KODIAK/ALEUTIANS SUBSISTENCE REGIONAL ADVISORY COUNCIL

Meeting Materials

August 15 - 16, 2016

Dutch Harbor, Alaska

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KODIAK/ALEUTIANS SUBSISTENCE REGIONAL ADVISORY COUNCIL

Grand Aleutians Hotel
Dutch Harbor, Alaska

August 15, 2016 9:00 a.m. – 5:00 p.m.
August 16, 2016 7:00 p.m. – 9:00 p.m.

TELECONFERENCE: call the toll free number: 1-866-820-9854 , then when prompted enter the passcode: 4801802

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

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

AGENDA

*Asterisk identifies action item.

1. **Call to Order** *(Chair)*
2. **Invocation**
3. **Roll Call and Establish Quorum** *(Secretary)* 3
4. **Welcome and Introductions** (*Chair*)
5. **Review and Adopt Agenda*** (*Chair)* 1
6. **Review and Approve Previous Meeting Minutes*** *(Chair*) 4
7. **Reports**

   Council Member Reports

   Chair's Report
8. **Public and Tribal Comment on Non-Agenda Items**
9. **Old Business** *(Chair)*

   a. Draft Non-rural Determination Policy*

      1) Rural Determination Process: Final Rule - Appendix A 11

      2) Nonrural List: Direct Final Rule - Appendix A 16

   b. Predator Control 10

10. New Business *(Chair)*

a. FRMP Priority Information Needs* 20

b. Identify Issues for Annual Report* 24

c. Charter review* 61

d. Feedback on All Council Meeting

12. Agency Reports

(Time limit of 15 minutes unless approved in advance)

Tribal Governments

Native Organizations

USFWS

- Izembek National Wildlife Refuge Update 26
- Alaska Maritime National Wildlife Refuge Update 33
- Proposed Emperor Goose Hunt

BLM

ADF&G

OSM

13. Future Meeting Dates*

Confirm Winter 2017 meeting dates and location.....59

Select Fall 2017 meeting dates and location 60

14. Closing Comments

15. Adjourn (*Chair***)**

To teleconference into the meeting, call the toll free number: 1-866-820-9854, then when prompted enter the passcode: 4801802

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 Karen Deatherage, 907-786-3564, karen_deatherage@fws.gov, or 800-877-8339 (TTY), by close of business on August 1, 2016.

DRAFT

REGION 3
Kodiak/Aleutians Subsistence Regional Advisory Council

Seat	Year Apptd *Term Expires*	Member Name and Community	
1	2010 ***2016***	**Antone Shelikoff** Akutan	
2	2001 ***2016***	**Patrick Holmes** Kodiak	
3	2008 ***2016***	**Richard Koso** Adak	
4	2004 ***2016***	**Samuel Rohrer** Kodiak	
5	2011 ***2017***	**Thomas Schwantes** Kodiak	
6	2014 ***2017***	**Coral Chernoff** Kodiak	
7	**2014** **2017**	**Rebecca Skinner** Kodiak	
8	2009 ***2018***	**Della Trumble** King Cove	**Vice Chair**
9	2000 ***2018***	**Mitch Simeonoff, Sr.** Akhiok	**Chair**
10	2012 ***2018***	**Melissa Berns** Old Harbor	**Secretary**

KODIAK/ALEUTIANS SUBSISTENCE REGIONAL ADVISORY COUNCIL
March 10, 2016
Eagan Center, Anchorage Alaska

Meeting Minutes

The meeting was called to order at 8:37 a.m., Thursday, March 10, 2016

Roll call
A quorum was established with the following council members present: Melissa Berns, Coral Chernoff, Patrick Holmes, Rebecca Skinner, Antone Shelikoff, Tom Schwantes, Mitch Simeonoff, Della Trumble, Rick Koso, and Sam Rohrer.

Agency Staff in Attendance
Karen Deatherage, OSM, Anchorage
Amee Howard, OSM, Anchorage
Stewart Cogswell, OSM, Anchorage
Tom Evans, OSM, Anchorage
George Pappas, OSM, Anchorage
Glenn Chen, BIA, Anchorage
Ronnie Sanchez, Southern Refuges, USFWS, Anchorage
Aaron Poe, USFWS, Anchorage
Douglas Burns, USFWS, Anchorage
Dan Rosenberg, ADFG Anchorage
Gino DelFrate, Acting Regional Supervisor, ADFG Anchorage
Patty Schwalenberg, Alaska Migratory Bird Co-Management Council, Anchorage
Bill Pyle, Kodiak National Wildlife Refuge, Kodiak (via telephone)

Tribal and Public Members in Attendance
Kelly Krueger, Sun'aq Tribe, Kodiak
Kay Larson-Blair, Aleut Corporation
Tom Robinson, Qawalangin Tribe, Unalaska

Approval of Agenda
The agenda was amended by adding under Old Business: Rural Determination Update and Pre-discussion regarding Emperor goose issue prior to joint meeting between Yukon Kuskokwim and Kodiak Councils and under New Business, Predator Control, Joint Regional Advisory Councils Letter to Federal Subsistence Board, and the USFWS Proposed Rule. Schwantes motioned to approve the agenda as amended. Seconded by Skinner and carried unanimously.

Approval of Minutes from the Winter 2014 Meeting
The minutes were amended with the following: Remove Sun'aq Tribe reference from Pam Bumstead's name and correct the name of the Saltwater Conservation District to the Kodiak Soil and Water Conservation District. Holmes moved to approve the minutes as amended. Seconded by Schwantes and carried unanimously.

Council Officer Nominations

Deatherage opened the floor for Council Chair nominations. Schwantes nominated Simeonoff for Chair. Seconded by Koso. Chernoff nominated Skinner for Chair. Seconded by Berns. Schwantes closed floor to nominations. Seconded by Koso. Deatherage tallied votes. Simeonoff elected as **Chair.** Schwantes nominated Trumble as **Vice Chair.** Berns moved to close nominations, seconded by Shelikoff. Schwantes nominated Melissa Berns as **Secretary**. Trumble moved to close nominations, seconded by Schwantes.

Council Member Reports.

Rohrer. Mild winters have helped deer populations. Expressed very strong feelings from community against the USFWS Proposed Rule.

Skinner. North Pacific Fisheries Management Council will hold its June meeting in Kodiak. Chiniak area fire destroyed approximately 700 acres of trees which will be salvaged to avoid further fire fuel and insect infestation.

Berns. It was a very mild winter. The 5 year Big Creek water monitoring program shows big changes. Old Harbor is looking at tribal grants for monitoring erosion control. There were big increases in deer population and goat hunting is on the rise for community and sport hunters. There is a decline in clam harvest due to PSP poisoning fears. There is also concern whale and other marine mammal die-offs related to PSP or warming water temperatures. A grant application was submitted to Sea Grant for another shellfish study. The community drew three subsistence bear permits and hope for success. I conducted a carving workshop which included preparation of traditional foods, responsible harvesting practices and collecting materials for art. I very much appreciate All Councils' meeting this week.

Trumble. It was a very mild winter. Gray whales were still in the bay November 15; they are generally gone by end of August/early September. Both Federal and state caribou permits were issued this season. There was a big area bird die-off including lots of murres. The tribe held a culture camp with Izembek staff in September. More Brandt are wintering in Cold Bay than in the past. Community is concerned over big turnover at Izembek and the impact it has on creating positive relationships in the region.

Koso: There were big storms and lots of damage this winter. Winds were greater than 137 mph. Major damage sustained by fish plant which caused delays in cod fishery. There were lots of caribou hunters. It was a very bad decision for FWS to spend $300k to kill 10 caribou on Kagalaska.

Schwantes. According to Rick McIntosh, there were a tremendous number of birds wintering in Kodiak. Lake Rose Tead had several thousand ducks and 30-50 swans. Emperors didn't spend as much time in Woman's Bay as they normally do, but instead moved up the beach in front of Buskin and Gibson Cove. There was a good salmon run on the Buskin but Pasagshak shut down again.

DRAFT

Chernoff. It was very warm in Kodiak. The land population of animals is strong. I'm concerned about the ocean, and die off of murres and whales. There were at least fifteen dead whales this year. We didn't clam due to PSP concerns, and despite efforts, there were no crabs this year. There are proposed migratory bird regulatory changes for Natives to use non-edible parts for handicraft.

Shelikoff. A written update was provided to the Council. Akutan also experienced a bird die off. I will be participating in the subsistence surveys again.

Holmes. Tonya Lee is starting an outreach program with school to document out of state duck hunters. USFWS did not survey Larson Bay last cycle, so there are population concerns. The USFWS Proposed Rule is a big concern in town. There was a King crab decline in Woman's Bay with lots of sea otter predation. I will be establishing a link with Southeast Alaska Council regarding sea otters. PSP problem is a real concern, including for mammals. This may have been what happened to the whales. I am also concerned over whether meat was salvaged from Kagalaska caribou.

Simeonoff. Akhiok had a good return of deer. There are lots of sea otters and sea lions. Not many people are eating clams because of PSP concerns. Community saw hundreds of dead murres. We also saw whales in Luna Bay, which are never seen during winter months. A healthy population of Emperor geese are on the south beach of Kodiak Island. We will be having a culture camp in August. There also appears to be a shortage of Surf Scoters. There used to be thousands in Olga Bay Narrows but we only see a small flock now. There are problems with out of state cannery people crabbing. They claim to be subsisting on King crab. Law enforcement can't take crab pots without name and number. Cannery folks use unmarked buoys. There is not enough law enforcement.

Tribal and Public Comments on Non-Agenda Items

Sun'aq Tribe, *Kodiak.* Kelly Krueger reported that the Tribe is very concerned about sea otters and derelict crab pot impacts on crabs in Woman's Bay. Offshore Navy activities in the Gulf of Alaska remain a concern and the Tribe is getting very little information. An offshore Environmental Impact Statement has not materialized. There has been very little public involvement in the Pacific Spaceport Complex. The tribe applied for grants for youth involvement in natural resources and is partnering with other agencies and organizations. The tribe also applied for grants to remove crayfish from the Buskin before they become an issue. The AMBCC Kodiak meeting is scheduled for March 21 from 1-4 p.m. at Sun'aq in Kodiak.

Qawalangin Tribe, Unalaska. Tom Robinson, Tribal President, reported that the Tribe was in a fight for subsistence on Unalaska. Tom stated he was in town to support the Board of Fish (BOF) Proposal 194 to get the trawlers out of Unalaska Bay. The tribe believes the BOF and advisory committees are stacked with commercial interests and that traditional knowledge is not being recognized. The City Council is also stacked with commercial interests and the community is run by industry. Threats to subsistence resources include pollution from industry outfall, impaired bodies of water, sediment problems from runoff and the loss of Coho streams. The influx of cannery workers who claim residency at 30 days causes combat fishing on the beach

with no enforcement. Proposal #194 is third attempt to resolve problems in Unalaska Bay. Three billion pounds of Pollock are extracted from the Bering Sea in a million square mile area. All we are asking for is one square mile of protection for a nursery of all species. The Tribe would like the Council to make a motion to appoint a subsistence member to the NPFMC.

Council members responded to the Tribe's concerns by agreeing a subsistence seat was needed on the NPFMC, encouraging Unalaska residents to apply for Council membership, recommending a request to the Governor's office for help with law enforcement and work with Aleutian Pribilof Islands Association and Aleut Corporation to submit a resolution. The Council strongly recommended tribal members attend local ADFG advisory committee meetings to vote in subsistence representatives.

Old Business

Alaska Migratory Bird Co-Management Council (AMBCC).
Dan Rosenberg discussed how the Council's letter regarding the history of survey issues and illegal hunts trigged a review of Emperor goose management. An Emperor goose subcommittee is currently represented by Sonny Squartsoff and Peter Devine. Karen Pletnikoff and John Reft have also been involved at times. There are two plans addressing Emperor goose management; namely, the Yukon Kuskokwim Delta Emperor Goose and Pacific Flyway plans. Under those plans, a hunt was closed until threshold of 80k birds was met. The Service Regulations Committee (USFWS) recently approved a limited 3,500 bird harvest with a reporting system. Consensus with Native Caucus was not met because of issues with 3,500 harvest and other conditions, so a hunt was delayed until 2017. Schwalenberg noted that allocations have historically been divided by 5 regions based on human populations and number of birds in the area. Rosenberg is advocating for a traditional self-regulated hunt versus a quota system of 3,500 birds. The number of birds allocated would be based on time of year, population estimates and contingency plan for population declines.

Schwalenberg and Rosenberg updated the Council on regulatory language for handicrafts made from migratory bird which is currently being reviewed in D.C. There are issues with international transport. The draft language only includes 29 species. Japan has agreed to include all 92 species. Chernoff inquired about a cormorant hunt. Rosenberg stated that the Federal and state hunts were inconsistent. They are suggesting that Kodiak be included with Unit 6 for hunts, per C&T. A decision on that issue will be made at the March AMBCC Board meeting.

Rural Determination
Amee Howard presented the timeline on Rural Determination.

Annual Report
Holmes moved to adopt the annual report. Seconded by Skinner. Skinner asked to add "effective management of wildlife resources" to 1st paragraph of Item#3. Motion with addition carried unanimously.

New Business

Call for Fisheries Proposals

George Pappas read the Federal Subsistence Board Call for Proposals to change federal subsistence fish and shellfish regulations. The deadline for Proposals is April 1st. Pappas also mentioned the April 10th deadline for proposals to the BOF.

Fisheries Resource Monitoring Program (FRMP)
Stewart Cogswell responded to the letter from the Council regarding the FRMP program, including that regions were set up at the onset of the program so he is unfamiliar with the reasoning, that the Kodiak proposals did not meet the five criteria and were therefore ranked low, and that there are ideas to help improve input on the Priority Information Needs (PIN). Stewart also recommended the Council work with the proposal's principal investigator to facilitate a pre-screening. OSM can help with proposals right up until submission. Council members mentioned crab pots in Woman's Bay, Akalura, Upper Station and Unalaska Bay as sites for projects.

Kay Larson-Blair, the new fisheries resource specialist for Aleut Corporation, spoke on the lack of comprehensive subsistence harvest trends in Unalaska Bay and the need to get subsistence harvest information from local residents. Trumble remarked there is a similar issue in Cold Bay. Larson stated that the 2016 PINs do not reflect Aleutian needs. Larson also informed the Council that the BOF passed Proposal #194 to close Unalaska Bay to trawling.

Cogswell recommended a subgroup to work on FRMP issues. Rohrer motioned to form a group with members Holmes, Trumble, Skinner and Schwantes. Seconded by Skinner and carried unanimously.

Joint Letter from All Councils
Skinner motioned to support the joint letter from all councils to the Board drafted by the Southeast Council. Seconded by Holmes and carried unanimously.

National Wildlife Refuge System (NWRS) Proposed Rule on Hunting
The Council held an extensive discussion on predator control, natural diversity and their relationship to ANILCA. Deatherage and Howard confirmed that through various courts and interpretation, predator control is not within the jurisdiction of the Board as it is not consistent with ANILCA's definition of the taking of wildlife for subsistence purposes. Skinner asked that the Federal Subsistence Board Predator Control Policy be added to the Fall meeting agenda.

Skinner motioned to support the preparation of a letter to USFWS covering comments from Holmes' letter, the Koyukuk Fish and Game Advisory letter dated February 24, the September Council meeting letter and the joint statement from the Yukon Kuskokwim Delta Council. Seconded by Rohrer and carried unanimously.

Schwantes motioned to approve Simeonoff's signature on the Yukon Kuskokwim Joint Statement asking the Board to request USFWS withdraw the Proposed Rule. Seconded by Rohrer and carried unanimously.

Future Meeting Dates

The Council strongly recommended that the Fall, 2016 Council meeting be held in Dutch Harbor.

Koso motioned for the Winter, 2017 meeting to be held February 22-23 in Old Harbor. Seconded by Skinner and carried unanimously.

Meeting adjourned 1:20 p.m. March 10, 2016.

