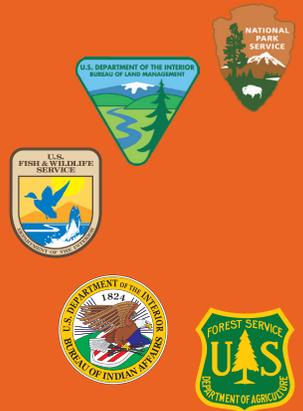


EASTERN INTERIOR ALASKA SUBSISTENCE  
REGIONAL ADVISORY COUNCIL

*March 4-5, 2015  
Fairbanks, Alaska*



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

An energetic bull moose easily makes his way through lush vegetation.



USFWS

**EASTERN INTERIOR ALAKSA SUBSISTENCE REGIONAL ADVISORY COUNCIL**

March 4 - 5, 8:30 am – 5:00 pm daily  
Pikes Waterfront Lodge, Fairbanks

+Joint meeting with Western Interior Regional Advisory Council to be held on March 4+

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

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

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

**AGENDA**

\*Asterisk identifies action item.

+ Plus sign identifies an item to be covered at the joint meeting on March 4

- 1. **Roll Call and Establish Quorum** (*Secretary*)..... 4
- 2. **Invocation**
- 3. **Call to Order** (*Chair*)
- 4. **Welcome and Introductions** (*Chair*)
- 5. **Review and Adopt Agenda\*** (*Chair*) ..... 1
- 6. **Reports**
  - Council Member Reports
  - Chair’s Report
- 7. **Public and Tribal Comment on Non-Agenda Items** (available each morning)
- 8. **Old Business** (*Chair*)
  - a. Rural Determination Process Review – Secretarial Proposed Rule + \* (*OSM LT Staff*).....  
..... Supplemental

b. Customary & Traditional Use Determination – Southeast Council Proposal + ( <i>Anthropology</i> ) .....	5
c. USFWS Refuges Proposed Rule on Hunting +* .....	Supplemental
d. National Park Service <i>Subsistence Collections and Uses of Discarded Animal Parts and Plants from Park Areas in Alaska</i> +* .....	43
e. Wood Bison update + ( <i>Rita St. Louis</i> )	
<b>9. New Business (Chair)</b>	
a. <i>OSM updates + (OSM LT Staff)</i>	
b. Tribal Consultation and Outreach + ( <i>Orville Lind</i> )	
c. Discussion on hunter education and outreach initiative strategies + ( <i>Councils, OSM staff, and collaboration with Tribes, agency staff and user groups</i> )	
d. Winter 2016 All-Council Meeting Update + ( <i>Meeting Committee</i> )	
e. Funding Notification – Fisheries Resource Monitoring Program + ( <i>OSM Anthropology Staff</i> )	
<b>10. Joint Fisheries Reports +</b>	
a. North Pacific Fisheries Management Council + ( <i>Steve Maclean, Diana Stram</i> )	
b. Yukon River Drainage Fisheries Association + ( <i>Wayne Jenkins and Becca Robbins Gisclair</i> )	
c. Tanana Chiefs Conference + ( <i>Brian McKenna and Ben Stevens</i> )	
d. Yukon Fisheries Research and Monitoring updates + ( <i>multiple agency reports to be confirmed</i> )	
e. Yukon Fisheries Management + ( <i>Fred Bue and discussion with in-season managers</i> )	
<b>Day 2 EIRAC Only Action Items:</b>	
<b>11. Election of Officers*</b>	
Chair ( <i>DFO</i> )	
Vice-Chair ( <i>New Chair</i> )	
Secretary ( <i>New Chair</i> )	
<b>12. Review and Approve Previous Meeting Minutes* (Chair)</b> .....	56
<b>13. Review and Approve FY2014 Annual Report* (Council Coordinator)</b> .....	Supplemental
<b>14. Charter Revisions* (Council Coordinator)</b> .....	72
<b>15. Call for Federal Hunting and Trapping Regulatory Proposals * (OSM Wildlife Staff – Council may request some agency wildlife reports for updated information in advance of developing proposals)</b> .....	76

**16.. Agency Reports**

(Time limit of 15 minutes unless approved in advance)

Tribal Governments

Native Organizations

USFWS

Arctic National Wildlife Refuge

Yukon Flats National Wildlife Refuge - “Long-term changes in boreal habitats of the Yukon Flats: does it matter for waterbirds?” (Tyler Lewis)

Tetlin National Wildlife Refuge

NWRS Statewide Regulations Proposal (further discussion with EIRAC if needed)

NPS

Yukon Charley Rivers Preserve (Marcy Okada)

Wrangell- St. Elias National Park and Preserve (Barbara Cellarius)

Denali National Park and Preserve

ADF&G

BLM

OSM

**17. Future Meeting Dates**

Confirm date and location of fall 2015 meeting\* .....77

**18. Closing Comments**

**19. Adjourn (Chair)**

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

*Reasonable Accommodations*

The Federal Subsistence Board is committed to providing access to this meeting for all participants. Please direct all requests for sign language interpreting services, closed captioning, or other accommodation needs to Eva Patton, 907-786-3358, [eva\\_patton@fws.gov](mailto:eva_patton@fws.gov), or 800-877-8339 (TTY), by close of business on February 24, 2015

**REGION 9**  
**Eastern Interior Alaska Subsistence Regional Advisory Council**

<b>Seat</b>	<b>Year Apptd Term Expires</b>	<b>Member Name and Community</b>
<b>1</b>	2001 <b>2016</b>	<b>Susan L. Entsminger</b> Mentasta Pass <span style="float: right;"><b>Chair</b></span>
<b>2</b>	2007 <b>2016</b>	<b>Andrew P. Firmin</b> Fort Yukon <span style="float: right;"><b>Secretary</b></span>
<b>3</b>	2010 <b>2016</b>	<b>Larry Williams Sr.</b> Venetie
<b>4</b>	2007 <b>2016</b>	<b>Lester C. Erhart</b> Tanana
<b>5</b>	2005 <b>2016</b>	<b>William L. Glanz</b> Central
<b>6</b>	2002 <b>2017</b>	<b>Andrew W. Bassich</b> Eagle
<b>7</b>	<b>2014</b> <b>2017</b>	<b>Rhonda O. Pitka</b> Beaver
<b>8</b>	2012 <b>2015</b>	<b>Will M. Koehler</b> Horsfeld
<b>9</b>	2009 <b>2015</b>	<b>Donald A. Woodruff</b> Eagle
<b>10</b>	2001 <b>2015</b>	<b>Virgil Umphenour</b> North Pole <span style="float: right;"><b>Vice Chair</b></span>

## **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>   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	<div style="border: 1px solid black; padding: 2px; width: fit-content; margin: 0 auto;">Area</div>   <div style="border: 1px solid black; padding: 2px; width: fit-content; margin: 0 auto;">Federally qualified subsistence users</div> 	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.

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**

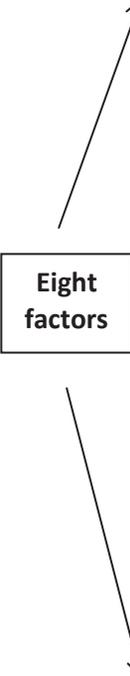
*(a) The Board shall determine which fish stocks and wildlife populations have been customarily and traditionally used for subsistence. These determinations shall identify the specific community's or area's use of specific fish stocks and wildlife populations. For areas managed by*

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.

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

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

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

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

Customary and Traditional Use Determination	Harvest Season and Limit
<p><i>Deer Unit 3—All rural residents</i></p> <div data-bbox="186 1423 349 1480" style="border: 1px solid black; padding: 2px; display: inline-block;">EXAMPLE</div>  <div data-bbox="349 1558 597 1669" style="border: 1px solid black; padding: 5px; display: inline-block; margin-top: 20px;"> <p style="text-align: center;"><b>EXAMPLE</b> ANILCA Section 804 determination</p> </div> 	<p><i>Sept. 15–Oct. 15. One antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on either antler, or antlers with 2 brow tines on both sides by State registration permit only.</i></p> <p><i>Federal public lands on Mitkof and Wrangell Islands are closed to the taking of moose except by residents of Units 1B, 2, and 3.</i></p>

Southcentral Alaska Region

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

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

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

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

Kodiak/Aleutians Region

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

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

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

Customary and Traditional Use Determination	Harvest limit and season
<i>Elk Unit 8—residents of Unit 8</i>	<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> <div data-bbox="1161 779 1404 829" style="border: 1px solid black; padding: 2px; display: inline-block; margin-top: 10px;">Harvest quota</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
<div data-bbox="198 1392 360 1442" style="border: 1px solid black; padding: 2px; display: inline-block;">EXAMPLE</div>   <div data-bbox="435 1478 685 1585" style="border: 1px solid black; padding: 2px; display: inline-block; text-align: center;">                     EXAMPLE                      ANILCA Section                      804 determination                 </div> 	<i>Unit 8 Kodiak, Ban, Uganik, and Afognak Islands. Sept. 15–Nov. 30. One elk per household by Federal registration permit only.</i>  <i><b>Federal public lands are closed to the taking of elk except by residents of Unit 8</b></i>

