-managed lands, a snowmachine may be used to assist in the taking of a wolf or wolverine and a wolf or wolverine may be shot from a stationary snowmachine. "Assist in the taking of a wolf or wolverine" means a snowmachine may be used to approach a wolf or wolverine but when you are within 300 yards, your speed must be at or under 15 miles per hour. A snow machine may be used in a manner that does not involve repeated approaches or that causes the animal to run. A snowmachine may not be used to contact an animal or to pursue a fleeing animal.

...

§ ____ .26(n)(17)(iii) Unit 17—Unit-specific regulations

...

(D) In Unit 17, on Federal-managed lands, a snowmachine may be used to assist in the taking of a wolf or wolverine and a wolf or wolverine may be shot from a stationary snowmachine. "Assist in the taking of a wolf or wolverine" means a snowmachine may be used to approach a wolf or wolverine but when you are within 300 yards, your speed must be at or under 15 miles per hour. A snow machine may be used in a manner that does not involve repeated approaches or that causes the animal to run. A snowmachine may not be used to contact an animal or to pursue a fleeing animal.

The Council supported the OSM modification stating that this would help with hunting by improving access to animals. However, the Council found the language OSM used to clarify “Assist in the taking of a wolf or wolverine” too confusing. After discussion, Chair Lyon proposed to modify the language clarifying that a snowmachine may be used to approach a wolf or a wolverine, but when you are within 300 yards, your speed must be at or under 15 mile/hour.

The proposed regulatory language as amended by the Council would be as follows: (D) In Unit 17, on Federal-managed lands, a snowmachine may be used to assist in the taking of a wolf or wolverine and a wolf or wolverine may be shot from a stationary snowmachine. "Assist in the taking of a wolf or wolverine" means a snowmachine may be used to approach a wolf or wolverine but when you are within 300 yards, your speed must be at or under 15 miles per hour. A snow machine may be used in a

manner that does not involve repeated approaches or that causes the animal to run. A snowmachine may not be used to contact an animal or to pursue a fleeing animal.

Western Interior Alaska Subsistence Regional Advisory Council

Support WP22-40 as modified by OSM. The Council felt the refined language recommended by OSM and the working group addressed the Federal Subsistence Board's previous concerns on this issue and was an equitable accommodation of both agency-specific and Federal subsistence regulatory systems. The Council also noted that Unit 19 residents who live within the Western Interior region would be affected by this proposal.

INTERAGENCY STAFF COMMITTEE COMMENTS

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

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Wildlife Proposal WP22-40

This proposal would allow federally qualified users (FQU) to use snowmachines to position wolves and wolverines for harvest on federal public lands in Game Management Units (GMU) 9B, 9C, 17B, and 17C, provided the animals are not shot from a moving snowmachine.

Background

This proposal seeks to align federal subsistence hunting regulations with state hunting regulations for positioning of wolves and adds wolverines to the list of animals that can be positioned in GMU 9A, 9B, 17B & 17C.

Current state regulations allow for the positioning of wolves and caribou in GMUs 9 & 17 because snowmachines are the major source of access for hunters and trappers pursuing these species. Harvest data from Alaska Department of Fish & Game (ADF&G) sealing records would seem to support this idea with harvest of both species increasing in years with high snow fall and decreasing in years with low snow fall.

Allowing the positioning of wolves and wolverines could lead to increased harassment (i.e., altering an animal's behavior through repeated approaches) leading to increased energy expenditure by the individual being pursued which can negatively affect the animal and occasionally may lead to the death of an individual animal. However, it is also possible that allowing for the positioning of these species would likely increase the chance of more accurate shots because hunters would be closer to the animal.

Also, hunters taking more accurate shots would likely minimize the unnecessary waste of meat and fur that occurs when they take shots that are longer and riskier. Further, we know that positioning of wolves and wolverines is a common traditional practice because it is the only practical way to hunt for these species in winter and so making it legal would reduce the potential conflict between law enforcement personnel and subsistence hunters.

Impact on Subsistence Users

If adopted this proposal would align federal subsistence regulations with current state regulations allowing FQUs to legally position wolves and additionally allow subsistence users to position wolverines on federal lands in GMUs 9 and 17.

Impact on Other Users

If adopted, this proposal would have no effect on other non-federally qualified users.

Opportunity Provided by State

State customary and traditional use findings: The Alaska Board of Game (BOG) has made positive customary and traditional use findings for wolves and wolverines in GMU 17.

Amounts Reasonably Necessary for Subsistence: Alaska state law requires the BOG to determine the amount of the harvestable portion of a game population that is reasonably necessary for customary and traditional uses. This is an ANS. The BOG does this by reviewing extensive harvest data from all Alaskans, collected either by ADF&G or from other sources.