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

/s/_____
Karen Deatherage, DFO
Office of Subsistence Management, USFWS

/s/_____
Speridon M. Simeonoff, Sr.
Kodiak/Aleutians Subsistence Regional Advisory Council

These minutes will be formally considered by the Kodiak/Aleutians Subsistence Regional Advisory Council at its next meeting, and any corrections or notations will be incorporated in the minutes of that meeting.

DRAFT

PREDATOR MANAGEMENT POLICY
FEDERAL SUBSISTENCE BOARD

Adopted by the Federal Subsistence Board on
May 20, 2004

The Federal Subsistence Board recognizes that predators are an important component of Alaska's dynamic ecosystems, beneficial to maintaining balance, health, and diversity within associated wildlife populations and habitats. Furthermore, the Board recognizes the traditional Alaska Native cultural beliefs and values associated with wolves, bears and other predatory species, and the impact that predators can have on ungulate populations valued by subsistence users. In addition, the Board recognizes that predator control may be an appropriate management tool on some Federal public lands for restoring prey populations to provide for subsistence needs where predation has reduced or held prey populations at levels significantly below historical .levels of abundance.

As authorized by the Secretaries of Interior and Agriculture [50 CFR Part 100.10 (USDI) and 36 CFR Part 242.10 (USDA)], the Board administers the subsistence taking and uses of fish and wildlife on Federal public lands through regulations that provide for the non-wasteful harvest of fish and wildlife by Federally qualified rural residents, consistent with the maintenance of healthy populations of harvested resources. Such subsistence taking and uses are *"... for direct personal or family consumption ..."* (Section 803 of ANILCA). Wildlife management activities on Federal public lands other than the subsistence take and use of fish and wildlife, such as predator control and habitat management, are the responsibility of and remain within the authority of the individual land management agencies.

Accordingly, the Board will:

A. Consider all Federal proposals to regulated seasons and dates, methods and means, harvest limits, and customary & traditional use determinations for the subsistence take of fish and wildlife. The Board will ensure that the effect of its decisions is to provide for subsistence take and use of the subject species. The Board will also take into account approved population objectives; management plans, customary and traditional uses, and recognized principles of fish and wildlife management.

B. Direct the Office of Subsistence Management to provide proponents of predator control proposals (all Federal proposals that specifically indicate that the reason for the proposed regulation(s) is to reduce the predator population to benefit prey populations), with procedures for submitting the proposal to the appropriate agency. Where predators have been determined to be a major contributing factor in the significant reduction of ungulate populations important for subsistence use, or in the chronic suppression of such populations at low densities, the Board will endorse timely, affirmative and effective action consistent with each respective agency's policies and management objectives, to reduce predator populations and allow affected ungulate populations to recover. The Board will monitor actions taken by the agency to address such concerns, and will provide appropriate support where necessary to ensure the continuation of subsistence harvest opportunities.

C. Ensure that the appropriate Regional Council(s) is informed of predator control proposals by having them printed in the Proposal Booklet and presented to the Council at the next appropriate Council meeting, along with other rejected proposals that address concerns which are outside the authorities of the Federal Subsistence Board.

Federal Register / Vol. 80, No. 213 / Wednesday, November 4, 2015 / Rules and Regulations **68249**

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

[Docket No. FWS–R7–SM–2014–0063; FXRS12610700000–156–FF07J00000; FBMS# 4500086287]

RIN 1018–BA62

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

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

ACTION: Final rule.

SUMMARY: The Secretaries of Agriculture and the Interior are revising the regulations governing the rural determination process for the Federal Subsistence Management Program in Alaska. The Secretaries have removed specific guidelines, including requirements regarding population data, the aggregation of communities, and a decennial review. This change will allow the Federal Subsistence Board (Board) to define which communities or areas of Alaska are nonrural (all other communities and areas would, therefore, be rural). This new process will enable the Board to be more flexible in making decisions and to take into account regional differences found throughout the State. The new process will also allow for greater input from the Subsistence Regional Advisory Councils (Councils), Federally recognized Tribes of Alaska, Alaska Native Corporations, and the public.

DATES: This rule is effective November 4, 2015.

ADDRESSES: This rule and public comments received on the proposed rule may be found on the Internet at *www.regulations.gov* at Docket No. FWS–R7–SM–2014–0063. Board meeting transcripts are available for review at the Office of Subsistence Management, 1011 East Tudor Road, Mail Stop 121, Anchorage, AK 99503, or on the Office of Subsistence Management Web site (*https://www.doi.gov/subsistence*).

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

SUPPLEMENTARY INFORMATION:

Background

Under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program. This program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. The Secretaries published temporary regulations to carry out this program in the **Federal Register** on June 29, 1990 (55 FR 27114), and published final regulations in the **Federal Register** on May 29, 1992 (57 FR 22940). The program regulations have subsequently been amended a number of times. Because this program is a joint effort between Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): Title 36, ''Parks, Forests, and Public Property,'' and Title 50, ''Wildlife and Fisheries,'' at 36 CFR 242.1–242.28 and 50 CFR 100.1–100.28, respectively. The regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

Consistent with Subpart B of these regulations, the Secretaries established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board comprises:

- A Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture;
- The Alaska Regional Director, U.S. Fish and Wildlife Service;
- The Alaska Regional Director, U.S. National Park Service;
- The Alaska State Director, U.S. Bureau of Land Management;
- The Alaska Regional Director, U.S. Bureau of Indian Affairs;
- The Alaska Regional Forester, U.S. Forest Service; and
- Two public members appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture.

Through the Board, these agencies and members participate in the development of regulations for subparts C and D, which, among other things, set forth program eligibility and specific harvest seasons and limits.

In administering the program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Regional Advisory Council. The Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska. The Council members represent varied geographical, cultural, and user interests within each region.

Prior Rulemaking

On November 23, 1990 (55 FR 48877), the Board published a notice in the **Federal Register** explaining the proposed Federal process for making rural determinations, the criteria to be used, and the application of those criteria in preliminary determinations. On December 17, 1990, the Board adopted final rural and nonrural determinations, which were published on January 3, 1991 (56 FR 236). Final programmatic regulations were published on May 29, 1992, with only slight variations in the rural determination process (57 FR 22940). As a result of this rulemaking, Federal subsistence regulations at 36 CFR 242.15 and 50 CFR 100.15 require that the rural or nonrural status of communities or areas be reviewed every 10 years, beginning with the availability of the 2000 census data.

Because some data from the 2000 census was not compiled and available until 2005, the Board published a proposed rule in 2006 to revise the list of nonrural areas recognized by the Board (71 FR 46416, August 14, 2006). The final rule published in the **Federal Register** on May 7, 2007 (72 FR 25688).

Secretarial Review

On October 23, 2009, Secretary of the Interior Salazar announced the initiation of a Departmental review of the Federal Subsistence Management Program in Alaska; Secretary of Agriculture Vilsack later concurred with this course of action. The review focused on how the Program is meeting the purposes and subsistence provisions of Title VIII of ANILCA, and if the Program is serving rural subsistence users as envisioned when it began in the early 1990s.

On August 31, 2010, the Secretaries announced the findings of the review, which included several proposed administrative and regulatory reviews and/or revisions to strengthen the Program and make it more responsive to those who rely on it for their subsistence uses. One proposal called

for a review, with Council input, of the rural determination process and, if needed, recommendations for regulatory changes.

The Board met on January 20, 2012, to consider the Secretarial directive and the Councils' recommendations and review all public, Tribal, and Alaska Native Corporation comments on the initial review of the rural determination process. After discussion and deliberation, the Board voted unanimously to initiate a review of the rural determination process and the 2010 decennial review. Consequently, the Board found that it was in the public's best interest to extend the compliance date of its 2007 final rule (72 FR 25688; May 7, 2007) on rural determinations until after the review of the rural determination process and the decennial review were completed or in 5 years, whichever comes first. The Board published a final rule on March 1, 2012 (77 FR 12477), extending the compliance date.

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

Due to a lapse in appropriations on October 1, 2013, and the subsequent closure of the Federal Government, some of the preannounced public meetings and Tribal consultations to receive comments on the rural determination process during the closure were cancelled. The Board decided to extend the comment period to allow for the complete participation from the Councils, public, Tribes, and Corporations to address this issue (78 FR 66885; November 7, 2013).

The Councils were briefed on the Board's **Federal Register** documents during their winter 2013 meetings. At their fall 2013 meetings, the Councils provided a public forum to hear from residents of their regions, deliberate on the rural determination process, and provide recommendations for changes to the Board.

The Secretaries, through the Board, also held hearings in Barrow, Ketchikan, Sitka, Kodiak, Bethel, Anchorage, Fairbanks, Kotzebue, Nome, and Dillingham to solicit comments on the rural determination process. Public testimony was recorded during these hearings. Government-to-government tribal consultations on the rural determination process were held between members of the Board and Federally recognized Tribes of Alaska. Additional consultations were held between members of the Board and Alaska Native Corporations.

Altogether, the Board received 475 substantive comments from various sources, including individuals, members of the Councils, and other entities or organizations, such as Alaska Native Corporations and borough governments. In general, this information indicated a broad dissatisfaction with the current rural determination process. The aggregation criteria were perceived as arbitrary. The current population thresholds were seen as inadequate to capture the reality of rural Alaska. Additionally, the decennial review was widely viewed to be unnecessary.

Based on this information, the Board at their public meeting held on April 17, 2014, elected to recommend a simplification of the process by determining which areas or communities are nonrural in Alaska; all other communities or areas would, therefore, be rural. The Board would make nonrural determinations using a comprehensive approach that considers population size and density, economic indicators, military presence, industrial facilities, use of fish and wildlife, degree of remoteness and isolation, and any other relevant material, including information provided by the public. The Board would rely heavily on the recommendations of the Subsistence Regional Advisory Councils.

In summary, based on Council and public comments, Tribal and Alaska Native Corporation consultations, and briefing materials from the Office of Subsistence Management, the Board developed a proposal that simplifies the process of rural determinations and submitted its recommendation to the Secretaries on August 15, 2014.

On November 24, 2014, the Secretaries requested that the Board initiate rulemaking to pursue the regulatory changes recommended by the Board. The Secretaries also requested that the Board obtain Council recommendations and public input, and conduct Tribal and Alaska Native Corporation consultation on the proposed changes. If adopted through the rulemaking process, the current regulations would be revised to remove specific guidelines, including requirements regarding population data, the aggregation of communities, and the decennial review, for making rural determinations.

Public Review and Comment

The Departments published a proposed rule on January 28, 2015 (80 FR 4521), to revise the regulations governing the rural determination process in subpart B of 36 CFR part 242 and 50 CFR part 100. The proposed rule opened a public comment period, which closed on April 1, 2015. The Departments advertised the proposed rule by mail, radio, newspaper, and social media; comments were submitted via *www.regulations.gov* to Docket No. FWS–R7–SM–2014–0063. During that period, the Councils received public comments on the proposed rule and formulated recommendations to the Board for their respective regions. In addition, 10 separate public meetings were held throughout the State to receive public comments, and several government-to-government consultations addressed the proposed rule. The Councils had a substantial role in reviewing the proposed rule and making recommendations for the final rule. Moreover, a Council Chair, or a designated representative, presented each Council's recommendations at the Board's public work session of July, 28, 2015.

The 10 Councils provided the following comments and recommendations to the Board on the proposed rule:

Northwest Arctic Subsistence Regional Advisory Council—unanimously supported the proposed rule.

Seward Peninsula Subsistence Regional Advisory Council—unanimously supported the proposed rule.

Yukon-Kuskokwim Delta Subsistence Regional Advisory Council—unanimously supported the proposed rule.

Western Interior Alaska Regional Advisory Council—supported the proposed rule.

North Slope Subsistence Regional Advisory Council—unanimously supported the proposed rule as written. The Council stated the proposed rule will improve the process and fully supported an expanded role and inclusion of recommendations of the Councils when the Board makes nonrural determinations. The Council wants to be closely involved with the Board when the Board sets policies and criteria for how it makes nonrural determinations under the proposed rule if the rule is approved, and the Council passed a motion to write a letter requesting that the Board involve and consult with the Councils when developing criteria to make nonrural determinations, especially in subject matter that pertains to their specific rural characteristics and personality.

Bristol Bay Subsistence Regional Advisory Council—supported switching the focus of the process from rural to

nonrural determinations. They indicated there should be criteria for establishing what is nonrural to make determinations defensible and justifiable, including determinations of the carrying capacity of the area for sustainable harvest, and governmental entities should not determine what is spiritually and culturally important for a community. They supported eliminating the mandatory decennial; however, they requested a minimum time limit between requests (at least 3 years). They discussed deference and supported the idea but felt it did not go far enough.

Southcentral Alaska Subsistence Regional Advisory Council—supported the proposed rule with modification. They recommended deference be given to the Councils on the nonrural determinations.

Southeast Alaska Subsistence Regional Advisory Council—supported the proposed rule with modification. The Council recommended a modification to the language of the proposed rule: ''The Board determines, after considering the report and recommendations of the applicable regional advisory council, which areas or communities in Alaska are non-rural . . . .'' The Council stated that this modification is necessary to prevent the Board from adopting proposals contrary to the recommendation(s) of a Council and that this change would increase transparency and prevent rural communities from being subject to the whims of proponents.

Kodiak/Aleutians Subsistence Regional Advisory Council—is generally appreciative that the Board has recommended changes to the rural determination process and supported elimination of the decennial review. The Council recommended that the Board implement definitive guidelines for how the Board will make nonrural determinations to avoid subjective interpretations and determinations; that the language of the proposed rule be modified to require the Board to defer to the Councils and to base its justification for not giving deference on defined criteria to avoid ambiguous decisions; that the Board provide program staff with succinct direction for conducting analyses on any proposals to change a community's status from rural to nonrural; and that the Board develop written policies and guidelines for making nonrural determinations even if there is a lack of criteria in the regulations. The Council is concerned that proposals to change rural status in the region will be frequently submitted from people or entities from outside the region; the Council is opposed to proposals of this nature from outside its region and recommends that the Board develop guidelines and restrictions for the proposal process that the Board uses to reassess nonrural status.

Eastern Interior Alaska Subsistence Regional Advisory Council—opposed the proposed rule due to the lack of any guiding criteria to determine what is rural or nonrural. They stated the lack of criteria could serve to weaken the rural determination process. They supported greater involvement of the Councils in the Board's process to make rural/nonrural determinations. This Council was concerned about changes including increasing developments, access pressure on rural subsistence communities and resources, and social conflicts in the Eastern Interior region.

A total of 90 substantive comments were submitted from public meetings, letters, deliberations of the Councils, and those submitted via *www.regulations.gov.*

- 54 supported the proposed rule;
- 16 neither supported nor opposed the proposed rule;
- 7 supported the proposed rule with modifications;
- 7 neither supported nor opposed the proposed rule and suggested modifications; and
- 6 opposed the proposed rule.

Major comments from all sources are addressed below:

Comment: The Board should provide, in regulatory language, objective criteria, methods, or guidelines for making nonrural determinations.

Response: During the request for public comment (77 FR 77005; December 31, 2012), the overwhelming response from the public was dissatisfaction with the list of regulatory guidelines used to make rural determinations. The Board, at their April 17, 2014, public meeting, stated that if the Secretaries approved the recommended simplification of the rural determination process, the Board would make nonrural determinations using a comprehensive approach that considers, but is not limited to, population size and density, economic indicators, military presence, industrial facilities, use of fish and wildlife, degree of remoteness and isolation, and any other relevant material, including information provided by the public. The Board also indicated that they would rely heavily on the recommendations of the Subsistence Regional Advisory Councils. The Board, at their July 28, 2015, public work session, directed that a subcommittee be established to draft options (policy or rulemaking) to address future rural determinations. The subcommittee options, once reviewed by the Board at their January 12, 2016, public meeting will be presented to the Councils for their review and recommendations.

Comment: The Board should give deference to the Regional Advisory Councils on nonrural determinations and place this provision in regulatory language.