Bristol Bay Region

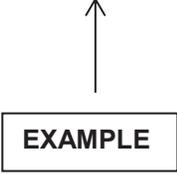
In Unit 17 of the Bristol Bay Region, any rural resident may harvest sheep, coyotes, arctic foxes, red foxes, hares, lynx, wolverines, grouse, and ptarmigan in Federal seasons on Federal public lands. These are examples of what a new customary and traditional use determination might look like if the 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 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: 20px 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="358 527 599 648" style="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;"> <p><b>ANILCA Section 804 determination</b></p> </div> 	<p><i>Unit 22A, that portion north of including the Tagoomenik and Shaktoolik river drainages Aug. 1–Sept. 30. One bull.</i></p> <p><i>Federal public lands are closed to the taking of moose except by residents of Unit 22A.</i></p>

Northwest Arctic Region

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

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

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

Customary and Traditional Use Determination	Federal Season and Limit
<p><i>Muskoxen Unit 23 south of Kotzebue Sound and west of and including the Buckland River drainage—Residents of Unit 23 south of Kotzebue Sound and west of and including the Buckland River drainage.</i></p> <div data-bbox="363 495 634 613" style="border: 1px solid black; padding: 5px; display: inline-block; margin-top: 20px;"> <p><b>This is not an ANILCA Section 804 determination.</b></p> </div> <div data-bbox="656 541 786 569" style="display: inline-block; vertical-align: middle; margin-left: 10px;"> <p>→</p> </div>	<p><i>Unit 23 south of Kotzebue Sound and west of and including the Buckland River drainage. Aug. 1–Mar. 15. One bull by State or Federal registration permit.</i></p> <p><i>Federal public lands are closed to the taking of moose except by Federally qualified subsistence users hunting under these regulations.</i></p>

Eastern Interior Region

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

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

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

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

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

Customary and Traditional Use Determination	Federal Season and Limit
<p><i>Moose Unit 25D west—Residents of Unit 25D west</i></p> <div data-bbox="277 779 557 884" style="border: 1px solid black; padding: 5px; width: fit-content; margin: 20px auto;"> <p><b>This is not an ANILCA Section 804 determination.</b></p> </div> <div data-bbox="581 825 776 850" 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 0;"> <p><b>EXAMPLE</b></p> </div> <div data-bbox="391 1556 488 1581" style="text-align: center;"> <p>→</p> </div> <div data-bbox="451 1619 727 1751" style="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;"> <p><b>EXAMPLE ANILCA Section 804 determination</b></p> </div> <div data-bbox="743 1675 808 1701" 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; margin-top: 20px;"> <div style="border: 1px solid black; padding: 5px; display: inline-block;"> <p><b>ANILCA Section 804 determination</b></p> </div> <span style="font-size: 2em; margin: 0 10px;">→</span> </div>	<p><i>Unit 26C. July 1–June 30. One moose by Federal registration permit by residents of Kaktovik only. The harvest quota is 5 moose. You may not take a cow accompanied by a calf in Unit 26B. Only 5 Federal registration permits be issued.</i></p> <p><i>Federal public lands are closed to the taking of moose except by residents Kaktovik holding a Federal registration permit and hunting under these regulations.</i></p>

Summary

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

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

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

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

## **CONCLUSION**

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

## **LITERATURE CITED**

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Random House, Inc. 2015. Dictionary.com Unabridged. <Dictionary.com <http://dictionary.reference.com/browse/deference>>, accessed January 7, 2014.

WIASRAC. 2014. Transcripts from the Western Interior Alaska Subsistence Regional Advisory Council proceedings, October 28, in McGrath, Alaska. Office of Subsistence Management, FWS. Anchorage, AK.

YKDSRAC. 2014. Transcripts from the Yukon Kuskokwim Delta Subsistence Regional Advisory Council proceedings, October 14, in Anchorage, Alaska. Office of Subsistence Management, FWS. Anchorage, AK.

## **APPENDIX A**

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

#### **BACKGROUND**

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

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

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

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

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

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

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

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

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

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

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

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

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

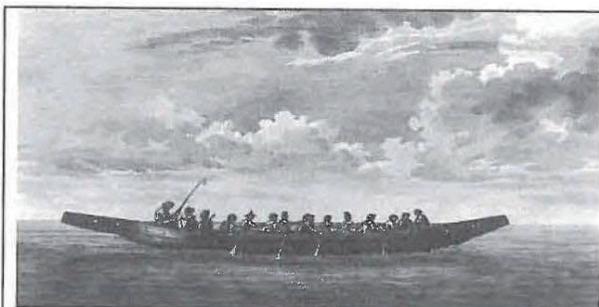
In January 2013, the Southeast Alaska Council sent a letter, shown below, to the other Regional Advisory Councils regarding perceived deficiencies in the current customary and traditional use determination process. This letter asked the other councils to review, during their fall 2013 meetings, whether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

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

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

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

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



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

**Bertrand Adams Sr., Chair  
P. O. Box 349  
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***kaadashan@alaska.net***

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**JAN 11 2013**

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

Dear Mr. Reakoff:

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

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

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

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

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

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

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

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

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

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

Gunalchéesh (thank you).

Sincerely,  
/S/

Bertrand Adams Sr., Chair

Enclosures

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

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

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

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

Voted to change the customary and traditional use determination process:

- Southeast Alaska Council (winter 2011)

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

Voted to keep the determination process as is:

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

Action postponed:

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

## **REGIONAL ADVISORY COUNCIL COMMENTS**

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

### **Southcentral Alaska Council Members**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

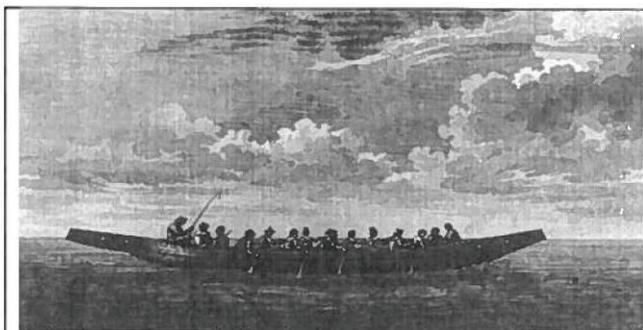
I would hate to have to argue over our indigenous right to subsist on these lands. I'm saying these lands, meaning whatever is in there. I have the right to subsist harvest in the way I've done, my forefathers did, without having to write it on a piece of paper . . . . I kind of agree with having a customary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

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

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

**APPENDIX B**

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



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

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

RAC SE14012.RL

**APR 01 2014**

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

Dear Chairman Towarak:

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

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

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

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

Chairman Towarak

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

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

Gunalchéesh,



Bertrand Adams Sr.,  
Chair

Enclosure

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Current determinations are listed in §242.24.

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

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

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

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

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

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

**Southeast Alaska Council's Proposed Language**

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

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

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

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

(d) Current determinations are listed in § 100.24

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

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

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

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

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

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

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

(d) Current determinations are listed in §242.24.

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

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

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

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

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

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

## Appendix

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

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

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

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

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

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

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

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

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

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

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

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**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.

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

RAC EI14035.EP

02 DEC 2014

Mr. Dan Hull, Chair  
North Pacific Fisheries Management Council  
605 West 4th Avenue, Suite 306  
Anchorage, Alaska 99501-2252

Dear Chairman Hull:

I am writing on behalf of the Eastern Interior Alaska Subsistence Regional Advisory Council (Council) to provide the Council's comments and recommendations on chum and Chinook salmon bycatch in the Bering Sea/Aleutian Islands commercial pollock fishery for consideration by the North Pacific Fisheries Management Council (NPFMC) under agenda item C-2 its coming December 2014 meeting in Anchorage, Alaska.

The Council is one of 10 Federal Subsistence Regional Advisory Councils formed under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) and chartered under the Federal Advisory Committee Act. Section 805 of ANILCA and the Council's charter establish its authority to initiate, review and evaluate regulations, policies, management plans, and other matters related to subsistence within the Eastern Interior Region. The Council represents subsistence users along the Yukon River and its tributaries from Tanana to the Canadian Border. The Council provides a public forum for discussion and recommendations for subsistence fish and wildlife management in the region. The Council also reviews resource management actions occurring outside the region that may impact subsistence resources critical to Federally qualified subsistence users whom the Council represents.

The Council held a public meeting on October 20-21, 2014, in Fairbanks and discussed the recent Bering Sea salmon bycatch updates in addition to ongoing conservation measures for Chinook salmon management on the Yukon River. The Council interacts directly with two other regional advisory councils that represent the middle and lower Yukon River communities and has collaborated on river-wide Chinook salmon conservation initiatives in conjunction with regional non-profits and Native organizations. In this letter we wish to further unify our efforts and align with the Yukon River Drainage Fisheries Association, Bering Sea Fisherman's Association, Association of Village Council Presidents, Kawerak, Inc. and Tanana Chiefs Conference to request for the NPFMC to:

1. Reduce the overall Chinook salmon bycatch hard cap from 60,000 to 20,000 and the performance standard/cap without incentive programs from 47,591 to 14,500.

Mr. Dan Hull, Chair

2. Enact regulatory provisions to shorten the pollock season (earlier end dates) when Chinook salmon catch rates increase while pollock catch rates decline in late September/October.

The justification for this request has been articulated many times over the past few years in letters by our Council, in testimony and letters submitted to the NPFMC by subsistence users and the regional organizations listed above. The Council and the area residents it represents are deeply concerned about bycatch, because Western Alaska chum and Chinook salmon stocks are essential subsistence resources for people all along the Yukon River drainage. Salmon is a critical subsistence food source and central to culture, community, economy, and way of life for subsistence communities throughout Alaska. As you are aware, Chinook salmon runs have been in drastic decline the past few years, which has caused great hardship for many communities that have not been able to meet their subsistence needs. Current stock population and escapement are so low that any source of mortality will have an impact on recovery efforts.