ANS provides the BOG with guidelines on typical numbers of animals harvested for customary and traditional uses under normal conditions. Hunting regulations can be re-examined if harvests for customary and traditional uses consistently fall below ANS. This may be for many reasons: hunting regulations, changes in animal abundance or distribution, or changes in human use patterns, just to name a few.

There is a positive ANS determination for wolves in GMU 17 however there is no set number of animals necessary for subsistence. The ANS for wolverines in GMU 17 is 90% of the harvestable portion within the GMU. The season and bag limit for big game hunting of wolves and wolverines in GMU 17 are 10 per day and 1 wolverine per season and the trapping regulations have no limit for both wolves and wolverines.

Conservation Issues

This regulatory change could lead to more opportunistic take of wolves and wolverines which pose a potential conservation issue in some areas. Wolves are currently under reduction efforts through predation control in GMUs 17B&C and the focus of intensive management in GMU 9 to benefit the northern Alaska Peninsula caribou herd. We have little information regarding the wolf and wolverine populations in GMU 17B & C; however, based on local reports, staff observations and the remoteness

of much of the GMU, we can assume that there is minimal conservation risk to these populations from hunters. Likewise, given the traditional practice of positioning animals with snow machines changing this regulation is unlikely to increase harvest of either species because subsistence users have probably been positioning these animals for as long as they have been using snowmachines.

Enforcement Issues

Adopting this regulation would likely make enforcement efforts easier as enforcement officers won't have to differentiate between rules of positioning on state and federal lands in GMU 17B & C.

Position

ADF&G **SUPPORTS** any modification to the proposal that will align state and federal regulations.

APPENDIX 1

5 AAC 92.080. Unlawful methods of taking game; exceptions

The following methods of taking game are prohibited:

...

(4) unless otherwise provided in this chapter, from a motor-driven boat or a motorized land vehicle, unless the motor has been completely shut off and the progress from the motor's power has ceased, except that a

...

(B) motorized land vehicle may be used as follows:

i) In Units 22, 23, and 26(A), a snowmachine may be used to position a caribou, wolf, or wolverine, for harvest, and caribou, wolves and wolverines may be shot from a stationary snowmachine.

(ii) notwithstanding any other provision in this section, in the wolf control implementation areas specified in 5 AAC 92.111 - 5 AAC 92.113, 5 AAC 92.118, and 5 AAC 92.121 - 5 AAC 92.124, a snowmachine may be used to position a hunter to select an individual wolf for harvest, and wolves may be shot from a stationary snowmachine;

(iii) notwithstanding any other provision in this section, in Units 9(B), 9(C), 9(E), 17, 18, 19, 21, 22, 24, 25(C) and 25(D), except on any National Park Service or National Wildlife Refuge lands not approved by the federal agencies, a snowmachine may be used to position a hunter to select an individual wolf for harvest, and wolves may be shot from a stationary snowmachine;

(iv) notwithstanding any other provision in this section, in the bear control implementation areas specified in 5 AAC 92.111 - 5 AAC 92.113, 5 AAC 92.118, and 5 AAC 92.121 - 5 AAC 92.124, a snowmachine may be used to position a hunter to select an individual bear for harvest, and bears may be shot from a stationary snowmachine;

(v) notwithstanding any other provision in this section, in Units 9(B), 9(C), 9(E), 17, 22 and 25(C), except on any National Park Service or National Wildlife Refuge lands not approved by the federal agencies, an ATV may be used to position a hunter to select an individual wolf for harvest, and wolves may be shot from a stationary ATV;

(vi) under authority of a permit issued by the department;

(vii) in Unit 18, a snowmachine may be used to position a wolf or wolverine for harvest, and wolves or wolverines may be shot from a stationary snowmachine;

(viii) in Unit 17, a snowmachine may be used to assist in the taking of a caribou and caribou may be shot from a stationary snowmachine. "Assist in the taking of a caribou" means a snowmachine may be used to approach within 300 yards of a caribou at speeds under 15 miles per hour, in a manner that does not involve repeated approaches or that causes a caribou to run. A snowmachine may not be used to contact an animal or to pursue a fleeing caribou.

(5) except as otherwise specified, with the use of a motorized vehicle to harass game or for the purpose of driving, herding, or molesting game;

(6) with the use or aid of a machine gun, set gun, or a shotgun larger than 10 gauge;

(7) with the aid of

(A) a pit;

(B) a fire;

(C) artificial light, except that artificial light may be used.