Response: The Board expressed during its April 2014 and July 2015 meetings that it intends to rely heavily on the recommendations of the Councils and that Council input will be critical in addressing regional differences in the rural determination process. Because the Board has confirmed that Councils will have a meaningful and important role in the process, a change to the regulatory language is neither warranted nor necessary at the present time.

Comment: Establish a timeframe for how often proposed changes may be submitted.

Response: During previous public comment periods, the decennial review was widely viewed to be unnecessary, and the majority of comments expressed the opinion that there should not be a set timeframe used in this process. The Board has been supportive of eliminating a set timeframe to conduct nonrural determinations. However, this issue may be readdressed in the future if a majority of the Councils support the need to reestablish a nonrural review period.

Comment: Redefine ''rural'' to allow nonrural residents originally from rural areas to come home and participate in subsistence activities.

Response: ANILCA and its enacting regulations clearly state that you must be an Alaska resident of a rural area or community to take fish or wildlife on public lands. Any change to that definition is beyond the scope of this rulemaking.

Comment: Develop a policy for making nonrural determinations, including guidance on how to analyze proposed changes.

Response: The Board, at their July 28, 2015, public work session, directed that a subcommittee be established to draft options (policy or rulemaking) to address future rural determinations that, once completed, will be presented to the Councils for their review and recommendations.

Comment: Allow rural residents to harvest outside of the areas or communities of residence.

Response: All rural Alaskans may harvest fish and wildlife on public lands unless there is a customary and traditional use determination that identifies the specific community's or area's use of particular fish stocks or

wildlife populations or if there is a closure.

Rule Promulgation Process and Related Rulemaking

These final regulations reflect Secretarial review and consideration of Board and Council recommendations, Tribal and Alaska Native Corporations government-to-government tribal consultations, and public comments. The public received extensive opportunity to review and comment on all changes.

Because this rule concerns public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text will be incorporated into 36 CFR part 242 and 50 CFR part 100.

Elsewhere in today's **Federal Register** is a direct final rule by which the Board is revising the list of rural determinations in subpart C of 36 CFR part 242 and 50 CFR part 100. See ''Subsistence Management Regulations for Public Lands in Alaska; Rural Determinations, Nonrural List'' in Rules and Regulations.

Conformance With Statutory and Regulatory Authorities

Administrative Procedure Act Compliance

The Board has provided extensive opportunity for public input and involvement in compliance with Administrative Procedure Act requirements, including publishing a proposed rule in the **Federal Register**, participation in multiple Council meetings, and opportunity for additional public comment during the Board meeting prior to deliberation. Additionally, an administrative mechanism exists (and has been used by the public) to request reconsideration of the Secretaries' decision on any particular proposal for regulatory change (36 CFR 242.18(b) and 50 CFR 100.18(b)). Therefore, the Secretaries believe that sufficient public notice and opportunity for involvement have been given to affected persons regarding this decision. In addition, because the direct final rule that is mentioned above and is related to this final rule relieves restrictions for many Alaskans by allowing them to participate in the subsistence program activities, we believe that we have good cause, as required by 5 U.S.C. 553(d), to make this rule effective upon publication.

National Environmental Policy Act Compliance

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

A 1997 environmental assessment dealt with the expansion of Federal jurisdiction over fisheries. The Secretary of the Interior, with concurrence of the Secretary of Agriculture, determined that expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and, therefore, signed a Finding of No Significant Impact.

Section 810 of ANILCA

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

Paperwork Reduction Act

An agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. This rule does not contain any new collections of information that require OMB approval. OMB has reviewed and approved the collections of information associated with the subsistence regulations at 36 CFR part 242 and 50 CFR part 100, and assigned OMB Control Number 1018–0075, which expires February 29, 2016.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that two million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of $3.00 per pound, this amount would equate to about $6 million in food value Statewide. Based upon the amounts and values cited above, the Departments certify that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Executive Order 12630

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this Program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

Unfunded Mandates Reform Act

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies, and there is no cost imposed on any State or local entities or tribal governments.

Executive Order 12988

The Secretaries have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

Executive Order 13132

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

Executive Order 13175

Title VIII of ANILCA does not provide specific rights to tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Secretaries, through the Board, provided Federally recognized Tribes and Alaska Native corporations opportunities to consult on this rule. Consultation with Alaska Native corporations are based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: ''The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.''

The Secretaries, through the Board, provided a variety of opportunities for consultation: Commenting on proposed changes to the existing rule; engaging in dialogue at the Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process.

On March 23 and 24, 2015, the Board provided Federally recognized Tribes and Alaska Native Corporations a specific opportunity to consult on this rule. Federally recognized Tribes and Alaska Native Corporations were notified by mail and telephone and were given the opportunity to attend in person or via teleconference.

Executive Order 13211

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

Drafting Information

Theo Matuskowitz drafted these regulations under the guidance of Eugene R. Peltola, Jr. of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by

- Daniel Sharp, Alaska State Office, Bureau of Land Management;
- Mary McBurney, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Trevor T. Fox, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Thomas Whitford, Alaska Regional Office, U.S. Forest Service.

Authority

This rule is issued under the authority of Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126).

List of Subjects

36 CFR Part 242

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

50 CFR Part 100

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

Regulation Promulgation

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

PART ____—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

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

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

Subpart B—Program Structure

■ 2. In subpart B of 36 CFR part 242 and 50 CFR part 100, § ____.15 is revised to read as follows:

§ ____.15 Rural determination process.

(a) The Board determines which areas or communities in Alaska are nonrural. Current determinations are listed at § ____.23.

(b) All other communities and areas are, therefore, rural.

Dated: Oct. 28, 2015.

Sally Jewell,

Secretary of the Interior.

Dated: Sept. 30, 2015.

Beth G. Pendleton,

Regional Forester, USDA—Forest Service.

[FR Doc. 2015–27994 Filed 10–30–15; 8:45 am]

BILLING CODE 3410–11–4333–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2014–0904; FRL–9936–55–Region 4]

Air Plan Approval and Air Quality Designation; TN; Reasonably Available Control Measures and Redesignation for the TN Portion of the Chattanooga 1997 Annual $PM_{2.5}$ Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the portion of a State Implementation Plan (SIP) revision submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), on October 15, 2009, that addresses reasonably available control measures (RACM), including reasonably available control technology (RACT), for the Tennessee portion of the Chattanooga, TN-GA-AL nonattainment area for the 1997 fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS) (hereinafter referred to as the ''Chattanooga TN-GA-AL Area'' or

Need for Correction

As published, the final regulations (TD 9728) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the final regulations (TD 9728), that are subject to FR Doc. 2015–18816, are corrected as follows:

1. On page 45866, in the preamble, third column, last sentence of first full paragraph, the language ''rules, including section 706(d)(2) and section 706(d)(3).'' is corrected to read ''rules, including section 704(c), § 1.704–3(a)(6) (reverse section 704(c)), section 706(d)(2), and section 706(d)(3).''

2. On page 45868, in the preamble, first column, fourth line from the bottom of the column, the language ''interim closings of its books except at'' is corrected to read ''interim closing of its books except at''.

3. On page 45871, in the preamble, second column, third line from the bottom of the column, under paragraph heading ''*v. Deemed Timing of Variations,*'' the language ''taxable year was deemed to close at the'' is corrected to read ''taxable year was deemed to occur at the''.

4. On page 45873, in the preamble, third column, eighth line from the bottom of the column, the language ''taxable as of which the recipients of a'' is corrected to read ''taxable year as of which the recipients of a''.

5. On page 45874, second column, eight lines from the bottom of the column, the following sentence is added to the end of the paragraph: ''These final regulations do not override the application of section 704(c), including reverse section 704(c), and therefore the final regulations provide that the rules of section 706 do not apply in making allocations of book items upon a partnership revaluation.''

6. On page 45876, in the preamble, second column, under paragraph heading ''*Effective/Applicability Dates*'', fifth line of the first paragraph, the language ''of a special rule applicable to § 1.704–'' is corrected to read ''of a special rule applicable to § 1.706–''.

7. On page 45876, in the preamble, second column, under paragraph heading ''*Effective/Applicability Dates*'', third line of the second paragraph, the language ''regulations apply to the partnership'' is corrected to read ''regulations apply to partnership''.

8. On page 45876, in the preamble, third column, fourth line from the top of the column, the language ''that was formed prior to April 19, 2009.'' is corrected to read ''that was formed prior to April 14, 2009.''

9. On page 45877, first column, under paragraph heading ''*List of Subjects,*'' the fourth line, the language ''26 CFR part 2'' is corrected to read ''26 CFR part 602''.

10. On page 45883, third column, the first line of the signature block, the language ''Karen L. Schiller,'' is corrected to read ''Karen M. Schiller,''.

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2015–28014 Filed 11–3–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

[Docket No. FWS–R7–SM–2015–0156; FXRS12610700000–156–FF07J00000; FBMS#4500086366]

RIN 1018–BA82

Subsistence Management Regulations for Public Lands in Alaska; Rural Determinations, Nonrural List

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

ACTION: Direct final rule.

SUMMARY: This rule revises the list of nonrural areas in Alaska identified by the Federal Subsistence Board (Board). Only residents of areas that are rural are eligible to participate in the Federal Subsistence Management Program on public lands in Alaska. Based on a Secretarial review of the rural determination process, and the subsequent change in the regulations governing this process, the Board is revising the current nonrural determinations to the list that existed prior to 2007. Accordingly, the community of Saxman and the area of Prudhoe Bay will be removed from the nonrural list. The following areas continue to be nonrural, but their boundaries will return to their original borders: the Kenai Area; the Wasilla/Palmer area; the Homer area; and the Ketchikan area.

DATES: This rule is effective on December 21, 2015 unless we receive significant adverse comments on or before December 4, 2015.

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

- *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov* and search for FWS–R7–SM–2015–0156, which is the docket number for this rulemaking.
- *By hard copy:* U.S. mail or hand-delivery to: USFWS, Office of Subsistence Management, 1011 East Tudor Road, MS 121, Attn: Theo Matuskowitz, Anchorage, AK 99503–6199

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

SUPPLEMENTARY INFORMATION:

Background

Under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program (Program). This program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. Only residents of areas identified as rural are eligible to participate in the Program on Federal public lands in Alaska. Because this program is a joint effort between Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): Title 36, ''Parks, Forests, and Public Property,'' and Title 50, ''Wildlife and Fisheries,'' at 36 CFR 242.1–242.28 and 50 CFR 100.1–100.28, respectively.

Consistent with these regulations, the Secretaries established a Federal Subsistence Board (Board) comprising Federal officials and public members to administer the Program. One of the Board's responsibilities is to determine which communities or areas of the State are rural or nonrural. The Secretaries also divided Alaska into 10 subsistence resource regions, each of which is represented by a Regional Advisory Council (Council). The Council members represent varied geographical, cultural, and user interests within each region. The Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a

meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska.

Related Rulemaking

Elsewhere in today's **Federal Register** is a final rule that sets forth a new process by which the Board will make rural determinations (''Subsistence Management Regulations for Public Lands in Alaska; Rural Determination Process''). Please see that rule for background information on how this new process was developed and the extensive Council and public input that was considered. A summary of that information follows:

Until promulgation of the rule mentioned above, Federal subsistence regulations at 36 CFR 242.15 and 50 CFR 100.15 had required that the rural or nonrural status of communities or areas be reviewed every 10 years, beginning with the availability of the 2000 census data. Some data from the 2000 census was not compiled and available until 2005, so the Board published a proposed rule in 2006 to revise the list of nonrural areas recognized by the Board (71 FR 46416, August 14, 2006). The final rule published in the **Federal Register** on May 7, 2007 (72 FR 25688), and changed the rural determination for several communities or areas in Alaska. These communities had 5 years following the date of publication to come into compliance.

The Board met on January 20, 2012, and, among other things, decided to extend the compliance date of its 2007 final rule on rural determinations. A final rule published March 1, 2012 (77 FR 12477), that extended the compliance date until either the rural determination process and findings review were completed or 5 years, whichever came first. The 2007 regulations have remained in titles 36 and 50 of the CFR unchanged since their effective date.

The Board followed that action with a request for comments and announcement of public meetings (77 FR 77005; December 31, 2012) to receive public, Tribal, and Alaska Native Corporations input on the rural determination process. At their fall 2013 meetings, the Councils provided a public forum to hear from residents of their regions, deliberate on the rural determination process, and provide recommendations for changes to the Board. The Board also held hearings in Barrow, Ketchikan, Sitka, Kodiak, Bethel, Anchorage, Fairbanks, Kotzebue, Nome, and Dillingham to solicit comments on the rural determination process, and public testimony was recorded. Government-to-government tribal consultations on the rural determination process were held between members of the Board and Federally recognized Tribes of Alaska. Additional consultations were held between members of the Board and Alaska Native Corporations.

Altogether, the Board received 475 substantive comments from various sources, including individuals, members of the Councils, and other entities or organizations, such as Alaska Native Corporations and borough governments. In general, this information indicated a broad dissatisfaction with the current rural determination process.

Based on this information, the Board at their public meeting held on April 17, 2014, elected to recommend a simplification of the process by determining which areas or communities are nonrural in Alaska; all other communities or areas would, therefore, be rural. The Board would make nonrural determinations using a comprehensive approach that considers population size and density, economic indicators, military presence, industrial facilities, use of fish and wildlife, degree of remoteness and isolation, and any other relevant material, including information provided by the public. The Board would rely heavily on the recommendations of the Councils. The Board developed a proposal that simplifies the process of rural determinations and submitted its recommendation to the Secretaries on August 15, 2014.

On November 24, 2014, the Secretaries requested that the Board initiate rulemaking to pursue the regulatory changes recommended by the Board. The Secretaries also requested that the Board obtain Council recommendations and public input, and conduct Tribal and Alaska Native Corporation consultation on the proposed changes.

The Departments published a proposed rule on January 28, 2015 (80 FR 4521), to revise the regulations governing the rural determination process in subpart B of 36 CFR part 242 and 50 CFR part 100. Following a process that involved substantial Council and public input, the Departments published the final rule that may be found elsewhere in today's **Federal Register**.

Direct Final Rule

During that process, the Board went on to address a starting point for nonrural communities and areas. The May 7, 2007 (72 FR 25688), final rule was justified by the Board's January 3, 1991, notice (56 FR 236) adopting final rural and nonrural determinations and the final rule of May 7, 2002 (67 FR 30559), amending 36 CFR 242.23(a) and 50 CFR 100.23(a) to add the Kenai Peninsula communities (Kenai, Soldotna, Sterling, Nikiski, Salamatof, Kalifornsky, Kasilof, Clam Gulch, Anchor Point, Homer, Kachemak City, Fritz Creek, Moose Pass, and Seward) to the list of areas determined to be nonrural. The 2007 rule added the village of Saxman and the area of Prudhoe Bay to the nonrural list and expanded the nonrural boundaries of the Kenai Area; the Wasilla/Palmer area; the Homer area; and the Ketchikan Area.

Since the 2007 final rule (72 FR 25688; May 7, 2007) was contentious, and so many comments were received objecting to the changes imposed by that rule, the Board has decided to return to the rural determinations prior to the 2007 final rule. The Board further decided that the most expedient method to enact their decisions was to publish this direct final rule adopting the pre-2007 nonrural determinations. As a result, the Board has determined the following areas to be nonrural: Fairbanks North Star Borough; Homer area—including Homer, Anchor Point, Kachemak City, and Fritz Creek; Juneau area—including Juneau, West Juneau, and Douglas; Kenai area—including Kenai, Soldotna, Sterling, Nikiski, Salamatof, Kalifornsky, Kasilof, and Clam Gulch; Ketchikan area—including Ketchikan City, Clover Pass, North Tongass Highway, Ketchikan East, Mountain Point, Herring Cove, Saxman East, Pennock Island, and parts of Gravina Island; Municipality of Anchorage; Seward area—including Seward and Moose Pass, Valdez, and Wasilla area—including Palmer, Wasilla, Sutton, Big Lake, Houston, and Bodenberg Butte.