In response to Chinook declines in recent years, many communities have taken the initiative to limit or completely curtail their subsistence harvest of Chinook salmon in order to help sustain the population for future generations. In 2014, with the lowest returns on record, subsistence fisheries for Chinook were completely restricted throughout Western Alaska. On the Yukon River, all directed harvest of Chinook salmon was closed and subsistence summer chum salmon fishing was severely restricted to avoid any incidental catch of Chinook. Yukon River Chinook salmon escapement treaty obligations with Canada have been a challenge to meet even with very limited harvest in the Alaska Yukon River drainages. Continued extraordinary conservation measures to recover this run are anticipated into the foreseeable future.

Every Chinook salmon counts and all efforts should be made to rebuild and sustain the population for the future. The Council anticipates that a full closure of Yukon River Chinook salmon harvest will be required for the foreseeable future. Bering Sea commercial trawl bycatch of Chinook salmon is not negligible in the overall effects to the long-term sustainability of Western Alaska Chinook salmon. The Council requests that the NPFMC reduce the bycatch cap for Chinook salmon due to ongoing conservation concerns and also strengthen efforts to reduce chum salmon bycatch due to its increased importance for meeting subsistence needs.

It is imperative for conservation efforts that all fisheries share the burden of conservation equally. Western Alaska Chinook salmon stocks have declined dramatically since the NPFMC adopted current Bering Sea bycatch limits under Amendment 91 in 2009. Our communities have curtailed nearly all directed subsistence harvest of Chinook and summer chum salmon to avoid any incidental catch. Under these circumstances, even relatively low Bering Sea bycatch levels are significant. All measures to reduce every source of Chinook salmon mortality are meaningful. Therefore, Bering Sea salmon bycatch should also be further reduced and hard caps lowered.

Mr. Dan Hull, Chair

We recognize and appreciate the NPFMC initiative to address bycatch through incentive programs and technical measures. However, under the current circumstances, greater protection of the Chinook salmon population is warranted. We urge the NPFMC to take action at this meeting to further contribute to these conservation measures and reduce Bering Sea bycatch to a hard cap of 20,000 Chinook. This step will reduce the potential for severe impacts to Chinook salmon recovery efforts in Western Alaska.

If you have any questions regarding this correspondence, please contact Eva Patton, Subsistence Council Coordinator, Office of Subsistence Management at (907) 786-3358 or [eva\\_patton@fws.gov](mailto:eva_patton@fws.gov).

Thank you for your consideration.

Sincerely,



Sue Entsminger, Chair

cc: Eastern Interior Alaska Subsistence Regional Advisory Council  
Western Interior Alaska Subsistence Regional Advisory Council  
Yukon-Kuskokwim Delta Subsistence Regional Advisory Council  
Federal Subsistence Board  
Eugene R. Peltola, Jr. Assistant Regional Director, Office of Subsistence Management  
Chuck Ardizzone, Deputy Assistant Regional Director, Office of Subsistence Management  
Stewart Cogswell, Fisheries Division Chief, Office of Subsistence Management  
Carl Johnson, Council Coordination Division Chief, Office of Subsistence Management  
Eva Patton, Subsistence Council Coordinator, Office of Subsistence Management  
Pippa Kenner, Anthropologist, Office of Subsistence Management  
Trent Leibich, Fisheries Biologist, Office of Subsistence Management  
Administrative Record

**Eastern Interior Alaska Subsistence Regional Advisory Council  
c/o U.S. Fish and Wildlife Service  
1011 East Tudor Road, MS 121  
Anchorage, Alaska 99503  
Phone: (907) 786- 3888, Fax: (907) 786-3898  
Toll Free: 1-800-478-1456**

RAC EI14034.EP

**NOV 20 2014**

Mr. Bert Frost  
Alaska Regional Director  
National Park Service  
240 West 5th Avenue  
Anchorage, Alaska 99501

Dear Mr. Frost:

The Eastern Interior Alaska Subsistence Regional Advisory Council (Council) is one of ten Federal Subsistence Regional Advisory Councils that were formed under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) to represent subsistence users in their regions. We are writing in regards to the public comment period for proposed changes to 36 CFR 13 the National Park Service (NPS) published in the Federal Register on September 4, 2014 (RIN1024-AE21). We request the NPS rescind the proposed rule so the public process can be re-initiated and better organized with due public process procedures that allow for local community-level engagement at the outset. In the alternative, we request the public comment period be extended to allow time for the rural public to fully participate and all Federal Subsistence Regional Advisory Councils are provided an opportunity to respond at their scheduled winter 2015 meetings.

The Councils provide a public forum for discussion and recommendations on any matter related to subsistence uses of fish and wildlife. The Councils are also empowered to evaluate and make recommendations on management plans, proposed regulations, and other matters related to subsistence uses of fish and wildlife within their regions. The Eastern Interior Council's subsistence region encompasses Yukon-Charley Rivers National Preserve, and much of Denali and Wrangell-St. Elias National Park and Preserves.

The Councils are chartered under and governed by the Federal Advisory Committee Act (FACA), which requires that the Councils conduct their business at publicly-noticed meetings; including discussing and authorizing correspondence such as comments on public processes. However, your public process on this issue did not commence until September 4, 2014, after one of the Councils had already met and it was not communicated until after the next Council met in mid-September; too late to be included in Council meeting book materials and at a time when many are out fall subsistence hunting. Thus, our Council did not have its first opportunity to address the proposed rule on hunting regulations until it met for its public meeting on October 21-22, 2014, in Fairbanks.

Mr. Bert Frost

At this meeting the Council discussed at length its objection to an apparent circumvention of public process due to lack of early outreach efforts, few public meetings, and a short public comment period. Additionally, the Council wants to note that participation for rural residents is challenging due to their limited access to Internet and news media to obtain information and comment through a complicated internet-based national Federal Register system. Public meetings held during freeze-up greatly limit rural residents ability to participate since travel is often not possible by land or water. The Council is very concerned the public process was not designed to ensure that all of the Federal Subsistence Regional Advisory Councils had an opportunity to participate, especially when the process was initiated by one of the partner agencies in the Federal Subsistence Management Program.

The Council feels there should be an expanded public process so that rural residents who do not have the same access to public media and Internet resources have ample opportunity to learn about, deliberate, and make informed recommendations on the proposed rule. This Council was only provided a few weeks to review the press release and Federal Register notice in advance of formal discussion on the record to make recommendations prior to the end of the public comment period. Many Council members noted they had not seen or heard of the proposed ruling within their community or region. It is a normal part of our members' processes to discuss such matters with their communities prior to attending the meeting to deliberate. The proposed rule has multiple parts and requires some time to fully review discuss and clarify with regional NPS representatives.

The Council appreciates the efforts of the local Wrangell-St. Elias NPS staff who attended its recent Council meeting. However, the absence of upper level regional NPS staff created a challenge for the Council to get questions answered when the present staff lacked the information or authority to respond. The Council would like to thank NPS Deputy Regional Director, Joel Hard, for responding to the Councils' request to participate in the meeting via teleconference. However, we were concerned to learn the proposed rule was submitted to the Department of Interior in January 2014, but not brought to the Council's attention until after mid-September. It would be very beneficial to the Council to have a longer comment period so that follow up questions and discussion can occur more fully with regional NPS staff attending the winter 2015 meeting.

The Council is very concerned about the NPS proposed hunting regulations for National Preserves in Alaska. While this proposed rule is not directed at current Federal subsistence regulations on National Park Service lands, we feel it *does* affect Federally qualified subsistence users. Many rural subsistence users hunt and trap under general State regulations and greatly benefit from those more liberal methods, seasons, and bag limits. If a current State regulation is not adopted in Federal regulations, that opportunity would be gone for Federally qualified subsistence unless those proposals are submitted through the Federal regulatory process and adopted by the Federal Subsistence Board. The proposal process is lengthy, taking over a year to complete. All State regulations not currently in Federal regulations would have to be adopted. The Council stresses that all changes to regulations that may have an impact on Federal subsistence and food security be given ample opportunity for input from subsistence users.

The Council is aware of the Master Memorandum of Understanding between the Alaska Department of Fish and Game and the National Park Service in regards to new regulations for fish and wildlife. It appears the State and the NPS are not communicating or coordinating well in accordance with that

Mr. Bert Frost

Memorandum. Too often the Council and public are caught in between State and Federal conflicts and we wish to see meaningful collaboration among all involved in resource management. We request that the NPS continue to pursue meaningful communication and consultation with the State and communities that may be affected by this proposed rule. Importantly, communication with affected Tribes needs to be initiated *prior* to proposed regulation changes with direct follow up to ensure opportunity for government to government consultation as part of the rule making process.

Therefore, the Eastern Interior Alaska Subsistence Regional Advisory Council respectfully requests the National Park Service rescind the proposed regulation until full public outreach procedures and comprehensive public process can be better implemented to reach rural users affected by these proposed regulations on Park lands. The Council recommends a scoping process starting with local communities and tribes prior to the development of a proposed rule. In the alternative, the Council requests that the National Park Service extend the proposed regulation comment period to allow time for a comprehensive public process to reach rural users affected by these proposed regulations on Park lands. The Council also requests a minimum extension for public comment through April 30, 2015 which would allow each of the ten Federal Subsistence Regional Advisory Councils opportunity to further review and comment during the winter 2015 meeting cycle. Thank you for your consideration. We hope to hear from you soon regarding this request.

Sincerely,



Sue Entsminger, Chair

cc: Eastern Interior Alaska Subsistence Regional Advisory Council  
Tim Towarak, Chair, Federal Subsistence Board  
Eugene R. Peltola, Jr., Assistant Regional Director, OSM  
Chuck Ardizzone, Deputy Assistant Regional Director, OSM  
Carl Johnson, Council Coordination Division Chief, OSM  
Chris McKee, Wildlife Division Chief, OSM  
Pippa Kenner, Anthropologist, OSM  
Jeff Brooks, Social Scientist, OSM  
Interagency Staff Committee  
Joel Hard, Deputy Regional Director, National Park Service  
Marcy Okada, National Park Service  
Barbara Cellarius, National Park Service  
Amy Craver, National Park Service  
Denali Subsistence Resource Commission  
Wrangell-St. Elias Subsistence Resource Commission  
Jennifer Yuhas, Federal Subsistence Liaison Team Leader  
Alaska Department of Fish and Game  
Administrative Record



## United States Department of the Interior NATIONAL PARK SERVICE

Alaska Region  
240 West 5<sup>th</sup> Avenue, Room 114  
Anchorage, Alaska 99501

IN REPLY REFER TO:

7.A.2.(AKRO-DRD)

**OCT 29 2014**

Sue Entsminger, Chair  
Eastern Interior Regional Advisory Council  
101 12<sup>th</sup> Avenue, Room 110  
Fairbanks, Alaska 99701

Dear Chairperson Entsminger:

Thank you for the opportunity to call into your meeting to provide additional information. I'm sorry I couldn't be there to begin with. Our relationship with the Council and the public it represents is important to the National Park Service (NPS) and to me personally.

I would like to emphasize again, the proposed NPS rule does not affect subsistence opportunity under the Federal program. Qualified rural subsistence users retain priority and opportunities in the Alaska National Interest Lands Conservation Act (ANILCA) Title 8 program on NPS lands. It is true that those users who also utilize opportunities under the state sport or general seasons in preserves are affected as Alaska resident hunters.

Closure processes created before widespread internet access, cellphones and social media do not fully reflect how the public communicates today. We are very simply proposing what we believe are improvements and hope the public will give us needed input. This is not intended to limit public discourse. We absolutely want and need that participation as we go about the business of managing park resources.

I have also confirmed letters were sent to the tribal contacts in Fort Yukon and Circle in early September and no responses were received requesting formal consultations. Marcy Okada followed up with a phone call to the Circle Tribal Council on September 15, about the government-to-government consultation teleconference occurring on September 24. Angela Ludwick, the tribal administrator for the Circle Tribal Council, emailed Ms. Okada back to confirm that she had received the information but requested no separate consultation. In addition to emailing the letter of invitation to Fort Yukon, Jean Gamache met with Stephanie Hinz, Executive Director of the Fort Yukon Tribe, on October 25<sup>th</sup>, and provided her with the letter of invitation. Fort Yukon has not requested consultation, and they did not join the consultation on October 27.

I will fully review the Regional Advisory Council's request for an extension of the public comment period in the context of all comments received and make a recommendation to the Regional Director and Department leadership before the Thanksgiving holiday.

We continue to work to improve upon our relationship with the State, but the NPS must meet its statutory mandates. This is a challenge as we work in two imperfect systems with management objectives that are not aligned in every case. Those instances truly are the exception not the rule and do not reflect the considerable common ground the State and the NPS share. I hope a final rule can provide the clarity desired by us, the State and the public we both serve.

Best regards,



Joel L. Hard  
Deputy Regional Director



**United States Department of the Interior**  
**NATIONAL PARK SERVICE**

Alaska Region  
240 West 5<sup>th</sup> Avenue, Room 114  
Anchorage, Alaska 99501

IN REPLY REFER TO:

1.A.2.(AKRO-DRD)

November 25, 2014

Sue Entsminger, Chair  
Eastern Interior Regional Advisory Council  
101 12<sup>th</sup> Avenue, Room 110  
Fairbanks, Alaska 99701

Dear Chairperson Entsminger:

Thank you for your letter of November 20, 2014, concerning the National Park Service's (NPS's) proposed wildlife hunting and related regulations for national preserves in Alaska.

As you stated in your letter, the proposed regulations are a focused response to the State of Alaska's general hunting regulations and do not restrict any activities while hunting under Federal Title VIII subsistence regulations. We agree that some rural Alaskans take advantage of state regulations when those state regulations provide additional hunting opportunities. However, we cannot ignore the issue when state regulations allow activities which conflict with National Park Service law and policy.

The ways in which those state regulations, particularly the relatively recent liberalizations for taking grizzly bears over bait and the taking of wolf pups and bear cubs in dens, conflict with National Park Service law and policy should be well-known to the Eastern Interior Regional Advisory Council. We have been dealing with them through the annual Superintendent's Compendium process for the past four years. The Council had a lengthy discussion of some of those temporary restrictions at its October 17, 2012, meeting in Fairbanks. In addition, Determinations of Need were published in connection with those restrictions, and the Council commented on them on February 15, 2013.

We understand your concern for attendance by rural Alaskans at our public meetings, particularly those living off the road system, and we have the same concern. That is why we had an extended comment period. We also advertised and held 17 public hearings, including one conducted by toll-free telephone conference call, a method used by the Regional Advisory Council for both public and member participation. In the Eastern Interior area, we held in-person meetings in Eagle, Tok, Copper Center and Fairbanks. Nine of our 16 in-person meetings were held in communities off the road system.

We notified the more than 200 tribes in Alaska, providing two telephone conference call opportunities for Government-to-Government consultation, and an invitation to arrange face-to-

face consultation. To date, we have had one meeting in Allakaket, and three tribes participated in the telephone meetings. Government-to-Government contact began with tribes at the same time it began with the State of Alaska. This was shortly after the Department of Interior gave us clearance to proceed with the Federal Register Notice on the proposed regulation. Beginning those consultations earlier would not have been possible because it was not until then we knew our proposed regulation would be allowed to move forward and how the final proposed rule would read. You are correct, however, in that our legal consultations with the Department and senior National Park Service officials began much earlier, typical of how these processes work.

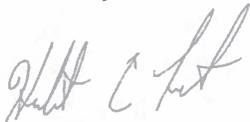
Our proposed regulations also suggest changes in public notice and process. We would welcome the Council's recommendations for ways to gather public comment and provide public notice both for wildlife issues and unrelated topics, in ways that both reach rural Alaskans and are a responsible use of the taxpayer's money. We tried to strike that balance in this process, which we believe is the most extensive public outreach conducted by NPS Alaska since the general management plans of the mid-1980s.

Our decision to run the public comment period for an unusually long period (90 days) was made in light of the timing of the proposed rule's release to the public. We know that September and October are busy with hunting and winter preparation in many Alaska communities. Because we began with such a lengthy comment period, and because extending the period would be highly unusual and require additional approval by the Secretary of the Interior, the NPS will not grant a longer comment period.

To date, we have received significant public comment from both individuals and organizations. About 1,300 comments have been posted on regulations.gov, and more than 19,000 other comments have been delivered to the National Park Service. In shorter comment periods regarding temporary compendium restrictions on wildlife we have received more than 50,000 comments. While these numbers do not reflect the time available to members of the Eastern Interior Regional Advisory Council, they do indicate that significant numbers of people have found a 90-day comment period to be adequate.

Finally, we share your desire for meaningful communication and consultation with the State of Alaska, tribes and communities. Since my arrival as regional director, I have had multiple respectful and productive conversations with the Department of Fish and Game, with Subsistence Resource Commission chairs and with the director of the Citizen's Advisory Commission on Federal Areas. I look forward to meeting with additional regional advisory councils as well as having less formal gatherings in communities. In the interim, please feel free to contact me directly or stop in if your travels bring you through Anchorage.