These final regulations reflect Board review and consideration of Council recommendations, Tribal and Alaska Native Corporations government-to-government tribal consultations, and public comments. Based on concerns expressed by some of the Councils and members of the public, the Board went on to direct staff to develop options for the Board to consider and for presentation to the Councils, to address future nonrural determinations. These options will be presented to the Board and Chairs of each Council at the January 12, 2016, public meeting.

We are publishing this rule without a prior proposal because we view this action as an administrative action by the Federal Subsistence Board. This rule will be effective, as specified above in DATES, unless we receive significant

adverse comments on or before the deadline set forth in DATES. Significant adverse comments are comments that provide strong justifications why the rule should not be adopted or for changing the rule. If we receive significant adverse comments, we will publish a notice in the **Federal Register** withdrawing this rule before the effective date. If no significant adverse comments are received, we will publish a document in the **Federal Register** confirming the effective date.

Because this rule concerns public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text will be incorporated into 36 CFR part 242 and 50 CFR part 100.

Conformance With Statutory and Regulatory Authorities

Administrative Procedure Act Compliance

In compliance with Administrative Procedure Act, the Board has provided extensive opportunity for public input and involvement in its efforts to improve the rural determination process as described in the related final rule published elsewhere in today's **Federal Register**. In addition, anyone with concerns about this rulemaking action may submit comments as specified in **DATES** and **ADDRESSES**.

National Environmental Policy Act Compliance

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

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

Section 810 of ANILCA

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

During the subsequent environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of this rule was conducted in accordance with section 810. That evaluation also supported the Secretaries' determination that the rule will not reach the ''may significantly restrict'' threshold that would require notice and hearings under ANILCA section 810(a).

Paperwork Reduction Act

An agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. This rule does not contain any new collections of information that require OMB approval. OMB has reviewed and approved the collections of information associated with the subsistence regulations at 36 CFR part 242 and 50 CFR part 100, and assigned OMB Control Number 1018–0075, which expires February 29, 2016.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that two million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of $3.00 per pound, this amount would equate to about $6 million in food value Statewide. Based upon the amounts and values cited above, the Departments certify that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Executive Order 12630

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this Program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

Unfunded Mandates Reform Act

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more

in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies and there is no cost imposed on any State or local entities or tribal governments.

Executive Order 12988

The Secretaries have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

Executive Order 13132

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

Executive Order 13175

The Alaska National Interest Lands Conservation Act, Title VIII, does not provide specific rights to tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Secretaries, through the Board, provided Federally recognized Tribes and Alaska Native corporations opportunities to consult on this rule. Consultation with Alaska Native corporations are based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: ''The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.''

The Secretaries, through the Board, provided a variety of opportunities for consultation on the rural determination process: commenting on changes under consideration for the existing regulations; engaging in dialogue at the Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process.

Since 2007 multiple opportunities were provided by the Board for Federally recognized Tribes and Alaska Native Corporations to consult on the subject of rural determinations. Federally recognized Tribes and Alaska Native Corporations were notified by mail and telephone and were given the opportunity to attend in person or via teleconference.

Executive Order 13211

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

Drafting Information

Theo Matuskowitz drafted these regulations under the guidance of Eugene R. Peltola, Jr. of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by

- Daniel Sharp, Alaska State Office, Bureau of Land Management;
- Mary McBurney, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Trevor T. Fox, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Thomas Whitford, Alaska Regional Office, U.S. Forest Service.

Authority

This rule is issued under the authority of Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126).

List of Subjects

36 CFR Part 242

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

50 CFR Part 100

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

Regulation Promulgation

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

PART—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

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

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

Subpart C—Board Determinations

■ 2. In subpart C of 36 CFR part 242 and 50 CFR part 100, §__.23 is revised to read as follows:

§__.23 Rural determinations.

(a) The Board has determined all communities and areas to be rural in accordance with § __.15 except the following: Fairbanks North Star Borough; Homer area—including Homer, Anchor Point, Kachemak City, and Fritz Creek; Juneau area—including Juneau, West Juneau, and Douglas; Kenai area—including Kenai, Soldotna, Sterling, Nikiski, Salamatof, Kalifornsky, Kasilof, and Clam Gulch; Ketchikan area—including Ketchikan City, Clover Pass, North Tongass Highway, Ketchikan East, Mountain Point, Herring Cove, Saxman East, Pennock Island, and parts of Gravina Island; Municipality of Anchorage; Seward area—including Seward and Moose Pass, Valdez, and Wasilla/Palmer area—including Wasilla, Palmer, Sutton, Big Lake, Houston, and Bodenberg Butte.

(b) You may obtain maps delineating the boundaries of nonrural areas from the U.S. Fish and Wildlife Service at the Alaska Regional Office address provided at 50 CFR 2.2(g), or on the Web at *https://www.doi.gov/subsistence.*

Dated: September 30, 2015.

Eugene R. Peltola, Jr.,

Assistant Regional Director, U.S. Fish and Wildlife Service, Acting Chair, Federal Subsistence Board.

Dated: September 30, 2015.

Thomas Whitford,

Subsistence Program Leader, USDA—Forest Service.

[FR Doc. 2015–27996 Filed 10–30–15; 8:45 am]

BILLING CODE 3410–11–4333–15–P

FISHERIES RESOURCE MONITORING PROGRAM KODIAK/ALEUTIANS ALASKA OVERVIEW

BACKGROUND

Beginning in 1999, the Federal government assumed expanded management responsibility for subsistence fisheries on Federal public lands in Alaska under the authority of Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA). Expanded subsistence fisheries management introduced substantial new informational needs for the Federal system. Section 812 of ANILCA directs the Departments of the Interior and Agriculture, cooperating with the State of Alaska and other Federal agencies, to undertake research on fish and wildlife and subsistence uses on Federal public lands. To increase the quantity and quality of information available for management of subsistence fisheries, the Fisheries Resource Monitoring Program (Monitoring Program) was established within the Office of Subsistence Management (OSM). The Monitoring Program was envisioned as a collaborative interagency, interdisciplinary approach to enhance existing fisheries research and monitoring, and effectively communicate information needed for subsistence fisheries management on Federal public lands.

To implement the Monitoring Program, a collaborative approach is utilized in which five Federal agencies (U.S. Fish and Wildlife Service, Bureau of Land Management, National Park Service, Bureau of Indian Affairs, and U.S. Forest Service) work with the Alaska Department of Fish and Game, Regional Advisory Councils, Alaska Native Organizations, and other organizations. An interagency Technical Review Committee provides scientific evaluation of project proposals submitted for funding consideration. The Regional Advisory Councils provide strategic priorities and recommendations, and public comment is invited. The Interagency Staff Committee also provides recommendations. The Federal Subsistence Board takes into consideration recommendations and comments from the process, and forwards a the successful proposals on to the Assistant Regional Director of OSM for final approval and funding.

During each biennial funding cycle, the Monitoring Program budget funds ongoing multi-year projects (2, 3 or 4 years) as well as new projects. Budget guidelines are established by geographic region (**Table 1**). The regional guidelines were developed by the Federal Subsistence Board using six criteria that included level of risk to species, level of threat to conservation units, amount of subsistence needs not being met, amount of information available to support subsistence management, importance of a species to subsistence harvest and level of user concerns with subsistence harvest. Budget guidelines provide an initial target for planning; however they are not final allocations and will be adjusted annually as.

Table 1. Regional allocation guideline for Fisheries Resource Monitoring Funds.

Region	Department of Interior Funds	Department of Agriculture Funds
Northern	17%	0%
Yukon	29%	0%
Kuskokwim	29%	0%
Southwest	15%	0%
Southcentral	5%	33%
Southeast	0%	67%
Inter-regional	5%	0%

Two primary types of research projects are solicited for the Monitoring Program including Harvest Monitoring/Traditional Ecological Knowledge (HMTEK) and Stock, Status and Trends (SST), although projects that combine these approaches are also encouraged. Definitions of the two project types are listed below:

- **Stock Status and Trends Studies (SST) -** These projects address abundance, composition, timing, behavior, or status of fish populations that sustain subsistence fisheries with linkage to Federal public lands.

- **Harvest Monitoring and Traditional Ecological Knowledge (HMTEK) -**These projects address assessment of subsistence fisheries including quantification of harvest and effort, and description and assessment of fishing and use patterns.

PRIORITY INFORMATION NEEDS

OSM staff works with the Regional Advisory Councils, Federal and State fishery managers and land managers to ensure the Monitoring Program focuses on the highest priority information needs for management of Federal subsistence fisheries. Input from the Regional Advisory Councils is used to develop the Priority Information Needs by identify issues of local concerns and knowledge gaps related to subsistence fisheries. The Priority Information Needs provide a framework for evaluating and selecting project proposal. Successful projects proposal selection may not be limited to the identified Priority Information Needs but project proposals not addressing a priority information need must include compelling justification with respect to strategic importance.

PROJECT EVALUATION PROCESS

In the current climate of increasing conservation concerns and subsistence needs, it is imperative that the Monitoring Program prioritizes high quality projects that address critical subsistence questions. Projects are selected for funding through an evaluation and review process that is designed to advance projects that are strategically important for the Federal Subsistence Program, technically sound, administratively competent, promote partnerships and capacity building, and are cost effective.

Five criteria are used to evaluate project proposals:

1. **Strategic Priority -** Studies must be responsive to identified issues and priority information needs. All projects must have a direct linkage to Federal public lands and/or waters to be eligible for funding under the Monitoring Program.

2. **Technical-Scientific Merit -** Technical quality of the study design must meet accepted standards for information collection, compilation, analysis, and reporting.

3. **Investigator Ability and Resources -** Investigators must demonstrate that they are capable of successfully completing the proposed study by providing information on the ability (training, education, and experience) and resources (technical and administrative) they possess to conduct the work.

4. **Partnership-Capacity Building -** Partnerships and capacity building are priorities of the Monitoring Program. ANILCA mandates that rural residents be afforded a meaningful role in the management of Federal subsistence fisheries. Investigators are requested to include a strategy for integrating local capacity development in their investigation plans.

5. **Cost Benefit** – Each proposal is evaluated for "best value" and overall project costs.

PROJECTS FUNDED UNDER THE MONTORING PROGRAM

Since the inception of the Monitoring Program in 2000, 15 projects have been funded in the Kodiak/Aleutians Area including one new projects operating during 2016 (**Table 2**).

Table 2. Fisheries Resource Monitoring Program projects funded in the Southwest Region from 2000 to 2016.

Project Number	Project Title	Project Cost
00-032	Buskin River Sockeye Salmon Stock Assessment	$148,000
01-059	McLees Lake Sockeye Salmon Escapement	$246,520
02-032	Lower AK Peninsula/Aleutians Subsistence Fish Harvest Assessment	$155,130
03-047	Afognak Lake Sockeye Smolt Enumeration Feasibility	$44,650
04-403	McLees Lake Sockeye Salmon Escapement	$234,432
04-412	Afognak Lake Sockeye Salmon Stock Assessment	$217,700
04-414	Buskin River Sockeye Salmon Stock Assessment	$193,400
04-457	Kodiak Subsistence Fisheries Harvest and TEK	$133,149
07-401	Afognak Lake Sockeye Salmon Smolt Assessment	$234,491
07-405	McLees Lake Sockeye Salmon Weir	$233,854

10-401	Afognak Lake Sockeye Salmon Smolt and Adult Assessment	$579,073
10-406	McLees Lake Sockeye Salmon Weir	$184,390
12-453	Kodiak Salmon Fishery Changing Patterns	$172,657
14-402	Afognak L Sockeye	$291,711
16-452	Western Alaska Salmon Harvests and Other Harvests	$331,126
	Total	$3,400,283

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.

United States Department of the Interior

U.S. Fish and Wildlife Service
Izembek National Wildlife Refuge
P.O. Box 127
Cold Bay, Alaska 99571

Izembek National Wildlife Refuge Report for the
Kodiak/Aleutians Federal Subsistence Regional Advisory Council
Fall Meeting – August 2016
(Compiled in May 2016)

INVENTORY AND MONITORING STUDIES

CARIBOU

Unit 9D (Southern Alaska Peninsula)

In total, 75 bull caribou permits were allocated to five communities (15 permits each; Cold Bay, King Cove, Sand Point, False Pass, and Nelson Lagoon) for the 2015-16 federal subsistence hunt. The Federal hunt is a split season and was open from August 10 to September 20, 2015 and November 15, 2015 to March 31, 2016. At the close of the season, 10 caribou were harvested for the federal subsistence hunt (Table 1).

Table 1. Summary of federal subsistence permits issued and number of caribou harvested by each community for the 2015-16 hunt.

Community	# Permits Allocated	# Permits Issued	# Caribou Harvested
Cold Bay	15	9	6
False Pass	15	10	3
King Cove	15	6	0
Nelson Lagoon	15	1	1
Sand Point	15	10	0
Total	75	36	10

The annual winter minimum population count was conducted for the Southern Alaska Peninsula Herd from 13-22 April 2016. The survey spanned over 5 days and lasted approximately 21 hours. We observed a total of 1,568 caribou throughout the survey (Table 2). The results of this survey indicate a continuation of the increasing trend in the population observed over the last few years.

Table 2. Summary of Southern Alaska Peninsula caribou herd winter minimum population counts and fall composition surveys (2004 to 2016) conducted by U.S. Fish and Wildlife Service and Alaska Department of Fish and Game.

Year	Winter minimum population count	Fall Bulls : 100 Cows	Fall Calves : 100 Cows	Fall composition sample size
2004-2005	1,872	36	7	966
2005-2006	1,651	30	6	1,040
2006-2007	770	16	1	713
2007-2008	NA	15	1	431
2008-2009	NA	10	39	570
2009-2010	NA	21	43	679
2010-2011	NA	28	47	532
2011-2012	1,061	40	20	920
2012-2013	NA	45	20	500
2013-2014	NA	50	40	600
2014-2015	1,316	45	45	884
2015-2016	1,568	NA	NA	NA

"NA" indicates no data was collected.
"Year" covers the period October-April. USFWS winter minimum population counts are normally conducted December through April; ADF&G fall composition ratios are calculated from an October survey.

Unit 10 (Unimak Island)

The annual winter minimum population count was conducted for the Unimak Island caribou herd (UCH) from 23-28 April 2016. The survey lasted for 2 days and the cumulative flight time for this population count was approximately 7.5 hours. In total, we observed 334 caribou on Unimak Island during the winter 2016 survey (Table 3). The

results of this survey show a continued increasing population trend for this herd with an increase of more than 100 caribou from last years' survey.

Table 3. Summary of Unimak Island caribou herd winter minimum population counts and fall composition surveys (2004 to 2016) conducted by U.S. Fish and Wildlife Service and Alaska Department of Fish and Game.

Year	Winter minimum population count	Fall Bulls : 100 Cows	Fall Calves : 100 Cows	Fall composition sample size
2004-2005	1,006	NA	NA	NA
2005-2006	1,009	45	7	730
2006-2007	806	NA	NA	NA
2007-2008	NA	31	6	433
2008-2009	NA	9	6	260
2009-2010	400	5	3	221
2010-2011	224	8	8	284
2011-2012	94	6	7	117
2012-2013	NA	9.5	3	83
2013-2014	NA	10	19	67
2014-2015	230	15	22	127
2015-2016	334	NA	NA	NA

"NA" indicates no data was collected.
"Year" covers the period October-April. USFWS winter minimum population counts are normally conducted December through April; ADF&G fall composition ratios are calculated from an October survey.

WATERFOWL

Pacific Brant

In late September and early October we will conduct the annual age-ratio survey for Pacific black brant staging at Izembek Refuge. An index of productivity for the entire Pacific population of brant is generated from ground-based count ratios of adult to juvenile birds conducted in Izembek Lagoon and adjacent areas each fall when the birds are staging for migration. Brant productivity data have been collected at Izembek National Wildlife Refuge for over 50 consecutive years and aid the Migratory Bird Program in determining the status and trends of this population.