Sincerely,



Herbert C. Frost, Ph.D.  
Regional Director, Alaska Region

**EASTERN INTERIOR ALASKA SUBSISTENCE REGIONAL ADVISORY COUNCIL**

**Meeting Minutes**

**October 21 – 22, 2014**

**Pike's Waterfront Lodge**

**Fairbanks, Alaska**

**Council Members Present:**

Sue Entsminger, Chair  
Virgil Umphenour  
Andrew Firmin  
Lester Erhart  
James Roberts  
Bill Glanz  
Larry Williams  
Donald Woodruff  
Andy Bassich  
Will Koehler

**Agency Staff:**

Eva Patton, Council Coordinator, Office of Subsistence Management  
Trent Leibich, Fisheries Biologist, Office of Subsistence Management  
Tom Kron, Office of Subsistence Management  
Pat Petrivelli, Interagency Staff Committee, Bureau of Indian Affairs  
Trevor Fox, Interagency Staff Committee, US Fish and Wildlife Service  
Jeff Rasic, NPS Yukon Charlie Rivers National Preserve, Chief of Resources  
Randy Larson, Deputy Superintendent Yukon-Charley National Preserve  
Marcy Okada, NPS Yukon Charlie Rivers National Preserve  
Barbara Cellarius, Wrangell St. Elias National Park and Preserve  
Kyle Jolly, Wildlife Biologist, National Park Service  
Vince Mathews, Refuge Coordinator, Yukon Flats, Arctic and Kenuti NWR  
Steve Berendzen, Refuge Manager Yukon Flats NWR  
Mark Bertram, Wildlife biologist, Yukon Flats NWR  
Shawn Bayless, Refuge Manager, Tetlin NWR  
Dave Burke, Wildlife biologist, Tetlin NWR  
Holly Gaboriault, USFWS Anchorage  
Fred Bue, Yukon Subsistence Fisheries Manager, USFWS Fairbanks  
Gerald Maschmann, Yukon Subsistence Fisheries Biologist, USFWS Fairbanks  
Jeremy Mears, Yukon Subsistence Fisheries Biologist, USFWS Fairbanks  
Jeff Estensen, Yukon fall season commercial fisheries manager, Alaska Dept. of Fish and Game  
Joe Gustafson, Alaska Dept. of Fish and Game  
Christy Gleason, Alaska Dept. of Fish and Game  
Rita St. Louis, Alaska Dept. of Fish and Game  
Nissa Pilcher, Board Support, Alaska Dept. of Fish and Game

**Via teleconference:**

Pippa Kenner, Anthropologist, OSM

Dan Sharp, Interagency Staff Committee, BLM  
Joel Hard, Deputy Director, National Park Service Alaska  
Drew Crawford, Subsistence Liaison team, Alaska Dept. of Fish and Game  
Doug Vincent Lang, Alaska Dept. of Fish and Game  
Heather Tonneson, USFWS, Regional Office Anchorage  
Joanna Fox, Deputy Manager Arctic National Wildlife Refuge  
Catherine Moncrieff, Anthropologist, Yukon River Fisheries Drainage Association  
Becca Robbins Gisclair, Yukon River Fisheries Drainage Association  
Wayne Jenkins, Yukon River Fisheries Drainage Association  
Stephanie Schmidt, Yukon Fisheries Research Biologist, Alaska Dept. of Fish and Game  
Sabrina Garcia, Summer Season Yukon Fisheries Manager, Alaska Dept. of Fish and Game

**Tribes and Native Non-Profit Organizations:**

Wilson Justin, Chees'na Tribal Council  
Jane Brandy, Northway  
Victor Lord, Nenana Native Council  
Rondell Jimmie, Nenana Native Council  
Ben Stevens, Tanana Chiefs Conference  
Brian McKenna, Tanana Chiefs Conference, Fisheries Biologist (Wildlife and Parks Dept.)  
Orville Huntington, Tanana Chiefs Conference, Director Wildlife and Parks Dept.

**Public:**

Coke Wallace, Middle Nenana AC  
Theresa Williams, Fairbanks/Fort Yukon  
Dorothy Shockley, Manley Hotsprings

**Roll Call and Establish Quorum:** One Council member was weather delayed at the start of the meeting but arrived at approx. noon on the first day.

**Invocation:** Council member Larry Williams provided the invocation.

**Review and Adopt Agenda:**\* Council adopted the agenda with modifications to the order accommodate guest speaker timelines. \*Asterisk identifies action item.

**Review and Approve Previous Meeting Minutes\***

No other corrections were found and previous meeting minutes were approved by unanimous vote.

**Council member reports:**

**Andy Bassich** – Expressed that the fishing season was managed really well this year on the Yukon River. Would like to discuss the management of fall chum during the meeting.

He noted concern about the influx of hunters and pressure in Eagle and other rural communities such as Circle and Central. Hunting pressure on the Yukon River around Eagle was intense this year and it is impacting the community by pushing local hunters farther away and they have to hunt in new areas. He is concerned about the pressure on communities and loss of subsistence food resources such as moose which are very low density in the area. Would like to discuss options for how to approach outreach and education to address these issues.

Discussed the Council's request in its annual report to initiate a hunter education and ethics outreach between user groups and work across State and Federal agencies was supported by the Board/OSM. He requested a follow up letter be drafted that identified a working group of Council members, Tribes, outdoor guides and outfitters, State and Federal agencies to begin ideas for the process of how to help everyone understand impacts to rural people when hunting in the area and to do outreach in a very positive way to bring better understanding and awareness.

**Virgil Umphenour** - Agrees with Andy the Yukon fisheries management was handled very well this year. However he stressed that with no fishing for Chinook, chum and coho are increasingly important for subsistence and is very concerned about high rates of bycatch of coho in the Chum commercial fishery in the lower Yukon and the potential impacts to subsistence. Stresses the need for being conservation conscious especially around the fall chum fishery and managing the commercial fishery so there was not a higher rate of bycatch of coho than the targeted chum salmon.

He noted the fish seemed to be larger this year than what he has seen in the past and very good quality that he caught around Nenana and rapids.

**Lester Erhart** - He also expressed concern about hunting pressure on moose in around the villages and shared his observations of many boats coming in on the Yukon and every little creek around his area on the Yukon (Tanana) had boats on it.

**Bill Glanz** – Concurred with others that he is experiencing intense hunting pressures around Central with a lot of people coming in with campers and 4-wheelers and the intensity of the hunt when there are little moose and a short season for conservation reasons. He compared the experience to “combat fishing but everybody’s got rifles.” He noted the traffic and intensity of activity had kept local people from going out hunting even if there were moose around. He noted that 29 years of living in Central and this was the first year he didn’t get a moose or even see a cow or calf.

**Andrew Firmin** – Shared many of the Council's concerns expressed about hunter conflicts and would like to have more discussion about the caribou and his observations that their migration patterns have been altered. He has also heard throughout the State concerns about the “frontrunner” caribou and the “trailbreakers” being shot at in the front of the herd and it scatters them and then the caribou don’t migrate in their natural pathways. He would like to discuss at the next meeting strategies for educating hunters to let the front trailbreakers caribou go.

Andrew requested an update on the Porcupine Caribou herd and the international board that met this fall. The meeting occurred during the fall moose season so few people attended.

**James Roberts** – Expressed concern about the 5A shut down of four-inch mesh and that it was just shut down without warning and everyone suffered for about 2 or 3 weeks. It put a hardship on everyone but there was no avenue to talk about it. He felt Fish and Game penalized 100 people in the community for the actions of one person. He described that people fish in a traditional spot and have fished that area for a hundred years and are going to catch king salmon because of the location but it’s the only spot they can go to fish because it is their spot and they are not allowed to drift fish and there are only a limited amount of set-net spots.

**Larry Williams** - He had no concerns to report from Venetie but said he would like to hear about how the Tribal participation initiatives are being handled, there has been talk about it for years and years and he wonders how the villages are going to be represented at the RAC meetings. He has not heard a report

on how that is working and would like to hear back on how Tribal participation is being handled in the Federal Subsistence program.

**Will Koehler:** He expressed concern that where he lives there are few people living there and they are caught between State and Federal agencies conflicts when there is a lack of cooperation. He put out a request that the management is for the resource and to serve the people and not to put people who live in the area in the middle of the two agencies “poking and jabbing at each other”. He noted that some of the proposed regulations don’t directly affect the people living there but pattern of conflict affects their lives and may lead to restrictions that don’t make practical sense.

**Chair’s report:** Chair Sue Entsminger reported she attended the Federal Subsistence Board meeting in the spring and the Board supported all the Councils recommendations. All Council recommendations were on the consent agenda except for the proposal on bear baiting. There was a lot of discussion and the Board voted 5 to 3 to allow the taking of grizzly bear over black bear bait in Unit 25D. Sue was very pleased that the proposal did pass.

Sue reported on her participation in the Wrangell-St. Elias Subsistence Resource Commission (SRC) meeting and referred to the SRC letter they generated commenting on the National Park Service proposed rule. She expressed the SRC concern that the press release on the proposed rule was inflammatory in the way it referred to illegal activities.

She requested Council members to add comments or recommendations for the Annual Report.

**ACTION ITEM:** The Council made a motion to draft a letter to the OSM, State of Alaska, Alaska Native organizations and Tribes and Big Game Commercial Services Board to begin a process of forming a committee or group to look into issues and approaches to hunter conflict and hunter education in the Eastern Interior RAC region.

The Council requests a response form OSM at the next meeting regarding this letter and someone from public outreach that could help initiate the process.

**Council Member Awards:** Council member Donald Woodruff of Eagle was presented with an award plaque in recognition of his 5 year of service on the Eastern Interior Council.

**Tribal and Public Comment:** The Council was addressed by Jamie Marunde representing Northway Natives, Incorporated, Northway Village Council, and the community of Northway to request their support for the communities concerns regarding a proposed DNR land sale in their traditional hunting area and the potential impacts to their subsistence.

**ACTION ITEM:** The Council made a motion to draft a letter to submit to the DNR for public comment on the Eastern Tanana Area plan in support of the community of Northway and raise awareness of the subsistence concerns regarding the proposed land sale.

**Fisheries Regulatory Proposals\*** The Council received the proposal analysis reviews from OSM fisheries biologist Trent Liebich and took action on the following proposals. Tribal Consultation recommendations and submitted written comments were read into the record.

## STATEWIDE FISHERIES PROPOSALS

### **Proposal FP15-01**

DESCRIPTION: This proposal, submitted by the Southcentral Alaska Subsistence Regional Advisory Council, proposed changing the definition of a hook in regulation to include a hook with or without a barb. This regulatory change would clarify the type of fishing hook that could be used under Federal subsistence fisheries regulations where hooks are an authorized methods and means to take fish. Changing the definition is required to prevent the adoption of rules by default that require the use of barbless hooks in Federal subsistence fisheries when the State requires barbless hooks in the sport fishery.

### COUNCIL RECOMMENDATIONS:

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

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

JUSTIFICATION: The Council sees no conservation concern and the proposal would help clarify subsistence options for fishing with or without a barbed hook.

## YUKON REGION FISHERIES PROPOSALS

### **Proposal FP15-02**

DESCRIPTION: Proposal FP15-02, submitted by the Rampart Village Council, requests at least two 48-hour fishing periods per week in Yukon River Subdistrict 5C.

### COUNCIL RECOMMENDATIONS: **Oppose FP15-02**

JUSTIFICATION: The Council sees a very clear conservation concern. Evidence supported by local knowledge that this fishing period in this area would catch late run large female Chinook and overall Chinook conservation efforts would be greatly impacted. The proposal would impact all other subsistence users due to decline in Chinook stocks from overharvest in times of very low abundance.

### **Proposal FP15-03**

DESCRIPTION: Proposal FP15-03, submitted by the Eastern Interior Regional Advisory Council, requests the elimination of the use of drift gillnet fishing gear for the targeting of Chinook salmon in Yukon River Districts 1– 4

### COUNCIL RECOMMENDATIONS: **Support FP15-03**

JUSTIFICATION: This proposal to eliminate the use of drift gill net gear for the targeting of Chinook salmon in Yukon River districts 1 – 4 was submitted by the Eastern Interior RAC. The Council supports this proposal due to overriding conservation concerns for Yukon River Chinook declines and cited

the efficiency of drift gill nets to catch larger, older and female salmon. The Council discussed that elimination of drift gill nets during the Chinook run in the lower river will allow greater passage of Chinook and increase overall escapement to support rebuilding the population which will benefit all subsistence communities on the Yukon in the long run. The Council noted that efforts for Chinook salmon conservation are needed by all users all along the Yukon River. The Council discussed that the upper river has long since experienced the declining numbers and smaller kings for many years and have been making strong efforts to reduce king harvest with very limited fishing periods in recent years.

#### **Proposal FP15-04**

DESCRIPTION: Proposal FP15-04, submitted by the Eastern Interior Regional Advisory Council, seeks to allow Federal subsistence users to continue using set-gillnets to harvest salmon in the Yukon River drainage when drift-gillnet salmon fisheries are closed.

COUNCIL RECOMMENDATIONS: **Take no action on FP15-04 (based on Council recommendation to support FP15-03)**

JUSTIFICATION: The Council discussed that since they had supported FP15-03 and if passed that it would override FP15-04 (also submitted by the EIRAC as an alternative to complete gill net closure). The Council referenced their discussion and justification on FP15-03.

**Customary & Traditional Use Determination** (Update): Pippa Kenner of OSM provided the Council with a brief update on the review process for C&T.

The Southeast Council asked the other nine Councils to review the customary and traditional use determination process again. The Southeast Council did not support retaining the current customary and traditional use determination process. Instead, the Southeast Council suggested that, when necessary, the Board restrict who can fish, hunt or trap for subsistence by applying ANILCA Section .804 criteria. There are three criteria: (1) who has direct dependence on the resource, (2) who is in proximity to the resource, and (3) who has alternative resources available.

OSM staff will provide all 10 Councils with an analysis of the Southeast Council's proposal at the winter 2015 meeting.

**Rural Determination Process Review** (Update): Tom Kron of OSM provided the Council with an update on the Rural Determination review recommendation that the Federal Subsistence Board made at the Spring 2014 meeting held in Anchorage. The Board recommended that a number of changes be made in the process and the regulations, basically with the Board making determinations of which areas are rural and non-rural, and then all other communities and areas are therefore rural. The Board has been engaged in a year-long public review of the current Rural Determination process. On December 31st, 2012 the Board identified five elements and they were population threshold, rural characteristics, aggregation of communities, time lines, and information sources for review.

The Subsistence Regional Advisory Councils across the state were briefed on the Federal Register notice during the winter 2013 meetings. At their fall 2013 meetings, the Councils provided a public forum to hear from residents from their region. The Board received 475 substantive comments from various sources, including individual citizens, members of the Regional Advisory Councils, and other entities or organizations such as non-profit Native corporations and borough governments.

The Board developed a recommendation that simplifies the process of rural/non-rural determinations.

The Board recommendation was to change the process to determine which communities are *non-rural* and thus all other communities would be considered rural. The Board also recommended eliminating the Secretarial regulation that specifies criteria previously relied upon by the Board in making determinations: population thresholds and population data sources, rural characteristics, community aggregation, and the 10-year review. If the Secretaries adopt the Board's recommendation then it would be published as a proposed rule in the Federal Register and begin another public comment period and RAC feedback solicited at the upcoming winter meetings.

Council Discussion on Rural: The Council members discussed their concerns about the Board's recommendation to eliminate of all guiding criteria for Rural Determination and specifically that if population thresholds were not considered that it may weaken rural way of life and rural priority with the expanding populations and influx of people on road systems and outskirts of urban centers.

\*ACTION ITEM: The Council approved a motion to draft a letter to comment on Federal Subsistence Board Rural recommendation.

**Briefing on Fisheries Resource Monitoring Program (Update):** Trent Leibich, OSM fisheries biologist, provided the Council with an overview of the list of priority information needs for subsistence fisheries research based on feedback from the RAC and local area biologists and managers.

**Priority Information Needs Development for 2016:** The Fisheries Resource Monitoring Program is a two-year cycle of calls for research proposal submission for funding federal subsistence fisheries related research. The next funding cycle is for 2016 and OSM is developing the "Priority Information Needs" for the next call for proposals. OSM is seeking RAC input on additional information needs that should be considered and noted that just at this meeting the Council had discussed: Chandalar Chinook, Bering cisco population assessment, local oral and pictorial information on Yukon River salmon documenting change in size (quality of escapement), TEK of upper Yukon communities subsistence use and knowledge of whitefish, Yukon River whitefish population assessment change is subsistence harvest practice (i.e. greater reliance on whitefish with Chinook declines) precision of salmon data collection methodologies at the sonar and test fish projects, and changes to lamprey. Use TEK research in addition to stocks, status and trends for management.

**Partner's Briefing / Preview of Call for Proposals:** The call for Fisheries Monitoring Program Proposals to fund community based subsistence fisheries biologists, anthropologists or educators will be announced later in Fall of 2014. The Council provided feedback and recommendations for the program after an overview of the program scoping for feedback on the program.

**Yukon River 2014 Post Season Salmon Management Review:** Jeremy Mears(USFWS) and Jeff Estensen (ADF&G) provided a joint Federal/State Yukon salmon fisheries update and summary handouts for the Council.

The 2014 Chinook run experienced the seventh consecutive season of below average to poor run size. Conversely, both summer and fall chum runs performed as expected with average runs. The coho run was well above average based on the Pilot Station sonar index, which was the highest estimate recorded since the project began in 1995.

Management of the 2014 summer season was challenged again with the wide disparity in run strength between the overlapping Chinook and summer chum mixed stock fisheries. Efforts to conserve Chinook were initiated at the beginning of the season in the lower river and implemented chronologically in upriver districts as the run progressed. Fishing for Chinook was closed throughout the entire summer season in most districts, and fishing gear restrictions were applied to target harvest of other species.

Sport and personal use salmon fisheries were closed, and a commercial fishing for summer chum greatly restricted. The management actions also significantly limited subsistence access to the abundant summer chum and other fish species. Because of very low Chinook returns in recent years, there was a great deal of public involvement this past winter with the fishers all along the Yukon River and stakeholder groups, including Canada.

During the summer season, in-season run strength assessment of Chinook and summer chum was primarily based on the lower river test fisheries at Emmonak, the Yukon River sonar near Pilot Station, and subsistence fishermen catch reports. Since the Chinook outlook was for an extremely poor run, potentially the worst on record, managers worked on the assumption that there would be little to no Chinook available for subsistence harvest. Restrictions to conserve Chinook were initiated early and stayed in effect through the entire run. No commercial or subsistence fishing was allowed to target Chinook throughout the Yukon River.

Subsistence fishermen were allowed to target other fish species during the early season in most districts, utilizing six-inch or less mesh gillnet gear, before Chinook showed up. Once Chinook began arriving, subsistence salmon fishing for the overlapping summer chum run was allowed, when chum were abundant with selective gear such as dipnets, beach seines, and fishwheels. These gear options required Chinook to be released alive back into the river.

In addition, fishing for non-salmon species was allowed in most districts with four-inch or less mesh gillnet gear during closed salmon fishing periods. At the end of the summer season when managers assessed that the majority of Chinook had passed through a district, subsistence salmon fishing was relaxed back to allow six-inch or less mesh gillnet gear.

An overview of the Yukon River salmon escapement monitoring projects was also provided for the Council. Fall chum escapement goals were expected to be met or exceeded this year. Coho may end near the high end of the Delta/Clearwater escapement goal, which is the only established goal in the drainage for coho.