Avian Influenza and Avian Blood Parasites

Izembek NWR will continue to collaborate with the U.S. Geological Survey (USGS) to collect avian influenza samples from hunter-harvested waterfowl in September and October this year. Last year, almost 1,000 samples were collected and subsequently tested to help monitor for avian influenza in Alaska. Samples are collected from hunter harvested ducks

and geese, and additional samples are obtained from live birds through fecal collection in the field.

Tundra Swans
The annual Tundra swan population survey is scheduled to be conducted in early June. The survey has not been conducted at the time of this report.

OTHER SURVEYS AND PROJECTS
Brown Bear
In late August we will conduct the annual brown bear population survey to generate an index of population size on both Unimak Island and on Izembek Refuge. The survey has not been conducted at the time of this report.

Water Temperature Monitoring
In August we will continue to monitor lake and stream water temperature across the refuge. Currently there are 24 sites with temperature sensors deployed that monitor water temperature at hourly intervals throughout the year. These data will be used to establish a baseline record of annual stream temperatures on the refuge, and will also be added to a statewide database that hosts a long term monitoring network for water temperature data in southwest Alaska.

Salmon Stream Restoration
In early summer this year the Izembek Refuge wildlife biologists will complete a stream restoration project on 3 streams in the Kinzarof Lagoon area. They will work with the local area state of Alaska fisheries biologist and members of the community to clean out the coastal marine debris from the salmon streams. The streams have become significantly obstructed by debris such as dock pilings coated in creosote, driftwood, and tires that have blown and washed into the mouth of these streams over the last few decades (Figure 1). The debris has accumulated to the extent that it is likely impeding adult salmon migration in 2 of the 3 streams. The sockeye salmon that utilize these streams provide critical subsistence food resources for local residents and have significant ecological value within the refuge ecosystem. Refuge biologists have worked closely with the state of Alaska to determine the Best Management Practices (BMPs) for removal of the debris.

Figure 1. Site of removal of coastal marine debris in 1 of 3 salmon streams near Kinzarof Lagoon.

Eelgrass

In collaboration with USGS scientists, we are continuing to conduct monitoring surveys on the eelgrass located in Izembek Lagoon. The Izembek Lagoon has one of the largest eelgrass beds in the world and is a critical habitat resource for many species. Bimonthly surveys are conducted from April through October at Grant's Point in Izembek Lagoon to provide information on seasonal changes in eelgrass productivity and abundance, and information on trends relative to environmental factors such as sea level rise, water temperature, light levels, salinity, and turbidity. In addition, this information will be utilized to examine regional trends and develop a monitoring plan for eelgrass in four refuges within southwest Alaska.

We are continuing to work with USGS partners and the USFWS Inventory and Monitoring program from the Regional Office to develop a more intensive monitoring program to observe and quantify the trends in health and productivity of the eelgrass habitat in Izembek Lagoon. This has involved developing a formal study protocol and refining the current survey methods. The comprehensive monitoring effort will incorporate a multi-scale design to assess health and distribution trends annually over the next 30 years. The bimonthly surveys at Grant's Point (Level 3) will be continued as 1 of 3 parts of the overall survey design. Level 2 of the survey consists of an extensive point sampling design that covers a grid pattern of 120 points across the lagoon where abundance and standing crop estimates are measured; this survey will be conducted annually. In July 2016, Level 2 of the survey will be conducted for the fifth time in the last 10 years. Level 1 of the survey will entail collecting and classifying satellite imagery every 5-10 years to document changes in the spatial extent of eelgrass across the lagoon. The three levels will be combined to assess overall health and changes in distribution of eelgrass throughout the lagoon over time.

Marine Mammal Surveys

We will continue to monitor use of haul out areas by Steller's sea lions and walrus on Unimak Island and the barrier islands of Izembek Refuge using aerial survey techniques and remote camera systems. We are using photos from 2013-2015 from 9 remote cameras to focus our monitoring efforts on the most frequently used haul out sites. Photos from previous years are still being counted to generate a population index and estimate trends in use. The photos from 2015-2016 will be retrieved this year in late August. The photos will be used to document important haul out areas, conduct minimum population counts annually, and determine timing of the use of haul out sites on Unimak Island.

In Late May, the Marine Mammals Management division flew an extensive aerial population survey for sea otters on the southern end of the Alaska peninsula and most of Unimak Island. This survey was last conducted in 2001. Results from the survey will be available in late fall 2016.

EDUCATION AND OUTREACH ACTIVITIES

Connecting the Cold Bay community with nature: wildlife trivia night challenges local expertise

Izembek National Wildlife Refuge staff hosted a wildlife themed Trivia Night for the community of Cold Bay, Alaska in February. A total of 23 people (both adults and youth) participated in the event. This is more than half the population of Cold Bay! Participants were engaged in a fun night of answering questions about Izembek Refuge history, the US Fish and Wildlife Service, and fish and wildlife species that are found on the refuge to compete for a myriad of prizes and learn more about the refuge.

The wide range of trivia questions offered a chance for locals to learn some new biological facts about wildlife that they frequently encounter. For example, many were surprised to learn that at least 136 species of birds can be found on the refuge. Another stumper: there are 785 Sitka spruce trees in the Cold Bay area. This event also provided an opportunity to share many stories among the participants about adventures had on this epic landscape.

Izembek welcomes new Wildlife Biologist and Refuge Manager to the refuge team

In early April Chris Kane joined Izembek National Wildlife Refuge as the second Wildlife Biologist on staff. This is a new position created to increase the capacity of the biological program at Izembek Refuge. Chris came to Izembek from the Pathways Student program in Region 5 (Northeast Region) from the Migratory Bird Division in Hadley, Massachusetts. Chris recently earned his Bachelor's of Science degree in Wildlife Ecology from the University of Massachusetts Amherst. We are excited to have him on our team as he will increase the capacity and expertise of Izembek's biological program.

Figure 2. Photo of Chris Kane banding ducks in Brooks, Alberta as part of a Ducks Unlimited project on the Kitsim Complex in 2014.

In mid-June we welcomed Greg Risdahl as the new Refuge Manager for Izembek Refuge. Greg joins us from Kofa National Wildlife Refuge in Arizona where he previously served as Refuge Manager for the last few years. Prior to that, Greg worked as Deputy Refuge Manager at Tetlin National Wildlife Refuge in Tok, Alaska. Greg and his family are excited to return to Alaska. He has over 30 years' experience working for both state and federal wildlife agencies. Greg earned his Bachelor's of Science degree in Wildlife Biology and his Master's of Science in Fish and Wildlife Management.

Figure 3. Greg Risdahl (right) at the Tetlin National Wildlife Refuge Visitor's Center in Tok, Alaska.

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Alaska Maritime National Wildlife Refuge
95 Sterling Highway, Suite 1
Homer, Alaska 99603

News Release

For Immediate Release
April 22, 2016

Contact: Steve Delehanty
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Alaska Maritime National Wildlife Refuge Halts Cattle Planning and Caribou Control

The U.S. Fish and Wildlife Service is halting work on two invasive species projects on Alaska Maritime National Wildlife Refuge due to restrictive language in the federal budget act which funds refuge activities. The projects that have been halted are the control of invasive caribou on Kagalaska Island in the Aleutians and preparation and release of the environmental impact statements regarding unauthorized cattle on Chirikof Island (southwest of Kodiak) and Wosnesenski Island (south of the Alaska Peninsula).

The federal budget act, which provides fiscal year 2016 funding for the U.S. Fish and Wildlife Service, includes language prohibiting the Service from spending any funds to remove non-native caribou from Kagalaska Island and conduct any work to address unauthorized cattle grazing on Chirikof and Wosnesenski islands. The specific language in the Senate Appropriations Committee Report is:

> ***The Committee directs that no funds are provided for the Service to conduct a caribou hunt on Kagalaska Island in the State of Alaska. Additionally, the Committee directs that no funds are provided to the Service for efforts to remove cattle on Chirikof and Wosnesenski Islands in the State of Alaska.***

The U.S. Fish and Wildlife Service appreciates the public's participation in the environmental impact statement scoping process to determine how to address the cattle on Chirikof and Wosnesenski islands. We received hundreds of comments covering a wide range of issues, from determining cattle ownership and genetics to impacts on cultural and natural resources. If authorized in the future, we hope to provide a draft EIS for public review and comment and address these issues.

Due to the budget act restrictions, the U.S. Fish and Wildlife Service is not allowed to issue permits that would result in removal of any cattle from these two islands. Also, the U.S. Fish and Wildlife Service is ceasing work to clarify ownership of the cattle.

-FWS-

The U.S. Fish and Wildlife Service works with others to conserve, protect, and enhance fish, wildlife, plants, and their habitats for the continuing benefit of the American people. For more

information, visit www.fws.gov, or connect with us through any of these social media at http://www.fws.gov/home/socialmedia/index.html.

"Tribes and Alaska Native peoples have been this lands' first conservationists and first multiple use land managers." - Lillian Petershoare, Workgroup Member, United States Forest Service

Federal Subsistence Board

Government-to-Government Tribal Consultation Policy

Preamble

The Federal Subsistence Board (Board) recognizes that indigenous Tribes of Alaska are spiritually, physically, culturally, and historically connected to the land, the wildlife and the waters. These strong ancestral ties to the land, wildlife and waters are intertwined with indigenous ceremonies such as songs, dances, and potlatches. The customary and traditional way of life has sustained the health, life, safety, and cultures of Alaska Native peoples since time immemorial. To effectively manage the Federal Subsistence Program, the Board will collaborate and partner with Federally recognized Tribes in Alaska to protect and provide opportunities for continued subsistence uses on public lands.

The United States has a unique legal and political relationship with Indian tribal governments, which has been established through and confirmed by the Constitution of the United States, statutes, executive orders, judicial decisions and treaties. In recognition of that special relationship, and pursuant to direction given by the Secretaries of the Interior and Agriculture to implement Executive Order 13175 of November 2000, "Consultation and Coordination with Indian Tribal Governments," and to meet the requirements of the Presidential Memorandum of November 5, 2009, "Tribal Consultation," the Board is developing this Government-to-Government Tribal Consultation Policy. This Policy sets out the Board's responsibility to engage in regular and meaningful consultation and collaboration with Federally recognized Indian Tribes in Alaska on matters that may have substantial effects on them and their members. This Policy also upholds the Congressional mandate to implement the provisions of the Alaska National Interest Lands Conservation Act (ANILCA) of 1980, P.L. 66-487, which, with its implementing regulations, defines the roles and responsibilities of the Departments of the Interior and Agriculture in administering subsistence management of fish and wildlife on Federal public lands.

Government-to-government consultation undertaken through the Board's process is a direct two-way communication conducted in good faith to secure meaningful participation in the decision-making process to the full extent allowed by law. The Board will consider and respond to the Tribes' concerns brought forth through the consultation process (as defined in this policy) before making final decisions.

Two Department-level consultation policies provide the foundation for this policy. They are the Department of the Interior's *Policy on Consultation with Indian Tribes (2011)* and the Department of Agriculture's *2010 Action Plan for Consultation and Collaboration*. This policy is consistent with the

Department-wide consultation policies, and it expands on them to apply the policies to the Federal subsistence management program.

The intent of this policy is to describe a framework under which the Board and Federally recognized Tribes in Alaska may consult on ANILCA Title VIII subsistence matters under the Board's authority.

Background

The Federal Subsistence Program, as established by ANILCA and implemented by the Secretaries of the Interior and Agriculture, is a multi-agency program consisting of five agencies: Bureau of Indian Affairs, Bureau of Land Management, U.S. Forest Service, National Park Service, and U.S. Fish and Wildlife Service. These bureaus and rural subsistence users maintain the opportunity for a subsistence way of life by rural Alaskans on Federal public lands while managing for healthy populations of fish and wildlife. The Federal Subsistence Regional Advisory Councils have a foundational role in the Federal Subsistence Program. By statute, the Board must defer to Federal Subsistence Regional Advisory Council recommendations related to the taking of fish and wildlife on public lands unless they are: a) not supported by substantial evidence, b) violate recognized principles of fish and wildlife conservation, or c) would be detrimental to the satisfaction of subsistence needs (ANILCA § 805(c)). The Board distinguishes the deference to Federal Subsistence Regional Advisory Councils from the Tribal government-to-government relationship enjoyed by Federally recognized Tribes, and this Policy will not diminish in any way either the consultation obligations towards Federally recognized Tribes or its deference obligations to the Federal Subsistence Regional Advisory Councils.

The Federal Subsistence Management Program regulations are published twice in the Code of Federal Regulations (CFR): 50 CFR Part 100 and 36 CFR Part 242. The regulations have four subparts. Subparts A and B are within the sole purview of the Secretaries of the Department of the Interior and the Department of Agriculture. Responsibility and decisions relating to the provisions of Subparts C and D are delegated by the Secretaries to the Federal Subsistence Board. Subpart C concerns Board Determinations, including rural and customary and traditional use determinations, while subpart D consists of the regulations for taking fish, wildlife and shellfish.

Goals

The goals of the Federal Subsistence Management Program are to:

1. Create and maintain effective relationships with Federally recognized Tribes in Alaska.
2. Establish meaningful and timely opportunities for government-to-government consultation.
3. Be responsive to requests from Federally recognized Tribes in Alaska to engage in consultation.
4. Work with Federally recognized Tribes in Alaska to improve communication, outreach and education.
5. Acknowledge, respect and use traditional ecological knowledge.
6. Recognize the importance of coordination, consultation and follow-up between the Federal Subsistence Board and Federally recognized Tribes in Alaska.

7. Integrate tribal input effectively into the decision-making process for subsistence management on public lands and waters while maintaining deference to the Federal Subsistence Regional Advisory Councils.

Consultation

1. Communication

It is the Board's intention that information sharing between Tribes and the Board/Federal staff will occur early and often. Information sharing includes, but is not limited to, sharing of traditional knowledge, research and scientific data. Communication between the Federal agencies and Tribes will occur in a timely manner to maximize opportunities to provide input to the Board's decisions. For in-season management decisions and special actions, consultation is not always possible, but to the extent practicable, two-way communication will take place before decisions are implemented. When Tribes bring up issues over which the Board does not have jurisdiction, the Board and Federal staff will provide Tribes with contact information for the state or Federal agency that can address the issue and will also provide the tribes' contact information to the relevant state or Federal agency

2. Roles and Responsibilities

Board members are responsible for implementing this policy and ensuring its effectiveness. The Native Liaison in the Office of Subsistence Management is the key contact for the Board's consultations with Tribes. The Native Liaison will also assist Federal land managers and Tribes with their consultations, as requested and as needed. Federal land managers and staff have a local relationship with Tribes and will maintain effective communications and coordination.

3. Topics for consultation are listed under the definition for "Action with Tribal Implications." They may include, but are not limited to:
   - Regulations (e.g., taking of fish, wildlife and shellfish - harvest amounts, methods and means, cultural and educational permits and funerary/mortuary ceremonies; emergency and temporary special actions; customary and traditional use determinations and customary trade)
   - Policies and guidance documents [Note: this is consistent with page 3 "Definitions" of DOI Policy "Departmental Action with Tribal Implication".]
   - Budget and priority planning development [Note: this is consistent with page 16 USDA Action Plan for Tribal Consultation and Collaboration (Nov 2009) and page 3 "Definitions" of DOI policy – "Departmental Action with Tribal Implication" – specifically "operational activity".]
   - Agreements (e.g. Cooperative Agreements, Memorandum of Understanding, Funding Agreements)

4. Timing

Timing of consultation will respect both the Federal subsistence management cycle and the Tribal timeframes for doing business. The requirement of early notification, methods of notice, availability of Federal analyses and time and place of Federal Subsistence Regional Advisory Council meetings and Board meetings are described in Appendix A of the "Federal Subsistence Consultation Implementation Guidelines." A chart showing the Federal subsistence management cycle is in Appendix B of the same document

5. Methods

No single formula exists for what constitutes appropriate consultation. The planning and implementation of consultation will consider all aspects of the topic under consideration. The Board will be flexible and sensitive to Tribal cultural matters and protocols. Familiarity with and use of Tribes' constitutions and consultation protocols will help ensure more effective consultation. Consultation may be prompted by a Federally recognized Tribe in Alaska or by the Board. Methods for correspondence, meetings, and communication are further described in Appendix A: "Federal Subsistence Consultation Implementation Guidelines."