The inseason fisheries managers asked the Council for their thoughts on subsistence inseason harvest monitoring, permits and reporting, and community fish wheel approaches as options for management and allowance of limited Chinook fishing opportunity in times of low returns. Council members discussed interest and initiatives from their own communities to monitor harvest and health of fish. Council members Lester Erhart and James Roberts discussed at length the challenges of safely building, managing and maintaining a fish wheel, and other Council members commented on just how much skill it takes and the dangers involved. Many Council members discussed that many communities already have one or two individual who have active fishwheels that share widely in the community such as Lester and James in Tanana. Andrew Firmin discussed that in his community of Fort Yukon they are trying different approaches to community harvest.

Wilson Justin (Chees'na Tribe) provided extensive information about his Tribes long ongoing community fish wheel program on the Chistochina and shared both the positive experience and outcomes as well as challenges to be aware of.

## Agency Reports

**Office of Subsistence Management:** Tom Kron of OSM provided the Council with a brief update on numerous staff vacancies at OSM and efforts to obtain waivers of approval from Washington DC to begin the hiring process to replace some of the many vacancies.

**Native Organizations: Tanana Chiefs Conference** Brian McKenna, fisheries biologist for the TCC Wildlife and Parks Department, provided the Council with updates on the current fisheries research and monitoring projects they are working on: Henshaw Creek Weir and the Alatna River Sheefish Study funded through OSM, Fisheries Resources Monitoring Program.

The Alatna River Sheefish Study was originally a one-year study that started in 2012. The Alatna River is the only documented spawning tributary for sheefish in the Koyukuk Basin. Our goals are to collect 200 genetic samples from the Alatna River spawning stock so we can help develop the genetic baseline and also to collect otoliths from these samples to help describe the demographic composition. TCC is partnering with local subsistence fishermen from Alatna and Allakaket to collect these samples.

The Henshaw Creek weir is located in the Koyukuk drainage above the village of Allakaket. It's been operated annually for the last 15 years. The project goals are to determine escapement and run timing of Chinook and chum salmon, to describe the demographic composition of the run, and also to provide a platform for the science camp we have each summer.

To achieve our objectives, we partner with the Fish and Wildlife Service, the Alaska Department of Fish and Game, and then also the villages along the river, such as Hughes, Huslia, Alatna, and Allakaket. Unfortunately, we were not able to collect data this year because the weir site was entirely flooded due to high water and one of the rainiest seasons on record.

**Yukon River Drainage Fisheries Association – Bering Sea by-catch update:** Becca Robins Gisclair, Policy Coordinator, YRDEFA, provided the Council with an update on the latest data from the Bering Sea trawl fisheries and the North Pacific Management Council actions and initiatives to reduce Chinook and chum by-catch. In 2014 the pollock fishery caught just about 15,000 Chinook salmon and about 218,500 chum salmon as bycatch. In 2013 it was about just over 13,000 Chinook and 125,300 chum salmon. It ended early, they made an effort to get fishing down early in part to avoid fishing into October when Chinook salmon bycatch generally gets higher.

Since Amendment 91, that started in 2011 which put the Chinook salmon bycatch limits in place, all participants in the pollock fishery have to have at least 100 percent observer coverage. Mother ships and catcher/processors, which are the bigger vessels, have to carry 200 percent observer coverage, which is two observers at all times. Under the Amendment 91 caps, and that system is where there's an overall cap of 60,000 Chinook as the pollock fishery is participating in incentive plans.

New genetics sampling methods since 2011 are now more reliable to identify stocks of origin. Results showed that from 67 to 73 percent of the Chinook salmon bycatch are caught are of western Alaska origin, which includes the entire Yukon River, Bristol Bay, the Kuskokwim, and Norton Sound. The council motion to draft a letter to the NPFMC requesting a reduction in by-catch, greater avoidance measures, and highlighting the importance of both Chinook and chum for subsistence way of life. The Council stressed subsistence fishers on the upper Yukon River had forgone nearly all Chinook harvest for conservation efforts and chum salmon is now increasingly important to meet subsistence needs.

\*The Council approved a motion to write a letter to the NPFMC requesting the lowering of by-catch for

both Chinook and Chum and describing the subsistence fisher conservation efforts on the Yukon. The Council requested the NPFMC make further efforts to develop regulatory and management strategies to reduce all salmon by-catch in Bering Sea commercial trawl fisheries.

**Yukon River Drainage Fisheries Association – program updates:** Wayne Jenkins, Deputy Director, YRDFA gave a brief overview of the Yukon River wide International Salmon Summit that was held in Fairbanks this past Spring and the inseason salmon teleconferences with many communities participating in feedback on salmon monitoring and subsistence. Due to the sacrifices made by subsistence fishers along the Yukon, escapement goals in Canada were met. A greater number of females made it onto the spawning beds.

Katherine Moncreiff, Anthropologist, YRDFA provided an update on the in-season salmon harvest surveys and responded to the Council's request to provide a copy of the annual report. Katherine reported on a new YRDFA project Customary Trade in the Upper Yukon River. This project is also funded by the Fisheries Resource Monitoring Program, and it's a partnership between YRDFA and the Alaska Department of Fish and Game, Subsistence Division. They began working with several communities this summer and the project will run through 2016.

**USFWS Regional Office:** Holly Gaboriault, Refuge Supervisor provided the Council with a brief overview on the Porcupine Caribou herd international Board meeting held in Fairbanks this past fall.

**USFWS Proposed Rule:** Holly Gaboriault, Refuge Supervisor presented information on the regulatory changes that USFWS is considering that would clarify allowable practices for the take of wildlife on National Wildlife Refuges throughout Alaska. The main purpose is to clarify what can and cannot occur on refuges with regard to predator control in an effort to clear up confusion and conflict between Federal and State mandates, and to ensure that refuges in Alaska are managed consistent with our mandates.

The proposed changes would not apply to Federal subsistence, and are not intended to negatively affect Federally-qualified subsistence users. USFWS is seeking feedback on any potential impacts to subsistence under the proposed rule and ways to resolve it. This discussion with the Council is pre-scoping and seeking feedback prior to developing the final language for submitting the proposed rule. Heather Tonneson, USFWS Regional Office, helped to answer questions and will be working further on the development of the proposed rule based on Council's feedback and the proposed rule language with then come before the Councils at the winter meeting cycle for comment.

The Council discussed that this 2-step process of public and RAC feedback in the development of the proposed rule was much appreciated for the opportunity to discuss fully, ask questions, and make recommendations prior to the final development of a proposed rule. The Council discussed at length some of their concerns about potential impacts to rural residents that hunt under general regulations on federal lands and asked many questions about specific examples. The Council requested that all of their comments and feedback provided to the USFWS on the proposed rule at this Council meeting be incorporated into their consideration in the creation of the language proposed rule.

**Tetlin National Wildlife Refuge:** Introduced new staff: Shawn Bayless, Refuge Manager who used to live and work in McGrath and Dave Burke, Wildlife biologist for the refuge. Dave Burke provided the Council with a brief overview of wildlife surveys and management of subsistence hunts for the Nelchina Caribou herd. The manager opens and closes the season and this past year 36 caribou (15 male and 21 female) were reported harvested on the refuge. The winter moose hunt on the refuge opens in November and closes in February, few moose are harvested – typically 2-3 bull moose per year. The refuge is

conducting snowshoe hare surveys and is initiating a cooperative study on coyote/lynx interactions.

**Arctic National Wildlife Refuge:** Brian Glaspell, Refuge Manager provided the Council with a handout summary of the research and monitoring projects ongoing on the Refuge with the last year and noted that the Comprehensive Conservation Plan is at the same place it was a year ago. Caribou photo census in conjunction with ADFG was very successful this year and the population of the Porcupine Caribou Herd just under 200,000 which is the largest estimate of the herd in recent history. Refuge staff are flying caribou telemetry surveys in collaboration with Canada. The Porcupine Caribou herd calve on the Arctic Coastal Plain and this year calved primarily with the Refuge with a herd hanging around close to Arctic Village since the fall.

Moose were surveyed on the North Slope for the first time in 3 years and only 23 adult moose were sighted and a Wildlife Special Action initiated to close the subsistence hunt (open only to residents of Kaktovik) to protect the small population. Based on discussion by the Council and limited biological research conducted on moose south of the Brooks Range in Unit 25A the Refuge initiated a pilot study to investigate moose browse. ADFG and the Refuge are partnering to track the moose and habitat for the next couple years to assess other factors that may be keeping the population low since hunting does not appear to be the issue. Sheep numbers are low, surveys on foot in the Hula Hula and Atigan Gorge are far lower than historical average and the 2 years of hard winters has had an effect on sheep in many places.

**Yukon Flats National Wildlife Refuge:** Steve Berenzen, Refuge Manager provided the Council with summary handout and provided a brief update on research and monitoring projects within the Refuge. Of the waterfowl surveys, notable was that scaup surveys indicated a decline by 33% lower than average. Moose population surveys were done in the west half of the Refuge in 2013 and they are hoping to survey 25D East since no surveys have been done there since 2007. Moose monitoring is ongoing with 38 collared cow moose to investigate the calf recruitment. Annual sheep surveys were also conducted in the White Mountains portion of the refuge with a total of 114 sheep only down a bit and the ration of lambs high – about two time more than last year at 31 lambs per 100 ewe.

The Refuge partners with the USFWS Fairbanks fisheries office on the Chandalar River sonar to monitor chum salmon and working with the village of Venetie on a Chandalar salmon habitat monitoring. The Refuge is also partnering with Colorado State University on a coarse woody debris study looking at aquatic nutrients and ecological processes.