Accountability and Reporting

The Board will monitor consultation effectiveness and report information to the Secretaries, pursuant to the Department of the Interior and Department of Agriculture policies. On an annual basis, the Board will evaluate whether the policy has been implemented and is effective and what progress has been made towards achieving the seven goals outlined in this policy. The Board will actively seek feedback from Federally recognized Tribes in Alaska on the effectiveness of consultation, and the Board's evaluation will summarize and reflect this feedback. The Board will modify the consultation process to incorporate needed enhancements, as identified through the annual review. The Board will provide Tribes an oral and written summary of the evaluation and changes, if any, in Board meetings with Tribes.

Training

Training on this policy for Federal staff will conform to the requirements of the Department of the Interior and Department of Agriculture consultation policies. The Board recognizes the unique traditional values, culture and knowledge that Tribes can impart and shall incorporate Tribes into the training for the Board and staff. The Board will accompany subsistence users in the field to gain direct experience in traditional Alaska Native hunting and fishing activities. In addition, Federal Subsistence Management training will be offered to representatives of Tribal governments and Tribal members on a regular basis as funding allows. A list of possible venues for training is included in Appendix C: "Venues for Training."

Alaska Native Corporation Consultation

Refer to the supplemental policy for consultation with Alaska Native Claims Settlement Act (ANCSA) corporations.

Adopted by the Board on May 9, 2012

Definitions

Action with Tribal Implications – Any Board regulations, rulemaking, policy, guidance, legislative proposal, grant funding formula changes, or operational activity that may have a substantial effect on an Indian Tribe in Alaska.

Alaska National Interest Lands Conservation Act of 1980 (ANILCA) –Title VIII of the Act provides for the protection and continuation of subsistence uses of fish and wildlife by rural Alaskans on Federal public lands.

ANCSA Corporations – As defined in 43 U.S.C. § 1606, those regional and village corporations formed by Congress through the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 et seq., to provide for the settlement of certain land claims of Alaska Natives.

Consensus Agenda – The Federal Subsistence Board's consensus agenda is made up of regulatory proposals for which there is agreement among the affected Regional Advisory Councils, a majority of the Interagency Staff Committee members, and the Alaska Department of Fish and Game concerning a proposed regulatory action. Anyone may request that the Board remove a proposal from the consensus agenda and place it on the non-consensus (regular) agenda. The Board votes on the consensus agenda after deliberation and action on all other proposals.

Consultation – The process of effective and meaningful government-to-government communication and coordination between the appropriate Federal agency and Tribe(s) conducted before the Federal government takes action or implements decisions that may affect Tribes.

Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) – Requires regular and meaningful consultation and collaboration with Tribal officials in the development of Federal policies that have Tribal implications to strengthen the United States government-to-government relationships with Indian Tribes, and to reduce the imposition of unfunded mandates upon Indian Tribes.

Federal Subsistence Board – The Board administers the subsistence taking and uses of fish and wildlife on public lands and exercises the related promulgation and signature authority for regulations of subparts C and D. The voting members of the Board are: a Chair, appointed by the Secretary of the Interior with the concurrence of the Secretary of Agriculture; two public members appointed by the Secretary of the Interior with the concurrence of the Secretary of Agriculture who possess personal knowledge of and direct experience with subsistence uses in rural Alaska; the Alaska Regional Directors of the U.S. Fish and Wildlife Service, National Park Service, and Bureau of Indian Affairs; the Alaska Regional Forester of the U.S. Forest Service; and, the Alaska State Director, Bureau of Land Management.

Federally Recognized Tribe in Alaska – Any Alaska Native Tribe, band, nation, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. §479a.

Interagency Staff Committee (ISC) – The ISC is made up of senior staff from the National Park Service, U.S. Fish and Wildlife Service, Bureau of Indian Affairs, Bureau of Land Management, and USDA Forest Service. The ISC members serve as the primary advisors for their agency's respective Board member.

Office of Subsistence Management (OSM) – The OSM provides support to the Federal Subsistence Board and the Federal Subsistence Regional Advisory Councils. The staff includes fish and wildlife biologists, cultural anthropologists, technical and administrative staff, an Alaska Native liaison and liaisons to the Alaska Department of Fish and Game, and the Alaska Boards of Fish and Game.

Regional Advisory Councils – Title VIII of ANILCA provides a foundational role for the ten Regional Advisory Councils in the development of regulations guiding the taking of fish and wildlife on Federal public lands in Alaska. Council members, a majority of whom are rural subsistence users, are appointed by the Secretary.

Special Action – An out-of-cycle change in the seasons, harvest limits or methods and means of harvest. The two types include: 1) emergency, which are effective for up to 60 days, and 2) temporary, which are effective for the remainder of the regulatory cycle.

List of Appendices

APPENDIX A: Federal Subsistence Consultation Implementation Guidelines

APPENDIX B: Federal Subsistence Management Cycle

APPENDIX C: Venues for FSMP Training

IMPLEMENTATION GUIDELINES

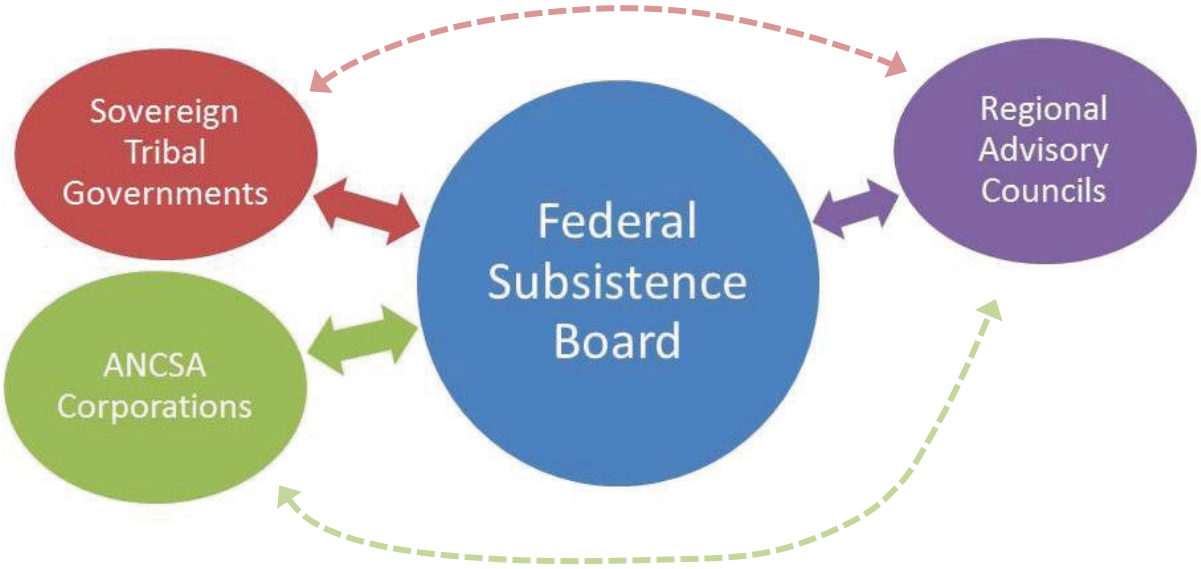
for the

Federal Subsistence Board Government-to-Government Tribal Consultation Policy

INTRODUCTION

This document is intended to provide additional guidance to Federal staff on the Federal Subsistence Management Program's Tribal Consultation Policy. Refer to the *Federal Subsistence Board Government-to-Government Tribal Consultation Policy* (Policy) for a broad scope including goals of the policy; consultation communication, roles and responsibilities, topics, timing, and methods; accountability and reporting; and training.

This a "living" set of guidelines that can be modified per the Policy under Accountability and Reporting.



The Board consults directly with tribal governments and with ANCSA corporations. Consultation results are shared with the RACs, which informs their recommendations to the Board. Tribal governments and ANCSA corporations are also encouraged to attend RAC meetings to discuss proposals and influence RAC recommendations, in addition to consultation with the Board.

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CONSULTATION MEETING PROTOCOLS

The items below provide general protocols about consultation meetings. Notice of the availability of these Protocols will be distributed to the Tribes at the beginning of each regulatory cycle and a copy will be sent to any Tribe requesting a consultation meeting with the Board.

1. **Participants in Consultation Meeting:**
If the consultation meeting is not being held immediately before a FSB regulatory meeting, at least two Board members (generally representing the most-relevant land managing agency and the nearest public member) will participate in the consultation meeting. Other Board members may join the meeting. Participating tribal officials are only those elected or appointed Tribal leaders or individuals designated in writing by a federally-recognized Tribe. The Board and Tribe(s) may invite appropriate staff to attend the consultation. The Chair of the most-relevant RAC(s) or their designee(s) will also be invited to attend.

2. **When to Hold Consultations:**
    a. Before RAC regulatory meetings: hold one or more teleconferences (depending on number of proposals) at least two weeks before RAC meetings begin.
    b. At regulatory Board Meetings: consultation should begin prior to the start of the regular Board meeting. The regular Board meeting then begins after the consultation meeting is complete.
    c. At additional times as initiated by the Board or tribal governments on regulatory or non-regulatory topics.

3. **Location and Room Setup:**
    a. The consultation may be closed to public observation [including media], and documentation of the dialog will be made available to the public (see 7[e]). Transcription services may be utilized to capture the meeting notes.
    b. Consultation meetings should be held in easily accessible locations.
    c. At in-person meetings, room should be configured in such a way that Board members and Tribal Government representatives (and RAC representatives, if present) are seated dispersed, as equals. Consider chairs placed in a circle with or without tables. This will differentiate between the room configurations during consultation and the public process. If possible, avoid the appearance of a testimony table.

4. **Topics:**
    a. Topics to be consulted on can be determined by either Tribes or Board members (see also section 3. of the Policy for more information), and do not need to be determined nor agreed upon in advance, unless it is regulatory in nature. If the request for consultation is regulatory in nature, advance notice to agencies for Administrative Procedures Act (APA) compliance is required (see 7.a).
    b. For topics not within the purview of the Board, Tribes will be referred to a Federal liaison who can assist in determining how that topic can be addressed.

c. For topics that need further consultation, the OSM Native Liaison will arrange follow-up consultation.

5. **Information Availability:**

   a. Materials and information relevant to the consultation meeting (i.e.: teleconference information, meeting topics, transcripts, meeting summary, etc.) will be made available on the Federal Subsistence Management Program's website.
   b. OSM will prepare a written summary of consultations (reviewed by the consulting participants) that will be sent to affected RACs and participating Tribes.

6. **Follow-up to Participating Tribes:**

   Correspondence will be sent to participating Tribes expressing appreciation for their participation, providing a summary of the consultation, and, if applicable, relaying the decision that was made.

7. **Consultation Meetings Requested by Tribes:**

   Staff will endeavor, to the extent authorized by law, to reduce procedural impediments to working directly and effectively with federally recognized Tribal governments.

   a. Government to Government Tribal Consultation will be held in accordance with the requirements of the Administrative Procedure Act (Act), 5 U.S.C. § 555 (2006).
   b. The consultation may be closed to public observation [including media], and documentation of the dialog will be made available to the public (see [e]).
   c. If a consultation with the Board is requested by Tribe(s), at least two Board members (generally representing the most-relevant land managing agency and the nearest public member) will participate in person unless the Tribe(s) and Board agree to a telephonic consultation (see [d]). Other Board members may join the meeting in person or telephonically. The Board and Tribe(s) may invite appropriate staff to attend the consultation. The Chair of the most-relevant RAC(s) or their designee(s) will also be invited to attend.
   d. Consultation will take place in a mutually agreeable location, or telephonically.
   e. Draft meeting notes will be made available for review by all participants in the consultation. Official meeting notes, or transcripts if prepared, will be made available to the RAC(s) and the public if the content of the meeting included discussion on regulatory matters.

REGULATORY CYCLE TIMELINE AND ROLES AND RESPONSIBILITIES

The Board is committed to providing federally recognized Tribes in Alaska with opportunities to be meaningfully involved in the wildlife and fisheries regulatory process. On an annual basis, the Board accepts proposals to change wildlife or fisheries regulations on seasons, harvest limits, methods and means of harvest and customary and traditional use determinations. In some instances, regulations are modified in-season, and that is typically accomplished through in-season or special actions taken by either the Board or the relevant land manager who has been delegated authority by the Board to take that action. The Board will provide Tribes with the opportunity to consult on the regulatory process, which includes proposal development and review, proposal analysis and review, and decision making by the Board.

Tribes must be given the opportunity to consult throughout the Federal Subsistence Management process when a "departmental action with tribal implications[1]" is taken. A regulatory proposal is potentially a departmental action with substantial direct effect on an Indian Tribe. If an OSM recommendation on a regulatory proposal changes, then affected Tribes will be notified as that change becomes publicly available.

WHO SHOULD PARTICIPATE IN GOVERNMENT-TO-GOVERNMENT CONSULTATION

Tribal officials are elected or appointed Tribal leaders or individuals designated in writing by a federally recognized Tribe may participate in government-to-government consultations. Federal officials are those individuals who are knowledgeable about the matters at hand, are authorized to speak for the agency and/or Board, and exercise delegated authority in the disposition and implementation of a Federal action.

REGULATORY PROCESS

Steps 1-5 outlined below correspond to Appendix B of the Board's Tribal Consultation Policy *Appendix B: Federal Subsistence Management Program Annual Regulatory Process at a Glance*.

Step 1.A.: Call for Proposals (January – March): Proposals recommending changes to fish or wildlife harvesting regulations may be submitted regarding seasons, harvest limits, methods and means and/or customary and traditional use determinations. The Office of Subsistence Management (OSM) staff or land managers can assist Tribes in developing proposals.

RESPONSIBLE LEAD	ACTION
Federal Agencies	• Any Federal agency preparing regulatory proposal should contact representatives of Tribes potentially affected by a Federal agency regulatory proposal prior to submittal.
OSM	• Announces the call for proposals and describes what this means;

[1] Department of the Interior Policy on Tribal Consultation definition of "Departmental Action with Tribal Implications" is: Any Departmental regulation, rulemaking, policy, guidance, legislative proposal, grant funding formula changes, or operational activity that may have a substantial direct effect on an Indian Tribe on matters including, but not limited to:

1. Tribal cultural practices, lands, resources, or access to traditional areas of cultural or religious importance on federally managed lands;
2. The ability of an Indian Tribe to govern or provide services to its members;
3. An Indian Tribe's formal relationship with the Department; or
4. The consideration of the Department's trust responsibilities to Indian Tribes.

This, however, does not include matters that are in litigation or in settlement negotiations, or matters for which a court order limits the Department's discretion to engage in consultation.

- Provide an overview and timeline of the annual Federal Subsistence Regulatory process; and
- Provides name and contact information for OSM staff who can provide assistance in reviewing and developing proposals.

- Notifies Tribes at the beginning of the period and a reminder two weeks before the end of the proposal period.

Step 1.B.: Federal Subsistence Regional Advisory Council (RAC) Meetings: (Winter Meetings February-March): During these meetings, the RACs can develop proposals to change subsistence regulations. The Tribes have the opportunity to work with the RACs to draft proposals.

OSM

- Sends notice to all Tribes announcing all RAC meetings, including teleconference information if available.
- Contacts local media (newspaper, radio, TV) to provide meeting announcement and agendas.
- Arranges teleconference line for RAC meeting(s) so Tribes can participate in the RAC meetings. Tribes may discuss proposals with the RACs and relevant Federal staff. This should be included in the RAC's agenda.
- Posts RAC meeting materials on the Federal Subsistence Management Program's website so Tribes can review the materials prior to the meetings.
- OSM Native Liaison coordinates with Interagency Staff Committee (ISC) and Tribal representatives to draft summary reports on Tribal Consultations (if any have taken place since the fall RAC meetings). These written summaries are provided to the RACs. Tribal representatives are encouraged to share in the delivery of this report.

Step 2-3: Review of Regulatory Proposals (April-May) Once the Proposals are received by OSM, they are compiled into a book that includes all proposals from throughout Alaska. Tribes will have the opportunity to review the proposals and provide comments. Consultation can be requested.

OSM

- Sends Tribes the proposal book with a link to the Federal Subsistence Management Program website, and a description of the process schedule. The name and contact information for OSM staff will be included in the proposal book.
- Coordinates with appropriate Federal staff to notify Tribes if a particular proposal might impact them.
- Meetings will be held for Federal analysts and affected Tribes to discuss proposals. These meetings can be with one or multiple Tribes.
- Includes information in Proposal Books about the availability of Tribal consultation.

Tribes

- Provides comments or participates in meetings. This can help with analysis of the proposal.
- If interested in consulting at this step, Tribes may contact OSM or an agency official and discuss course of action.

STEP 3: Proposal Analysis (April – August): Each of these proposals will be analyzed by OSM or other agency staff to determine its effect on the resource, other resources, rural subsistence users, other users, etc. OSM develops a preliminary recommendation on the proposal.

OSM	• Draft analyses should be made available to Tribes for consultation at least two weeks prior to Tribal consultation. • Draft analyses should be posted on the OSM website and provided directly to Tribes affected by proposals. • Summary bullets of the analysis, written in plain language, will be provided to affected Tribes.
Tribes / Board	• **TRIBAL CONSULTATION OCCURS:** One or more teleconference(s) will be scheduled to provide consultation opportunities open to all Tribes to discuss proposals with the Board. Consultation occurs approximately 2 weeks before the RAC meeting (see consultation meeting protocols on page 2 of this Guideline). • Results of consultation are written, and distributed to the appropriate RACs, Tribes and the Board as provided in the Consultation Meeting Protocols.

Step 4: Federal Subsistence Regional Advisory Council (RAC) Meetings (Fall meetings August - October): During these meetings, RACs develop recommendations to the Board on proposal(s) based on their review of the staff analyses, their knowledge of the resources and subsistence practices in the area, testimony received during the meeting, and Tribal input.

OSM	• Sends e-mail notification and or fax to all Tribes announcing all RAC meetings, including teleconference information if available. • Contacts local media (newspaper, radio, TV) to provide meeting announcement and agendas. • Arranges teleconference line for RAC meeting(s) so that Tribes that cannot participate in-person may do so by teleconference. Tribes may discuss proposals with the RACs, and appropriate Federal staff. • Materials and information relevant to the consultation meeting (i.e.: teleconference information, meeting topics, transcripts, meeting summary, etc.) will be made available on the Federal Subsistence Management Program's website (http://www.doi.gov//subsistence/index.cfm). • Coordinates reporting on prior Tribal consultations during the regulatory cycle to the RACs, and encourages Tribal representatives to share in delivery of this report.
RACs Tribes	• Includes time on the RAC agenda for Tribes to give additional comments and recommendations (in addition to the consultation with the Board) on proposals and other matters. • Tribes may choose to attend RAC meetings to provide input directly into the

regulatory process, assisting the RACs make better informed recommendations to the Board.

Step 5: Federal Subsistence Board Regulatory Meeting (Winter or Spring): The Board reviews the staff analyses, considers recommendations provided by OSM and the RACs, considers comments provided by the State, consults with Tribes, and makes a decision as to whether to adopt, reject, defer, or take no action on each proposed change to the Federal subsistence regulations. **Tribal consultation occurs before the Board meeting following the protocols outlined in the first section of this Guideline (Consultation Meeting Protocols).**

OSM	• Sends a meeting announcement to Tribes, with the teleconference call-in information. Contacts Tribes (with assistance of agencies, when needed) to verify that Tribes significantly affected by proposals are aware of the Board meeting. • Posts meeting materials on the Federal Subsistence Management Program's website so that Tribes can review the materials before the meeting.
Tribes & Board	• Consults on regulatory proposals following the "Consultation Meeting Protocols." Time should be available to consult on other items of interest. RAC Chairs are invited to participate in the consultation. • During the meeting, OSM staff and/or Tribal representatives will report on the results of prior Tribal consultations.
OSM	• Following the Board meeting, OSM sends notification of meeting results to the affected Tribes. Tribes who consulted on proposals will be notified of the outcome.

Other Regulatory Actions Not Covered As Part of Annual Regulatory Cycle

If regulatory actions occur outside of the regulatory cycle, Tribes will be offered the opportunity to consult on them.

Special Actions

Special actions include emergency and temporary special actions. Because the regulatory process occurs on a biennial basis (fish one year, wildlife the next), sometimes issues arise that require immediate action; these actions may be taken as needed to address harvest regulations outside of the normal regulatory cycle.

Special Action requests usually require a quick turnaround time and consultation may not be possible; however, in-season and land managers will make every effort to consult with Tribes that are directly affected by a potential action prior to taking action. Public hearing requirements are followed for temporary special actions that would be in effect for 60 days or longer. Affected Tribes

will be notified of actions taken. Federal field staff will work with Tribes in the affected area and distribute Tribal consultation information.

NON-REGULATORY ISSUES

For non-regulatory issues, the Board's Consultation Meeting Protocols will be followed when needed.

TRAINING

The Board's Policy directs that the Federal Subsistence Management Program follow the Department of the Interior and the Department of Agriculture's policies for training of Federal staff:

1. OSM staff will work with the ISC (Interagency Staff Committee) and others to develop training modules on the subsistence regulatory process, customary and traditional use determinations, proposal development, Tribal consultation, Alaska Native cultures and the Federal budget process. Additionally, OSM staff will work with the ISC, agency Tribal liaisons, and others such as tribal elders to develop a training module that Federal staff can deliver at regional Tribal meetings (see Appendix C of the FSB's Tribal Consultation Policy) and to interested Tribal councils.

2. These trainings will be open to other entities responsible for management of subsistence resources, such as marine mammals, migratory birds, halibut, etc.

3. Board members should make every opportunity to directly participate in or observe subsistence activities.

4. It is recommended that Board members, OSM, ISC, & Federal land management staff directly involved in Tribal consultation as part of their work responsibilities attend cross-cultural training and cultural events in Alaska Native communities to learn the unique communication and cultural protocols of the Tribes with which they interact.

5. Recommended Training Topics for Federal Staff and Tribal Citizens

    a. Alaska Native identity, language, cultures, traditions, history, and regional differences
    b. Alaska Native perspectives on natural resource management
    c. Customary and traditional relationship to land, water, and wildlife
    d. Effects of historical trauma and acculturation stress on Alaska Native peoples
    e. Alaska National Interest Lands Conservation Act subsistence provisions
    f. Natural resource law, especially pertaining to fisheries and wildlife management and conservation
    g. Federal subsistence regulations
    h. Federal subsistence regulatory process
        1) Special actions
        2) Customary and traditional use determinations

i. Rural determination process and implications
j. Jurisdiction (Tribal /Federal Government/ State of Alaska)
k. Relevant information about Tribe(s), including sovereignty, history of Tribal interactions with the United States government, Tribal constitutions, and traditional knowledge
l. Foundations of the government-to-government relationship and trust responsibility within Federal Indian law as expressed through the U.S. Constitution, U.S. Code, Supreme Court decisions, and executive actions
m. International Covenant on Civil and Political Rights, Article 1.2
n. Tribal and Federal consultation policies
o. Wildlife and fisheries monitoring, including the Fisheries Resource Monitoring Program
p. Opportunities for co-management or shared stewardship
q. Communication etiquette and protocols

ACCOUNTABILITY, REPORTING, AND INFORMATION MANAGEMENT

1. **Tribal Contact Information:**
   a. Department of the Interior (DOI) employees will utilize the DOI Tribal Consultation SharePoint site contact list.
   b. U.S. Department of Agriculture (USDA) employees will utilize the Forest Service Alaska Region's contact list on the region's Tribal Relations webpage.
2. **Tracking Consultations:**
   a. The Alaska Region of the Forest Service will utilize the USDA consultation database to track Forest Service and tribal consultations.
   b. The Office of Subsistence Management and DOI employees will utilize the DOI Tribal Consultation SharePoint site database to track and record consultations.
3. **Report on Consultations:**
   a. Report annually as required by DOI and USDA consultation policies.
   b. The OSM Native Liaison provides a summary report annually to the Board on Federal Subsistence Management Program consultations noting any feedback received from Tribes regarding the policies and their implementation and any other follow-up actions or accomplishments. The report shall be posted on the OSM web site.
4. **Review of the Tribal Consultation Policy:**
   a. Annually, the Consultation Workgroup, OSM Native Liaison, land managers, and ISC should assess the effectiveness of the Tribal Consultation Policy and the implementation guidelines. The Workgroup will report to the Board at its annual winter/spring meeting.
5. **Follow-up to Consultations at the Federal Subsistence Board Meeting:**
   a. OSM is responsible to follow up on action items from Tribal Consultations at Federal Subsistence Board meetings.
   b. Post-Board meeting follow-up includes notification to Tribes of Board actions.

Federal Subsistence Board Policy on Consultation with Alaska Native Claims Settlement Act (ANCSA) Corporations

I. Preamble

The Federal Subsistence Board (Board) distinguishes the federal relationship to ANCSA Corporations from the Tribal government-to-government relationship enjoyed by any federally recognized Indian Tribe, and this Policy will not diminish in any way that relationship and the consultation obligations towards federally recognized Indian Tribes. Recognizing the distinction, the Board is committed to fulfilling its ANCSA Corporation consultation obligations by adhering to the framework described in this Policy.

The Department of the Interior has a Policy on Consultation with ANCSA Corporations and the U.S. Department of Agriculture has an Action Plan on Consultation and Collaboration with Tribes, which includes consultation with ANCSA corporations. The Board will follow the Department-level policies; and for the purpose of Federal subsistence management, this policy further clarifies the Federal Subsistence Board's responsibilities for consultation with ANCSA Corporations.

II. Guiding Principles

In compliance with Congressional direction, this Policy creates a framework for consulting with ANCSA Corporations. Congress required that the Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native Corporations on the same basis as Indian Tribes under Executive Order Number 13175. Pub. L. No. 108-199 as amended by Pub. L. No. 108-447. Pursuant to the Alaska Native Claims

Settlement Act (ANCSA) of 1971, ANCSA Corporations were established to provide for the economic and social needs, including the health, education and welfare of their Native shareholders. ANCSA also extinguished aboriginal hunting and fishing rights.

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) states, "except as otherwise provided by this Act or other Federal laws, Federal land managing agencies, in managing subsistence activities on the public lands and in protecting the continued viability of all wild renewable resources in Alaska, shall cooperate with adjacent landowners and land managers, including Native Corporations, appropriate State and Federal agencies and other nations."

III. Policy

Provisions described in the Federal Subsistence Board Tribal Consultation Policy sections entitled Consultation, Training, and Accountability and Reporting shall apply to the Federal Subsistence Board Policy on Consultation with ANCSA Corporations, with adjustments as necessary to account for the unique status, structure and interests of ANCSA Corporations as appropriate or allowable.

ANCSA Corporations may initiate consultation with the Board at any time by contacting the Office of Subsistence Management Native Liaison.

The Board will consult with ANCSA Corporations that own land within or adjacent to lands subject to the jurisdiction of the Federal Subsistence Management Program (see 36 CFR242.3 and 50 CFR 100.3) when those corporate lands, water areas, or their resources may be affected by regulations enacted by the Board.

Kodiak/Aleutians Subsistence Regional Advisory Council
U.S. Fish and Wildlife Service
C/o Office of Subsistence Management
1011 East Tudor Road, MS 121
Anchorage, Alaska 99503

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APR 05 2016

Division of Policy, Performance and Management Programs
U.S. Fish and Wildlife Service
MS: BPHC; 5275 Leesburg Pike
Falls Church, Virginia 22041-3803
Attn: FWS-R7-NWRS-2014-0005

Re: Comments on the Proposed Rule for Non-Subsistence Take of Wildlife, and Public Participation and Closure Procedures on National Wildlife Refuge Lands in Alaska

The Kodiak/Aleutians Subsistence Regional Advisory Council (Council) appreciates the opportunity to once again submit comments regarding the U. S. Fish and Wildlife Service (USFWS) *Proposed Rule for Non-Subsistence Take of Wildlife, and Public Participation and Closure Procedures on National Wildlife Refuge Lands in Alaska* (Proposed Rule). Please consider this letter along with our previous comments on the Proposed Rule dated January 26, 2016 (enclosed).

The Council was established by the authority in Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) and is chartered under the Federal Advisory Committee Act. Section 805 of ANILCA and the Council's charter recognize the Council's authority to initiate, review and evaluate proposals for regulations, policies, management plans, and other matters related to subsistence uses of fish and wildlife on Federal public lands within the region. The Council provides a forum for the expression of opinions and recommendations regarding any matter related to the subsistence uses of fish and wildlife within the region. The Council represents subsistence harvesters of fish and wildlife resources on Federal public lands and waters of the Kodiak and Aleutian Islands region, including the Kodiak, Izembek and Alaska Maritime National Wildlife Refuges.

At its recent public meeting held on March 10, 2016 in Anchorage, Alaska, the Council voted once again to unanimously oppose the Proposed Rule. The Council considers the Proposed Rule arbitrary and based on USFWS staff personal philosophies rather than sound science. The Council asserts this action ignores the intent of Congress when it authored ANILCA. We believe the following excerpt from the Congressional Record, dated December 1, 1980, Page S15131 (enclosed), illustrates the intent regarding predator control on Refuge lands:

> *The phrase "in their natural diversity" was included in each subsection of those 2 sections to emphasize the importance of maintaining the flora and fauna within each refuge in a healthy condition. The term is not intended in any way to restrict the authority of the FWS to manipulate the habitat for the benefit of fish and wildlife populations within a refuge or for the benefit of the use of such populations by man as part of the balanced management program mandated by the Alaska Natural Interest Law. The term is also not intended to preclude predator control on refuge lands in appropriate instances.*

The Council is particularly frustrated with how this and other Federal predator control policies impacts the Unimak Island caribou herd. The population is dangerously low and may not recover from years of heavy predation by wolves and bears. We disagree with USFWS staff speculation that herd failure was related to a lack of trace elements in available forage. The Council feels that all of the potential limiting elements are present in local vegetation and can be readily found near coastal areas. We also disagree that the decline was related to a lack of food. According to local knowledge during the herd's peak 35 years ago, primary shrubs were less than 6" high and lichens were not abundant. The herd declined but stabilized after vegetation was restored. Presently, predation on calves and the reduction of the herd has resulted in 4-5 foot tall blueberry bushes and little browsing.

In sharp contrast, the State of Alaska implemented selective predator control for the Southern Alaska Peninsula caribou herd, which had seen declines similar to the Unimak herd. A surgical approach to removing wolves has resulted in a slight rebound of that herd. Calf survival grew from 2% to 40% during the first year of wolf removal. As a result, a limited subsistence harvest is now permitted.

The Council considers "active" management of mammal populations in Alaska necessary for providing subsistence for rural residents. It has been scientifically proven that surgical removal of small numbers of carnivores that prey upon on calves in distressed ungulate populations is an effective tool.

In closing, and in addition to the above comments, the Council would like to go on record as concurring with content contained in the enclosed letter to USFWS from the Koyukuk Fish and Game Advisory Committee, dated February 24, 2016, as well as a joint statement recently adopted by the Yukon Kuskokwim Delta Subsistence Regional Advisory Council at the All Council meeting in Anchorage asking that the Federal Subsistence Board advocate on behalf of the Federal Subsistence Regional Advisory Councils for withdrawal of the Proposed Rule.

Thank you for the opportunity to comment. Please contact Karen Deatherage, Council Coordinator, Office of Subsistence Management, at (907) 786-3564 or karen_deathereage@fws.gov with any questions.

Sincerely,

Speridon M. Simeonoff Sr.