The Refuge hosted Camp Noshi and other youth summer camps this year for about 60 students participating. Two new Refuge Information Technicians were hired and they worked on many of the projects and community outreach.

**National Park Service updates:** Barbara Cellarius reported last spring the National Park Service selected modified Alternative D in its decision regarding 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 animals parts and plants to make handicrafts for personal or family purposes, barter, or to sell as customary trade. This decision clears the way for the Park Service to promulgate regulations to authorize such subsistence collections. The Park service is seeking feedback from subsistence users on the draft regulatory language.

**NPS Proposed Rule:** Jeff Rasic Chief of Resources at Yukon-Charley National Preserve and Randy Larson, Deputy Superintendent Yukon-Charley National Preserve provided the Council with an overview of the Proposed Rule Park Service published a notice in the Federal Register in September

proposing permanent amendments to regulations for sport hunting and trapping in national preserves in Alaska. National preserves are managed in the same manner as national parks, but are by law open to sport hunting. Purposes of national preserves including maintaining natural ecosystems and processes, including wildlife populations and their behaviors, and subsistence use. Subsistence use is seen as a natural part of the ecosystem. The proposed rule would not adopt State laws or regulations that authorize taking of wildlife, hunting, or trapping activities, or management actions involving predator reduction efforts with the intent or potential to alter or manipulate natural predator/prey dynamics.

The Park Service in the process of scheduled 17 public hearings across the state and engaged in tribal consultation. There have been a couple teleconference for tribal organizations and open invitation for in person Tribal Consultation. Public Comment runs through December 3, 2014.

The Council discussed at length its concerns about the Proposed Rule and specifically the process of outreach and opportunity for rural residents and RACs to comment and fully participate. The Council requested someone in a regional leadership role within National Park call in to the meeting to answer questions. Alaska NPS Deputy Director, Joel Hard, responded to the request and called in via teleconference to discuss the proposed rule with the Council.

\*ACTION ITEM the Council made a motion to draft a letter to the National Park Service and Federal subsistence Program to extend the comment period or withdraw the proposal to initiate a more comprehensive public outreach process and referenced the extensive discussion held on the record at this meeting.

**Yukon-Charley Rivers National Preserve:** Marcy Okada, Subsistence Coordinator, provided an update for Yukon-Charley Rivers National Preserve research and monitoring projects which includes a partnership with USGS to map patterns of snow melt and lichen abundance with the range of the Fortymile Caribou herd to assess habitat quality and how the herd is using the landscape. There are two radio-collared wolves in the park that are being tracked and one that dispersed from Denali. No furbearer studies in the park for 2014-15 and no fires this year.

Kyle Jolly, wildlife biologist, discussed interaction of burned areas and caribou in the region and results of a study on the Nelchina Herd, noting that a general rule of thumb is that it takes about 50 years for lichen and caribou to come back to an area that has been burned.

**Wrangell-St. Elias National Park and Preserve:** Barbara Cellarius, Anthropologist/Subsistence Coordinator, provided the Council with written updates on the Chisana Caribou herd, with updated population estimates and a news release on plan for the Chisana Caribou Herd hunt. A maximum of 18 Federal registration permits will be issued to residents of the hunt area. Eleven permits were issued and 2 caribou harvested.

Wrangell-St. Elias made some changes based on the Nabesna Off-Road Vehicle Management Plan and Environmental Impact Statement. The Plan designates trails, establishes some formal weight limits for the use of off-road vehicles, and it also makes some changes for subsistence users in designated wilderness.

A brief overview of sheep survey data was provide and updates on fisheries research projects in the park including concern for burbot population in Grizzly Lake which is within the Yukon River drainage of the park.

**Denali National Park and Preserve:** Barbara Cellarius presented a brief written report for Amy Craver

who was not available to attend. Handouts were provided for an overview of the Denali research and monitoring projects and report which include a Denali local knowledge of climate change project. A wolf monitoring report of surveys from 1986-2014 and brief overview of current moose, sheep, fox, and lynx research.

The Denali Subsistence Resource Commission met on August 7<sup>th</sup>, 2014. Council member Lester Erhart is on the Denali SRC and attended this meeting.

**Alaska Department of Fish & Game:** Rita St. Lois provided the Council with an update on the Wood Bison reintroduction program. The wood bison are descendants from 66 that were brought from Canada and grew to a herd of 140 at the Alaska Wildlife Conservation Center. The wood bison were down listed from endangered to threatened and the final rule was published this year to make the population a non-essential experimental population and can be hunted. Approximately 40 – 100 bison will be flown via C-130 Hercules Cargo planes to Shageluk in target release date is March or April of 2015 and the selected release area is in the Lower Yukon/Innoko area. A management plan is being developed.

**Council Nominations Process and Outreach:** Eva Patton, Council Coordinator provided the Council with a brief update on the Secretarial appointment process delays for finalizing Council nominations this year. The final call for applications to the RAC prior to the deadline in March and Council members encouraged to help reach out to active subsistence hunters and fishers or community leaders in the region to apply and participate in the process.

**Recommended changes to the Nominations/Appointment process\*** The council made several recommendations including carry over terms when appointments are late, formal alternate positions that would be able to participate in the meetings to be prepared to step in if needed, and meeting in rural communities on a regular basis so that people would get to know the Council and process in person and would be more likely to participate in meetings or apply to serve on the Council. Youth involvement both through the local school system and at the University level was encouraged.

**All Council meeting Winter 2016 discussion\*** The council liked the idea of having educational workshops for RAC members and public on issues and information critical to subsistence and management such as ANILCA. However some Council members thought multi-regional gatherings of a few RAC's would be more appropriate and effective to focus on common issues rather than all 10 Councils meeting at the same time.

**Discuss Draft FY2014 Annual Report Topics:\*** The Council recounted key topics addressed throughout the meeting to include in the Annual Report and discussed additional details to include in the draft report.

**Future Meeting Dates:\***

**Winter 2015 Meeting Dates:** March 3, 4 and/or 5, 2015 was selected with a request to hold a joint overlap meeting with the Western Interior RAC in Fairbanks.

**Fall 2015 Meeting Dates:** October 29 – 30 with a request to seek input from rural communities of where best to hold the meeting.

**Council members provided closing remarks. The meeting adjourned by unanimous consent.**

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

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Eva Patton, Designated Federal Officer  
USFWS Office of Subsistence Management

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Sue Entsminger, Chair  
Eastern Interior Alaska Subsistence Regional Advisory Council

\*These minutes will be formally considered by the Eastern Interior Alaska Subsistence Regional Advisory Council at its Winter 2015 public meeting. Any corrections or notations will be incorporated in the minutes of that meeting.

DRAFT

## 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.

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

**Eastern Interior Alaska Subsistence Regional Advisory Council**

**Charter**

1. **Committee's Official Designation.** The Council's official designation is the Eastern Interior 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 and one member to the Denali 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 \$160,000, 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 will terminate 2 years from the date the Charter is filed, unless, prior to that date, it is renewed in accordance with the provisions of Section 14 of the FACA. The Council will not meet or take any action without a valid current charter.
12. **Membership and Designation.** The Council's membership is composed of representative members as follows:

Ten members who are knowledgeable and experienced in matters relating to subsistence uses of fish and wildlife and who are residents of the region represented by the Council. To ensure that each Council represents a diversity of interests, the Federal Subsistence Board in their nomination recommendations to the Secretary will strive to ensure that seven of the members (70 percent) represent subsistence interests within the region and three of the members (30 percent) represent commercial and sport interests within the region. The portion of membership representing commercial and sport interests must include, where possible, at least one representative from the sport community and one representative from the commercial community.

The Secretary of the Interior will appoint members based on the recommendations from the Federal Subsistence Board and with the concurrence of the Secretary of Agriculture.

Members will be appointed for 4-year terms. If no successor is appointed on or prior to the expiration of a member's term, then the incumbent member may continue to serve until the new appointment is made or 120 days past the expiration of term, whichever is sooner. A vacancy on the Council will be filled by an appointed alternate, if available, or in the same manner in which the original appointment was made. Members serve at the discretion of the Secretary.

Council members will elect a Chair, a Vice-Chair, and a Secretary for a 1-year term.

Members of the Council will serve without compensation. However, while away from their homes or regular places of business, Council and subcommittee members engaged in Council, or subcommittee business, approved by the DFO, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service under Section 5703 of Title 5 of the United States Code.

13. **Ethics Responsibilities of Members.** No Council or subcommittee member may participate in any specific party matter in which the member has a direct financial interest in a lease, license, permit, contract, claim, agreement, or related litigation with the Department.

- 14. Subcommittees.** Subject to the DFO’s approval, subcommittees may be formed for the purposes of compiling information or conducting research. However, such subcommittees must act only under the direction of the DFO and must report their recommendations to the full Council for consideration. Subcommittees must not provide advice or work products directly to the Agency. The Council Chair, with the approval of the DFO, will appoint subcommittee members. Subcommittees will meet as necessary to accomplish their assignments, subject to the approval of the DFO and the availability of resources.
- 15. Recordkeeping.** Records of the Council, and formally and informally established subcommittees or other subgroups of the Council, must be handled in accordance with General Records Schedule 26, Item 2, or other approved Agency records disposition schedule. These records shall be available for public inspection and copying, subject to the Freedom of Information Act, 5 U.S.C. 552.

\_\_\_\_\_  
Secretary of the Interior

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

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

We are currently excepting 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).

# 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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