Speridon M. Simeonoff, Sr.
Chair

Enclosures

cc: Kodiak/Aleutians Subsistence Regional Advisory Council
Federal Subsistence Board
Interagency Staff Committee
Eugene R. Peltola, Jr., Assistant Regional Director, Office of Subsistence Management
Stewart Cogswell, Acting Deputy Assistant Regional Director,
Office of Subsistence Management
Amee Howard, Policy Coordinator, Office of Subsistence Management
Carl Johnson, Council Coordination Division Chief, Office of Subsistence Management
Jill Klein, Special Assistant to the Commissioner, Alaska Department of Fish and Game
Administrative Record

February 24, 2016

Koyukuk Advisory Committee to
Alaska Board of Game and Alaska
Board of Fish

Attn: FWS-R7-NWRS-2014-0005;
Division of Policy, Performance, and Management Programs
U.S. Fish and Wildlife Service,
MS: BPHC; 5275 Leesburg Pike,
Falls Church, VA 22041-3803.
Comments on the Proposed Rule for Non-Subsistence Take of Wildlife, and Public Participation and Closure Procedures, on National Wildlife Refuges in Alaska

The Koyukuk River Advisory Committee is one of 84 advisory bodies that make recommendations to Alaska's Boards of Game and Fish. The Advisory Committees are recognized statutorily as also advisory to Federal Management regarding Federal Lands under Title VIII 805.(a)(2)of the Alaska National Interest Lands Conservation Act. The Koyukuk River Advisory Committee is comprised of rural residents of Alaska in Game Management Unit 24.

On February 23, 2016 the Koyukuk River Advisory Committee (KRAC) met by teleconference to review game proposals, and other issues. Many members of the Committee were concerned with aspects of the USFWS Proposed rule regarding non-subsistence take. The Committee voted to submit comments on the proposed rule, docket number FWS-R7-NWRS-2014-0005, and appose the Proposed Rule as written, unanimously.

Moose, caribou and other pray species, as well as Black Bear are used as food by the people of the Koyukuk River.

During the meeting several of the KRAC members expressed concern that current State of Alaska predator harvest regulations would be precluded, arbitrarily without a scientific basis. Most members believe from personal experience, that predator harvest needs to be maintained for non-subsistence users under State of Alaska regulations, as well as rural subsistence uses.

A healthy balance of predator harvest of wolves and Brown Bears in the Koyukuk NWR and Kanuti NWR by rural subsistence, and non-subsistence is desired by the KRAC. Predator harvest is far below rural use amounts needed, and predator populations are at all time highs. Where as caribou and moose populations have declined dramatically over the past two decades.

The KRAC discussed the proposed rule allowing for future arbitrary regulation reductions by using primarily; biological integrity, diversity, and environmental health [BIDEH] criteria. The BIDEH language gives too much leeway to wildlife managers judgment and interpretation.
"sound professional judgment incorporates ***field experience, knowledge of refuge resources***, refuge role within an ecosystem, applicable laws, and best available science including consultation with others both inside and outside the Service".

The high turn over rate for several Alaskan Refuges of field managers and staff has been a concern for some time. Lack of field experience and familiarity with predator-prey relationships in Alaska may lead to arbitrary decisions. Reliance on BIDEH as the directive for management decisions diverges away from the statutory mandate for science-based decisions found in ANILCA.

The enabling legislation for Alaskan Refuges gives clear direction to management of fish and wildlife resources in Title VIII of ANILCA PUBLIC LAW 96-487
"POLICY: SEC 802. It is hereby declared to be the policy of Congress that—
(l) Consistent with sound management principles, and the conservation of healthy populations of fish and wildlife, the utilization of the public lands in Alaska is to cause the

least adverse impact possible on rural residents who depend upon subsistence uses of the resources of such lands; ***consistent with management of fish and wildlife in accordance with recognized scientific principles*** and the purposes for each unit established, designated, or expanded by or pursuant to titles II through VII of this Act, the purpose of this title is to provide the opportunity for rural residents engaged in a subsistence way of life to do so;"

We feel that there should science-based harvest of predators within sustainability, by non-subsistence, and subsistence users. Balanced harvest of both prey and predators to maintain healthy populations of wildlife on Refuge lands is statutory and should be the main concern. State of Alaska predator harvest seasons, methods and means should be of little concern if predator populations are harvested at or below thresholds for scientifically established sustained yield.

The Koyukuk River Advisory Committee appreciates the opportunity to comment on the Proposed Rule.

Jack Reakoff KR-AC Chair

the Alaska Statehood Act, and it is our intention that these conveyances be expedited in every possible way.

Change number (42) (to section 1314 of the Alaska National Interest Lands Conservation Act) is a perfecting amendment designed to maintain the status quo in historic Federal-State relations concerning fish and wildlife management, except as specifically modified by this Act in the Subsistence Title. For example, for the National Park System components, this provision intends to make applicable in Alaskan Parks and Preserves the same Federal-State relations on fish and wildlife management that apply in lower 48 State national parks and preserves. Similarly, the same historic management principles and processes would apply to National Wildlife Refuge System units.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 452) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTIONS IN ENROLLMENT OF H.R. 39—ALASKAN LANDS LEGISLATION

The PRESIDING OFFICER. The clerk will state the second concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 453) directing the Clerk of the House of Representatives to make corrections in the enrollment of the bill H.R. 39.

Mr. STEVENS. Mr. President, I submit four statements as legislative history for H.R. 39, the Alaska lands bill. I ask that the statements be printed in full at this point in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

SECTION 807

Mr. President, the Section 807 now before us contains a rewrite of section 807 of the Senate bill. Section 807 is the "judicial enforcement" component of the subsistence management title. The old section 807 was drafted by the Senate Energy and Natural Resources Committee during the 95th. Congress and included in the subsistence title in place of an elaborate "administrative enforcement" provision which was included in the version of H.R. 39 passed by the House.

The House provision mandated the Secretary of the Interior or Secretary of Agriculture, as appropriate, to supercede State regulation of fish within the water of Alaska and wildlife on the public lands of Alaska whenever in his judgment the State had failed to timely and adequately provide for the priority for subsistence uses. The State could not have obtained judicial review of the Secretary's determination of noncompliance until at sixty days after the effective date of the supersession, by which time the particular situation which, in the Secretary's judgment, required Federal interference with State fish and wildlife regulation would most probably have abated of its own volition. Such Judicial review would have provided the State only illusory protection from arbitrary administrative determinations. State fish and wildlife management would have been left to the mercy of the Secretary.

The alternative approach developed by the Senate Energy Committee neither enlarges or diminishes the existing administrative authorities of the two Secretaries for the management of the public lands, nor does it attempt to resolve the issue of whether the Secretaries are under a legal obligation to exercise those authorities for the benefit of Alaska Native and other rural residents engaged in subsistence uses on the (waters and) public lands of Alaska. Rather, the Committee section 807 establishes a complex "judicial enforcement" scheme whereby the Secretary of the Interior is required to represent local advisory committees and regional advisory councils in civil actions to compel the State, if necessary, to conform its regulation of fish (stocks in the waters of Alaska), and wildlife populations on the public lands, to the requirements of section 804.

After passage of H.R. 39 by the United States Senate all of the parties which have been active in the development of the subsistence title were of the opinion that section 807 could be refined into a more workable form. The State of Alaska was particularly concerned about the difficult nature of its relationship with the Federal government which could result from the use of section 807, and the resultant damage to the traditional State-Federal and wildlife management relationship.

The State was also concerned that the section did not provide a comprehensive mechanism for resolution of subsistence-related disputes since the avenue of relief for aggrieved local residents and persons and organizations other than local committees and regional councils, is not mentioned in the section. As a consequence, the State could have been denied procedural protections which are provided in section 807.

The redrafted section 807 now before us is a cooperative effort by all interested parties, including the State of Alaska, to develop a workable subsistence management system. The section establishes a private Federal right of action for any aggrieved local resident, person, or organization, including a local committee or regional council, who believes that the State or the Federal government has not met their respective responsibilities under section 804 in a particular situation. Before initiating such an action, a private litigant must have complied with the normal rules for the exhaustion of administrative remedies which are a prerequisite to the prosecution of a civil action in the Federal courts.

Preliminary relief is available pursuant to Federal Rule of Civil Procedure 65 and applicable case law. However, no preliminary relief is available in a civil action in which the State is a defendant until after the State has had an opportunity for hearing on the granting of such relief. Although the normal case law applicable to motions for preliminary relief in an action brought pursuant to section 807, in determining whether such relief is appropriate in a particular instance, the Court should consider such factors as whether the defendant has failed to timely and adequately provide for the subsistence priority, whether such failure threatens the ability of rural residents or local residents, as appropriate in the particular factual situation at issue, to satisfy their subsistence needs, whether preliminary relief is necessary to assure that residents who may have been adversely affected by the defendant's failure to provide the subsistence priority are provided a timely and adequately opportunity to satisfy their subsistence needs, and whether the granting of preliminary relief will threaten the continued viability of the fish or wildlife population which is the subject of civil action.

The section is the sole Federal judicial remedy for any aggrieved local resident, person, or organization which believes that the State of Alaska has failed, in a particular instance, to timely and adequately provide for the priority for subsistence uses established by section 804.

NATURAL DIVERSITY

Mr. President, title III of the amendment to H.R. 39 which was negotiated with Senator Tsongas, and which was recently adopted by the House of Representatives, contains some new language which has never before appeared in any of the many incarnations of H.R. 39 which have been considered by the Congress over the past four years. Sections 302 and 303 of title III designate as a major purpose of each new or expanding refuge the conservation of fish and wildlife populations and habitats "in their natural diversity".

The phrase "in their natural diversity" was included in each subsection of those two sections to emphasize the importance of maintaining the flora and fauna within each refuge in a healthy condition. The term is not intended to, in any way, restrict the authority of the Fish and Wildlife Service to manipulate habitat for the benefit of fish or wildlife populations within a refuge or for the benefit of the use of such populations by man as part of the balanced management program mandated by the Alaska National Interest Lands Conservation Act and other applicable law. The term also is not intended to preclude predator control on refuge lands in appropriate instances.

The word "natural" as used in the phrase "in their natural diversity" is specifically not intended to have the same meaning as that term is used in section 815(1). It is well recognized that habitat manipulation and predator control and other management techniques frequently employed on refuge lands are inappropriate within National Parks and National Park Monuments. Section 815(1) recognizes this difference by providing that the level of subsistence uses within a National Park or National Park Monument may not be inconsistent with the conservation of "natural and healthy" fish and wildlife populations within the park or monument, while within National Wildlife Refuges the level of subsistence uses of such populations may not be inconsistent with the conservation of "healthy" populations.

Nothing in the phrase "in their natural diversity" in title III is intended to disrupt this well-defined, and long recognized difference in the management responsibilities of the National Park Service and the Fish and Wildlife Service.

WILDERNESS BOUNDARIES

Mr. President: Throughout the Alaska lands legislation, we have adopted the policy that conservation system designations end at the mean high tide mark in coastal areas. I want to make it clear that this policy also applies to all wilderness designations, particularly those in Southeast Alaska, even though the statute is silent on this point. In other words, the governing maps, which are controlling, should clearly portray what has been a consistent Congressional policy for the last couple of years.

HOUSE CONCURRENT RESOLUTION 453

Mr. President: House Concurrent Resolution 453 instructs the enrolling clerk to make a specific change in the enrollment of the Alaska lands bill prior to its being sent to the President for his signature. The provision added by this resolution is similar to section 905(a) of the bill. That provision approves certain native allotment applications under the Act of May 6, 1906. A number of specific requirements are included in section 905(a) to require adjudication. This

Winter 2017 Regional Advisory Council Meeting Calendar

February-March 2017

Meeting dates and locations are subject to change.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Feb. 5	*Feb. 6* *Window Opens*	*Feb. 7*	*Feb. 8*	*Feb. 9*	*Feb. 10*	*Feb. 11*
			NS — Barrow			
		EI — Fairbanks				
Feb. 12	*Feb. 13*	*Feb. 14*	*Feb. 15*	*Feb. 16*	*Feb. 17*	*Feb. 18*
			YKD — Bethel			
	SC — Anchorage					
Feb. 19	*Feb. 20* ***PRESIDENT'S DAY HOLIDAY***	*Feb. 21*	*Feb. 22*	*Feb. 23*	*Feb. 24*	*Feb. 25*
		WI — Fairbanks				
			K/A — Kodiak			
Feb. 26	*Feb. 27*	*Feb. 28*	*Mar. 1*	*Mar. 2*	*Mar. 3*	*Mar. 4*
		BB — Naknek				
			NWA—Kotzebue			
Mar. 5	*Mar. 6*	*Mar. 7*	*Mar. 8*	*Mar. 9*	*Mar. 10*	*Mar. 11*
	SP — Nome					
Mar. 12	*Mar. 13*	*Mar. 14*	*Mar. 15*	*Mar. 16*	*Mar. 17* *Window Closes*	*Mar. 18*
		SE — Saxman				

Fall 2017 Regional Advisory Council Meeting Calendar

August - November 2017

Meeting dates and locations are subject to change.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Aug. 20	*Aug. 21 Window Opens*	*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* **LABOR DAY HOLIDAY**	*Sept. 5*	*Sept. 6*	*Sept. 7*	*Sept. 8*	*Sept. 9*
Sept. 10	*Sept. 11*	*Sept. 12*	*Sept. 13*	*Sept. 14*	*Sept. 15*	*Sept. 16*
Sept. 17	*Sept. 18*	*Sept. 19*	*Sept. 20*	*Sept. 21*	*Sept. 22*	*Sept. 23*
Sept. 24	*Sept. 25*	*Sept. 26*	*Sept. 27*	*Sept. 28*	*Sept. 29*	*Sept. 30*
Oct. 1	*Oct. 2*	*Oct. 3*	*Oct. 4*	*Oct. 5*	*Oct. 6*	*Oct. 7*
Oct. 8	*Oct. 9* **COLUMBUS DAY HOLIDAY**	*Oct. 10*	*Oct. 11*	*Oct. 12*	*Oct. 13*	*Oct. 14*
Oct. 15	*Oct. 16*	*Oct. 17*	*Oct. 18*	*Oct. 19*	*Oct. 20*	*Oct. 21*
				AFN - Anchorage		
Oct. 22	*Oct. 23*	*Oct. 24*	*Oct. 25*	*Oct. 26*	*Oct. 27*	*Oct. 28*
Oct. 29	*Oct. 30*	*Oct. 31*	*Nov. 1*	*Nov. 2*	*Nov. 3*	*Nov. 4*
Nov. 5	*Nov. 6*	*Nov. 7*	*Nov. 8*	*Nov. 9*	*Nov. 10 Window Closes* **VETERANS DAY HOLIDAY**	*Nov. 11*

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

Kodiak/Aleutians Subsistence Regional Advisory Council

Charter

1. **Committee's Official Designation.** The Council's official designation is the Kodiak/Aleutians Subsistence Regional Advisory (Council).

2. **Authority.** The Council is renewed by virtue of the authority set out in the Alaska National Interest Lands Conservation Act (16 U.S.C. 3115 (1988)), and under the authority of the Secretary of the Interior, in furtherance of 16 U.S.C. 410hh-2. The Council is regulated by 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 has 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 decisionmaking 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. Make recommendations on determinations of customary and traditional use of subsistence resources.

f. Make recommendations on determinations of rural status.

g. 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 $150,000, including all direct and indirect expenses and 1.0 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 be inactive 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.

For geographic membership balance, it is a Council goal to seat four members who reside on the Kodiak Archipelago, three members who reside on the Alaska Peninsula, and three who reside on the Aleutian and Pribilof Islands.

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 3-year terms. A vacancy on the Council will be filled 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, Vice-Chair, and 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 will 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 purpose of compiling information and 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, shall be handled in accordance with General Records Schedule 6.2, and 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.

Sally Jewell

Secretary of the Interior

NOV 2 0 2015

Date Signed

DEC 0 3 2015

Date Filed

- 4 -

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